March 22, 2018

The Senate reconvened at 10:00 a.m., a quorum being present.

The Reverend Jon Hopkins, chaplain to the Senate, offered the following prayer:

Let us pray.

God of our ancestors, in this holy season remember that what lies fallow now will be blooming in due season. Give the New Hampshire Senate a renewed sense of purpose and passion. Teach them truth that they may administer all affairs of the state fairly, that peace and security, happiness and prosperity, justice and freedom may forever abide in our midst. We ask your blessing for our country, for its government, for its leaders and advisors, and for all who exercise just and rightful authority. Remember this day people experiencing poverty. Give us wisdom on how to lift them out of poverty, and not to keep them living in poverty. The problems of this world cannot be fixed by government alone. Guide and direct our leaders to make just as many laws as we need to give freedom, opportunity, and justice to the people of New Hampshire. Renew us in a spirit of hope, that indeed our endeavors will produce growth for future generations to come. Amen.

Senator Daniels led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Gray.)

SENATOR GRAY: It is with much pleasure that I introduce the sisters and their husbands for a true American Hero, John Lawrence, who we hope to honor later. We have Linda Rockenmacher, and her husband, Sol; and Sharon Glidden, and her husband, Malcolm; and, hopefully, on the internet, that we have their other sister, Carole Day and her family watching us via the internet connection. Thank you, and welcome to the New Hampshire Senate.

INTRODUCTION OF PAGES

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. We have two wonderful pages here today. We have Gwen Morris is back with us. She did such a wonderful job we re-hired her. Gwen you may recall is age fifteen, in grade 10. She's from Germany, lives in Concord, home-schooled. Her favorite school subjects are science and music. Extracurricular activities include listening to music, playing the piano and ukulele and getting out of school reputedly serving as a page in the New Hampshire Senate. In the future she plans to be a medical examiner or coroner. Let's give a round of applause to Gwen.

We also have Lydia, Lydia please stand up. Gwen's sister. Lydia's age seventeen grade 11, born in China, lives in Concord, is home schooled. Favorite subject is English. Extracurricular activities include hiking, reading and in the past year have discovered running. She placed first in her age category in the New Hampshire Marathon 10K. Give her a round of applause for that. She also loves photography and in the future she will be leaving for Sentani, Papua, Indonesia to spend six to twelve months volunteering in an Indonesian school. And she hopes this gives her some more specific career plans and that's a great volunteer opportunity. Let's give a round of applause for Lydia.

SPECIAL ORDER

Without objection, the following bill is special ordered to the beginning of the calendar. Adopted.

TRANSPORTATION
HB 1278, naming the rest area in Colebrook after Frederick W. King, Sr.

Without objection, the following bills are special ordered to the end of the addendum. Adopted.

COMMERCE
SB 318, amending the prohibitions on youth employment.

FINANCE
SB 541-FN-A, establishing a fund to reimburse costs associated with firefighters who have cancer.

REGULAR CALENDAR

TRANSPORTATION
HB 1278, naming the rest area in Colebrook after Frederick W. King, Sr. Ought to Pass, Vote 5-0. Senator Ward for the committee.

SENATOR WARD: Thank you, Mister President. I move House Bill 1278 Ought to Pass. This legislation would name the rest area in Colebrook after Frederick W. King Sr. He spent twenty years on the Colebrook School Board and Colebrook Board of Selectmen serving in the New Hampshire Legislature and has been a consistent strong voice for the North Country. Mister King's life has been dedicated to public service for over sixty years and he is certainly deserving of this honor. All members of the Transportation Committee ask for your support in the motion of Ought to Pass on House Bill 1278. Thank you, Mister President.

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. I rise in support of this and appreciate the work of the committee and honoring former Senator Fred King who has a distinguished career and serving in the North Country Senate District 1, Chair of Senate Finance, serving the legislature, serving as our County Administrator for many, many years, serving as our County Treasurer most recently, and you know I had the honor just recently a few weeks ago to, when Senator King came to my office hours in Colebrook and he's a sharp as can be and we're lucky for his service. He's been a go to guy for over fifty years in the North Country, someone we're very proud of and it's a very fitting tribute to him and his service. So thank you very much.

(The Chair recognized Senator Gray.)

Senator Gray offered a Floor Amendment.

Sen. Gray, Dist 6
March 8, 2018
2018-1024s
04/10

Floor Amendment to HB 1278

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

AN ACT naming the rest area in Colebrook in honor of Frederick W. King, Sr. and naming a bridge in Farmington in honor of Major John W. Lawrence, Jr.

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

2 Major John W. Lawrence, Jr. Bridge. Pursuant to RSA 4:43, the bridge in the town of Farmington on state route 153 over the Cocheco River is hereby named the Major John W. Lawrence, Jr. Bridge. Appropriate signage or markers shall be placed at or near the site of the bridge.

3 Signage. The cost of design, construction, maintenance, and installation of any signage, replacement signage, or other markers required under sections 1 and 2 of this act shall not be a charge to the state. However, the design, construction, and installation of any signage or other markers required under this act shall be approved by the department of transportation.

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

2018-1024s

AMENDED ANALYSIS

This bill names the route 3 rest area in Colebrook in honor of Frederick W. King, Sr. The bill also names a bridge in Farmington in honor of Major John W. Lawrence, Jr.

SENATOR GRAY: Thank you, Mister President. I rise today to honor Major John Lawrence. Major John Lawrence is a hero. If I can read the Strafford County Commissioner's endorsement of naming a bridge in Farmington after him.

> They say: we would like to join past Commissioner and the honorable Ron Chagnon of Farmington, New Hampshire in requesting that a new bridge in Farmington be named after Major John Winslow Lawrence Jr. a true war hero killed in Vietnam. Major Lawrence was born and raised in Farmington, attended the Farmington school system. During his distinguished military service he rose to the rank of Major and received two Silver Star citations for bravery. The second citation was awarded posthumously as a bronze oak leaf cluster and moved the second award as a Silver Star. More information regarding the Major is attached and is available on the Vietnam Memorial Wall.

I can't say enough about the Major. Former member of the First Infantry Division which I also served in in Vietnam. Distinguished himself in both of his tours in Vietnam, the second one trying to save the lives of his fellow soldiers, he succumbed to his injuries. So it is with great pleasure that I offer this amendment to the Senate.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Gray, seconded by Senator Soucy.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: (None)

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION
HB 1386, establishing a joint committee on employee relations.
Ought to Pass, Vote 4-1. Senator Carson for the committee.

SENATOR CARSON: Thank you, Mister President. I move House Bill 1386 Ought to Pass. This legislation restores the joint committee on employee relations and repeals the legislative oversight committee on employee relations. The JCER meets with state negotiating committee to discuss the state's objectives in the bargaining process. This brings a good balance of representation to the table in addition to speeding up the process of appointments. The ED&A Committee voted 4-1 Ought to Pass and asks for your support in its passage. Thank you very much, Mister President.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

FINANCE
SB 526-FN, relative to school food and nutrition programs.
Inexpedient to Legislate, Vote 3-3. Senator Giuda for the committee.

Senator Giuda moved to Lay on the Table.

A roll call was requested by Senator Fuller Clark, seconded by Senator Giuda.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Carson.)

SENATOR CARSON: Yes Mister President, thank you. Could you please state who requested and seconded the roll call?

PRESIDENT MORSE: Senator Fuller Clark and Senator Giuda.

SENATOR CARSON: Thank you.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Feltes.)

SENATOR FELTES: If you believe as I do that New Hampshire's forty ninth in school breakfast participation rate and that this bill's been worked on for over a year by the Child Hunger Commission, would you vote no on tabling so we can finally move forward with the most important meal of the day for our most vulnerable children.

PRESIDENT MORSE: If you're in favor of tabling you're going to say aye, if you're opposed you're going to say nay.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President. If you believe as I believe that a hungry child can't learn and that the most important thing we can do here is to extend nutrition to our children and if you think a quarter a day is worth spending for a child to eat, will you please vote no on the tabling motion.

PRESIDENT MORSE: If you're in favor of tabling you're going to say aye, if you're opposed you're going to say nay.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you, Mister President. If you believe as I do that this bill is about providing children with the most important meal of the day, and if we do nothing New Hampshire will remain forty-ninth or second to last in the country in participation in the National School Breakfast Program among low income children,

shouldn't our children be our first priority? Shouldn't we make sure that they are able to perform at their best level and I believe that it is wrong to table this bill, I oppose it.

PRESIDENT MORSE: If you're in favor of tabling you're going to say aye, if you're opposed you're going to say nay.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, Reagan, Soucy, D'Allesandro, Fuller Clark.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 13 - Nays: 10. Adopted.

SB 548-FN, relative to therapeutic intervention needs of infants diagnosed with neonatal abstinence syndrome and making an appropriation therefor.
Inexpedient to Legislate, Vote 4-2. Senator Reagan for the committee.

SENATIOR REAGAN: Thank you, Mister President. I move Senate Bill 548 Inexpedient to Legislate. This bill would require the Department of Health and Human Services to establish a three year pilot program providing therapeutic intervention to infants diagnosed with neonatal abstinence syndrome; those are babies born addicted. The department noted 829 cases of neonatal abstinence syndrome were diagnosed for the three year period 2013 through '15. They do not expect that number to fluctuate significantly in future years. Committee members agree the program may be a good one, but the $589,000 cost estimate is challenging out of budget, and we wondered could any portion of the $103 million already allocated to the opioid epidemic be used to support the proposal. The Senate Finance Committee recommends Senate Bill 548 be found Inexpedient to Legislate and asks for your support. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I ask that the motion of Inexpedient to Legislate be overturned so that I can introduce a Floor Amendment.

The question is on the adoption of the motion of Inexpedient to Legislate. Failed.

Senator Bradley moved Ought to Pass.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
March 19, 2018
2018-1132s
01/03

Floor Amendment to SB 548-FN

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

AN ACT relative to therapeutic intervention needs of infants diagnosed with neonatal abstinence syndrome.

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

1 Pilot Program Plan.

I. The commissioner of the department of health and human services shall submit a plan to the senate president, the speaker of the house of representatives, the governor, and the chairpersons of the house and senate finance committees to establish a 3-year pilot program in 4 geographically dispersed areas in New Hampshire that provides therapeutic intervention to infants diagnosed with neonatal abstinence syndrome (NAS) and their families and caregivers. The plan shall:

(a) Include infants discharged from an inpatient hospital with a diagnosis of NAS and provide best practice intervention from the onset of discharge to the time where an early support services program (ESS) may begin early intervention services.

(b) Provide best practice interventions, including infant evaluation and treatment, to address the self-regulation needs of a developing NAS infant between the ages of birth through 12 months, with the focus of service between birth and 3 months.

(c) Provide therapeutic intervention for both infants and families and caregivers, including education relative to understanding infant cues and signals, infant massage and other calming or self-soothing techniques that promote typical self-regulation development of the infant, such as normal sleep cycles, typical movement patterns, and decreased stress responses.

(d) Provide opportunities for parents and caregivers of NAS infants to learn and practice techniques for the carry-over of intervention in the home.

(e) Make clear that a parent may bring a therapeutic summary of intervention to the ESS intake evaluation to reduce duplication of services and to ensure generalization of strategies and interventions.

(f) Use an assessment tool that will successfully identify the infant's progress. This tool shall consist of a sensory processing assessment and stress response questionnaire.

(g) Coordinate summary reports that can be shared with an area ESS program case manager.

II. The commissioner may propose to contract with providers to effectuate the work of the pilot program. Any proposal to contract may include the following:

(a) That when an infant is discharged from a hospital with a diagnosis of NAS, an immediate referral to the program shall be made and services shall begin within 3-5 days. Services shall continue through the time an area ESS program is able to begin its initial intake evaluation.

(b) That when progress is made toward appropriate self-regulation development, as measured by one of the therapeutic assessments under paragraph I, the successful calming strategies shall be taught to parents and included in a therapeutic summary. The summary shall be available to area ESS programs under HIPPA guidelines.

(c) If a NAS infant does not demonstrate progress in self-regulation skills, as measured by one of the therapeutic assessments under paragraph I, explain in detail the reasons why the child is not meeting developmental milestones or progressing towards them, and shall recommend specific strategies, services, and programs that shall be provided to assist the child's success.

III. The pilot program shall only apply to children from birth to 6 months of age but may be extended to 12 months in certain cases.

2 Implementation of Plan for Pilot Program. The fiscal committee of the general court may recommend implementation of the plan for the pilot program under section 1 of this act on an interim basis prior to June 30, 2019 if funds are available.

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

2018-1132s

AMENDED ANALYSIS

This bill requires the commissioner of the department of health and human services to submit a plan for establishing a 3-year pilot program that provides therapeutic intervention to infants diagnosed with neonatal abstinence syndrome.

SENATOR BRADLEY: Thank you very much. What this amendment does working with our colleague from District 5 is allow the Department of Health and Human Services to proceed with a plan for a pilot program to better curb neonatal abstinence syndrome which as our colleague from District 17 indicated is babies born addicted to drugs that their mother is taking while pregnant. The key criteria in this Floor Amendment is on the second page, section 2 of the bill, implementation. It allows the Fiscal Committee if funds are available to move forward with the pilot program prior to the effective date of the next budget. I think this a reasonable compromise. This is a very real problem. It's an increasing problem as it's been diagnosed over the last few years. And I think it's one that should be dealt with as we can and I think this a good way to do it.

(The Chair recognized Senator Feltes for a question of Senator Bradley.)

SENATOR FELTES: Just to clarify; if the, if I'm reading this correctly, if the Fiscal Committee does not approve the implementation of the pilot program prior to the effective date of the next budget, that does not preclude or sunset the pilot. The pilot could be picked up in the next budget.

SENATOR BRADLEY: Absolutely. This is a provision that if the plan comes forward from the department and talks about how to implement, obviously there would have to be justification for the plan and if there are the funds available to do so prior to, it could be approved on an interim basis. Obviously it will have to be considered for inclusion in the next budget. This doesn't mandate that either.

SENATOR FELTES: Got it. Thank you.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President and colleagues. I rise in support of the amendment and I want to thank the sponsor of the original bill and the Senator from District 3 for seeing the wisdom in finding a way to move forward on this. My hospital, Wentworth Douglas Hospital, is a regional leader in this area established I think one of the first neonatal abstinence syndrome centers in the state. And just a kind of one little anecdote about it. Sometimes the infants need to be there for several weeks, maybe thirty days. And they really, really can do very well if they've had this kind of treatment. And I talked to a group of women because sometimes the mother you know is only in the hospital for a short period of time, because the transportation issues really can't get to the hospital very much. So they had a group of women in Dover who have now volunteered to go in everyday and hold these infants. They're agitated. They need that human touch and I thought what an extraordinary thing to do. And then I'm sure many of you know Hope on Haven Hill which was established exactly to provide housing and support services for pregnant women to make sure that they have the best experience possible dealing with their addiction and make sure that that baby can be treated and become healthy and then can be housed at Hope on Haven Hills so that this whole cycle

can be broken and that child can have a good start in life. So, it's a good thing to do and I'm glad we have a found a way to move forward. Thank you, Mister President.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you, Mister President. I rise in favor of the amendment and I would like to thank the good Senator from District 3 for remarkable work as always with finding good compromises. I just wanted to, in case anyone does not know, this piece about neonatal abstinence syndrome or NAS, it includes children born addicted to alcohol, addicted to barbiturates and even some SSRIs. So children are born addicted and then go through withdrawal and this is obviously due to no fault of their own. So I appreciate all the work you did to try to make this possible and I hope you will vote in favor of the amendment. Thank you, Mister President.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

RULES AND ENROLLED BILLS
SB 343, relative to legislative ethics guidelines.
Ought to Pass, Vote 3-2. Senator Daniels for the committee.

SENATOR DANIELS: Thank you, Mister President. I move Ought to Pass on Senate Bill 343. This bill clarifies certain terms used in the legislative ethics guidelines and has two specific parts. The first speaks to the meaning of a rule. It means that a rule adopted pursuant to the legislative ethics chapter shall not include any rule of proceeding adopted by the House of Representatives or the Senate. The second part of the bill deals with legal representation being considered a gift. The legislation clarifies the word service which relates the acceptance of legal services on an individual basis, when the legislator enters into an attorney client relationship with the attorney, thus clarifying that receiving legal counsel does count as a gift. Please join the committee in voting Senate Bill 343 Ought to Pass. Thank you, Mister President.

Recess. Out of recess.

SPECIAL ORDER

Without objection, the following bill is special ordered to the end of the addendum. Adopted.

RULES AND ENROLLED BILLS
SB 343, relative to legislative ethics guidelines.

WAYS AND MEANS
HB 1292, relative to the effective dates of changes to the rates for the business profits tax and the business enterprise tax.
Ought to Pass, Vote 3-2. Senator Daniels for the committee.

SENATOR DANIELS: Thank you, Mister President. I move House Bill 1292 Ought to Pass. This bill changes the effective date of the next two rounds of rate reductions in the Business Profits Tax and the Business Enterprise Tax. It moves them from July 1, 2019 and July 1, 2021 to January 1, 2019 and January 1, 2021 respectively. This change in effective dates will allow taxpayers to be notified at the beginning of the calendar year that a new tax rate is in effect rather than the middle of the tax year, thus avoiding potential confusion as tax payers make their quarterly estimate payments. This bill does not change the applicability

dates of the tax rate reductions that were adopted in the last session, nor does it make any changes to the rates themselves. Therefore this bill has no fiscal impact. This change simply adds clarity for the taxpayer. The Ways and Means Committee asks for your support for the motion of Ought to Pass. Thank you, Mister President.

Senator D'Allesandro offered a Floor Amendment.

Sen. D'Allesandro, Dist 20
Sen. Feltes, Dist 15
March 20, 2018
2018-1161s
10/05

Floor Amendment to HB 1292

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

2 Applicability of the 2019 and 2021 Tax Period Reductions to Business Tax Rates; Contingency Added; Report.

I. By December 31, 2018, the legislative budget assistant, using the combined amount of revenue from the schedule of undesignated/unassigned fund balance for the general fund and education trust fund as contained in the audited comprehensive annual report performed pursuant to RSA 21-I:8, II(a), shall make a report to the secretary of state, the governor, speaker of the house of representatives, the senate president, the fiscal committee of the general court, the director of the office of legislative services, the commissioner of the department of revenue administration, and the commissioner of the department of administrative services, determining whether the rate of growth in the combined unrestricted general and education trust fund revenues collected for the fiscal year ending June 30, 2018 over the amount of combined unrestricted general and education trust fund revenue collected for the fiscal year ending June 30, 2017 is equal to or greater than the percent change in the Consumer Price Index for All Urban Consumers, Northeast Region, as published by the Bureau of Labor Statistics, United States Department of Labor plus one percent for the same 12-month period.

II. If the combined revenue growth determined under paragraph I is less than the Consumer Price Index for the period plus one percent then section 3 of this act shall take effect January 1, 2019 and the rate for the business profits tax under RSA 77-A:2 shall remain as 7.9 percent and the rate under the business enterprise tax under RSA 77-E:2 shall remain as .65 percent.

3 Contingent Repeal of Prospective Business Tax Rate Reductions. 2017, 156:213 through 2017, 156:217, relative to reductions to the business tax rates, are repealed.

4 Effective Date.

I. Section 3 of this act shall effect as provided in paragraph II of section 2 of this act.

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

2018-1161s

AMENDED ANALYSIS

This bill changes the effective dates of the rate reductions to the business profits tax and the business enterprise tax to the beginning of the respective calendar year. This bill also adds a requirement that the business tax rate reductions adopted in 2017, 156 (HB 517) shall not take

effect if the combined revenue growth in general and education funds for the fiscal year ending June 30, 2018 does not exceed the change in the Consumer Price Index for the period, plus one percent.

SENATOR D'ALLESANDRO: Thank you, Mister President. It's a very simple amendment. What it does is puts into practice a mechanism that we have used in the past in dealing with tax reductions. And it's a triggering mechanism. And the triggering mechanism ties the reduction to the performance based on the consumer price index for all urban consumers in the Northeast region as published by the Bureau of Labor statistics United States Department of Labor plus 1 percent for the same twelve month period. If that triggering mechanism is met, the reduction goes into place. If the triggering mechanism is not met, if the number is not met, the reductions do not take place. This is a method that we have used in budgets in the past. This was an item that the Chairman of the Ways and Means Committee and the House of Representatives wanted to bring forward in the last budget negotiations. He's very much in, I don't want to speak for him, but in the past this concept has been accepted by both the House and the Senate. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I rise and ask the body to reject this amendment although I appreciate the Senator from District 20 from bringing it in. But typically when we have a change of policy we actually like to have a public hearing on it and discuss the merits of it and this amendment would fundamentally change existing policy that we have in statute today. And in doing so, trying to tie in the fiscal policy as it relates to taxation, specifically as a result of a global regional economic change in a consumer price index might not be in the best interest of the people of the state of New Hampshire. So based upon those two premises Mister President, I would ask that the body would reject the amendment. Thank you very much.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: An introduction. Peterborough or Mont Vernon? Mont Vernon. Anyone here from Mont Vernon today? Okay ladies and gentlemen, to my fellow colleagues, I'd like to have you stand up and welcome the great kids from the Mont Vernon Village School, fourth grade. Thank you so much for coming today. Thank you, Mister President.

(The Chair recognized Senator Feltes for a question of Senator D'Allesandro.)

SENATOR FELTES: Thank you, Mister President. Thank you, Senator for taking my question. Correct me if I'm wrong but the concept of the trigger was imbedded in the last budget, was considered to be imbedded in this budget, has been discussed by Ways and Means Committees of both chambers and it's something that has a broad history of fiscal responsibility.

SENATOR D'ALLESANDRO: Thank you for the question. Absolutely. We've used this mechanism in budgets in the past. It represents sound fiscal policy because you don't make a move that isn't taken care of from the revenue side. You don't so something without substantial evidence that what you've done in the previous entity is working. So yes, we're consistent here. Discussions have taken place both in the House and the Senate for years over this situation.

SENATOR FELTES: Thank you, Mister President. And Senator, given our revenue estimates, is it fair to conclude that this revenue trigger is imminently achievable?

SENATOR D'ALLESANDRO: Thank you for the question. Absolutely. That's an adverb, absolutely. I think money is a noun or a verb. I gave you an adverb.

SENATOR FELTES: Thank you very much.

(The Chair recognized Senator Innis.)

SENATOR INNIS: One of the things that this state and this body has been trying to do over the last several years is bring down business taxes and some of the burdens that are facing our businesses. And one of the things the businesses like, when they consider making investments in a facility in a state and building a future there is some level of certainty. They want to know what their taxes are going to be, they build budgets, they work those things into their calculations in terms of where to locate. This amendment adds uncertainty to our business taxes, and I think it's exactly the wrong way to go when we're showing businesses what our state has to offer. Thank you, Mister President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I'd like to speak to the remarks from my eminent academic colleague from the 24th Senate District. I've served on business tax commissions here for quite a number of years. What business wanted was 7.9 percent, we got there. So they not only got what they wanted, they got predictability. What we offered beyond is something they didn't request. That's a gift. So it's like Christmas. So indeed, it seems to me if you're going to get that Christmas present, there ought to be a reason that you got that present. And the fact is that what we did previously is working and as a result of that you got a bonus. That's why business gives bonuses. They set targets and as a sound businessman you know that reaching the target gives you the predictability and allows you to go forward. Thank you, Mister President.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Thank you, Mister President. Everybody loves Christmas. It's a great time of the year. But taking this step further reducing business taxes sends a message to the business community nationwide and even worldwide that we are a business friendly state. Putting restrictions on these things and introducing uncertainty again is something businesses don't want and don't like. If we are truly a business friendly state and we want to welcome businesses and encourage them to grow here, then I think we should defeat this amendment and pass the bill. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I'd like to rise as the chair of the committee and say if it ain't broke, don't fix it. It's not broke. The tax policy that we agreed to and I think if I remember right Mister President, everyone voted for in the end, was a policy to make New Hampshire the best place in America, there might have been some that didn't vote for the budget in the end, but I thought everyone did vote for the budget, if they didn't my apologies to anyone. The policy we made to cut taxes which we put into the budget was to

make New Hampshire the best place in America to live, work and raise a family. As a result of the policies we've made in this body right here and implemented, today we are seeing business success. We are seeing opportunity, we are seeing more people move into our state for the first time we've seen in a decade. We are seeing more business creation.

The last thing I believe this body wants to do is to look at states that are not as successful as New Hampshire is being, and saying hey we want to be like those guys. This is a state of exceptionalism, this is a state that should be unlimited opportunity, this is a state that has always believed in the success of the business community that drives everything we want to do. You're right my friend from District number 20. I have not heard of a single business that has called me up and said go back and raise my taxes. I have not heard from a single business, and I happened to be in the business community, from anyone that has called up and said, stop cutting my taxes. When we look at the surcharge on workers compensation, we look at the fact that we had one of the highest business taxes in America. This state has become a place where we know our taxes are too high, our regulation is too steep and we have made significant, although not enough, movement into making New Hampshire attractive. Passage of this legislation would send us in the wrong direction and backwards. So again, I would suggest the body if we want to have consistency, if we want job opportunity, if we want to continue to live in what is the best state in America for economic opportunity, if we want to encourage companies like the ARMI contract to come to our state and set up shop, we have to remain on the cutting edge of proving to all the businesses across America that this is the place people would like to settle. So with that again, please reject the amendment. Thank you, Mister President.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. I rise in support of the amendment. And I do so because after the last few weeks with town meetings, we've all heard property taxes, property taxes, property taxes. So here we have an amendment that begins to anticipate down the road what will be the fiscal condition of the state when these reductions, the Christmas gift, Hanukkah gift maybe, comes into play two years down the road. I think this is reasonable because this just going to send a message to local communities that hey, we're interested in the business climate in the state, we're also interested in the property tax climate in the state and we're going to, when we get there, we're going to evaluate this. We're not just going to downstream our cost onto the property taxpayers when we get there and oh my gosh, we're short. I think this is a reasonable step to give us some off ramps. I think we need an off ramp in order to consider the balance of payments in the state. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in opposition to this amendment. The sky might fall, pigs might fly, revenues might decline. If that happens this body and the one across the hall and the person in the corner office, will do what's appropriate to meet the crisis if there is one. I think the entire underlying premise of this is again, wealth is finite. We are well embarked on a course that disagrees with that whole proposition. Wealth is created every single day and the better we can position our state, competitively in the nation and the world, to capture companies that will help themselves and our citizens and our institutions build on and capitalize on that wealth, the better off we are. So I ask you to oppose this amendment. Thank you, Mister President.

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. I rise in support of this modest conservative idea. And I'd say to my Republican friends, here they go again. Tax cuts for the wealthiest, those who have the most, get the most. And I am sick and tired of this and I look at those scales of justice and we are out of balance in this state of New Hampshire. We are sticking it to the poor people and we do it every day. We wouldn't even talk about school breakfast. Denied the opportunity. I dare one of you to stand up, have the courage to tell us why you wouldn't let a debate on it. We know why, because yesterday we heard what's in your hearts. I come from a place that's a lot of poverty. And we spend twelve times more on tax cuts than substance abuse, and I see it every day. We are one of the few states that don't support Headstart. We want to be business friendly, we want to send a message. What about our most vulnerable people, our kids? This is just part of the philosophy that is going to be rejected in 2018. Thank you, Mister President.

(The Chair recognized Senator Sanborn for a question of Senator Woodburn.)

SENATOR SANBORN: My dear friend. Acknowledging that since I've come here I've watched the state budget go from $8.6 billion to $14.5 billion, hard for me to justify that we're not investing back into our communities in all things. Watching the fact that I've seen spending on the opioid crisis go from $4 million as some would suggest to 120 to $180 million today, would be very hard for me for someone to try and justify that this body has not supported it. But what my real question comes down to is I need your help. Explain to me how this body would look to cut taxes on those who don't pay taxes?

SENATOR WOODBURN: Thank you for that question, Senator from Bedford. We have a philosophical difference. You believe in cutting taxes and taking care of people that have the most, and I'm deeply concerned as a school teacher about our kids and providing them opportunity to grow and succeed. And this is not the New Hampshire that I grew up in. When I arrived in this Statehouse, 1984, this was not the way we approached this. We approached it from a conservative perspective but we still had an open heart and an investment in people, in knowing that life, we could improve people's lives and I think we are out of balance. I think we're protecting those that have the most and I think it's a detriment to our people.

SENATOR SANBORN: Thank you for your answer, Sir. I truly appreciate it. So then help me understand how recent tax cuts at the federal level, led by Republicans in full disclosure, is putting an extra $3,500 into the pockets of on average every taxpayer in New Hampshire. $3,200 in half of the state, $3,500 the other half. Isn't that helping the teachers and those who are working so hard, to give them a little bit more of their money back, or would you reject the fact that the hard working middle class families in the state deserve some of their money back?

SENATOR WOODBURN: Thank you for the question, Senator. As I said, I believe the state of New Hampshire is not fair when it comes to distribution. I think promising tax cuts to what you perceive to be ordinary folks when we just read today DOT needs money. Everywhere we look, our funding of education both on a local level and on the university system. Over and over and over again, we're starved of investment, but I think this great state of New Hampshire can do more. We're the wealthiest state in the country. We can do more.

SENATOR SANBORN: Thank you, Sir. I appreciate it.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Thank you, Mister President. I hear this supposition that everybody who owns a business is rich. Nothing could be further from the truth. We just heard someone who owns a business laugh about it. And in fact when we started our first business, I told the story, we had less than $1,000 to our name. And I said to Doug, this sure as heck better work. We were not rich. It worked and we've done well, but not all business owners are rich. And yet we're hitting them with these Business Profit Taxes. Most of the businesses in our state are small businesses; working men and women who have families, who are struggling to get ahead. And we're saying to them, you're struggling, your business is just breaking even. But it's okay for us to tax you because you're a big rich business. And they look at themselves and say I'm not. I'm not. So getting back to the holiday thing, I think one of the biggest gifts to the state of the reduction in the business tax rates has been an increase in business tax revenue, because of the growth that we're seeing. This happens every time it's tried. It will continue to happen. Businesses grow where the economics favor that growth. And this bill helps to ensure that that continues. The amendment does not. So I ask you please support the bill, and defeat the amendment. Thank you, Mister President.

(The Chair recognized Senator Feltes for a question of Senator Woodburn.)

SENATOR FELTES: Thank you very much for taking my question, Senator Woodburn. With New Hampshire having the seventh lowest overall business taxes in the country, and us in a position where we have accelerated business tax cuts, do you think it was more appropriate for us to do a working families property tax credit that our colleagues in the majority rejected last year?

SENATOR WOODBURN: Thank you, Senator. I concur and agree and I believe our priorities are upside down and that we're helping those that have the most against those that have the least and we're starving our state of investments and making it a great state to attract people and businesses and I think we can do better and I think we will do better.

SENATOR FELTES: Thank you, Mister President. Thank you, Senator. We've heard a little bit from the Senator from District 24 about certainty and what businesses want. I've also heard from businesses that they want certainty and fiscal responsibility in state government. Do you believe that this amendment posed by the Dean promotes fiscal responsibility in state government?

SENATOR WOODBURN: Absolutely. One of our colleagues, called it Christmas, well it's Christmas for business and the Business Profits Tax but it starves us at the knees and it puts in a trigger that was fine in the past but it's not fine today for some reason. I still wish I'd hear from somebody who would tell me why we tabled and refused to talk about breakfast for kids. I'm still waiting.

SENATOR FELTES: Thank you, Mister President. Thank you.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I would just say in response to my friend from District 1, the fact that we have our priorities upside down, you and I would probably both agree the best social program, the most effective social program, the social program that gives everybody

opportunity to succeed in New Hampshire is a good job. In the North Country, we fought for those jobs yesterday. We're going to fight for them again today. A job is the thing that we need to focus on the most. So, let's look at success. Our revenue has far exceeded expectations to the point that we put $100 million in the rainy day fund and we're exceeding in particular in business tax revenues our expectations in this budget cycle. We have the lowest poverty ranking in the country in New Hampshire. Let me repeat that, we're not taking enough credit, all twenty four of us really ought to do that. The lowest poverty rating in the country, and the highest per capita income. We have the second or third lowest unemployment rate in the country. Our job growth, the best in the region. It goes back to the priority that a lot of us have had in this room about growing the economy. Our corporate tax rate was the forty-eighth worst in the country. We've now inched up a little bit and when the tax cuts that we voted for in the last budget are fully implemented we will be more in the middle of the pack. Our priorities are not upside down. And we've used that revenue effectively, or at least some of us have.

To address real needs in this state. We added twenty DCYF workers, we doubled the amount of money that went into the alcohol fund. Huge increases in the DD waitlist. $20 million for mental health. Now thankfully, even though not all of us voted for that budget last year, I hope that today we'll continue to bipartisan cooperation on my friend from Londonderry's bill, 582 and 592 that continue the work that needs that needs to be done on DCYF and Senate Bill 590 that addresses a number of issues. That's how we should be focused on here. But to say our priorities are upside down when we have the second lowest unemployment rate in the country, the lowest poverty rate, the highest per capita income, the best job growth, I don't know. I don't know as I said yesterday, wowie bazowie. I don't think our priorities are upside down, we've got our priorities right because the best social program is a good job, and New Hampshire citizens are recognizing that. That's why I support the position of the Chair of Ways and Means against the amendment. Thank you.

(The Chair recognized Senator Hennessey for a question of Senator Bradley.)

SENATOR HENNESSEY: Thank you, Mister President, and thank you for taking my question. There's one other thing we're really good at in New Hampshire and that's patting ourselves on the back. And that's fine, we should pat ourselves on the back when we deserve it.

SENATOR BRADLEY: Well I appreciate the pat on the back you just gave me for your bill. Thank you.

SENATOR HENNESSESY: I like patting you on the back.

SENATOR BRADLEY: Thank you, I appreciate that.

SENATOR HENNESSEY: What I would like to know and I know this is another way of asking the same question, but when I'd like to first say that I am in support of the amendment, and I'm a little blown away that no one is willing to talk about the elephant in the room, and I'm curious, yes we've done all sorts of things that have been very good. We have done all sorts of things that have been very good. How many children should go to school hungry to make us the best state in the–

PRESIDENT MORSE: Senator is there a question about 1161s? We're talking about tax burden.

SENATOR HENNESSEY: As much as the others were questions about–

PRESIDENT MORSE: I know and I just directed everyone to get back on to 1161s please.

SENATOR HENNESSEY: Okay so here's the question. If we are willing, if we want to stop, if we want to continue to operate the way we are and ignore this amendment, should we not be thinking also about the things that we're not funding, including children who are going to school hungry?

SENATOR BRADLEY: You know what, that is a very valid question. I think that as I just indicated, we're going to talk about three bills a little bit later, 582, 590 and 592. I think we are addressing priorities. The priority that you just raised, I think is a priority for all of us, and we will have the opportunity to discuss that in the future in the next budget.

SENATOR HENNESSEY: Thank you.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I do want to speak to the amendment and focus specifically on the amendment. When the business community came to the committee to look at taxes, they said to go from 8.5 to 7.9 is the way to go. That's a pretty dramatic decrease in taxes. About half of the small businesses in New Hampshire don't pay any taxes, they have not tax liability at all. And indeed what has happened is, the ability to bring new people on has been very, very important because look at our unemployment rate. So indeed we did everything business asked us to do; we reduced the BPT, and reduced the BET. And by the way I'm probably the only one that was here when we created the BPT and the BET. Because we had the most extraordinary methodology of taxation I think in the history of civilization. When we had the stock and trade tax, when we had the inventory tax. You were taxed on your inventory. What is more unfair than taxing you on your inventory? So we've made great, great progress, and by the way a Republican Governor, the most venerable Walter Peterson was the Governor at the time. So he made that magnificent change.

When we had an education crisis, business was asked to step up to the plate. They were asked to increase their contribution to the BPT and to the BET. They did it, to fund education when we had education reform. We, this legislature all twenty-four of us, responded to that by voting to reduce the business taxes from 8.5 to 7.9. That's what they asked for, 7.9. And we gave it to them. Ask and you shall receive. Seek and you shall find. They did it. Now we're saying, or I'm saying, I don't want to say we. I am asking my colleagues to say if we reach a threshold, guess what you're going to get another reduction. And that wasn't my idea. I like to take credit for ideas but my wife says never break your arm patting yourself on the back, so I don't want to do that. But that idea came from the chairman of the Ways and Means Committee in the House; Norm Major, by the way my classmate at the University of New Hampshire, Senator from District 24. So there is a good bipartisan relationship in that. And that's all we're asking is a mechanism in place to show what is working is working and we can continue it.

Now when it comes to the federal budget and the great tax reductions that we've had, federal budgets got a trillion dollar deficit. Is that a good thing? A trillion dollar deficit, who's going to pay for it? My grandchildren, my great grandchildren, they're going to pay for the deficit. We

don't do it that way. We try to balance the budget. So that might come easy in economics but you only use that in a desperate situation, okay? John Manning Cain was a great guy, I respect his intellect. So if we, Senator asked me if I taught John Manning Cain. Just asking. I love her. Thank you. I didn't teach John Manning Cain.

So what I'm saying is we're just following a pattern that's been a very good pattern for us. We reduce the taxes, there's a result; further reduction and you can get another result. And to me that's good business sense and again I refer to the bonus situation for a business leader. It's based on production and it's based on reaching targets, it's based on reaching goals and the administration sets those goals. I think this is prudent. I think it's good financial acumen, it's good financial responsibility and it's good for the state of New Hampshire. And hopefully that's what we think about when we make these votes, we think about what's good for the state of New Hampshire, what's good for our business economy. And I must say that the Business and Industry Association supported the reduction to 7.9 percent. They were in ecstasy over that, and the other tax reductions that we have made. I think we've made thirty-nine tax reductions over the past few years. This fits, this fits in that situation. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark for a question of Senator D'Allesandro.)

SENATOR FULLER CLARK: As I read your amendment it makes it clear on line 20 and 21, 22 that the business taxes shall remain at 7.9 percent for the Business Profits and at 6.63 percent for the Business Enterprise Tax. I find it very difficult to understand the argument that this creates uncertainty going forward. What I see is it tells the business community what they can rely on going forward regardless of what happens to the economy, and I would like that you respond to the specter that has been raise that the reason this amendment is faulty is because it creates uncertainty.

SENATOR D'ALLESANDRO: Thank you, thank you for the question. This amendment remains as it is today. There is certainty, you know exactly what you're going to pay and if we have a surge in terms of revenue, guess what, you get a bonus, you get a bonus. That's the American way, I think. Thank you.

SENATOR FULLER CLARK: Thank you very much.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: I have another objection to this bill. This amendment is passed we've removed the prerogative of this legislature and the one across the hall and the guy in the corner office whomever it may be, to effectuate the tax policy called for by the constitution. That's our purview. We should not be setting rules and laws in place that restrict or limit the ability of us as representatives of the people, businesses and institutions that sent us here to establish and carry out tax policy for the state across the board. Thank you, Mister President.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 9 - Nays: 14. Failed.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I rise to remind this body that the single best fall festival in the state of New Hampshire every year happens in this great little town called Peterborough where I must admit in full disclosure last year I actually won the pie making contest and I'm thinking there are a bunch of people up in the audience that may have tried that outstanding pie and they're from the Well School in Peterborough and I'd like to thank them for coming to the session today. Thank you very much, everybody.

PRESIDENT MORSE: We are at the conclusion of the regular calendar and will take up the bills that were removed from the consent calendar and then the addendum and then the table.

CONSENT CALENDAR REPORTS REMOVED

EXECUTIVE DEPARTMENTS AND ADMINISTRATION
HB 410, relative to the legislative youth advisory council.
Ought to Pass, Vote 5-0. Senator Soucy for the committee.

SENATOR SOUCY: Thank you, Mister President. I rise in support. The Legislative Youth Advisory Council was created in 2006 to advise legislators about concerns of young people regarding pending legislation, budget expenditures and policy matters. This legislation crafted by members of the Youth Council makes changes to the membership and redrafts the duties to more accurately reflect their current practices and time lines. And the committee asks for your support in this legislation. Thank you, Mister President.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14
March 20, 2018
2018-1152s
05/04

Floor Amendment to HB 410

Amend the bill by replacing section 3 with the following:

3 Legislative Youth Advisory Council; Staff Assistance. RSA 19-K:4, VI is repealed and reenacted to read as follows:

VI. The office of the speaker of the house of representatives and the office of the senate president may provide staff assistance to the council.

SENATOR CARSON: Thank you, Mister President. This amendment makes a one word change to the legislation. Currently it states that the House Speaker of Representatives and the Office of the Senate President shall provide staff assistance to the council. We had testimony that they rarely are ever asked and usually they have someone from the outside that comes in and does the things that they need to have done and so it was requested that we change the shall to a may, so if anything should happen and they need to ask the assistance of either the Speaker or the Senate President, they still will be able to. Thank you very much, Mister President.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

HEALTH AND HUMAN SERVICES
SB 350, relative to biological products dispensed by pharmacists. Ought to Pass with Amendment, Vote 5-0. Senator Avard for the committee.

Health and Human Services
March 14, 2018
2018-1096s
03/05

Amendment to SB 350

Amend the introductory paragraph of RSA 318:47-dd, VI(a) as inserted by section 3 of the bill by replacing it with the following:

VI.(a) Within 5 business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber through:

SENATOR AVARD: Thank you, Mister President. I move SB 350 Ought to Pass with Amendment. This bill establishes requirements for dispensing and substituting biological products by pharmacists. Biological products are becoming more and more popular treatment in many different diseases. As the treatment becomes more popular more biosimilars are entered into the market. This bill would allow pharmacists to dispense a different biologic than the provider prescribed as long as it was approved by the FDA biosimilars. This would increase competition in the markets and make their effective treatment more affordable for the patients that rely on them. Please support the committee amendment and recommendation of Ought to Pass. Thank you, Mister President.

(The Chair recognized Senator Lasky for a question of Senator Avard.)

SENATOR LASKY: As I understand it if the pharmacist wants to substitute the biosimilars it has to be approved by a physician. Is that correct, prior to filling the proscription?

SENATOR AVARD: I believe so and also the FDA.

SENATOR LASKY: Right, you mentioned they had to be pre-approved by the FDA, but if he is going to or she is going to substitute this different medication, does it not have to be approved by the patient's physician first?

SENATOR AVARD: I don't know if that was brought up in testimony.

SENATOR LASKY: Okay, thank you.

(The Chair recognized Senator Lasky for a question of Senator Bradley.)

SENATOR LASKY: Same question…

SENATOR BRADLEY: There was a provision in this bill that the physician him or herself could write on the prescription, do not interchange. That's how it would work.

SENATOR LASKY: On every prescription then or once he has notified by–

SENATOR BRADLEY: Excuse me, on those prescriptions where the physician him or herself does not want interchangeability. Remember the way this legislation is structured is, it's forward looking. So that when there are biosimilar drugs similar to what generics are today, there could be interchangeability if you will, but if a physician says no, then the pharmacist could not do it.

SENATOR LASKY: So the physician has to be proactive then in terms of doing that?

SENATOR BRADLEY: Yes.

SENATOR LASKY: Okay. Thank you.

The question is on the adoption of the Committee Amendment. Adopted.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
March 16, 2018
2018-1125s
03/05

Floor Amendment to SB 350

Amend RSA 318:47-dd, V as inserted by section 3 of the bill by replacing it with the following:

V. A pharmacist shall not substitute an interchangeable biological product pursuant to this section if the prescriber indicates that substitution is not authorized by specifying on the prescription "medically necessary" on a paper prescription, or uses electronic indications when transmitted electronically, or gives instructions when transmitted orally that the biological product prescribed is medically necessary.

SENATOR BRADLEY: Thank you very much. This amendment was brought forward by request from virtually everybody that looked at this bill to align biosimilar processes with generic drugs. And remember as I just said before, biosimilars are biological drugs as opposed to chemical drugs so no strain is ever identical in the way that a generic is but in terms of just generic policy this would align biosimilars with generic policy. And everybody supported it.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

SB 383, establishing a commission to assess benefits and costs of a "health care for all" program for New Hampshire.
Ought to Pass with Amendment, Vote 5-0. Senator Hennessey for the committee.

Health and Human Services
March 14, 2018
2018-1097s
01/03

Amendment to SB 383

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

AN ACT establishing a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents.

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

1 Statement of Intent. The general court recognizes that despite dramatic changes in the federal health insurance programs, many residents of New Hampshire remain uninsured or under insured, and costs continue to soar. The general court further recognizes that the state has an interest in containing the costs of delivering care within the financial means of the stakeholders in our state. Because of the unique demographic, economic, and fiscal characteristics of New Hampshire, improving access to affordable health care should be carefully evaluated and considered. Therefore, the general court hereby establishes a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents.

2 New Subdivision; Commission to Recommend Policies That Will Enhance Access to Affordable Health Care for all New Hampshire Residents. Amend RSA 126-A by inserting after section 74 the following new subdivision:

Commission to Recommend Policies That Will Enhance Access to Affordable Health Care for all New Hampshire Residents

126-A:75 Commission to Recommend Policies That Will Enhance Access to Affordable Health Care for all New Hampshire Residents.

I. There is established a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents.

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

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

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

(3) The insurance commissioner, or designee.

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

(5) Two public members who shall represent New Hampshire patients, appointed by the governor.

(6) A representative of the New Hampshire Hospital Association, appointed by the association.

(7) Two representatives of the New Hampshire Medical Society, appointed by the society.

(8) One member representing the private health insurance industry in New Hampshire, appointed by the speaker of the house of representatives.

(9) A representative of the University of New Hampshire Institute for Health Policy and Practice, appointed by the institute.

(10) A representative of the Business and Industry Association of New Hampshire, appointed by the association.

(11) A representative of organized labor, appointed by the speaker of the house of representatives.

(12) A member representing mental health patients, appointed by the governor.

(13) A member representing persons with substance use disorders, appointed by the governor.

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

II.(a) The commission shall review costs of health care and health insurance in New Hampshire and review policies that will improve access to affordable health care. The commission shall include in its study a review of state and federal policies.

(b) The commission may solicit input from any person or entity the commission deems relevant to its study.

III. The members of the 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. Nine members of the commission shall constitute a quorum.

IV. The commission shall make an interim report with its findings and any recommendations for proposed legislation on or before November 1, 2018 and a final report on November 1, 2019 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.

3 Repeal. RSA 126-A:75, relative to a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect November 1, 2019.

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

2018-1097s

AMENDED ANALYSIS

This bill establishes a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents.

SENATOR HENNESSEY: Thank you, Mister President. I rise to move that SB 383 Ought to Pass with Amendment. This bill seeks to create a commission to recommend the policies that will enhance access to affordable health care for all New Hampshire residents. New Hampshire has some of the most expensive health care in the country, as we know. It is important to make sure the state is doing everything it can to ensure that consumers are able to access the cost effective health care they need. This commission will allow all of the stakeholders to get together and study the issue to guide legislation. Please support SB 383 as amended which received unanimous support from the committee. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise not in support of the amendment or the bill as introduced with good respect to my friend from Hanover. We know and we have seen in this body over the past four years that our good friends to our left or west, Vermont, actually gave consideration and have talked long and actually passed a bill for health care for all, single-payer health care system. Over the course of some four years that legislature who actually wanted to implement a single health care payer system was unable to find any way to do so, less it would double the size of the state budget and still require that any company that had locations in Vermont and out of the state would end up paying double, both the current taxes, both the current health care they had, as well as into the health care system it is. Single payer health care system has proven itself to be financially non-viable and would be a risk to our budget so therefore I'd ask the body to reject any attempt or discussions to try to implement it for the people of this state because I believe it sends a wrong message and I'd like a roll call. Thank you.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I just want to stand up and say I agree with my colleague from Hanover and I agree with my colleague also from Bedford. But I just want to say, just for the record because there's been a lot of discussion about what the committee amendment which we just adopted actually does or doesn't do. I think when the bill started there was an indication that we would look at a single payer system. What the amendment that we just adopted says we want to study how we can make and improve access to affordable health care for New Hampshire residents. So I think that that is not a single payer initiative. There may be some in this room that support that, that's fine, we know that, but this study committee is not intended to introduce a single payer system in New Hampshire. What it is intended to do is find ways whether our friend from Bedford might think across state purchase of health care, or others might think in something very different. It will have the opportunity to explore all those options. I salute my friend from Hanover who is willing to compromise with me on this language which I think gets to a goal that all twenty-four of us can share; improved access to affordable health care. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark for a question of Senator Bradley.)

SENATOR FULLER CLARK: Thank you, Senator Bradley for taking my question. Is it not true that the amendment transformed this bill so it was no longer about a single payer plan and could you speak to the changes that were made in this bill so it is more inclusive, and does allow us to continue to examine the question of why we have the highest health care costs in the nation and how we might be able to reduce those?

SENATOR BRADLEY: And again, you know it's funny, I've been around here a long time. I just learned something earlier this week, and that being that until we actually adopt an amendment and then move it as an Ought to Pass, we don't change the title of a bill. That's why the title of the bill in the calendar says health care for all. What the committee amendment does, and I thank, you know, all of the committee members for being willing to vote for this bill, is it will give the legislature an opportunity to study expanded access to affordable health care for New Hampshire residents. I think that's something we probably all agree on.

The question is on the adoption of the motion of Ought to Pass with Amendment.

Recess. Out of recess.

A roll call was requested by Senator Sanborn, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: (None)

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

ADDENDUM REGULAR CALENDAR

ENERGY AND NATURAL RESOURCES

SB 453, relative to requirements and criteria for a competitive grant program for drinking water protection.

Ought to Pass with Amendment, Vote 3-0. Senator Fuller Clark for the committee.

Energy and Natural Resources
March 20, 2018
2018-1140s
08/03

Amendment to SB 453

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 New Hampshire Drinking Water and Groundwater Advisory Commission Established. Amend RSA 485-F:4, I(g) to read as follows:

(g) The director of economic development, department of [~~resources~~] ***business*** and economic [~~development~~] ***affairs***, or designee.

4 New Hampshire Drinking Water and Groundwater Advisory Commission Established. Amend RSA 485-F:4, VII(a)(5) to read as follows:

(5) The project provides funding through cost-sharing grants to municipalities, municipally-owned water utilities, and ***privately owned*** water utilities [~~regulated by the public utilities commission~~] ***that are public water systems as defined in RSA 485:1-a, XV*** for the design, construction, and extension of public water systems, and the establishment and expansion of wellhead protection areas where they provide the most cost effective method for providing safe and clean drinking water.

SENATOR FULLER CLARK: Thank you very much, Mister President. I move Senate Bill 453 Ought to Pass with Amendment. This bill changes the requirements for rulemaking for a competitive grant program for drinking water protection. This bill addresses the Advisory Committee for the New Hampshire Drinking Water and Groundwater Trust Fund, a program that allows entities to apply for grants and loans to address water infrastructure projects. As the law is currently written, the Department of Environmental Services is charged with such tasks as creating application requirements, criteria for the selection of awards, the approval process. Senate Bill 453 would take those duties that currently belong to the Department of Environmental Services and place them under the Advisory Commission of the program. Since the Advisory Commission is charged with making the decisions about which projects are funded, it only makes sense that the Advisory Commission determine the application requirements, their criteria for the selection of awards, and the approval process. The amendment makes some technical changes to correct a reference to the Commissioner of the Business and Economic Affairs and to better define what water utilities can apply to the trust fund. The Senate Energy and Natural Resources Committee asks for your support for the motion of Ought to Pass with Amendment on Senate Bill 453. Thank you, Mister President and thank you for your leadership on this program.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

FINANCE
SB 388, relative to dispensary locations for therapeutic cannabis.
Ought to Pass, Vote 4-2. Senator Reagan for the committee.

SENATOR REAGAN: Thank you, Mister President. I move Senate Bill 388 Ought to Pass. This bill authorizes the Department of Health and Human Services to establish a second dispensary location in the geographic area that includes Carroll, Coos and Grafton counties, for thera-

peutic cannabis. SB 388 also authorizes the department to establish a second dispensary location in the geographic area that includes Cheshire and Sullivan counties. The committee recommends passage of Senate Bill 388, and asks for your support. Thank you, Mister President.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

Senator Morse is in opposition to the motion of Ought to Pass on SB 388.

SB 564-FN-A, relative to a business tax exemption and a workforce development program for regenerative manufacturing businesses.
Ought to Pass with Amendment, Vote 5-1. Senator D'Allesandro for the committee.

Senate Finance
March 20, 2018
2018-1158s
08/10

Amendment to SB 564-FN-A

Amend RSA 77-A:5-c, I and II as inserted by section 6 of the bill by replacing them with the following:

I. Business organizations shall file an election with the commissioner to be a qualified regenerative manufacturing company with respect to any taxable period on a form prescribed by the commissioner at any time on or before the fifteenth day of the third month immediately following the end of such taxable period. Such an election shall be effective for the taxable period of the qualified regenerative manufacturing company for which it is made and for all succeeding taxable periods until such election is terminated as provided in this section.

II. The election to be a qualified regenerative manufacturing company shall expire for taxable periods beginning after December 31, 2027. No subsequent election may be made after the expiration of an election, with respect to either the business organization or the active regenerative manufacturing business conducted by such business organization or any successor business organization.

Amend the bill by replacing section 8 with the following:

8 Applicability. The provisions of sections 2 through 6 of this act shall apply for taxable periods beginning after December 31, 2017.

SENATOR D'ALLESANDRO: Thank you, Mister President. I move Senate Bill 564-FN-A Ought to Pass with Amendment. This bill establishes a Business Profits Tax and Business Enterprise Tax exemption of 100 percent for certain qualified regenerative manufacturing companies in New Hampshire. Senate Bill 564-FN-A also establishes the Regenerative Manufacturing Workforce Development Program, and a State Regenerative Manufacturing Workers Development Fund to be administered by the Business Finance Authority. The committee amendment clarifies that business organizations shall file an election with the Commissioner of the Department of Revenue Administration to be a qualified regenerative manufacturing company with respect to any taxable period at any time on or before the 15th day of the third month immediately following the end of such taxable period. The amendment also provides that the election to be a qualified regenerative manufacturing company shall expire from taxable periods beginning after December 31, 2027. No subsequent election may be made after the expiration of an election. Lastly,

the amendment changes the date of application for certain provisions of the bill. The committee recommends passage of Senate Bill 564-FN-A as amended, and asks for your support. Thank you, Mister President.

Recess. Out of recess.

The question is on the adoption of the Committee Amendment. Adopted.

Senator Feltes offered a Floor Amendment.

Sen. Feltes, Dist 15
March 20, 2018
2018-1159s
10/08

Floor Amendment to SB 564-FN-A

Amend RSA 77-a:5-c, I as inserted by section 6 of the bill by replacing it with the following:

I. Business organizations shall file an election with the commissioner to be a qualified regenerative manufacturing company with respect to any taxable period on a form prescribed by the commissioner at any time on or before the fifteenth day of the third month immediately following the end of such taxable period. Such an election shall be effective for the taxable period of the qualified regenerative manufacturing company for which it is made and shall be applicable only where, as reported by New Hampshire department employment security, the average quarterly employment of the business organization in the taxable period is greater than the average quarterly employment of the business organization in the preceding taxable period. A valid election shall be applicable for all succeeding taxable periods until such election is terminated as provided in this section.

SENATOR FELTES: Thank you, Mister President. Mister President, some folks oppose the first part of this bill, the tax exemption loophole, whatever folks want to call it. Some folks oppose the second part, some folks support both parts, some folks oppose both parts. A lot of those folks are on House Ways and Means, in particular. But this amendment is to improve the first part in my view. Just to be clear, this bill sets up a ten year carve out for a specific industry, albeit for a significant and substantial public benefit, ten year carve out from all taxes to the state. Let me just read a few quotes about that particular provision.

"We appreciate everything Dean Kamen does for New Hampshire. It would be fantastic if ARMI grew into a leading biotech hub. That does not justify mucking up New Hampshire's business tax code with special treatment for favorite firms." That's not me, that's the Union Leader.

Another quote. "Empowering the government to arrange the economy as it sees fit, to rig the rules so that the government preferred groups are favored over others does not protect the unconnected unless powerful from the connective and powerful in terms of government and to all the powerful and well connected." That's not me, that's the Josiah Bartlett Center for Public Policy, about this bill.

Here's another quote. "You're either on the bus, or you're off the bus." That's not me, that's our friend from Bedford.

In this particular case, basically everybody's on the bus, but some people are now off of it. And some people are now off of it Mister President, without any accountability. My friend from District 3 says the best social

program is a job. Well, if this is about jobs this amendment is about accountability that jobs are created. You get your tax loophole exemption if you create jobs. That's it. Jobs go up and the tax will too as compared to the preceding period, you get your tax loophole. Accountability. One sentence of accountability. That's it. One sentence, and it's about jobs. So I encourage us to vote for this Floor Amendment 1159s. Thank you, Mister President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I rise and ask my colleagues to vote against the current amendment that's before us. Let's just look at this thing as it stands. We have an opportunity, we have an opportunity, and I say we I mean the whole state of New Hampshire, to support something that's really, it's out of my league in terms of its concept. They are going to try to take the DNA of people and create organs and create flesh so that people who need these items don't have to wait for years for a transplant or don't have to wait for the rest of their lives with the inability to function as they should function.

We've been in the war in Afghanistan for seventeen years. People don't die in war anymore, our soldiers because of the advanced medical situation, they get taken care of. But they come home maimed; arms legs, head injuries, lose organs. This is an opportunity for us to make their lives whole. And creating jobs, it's going to create jobs, but they're going to be engineers, PHDs, you've got to go out and find those people. And you've got to induce them to come to New Hampshire. Dean Kamen has engineers. This is going to require very experienced, very well educated people. That's why the second part of the bill talks about a way to take care of loans. How many times in your life have you been given an opportunity through science and technology to make somebody's life better? And this is an opportunity. Remember that Kamen is a very bright very capable guy. The wheelchair that he's developed, the Segway that he's developed, the ability to purify water has been developed, the automatic arm that he's developed, the wheelchair that can climb stairs. These are all innovations that have come out of his company. He's a brilliant guy. We have an opportunity to aid a cause that they're committed to. Now we've got to bring people in to make this cause a reality. That's a big job and ARMI isn't going to be a separate entity, that entity has got to go out and recruit people, has to recruit the best and the brightest.

So how do you say, because you didn't bring five in, you don't get the tax benefit? I don't think you can say that. Look at, we can't find people today to do menial jobs. We can't find them. I talked to the police department in Manchester yesterday, we've got three people retiring. We can't fill those positions. We just can't fill those positions. So this is a humongous task to begin with. Regardless of how much money we got from ARMI and how much money we're going to raise, we've got to find the people to do this work. And I'm probably not going to be alive when this comes to hopefully a very successful conclusion, because it's a project that's going to go on and on and we are investing per se. Nobody's ever paid any Business Profits Tax, how long does it take for an entity like this to pay it and they don't pay any Business Enterprise Tax? We're not losing anything but what we're doing something for the public good. We're making an investment for the public good.

I just, I hope that my colleagues will think about that when you cast your vote. Everybody has their own opinion. I understand that and I respect

that. But the entity is located in the 20th Senate District, those mills pay real estate tax, significant real estate tax to the city of Manchester. That is going to continue. Hopefully the people that come into our state will buy homes, will reside in our state and will make our state an even better place than it is. So I ask my colleagues to think about this. We had good discussions in the Ways and Means Committee about this. I think we made a favorable recommendation, I hope that you will support that, vote down this amendment and look at the bill and hope that you will support the bill. Thank you, Mister President.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. It's my pleasure to introduce one of my younger brothers and my nephew, Brandon Giuda and Ian who are with us in the gallery today. Please welcome them.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I rise opposed to Floor Amendment 1159. Look, I really as a sponsor of the bill appreciate the bipartisan support for this all across the state. This technology of organ and tissue regeneration is in the stage now where it's going from being able to happen to commercialized and that's what will enable us to help veterans, help firefighters, police officers, people that serve us in so many different ways as they are wounded on the battlefield or wherever. This is not a question of if the commercialization technology succeeds, it's a question of where. And we have an $80 million head start because of Dean Kamen's efforts through ARMI. If we adopt this amendment, we totally make what we're trying to do uncertain. And uncertainty will kill the investment in New Hampshire for this kind of technology. And therefore it would an absolute disaster to pass this amendment. We might as well gut the bill and if we pass this amendment. So I would urge everybody that supported this bill so far to reject this amendment. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in opposition to this amendment for a couple of reasons. Veterans notwithstanding, that in and of itself is a huge reason. I spent days at Walter Reed talking and working with Vets who are missing various parts of their bodies. This is a godsend. This should transcend tax policy. That said, we're not exempting these businesses from property taxes, and as this ARMI core starts in Manchester, like ripples from a pond, from a rock thrown into a pond there are going to be ancillary businesses in regenerative manufacturing, they're going to spread out throughout the area and throughout the state. This is just the incubator, and to offer this kind of incentive gives us the opportunity to set the standard for a new world industry. That is something I want for our state. I think our people, businesses and institutions all benefit and ultimately will profit as well. Thank you, Mister President.

(The Chair recognized Senator Gannon for a question of Senator Feltes.)

SENATOR GANNON: I like to be 100 percent on the train and understand what's going on, Senator. So your amendment is going to take away the tax exemption, no? Am I wrong? That's just what I want clarified. It's still '27 right now but your amendment would take it away sooner?

SENATOR FELTES: No. Thank you very much Senator Gannon. The amendment doesn't take away the tax exemption at all. It says that there's accountability in the way tax exemption operates. In other words if employment goes up in the taxable period, as compared to the preceding taxable period, then you get the tax exemption. If it goes up one employees on an average quarterly basis, you get the tax exemption. The major argument we heard in committee is about getting the jobs and expanding operations. But you could create a business organizations and maybe you hire a bunch of people initially and then maybe you lay off everybody and you got to automation. Should you continue to get the tax exemption? I think not, I think other folks think continue to get the tax exemption. So if it's about jobs, then this puts in place the tax exemption with some accountability tied to jobs.

SENATOR GANNON: Thank you.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. I just want to give one example where I saw a ten year tax exemption work. We'll go back to Ireland like yesterday. In the 80s Ireland was one of the poorest nations with the most unemployment. They had a great young workforce and so what they did was give a ten year tax exemption, and it got companies like Digital to go over. They had no, no desire, no one was going to Ireland at the time and it totally turned them around until they were the Celtic tiger, the envy of the rest of Europe, and it was on a ten year exemption. Sure some of the companies did leave at the end of the ten year, but they picked up tens of thousands of jobs. This ARMI program is a very risky; at best the chances of us in Manchester surviving and being a place with all this biological stuff that Senator Lou and I just a little bit understand. Seventy-five percent that it's going to totally fail and it's going to go somewhere else, so we need to reward the people who are willing to make such an investment in New Hampshire by giving them their ten years. Thank you.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise and ask the body to reject the amendment because you know I try very hard not to talk about things I know very little about. But as a business owner, when I see something that says, you're only qualified for an incentive or a tax credit only in the quarters where you raise more employees. I ask the body to think about that for a second. So we have an opportunity here that people will come and they'll work in engineering, but if the second quarter they haven't had any adds to staff, because it says, effective for the taxable period of the qualified regenerative business for which it is made and shall be applicable only where the average quarterly employment of the business organization in the taxable period is greater than the average quarterly employment of the business organization in the preceding tax period. So the only way you get the credit is if you add the staff.

As my colleague from District 15 said, if you have a bunch of employees and you automate and lay them off, you should lose your exemption. But there's a process of creation, there's a process of research and development. There's a process of trying to encourage companies that come to our state and invest their resources, their time, their money to create something. It's not going to happen overnight. It's not going to happen in the first reporting quarter, maybe the second, third, fourth, fifth all

the way up until the fiftieth quarter. To tell the business community that they can only come here and receive the benefit if they make adds to staff every quarter, defeats what it means for businesses to run. So I'd suggest that the body reject the amendment and we'll move on with the bill as presented. Thank you, Mister President.

(The Chair recognized Senator Avard.)

SENATOR AVARD: Thank you, Mister President. I just rise in opposition to the amendment. I think we just need to keep it simple. Keep it simple and pass this bill as is. We have a great opportunity here and we have a wonderful opportunity to attract a new workforce, people in New Hampshire. Let's keep it simple. This complicates things too much. So please vote down the amendment and pass this bill.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Hennessey, Feltes, Reagan.

The following Senators voted No: Giuda, Bradley, Watters, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 4 - Nays: 19. Failed.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President. I rise in support of the bill, but I want to say first that maybe we should have a Floor Amendment to say that we're going to regenerate a clone of the Dean, okay? Kamen's going to take care of you, Buddy. Just hang on. We'll do it. You know I saw this bill and I really saw the future. Here's potentially the next greatest generation of change, and I'm for all parts of it, too. This can work, will work, it has worked in the past. I just want to remind folks who may not have been here two years ago, the effort to bring in Safran-Albany up to Rochester and you know I happened to be up there on Tuesday with the Dover Learning Center, touring the facility that Great Bay opened and they had about 150 people there in the job training programs. Incredible demand for them in composites, in computer numerical manufacturing, particularly in non-destructive testing. I was told that they get fifteen phone calls from around the country for every graduate that they are producing, let alone the folks that go up and work at Albany-Safran. Using YOLA funds they're using private industry funds, they have a capacity of 250 and they're just looking for people to come in there. So it really works. And you remember a few years ago, you know Safran, the plane was going to land you know. It's coming in. Can you turn on the lights of the runway? Yeah we can turn the lights on the runway. And what it meant was that everybody here and Governor Lynch worked to make that commitment. They were going to build that center, wasn't a tax credit there but they said look, we will do the workforce development, you know we'll build that center, Great Bay stepped up, it's a beautiful facility, Great Bay stepped up, they have adult learning center folks and faculty drawn from all over the place and what a great place. See, and that's what this is going to do. It's going to be jobs, it will work.

And secondly, I think that the parts in here looking at that pipeline development to make sure that we can increase the capacity of the biological

sciences at our universities and colleges and say look, if you want to come into this field, we're going to help you with some scholarship funding. And you're going to come out and you're going to get one of the best cutting edge, hottest jobs anywhere in the country and it's going to be right here in New Hampshire. And it says, yeah we've got a problem with student debt. We have talked about that a lot, the student debt problem. And I know there are those who would say, and I agree, we ought to address that globally. You know we ought to have some programs here and some you know some companies just are coming up from school districts, some companies who are offering this and that's great and I wish we could do it and stay awake. But the point here is that here is a targeted industry that needs this that we know that the capacity at UNH and then other students who may come from somewhere else with a lot of student debt they know that after a certain number of years they're going to get that debt paid down. That to me is just such a win-win and I hope we will you know move forward and join the march for the ARMI folks. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I rise to remind this body about the opportunity we have and to speak to some of my friends on the other side of the aisle who might at some point as this bill heads over there listen to the testimony as many of them always do. Our opportunity to try and help solve one of our biggest problems which is the health of our people, especially those veterans who may have been caught up in a bad situation in conflict or someone like your next door neighbor who might be caught in a burning car or burning house. Our ability right here in New Hampshire to be the forefront to truly help people regain their life and health with skin or a kidney or a liver or an eye or whatever it is, is about as earth-shattering of an opportunity as we've ever seen.

Now I know my friends on the other side of the aisle and I, and typically as you would know, always get a little as I say wiggly and weak in the knee when I talk about exempting some people or as my friend from District 15 said, let some people off the bus while we make other people stay on the bus. Is that fair to us? But I want to remind my colleagues that I think many people in this room supported increases in the research and development tax credit to provide specific exemptions and encouragement to specific companies and specific industries because they know there's a chance to make it grow. I know my friend from the North Country fought long and hard for a specific tax benefit, first up in the North Country, this year we've brought it all the way down to many parts of the state to encourage companies to come, grow and expand. I know we've done much on the first time home buy credit, first time home buyers. I think everyone on this body also supported that. But what good is having a first time home purchase opportunity if there's no job for them to come here and benefit from? Our tax policy is very holistic and I know there's days and early this morning we had a robust discussion about looking at tax policy in a vacuum. One tax cut, potentially one benefit or one detriment to the people of our state. But the truth is our tax policy is very, very holistic. But all of it works together in ebb and flow to make our society here in New Hampshire better.

This, as the Senator from District 20 said, is a chance of a lifetime. This is a chance of a lifetime that we have not seen in maybe all of our lives. When have we been on the cutting edge and the cusp to truly cure life

threatening injury from our little state right here? Yeah, sure I hear look we're providing an exemption for up to ten years, from the first start. We made the amendment to make sure it could not go into perpetuity. Some people have suggested it's not constitutional, we have seen a letter from the attorney general, it is constitutional. Some people have said we have never done this and shouldn't do this, and the fact is we have done this in this state several times before. Most recent one we have to remember was when we looked to exempt investment income from retirement accounts. And as a result of that they've become, you know that industry has become the second largest employer in the state of New Hampshire, for good high paying jobs, that makes our economy grow.

And lastly I would add, I think it's important that we remember, there's more than just the entities themselves that would be involved in regenerative design. We have to think about the ancillary companies. Who's going to help with the construction to build it, who's going to help with feeding them, who's going to help with property maintenance, who's going to help with building equipment and supplies and test tubes? And all the other potential economic opportunities that we have if we see today with the $80 million up front and a promise of another I think it's 240 million on top of that. Nearly $350 million of committed money to whoever lands this opportunity. That will bring continued expanded economic development to our state. It will bring opportunities that I believe as the Senator from District 20 said, an economic opportunity in our state that we may have never seen before and may never see again.

If there are things we should, as my friends say, be investing in, even though this is an exemption and not an investment, because it's money not realized, I can think of no better opportunity, no better opportunity that we have to invest in our people, our veterans, the sick, the hurt. This is a program that I believe in, I believe the promise is there and I believe our state will truly see benefits. And as I said a few weeks ago Mister President, this is a case where the juice will be worth the squeeze. Thank you, Mister President.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

Senator Feltes is in favor of the motion of Ought to Pass with Amendment on SB 564-FN-A.

SB 569-FN, relative to animal cruelty and establishing a commission to study certain language applicable to the transfer of animals.
Ought to Pass with Amendment, Vote 4-2. Senator Feltes for the committee.

Senate Finance
March 20, 2018
2018-1157s
08/05

Amendment to SB 569-FN

Amend RSA 437:1, III as inserted by section 2 of the bill by replacing it with the following:

III. "Breeding female" means an unspayed female dog, 24 months of age or older kept or maintained for the purpose of breeding and selling the dog's offspring. An unspayed female dog that is bred prior to reaching 24 months of age shall be considered a breeding female.

SENATOR FELTES: Thank you, Mister President. I move Senate Bill 569-FN Ought to Pass with Amendment. This bill; number one; requires inspection of premises before issuance of a license to transfer animals or birds. Number two; allows the suspension or revocation of a license to transfer animals or birds if conditions under which the licenses issued are not maintained. Number three; allows for a person caring for an animal confiscated during an animal cruelty trial to petition the town for a bond to cover the cost of animal care. Number four; makes a $200,000 appropriation to the Department of Agriculture, Markets and Food and authorizes the Department to hire two additional inspectors for oversight and inspection of pet vendors; and number five; establishes a commission to study certain language applicable to the transfer of animals. The committee amendment clarifies the definition of "breeding female" so that an unspayed female dog that is bred prior to reaching twenty-four months of age shall be considered a breeding female. The Senate Finance Committee recommends the passage of Senate Bill 569-FN as amended, and asks for your support. Thank you, Mister President.

(The Chair recognized Senator Birdsell for a question of Senator Feltes.)

SENATOR BIRDSELL: Thank you for taking my question. My question is on the animal– actually I have three questions– the animal shelter facility. Does this include foster homes who foster more than one dog?

SENATOR FELTES: I don't believe so but I'll defer to the Senate Majority Leader, it's his bill. So I'll defer to him on that question.

SENATOR BIRDSELL: Mister President, will the good Senator from District 3 be speaking? Because I can wait. I can hold my questions until he speaks.

PRESIDENT MORSE: No let's get it over with.

SENATOR BIRDSELL: So does animal shelter facility include foster homes who foster more than one dog?

SENATOR BRADLEY: I think, Senator you would have to if you looked at the bill that we passed a couple of weeks ago, the amendment or the bill on the first page of the bill lines 21 through 26, define what an animal shelter facility means. It includes the building, the immediate surrounding area used to house or contain animals, owned, operated, maintained by a duly incorporated humane society, animal welfare society or others like that, and also a public pound for the housing of strays or a pound operated by a person. So it doesn't specify a number, but that's what an animal shelter facility is.

SENATOR BIRDSELL: So if I'm transporting a rescue dog from Connecticut up to New Hampshire to its final destination to someone and the dog is basically surrendered to let's say Poodle Rescue of New England who I volunteer with, that final destination is a foster home, if they have two or three rescues from Poodle Rescue, I'm presuming that would be considered an animal shelter facility?

SENATOR BRADLEY: Or an animal rescue facility which is defined earlier in the language. And I would just say this, while this section is repealed and re-enacted, it's largely based on the definitions that were in place prior to introduction of this bill. The main change is in the definition of commercial kennel and the number of breeding females. So this was intended by re-enactment to simplify all of the definitions.

SENATOR BIRDSELL: So, let's move to the pet vendor, which means any person engaged in the business of transferring live animals or birds

customarily used as household pets to the public with or without fee or donation required, whether or not a physical facility is owned, would that mean someone like myself who would pick up a rescue poodle from Connecticut, transport it up to New Hampshire, would I be considered a pet vendor?

SENATOR BRADLEY: A pet vendor would mean under this definition and again largely intact from prior, from the current law, any person engaged in the business of transferring live animals or birds customarily used as household pets to the public with or without a fee or donation required. And then it says pet vendor includes and then it goes on, animal rescue facilities, animal shelter brokers, commercial kennels and pet stores. So I think the definitions are pretty clear. I'm not exactly sure what you do, you probably would better know how you fall under these definitions if you even do.

SENATOR BIRDSELL: Are the license requirements new to the pet vendor arena?

SENATOR BRADLEY: No. What this bill is seeking to do is have inspections primarily of commercial kennels that have seven or more breeding female dogs. That's what's new in an attempt to rectify some of the very significant animal cruelty cases that we've witnessed in New Hampshire over the last couple of years.

SENATOR BIRDSELL: Thank you.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

SB 577, requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.
Inexpedient to Legislate, Vote 3-3. Senator Daniels for the committee.

SENATOR DANIELS: Thank you, Mister President. I move Senate Bill 577 Inexpedient to Legislate. This bill requires the Public Utilities Commission to initiate a proceeding to consider changes to its order affecting the Burgess BioPower Plant in Berlin. It prohibits the import of certain liquid fuels and prohibits the sale of such fuels in 2019. SB 577 also changes the inclusion of Electric Renewable Energy Class I for methane gas. The prime sponsor of the legislation explained to committee members that he was approached by the Burgess BioPower Plant to file the legislation, which seeks to ask the Public Utilities Commission to open such a docket to determine if the PUC's original 2014 order creating the plant's ability to sell electricity to Eversource Energy at above market prices, should be extended. He explained such action may impact the ratepayers of Eversource Energy, the property tax base of the city of Berlin, the bio-mass industry in the state of New Hampshire and jobs in the North Country. The prime sponsor also indicated if the PUC rate order is extended, rates would probably remain consistent. Committee members questioned if it was appropriate for the state to step in and solve the problem, as Burgess BioPower could have gone directly back to the PUC rather than have taken the legislative approach. Unable to come to an agreement, the Senate Finance Committee offers a motion of Inexpedient to Legislate on Senate Bill 577, and asks for your support. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: I rise in opposition to the motion of Inexpedient to Legislate, and thank you, Mister President for recognizing me to speak on behalf of the bill as it came before the Energy and Natural Resources Committee.

First I would like to refer the Senators to the findings in the bill itself. The General Court finds that the continued operation of the Burgess Bio plant in Berlin is important to the economy of the North Country and the city of Berlin, as well as to the forest products industry and the importance for retaining a renewable energy portfolio standard goals and the environment. The bill directs the PUC to offer proceedings and directs them to consider whether it is in the public interest to increase the amount of the cap on the level of the communicative reduction vector, or to make other adjustments or revisions to the order, so that the Burgess Bio plant can continue to operate. Particularly it calls upon the PUC to examine the importance of the plant for the city of Berlin for the renewable energy for the state and also for jobs in the North Country while at the same time the PUC is to examine the impact on ratepayers. It makes sense that the PUC is the best entity to measure the pros and cons of keeping a cross subsidy for the Burgess BioPower plant. One of the reasons that this request of the PUC is important is because we've seen that the fuel cost for natural energy, natural gas continues to go down and therefore puts many of our other energy producing entities in the state at risk. And puts at risk, jobs within this state and also puts at risk the money that's being spent on energy here in the state, rather than sending it out of state to pay for natural gas.

Let me just speak for a moment to the importance of the Burgess BioPower plant. It was developed on the site of the Frasier Mills, which many of you know closed in 2006 and left the North Country and Berlin at great economic disadvantage. It is the largest renewable energy generator in the state, it is a dispatchable resource that when natural resources such as natural gas is constrained which we have seen happening not infrequently over the last several years, and also for other renewable sources, wind and solar being constrained are not available. The plant is crucial to the city of Berlin's redefinition and the effort to become a sustainable economy in the heart of the North Country. The plant accounts for 10 percent of the annual sewer fees to operate the municipal waste water system. The plant accounts for 25 percent of the annual water fees to operate the municipal water system and it also accounts for 9 percent of the annual tax base in the city of Berlin. These monies have made it possible for the city of Berlin to invest in other infrastructure projects such as New Hampshire Route 16, and revenues will be able to be continually invested if the plant is allowed to continue, for other capital improvements in the region. It provides a vital economic impact not only to Berlin, but also to the surrounding communities, ensuring that we continue employment for loggers and sawmills as example. And the use of the renewable sources such as the Biomass from the Berlin power plant will increase fuel security for all of New England. It is for those reasons that I believe it is important that we overturn the ITL of the Finance Committee and send this bill both to the House and ultimately to the PUC to make sure that it is effectively evaluated because of the tremendous economic impact it has had and could be lost if the plant were to close. Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise to overturn the committee recommendation of Inexpedient to Legislate. We talk all the time about jobs, we talk all the time about energy. We need to understand that when the natural gas prices spike, because it's extremely hot or extremely cold we need baseline energy. This is 100 megawatts of energy we're talking about within the biomass industry. We lose that we lose the ability to back up and recover, we start talking about brown outs. We need to talk about the fact that we're seeking energy independence as a nation. We have the ability to do that as a state. When we passed 129 last year I testified for that bill and in the House testified that we're looking for a window of time to rearrange the entire paradigm of the biomass industry. Specifically looking towards microgrids. Wood fuel and microgrid operation with multiple biomass plants is feasible.

The study is beginning and it will be ongoing to see if we can maybe build some more of these so that we can attain energy independence, completely. We don't need oil from Iraq or Venezuela, we don't need natural gas from Texas or anywhere else. We have the resource to fuel our own microgrids up north. The wood is ours, the people who cut the wood are ours. They're New Hampshire jobs moving the wood to the mills which will suffer significantly if this bill is defeated, because those mills take 6 percent of the wood they cut as low grade wood and send it to the biomass plants to burn. The biomass plant operators, the truckers, the people that get rid of the wood ash from the residue from the biomass process, the engineers that work on it. We're talking roughly 1,000 jobs. And so this is uniquely an opportunity to let New Hampshire take a look at trying to attain energy independence at least within one of its own economic eco-systems, a term I like to use. Giving these people a chance to work their way out of the problems. Most of the cost of your energy is not the energy. It's the transmission and the distribution, and that's a problem we have to solve. That's really the problem. Microgrids can be part of that process of solving that as well as the energy cost. I ask you to please support, for the sake of the New Hampshire jobs, for the sake of our potential energy independence and for new technology going forward, to opposing the ITL motion so I can introduce an alternate motion. Thank you, Mister President.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Giuda, seconded by Senator Fuller Clark.

The following Senators voted Yes: Sanborn, Daniels, Reagan, Morse.

The following Senators voted No: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Kahn, Avard, Lasky, Carson, Feltes, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 4 - Nays: 19. Failed.

Senator Bradley moved Ought to Pass.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Kahn, Avard, Lasky, Carson, Feltes, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis.

The following Senators voted No: Sanborn, Daniels, Reagan, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 19 - Nays: 4. Adopted, bill ordered to Third Reading.

SB 582-FN, authorizing an assessment to determine appropriate caseload and workload standards for the division for children, youth and families; establishing additional child protection services positions in the division for children, youth and families; relative to foster care and adoption programs and services; and making appropriations therefor. Ought to Pass with Amendment, Vote 6-0. Senator Reagan for the committee.

Senate Finance
March 20, 2018
2018-1154s
04/05

Amendment to SB 582-FN

Amend the bill by replacing section 5 with the following:

5 Department of Health and Human Services; Appropriation; Foster Care and Adoption Programs and Services. The sum of $1,100,000 for the fiscal year ending June 30, 2019, is hereby appropriated to the department of health and human services for the purpose of funding foster care and adoption programs, rate increases, and services pursuant to RSA 170-G:3. This appropriation is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend the bill by deleting section 6 and renumbering the original section 7 to read as 6.

2018-1154s

AMENDED ANALYSIS

This bill:

I. Directs the department of health and human services to conduct an assessment to determine appropriate caseload and workload standards for child protection staff and makes an appropriation for such purpose.

II. Makes appropriations to the department of health and human services for additional child protection staff, and for foster care and adoption programs, rate increases, and services.

SENATOR REAGAN: Thank you, Mister President. As the Senate member of the DCYF Advisory Board, I move Senate Bill 582 Ought to Pass with Amendment. This bill does three things; it requires HHS to conduct an assessment to determine appropriate caseload/workload standards for the DCYF, and appropriates $100,000 in FY '19 for this purpose. Second it establishes 13 child protective social worker positions and two supervisor positions within DCYF, and appropriates $1.1 million for this purpose in FY '19 and there are federal funds that supplement the General Fund appropriation. In addition, the committee amendment appropriates $1.1 million in '19 for the purpose of funding foster care and adoption programs, rate increases and services pursuant to RSA 170-G:3, with federal matching funds also supplementing this General Fund appropriation. The Senate Finance Committee recommends passage of Senate Bill 582-FN as amended, and asks for your support. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

SB 590-FN-A, making a supplemental appropriation to the state loan repayment program and relative to emergency involuntary admissions, the child protection act, and the developmental disabilities wait list and making appropriations therefor.
Ought to Pass, Vote 6-0. Senator Feltes for the committee.

Recess. Out of recess.

SENATOR FELTES: Thank you, Mister President. I move Senate Bill 590-FN-A Ought to Pass. This bill number one: clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C. Number two: makes a $1.1 million General Fund appropriation to the Department of Health and Human Services for the purpose of providing additional funding to the state loan repayment program. The Department will utilize the additional funds for loan repayments. Number three: clarifies the determination of "Unfounded, but with Reasonable Concern" for possible abuse and neglect under the Child Protection Law, and enables the Department of Health and Human Services to offer voluntary services to the family. Number four: appropriates $1.5 million in FY 2019 for funding voluntary services under RSA 169-C. Number five: appropriates $1.5 million in FY 2019 for funding community-based prevention programs under the Child Protection Act. Number six: establishes that the New Hampshire Home Visiting Program shall be available to Medicaid-eligible families without restriction. Number seven: makes a $310,000 appropriation to the Department to hire three attorneys for the Division for Children, Youth and Families. Number eight: provides approximately $1.1 million for the Developmental Disabilities Wait List. Number nine: requires the Department of Health and Human Service Commissioner to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments; and ten; clarifies DHHS' authority to consent to medical treatment for a minor in foster care.

All of the above have different varying federal matching. The Committee recommends passage of Senate Bill 590-FN-A, and asks for your support. Thank you, Mister President.

Senator Fuller Clark offered a Floor Amendment.

Sen. Kahn, Dist 10
Sen. Fuller Clark, Dist 21
March 22, 2018
2018-1197s
05/06

Floor Amendment to SB 590-FN-A

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

AN ACT making a supplemental appropriation to the state loan repayment program and relative to emergency involuntary admissions, the child protection act, and the developmental disabilities wait list and making appropriations therefor; and relative to school food and nutrition programs.

Amend the bill by replacing all after section 22 with the following:

23 School Boards; Food and Nutrition Programs. Amend RSA 189:11-a, I to read as follows:

I. Each school board shall make [~~a~~] ***at least one*** meal available during school hours to every pupil under its jurisdiction. Such meals shall be served without cost or at a reduced cost to any [~~needy~~] child who [~~is unable to pay the full cost of said meals~~] ***meets federal income eligibility guidelines***. The state board of education shall insure compliance with this section and shall establish minimum nutritional standards for such meals and shall further establish income guidelines setting forth the minimum family size annual income levels to be used in determining eligibility for free and reduced price meals. Nothing in this section shall prohibit the operation of both a breakfast and lunch program in the same school. Further any requirement of this section which conflicts with any federal statute or regulation may be waived by the state board of education.

24 School Boards; Food and Nutrition Programs. Amend RSA 189:11-a, VII(b) to read as follows:

(b) Such school which demonstrates to the department of education that an approved school wellness policy, as required under the [~~Child Nutrition and WIC Reauthorization Act of 2004~~], ***Richard B. Russell National School Lunch Act 42, U.S.C. section 1758b*** is in effect, and that such school is providing breakfast meals to pupils that meet or exceed the United States Department of Agriculture's child nutrition criteria may apply for and receive a 3 cent reimbursement for each breakfast meal served to a pupil. The department of education shall request biennial appropriations in an amount sufficient to meet projected school breakfast reimbursements. The department of education shall prescribe forms as necessary under this paragraph. ***In addition to the $.03 state reimbursement for each breakfast served to all pupils, the department of education shall request biennial appropriations equal to the difference between the reduced and free federal reimbursement rates for breakfast so that pupils eligible for reduced price meals are offered breakfast at no cost.***

25 Effective Date.

I. Sections 7-12 of this act shall take effect July 1, 2018.

II. Sections 23 and 24 of this act shall take effect July 1, 2019.

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

2018-1197s

AMENDED ANALYSIS

This bill:

I. Clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C.

II. Makes a supplemental appropriation to the state loan repayment program.

III. Clarifies the determination of unfounded but with reasonable concern for possible abuse and neglect under the child protection law, and enables the department of health and human services to offer voluntary services to the family.

IV. Makes appropriations for voluntary services and community-based prevention programs under the child protection act.

V. Provides that the New Hampshire home visiting program shall be available to Medicaid eligible families.

VI. Makes an appropriation to the department of health and human services to hire additional attorneys.

VII. Makes an appropriation to the department of health and human services for the purpose of funding the developmental disabilities wait list.

VIII. Requires the commissioner of the department of health and human services to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments.

IX. Clarifies the department of health and human services' authority to consent to medical treatment for a minor in foster care.

X. Requires schools to make at least one free or reduced cost meal available to children who meet federal eligibility guidelines and directs the department of education to request an appropriation sufficient to provide a free breakfast to students eligible for reduced cost meals.

SENATOR FULLER CLARK: Thank you very much, Mister President. This amendment contains the language from the previous Senate Bill 577. The intent of this legislation is to provide more children with the most important meal of the day. If we do nothing, New Hampshire will remain the 49th or second to last in the country in the participation of the national school breakfast program for low income students and their families. I would ask you today shouldn't our children be our first priority? Yesterday nearly every Senator in this room testified to the fact that we want to keep our children safe. Today, why don't we also want to make sure that each child in New Hampshire has the chance to thrive by offering breakfast at no cost to children who live with a food insecurity?

Numerous studies over the years have shown that students who eat a healthy breakfast are much more likely to perform better in school, have better test results, better attention in class and better interaction with their fellow students. Most New Hampshire schools understand this research and ensure on test days that all students receive breakfast. If your school has chosen to not participate in the national breakfast program, passing this legislation will not impact your school in any way. Mister President, this is the case with the Salem High School, but not for Salem's elementary schools, where 30 percent of their students participate in the free and reduced meals program. Nor is it the case for elementary schools in Conway, where 61 percent of their students are eligible for the free and reduced meals program as well as for the city of Manchester, where one of their elementary schools, and this is just one of them, has a 97 percent of their students participating in the free and reduced meals program. Providing breakfast at no cost to all these eligible students and more would ensure that each one of them gets the best possible start to the day and protects the school from any debt they currently incur from parents who fail to pay their share of the reduced breakfast charge.

If your school district has a sizable portion of students receiving breakfast under the national breakfast program, this change in law would benefit not only students but also reduce cost to the school and reduce paperwork, tracking and data by the state. The cost of this program to the state would be approximately over two years, $772,000 and would be matched by $2 million $7,200 from the Federal Government, enabling more than 7,000 school age children currently eligible for reduced cost breakfast throughout the state to receive breakfast at no cost. I'd like to

stress that in the budget this applies to the FY 2021 budget and would not have any impacts on cost for FY '19. I ask you today to please join me in favor of the amendment so that we may provide breakfast to this more than 70,000 additional children in our state. Thank you, Mister President.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. I think this is an important debate, I think it's an important issue. I think it's important for us to try to hear each other and speak to this. I was at the– we talked yesterday about Hinsdale School District. I was there for their school and town meeting this weekend. Six hundred students it's a district that goes K through 12. Small school. Border town. Tough times come through Hinsdale in waves. It's not the richest time right now for them. It's a tough time. The Hinsdale Superintendent described to me when I talked about school breakfast program he said, you know what our principals need to do? They go chase the parents for the twenty-seven cents for breakfast, and the forty cents for lunch, at the end of each month. Some of those parents, they don't pay. They can't pay. What does the school district do? Well, they don't pay.

I checked, we've got Impact Monadnock in my district. It's something that has traditionally studied the kids in Cheshire County. A third of those children are being raised by one parent, a third. I don't know if Cheshire County's aberrant to the rest of the state, my guess is it's a reasonable microcosm. Not all of those single parent households are going to be qualifying for free and reduced meals, but those that do you might ask so what's their income profile. Free and reduced or free meal goes to those whose incomes, family and household income is up to 130 percent of the poverty level. A reduced meal cost goes to a child whose household is up to 185 percent of the poverty level. So according to the New Hampshire Department of Education website, those incomes are at 130 percent free meals, go up to those households with incomes of $21,112. What we're talking about is helping out the families that are between $21,000.00 in annual household income to $30,044. That's what it is. Now do you know a single parent with one kid that's in that income bracket, and is it possible, do you know those parents and you know those children? I do, I think we all do. We should all, because there's 7,100 of those kids throughout New Hampshire.

So I've had to ask myself over the last month, while this has been slowed down and slowed down and we haven't voted, why does this trouble me so? Why is it this issue on children's meals so troubling to me? So here's my immigrant story. My parents came to the country in 1940, they fled Germany, Jewish family, no choice. Stay, face extermination, leave, live the immigrant's story. Wasn't a dream. For their first twenty-five years in this country it was an immigrant's story. It's hardscrabble. Twenty-seven cents is what we expect a kid who needs a breakfast to pay to get that breakfast. That income that kid whose family income is between 20 and $30,000. I never had twenty-seven cents that I took to school in the morning. That would have been $1.35 a week. Lunch on the reduced meal plan, that's forty cents. That's another $2.00 a week. I was lucky. I lived right across the street from the elementary school. I could stay in bed a little bit later, I could eat breakfast. Breakfast was cereal. But I had breakfast, I walked across the street, and I think back about our New Hampshire kids. There aren't a lot of New Hampshire kids that live across the street from their schools. A lot of them board buses, a lot of

them are in transportation for a long period of time. A lot of them leave the household and may not have breakfast. Well we know that's true for 7,100 kids, who don't have–, well maybe it's true. But why should we even doubt that fact? Why shouldn't we know that all of those 7,100 kids have breakfast? Here's the point; if I knew that at the end of the month my family was going to be billed $15.00 for me to eat breakfast and lunch at school, would I have gone without a meal? And I would have, I think I would have. I wouldn't have wanted that burden on them. I never went without a meal by the way. I always felt that my parents were taking good care of me. But I walked back and forth to school for breakfast, for lunch. My mom came home from work, we had dinner. Would I have been that kid in the school waiting for the school bus to take me home and possibly going without a meal because our family income was between 20 and $30,000?

How do we help underachieving kids? How do we help underachieving schools? We make sure that kids are ready to learn. That's what this is about. We can talk about the money. This is about, is a kid who goes to school, the bell rings and they are ready to learn like every other student in their class. I've gone to schools, I've heard from those young ages, this kid comes from this kind of background. It's tough for this kid to concentrate in class. We shouldn't have kids starting school with insufficient food. Food insufficiency is something that we should take responsibility for. If families are in that kind of financial shape, we can do this.

We were told when this bill 590 was introduced to us how this was an important allocation of five and a half million dollars. To go towards children and family welfare in this state. This is $345,000 per year. We're already spending three cents. Three cents is what the state's putting towards that thirty cents that the Federal Government doesn't pay for. This is raising it by twenty-seven cents. We should be working together on this. We really should see this as a bipartisan effort. We saw Medicaid and granted advantage as a bipartisan issue. We see child and family welfare as a bipartisan issue. We should see a meal subsidy for families who are food insufficient for kids who need an equal start to their education, an equal opportunity, we should help underachieving kids, underachieving schools, food insufficient kids to have the same kind of opportunity as all other kids, as all other school districts that face better economic situations. I ask my colleagues consider this bill, consider this amendment, $345,000 on a $5.6 billion annual spend. In comparison to $5.5 million that we're putting towards children's welfare. This is a good investment. Thank you, Mister President.

Senator Bradley presiding.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in opposition to this amendment for a number of reasons. First we have a budget and while it might be tempting, we're responsible to try to adhere to the confines of that budget. That's the least important reason. Let's go to the New Hampshire Constitution. If the family is indigent to the point that they cannot afford twenty-seven cents a day, every single town in this state is required by the constitution to provide them with assistance. There isn't a town in the state that couldn't provide the money for a child to eat at school. The very best welfare programs are those that are administered locally by people who know the people that are in trouble, not 7,100 students with an indeterminate number, but we're going to fund it for everyone just in

case. That's not responsible tax policy or spending policy. No evidence was presented other than from those who engaged in the government aspects of gaining money from the taxpayer.

I have not heard from one child, from one teacher, from one principal from one superintendent and I have very poor schools in my district. Our communities take care of our poor. We don't need to overreach them and establish yet another state program, with taxpayer funding that removes the control of a very important aspect from those best suited to deal with it. I don't know what happens in the District 10 schools, I don't know what happens in your schools, I know what happens in mine and I also know and have every faith that when a family in need goes to the select board in our town or the welfare administrator in any of your towns that they will be taken care of. I trust those local officials, I believe in their compassion, I've seen it, as I've done it as a selectman. I'm a member of the school board. We take care of our children. To insinuate otherwise and to state that the state has an obligation to fill in just in case, is a specious argument. Our towns do an excellent job of caring and I submit to you that not a single town in your district or mine would deny twenty-seven cents a day for one child or ten children for a family that is in need. I ask you to oppose this amendment and support the bill as written. Thank you, Mister President.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you very much, Mister President. Once again I have spent a lot of time in schools and I'm not sure how many people have taught elementary school students for example in this body, but I don't know if you know how many people actually, how many teachers keep food in their drawers. They are not only buying supplies for their children, they are not only spending their own money on books for their children, but they're spending their own money on food, that's how the local, that's how it's being handled in many towns that don't have any extra money in their budget for something like this but they certainly aren't going to let a child go hungry in the morning before school. This is another one of those that I see as, the amendment is asking us to take care of children so now, so that we don't later have all the expenses that go along with getting behind in school, being labeled as disabled when in fact they may just be hungry. I have seen the children who cannot attend to what's going on in the classroom, over and over and over again because they didn't have breakfast. And they may not have had breakfast for several days. So I'd like to believe that we all care as much about the children whose families can't afford thirty cents or whatever it is for each child in their family, which of course then multiplies. I've been very fortunate never to be there but that doesn't mean I don't care about those who are. Thank you, Mister President.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: I rise having been at the hearing here and in light of what my friend from District 2 said, I would like to note that it was the great eloquence of Senator Stiles who spoke on behalf of, testified on behalf of this. We all know her extraordinary history in trying to provide nutrition for our public school children and I just wanted to make sure that we didn't leave with the impression that only people who were self-interested somehow were there to support this. And I'll also just note as well the experience I had when I invited Commissioner Edelblut to come to Somersworth, you know he was new to the job and I wanted

him to see the most recently opened kindergarten in the state and it happened to be in Somersworth and so we visited all the classrooms and you know how the commissioners like to get down on the floor and play with the kids and doing the good experience and then we gathered all the teachers, all five of the teachers of the kindergarten classes at lunch time and asked well you know what's the best effects of this and they said, well you know we're already seeing educational advances in first grade, we're seeing better test results you know this is really on social development so on but then one of the teachers jumped up and said we get to feed them twice. Thank you, Mister President.

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. I rise in opposition to the amendment. Been listening intently to the debate and you know I haven't heard one number of people who are actually not eating. I've heard 7,100 students that are eligible, but because they're eligible does not mean, nor does it equate to the fact that they may not be eating. Neither does underachievement as it was brought up. Underachievement does not necessarily equate to the fact or the possibility that they're not eating. We don't know and no one has bothered during this debate to bring forward a number. I heard the member form District 2 state that he had heard from a number of different ones that we haven't received any input. We've had people that have talked with their district, they said there's no problem. I mean we live in one of the best educated states in the country, we have some of the highest income in the country and the lowest unemployment. We're talking twenty-seven cents a day. I think any parent would be able to find twenty-seven cents to make sure that their child has a meal before they go off to school. When we sit here and we talk about local control, that's all I heard about yesterday. Gee today we don't talk at all about local control, about the local welfare offices taking care of these. You know there seems to be, you know depends on the debate that you want to have. But I don't see the need for this, the amount that's out there that would call for this. If we ever dug down to find out how many people actually need it out of those 7,100 people. Then it might be a question also is to what priorities there are in making sure that the children are fed before they go to school. Thank you, Mister President.

(The Chair recognized Senator Lasky.)

SENATOR LASKY: Thank you, Mister President. I rise to give my honorable colleague from District 11 some numbers. I checked with the Nashua school systems and there are 6,779 students on free and reduced lunch from elementary school through middle school through high school. Four of those schools feed a population of over seventy-five percent. Now with all due respect you know some of those may be getting a second meal, but I truly doubt it, and I do know from my campaigning from talking with the school system that these are children that really need these meals. Whether it's to do better in school or whether it's just to have a meal for the day. So there are some figures and if you want I'm happy to take any one of you on a tour of Nashua's schools so that you see the faces of these children that need this assistance to eat. Thank you.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you very much, Mister President. Mister President, I'd like to take the Senate back to 1973, when I sponsored the School Feeding and Nutrition Act. It was a very difficult act

to get passed and it took us almost the entire session to get it done, but when we finally got it done, the bill called for a couple of things. One was a meal, should be served in every school in the state of New Hampshire, a meal. And we were able to accomplish this because there was a situation in a city where one child was eating at one school but his brother could not eat at another school so we had a very, very much of a prejudicial situation. So we passed the bill. The discussions on the floor were should the family be responsible for feeding the child? Can't the child get a meal someplace else? All of these discussions have been hashed and rehashed and rehashed. But let me give you some numbers because I think numbers are important. We all like data, we're a data driven society.

Let me tell you about the schools that I represent in the city of Manchester that are in my district. Central High School, West High School, Parkside Middle School, Gossler Park School, Northwest Elementary School and the Parker-Varney School. For the month of September 2017 at Central High School, 1,592 free breakfasts were served. At West High School 1,738 free breakfasts were served. At Parkside, 696 free breakfasts were served. At Gossler Park 1,525 free breakfasts were served, this is over a fifteen day period. At Parker-Varney 3,210 free breakfasts were served. Percentage of the schools, I may not give that but for the month of October at Central High School 2,216 free breakfasts, at West 2,408, at Parkside 1,098, at Gossler 2,291, at Northwest 2,293, at Parker Varney 5,078. In the month of November at Central High School 2,064 free breakfasts, at West 1,948 free breakfasts, at Parkside 1,011 free breakfasts, at Gossler 1,994 free breakfasts, at Northwest 1,891 free breakfasts and at Parker Varney 4,292. This is aggregate over the month. In the month of December at Central High School 1,798 free breakfasts, at West 1,997, at Parkside 1,022, at Gossler 1,582, Northwest 1,506 and at Parker-Varney 3,705. My children all went to the Parker Varney School, my wife went to the Parker-Varney School as a child growing up in Manchester. I don't think I need to go through the rest of the months of January and February, but what I need to say is there are 328 homeless students in the Manchester School System, homeless. They don't know where they are. They don't know where they sleep, they don't know who's taking care of them.

Alright we talk about the wealth of our society and the ability to take care of people, well we have a difficult situation in the city of Manchester. There are children who depend upon the breakfast and the lunch. Many of these children get food packed up for them at the end of the day to take home. On Fridays packages are sent home with children. I'm just giving the emphasis of the need for the meal and the fact that they can't afford it.

We have a food pantry in St. Raphael's Church. I was married in that church, fifty-seven years ago. We have a food pantry on Mondays, Mister Majority Leader, we have a food pantry on Mondays, the line is out of the building. We have a clothing giveaway on Monday evenings. Father Jerome runs it, a Benedictine. These are in existence as we speak in the city of Manchester. On Tuesday I went to the breadline at New Hampshire Horizons, the breadline. It was out of the building, out into the street and the breadline on Tuesdays you don't have to say you're a citizen of Manchester. Anybody can go to the breadline.

So when we talk about thirty cents, who can't afford thirty cents, thirty cents times five if you have a couple of kids it becomes an expensive

situation and single parent families. That's a difficult situation. Then I looked at the truancy rate. The truancy rate in the city, 1,000 kids a day do not go to school. A thousand children a day don't attend. Why don't they attend? Is it because the family doesn't want to send them, are they embarrassed to go? There's probably 1,000 reasons. But a truancy rate of 1,000. There are children in our, my district, without this meal they're not going to survive, you know they're just not going to survive. And I can remember Chris Spirou telling me in the House back when and I think Mister President, you were there at the time. If it weren't for us feeding him, he wouldn't have survived. He was forced to eat breakfast and it was a free giveaway when he was in Greece.

So X number of dollars is required. I worked with Nancy Stiles in 1973, when she was President of the New Hampshire School Food Workers Association. We worked to get that bill through. I'm sure that the former Senator has been in touch with many of our colleagues here to speak for this piece of legislation. Thirty cents, not a lot of money, not a lot of money. This is how the numbers work out as we speak. The Federal Government will give us $1.75 for every free meal we serve. The state will put three cents in for every meal that we serve. If there is a severe case of abuse, severe the Federal Government will pay $2.09 for each free meal, the state will put in three cents. Three cents. I mean what can you buy for three cents today? What can you buy for three cents? You know when I was a kid you used to go in the subway and you went to the gum machine and for a penny you could get a piece of gum. That package of gum costs what a dollar today? So think about a three cent reimbursement. What can you buy for three cents? You can't buy anything for three cents. And if we didn't have the federal participation where would we be when you think of thousands and thousands of meals being served. So I ask my colleagues, think about it.

You know, think about your kids. Boy, I could tell you that when our neighbors came to our house, they hadn't had breakfast, my wife fed them. And we had a neighbor next door that had four kids, they were in our house all time for breakfast. All the time. My wife would make breakfast for them. When I was teaching and coaching I would bring kids home to my house to have breakfast, to have lunch, to have dinner. I had a family when I taught at Kennett High School in Conway where the father had to jack deer in the winter to provide enough food for the family. Those boys would come to my house and believe me when I tell you I lived in the back of a shoe store in an apartment that cost $55.00 a month, okay? Fifty-five bucks a month. The biggest room in that apartment was the bathroom. The kitchen the living room and the bedroom were very small. We would bring kids in to eat. So there is a need, there really is a need and we've got to address that need. We talk about the opioid problem, we talk about the alcohol problem, I could go on and on and on about that Mister President, but there's a need. And that need is omnipresent in the district that I represent. They need us, those children need us, those families need us. And indeed if we can do something to help them we ought to do it. Thank you, Mister President.

(The Chair recognized Senator Gray for a question of Senator Fuller Clark.)

SENATOR GRAY: In your testimony you pointed out that the effective date of sections 23 and 24 is July 1, 2019. I have a problem with trying to bind the future legislature with something that we pass today. If this bill were not inactive until the next session and still had an effective date of July 1, 2019 would anything be different for the children?

SENATOR FULLER CLARK: The reason that you have a bifurcated, fix on when the bill would take effect is one; to have the Department of Education file a request in the next budgetary two years for this additional money to be included in their budget to go for reduced lunch for children, but it wouldn't cover that lunch program until the years of '20 and '21. So it has the potential to take effect but it will again have to be considered as part of the overall budget. But we want to make sure it's a priority that goes forward in terms of shaping the budget for the next two years. I heard Senator Giuda say that he had difficulty as I understood it, with changing the budget for FY '19. We corrected that to make sure there was no misunderstanding, and that there are two parts to this legislation. Obviously if it doesn't make it through the budget, then there is no money to fund this program.

SENATOR GRAY: Again, I don't know that you actually answered the question, was that I understand from your answer that there would be pre-planning. But going through the budgetary process here, I believe all the things that you mentioned would happen next year if the bill were passed, so again I ask the question, would anything change so that students if this bill were passed next year with the same effective date?

SENATOR FULLER CLARK: No, but it would not ensure that it made it into the budget process.

(The Chair recognized Senator Feltes for a question of Senator Fuller Clark.)

SENATOR FELTES: Thank you for taking my question Senator Fuller Clark. There's some concern about potentially affecting the next budget. Didn't we in the prior budget that we just passed last year, that we voted against accelerate business tax reductions and therefore revenue loss in the next budget?

SENATOR FULLER CLARK: We certainly did.

SENATOR FELTES: And the state's share, can you say what the state's share of this would be and how much federal money would be able to come into the state of New Hampshire?

SENATOR FULLER CLARK: Yes I can do that. I have that in my original remarks. I would give it to you again and in responding to that, I feel it's important to also respond to the comment that was made that we can leave this to local communities to pay for children who aren't getting breakfast. The reality is local communities don't qualify for the federal share. They would have to pick up the total cost and in return it would impact on our property taxes. But this is what it would do. If the state would be expected over the next biennium to allocate $772,000 which would be automatically matched by over $2 million from the Federal Government and we know that since the 1970s, the Federal Government has decided that food insecurity for children is not an appropriate situation to leave our children in, and they have been promoting this program all over the country because they know how important it is that we invest in the next generation and that we all have a responsibility to partake in doing that.

I would agree that on one level, you know, as we heard any parent should be able to afford twenty-seven cents a day. But the reality is if you listen to the very fine remarks of Senator Kahn, that that's not the case and I would ask everyone here why are we punishing children because they

either have families that are irresponsible or they have families that simply are so economically stressed that they are looking for every assistance that they can get, and we're going to turn our backs on providing this money, the bulk of which comes from the Federal Government.

SENATOR FELTES: Thank you, Senator.

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSELL: Thank you, Mister President. I stand, I represent the towns of Hampstead, Windham and Derry, three entirely different types of towns. Very diverse. Derry, and I understand Windham and Hampstead, to say that we're turning our backs on our children, we are not. My towns take care of their kids. Derry provides breakfast and lunch to all their students. I understand, I'm waiting for Windham and I understand Hampstead does too. But to say that we're turning our backs on our kids. I'm not turning my backs on our kids. I support my towns so thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. Bromides and platitudes, the air is full of them today. The fact is the Senator from District 20. You stated thousands and thousands of children that are receiving free breakfasts. The system is working. To insinuate that Republicans are heartless and want to harm children is unconscionable. We are spending hundreds of millions of dollars on various programs in our state to help kids, okay? Prior Governor didn't. We established those programs, okay? And we are fulfilling our obligation to our children. I resent the insinuation that our communities aren't capable or willing to care for their children. I would submit that if a school sees a child that is starving at breakfast, maybe DCYF deserves a phone call. We have agencies in place to car for kids that are abused and I would consider starvation a form of abuse. I resent the insinuation that our towns are not capable or willing of caring for the families that live therein. They are the best qualified, the most knowledgeable and I believe the most willing to do the right thing regardless of circumstance, because when you put a program like this in the hands of the state or Federal Government, local control, accountability and effectiveness all go out the window. Thank you, Mister President.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: So, back to the Hinsdale School. To qualify for free and reduced lunch, welfare, I can't put myself in the welfare office, I just know that their first response really ought to be, did you file the papers for free and reduced lunch subsidy? That should be the first question right? And we know that families don't do that. We know it, we hear that in every school district. There's the embarrassment, there's the bureaucracy there's I have to declare my sources of income, when I'm working, if I'm not. And there are reasons people don't follow through with it. You've seen that commercial, Mom I got a job. You're Dad provided for us. It's on all the NCAA tournament games. That's the position that I'm trying to say, I would have found myself in. I think kids are in that, fifteen dollars a month. Mom, Dad, I could contribute that by going without a meal. Kids shouldn't be in that position. That's what we're talking about, that's what I'm talking about here. It's child's welfare, it's trying to just do something that'll attract money into the state that limits– School principals, superintendents shouldn't be going chasing the parents you know pleading to fill out the paperwork, due on your fifteen

dollars for this month and that month. Let's get on with the business of education and do the best that we can for the kids and the schools in our state. That's what $345,000 a year will buy us.

(The Chair recognized Senator Hennessey for a question of Senator Kahn.)

SENATOR HENNESSEY: Thank you, Mister President, and thank you for taking my question. I was hearing what the Senator from District 2 was saying about calling DCYF when children are coming in without breakfast. Do you think that would increase the likelihood that they would fill out forms asking for help or decrease?

SENATOR KAHN: I'm a little unsure, I do know that we are making an appropriation of $5.5 million which includes voluntary services, which we would expect then if a kid is neglected and the parent, and that's reported and we know that our schools will report neglect. Hopefully that family would receive the kind of assistance to make sure that they do that. But we also know that there are kids who are returned to their households and that paperwork is not completed, and those kids continue to struggle with their environment and in their school. Thank you for the question.

Without objection, Senator Birdsell moved the question. Adopted.

(The Chair recognized Senator Morse.)

SENATOR MORSE: Well, I oppose this amendment but I really stepped down to clarify something. You know when we're in committee, it was spoken about Salem. When we came to the Senate floor today it was spoken about Salem. If you don't think I didn't pick up the phone when it was first mentioned, then I picked it up again this week and called and asked where are we with this? I would have thought as a Senator I would have heard about it by now. I would have thought somebody would have called me as someone that's very involved in the community, certainly helps on all the organizations that Senator D'Allesandro talks about that are helping in his community and I was told there isn't a problem in my community. So to the Senators that suggested, I will go take that tour down there. Because I certainly when I heard about guns, I called my best friend on the school board and I said call Perry Plummer and get on this committee. I want your opinion, I'm not sure it's like mine, I didn't give a damn. But I asked him to do it.

And then as we talked today and we go further, there's no lock on our lives I can tell you that much. I ate toast with sauce on it and a piece of cheese and that was considered pizza. And cereal was dinner in my house. And my father had mental illness. So as we talk about are we doing enough for the people in the state of New Hampshire, we just passed a budget that I firmly believe doesn't put us back into 2008, ever. Ever. Because if you remember in 2008 we didn't have anywhere to go. We didn't have a bucket of money to draw on. We just raided accounts from there on in, to survive as a state. We weren't driving business into New Hampshire, we were upping the tax rates. And we're upping the fees. I firmly believe the reason that we're solid right now and remember, the liquor tax? Underperforming. Homes? Not selling as well. Business taxes? They're up. I know, I just paid my federal one. They certainly got more money towards the trillions that they're missing, out of me. But I felt obligated to do it, just like I felt obligated as a ten year old to do better than my Dad could do for the family. He couldn't provide a penny. When my mother first went and got that box of cheese it was the last time she went, and I've told many of you about that. She never

did it again. She was embarrassed. And I don't honestly believe there's a teacher out there that gives a damn if somebody fills out a form if a kid's hungry. I honestly believe they'd do it for them. I honestly believe they care. But what the debate comes down to is, we just passed the budget. This wasn't in it. And I love Senator Stiles, but the same Senator Stiles sent me a document that said on education funding eliminate the subsidies. So Manchester? You're done. Derry? You're done. That's 50 million bucks. I've already heard from both of you about the fact that I reduced it by 4 percent for twenty-five years. She sent that because it's a fairness issue. Well it's a fairness issue here too. We passed the budget.

You're about to vote on 8.2 million Senator Bradley, and I don't believe we can afford it, in three bills. It originally started at 4.5, I added a million dollars for the disabled community, TANF went away, rose up to 7 million. LBA gave me the score yesterday, it was 8.2 million. I don't believe we have it. I don't believe we should be spending it. Yet we're going to pass it out of the Senate today, probably with my vote, because the policies should pass. But this issue, we didn't talk about in the budget. The issues that are being finished up today and those three bills were certainly talked about in the budget and we said we're going to get to them and talk about them and we even said as a Senate, we don't believe the House is doing it right with the disabled community. We knew it we had a solution, but the House wouldn't accept it.

I can't support this because the reality of the whole thing is, I checked with my communities and they're telling me they're taking care of it. You know, you voted for the Boys Club to get funding, after school programs to make sure that kids were being taken care of after school. Single parent families, you voted to send them money. I can tell you who took it out of the budget, when I left here in '06. It was in there from me. It certainly wasn't us. They took it out because Morse put it in. And here we are this year we just put it back in because you know what; the best thing we could do is after school programs. Because for those families, they've got to work to the end of the day and there's nowhere for those kids to go.

This Senate has done a heck of a lot to put New Hampshire in a better position financially and to grow in the future. And as we debate issues like this, I firmly don't believe that anyone, I don't care what community you come from, has a lock on taking care of people and doing it better than the next. I know most of you and what you do in your life when you leave here. I know most of you call and say I've got to help someone else, I've got to do something. We've got to find a way. Isn't that what this state is about? I don't think we're doing anything today that isn't already being done. I don't support this amendment and I hope we can vote this down and move forward. And as we go to the House, I think we have work on these three bills that we're passing financially. Thank you.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Lasky, seconded by Senator Feltes.

The following Senators voted Yes: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Reagan, Birdsell, Morse, Gannon, Innis, Bradley.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 9 - Nays: 14. Failed.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Lasky, seconded by Senator Sanborn.

The following Senators voted Yes: Woodburn, Giuda, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Morse, Gannon, Innis, Bradley.

The following Senators voted No: (None)

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

President Morse presiding.

SB 592-FN-A, relative to the child welfare system.
Ought to Pass with Amendment, Vote 6-0. Senator Reagan for the committee.

Senate Finance
March 20, 2018
2018-1153s
04/05

Amendment to SB 592-FN-A

Amend the bill by replacing section 5 with the following:

5 Department of Health and Human Services; Supplemental Appropriation.

I. The sum of $445,160, for the biennium ending June 30, 2019, is hereby appropriated to the department of health and human services for the purpose of funding the following positions, as either state employee or contract positions within the department:

(a) Eight child protective services workers, who shall be designated resource workers.

(b) Two licensed alcohol and drug counselors, who shall contract with the department.

II. The appropriation in paragraph I shall be in addition to any other funds appropriated to the department for the biennium ending June 30, 2019. The governor is authorized to draw a warrant for such amount from any money in the treasury not otherwise appropriated.

SENATOR REAGAN: Thank you, Mister President. I move Senate Bill 592 Ought to Pass with Amendment. This bill does four things: Excludes the costs of voluntary services from the parental reimbursement requirements under the Child Protection Act. Second, expands home visiting services and funds these services with federal TANF funds. And third requires the Department of Health and Human Services to use allowable TANF funds to contract with a family resource center of quality specialist. And fourth establishes a committee to study family drug court models. The committee amendment appropriates the sum of $445,160 to the Department for funding eight child protective service workers and two licensed alcohol and drug counselors. The Senate Finance Committee recommends passage of Senate Bill 592 as amended, and asks for your support. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

JUDICIARY
CACR 22, relating to rights for crime victims. Providing that crime victims shall be afforded constitutional rights.
Ought to Pass with Amendment, Vote 4-1. Senator Carson for the committee.

Senate Judiciary
March 20, 2018
2018-1146s
06/04

Amendment to CACR 22

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

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2018.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2018 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2018 session of the general court shall be approved.

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court."

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2018 General Court" shall be printed in bold type at the top of the ballot.

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

SENATOR CARSON: Thank you, Mister President. I move Constitutional Amendment-Concurrent Resolution 22 Ought to Pass with Amendment. Upon passage by the legislature the question of whether the rights of victims should be enshrined in our constitution or not, will be before our citizens in the next election. This amendment would make it a constitutional right that a victim be treated with fairness and respect in terms of their safety, their dignity, and privacy. Furthermore, upon request, the victim would also be afforded the rights to reasonable and timely notice of, and be present at court proceedings, that those proceedings be free from unreasonable delay, that they be afforded reasonable protection from the accused, to refuse an interview or deposition request made by the accused, that they would be able to confer with the State's attorney about the disposition of the case, that they would be heard at any proceedings involving the release, plea, sentencing, or parole of the accused, that they be reasonably informed of the release or escape of the accused, to full and timely restitution, and to be informed of all of their rights under this amendment.

Throughout the hearing and exec'ing process on this amendment there has been much discussion regarding what rights this will actually establish. To be clear, this amendment will not give victims the right to an attorney at the cost of the state, the ability to veto any plea agreements, nor any unnecessary or over burdensome protection for their physical safety provided by the state. At its core, this amendment will simply give victims a voice and a seat at the table.

I have sat as the chair of Judiciary for several years, and from time to time, I have heard firsthand testimony from law enforcement, prosecutors, victims, and the victims' advocacy community that our criminal justice system is stacked in favor of the accused or the convicted. Currently, the accused and convicted are afforded the protections of constitutional rights throughout the state and federal constitutions, while victims are simply protected by state statute. When these rights bump up against one another, constitutional rights always trump statutory ones, constructing this unbalanced system. In fact, the justice system has in many ways left the victim out, muting their voice and giving them no formal place in the process. New Hampshire is one of just 15 states that afford victims absolutely no constitutional rights. Victims deserve a justice system that is fair, equal and balanced, and that affords them no more rights than the accused or the convicted. They deserve a voice and they deserve to have that voice heard.

I have worked closely with Attorney General MacDonald and the Department of Justice on the committee amendment before you today. This amended language truly represents a New Hampshire solution to the inequity playing out in our courts every day. I want to thank my fellow committee members, Senators, and all the advocates who have worked on this issue, the survivors and their families who have bravely shared their stories to shed light on this issue. Ultimately, the question as to whether or not this language should be enshrined in our constitution should be answered by the voters, and it is time that New Hampshire's citizens be given the opportunity to make that decision. Therefore, the majority of the Judiciary Committee asks for your support for the motion of Ought to Pass with Amendment on CACR 22. Thank you, Mister President.

Recess. Out of recess.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. I rise in support of CACR 22, I'm just going to call it 22, as amended. This is now a good bill. Actually it was a good bill before it was amended, now it's a really good bill. As my friend from District 3 as you often say, don't let the perfect be the enemy of the good. I learned, takes a little time. Mister President, I support 22 because I believe that our crime victims deserve a balanced and level playing field in our criminal justice system. When victims of a crime confront the justice system here in New Hampshire, they do so at a disadvantage. They're already feeling isolated, vulnerable from the harm that they've suffered at the hands of an offender. But once their case enters the courts those feelings are often compounded as the process they use behind victims, they're left voiceless and they are left alone. Offenders and their attorneys have numerous statutory and constitutional rights afforded to them within the criminal justice system, and this is rightly so.

All victims are asking for here is to be on the same level of rights, no more but also no less. Right now thirty-five other states have recognized this imbalance, incorporated some very basic rights for victims of crimes into their state constitutions. Twenty-two will provide equal rights for crime victims without taking away any rights from those accused and convicted of a crime. So if passed, victims of a rape would have the right to know when the rapist is being released or paroled. If passed an owner of say a pub restaurant, here on Main Street in Concord would have the right to know, I'm sorry, who has suffered a financially devastating burglary, would have the right to court proceedings free from unreasonable delay that could further harm their livelihood. All victims of a crime would have the right to be treated with fairness, dignity and respect. These might sound like simple courtesies that should be the norm in our criminal justice system. Unfortunately because victims lack state constitutional rights, they are not.

Over the last past month, our Judiciary Committee, thanks to our chair who has done an excellent yeoman's job, we have reviewed testimony from several victims and family members who describe the system that at best silences them and at worst re-victimizes them. As we learned in our committee CACR 22, also known as Marsy's Law, doesn't give victims veto power over the cases. It gives them a meaningful voice, it gives them a seat at the table. Nonetheless, some have come forward with concerns that CACR 22 might infringe upon the rights of the accused. One thing I found very productive in our committee hearings was listening to all involved and finding some significant compromises that will protect both the victims and the defendants and they are here in this amendment. The amendment supported by the attorney general's office is designed specifically to protect due process rights. In the spirit of compromise, it removed a directive that the courts enforce victims' rights in a manner no less vigorous than the rights of the accused. In addition the amendment requires victims to request specific rights, clarifying the existing opt-in system. It also narrows the times at which a victim may request to be heard in court and removes the right of a victim to refuse pre-trial discovery requests from the defendant. I believe these substantive changes strike the right balance between some different viewpoints. I'm hopeful that we can come together in support of this compromise. Although this measure has been implemented in other states, CACR 22 has many differences now and it has been designed to make it New Hampshire specific. This is a measure for the crime victims of our state, New Hampshire. It's in a manner to make it work best for us. In conclusion Mister President, Granite Staters are resilient people who value fairness. We don't like to be labeled as victims or to feel powerless and alone. But when citizens suffer because of a criminal wrongdoing, they deserve dignity, basic fairness and a voice in the judicial process. In New Hampshire, we rally around our neighbors when they are victimized. I hear that all the time from the good Senator up in the North, and that's the way it is in all twenty-four districts. In return, all they ask for is fairness and to have their basic enforceable rights. They seek to be notified, they seek to be heard. Basic judicial concepts. They deserve these rights and that's why I support the amended version of CACR 22 and I ask my colleagues to do so also. Thank you, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, I rise to speak in support of the committee amendment to CACR 22. In

passing CACR 22 as amended by the committee, we have an opportunity to ensure the most vulnerable citizens in our state are treated with fairness and respect that they deserve. Our legislature has a long and impressive record of working together to protect the rights of crime victims. But until we grant victims constitutional protections that are on par with the rights we provide those that are accuse and convicted, our system will never be truly just. CACR 22 as amended by the committee provides basic rights to victims of crime and gives direction and clarity to the courts about how to enforce these rights.

Each of the rights enumerated within this amendment serve a specific purpose and address gaps in our state's current system. The committee amendment is the result of extensive collaboration between the attorney general's office, the Judiciary Committee and stakeholders. It is truly a New Hampshire amendment and made considerable concessions from the original language. Throughout the amendment this language makes it abundantly clear that a victim must proactively, proactively request specific rights. They're not automatically applied as they have been in many other states, which was a problem. We fixed that. And this will most likely reduce the number of victims who assert these rights, reducing the overall impact on our criminal justice system. Rather than allowing a victim to request to be present at all hearings involving the criminal or delinquent conduct, it says that a victim may request to be present any time the defendant has the right to be present.

This change assures both parity and clarity. And in that same vein, the amendment narrows the time at which a victim may request to be heard in court, which again reduces the overall impact on our criminal justice system. Significantly, this amendment removes the right of a victim to refuse pre-trial discovery requests that come directly from the defendant. New Hampshire has an established procedure based in case law for courts to review documents that a defendant requests from the victim. This modification ensures that CACR 22 comports specifically with the existing New Hampshire law. Some have claimed that this amendment will somehow take away the rights afforded to those accused and convicted. This is simply not true. The amendment elevates victims' rights to the same constitutional level as the rights afforded to the accused and convicted. In the nearly forty years that states have had victims' rights in their constitution, there has not been a single case to show that providing victims with constitutional rights diminishes the rights of a defendant. Nor would those of us who care about civil liberties support an amendment that would do so.

Right now when a defendant's rights and a victims' rights come in direct conflict with one another, the court has to default to the constitutional rights. This amendment fixes this imbalance and allows courts to weigh the rights co-equally. Courts are accustomed to considering and conducting these assessments and making a fair determination. That is not something new for our court system. In fact CACR 22 as amended by the committee tells the court when victims' rights are applicable and how they should be weighed against the rights of the accused. Enumerating specific rights is both necessary for a victim's rights to be meaningful and to provide clarity to the courts. This amendment is clear and concise, striking a balance for a New Hampshire constitutional amendment.

You know, I've heard some say that this amendment is too long for our constitution. I'd like to point out that the New Hampshire Constitution

currently has five separate sections, sections 15 through 20, dealing with defendants' rights. This would simply add one section for victims. Victims' rights need to be clear and be given equal weight to defendants' rights. Particularly since victims have not had long standing constitutional protections like defendants have and therefore cannot rely as defendants can on pre-existing court interpretations of their rights. I know in many of my conversations with some of you there was concern expressed initially about the length of the amendment, but as I remind most of you, the language in our constitution dealing with defendants has been enumerated, has evolved and been interpreted in court cases and I daresay the stack of cases if we were to put them one on top of the other would probably be as tall as I am and I'm wearing heels today.

One of the most important pieces of this amendment though is the enforcement mechanism that it provides. CACR 22 as amended by the committee explicitly outlines that a victim has a constitutional right to be made aware of the rights they're afforded. How they may assert those rights and at which point during the criminal justice process their rights apply. I was proud earlier this year to testify before the Judiciary Committee in support of this amendment alongside a remarkable victim from my own district, John Cantin. John's daughter Missy was a victim of domestic violence who was shot and killed by her estranged husband. And when talking about the importance of providing victims with constitutional rights, John shared, when a family has lost their child like I have, there should be guaranteed equal rights to the murderer. They should be treated with fairness, dignity and respect. They should be part of the process. They never should be re-victimized by the criminal justice system itself. Each one of us has constituents like John living in our districts that have been victimized and we have a responsibility to each and every one of them to make sure that they face a system that does not ignore or silence them, that allows them to participate. You know there have been a lot of statements made about this amendment about its length, about what rights might be afforded. Some statements that I think might be misleading, some that I think frankly were untrue. But the fact of the matter is victims of crimes have been through enough and at the very least, they deserve a seat at the table, and they deserve to have their voice heard in this process. I believe this amendment as amended by the Judiciary Committee is clear, fair and a necessary New Hampshire solution. Let me emphasize a New Hampshire solution as redrafted to a New Hampshire problem. I would ask all of you to join with me in giving my constituent John Cantin, your constituents and all those that have been victimized in this state a voice in this process. Thank you, Mister President.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Avard, seconded by Senator Carson.

The following Senators voted Yes: Woodburn, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: Giuda.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 22 - Nays: 1. Adopted.

MOTION OF RECONSIDERATION

Senator Bradley, having voted on the prevailing side, moved to reconsider the following action taken by the body on CACR 22, relating to rights for crime victims. Providing that crime victims shall be afforded constitutional rights.: Reconsider the vote on the Committee Amendment. Adopted.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Avard, seconded by Senator French.

The following Senators voted Yes: Woodburn, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: Giuda.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 22 - Nays: 1. Adopted.

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 5
March 22, 2018
2018-1200s
06/04

Floor Amendment to CACR 22

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court."

SENATOR HENNESSEY: Thank you. I was saying I really do respect and honor what everyone has said so far in this room. And I hope we will all respect each other's opinions on a matter as difficult as this. I think it's extremely important to balance the voice of victims with what is the best we can do, it may not be perfect, but what is the best good we can do for all. I just want to say before I sit down that part of what has made this so challenging for me is hearing from people pleading on both sides of issues and what I really needed was more time to have a discussion about it and I'm disappointed that it felt like this was, we didn't have that time. I'd also like to say that the other piece that makes it very difficult for me is that I was a victim of assault. As an undergraduate and at a previously all male college in the first class of coeducation, many of us were victims of assault. I believe I know what it's like to be a victim. Nonetheless, I am going to submit this amendment and another amendment later that I believe make this bill and this amendment even better. Thank you, Mister President. Oh I didn't even say what it was. I'm sorry. I take back the thank you, Mister President. If you look at the amendment on page 12 there is one word added. Line 12, page one, the line starts with refuse and we added unnecessary interview or deposition. That I believe I'm quite sure is reflecting the current statute, and I would like to add that one word. So to refuse an unnecessary interview or deposition request made by the accused. Thank you.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Mister President I rise in support of Floor Amendment 1200s. I refer from my colleague from Manchester that this does not change existing law with respect to interviews and depositions, and discovery requests. This Floor Amendment makes that clear. The standard is necessity with respect to discovery requests and unnecessary is the language that's been incorporated here, so it makes good sense to make that clear so that we avoid any ambiguity or any uncertainty in interpretation. Everybody here I think understands that we're trying to codify existing law with respect to depositions and discovery requests. This makes it much more clear and so I support the Floor Amendment. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I rise to speak against the proposed Floor Amendment 1200s. My friend from colleague 15 is correct. What is in statute is a necessary interview. Now if you look at what we just voted on, it says outright, to refuse an interview or deposition request made by the accused. That's very clear. They have the right to say no. Who here is going to determine what is unnecessary? Are you going to have to go to court? You're going to have to ask the court to tell you whether or not this is a necessary deposition. This weakens Marsy's Law as we just passed the amendment. I just Mister President, I'm just surprised after what we just passed, a very strong statement for victims' rights and now we're trying to water it down. And I would ask the body to join me in saying no to amendment 1200s. Thank you very much.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in support of this amendment. I think it is both appropriate and necessary and I refer to article 15 of the constitution which states, and I quote, "every subject shall have a right to produce all proofs that may be favorable to himself to meet the witnesses against him to face to face and to be fully heard in his defense by himself and counsel." Anything that would infringe on that other than that which is perhaps judicially mandated for the protection of minors or other situations that are extraordinary, I think would cause harm to the intent of this and also to the constitutionality of it. Thank you, Mister President.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. Just briefly, if we are doing what we say we're doing with respect to the committee amendment, existing law would have a court determine whether or not it's necessary to have a deposition. So this just clarifies, it makes it clear so that anybody on the ground when they're interpreting this knows what we are thinking with respect to this provision. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: I would like to point out that during the public hearing we had testimony about how the interview or deposition process is being used to continually batter victims. This is in here, this absolute right to refuse is there to protect victims from being battered again and again and again by the accused or the accused attorney. And I want to make that point very, very clear to everyone. And think of this, if you have been someone who has been assaulted or you have been raped, physically harmed in some way, you're going to get dragged into court,

another expense by the way, to face this person. You are being told you must sit across from the person who has violated your very person and why? So they can depose you. We are only one of seven states that allows this pre-trial. Mister President, I would ask you to please say no to this amendment and protect victims' rights and protect what we just passed. Thank you very much.

(The Chair recognized Senator Lasky for a question of Senator Feltes.)

SENATOR LASKY: So Senator, if adding this word to this would not take away the ability for the victim or anyone to have a deposition then would it? It just means an unnecessary request, correct? And again I have concerns as our colleague from District 14. How would unnecessary be determined?

SENATOR FELTES: Thank you very much for the question, Senator Lasky. Unnecessary is going to be determined based on whether or not it's unnecessary which is existing state law. Necessity of the deposition is evaluated by a court, it's quite frankly, rarely granted and in my view if you want to codify the existing law, which is what the intent is, and quite frankly the intent of people, the proponents of this bill, so then let's just add the word. It clarifies things and makes it clear. I respectfully disagree, it doesn't change things other than the committee amendment. It makes it clear, existing law.

SENATOR LASKY: The question I had about depositions, it does not change the ability for that to happen, unless the victim refuses to?

SENATOR FELTES: Correct, so under this, Senator Lasky, if the victim wants to refuse a deposition it would go through the same process as of right now and they can refuse it, if that deposition is not necessary. So it's the same standard right now, it's a high standard to meet for the accuser to get the deposition, it's rarely granted under existing law, this codifies existing law.

SENATOR LASKY: This would enshrine it in the constitution, what you say is happening now?

SENATOR FELTES: Yes.

SENATOR LASKY: Thank you.

(The Chair recognized Senator Carson for a question of Senator Feltes.)

SENATOR CARSON: Thank you, Senator for taking my question. If this is something that is rarely given, why do we need to do this?

SENATOR FELTES: Thank you very much, Senator Carson. There is due process rights and other constitutional rights for defendants to be able to undertake discovery where it's necessary. And under existing state law, you've got to go through a process of demonstrating that it's necessary. This just makes it clear. But I thank you, Senator Carson for all your great work on this. Senator Soucy and others have articulated which is that we want to codify state law with respect to this.

SENATOR CARSON: Senator, you know again, I think in the amendment we very clearly said that they have the right to refuse and I think by adding this language here it makes it unclear and I think that again, would you believe I guess or there's a question in here someplace. Would you agree with me, that it states here very clearly they have the right to refuse? In the proposed amendment it says well, you know the defendant can still do this and you're going to have to go to court and you're going to have to face me, which is probably what

most victims don't want to do. This can be used as a tool and I think we all know in the past that it has been used as a tool to batter victims. Would you agree with that?

SENATOR FELTES: Senator Carson, that's why only necessary depositions are allowed and that's exactly what the Floor Amendment does.

SENATOR CARSON: I respectfully disagree. Thank you very much, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you for the opportunity to speak. I support this amendment because without it we run the risk of foreclosing on the rights of the accused that are guaranteed under article 15 creating a constitutional conflict that will have to be adjudicated over time. It's a direct head on. You have a right and then this amendment as written says no you don't. When you put in unnecessary as explained by our colleague from District 15, already exists the legal qualifications, though rarely used, the bar is high in court meaning a judge would have to say you know that's a valid request and though it's unpleasant it's still constitutionally required. That's a very high bar, so I'd ask you to please support the amendment. Thank you, Mister President.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Giuda, Watters, Hennessey, French, Sanborn, Daniels, Avard, Lasky, Feltes, Reagan, D'Allesandro, Fuller Clark, Innis.

The following Senators voted No: Bradley, Gray, Ward, Kahn, Carson, Soucy, Birdsell, Gannon, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 14 - Nays: 9. Adopted.

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 5
March 22, 2018
2018-1196s
06/10

Floor Amendment to CACR 22

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense is committed or who is directly and proximately harmed by the commission of the offense. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole

of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense is committed or who is directly and proximately harmed by the commission of the offense. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court."

SENATOR HENNESSEY: Thank you very much. In this amendment there is a word omitted from line 6 on the original pad. If you read across it said criminal offense or delinquent act is committed or who is directly and approximately etcetera, etcetera, so or delinquent act are the three words that are omitted in amendment 1196s. So instead it now reads a victim of crime includes any person against whom the criminal offense is committed. It doesn't say the criminal– Line 5 and 6, the words were taken out on line 6 after criminal offense it said or delinquent act. So those

are the three words I took out; or delinquent act. In the current statute RSA 169-B, the juvenile justice system it's carefully implemented differently from the adult system and I believe that they should be different.

It lays out distinct victims' rights in cases of violent and non-violent crimes as well. So the substantial difference in a victims' rights between non-violent and violent juvenile offenses are completely eliminated the way the amendment is written and the amendment we passed. The result would lead to severe erosion of the confidentiality needed for the juvenile system to function and the current goal to provide restoration and rehabilitation for our youth. It is well known now that juveniles' brains are different from the brains of adults. Juveniles seventeen and under, their brains are not as fully developed. And I think it's extremely important that we are providing adequate rehabilitation and restoration for those who really and truly have an opportunity to be rehabilitated, for our youth. It also provides increased pressure as it is written now for punitive actions against juveniles. This would be compounded exponentially if the prosecutor were to be, as she or he could be under the AG's and Senator Carson's amendment, with representing the victim during any part of the proceeding. I urge you to consider Floor Amendment 1196s. Thank you, Mister President.

(The Chair recognized Senator Sanborn for a question of Senator Hennessey.)

SENATOR SANBORN: Senator, thank you so much for taking the question. I want to make sure I understand you because I may be a little confused. So are you suggesting that you'd like to take out the or delinquent act on line 2, which if I'm reading this correctly would exclude all juvenile crime from the same protections you're trying to embody within Marsy's Law today that would not have the protection of victim rights if you remove that for juveniles?

SENATOR HENNESSEY: Well, no I don't agree with the way you phrased that. I believe that the way that the statute now protects juveniles should be retained. And it does.

SENATOR SANBORN: Senator, thank you very much. And I respect your opinion but I'm not sure I agree with your preposition on the fact that if we're contemplating a constitutional amendment, specifically to give protection to victims by removing juveniles from the protection, which is what this would do, would remove them from having the victims' right protections from underneath the constitutional amendment. Please help me explain this.

SENATOR HENNESSEY: It removes the delinquents who are the accused from being under this same overall victim protection. So, I mean the victim– What am I trying to say, I'm so flummoxed. A victim of a crime would include somebody who has any person against whom the criminal offense which assumes is committed or who is directly and proximately harmed, so yes if you had a sixteen year old as opposed to an eighteen year old, one would be seen under the current statutes, which also have victims' protection and the other, and I believe should be done differently because we, as it is now, we treat juveniles differently and I think that we should. Treat them differently than adults.

SENATOR SANBORN: Thank you.

(The Chair recognized Senator Giuda for a question of Senator Feltes.)

SENATOR GIUDA: Can a juvenile commit a criminal offense?

SENATOR FELTES: Well he can commit a delinquent act.

SENATOR GIUDA: I'm not familiar with the law. The reason for my question is, I'm wondering if removing delinquent doesn't accomplish the objective of the Senator from District 5.

SENATOR FELTES: Thank you very much for the question, Senator Giuda. Based on my reading, based on what I have heard, my understanding of the Floor Amendment is that taking out delinquent act would take out the application of this to victims for the victims of a delinquent act of a minor. So that's my understanding of the Floor Amendment. I hope that answers your question.

SENATOR GIUDA: It does.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Gray.)

SENATOR GRAY: When I look at the amendment 1196 and I look at the amendment that was just passed 1200, I notice the language in 1200 is not contained in 1196 and it would appear to me that we would undo by passing this the language that we just passed.

PRESIDENT MORSE: You're absolutely right, Senator and you could have pointed it out in speaking, you didn't need– But we'll continue.

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you very much, Mister President. That was my same concern.

(The Chair recognized Senator French.)

SENATOR FRENCH: That was my observation.

(The Chair recognized Senator Gannon for a question of Senator Hennessey.)

SENATOR GANNON: Senator Hennessey, it's been a while, I think thirty-five years ago I was involved in a juvenile case. It was a heinous case and at that one they had a transfer hearing, there was some group of boys they did whatever they did and at the transfer hearing some were fifteen, some were fourteen, some were sixteen. Are you going to take all of those, are you going to let people be tried as adult if they do a heinous crime at a certain age, or are you saying that even at seventeen you can't be transferred, which I think would be a change to the law? Maybe Senator Feltes could help me with that. If you can't, Senator Hennessey.

SENATOR HENNESSEY: I mean I can tell you my interpretation of it but I don't think it changes.

SENATOR GANNON. My first would be to you, do you want to take everyone out if someone at seventeen that does a heinous crime?

SENATOR HENNESSEY: If it's been deemed that they be tried as an adult then they would still be tried as an adult.

SENATOR GANNON: And then Marsy's Law would apply to them?

SENATOR HENNESSEY: That's right.

SENATOR GANNON: So even at sixteen, fifteen, fourteen?

SENATOR HENNESSEY: If the court decides they should be tried as an adult.

SENATOR GANNON: Thank you.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Whether or not you're voting yes or no on this Floor Amendment, regardless of how you feel about it and how you're going to vote, assuming it passes, is the Clerk authorized to make adjustments reflecting the fact that we just passed a separate amendment and make those kind of adjustments?

PRESIDENT MORSE: It would be the Chair's determination that it's a flawed amendment. So you would, can spend the afternoon correcting it. So, right now the way the amendment's presented it wipes out what just happened and that's what you're voting on. So if you want to withdraw this and correct it, you can do that.

Recess. Out of recess.

Senator Hennessey withdrew Floor Amendment 2018-1196s.

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2
March 22, 2018
2018-1181s
06/04

Floor Amendment to CACR 22

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a. [Rights of Victims of Crimes.] A victim of crime has the right to be treated with fairness and respect for the victim's safety and dignity, the right to fair notice of relevant proceedings involving adjudication of an accused's guilt, sentencing, and post-conviction release of a convicted defendant, and the right to be heard at such proceedings, all of which rights shall be enforced consistent with the rights guaranteed to others involved in the criminal justice system.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a. [Rights of Victims of Crimes.] A victim of crime has the right to be treated with fairness and respect for the victim's safety and dignity, the right to fair notice of relevant proceedings involving adjudication of an accused's guilt, sentencing, and post-conviction release of a convicted defendant, and the right to be heard at such proceedings, all of which rights shall be enforced consistent with the rights guaranteed to others involved in the criminal justice system."

SENATOR GIUDA: Thank you, Mister President. I've been in a constant conversation with retired Justice Conboy of the State Supreme Court, working in collaboration with Professor Scherr from UNH. The words in this amendment are theirs. They are recognized as eminent scholars and participants in, for decades, our judicial system. Their concern is that the language in the committee amendment and as the following amendments opens to interpretation things that will be challenged when what we're really trying to do is establish a constitutional basis for victims' rights.

This amendment would do that. It would then allow the legislature to craft laws very similar to but probably better the existing victim rights statutes in chapter 21 of the statute. And so it's brief, but encapsulates the concept of victims' rights and enables the legislature to put specifics into the law. It also enables us to use that constitutional basis for these rights as a reason for a remedy for them. It isn't specific, and in being non-specific it enables us as legislators to enact laws and as in the future terminology, the nature of crimes, new laws and constitutional interpretations both at the state and national level will take place.

We won't have to amend the constitution every time a word or a phrase or a concept is amended at the state level or the federal level in the Supreme Courts. Wording is very simple. Victim of a crime has the right to be treated with fairness and respect for the victims' safety and dignity. The right to fair notice of relevant proceedings involving adjudication of an accused guilt, sentencing and post-conviction release of a convicted defendant. The right to be heard at such proceedings all of which rights shall be enforced, consistent with the rights guaranteed to others involved in the criminal justice system. It's deliberately crafted to be non-specific to avoid the legal conflicts that will ensue from the language in the current amendment. And I have utmost trust in the competency and the good intentions and the legal knowledge and the drafting ability of a retired Supreme Court justice and the eminent scholar of the law, Professor Scherr. Thank you, Mister President.

(The Chair recognized Senator Avard for a question of Senator Giuda.)

SENATOR AVARD: Senator Giuda, thank you for taking my question and thank you for bringing this amendment forward. Is it your understanding that without this amendment all of which rights shall be enforced will not be enforced? Is that your understanding? I notice that you have that in these words.

SENATOR GIUDA: We're leading into my next amendment but the answer to this is yes. Under present law, under the proposed amendment the victim is afforded rights up until the point that the victim is re-assaulted or murdered or in any other way victimized, at which point the state, which is the sole entity under the amendment constitutionally authorized to apply those rights and responsible for providing those rights is indemnified from any accountability for failing to do so. So we say you have rights as long as you're alive, but if you get killed or maimed, then sorry. You don't have recourse. I think that is simply unacceptable, if we're seeking to really enshrine women's rights and the rights of victims and children in the constitution we do it in such a way that a failure to enforce those rights brings accountability. Else we have a paper tiger that sounds good and makes us feel good but produces no improvement whatsoever from the status quo. Thank you.

SENATOR AVARD: Thank you for taking my question again. One of the comments that was brought earlier in bringing this constitutional amendment was the fact that Marsy's Law will allow the victims to be heard. Do I read correctly that this also guarantees the right of the victim to be heard?

SENATOR GIUDA: Absolutely. And the right to be heard in such proceedings.

SENATOR AVARD: And shall be enforced?

SENATOR GIUDA: Correct.

SENATOR AVARD: Thank you, Senator.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. I haven't fished in a while, I might need to go up North with the Senator from District 1. There's a couple terms way back again to law school. Void for vagueness comes to mind. Fairness, respect, dignity. There's no teeth, you've taken away the victims right to privacy, the right to notice, their right to, they're not at the table anymore. They are not protected from the accused. It's an empty bag here. Fairness, respect, dignity are so vague, they give the defendant no rights. Are we treating them fair now, are the being respected now? The amendment and the bill as amended give specifics. This is so vague I know I'm only a night law student who graduated but I did pretty well in com law and this would fail. It would fail any first year law professor's if they had to write a bill. All respect to the good ex-Supreme Court but this is horrible. Again, you are taking, it is three legged chair we were making, the victim was going to have seat at the table, and you've taken everything away from them. So this would just destroy the day. Thank you.

(The Chair recognized Senator Fuller Clark for a question of Senator Giuda.)

SENATOR FULLER CLARK: Senator Giuda, did you present this amendment to the committee?

SENATOR GIUDA: I can't hear you, Ma'am, I'm sorry.

SENATOR FULLER CLARK: I wanted to know if you presented this amendment to the committee.

SENATOR GIUDA: The amendment was presented, I believe to the committee.

SENATOR FULLER CLARK: And would you tell me what happened to this amendment in the committee?

SENATOR GIUDA; It was voted down I believe 4-1. It was not seconded, that's right, it was not seconded.

SENATOR FULLER CLARK: Thank you very much for answering my question.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. There's been a lot that's been said about this amendment and I'm rising to ask the body to not accept this amendment, because it's basically what I like to call Marsy's Law Light. It's a light version of the other. And it's too vague and I would like to just show all of you, we tend to give these to the children who come to visit us when they're in fourth grade. If you at the New Hampshire Constitution, the first part; Bill of Rights, there are thirty-nine stated rights. Some of them are one sentence, some of them are paragraphs. This is just a very simple paragraph but just very vague. If you look at our federal constitution, which by the way is really kind of interesting and I'll put my historian hat on here, because when you talk about the ratification and the arguments that surrounded our federal constitution. There was a huge argument between the Federalists and the Anti-Federalists about whether or not to include a Bill of Rights in our constitution. Thank God that Thomas Jefferson and the Anti-Federalists won the debate. Because we now have enshrined in our constitution the first ten amendments which considers our Bill of Rights. And we always have great arguments about those rights; Free-

dom of Speech, Freedom of Religion, very clearly stated. If you look at this amendment, one thing that's glaringly different is they've taken out the victims' right of privacy. That is very, very concerning. Just because you become a victim, do you lose your right of privacy? I would argue not. I would think you would want to protect that victim's right to privacy, but this amendment basically guts that. There's a couple of other points here that I'd like to, points I'd like to make, and it's on line 6, and it says the right to fair notice of relevant proceedings. Well who gets to decide what's relevant? It's going to be the court. And part of the problems that victims face is the delay, the delay, the delay tactics of the defense. To put this off and in fact we heard from someone during our public hearing, that a young girl came forward at age six to say that her grandfather had sexually molested her. He was able to successfully put that trial off until she was ten years old, excuse me, twelve. So let me ask you the visual here. You have a six year old little girl sitting there talking about what happened to her versus a twelve year old. And finally it wasn't finally adjudicated until she was eighteen years old. Let me ask you, was that fair to the victim? I would argue that it was not.

One other thing that's been brought up has been the indemnification of the state. Well, during the public hearing we heard that Oh my goodness, this is going to create a situation where somebody's constitutional right was violated and now they have the right to sue the state and what if they're poor, we're going to have to provide them with an attorney, and this is going to put a huge burden on the state budget. Well, in the spirit of compromise we took existing language, it's already in statute, to indemnify the state. Does this mean that people cannot bring a case against the state? Of course not. People sue the state all the time. But what it does do is when you stand in front of a judge and you say; Judge my constitutional right was violated. I was not heard in this proceeding. That carries more weight than someone saying well, your honor, they violated RSA so and so and so and so. We heard from Thomas Velardi, who's the Strafford County Attorney and he said the statute regarding the victims' rights evaporates, it evaporates in competition against the constitutional rights of the defendant. All this does, the amendment that we have voted on by the committee, is attempts to balance. This is too vague, it's too, too vague. And victims are going to find themselves in court over and over and over again as that case law gets established. That's unfair to the victims, Mister President. It's very unfair and it is yet another delay, delay, delay tactic to keep the victims out of the process and keep them out of the court. Thank you very much, Mister President.

(The Chair recognized Senator Soucy for a question of Senator Carson.)

SENATOR SOUCY: Senator, could you tell me in this amendment that's before us who is a victim? I've looked for a definition and it' unclear to me who would actually be a victim under these circumstances.

SENATOR CARSON: Thank you very much for that question, Senator. I would argue that it doesn't even define what a victim is. So what are we talking about here? Did I answer your question?

SENATOR SOUCY: You did, thank you.

(The Chair recognized Senator Avard for a question of Senator Carson.)

SENATOR AVARD: Senator, thank you for taking my question. I've heard that the phrase right to be heard, but I see on line 19 that it does say that the victim basically has the right to be heard at such proceedings, all of which shall be enforced. So there seems to be some teeth into this. Help me understand this.

SENATOR CARSON: Okay. Thank you, Senator. And again we have two documents, we have proposed amendment 1181s that says that the right to be heard at such proceedings, okay? What does this amendment say? It says, and it's very specific, it names all of those rights, much like we see here. Let's see, they have the right to be treated with fairness and respect for the victims' safety, dignity and privacy and upon request, because remember this is opt in, to reasonable and timely notice of and to be present at all court proceedings. This does not say anything about that. Including post-conviction proceedings on the same basis as the accused, to proceedings free from unreasonable delay, and again we've changed this, it says here to refuse an interview or deposition request made by the accused, to confer with the attorney for the state about the disposition of the case, to be heard at any proceedings involving the release, plea, sentencing and parole of the accused, to reasonable notice of the release or escape of the accused, to full and timely restitution and to be informed of all rights under this article. You have that and balance that with the right to be heard.

SENATOR AVARD: Recently we passed the rape shield bill and that was to protect privacy. How does this affect that? Marsy's Law?

SENATOR CARSON: I would think that it would enhance it, Senator. Unfortunately, if we had had victims' rights at that time that were constitutional rights that decision by the Supreme Court probably would have not gone forward. That dragged the family back into court. After someone had been found guilty of murdering their child, they had to go back in and defend their daughter's privacy.

SENATOR AVARD: And so based upon what you said, there are certain protections for victims that we as a body have passed?

SENATOR CARSON: Yes, Senator. Again, I would say yes they are, but again I would go back to the testimony that we had from Mister Velardi. The statute regarding victims' rights evaporates in competition against the constitutional rights of the defendant.

SENATOR AVARD: Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. With respect to the Senator from District 23, there are rights enumerated in this. The right to fair notice of relevant proceedings, relevant meaning anything related to the case as it's moving forward. The right to be treated with respect, fairness and respect for the victims' safety and dignity. The right to be heard at such proceedings, meaning any proceeding involving the adjudication of an accused guilt, sentencing, a post-conviction release of a convicted defendant. All of its rights shall be enforced consistent with the rights guaranteed to others involving the criminal justice system. This balances this amendment. So your statement, Senator was utterly incorrect and misleading. There are specific rights enumerated in this amendment. The next thing this amendment does, it puts teeth into Marsy's Law. It gives enforcement a place where the current amendment removes the ability in the event of the most egregious breech of the victims' rights, the re-offense, the murder, the rape, whatever it is. And we indemnify the very people and the only people responsible for enforcing those rights from the failure to do so with horrific potential consequences.

This does a wonderful job of protecting the system as it changes nothing, it puts nice words into the constitution and then removes accountabil-

ity for failure to exercise those words. We already have victim statutes, twenty-three items and one I would call it an adjunct item, that are not being enforced but putting it in the constitution will not bring enforcement, but neither the constitution nor the statutes are self-enforcing. They require human interaction and when that interaction fails, and a victim dies, we do a great disservice to the women, the children, the men whoever it is that the victim might be. Because we will have knowingly put into the constitution an escape clause from accountability for failing to enforce the very things we say we're providing. I cannot support this language in the current amendment. I ask you to implement a constitutional amendment that gives broad authority, establishes specific rights and achieves a remedy if those rights are not exercised by the only authority, law enforcement, parole, sheriff's departments, judiciary with horrific consequences to the very victims we're trying to protect. I ask you to support amendment 1181s to CACR 22. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. Again, this, the amendment that the committee passed incorporates statutes that we currently have. This is based on New Hampshire law. We heard from Attorney Ward from the AG's office that many police departments, the courts, they're already doing this. This is already happening today. Many, even police prosecutors, police departments have victims' advocates on staff to help people so we're not re-creating anything really new. We are taking statutes that in some instances we have voted for, and putting them together as a constitutional amendment to protect the rights of the victims. I've already spoken to why the indemnification is in there. It doesn't stop anybody from suing the state, they can do so if they choose to. We, the state, are just not going to pay for it. We are not going to provide them an attorney. And that, again, that language is in place in various statutes that we have. So it is not something new that was created just for this.

And again Mister President, I just want to go back again to what Attorney Velardi said; the statute regarding victims' rights evaporates in competition against the constitutional rights of the defendant. If you don't state and be specific what those rights are, you will find yourself constantly in court. And again, that comes back to delay, delay, delay. And we don't want that. We don't want that for the victims of crimes here in the state of New Hampshire. Earlier we heard testimony about the learned scholar, Judge Conboy, who by the way did not come in to testify to the committee. But we did have testimony from Attorney Chuck Douglas, another individual who has served on our State Supreme Court. And he said victims should be treated with respect for their safety, dignity and privacy. Make no mistake, this proposal and this proposal that he's speaking of was an amendment that was brought forward that was a little bit longer than this but basically the same thing, would render the constitutional amendment meaningless and would lead to decades of litigation over its true intent. If you want to treat victims with fairness, respect and safety, you need to do more than just say it. He goes on to say that this amendment is a poison pill that would invalidate the proposed rights of the victims under CACR 22 and would maintain a system where the rights of the defendant and criminals are given greater weight than the rights of the victim. Thank you, Mister President.

(The Chair recognized Senator Lasky.)

SENATOR LASKY: Thank you, Mister President. I, as a member of the Judiciary Committee am, you know, have been living with this bill. This was presented to us the first week of February and in all fairness I don't believe there is one person that came in to testimony or one person that I have heard from. Because I've struggled with this. One person that I've heard from of all the stakeholders who hasn't said no we don't need any kind of victims' rights. I believe that the issues have been as to how to best achieve that. When we are putting something or plan to put something in the constitution, that is one of the most serious things I believe that we do here as a legislator. And I believe that this committee has looked at it very seriously has brought in you know, stakeholders again and people that are concerned with this. And certainly any one of us, there has been no dearth of people who have not come in to my office if I've asked them to explain one thing or another. I'm not an attorney, so there are things in the law that do need to be explained. What I want to say is that I do think that the product we have, while not perfect, is certainly a good start. And this will go on to the House, they, you know what the House does, they will have you know, four-hundred opinions, as it should be. And I think that again, the subject matter is certainly worth, it's worth all this debate, it's worth anything we can put into it, but I do believe at this point in time that the committee has worked long and hard, we've tried to balance and that's what this is about; balancing the victims' rights with the defendants' rights and it's very serious business but I do think and as I said, I haven't heard from anyone that something does not need to be done. So I urge you to pass the amendment as presented by the Judiciary Committee and I do believe that that's the best way to go. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. When a statute conflicts with the constitution it should evaporate. That's why we have a constitution. Is to make sure that laws aren't made by people with unjust purposes that do not reflect the values established by the founders and changed or removed or improved over the centuries. Chuck Douglas is an honorable jurist, Chuck Douglas is very well paid for the testimony, he is a paid lobbyist on this issue. He was paid to say what he did, and he's a friend of mine. He appeared in my office with an orange badge saying you should vote for this. And I said no, because it does not solve the problem. It elevates language, then it takes the teeth out, just like the existing statute does, so that victims when most egregiously offended by a parolee who then rapes or murders, have absolutely no recourse and the state has failed to provide them the notice, the state should be held liable. It's just that simple. We make people feel good with this language, we don't accomplish anything, we elevate a statute into constitutional standing. And we also with the only, only language in the entire constitution despite various statutory exemptions, this is the only amendment that places an exemption for those who fail, into the constitution. The only place in that entire document. We have numerous places in the law where we provide immunity, partial immunity or it's implicit. In this case we're making immunity a constitutional right for those who failed to protect the people we're trying to save. That's unconscionable. I ask you to support this amendment and then I'll introduce a later amendment to rectify. Thank you, Mister President.

(The Chair recognized Senator Avard for a question of Senator Carson.)

SENATOR AVARD: Thank you for taking my question. I just, with regards to the immunity of those that fail to enforce this. Do they still have immunity?

SENATOR CARSON: This says that they do, but you can sue anybody for anything, anybody will tell you that. It won't be for a criminal offense, but it could be for a civil offense.

SENATOR AVARD: So if the state fails to enforce these constitutional rights, where does the victim go?

SENATOR CARSON: Thank you for your question. As I said earlier, the victim can go in front of the court and say my constitutional rights were violated. I was not given the right to be heard or whatever they claim has been violated and the court has to address those.

SENATOR AVARD: So then if the court fails the victim by not helping the victim with the constitutional right under Marsy's, can the victim sue the court for failing to, because they failed the victim?

SENATOR CARSON: Senator, now you're really getting into the weeds, I am not an attorney, and I don't pretend to be one. But if you remember we had Mister Ward in our caucus this morning talking about the fact that the judges oftentimes ask the victims, did you participate in this, where's the victim, had they been heard, so again, we're not creating anything new. These are things that are already happening in our court system now. We're just saying okay we're going to put them together, they will; be in constitutional amendment that recognizes the victim and when we look at that scale of justice because right now it's like this. All constitutional rights belong to the accused. The victims have nothing. It's an attempt to try to get a balance and that's all this is, is to recognize that victims have rights as well. Not affecting anything that is attached to the defendant, but they have rights as well.

SENATOR AVARD: Thank you, Senator.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. The committee amendment as amended states this section does not create any cause of action for compensation or damages against the state, any political subdivision of the state any officer, employee or agent of the state or any of its political subdivisions or any officer or employee of the court. Black's Law defines damages as, and I quote, "A pecuniary compensational indemnity which may be recovered in the courts by any person who has suffered loss detriment or injury whether to his person, his property, his rights through the unlawful act or omission or negligence of another." With this language we foreclose on the ability of a victim to sue the court and deny them the most essential of rights, that being life and safety.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator French, seconded by Senator Avard.

The following Senators voted Yes: Giuda, French, Sanborn, Daniels, Avard.

The following Senators voted No: Woodburn, Bradley, Watters, Hennessey, Gray, Ward, Kahn, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 5 - Nays: 18. Failed.

Recess. Out of recess.

Senator Bradley moved to Lay on the Table CACR 22. Adopted.

SPECIAL ORDER

Without objection, the following bill is special ordered to the current time. Adopted.

FINANCE
SB 541-FN-A, establishing a fund to reimburse costs associated with firefighters who have cancer.

FINANCE
SB 541-FN-A, establishing a fund to reimburse costs associated with firefighters who have cancer.
Ought to Pass with Amendment, Vote 4-2. Senator Daniels for the committee.

Senate Finance
March 20, 2018
2018-1156s
08/04

Amendment to SB 541-FN-A

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

AN ACT establishing a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer.

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

1 New Section; Commission to Study the Funding and Operations of the Presumption Under Workers' Compensation Requiring the Reimbursement of Costs Associated with Firefighters who Have Cancer. Amend RSA 281-A by inserting after section 17 the following new section:

281-A:17-a Commission Established.

I.(a) There is established a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer. The members of the commission shall be as follows:

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

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

(3) The labor commissioner, or designee.

(4) The commissioner of safety, or designee.

(5) The insurance commissioner, or designee.

(6) A representative of the New Hampshire Municipal Association, appointed by the association.

(7) A representative of the New Hampshire Association of Counties appointed by the association.

(8) A fire chief, appointed by the New Hampshire Association of Fire Chiefs.

(9) A representative of the Professional Fire Fighters of New Hampshire appointed by that organization.

(10) A representative of the New Hampshire Public Risk Management Exchange, appointed by that organization.

(11) An attorney practicing in the field of workers' compensation defense, appointed by the governor.

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

II.(a) The commissions shall study:

(1) The costs that have been incurred to date under RSA 281-A:17.

(2) How to conclusively determine that the cause of cancer is occupationally related.

(3) Reasonable methods and practices to screen out non-occupationally related cancers, that are a result of, including, but not limited to; other employment, genetics, and life style choices made before, during, and after service.

(4) The annual costs to provide physicals and the additional workers' compensation coverage.

(5) An appropriate, stable, and long-term funding mechanism.

(6) Any other issues applicable to the subject matter of RSA 281-A:17.

(b) The commission may solicit input from any person or entity the commission deems relevant to its study.

III. The members of the 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. Seven members of the commission shall constitute a quorum.

IV. On or before November 1, 2018, the commission shall submit a report of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

2 Repeal. RSA 281-A:17-a, relative to a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2018.

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

2018-1156s

AMENDED ANALYSIS

This bill establishes a commission to study the funding and operations of the presumption under workers' compensation requiring reimbursement of costs associated with firefighters who have cancer.

SENATOR DANIELS: Thank you, Mister President. I move Senate Bill 541 Ought to Pass with Amendment. This bill sought to establish a fund to reimburse costs associated with firefighters who have cancer. The fund as proposed would be supported by an annual assessment by the Insurance Department on carriers and self-insurers issuing homeowners and business insurance policies. A majority of the committee support the concept of the bill, but feel serious questions remain unanswered, such as causality, cost and the appropriate funding source. No committee member questioned the possibility that cancer could be contracted as a result of fighting fires. The committee amendment establishes a comprehensive commission to develop answers to the remaining difficult questions. The goal of the committee members is to fund the bill in the

next budget cycle. The Senate Finance Committee recommends passage of Senate Bill 541 as amended, and asks for your support. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I'd ask that we turn down the committee amendment so I can introduce a Floor Amendment.

The question is on the adoption of the Committee Amendment. Failed.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
March 22, 2018
2018-1188s
01/03

Floor Amendment to SB 541-FN-A

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

AN ACT establishing a fund to reimburse costs associated with firefighters who have cancer and establishing a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer.

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

1 Workers' Compensation; Firefighter With Heart, Lung, and Cancer Disease. Amend RSA 281-A:17, II to read as follows:

II. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a prima facie presumption that cancer disease in a firefighter, whether a regular, call, volunteer, or retired member of a fire department, is occupationally related. In order to receive this occupational cancer disability benefit, the type of cancer involved must be a type which may be caused by exposure to heat, radiation, or a known or suspected carcinogen as defined by the International Agency for Research on Cancer***, including such types and variations as colon, lung, melanoma, mesothelioma, multiple myeloma, non-melanoma skin, prostate, rectal, non-Hodgkin's lymphoma, and stomach***. However:

(a) A [~~call or volunteer~~] firefighter shall have the benefit of this prima facie presumption only if there is on record reasonable medical evidence that such firefighter was free of such disease [~~at the beginning of his or her employment~~] ***for 10 years after completion of the comprehensive medical physical***. It shall be the duty of the employer of [~~call or volunteer~~] firefighters to provide the required reasonable medical evidence ***as outlined by the National Fire Protection Association standard 1582 or another evaluation mandated by the fire standards and training commission under RSA 21-P:25***. [~~If the employer fails to do so, the call or volunteer firefighter shall have the benefit of the prima facie presumption regardless of the absence of said reasonable medical evidence.~~]

(b) A retired firefighter who agrees to submit to [~~any~~] ***a compliant*** physical examination [~~requested by his city, town, or precinct~~] ***during employment and meets all other standards pertaining to this section*** shall have the benefit of the prima facie presumption for a period of 20 years from the effective date of such firefighter's retirement.

(c) To qualify for treatment under this paragraph, a firefighter shall:

(1) After completion of a comprehensive medical physical determining the firefighter is cancer-free, document a tobacco-free lifestyle.

(2) Have continuously served at least 10 years in the fire service.

(3) Have completed courses and training in accordance with certification for firefighter I in accordance with RSA 21-P:25.

III. There is hereby established in the office of the state treasurer a fund to be known as the firefighters with cancer disease fund. All moneys in such fund shall be nonlapsing and continually appropriated to the commissioner to be used for the sole purpose of reimbursing costs associated with medical physicals under subparagraph II(b) and additional costs in workers' compensation coverage. The state treasurer shall disburse moneys from the fund only upon written order of the commissioner. The commissioner, with the approval of the fiscal committee of the general court, shall disburse moneys from the fund to the political subdivisions of this state and to the public risk pools covered under RSA 5-B. The commissioner shall conserve the assets of the fund. The attorney general shall appoint an employee of the department of justice to represent the fund in all proceedings brought to enforce claims against the fund. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the proper administration of the fund.

2 New Subparagraph; Rulemaking Added. Amend RSA 281-A:60, I by inserting after subparagraph (aa) the following new subparagraph:

(bb) The administration of the fund established in RSA 281-A:17, III.

3 New Subparagraph; Special Fund Added. Amend RSA 6:12, I(b) by inserting after subparagraph (339) the following new subparagraph:

(340) Moneys deposited into the firefighters with cancer disease fund, established in RSA 281-A:17, III.

4 New Section; Commission to Study the Funding and Operations of the Presumption Under Workers' Compensation Requiring the Reimbursement of Costs Associated with Firefighters who Have Cancer. Amend RSA 281-A by inserting after section 17 the following new section:

281-A:17-a Commission Established.

I.(a) There is established a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer. The members of the commission shall be as follows:

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

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

(3) The labor commissioner, or designee.

(4) The commissioner of safety, or designee.

(5) The insurance commissioner, or designee.

(6) A representative of the New Hampshire Municipal Association, appointed by the association.

(7) A representative of the New Hampshire Association of Counties, appointed by the association.

(8) A fire chief, appointed by the New Hampshire Association of Fire Chiefs.

(9) A representative of the Professional Fire Fighters of New Hampshire, appointed by that organization.

(10) A representative of the New Hampshire Public Risk Management Exchange, appointed by that organization.

(11) An attorney practicing in the field of workers' compensation defense, appointed by the governor.

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

II.(a) The commission shall study:

(1) The costs that have been incurred to date under RSA 281-A:17.

(2) How to conclusively determine that the cause of cancer is occupationally related.

(3) Reasonable methods and practices to screen out non-occupationally related cancers, that are a result of, including, but not limited to: other employment, genetics, and lifestyle choices made before, during, and after service.

(4) The annual costs to provide physicals and the additional workers' compensation coverage and how they should be funded.

(5) An appropriate, stable, and long-term funding mechanism and the costs of administering the funding mechanism.

(6) Whether the funding mechanism should include an insurance assessment against carriers issuing certain insurance policies.

(7) Any other issues applicable to the subject matter of RSA 281-A:17.

(b) The commission may solicit input from any person or entity the commission deems relevant to its study.

III. The members of the 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. Seven members of the commission shall constitute a quorum.

IV. On or before November 1, 2018, the commission shall submit a report of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

5 Repeal. RSA 281-A:17-a, relative to a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer, is repealed.

6 Effective Date.

I. Sections 1-3 of this act shall take effect July 1, 2018.

II. Section 5 of this act shall take effect November 1, 2018.

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

2018-1188s

AMENDED ANALYSIS

This bill establishes a fund to reimburse costs associated with firefighters who have cancer. The fund shall consist of moneys from an annual assessment by the insurance department against each carrier and self-insurer issuing homeowners and business insurance policies. This bill also establishes a commission to study the funding and operations of the presumption under workers' compensation requiring reimbursement of costs associated with firefighters who have cancer.

SENATOR BRADLEY: Thank you very much, Mister President. I have to do a mea culpa here. I have not been at all involved in this bill so let me do the best I can to explain this amendment from 100,000 feet and perhaps others are going to have to answer questions about it. My under-

standing of what the amendment does is that it takes out the assessment on the premium tax knowing that we're setting up the fund and that it has to be funded in the next budget. That's what this does. I hope that in the spirit of bipartisan cooperation that with the unanswered questions about how much money is necessary and where it will come from so that we can move forward with what had been the position of the Finance Committee to create a commission to look at this with the indication that this amendment indicates that it will be funded in the next budget after a determination is made as to how great it is, the expense. Maybe we should switch positions and I'll let the Senate President explain the amendment. Senator Bradley presiding.

(The Chair recognized Senator Morse.)

SENATOR MORSE: The amendment's drafted this way: The original bill basically acknowledges that we want to create a fund and then along with that the original bill used an insurance tax to cover the fund to the tune of $3 million. But one thing that isn't figured out yet is, one; I think the committee was pretty much under the understanding that the insurance tax piece wouldn't work. The Governor had another idea of bonding, which I believe may be the way we end up on this, but like any bond in the state of New Hampshire, you've got to have a solution for paying it back. So basically what I did in this amendment was set up the system, there is no, anything in this bill that says this is going in the next budget, however I can tell you the Governor wants this in the next budget. What I didn't have answers for was how we're going to set up that system to fund it. So you set the buckets up in the treasury, you acknowledge that we're going to put this policy in place, that's what's being passed.

The committee that is going to do the work is basically looking at four or five different things on how to set this up. And that has to report out by November, so that it can go in to the next budget. I don't think there was anyone, well I shouldn't say that because there might be other people on Finance that disagree with me. I believe that we should be solving this problem. What I don't believe is we have the solution yet of how to solve it financially, and that's why I'm proposing putting these people together to solve those. Other people want to solve some of the other problems. I guarantee when this gets in the House, they only have two months but the solution will be worked on while they're in the House. If they can't get it done then we go to the committee that's being adopted but I believe it needs time to develop what the solution's going to be. I don't think anyone, if you vote on this today and vote on what's being proposed in front of you, you're voting to set up the system. That's what you're doing. So with that, I guess we're going to recess.

Recess. Out of recess.

(The Chair recognized Senator Feltes for a question of Senator Morse.)

SENATOR FELTES: Thank you for taking my question. Mister President, you had mentioned that this would be funded in the next budget. Just reviewing this I do not see any language that–

SENATOR MORSE: I think I made it perfectly clear. There is no language in this bill that says it's funded and I stated that. What I said was we have to report out by November 1, on the funding source. I made that pretty clear.

SENATOR FELTES: Thank you, thank you very much.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Thank you, Mister President. This bill is a bill that I put forward and I think it's an important issue for us to address. And I may have mentioned previously that my father-in-law passed away in December, he was a firefighter, non-smoker, died of lung cancer. It's sometimes difficult to establish causality but we sure as heck have correlation that shows that firefighters have a higher degree of certain cancers than the rest of the population. And the purpose of this bill was to help firefighters and their families who find themselves facing cancer that is very likely related to their job and their daily activities. While I understand this amendment and what it's trying to do, I like it because I think it's important that we find the right source of funds and one that we can rely on and the fact that we'll have an identifiable source by November that we can work into the next budget, I think is a good thing. The original proposal I didn't think was bad, I made the argument in committee it was pennies for consumers and it was. But this feels better in a lot of ways. The House has a crack at it, the Governor will work with them I'm sure and I will if I can help and I do believe that we'll get the fund established as we need it and we'll find a way to get the money into it. Will it happen tomorrow? No, but will it happen with the next budget? I'm confident it will. And I ask you to please support the amendment.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I rise to ask the body to vote down this proposed amendment. This Floor Amendment basically replaces the original bill with a study commission that delays action on an issue of importance to those who protect us, the citizens and the visitors of the state of New Hampshire. This issue has been debated in our body before, to the extent that in 1987 when the original statute came before the legislature, the full Senate voted 22-1 in favor of the bill. Four years ago we agreed to study this matter, to fine tune the statute. Our colleague from District 17 served on that study committee which came with some strict qualifications to pursue this coverage. The fire service in New Hampshire is quite diverse. It is career firefighters such as in my towns of Hudson and Londonderry, and volunteer departments that serve Meredith, Barnstead and New Boston. And mixed departments of career, on-call and volunteer firefighters such as in Auburn, Danville and Milford. The original bill as drafted encompasses all firefighters answering the call in our diverse state and draws revenue from the very industry that profits off the success of our fire departments. It is now our turn to answer the call and protect those who protect us, not study this issue any longer. I ask you to vote down the committee amendment. Mister President, time and time and time again in this chamber we have talked with great pride of our first responders, and the job that they are doing for us, especially now since we find ourselves embroiled in the opioid crisis. They're the ones that will appear with ambulances to homes where parents, young adults have overdosed. They go to cars, when people who have gotten into accidents, to pull people from cars because they've passed out and caused an accident. If we truly value what they do we will today recognize the fact that they have problems, health issues related to cancer that are directly related to the job that they do. It is time, it is time for us to stand up and do the right thing. Thank you very much, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, having filed a conflict with the Clerk, I will be participating as this is an issue that may impact my client. I have to say I'm dismayed by the amendment. I'm dismayed for a couple reasons. Most notably though, I find it very hard that this body, actually this entire state government, thirty years ago, thirty years ago recognized that cancer was a significant problem because of the nature of the work that these men and women do every day to protect each and every one of us. The presumption that cancer happens on the job is well settled. As I said, thirty years ago. And here we are thirty years later saying, you know we're almost there, but we're not quite there. Do you know how many people have died, how many firefighters have died because of on the job related cancers, because we haven't come up with a funding source yet? Well, I'm going to keep working at this and I believe the funding source proposed make a lot of sense. But let me say this; what doesn't make a lot of sense and what I find downright offensive in this amendment, is line 12 of page 2. Because what we are saying is that if you're a firefighter, you have to go through physicals, you have to do all of these various things, all of these expectations in order to prove that your cancer was related to the job. And once you've done that, we set that very high bar, once you've done that, the Commissioner of Labor then says we're going to pay for your services. But what do we do? So the commissioner, you've proven the bar, the commissioner has granted you this authority. We have statutorily said, this is what you have to do, but the commissioner is going to go to Fiscal. And what if Fiscal says no. What then? What does that say to these people if we set up yet another political hurdle? That is simply wrong, simply wrong.

Now we can debate what the funding source should be, but to suggest that we have set up a scheme for which people can be compensated in small part for the cancers that they have caught, that they acquired because of the things they've been exposed to, saving us and saving our constituents? It's to me unconscionable, and for that reason I can't support this amendment, never mind that the study committee that we're setting up, a member from the association of counties, really? Counties have fire departments now, that's news to me. I don't know what they're doing here. Line 17 of page 3; how to conclusively determine that the cause of cancer is occupationally related. Really? Thirty years later we're still trying to figure that out? My friends, today is the day to take action on this bill. There's no doubt that there are brave men and women every day exposing themselves to chemicals and carcinogens that may eventually lead to their death, and they're doing it and will continue to do it and we at the very least, at the very least should be able to pass the original version of this bill. Thank you, Mister President.

(The Chair recognized Senator Feltes for a question of Senator Soucy.)

SENATOR FELTES: Thank you for taking my question. Senator, you just mentioned the language starting on line 11 going to line 14, on page 2. While we've just seen this language about ten or fifteen minutes ago, would you agree with me that subjecting individual workers' comp cases to the whim of a political body presents serious constitutional and due process problems?

SENATOR SOUCY: Senator not only do I think it presents very serious constitutional and due process problems, as I stated I think it's unconscionable to do that, thank you.

SENATOR FELTES: Thank you.

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. I'd like to address some of the comments that were made earlier about how it's so unconscionable. The fund that currently exists in statute right now, the first part of it deals with heart and lung disease, the second part deals with cancer. In twenty-nine years there have been two hearings based on claims against cancer. One was settled with a $1,000 lump sum settlement, the other the claimant withdrew the quest on appeal. The funding source that we're talking about and that we're trying to find, some find so acceptable now. Let me just share some data with you that approximately twenty-one states have some kind of a fund in regard to cancer right now. But not one of them deals with it the way that we're proposing. They deal with it with a workers' comp trust fund or insurance carriers. I mean we would be the only state that is looking to tax property and casualty insurance companies for this. This is what we're trying to deal with and find a way that is acceptable so that you're not targeting one segment to fund a service that everybody benefits for. So I rise in support of the amendment, ask that you support that. Let's go forward, put the program in place and let us work to find the funding mechanism for the next budget. Thank you, Mister President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I rise against the amendment. I think I'm the only one here who's here because of the bravery of firemen. As a kid I lived on the third floor of a building in East Boston on Gladstone Street. House burnt to the ground, to the ground. My mother, my father, my brothers, my aunts and my uncles were taken out by firefighters. They went to the third floor of the building that I was living in as a babe, they took me in their arms and took me down. They didn't ask if there was asbestos in the building, they didn't ask if their lives were in danger, they went up to the third floor, picked me up out of my bed and took me down. I'm alive because of the bravery of those guys. How can I not support something that supports them? We have a Manchester firefighter who's dying of cancer now. That person needs our help, needs our help. These men and women who are firefighters risk their lives every day. They risk their lives every day, and as I said, I'm here, my brother is alive because of what they did. It's the highest compliment that I can pay to anybody. Let's take care of them. Thank you, Mister President.

(The Chair recognized Senator Morse.)

SENATOR MORSE: Thank you, Mister President. No good deed goes unpunished I guess. The reality is, I haven't been here thirty years, but once again the Senate is solving a problem and I think we're doing it the logical way that the Senate does things. We didn't have 2000, 2002 they passed a drug and alcohol bill, Senators were here for years and it was under our leadership that we now fund the Governor's Commission. Not at 3.4, we doubled it, and now we're taking it to $10 million. It was our leadership that did it. I made it very clear, the Governor is going forward with this bill. I made it very clear, so I'm not walking away from it. I support it, you have until November to come up with the ideas of how we believe it should go in the next budget. Otherwise the structure's already done because this puts that in law, so I can go home and hold my head up just fine. I support it. But the reality of financials in the state, I'm not afraid of Fiscal, I'm not afraid of Governor and Council,

because I think that's a responsibility of the Senate that we have. And I don't believe anyone brought a solution to that problem yet. It was pretty obvious hitting the insurance fund was not going not going to be the solution. That's been obvious for quite a while now, because the reality of doing that is, who's next? Who's next? I mean we're certainly singling out the firefighters here which I support, but who's next? And that's what we'll be putting on the insurance policies.

So I said let's come up with a solution that works for the state of New Hampshire, but I don't have it, and no one else brought it forward. So all I suggested was let's get it done before November. I'm telling you right now the Governor supports this bill. That's why I suggested putting the structure in place today. And that's what we're doing. If the House were to come back to a committee of conference, or come back with an idea that you could agree with without a committee of conference, I'm sure you'd support it here in the Senate. But no one brought an amendment forward to say how it's going to be fixed today. And I think you need to do that. I think it's responsible and I think you're making a statement today that you support it and I could just as equally argue that voting against it says you don't support it. Because you are putting it in place with this amendment. So I ask for your support on this amendment today, I think it's the right thing to do, I think the Senate's always been responsible and then you have two months to go work the House and find a solution or let this committee develop the solution. Thank you.

(The Chair recognized Senator Feltes for a question of Senator Morse.)

SENATOR FELTES: Thank you for taking my question, Mister President. This language, which we are still digesting says, correct me if I'm wrong, that an individual workers' comp case is decided and then the commissioner must go before Fiscal to fund that individual workers' comp case of a firefighter. Is that right?

SENATOR MORSE: Senator, I took the language from the original amendment that I picked up and put it in this bill. There were two pieces. There was the original bill, then there was an amendment to do a commission to study this. I just tried to marry them with what we could do today. If I've made a mistake, you're setting up the system. I have no problem acknowledging today in the Senate that we're setting up the system and we need the funding source. Beyond that, I do believe that we move this along in the process with the understanding that the House will fix this and make it work. If they can't get it done, I'm sure all of us can go to the House and say these things need to happen in that committee that's going to work the next six months. I'm sure we can get there. So if I failed, I'm sorry. But I intend to get this done.

SENATOR FELTES: One last question. Thank you, and I appreciate the intent. In Senate Finance I did present an amendment to fund it in the general fund in the next budget. So that proposal was made, it was rejected. I'm wondering why we don't fund it in this actual amendment. Why don't we fund it?

SENATOR MORSE: And ultimately, you're letting me answer a question that Senator D'Allesandro asked too. Ultimately we may have to set up that system, but ultimately, by doing what you suggested in Senate Finance we were nailing in on $3 million. I'm not sure that's the right answer because I know Senator Giuda was getting ready to jump up and say, you know he's studied data that it's a half a person every two years or something like that. I'm not ready to come up with that number. But

as for the person with cancer in Manchester right now, it was the intent of the original legislation that this go in the next budget. So I don't think we're slowing anything down by doing what we're doing. The intent was to put it in the next budget, and whether it goes in the general funds or not Senator, it's going to be one of us that's going to be on that committee that basically figures out how to do it.

SENATOR FELTES: Thank you very much. Thank you.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Giuda, Gray, French, Ward, Sanborn, Daniels, Avard, Reagan, Morse, Gannon, Innis, Bradley.

The following Senators voted No: Woodburn, Watters, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, Birdsell, D'Allesandro, Fuller Clark.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 12 - Nays: 11. Adopted.

(The Chair recognized Senator Sanborn for a question of Senator Daniels.)

SENATOR SANBORN: Senator, thank you for taking my question. Could you explain to the body and help us understand, because I have not heard it in the debate or anything I've seen presented. Clearly this is an issue, clearly this body wants to try and do something. But what part or what role is there or should there be or has there been, in the local communities that actually hire and support the local first responders. Are there systems or funds set up or is this a co-payment system or is this in absence of it or help the body understand what the state's responsibility is or what we're debating as relates to the communities that are actually hiring and supporting and paying for first responders?

SENATOR DANIELS: Okay, thank you for the question. Typically when a firefighter gets hired by a municipality they go through an examination. My understanding is the examination is being proposed in the legislation is a more comprehensive examination to make sure that they're free of the cancers that are listed. That examination runs about $900 per examination. Also during that time that they are firefighting they would be covered under the municipality insurance, but they can reach a point where someone has contracted a cancer and that cancer may have gotten so bad that they cannot perform their duties anymore. And so they may be released from service with that municipality. At that point in time they could pick up COBRA, but COBRA is only for a certain amount of time as well. Once that COBRA runs out is where the problem runs in and that's what we would be looking for in here is to see what would be available so that we'd be able to continue taking care of that firefighter.

SENATOR SANBORN: Thank you for your answer, I appreciate it. So is the question one of the policy consideration is to fund long term health insurance payments for firefighters who may have conducted cancer or is it to create a presumption that a firefighter got cancer while on the job and the job was responsible for it, of which there was worker comp payments would do both medical and indemnity for life? Or both?

SENATOR DANIELS: The presumption already exists in the statute now. That reference I can't think of, it was something seventeen. But there's two parts in there now, lung and heart disease and cancer. There's a prima facie presumption already that if you're firefighting you develop cancer that it was a result of the occupation. So I believe that needs to

be looked at, I don't know how you conclusively tell, I think there's times that you can certainly come to a conclusion that there is, that the cancer exists because of the firefighting activities, and I don't think anyone disputes that the activity of firefighting exposes yourself to chemicals that could cause that. What you don't know for instance, and skin cancer is one of those things that is listed as a presumption if you end up with skin cancer and you're a firefighter, it was because you were exposed to the heat of fire, fighting fires. It doesn't seem to give any regard to the fact that if you were a teenager laying on the beach during the summertime fourteen hours a day, or if you're currently a construction worker working out in the sun all day long, that that may have contributed to it, so I think those are some of the hard questions we need to look at as we go about developing this whole policy.

SENATOR SANBORN: Thank you, Sir. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I listened with great interest to what our good colleague from District 11 had to say in answering the question from the Senator from District 9 and it kind of prompted my memory a little bit. And I just wanted to give some more information out to the body so they can hopefully help them make a decision. In the fall of 2013, the National Institute of Occupational Safety and Health released a study looking at the mortality of cancer incidents in a pool cohort of U.S. firefighters from San Francisco, Chicago and Philadelphia, from 1950 to 2009. The findings of this study are consistent with other studies and strengthen the evidence of relations between firefighter's occupational exposure and cancer. Most important to note are cancers of the respiratory, digestive and urinary systems. The study concluded that even after passing the healthy worker test required of those protecting us, firefighters around the county are 9 percent more likely to be diagnosed with cancer and therefore, 14 percent more likely to die from cancer.

I'd just like to inform the body as well that over the past seven years five New Hampshire families have lost loved ones who served New Hampshire when the bell rang for automobile accidents, house fires, commercial fires and hazardous material incidents, and put them in harm's way. Mister President, I will vote for this because I think something is better than nothing but I am very concerned. This has been something this body has looked at for years and yes, hopefully, we'll have something to put forward in November, and then we're going to wait until June and I would sincerely hope that we don't lose another firefighter to cancer while this is going through a process. Thank you very much, Mister President.

Recess. Out of recess.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I will vote for this amendment with full confidence that the President of the Senate as he has articulated will work to solve this problem. I trust him, I believe in him, I have every confidence that it will happen. And for that reason I'm going to support this amendment. The President is true to his word, always has been true to his word as it relates to me and any action I've had with him. So I express confidence in the President that we will solve this. Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in support of this amendment and I can assure you that Mister President, there isn't a member in this body who isn't appreciative and admiring of respectful of and grateful for the service of the fire professionals who save our families, our homes, our property day after day around the state. Finance Committee worked very hard on this because there are some questions, legitimate questions whether or not how do we raise the money, is it equitable to the taxpayers of the state? That also must a consideration of this body and that's a consideration of the Finance Committee. We are charged with it. The Senate President has come up with an exceptionally good idea that establishes the premise, the fund, the structure and does the homework we need to make sure that the financial decision that we make that will go forward I would say in perpetuity. It is the right one for both the firefighters and the people of our state. Thank you, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, I rise to state that I will vote for this amended legislation, but in doing so, in doing so, I trust that as we continue to work on this, we also address what I believe is an unconstitutional issue. On page 2, line 12 where we set up a process to adjudicate a workers' comp claim, determine it's a legitimate claim, have the Labor Commissioner make that determination and then insert what is a political process into that. That is not constitutional, that as we work forward needs to be removed. Thank you, Mister President.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Sanborn, seconded by Senator Avard.

The following Senators voted Yes: Woodburn, Giuda, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Morse, Gannon, Innis, Bradley.

The following Senators voted No: (None)

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

INTRODUCTION OF GUESTS

SENATOR BRADLEY: And while the President resumes his position up here I'm going to take personal privilege and introduce my wonderful Fiancée, Karen McNiff.

President Morse presiding.

MOTION TO REMOVE FROM THE TABLE

Senator Bradley moved to remove CACR 22 from the Table. Adopted.

JUDICIARY
CACR 22, relating to rights for crime victims. Providing that crime victims shall be afforded constitutional rights.

The pending motion is Ought to Pass with Amendment.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Are we speaking of amendment 1202?

PRESIDENT MORSE: We're speaking of amendment 1202 that says Hennessey, Feltes and Giuda so it was picked up as Hennessey. So are you offering Floor Amendment 1202?

SENATOR GIUDA: I am now, Sir.

Senator Giuda offered a Floor Amendment.

Sen. Hennessey, Dist 5
Sen. Feltes, Dist 15
Sen. Giuda, Dist 2
March 22, 2018
2018-1202s
06/04

Floor Amendment to CACR 22

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the

case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request.

SENATOR GIUDA: Thank you, Mister President. This amendment has come a long way, and it's been a difficult process. At the end of the day, what we're seeking to do by protecting victims' rights is in effect to protect their lives and safety in this exceptional circumstance. When the state, which is the sole provider and overseer of those rights, fails in the course of a judicial proceeding, a motion can be entered, a complaint can be filed, the judge will be, I'm sure, under the constitutional onus of this rights, willing and able to provide a remedy. But what happens when the system fails and the state as a sole arbiter of these rights, fails to notify a victim and that person is then offended again, relives, revisits, perhaps raped or killed? The existing amendment, which we choose to change with 1202, establishes that the only remedy is an apology from the state. When we leave exemptions in for those who are sole stewards of these rights, we invite a lower level of scrutiny and application of those rights when we put teeth into this law, this constitutional amendment. We say that we value the lives of women and children and men and all who are victimized. We value not only their right to due process, but we value their lives.

This amendment gives full credence to that value and gives the victim any person against whom the criminal offense or delinquent act is committed or who's directly and proximately harmed by the commission of the offense or act, in this case re-offense, rape, murder, whatever it might be, we give them the right to say the state failed and I or my loved one suffered a terrible consequence. That is the reason we have victims' rights. And I would submit to you that without this amendment, we perform chicanery that sounds good, but in fact really doesn't honor our obligation to the most fundamental of all rights for victims and that is to stay alive and free from harm. Thank you, Mister President.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Mister President, I rise in support of the amendment 1202s. Let me just explain what this does. In line 12 of the amendment it incorporates the word unnecessary which this body has already adopted. And then the second thing it does is it deletes the sentence, this section, this what the sentence says that's being deleted, this section does not create any cause of action for compensation or damages against the state, any political subdivision of the state, any officer, employer agent of the state or any of its political subdivisions or any officer employee of the court. So ostensibly what we're debating here is the deletion of that sentence.

The Senator from District 14 is accurate that even with this sentence, nothing precludes the victims from going to court to seek restitution, to seek redress, to seek injunctive relief. Nothing precludes victims from potentially filing a class action lawsuit against the state for the failure to implement the provisions. However the specific language of this sentence that is suggested to be deleted says individuals who are aggrieved for the failure to fulfill these rights and these standards don't have access to compensation or damages. What this amendment does, it says victims whose rights are aggrieved can get compensation and damages in individual cases. That's what it says. So I think we all want to stand up for victims, to preclude victims in individual cases for not getting compensation or damages I think is not a reasonable way to go. So the deletion of that sentence makes sense. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you very much, Mister President. I rise to speak against amendment 1202s. Mister President, we've already had a pretty extensive discussion about the state being given indemnity and again it is something that is throughout our statutes, but I'd also, Mister President, like to remind everyone of something that I had said. We had testimony that claims that if this indemnification was not put in, that people would have the right to sue the state and if they could not afford an attorney, we would have to pay for it, which is a, could be a huge expense. There are remedies Mister President, there are. And I've already stated them. If someone believes that their rights were violated, they can stand up in front of the court and say my constitutional right, just for example, to be heard has been violated and the court has to address that. So are we now going to have victims suing prosecutors, because you didn't do what I wanted you to do? You did a plea bargain, I didn't support that. So now I get to sue you. And now again, more delay while this gets sorted out through the court. This is not the right way to go, Mister President. The language that was in the amendment that was passed by this body and passed by the committee has been fully vetted by the attorney general's office. Mister President, the only thing I can conclude is this is yet just another poison pill to destroy the possibility of our state's citizens voting on Marsy's Law. Thank you very much, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. The only poison pill in the existing statute as we have amended it, without this amendment, is the poison pill that denies a victim who's killed or raped from any access to judicial action in their own defense. I would also submit that you can't stand in front of a judge if you're dead. You deny the family of those victims the right to do so. As I said, indemnity in courts, let's talk about that. This is the only place in the entire body of law in the state of New Hampshire where we're taking and indemnify those who have the sole right and responsibility of enforcing the statutes that protect victims from failing to do so. No other place. There are numerous places in statute, in statute, not in the constitution in which we afford such exemption, including the existing victims' rights statute. I would remind this body that the first duty of the attorney general of the state is not to victims, it's to the state. And that is why this is in here and I would expect them to put it in. I would also expect us as a body to remember that we're representing people and victims and our obligation is not to the state, our obligation is to justice, to those blind scales for the people

we represent. And if we leave this clause in, we do them a grave disservice and we support the fact that we believe that the state has the ability to exempt itself from responsibility for its own failures when such failures cause the death of another citizen. Thank you, Mister President.

(The Chair recognized Senator Watters for a question of Senator Feltes.)

SENATOR WATTERS: Thank you for taking my question. Is it correct to say that one of the reasons we're passing this amendment is because we heard from people who said that despite the victims' bill of rights and even if it wasn't on a constitutional basis sometimes people in the system were not following that?

SENATOR FELTES: Correct.

SENATOR WATTERS: And another question if I may follow up. So here's a hypothetical; if someone is not notified that someone has been told say or has been released or otherwise and that person comes and attacks the victim, if we have this provision, that sentence is in there, that person would have no recourse?

SENATOR FELTES: Thank you for the question, Senator Watters. With this provision in there that person would have no recourse for compensation or individual damages against the state or the subdivisions. As the Senator from District 14 noted earlier, that person could still go and get individual injunctive relief by the court, whatever that may be at that point. And it doesn't prohibit class actions for injunctive relief either. But in terms of individual compensation and damages, it would prohibit that.

SENATOR WATTERS: Thank you for classifying that, thank you for taking the question. I guess I'm not going to ask you to speak for other state constitutions, but if we were to have such language within the constitution, would that not be a unique incidence in our constitution, to have such language?

SENATOR FELTES: Thank you, Senator Watters. I think in terms of our constitution part 1 article 14, we've talked about access to justice and getting remedies. So I think to some extent this sentence which would limit victims' individual remedies, compensation and damages, I think would be something that's new in terms of our constitution. I can't speak to you know constitutions around the country.

SENATOR WATTERS: Thanks for taking my question. Thank you, Mister President.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. What we have in the passed amendment is the way the law works right now. It's been in our laws for hundreds of years; goes back to feudal days that the king is immune because there could be a million mistakes, they're in every single trial. You're going to open up every single one of them. Someone's going to find some little thing and you're going to have the most litigious society you've ever had. A lot of lawyers going to make a lot of money, but that's not what we're here for. It's just opening up a can of worms by putting this back in. Again, we do it in Transportation. The state is often immune and has limits to the damages that can be sued. So it's not a new concept, it exists all over the law. Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. With all due respect, we're talking about the lives of citizens here. Heinous crimes committed

because the state failed. This would be a first. I think it's a necessary first. If you truly support victims' rights, then you take that support pass paperwork in courts and injunctions and motions and pleas, and you take that support for victims' rights to the point that we actually believe their life if forfeited because of the failure of the state, deserves some recognition and their relatives deserve some compensation. Yes, it is a first. I think this makes victims' rights the best in the country, and I'm proud to be a co-sponsor of this amendment. I ask you to support it and do what's right for the victims. Not for the attorney general or the lawyers, okay? But for the victims. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you very much, Mister President. In regards to what my colleague from District 2 has just said, the state is not immune from heinous acts. In fact right now, we have a number of lawsuits that have been filed against DCYF for negligence, for things that they did not do that they were supposed to do. And children have been harmed. So by any means, if anybody, a heinous act was committed that person would have the right to sue, they would be able to do that beyond this. They just couldn't sue under this section. There are other sections that they could sue under and again that was explained to everyone this morning in the Republican caucus by Attorney Ward, okay?

Now the other thing that I wanted to talk about was that my good colleague from District 15 brought up about Article 14; legal remedies to be free, complete and prompt. Every subject of the state is entitled to a certain remedy, but it doesn't say what it is. It just says a certain remedy, leaving it up to the court to determine. By having recourse to the laws for all injuries he may have received in his person, property or character, to obtain right and justice freely without being obligated to purchase it. Completely and without denial, promptly and without delay, conformably to the laws. That already exists. And in as far as the indemnification, we are all indemnified, we cannot get sued by our constituents, because they don't like the way we voted on any one particular issue. Can you imagine what it would be like for any sitting representative to not have that protection? We'd be in court all day. Who here wants to give that up? Which one of you wants to say oh no, that's okay, you can go ahead and sue me whenever you want, if I don't do what you want. I don't want to give that up, I don't want to spend my time in court, and I don't think anybody else in here wants to spend their time in court as well. That is there for a particular purpose. And there is a remedy, you get to stand in front of the judge and argue that your constitutional rights were violated. Now if this passes, your honor, my constitutional rights were violated. Pay me. Really? Is that what it's come down to? I want you to pay me. The prosecutor, Mister President, didn't do what I wanted them to do. So now I'm filing suit against the prosecutor. Pay me. Is that what justice is about? I would argue no it isn't. Are mistakes going to be made, Mister President? Of course. Justice is not perfect as much as we would like it to be. It makes mistakes. But there is a remedy, maybe not under this section, but under other sections in the law. So if somebody feels that they have been aggrieved by this process, they can sue. Thank you, Mister President.

Senator Bradley presiding.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. Thank you for your indulgence. That is what we call in political parlance a pivot. The DCYF

suits are brought under statute, okay? That any exemption that might exist is in statute. But their brought into statutes that allow. Our statute currently doesn't allow for victims. The current statute does not. This amendment isn't a broad exemption, doesn't include political action or politicians or statesmen or people in elected office. It very specifically lays out the rights that are expected to afford to victims. There's no broad, you just killed an amendment that would have given broad jurisdiction. You've gotten specific, so now we are specific and our obligation must be to protect those specific rights as enumerated very clearly by the amendment and produced by the chairman of Judiciary. Let's protect those rights up to and including the point at which a victim is denied the basic fundamental right to life by an action caused by the failure of the state. There's no political risk here, we're not going to get sued. This is a very explicit statute, I'm sorry, amendment. It is a very explicit exclusion and it very clearly demonstrates our commitment to people that have suffered through horrific events and who with the worst possible incidents that occur from the states' failure have lost their lives or been re-assaulted or any number of horrific possibilities you can think of. This amendment truly brings victims' rights to where they need to be. If you're offended or you are killed, you and your family have a right to hold the state accountable. This is new ground. Victims' rights elevated in this state to a constitutional level is new ground. We have the opportunity to make it the best it can be to truly make sure that those victims' rights are carried through all the way, not just in a paper drill in the courtroom. Thank you, Mister President.

(The Chair recognized Senator Avard for a question of Senator Feltes.)

SENATOR AVARD: Senator in light of this amendment, in part 1, article 32 of breeches of grievances it says. Basically we're codifying, we're putting into our constitution, it's on page 182. We're putting into our constitution an immunity, right? Basically if we do not adopt this amendment. This article 32 says; "The people have a right, in an orderly and peaceably manner, to assemble and consult upon the common good, to give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer." Does Marsy's Law affect this or could it affect this part of our constitution? Withholding the ability for people to redress and petition their representatives?

SENATOR FELTES: Thank you very much, Senator Avard. I don't think that CACR 22 is going to inhibit the application of Part 1 Article 32. I do agree with the Senator from District 14 as a general matter, the state has, generally speaking, the statute RSA 541-B, relating to negligence, and where there could be individual damages claims and it could elevate into the constitution a specific prohibition of compensation and damages, potentially from negligence for failure to follow something. There may be an implication that in other provisions there is a cause of action for damages and compensations in the other provisions. I don't know how a court's going to review it. The safest thing is to keep the sentence out in my view. I understand and respect the opinion of others but the safest thing to do if you don't want to open up the floodgates, is to keep this out so that courts don't interpret other provisions that's potentially allowing compensation and damages types of claims. That's my view anyways.

SENATOR AVARD: Thank you.

President Morse presiding.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you. I have not participated all that much in Marsy's Law. I think everybody knows I'm pretty busy, from the other things that we've been debating. I've never seen a debate, though on an issue as important as this going sideways as this is going. We all may think we're doing the right thing by voting for this amendment. This amendment to me, maybe I don't know well enough, is a poison pill. Unmitigated disaster, unmitigated exposure to the state for mistakes, human mistakes the prosecutors can make. If this amendment is adopted, somebody please tell me why I should vote Ought to Pass as Amended afterwards. I think we're better off tanking the whole thing if this amendment passes. So I urge the body to vote against this amendment. I can't do it in stronger terms. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSELL: Wasn't the question already called?

PRESIDENT MORSE: I didn't accept that call. I was going with the fact that I had no more, but if you want to stand up after this speaker and do that I'll accept it.

SENATOR GIUDA: Yes, this opens the state to liability for its failures. During the judicial process that liability consists of pleadings and emotions and remedies in a courtroom and discussions between people. But when the state ultimately fails and a life is forfeited, yes I believe, especially for victims who have already suffered heinous crimes against them that we have an obligation, not to the state's treasury, but to the lives and the welfare of people who have already suffered. And I think the responsible thing to do is to support this because in so doing, we support victims' rights and if we fail to do it, we foreclose on the most egregious of offenses against the victim because of the failure of the state. Thank you, Mister President.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator French, seconded by Senator Giuda.

The following Senators voted Yes: Giuda, Hennessey, French, Sanborn, Daniels, Avard, Feltes, Innis.

The following Senators voted No: Woodburn, Bradley, Watters, Gray, Ward, Kahn, Lasky, Carson, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 8 - Nays: 15. Failed.

Senator French offered a Floor Amendment.

Sen. French, Dist 7
March 22, 2018
2018-1204s
06/01

Floor Amendment to CACR 22

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 14 the following new article:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any natural person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of amending the first part of the constitution by inserting after article 14 a new article to read as follows:

[Art.] 14-a [Protection for Victims.] A victim of crime includes any natural person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. A victim shall have the right to be treated with fairness and respect for the victim's safety, dignity, and privacy, and upon request: to reasonable and timely notice of, and to be present at all court proceedings, including post-conviction proceedings, on the same basis as the accused; to proceedings free from unreasonable delay and a prompt conclusion of the case; to reasonable protection from the accused throughout the criminal justice process; to refuse an unnecessary interview or deposition request made by the accused; to confer with the attorney for the State about the disposition of the case; to be heard at any proceedings involving the release, plea, sentencing, or parole of the accused; to reasonable notice of the release or escape of the accused; to full and timely restitution; and to be informed of all rights under this article. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim. The victim, the victim's attorney or other lawful representative, or the attorney for the government upon

request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court."

SENATOR FRENCH: This is a very simple issue. I sat there and I heard the families of murder victims looking for relief, I heard people who were raped that were victims and wanted to be heard. We want to protect the most vulnerable citizens. But my question to you is do we also want to protect 21,000 businesses within the state, and call them victims in crimes? So I can understand for murder, I can understand for rape, but I can't understand why we would define a person as a business so I added "natural" in front of person so it's actually a person and not a business. I ask you to go with me on it. Thank you.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: You know how this is going. Thank you, Mister President. So my good friend from District number 7 doesn't think that the business community ever gets victimized. So when someone comes in and burns down some small little restaurant or steals a bunch of cars and goes and hits someone with it, or breaks in and terrorizes people within the organization or if you're a condo association and something bad happens the condo members don't have a right to find out about what's going on in the proceedings. Sure today we, you know we, I don't think we want to have today a conversation on Citizen's United and our corporations people too, so I'm trying desperately Mister President, to stay away from that debate. But I think it's incredibly important if we respect the 146,000 individual entities in this state, with 76,000 individual owners, that bad things happen on commercial property, bad things happen to companies. If someone comes in to a business and assaults somebody or worse, don't you believe that that organization has the right to find out when the court date is? So I'd ask the body to reject my good friend's amendment and recognize the fact that victims come in all shapes and sizes and they should all be treated equally. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I rise to speak against amendment number 1204s, and our colleague from District 9 is exactly correct. Business owners are victims of crime as well. He owns a restaurant down the street with big glass windows. So, decide someone wants to break those windows and rob his establishment, are you telling me that he is not a victim? Mister President, you own a business, you own a nursery. What happens if somebody comes, oh well two nurseries, and they destroy a good part of your nursery. Are you not a victim as well? Currently businesses do have standing and they do have rights. To remove them, Mister President, I at this point I'm a little speechless. Believe it or not at the end of the day, thank you, well, hey it happens, what can I say, usually I'm quiet, but, our businesses deserve the same protections because they are and can be victims and that their status should be protected as well. Thank you, Mister President.

(The Chair recognized Senator French.)

SENATOR FRENCH: Thank you. These rights do not get extinguished, these rights are still set forth in statute. All I'm saying is do we really have to give them the same level within our constitution as people, actual people, not Wal-Mart, not the NRA and not Planned Parenthood? As people, that's all I'm saying. Give it some thought.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Mister President, once again I will repeat something, testimony that was given to the committee, by Thomas Velardi, the Strafford County Attorney who states the statute regarding victims' rights evaporates in competition against the constitutional rights of the defendant. Thank you.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Sanborn, seconded by Senator French.

The following Senators voted Yes: Hennessey, French.

The following Senators voted No: Woodburn, Giuda, Bradley, Watters, Gray, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 2 - Nays: 21. Failed.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I know the hour is late, the dog is hungry and your concern of the other bodily functions to get home in time so I'll do my best to be brief. From this debate I've heard today, it's clear that we all believe there's a problem. We all believe there are victims from crimes who feel they are not being represented at any sort of an equal level. But my question is how do we solve that? And this is what I've been struggling with all day and I came in today truly in an unknown position. One of the rare times for me, that I was not pre-disposed one way or the other because I really didn't understand where the debate was going. And I wanted to hear what you said.

There has been precious little time talked about the fact that we actually have statutes, statutes, we have laws that are supposed to be protecting victims in crimes. But I've heard precious little reason why we're not beefing up the statutes or enforcing the statutes or penalizing anyone for not following the statutes. Instead we're having debate about changing the most precious document our state has and frankly it makes me nervous. Because for ten years I have walked these halls and for eight years as a State Senator, we are still fighting over the words adequate and cherish. Just two words, and that battle rages still today. And yet we use the legislative process to dance around it like a hot summer night.

Now for the record, my family is a victim that would be recognized under Marsy's Law. Someone got out of prison after serving nine years in August, in October committed a crime in my family. Got arrested in February. That was the last we heard. Never heard of the arraignment, never heard of the charges, never heard a court date, never heard there was a plea deal, never showed up at court. Never heard they got put up in Concord prison, never heard there was a parole hearing after eighteen months and let out onto the streets of Concord. It's amazing how many of us have had

a bad experience with our judicial system. I'm not here to try and fault them, for my family it was complete failure. Not a single communication throughout an entire process. At all. Clearly I believe something's wrong. But I'm challenged today that I'm not sure this fixes it.

I'm not sure and I guess I have yet to hear this compelling definitive position I was hoping to hear today that this will solve our problem. What I hear is 8,700 amendments, people fighting on both sides, still squibbling over words, without resolution. I hear fights relative to whether or not a constitutional amendment should be a conceptual statement which would leave the legislature bound to crafting specific statutes to fix, or if we look at the constitution as a place to provide absolutely no wiggle room and solve all of the potential outcomes and embed that into our constitution. So I remain as confused now as I was at, what time did we start Mister President, 10:00 a.m. This is not to be disrespectful to all of you and your debating and all of your amendments, because I know everyone is very passionate about their side on this. But for me Mister President, at this point I want to vote on something, let me be very clear. In my eyes and my family's eyes, the system is broken. I know my family is not the only family that feels that they have been disrespected, left out in the cold and completely ignored by the system. But the truth is I don't think this product is ready for prime time I don't think, but I don't want to see it die either. So I guess my message to the body is, I know you've all worked real hard and I compliment you all for it, but as a Senator who sits here I am still struggling with what our path is and whether or not this is the right path. Thank you for allowing me to give my statement Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you very much, Mister President. I've listened very carefully to the testimony we had in committee and the arguments that have been put forward today and unfortunately, there seems to be a disconnect someplace. And to the Senator from District 9, you're right. What your family has gone through is very sad. But if we had Marsy's Law in our constitution, your family would have been able to go to that court and say my constitutional rights have been violated. I demand the right to be heard. I demand the right to be noticed. Statutes really don't carry that same weight. And again, I repeated over and over and over and over today that statute regarding victims' rights evaporate in competition against the constitutional rights of the defendant. You have statutes and the constitutional rights. Those take precedence. So any statute we might have, sure the court can look at it, but the court has to honor those constitutional rights before they honor the statutes. This elevates victims. Are they going to be completely equal? I would argue, close to it. But we weigh so heavily in on the rights of the accused, because here we are actually talking about in a criminal case, depriving somebody of their liberty. They face the possibility of going to prison and years of well over 200 years ago, this country decided that that was important. The other thing to remember at the time the constitution was put together, victims brought suit against people who hurt them. The state was not involved. And in the process of evolving the role of the state, the victims have been left behind.

This bill as amended, this CACR, tries to balance that out and I think it's done a very good job. And I would like to applaud the attorney general's office for crafting something that's for New Hampshire. Looking at our existing statutes, and embodying them into a constitutional amendment

that will protect every victim in the state of New Hampshire. Mister President, we, you're right we've had a long discussion and I'm sure a lot of people are tired, you've got to go home and feed the dog, some of have got to go home and, pardon? Alright, well that's good. Some of us have to go home and feed our families as well, although I suspect tonight might be a takeout kind of night. But I think we have had a good and robust discussion on this issue. And please join me in supporting CACR 22 as amended so we can begin the process of recognizing the fact that our citizens who through no fault of their own become victims, will have constitutional protections. Thank you very much, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in opposition. That's probably not a surprise. We pass this legislation as it is, we as a body are telling every victim in the state, hey we're with you 100 percent as long as it's in a courtroom. But when the state is charged constitutionally to protect your rights, fails and you die, I can see neither you nor your family has any recourse because we think it's more important to protect the state, than it is to protect the victims that we say we're helping here today. That's the big lie. It feels good, it sounds good but when the chips are down and it's your son or daughter or husband or wife laying dead on your kitchen floor, and you seek redress, it's not there. It's a constitutional requirement that we not be able to have the victims that suffer and are killed because we fail, have no recourse. That is something I cannot support in conscience, and I certainly hope you won't support with your vote. Thank you, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, I rise in support of this amendment and there's been a ton of debates, discussion, a lot of it very challenging, a lot of it very emotional. But I rise in support of the amendment because since I've been in the Senate, worked on a number of pieces of legislation. A lot of them dealing with victims' rights, and they've always been bipartisan issues, we've worked on them together, we recognize that we can always do more and always do better. And I heard today a statement that I often think about in many of the things that I do which is, we can't let the perfect be the enemy of the good. And today we've certainly had a lot of issues raised. The fact is we're taking an important first step. The fact is the twenty-four of us are not going to make this decision. This decision is too profound for the twenty-four of us or the 424 of us. The fact of the matter is this decision should be made by the people of the state of New Hampshire when they go to the ballot box. When they cast their votes, when they decide who their leaders should be, they should also make the decision and they should do it by a significant majority as our constitution requires, to afford rights to victims that are on par with those of defendants. I do not believe for a second that we in any way diminish any existing constitutional rights. We merely are trying to elevate rights to put them on par for victims. And with that I would ask my colleagues please, please listen to everything you've heard today, but please recognize that the people outside of these walls are the ones who are going to make this decision, who should make this decision, but the only way they can, is with us moving this question to them. With that, I thank you Mister President and ask for your support.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Mister President, we've heard something earlier about making this New Hampshire. And I appreciate all the work that has gone into this because, you know what? It shouldn't be drafted by a billionaire from California, it should be drafted by people here in New Hampshire. And you know what? I think it went a long ways to making it New Hampshire. This is on the right track. I agree with a number of the Floor Amendments. I do think there's still redress in many situations. It is much more New Hampshire than it started out to be. Substantial changes were made, including getting rid of no less vigorously enforcing these rights, including putting the opt-in language, including more closely aligning with the statutory rights, including what we adopted today, on a 14-9 vote, clearly setting out what is existing law with respect to depositions. So Mister President, it isn't perfect, but the people in this chamber went a long ways to make it New Hampshire, and I appreciate that. Thank you, Mister President.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Avard, seconded by Senator Feltes.

The following Senators voted Yes: Woodburn, Bradley, Watters, Hennessey, Gray, French, Ward, Kahn, Daniels, Lasky, Carson, Feltes, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: Giuda, Sanborn, Avard.

The following Senators were excused: Cavanaugh.

Roll Call, Yeas: 20 - Nays: 3. Adopted by necessary 3/5 vote. Resolution ordered to Third Reading.

COMMERCE
SB 318, amending the prohibitions on youth employment.
Ought to Pass with Amendment, Vote 4-0. Senator French for the committee.

Commerce
March 6, 2018
2018-0981s
08/05

Amendment to SB 318

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

AN ACT amending the prohibitions on youth employment and relative to documentation requirements for the department of labor.

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

1 Legislative Findings and Purpose. The general court finds that:

I. There is a significant and ongoing need in this state to encourage businesses to grow and hire here, particularly small businesses which are the backbone of New Hampshire's economy.

II. Our current laws relating to employment tend to discourage employers from hiring with heavy handed enforcement of excessive and unnecessary laws and with costly, time consuming audits and fines.

III. The overall purpose of the legislation is to significantly reduce the excessive and unnecessary documentation and regulatory (red tape) burdens, both in laws and in rules, that are inhibiting employers from hiring and growing, and preventing people from working.

IV. It is time to change the culture of state government from one of enforcement, fees, fines, assessments, and delays, to one that encourages responsible business activity and hiring with a "how can I help you succeed?" customer service approach instead. This legislation is necessary to move us in the right direction and reset the tone and actions of government.

V. Making our state significantly more attractive and friendly to employers with passage of this Red Tape Reduction Act will enable our economy to flourish.

VI. The goals of this Red Tape Reduction Act shall include the following:

(a) Written documentation is not required to meet the intent of the law and paperwork discrepancies will not be fined.

(b) Reduce limitations and allow flexibility on working hours for individuals 16 and 17 years of age (if parents approve, then any hours are okay).

(c) Allow employees to buy company clothing.

(d) No need for employee signing/documenting when leaving before 2 hour minimum on their own, when correcting hours to be paid due to their clock-in errors, when receiving pay increases, etc. (verbal is okay).

(e) No random or targeted industry/employer audits (burden of proof on department of labor to show need for audit/investigation due to a pattern of documented complaints or known problems for that specific location of multi-site business).

(f) Expand flexibility with unpaid internships for people of all ages if both parties agree with express understanding that there is no workers' compensation, unemployment, or other benefits provided.

(g) Reduce record keeping requirement from 4 to 3 years.

(h) No fines for not posting laws in "conspicuous" place.

2 Labor Commissioner; Inspections. RSA 273:9 is repealed and reenacted to read as follows:

273:9 Inspections. The commissioner may visit a specific location of a manufacturing, mechanical, or mercantile establishment in the state at a reasonable time for the purpose of ascertaining whether the laws with reference to employment are complied with after a pattern of documented complaints to the department or known problems for that specific location of the business has been identified within the prior 12 months.

3 Protective Legislation; Definition of Terms. Amend the introductory paragraph in RSA 275:4, II to read as follows:

II. In this subdivision, "employee" means and includes every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, but shall not include any person exempted from the definition of employee as stated in RSA 281-A:2, VI(b)(2), (3), or (4), or RSA 281-A:2, VII(b), or a person providing services as part of a residential placement for individuals with developmental, acquired, or emotional disabilities, ***or a person who volunteers to work for an employer for a learning or charitable opportunity and who explicitly agrees in writing to the absence of wages and benefits for a specified period of time not to exceed 6 months,*** or any person who meets all of the following criteria:

4 Protective Legislation; Day of Rest. Amend RSA 275:33 to read as follows:

275:33 Day of Rest. No employer shall operate any such business on Sunday unless he or she has [~~posted in a conspicuous place on the premises~~] ***made available to employees*** a schedule containing a list of em-

ployees who are required or allowed to work on Sunday and designating the day of rest for each[~~, and shall promptly file a copy of such schedule and every change therein with the labor commissioner~~]. No employee shall be required [~~or allowed~~] to work on the day of rest designated for him ***or her***. [~~Whoever violates this section shall be fined $50.~~]

5 Required Pay. Amend RSA 275:43-a to read as follows:

275:43-a Required Pay.

I. On any day an employee reports to work at an employer's request, he or she shall be paid not less than 2 hours' pay at his or her regular rate of pay[~~; provided, however, that~~]. ***If the employee chooses to leave work after reporting, the employer may, without penalty, elect not to pay the employee.***

II. This section shall not apply to employees of counties or municipalities or ski and snowboard instructional employees at ski resorts, provided that these employees receive other compensation that is at least equal to their rate of pay, and provided further that no employer who makes a good faith effort to notify an employee not to report to work shall be liable to pay wages under this section. However, if the employee reports to work after the employer's attempt to notify him or her has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer at the time the employee reports to work.

6 Protective Legislation; Payment of Wages. Amend RSA 275:48, V(b) to read as follows:

(b) "Uniform" means a garment with a company logo or fashion of distinctive design, worn by one or more employees, and serving as a means of identification or distinction. ***No employer shall require an employee to wear a uniform unless the employer provides each employee with a uniform at no cost to the employee. An employee may purchase any other company garments or items if the employee chooses.***

7 Protective Legislation; Notification, Posting and Records. Amend RSA 275:49, I-II to read as follows:

I. ***Verbally or in writing*** notify the employees, at the time of hiring of the rate of pay, and of the day and place of payment;

II. ***Verbally or in writing*** notify his or her employees of any changes in the arrangements specified above prior to the time of such changes;

8 Protective Legislation;Notification, Posting, and Records. Amend RSA 275:49, VI-VII to read as follows:

VI. Make such records of the persons employed by him or her, including wage and hour records, preserve such records for [~~such periods of time~~] ***3 years***, and make such reports therefrom to the commissioner, as [~~the commissioner shall prescribe by regulation as necessary or appropriate~~] ***are required in statute*** for the enforcement of the provisions of this subdivision; and

VII. [~~Keep posted in a place accessible to his or her~~] ***Make available to*** employees the following ***information***: "It is illegal in New Hampshire under both state and federal law to pay employees different wages for the same work based solely on sex. If you think that your employer has violated this provision, please contact the New Hampshire Department of Labor." This notice shall also include the address, phone number, and email address of department personnel to be contacted with complaints under this subdivision, as well as an Internet link to RSA 275:37.

9 Youth Employment Law; Prohibitions. RSA 276-A:4 is repealed and reenacted to read as follows:

276-A:4 Prohibitions.

I. No youth shall be employed or permitted to work in any hazardous occupation, except in an apprenticeship, vocational rehabilitation, or training program approved by the commissioner.

II. No youth under 16 years of age shall be employed or permitted to work without a certificate except:

(a) For his or her parents, grandparents, or guardian;

(b) At work defined in this chapter as casual;

(c) As farm labor; or

(d) With the permission of a parent or legal guardian.

III. No youth under 16 years of age shall be employed or permitted to work in a dangerous area in manufacturing, construction, and mining and quarrying occupations, or in woods and logging.

IV. No youth under 12 years of age may be employed or permitted to work except for his parents, grandparents, or guardian, or at work defined in this chapter as casual, or in the door-to-door delivery of newspapers.

10 Youth Employment Law; Enforcement. Amend RSA 276-A:6 to read as follows:

276-A:6 Enforcement. The commissioner shall have the responsibility for enforcing the provisions of this chapter. [~~Investigators and truant officers shall visit and inspect all places of employment and cause the provisions of this chapter to be enforced as directed by the commissioner. For this purpose they shall have the power to serve warrants.~~]

11 Youth Employment Law; Certain Labor. Amend RSA 276-A:11 to read as follows:

276-A:11 Certain Labor. In addition to the prohibitions listed in RSA 276-A:4, [~~III, IV, V, VI, and VII~~] no youth shall be employed or permitted to work at manual or mechanical labor in any manufacturing establishment more than 10 hours in any one day, or more than 48 hours in any one week. No youth shall be employed or be permitted to work at manual or mechanical labor in any other employment, except household labor and nursing, domestic, hotel and cabin including dining and restaurant service operated in connection with such service, and boarding house labor, operating in telegraph and telephone offices and farm labor, or canning of perishable vegetables and fruit, or as a laboratory technician, more than 10- 1/4 hours in any one day, or more than 54 hours in any one week.

12 Youth Employment Law; Additional Prohibitions. Amend RSA 276-A:21 to read as follows:

276-A:21 Additional Prohibitions. The prohibitions under this subdivision shall be in addition to those prohibitions listed in RSA 276-A:4[~~, III, IV, V and VI~~].

13 Youth Training and Employment in Firefighting; Limitations on Youth Training and Employment. Amend RSA 276-A:23, V to read as follows:

V. Fire organizations shall follow the requirements of [~~RSA 276-A:4, VIII and~~] RSA 276-A:24 and rules adopted by the commissioner when employing or permitting 16 or 17 year old youths to work in support of firefighting.

14 Employer's Records; Records of Hours and Wages. Amend RSA 279:27 to read as follows:

279:27 Records of Hours and Wages. Every employer of employees shall keep a true and accurate record of the hours worked by each, wages paid to each, and classification of employment when necessary, and shall furnish to the commissioner or the commissioner's authorized representative

upon demand a sworn statement of the same. ***Employers shall retain employee records for 3 years and such*** records [~~shall~~] ***may*** be open to inspection by the commissioner or the authorized representative at any reasonable time***, provided that a pattern of documented complaints to the department of labor for the employees of a specific location of the business has been identified within the prior 12 months***. [~~Every employer subject to a statutory minimum wage shall keep a copy of such statutory minimum wage posted in a conspicuous place in every establishment in which employees are employed. Employers shall be furnished copies of posters on request without charge.~~]

15 Repeal. The following are repealed:

I. RSA 276-A:5, relative to youth employment certificates.

II. RSA 276-A:13, relative to youth night work.

III. RSA 276-A:14, relative to a special agreement for youth night work.

IV. RSA 276-A:20, relative to posting of notice of meal breaks permitted to youth employees and maximum allowed hours for youth employment.

V. RSA 276-A:22, relative to evidence of violations of youth employment in certain jobs.

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

2018-0981s

AMENDED ANALYSIS

This bill repeals certain provisions of the youth employment law governing the employment of youths 16 and 17 years of age. This bill also modifies notification requirements regarding work schedules and payment of wages, and deletes the requirement that investigators visit places of employment.

SENATOR FRENCH: Thank you, Mister President. I move Ought to Pass with Amendment on Senate Bill 318. This bill repeals certain provisions of the youth employment laws governing workers that are sixteen and seventeen years old, including a restriction on the amount of hours worked. The committee amendment makes several changes known as the Red Tape Reduction Act, removes the requirement for a business to post in a conspicuous place Sunday's schedule. It will be required to be made available to employees. An employee may buy additional work garments other than the work uniforms without the employer being fined and employers may discard an employee's record after three years. This is a very busy, a business friendly bill so please join the Commerce Committee in voting Senate Bill 318 Ought to Pass with Amendment. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much, Mister President. I actually ask the body to overturn the committee amendment so that Senator French can introduce a Floor Amendment.

The question is on the adoption of the Committee Amendment. Failed.

Senator Bradley offered a Floor Amendment.

Sen. French, Dist 7
Sen. Sanborn, Dist 9
Sen. Bradley, Dist 3
Sen. Morse, Dist 22
Sen. Innis, Dist 24

March 22, 2018
2018-1198s
04/10

Floor Amendment to SB 318

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

AN ACT relative to posting and notification requirements for employers, establishing criteria for workplace inspections, and amending certain provisions of the youth employment law.

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

1 Labor Commissioner; Inspections. RSA 273:9 is repealed and reenacted to read as follows:

273:9 Inspections. The commissioner may, subject to the provisions of this paragraph, without notice, visit, at a reasonable time, a manufacturing, mechanical or mercantile establishment in the state for the purpose of ascertaining compliance with the laws adopted under this title. The commissioner shall only visit such a specific location upon receipt of a complaint, with knowledge of other information that causes the commissioner to have an articulable suspicion that the violation identified in the complaint or other information will be substantiated by the visit to the location, or upon request of the employer to visit other specific locations.

2 New Section; Labor Commissioner; Proportionality of Inspections. Amend RSA 273 by inserting after section 9 the following new section:

273:9-a Proportionality of Inspections. All inspections performed by the commissioner shall be proportional to the seriousness of the violation which the commissioner has an articulable suspicion to believe exists. "Proportional" in this section shall be determined with reference to the importance of the issues at stake in the inspection, the degree to which the alleged violation involves risk of physical injury, the potential for lost wages, the amount in controversy, the parties' relative access to relevant information, and the parties' resources.

3 Protective Legislation; Day of Rest. Amend RSA 275:33 to read as follows:

275:33 Day of Rest. No employer shall operate any such business on Sunday unless he or she has posted [~~in a conspicuous place on the premises~~] ***and made available to employees*** a schedule containing a list of employees who are required or allowed to work on Sunday and designating the day of rest for each[~~, and shall promptly file a copy of such schedule and every change therein with the labor commissioner~~]. No employee shall be required [~~or allowed~~] to work on the day of rest designated for him ***or her***. [~~Whoever violates this section shall be fined $50.~~]

4 Protective Legislation; Payment of Wages. Amend RSA 275:48, V(b) to read as follows:

(b) "Uniform" means a garment with a company logo or fashion of distinctive design, worn by one or more employees, and serving as a means of identification or distinction. ***No employer shall require an employee to wear a uniform unless the employer provides each employee with a uniform reasonably suited for the conditions in which the employee would be required to wear one, at no cost to the employee. An employee may purchase any other company garments or items if the employee chooses.***

5 Protective Legislation; Notification, Posting and Records. Amend RSA 275:49, II to read as follows:

II. Notify his or her employees of any changes in the arrangements specified above prior to the time of such changes***, provided however that there shall be no penalty for failure to provide notification to an employee concerning changes to the minimum hourly rate pursuant to RSA 279:21***;

6 Protective Legislation; Notification, Posting, and Records. Amend RSA 275:49, VI-VII to read as follows:

VI. Make such records of the persons employed by him or her, including wage and hour records, preserve such records for [~~such periods of time~~] ***3 years***, and make such reports therefrom to the commissioner, as [~~the commissioner shall prescribe by regulation as necessary or appropriate~~] ***are required in statute*** for the enforcement of the provisions of this subdivision; and

VII. [~~Keep posted in a place accessible to his or her~~] ***Post and make available to his or her*** employees the following: "It is illegal in New Hampshire under both state and federal law to pay employees different wages for the same work based solely on sex. If you think that your employer has violated this provision, please contact the New Hampshire Department of Labor." This notice shall also include the address, phone number, and email address of department personnel to be contacted with complaints under this subdivision, as well as an Internet link to RSA 275:37.

7 Youth Employment Law; Prohibitions. Amend RSA 276-A:4, VI-VIII to read as follows:

VI. ***(a) In any employer's predetermined designated work week during which school is in session for 5 days,*** no youth 16 or 17 years of age who is duly enrolled in school shall [~~be permitted to~~] work more than 6 consecutive days or more than 30 hours during [~~the school calendar week, which shall be Sunday through Saturday~~] ***that work week***.

(b) In any employer's predetermined designated work week during which school is in session for 4 days, no youth 16 or 17 years of age who is duly enrolled in school shall work more than 6 consecutive days or more than 40 ¼ hours in that work week.

(c) In any employer's predetermined designated work week during which school is in session for more than one but less than 4 days, no youth 16 or 17 years of age who is duly enrolled in school shall work more than 6 consecutive days or more than 48 hours in that work week.

VII. No youth 16 or 17 years of age who is duly enrolled in school shall work for more than 6 consecutive days or [~~48~~] ***56*** hours in any one week during school vacations, including summer vacation. For purposes of this paragraph, "summer vacation" means June 1 through Labor Day. This prohibition shall not apply to youths 16 or 17 years of age who reside and work at a summer camp for minors.

VIII. No youth 16 or 17 years of age[~~, except a youth 16 or 17 years of age who has graduated from high school or obtained a general equivalency diploma,~~] shall be employed by an employer unless the employer obtains and maintains on file a signed written document from the youth's parent or legal guardian permitting the youth's employment. ***A youth who is 16 or 17 years of age who has graduated from high school or obtained a high school equivalency credential shall not require permission of a parent or legal guardian.***

8 Youth Employment Law; Enforcement. Amend RSA 276-A:6 to read as follows:

276-A:6 Enforcement. The commissioner shall have the responsibility for enforcing the provisions of this chapter. [~~Investigators and truant~~

~~officers shall visit and inspect all places of employment and cause the provisions of this chapter to be enforced as directed by the commissioner. For this purpose they shall have the power to serve warrants.~~]

9 Youth Employment Law; Hours of Labor. Amend RSA 276-A:11 to read as follows:

276-A:11 Certain Labor. In addition to the prohibitions listed in RSA 276-A:4, III, IV, V, VI, and VII no youth shall be employed or permitted to work at manual or mechanical labor in any manufacturing establishment more than 10 hours in any one day, or more than 48 hours in any one week. No youth shall be employed or be permitted to work at manual or mechanical labor in any other employment, except household labor and nursing, domestic, hotel and cabin including dining and restaurant service operated in connection with such service, and boarding house labor, operating in telegraph and telephone offices and farm labor, or canning of perishable vegetables and fruit, or as a laboratory technician, more than 10-1/4 hours in any one day, or more than [~~54~~] ***56*** hours in any one week.

10 Youth Employment Law; Notice of Hours. Amend RSA 276-A:20 to read as follows:

276-A:20 Notice of Hours. Every employer shall post [~~in a conspicuous place in every room where youths are employed a printed~~] ***and make available to all employed youths a*** notice stating the hours of work, the time allowed for dinner or other meals, and the maximum number of hours any youth is permitted to work in any one day.

11 Employer's Records; Records of Hours and Wages. Amend RSA 279:27 to read as follows:

279:27 Records of Hours and Wages. Every employer of employees shall keep a true and accurate record of the hours worked by each, wages paid to each, and classification of employment when necessary, and shall furnish to the commissioner or the commissioner's authorized representative upon demand a sworn statement of the same. ***Employers shall retain such records of hours and wages for 3 years and such*** records shall be open to inspection by the commissioner or the authorized representative at any reasonable time***, subject to the provisions of RSA 273:9***. Every employer subject to a statutory minimum wage shall [~~keep~~] ***post and make available to his or her employees*** a copy of such statutory minimum wage [~~posted in a conspicuous place in every establishment in which employees are employed~~]. Employers shall be furnished copies of posters on request without charge.

12 Repeal. RSA 276-A:22, relative to evidence of violations of youth employment in certain jobs, is repealed.

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

2018-1198s

AMENDED ANALYSIS

This bill establishes criteria under which the commissioner of the department of labor may conduct a workplace inspection; amends certain notification and posting requirements; amends certain provisions of the youth employment law; and amends the requirements for employer retention of hour and wage records.

SENATOR BRADLEY: Thank you very much, Mister President. I'm going to speak to sections 1 and 2 of the bill and I'm going to let others speak to the remaining portions of the bill. And let me just say this, a lot of work went into this amendment over the last few days. Our attorney Rick Lehmann was very involved with the Commissioner of Labor and the Deputy

Commissioner of Labor. I think it represents a reasonable compromise on how we can proceed with this bill. The first section talks about when the Labor Commissioner can do inspections. And so what's very important in this amendment is the commissioner can only visit a specific location upon the receipt of a complaint with knowledge of other information that causes the commissioner to have an articulable suspicion that a violation has occurred. Translated; no inspections on fishing expeditions.

The second section; when there is an inspection and they found a violation, the penalties need to be in proportion to the scope of the violation. And not a lot of us that are here from 2011 when we passed the statute that created a warning. But there were a number of incidences that had happened in virtually all of our districts when the Department of Labor went in and inspected, came up with any number of violations, kind of threw the book at people and then settled for something that was much less. What this does is say that there has to be an articulable suspension again that would cause the inspection and then any penalties have to be proportional to the scope of the violation. I think this is a very fair and balanced way that both continues to protect what the Labor Department does, which is the health and safety of our workplaces and our workforce but at the same time does not lead to over exuberance of inspections and fining and some of the things that went along with that. So I'm going to stop there and let others talk about the balance of the amendment.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I'll pick up after where Senator from District 3 just left off. So globally there are two issue that we're trying to solve in this amendment. We have one issue where in discussions with the assistant commissioner of the staff and the business community, there's clearly been some friction and acknowledgement from the commissioner and assistant commissioner that there may have been a little bit of over exuberance and lack of clarity in how the Department of Labor was applying some of its rules and laws.

The second part of the bill looks to better define of what truly has been confusion between the department, business and families about how those under eighteen work. What this legislation does is specifically look at sixteen and seventeen year olds, so it does nothing, does not change a single word in the statutes of fifteen or under. So we're focusing on labor just sixteen and seventeen year olds. So what the legislation does is to say that with parental permission, because we all know it's important for parents to be involved in this discussion, that with parental permission, sixteen and seventeen year olds can work a certain length of time during the school year, we modify it a little bit on days where the school is not meeting five days a week, to provide a little more flexibility and we provide clarity that when the school is out and it's truly a vacation time. And in doing so we've changed some parts of the statutes just to make it consistent where previously it wasn't.

The other part of the legislation again has to do with this confusion and concern from the business community relative to what they can and can't do and where there are or are not places where the agency may have been using this statutes in a more punitive manner. For example; during some examinations the statute specifically says that all postings must be conspicuously displayed and we know that some people and some agencies have made their self-determination of what conspicuous means, and penal-

ized against that. Additionally we have seen where there's a requirement for early clock in or clock out without definition of hours, or whether or not a company is keeping records where traditionally the statute said you have to keep records but left it to the discretion of the agency to determine whether or not you were keeping records for a long enough period of time or not, and again penalizing for that. So we've put down in statute that specifically there shall be three years' worth of records.

In addition to that we happened to see that there is a requirement that if you change someone's pay, pay raise or pay cut, the employee has to sign off, but when there are changes to the federal or state minimum wage, which can affect every single employee at once, that three day notice could again be a notice of violation so we provided for an exemption that if the state or the Federal Government does it.

So in the end Mister President, because at this point I'm not even sure we have a quorum left in the room, so I'm talking to myself, what was a twenty-seven item piece of legislation, we've whittled down to eight or nine places where there is agreement on every single side, that the commissioner, the assistant commissioner and members of the Senate and the business community all agree that everyone got a little, everyone gave up a little. But we think it's a step in the right direction. So I'm happy to answer any questions and I commit this amendment 1198, to the body for its approval. Thank you.

(The Chair recognized Senator Feltes for a question of Senator Sanborn.)

SENATOR FELTES: Thank you for taking my question. On page 2, lines 4 through 7 in this amendment adding; "no employer shall require an employee to wear a uniform unless the employer provides such employee with the uniform, reasonably suited to the conditions in which the employee would be required to wear one, at no cost to the employee." Does that now apply to the Department of Transportation plow drivers who don't have up to date boots?

SENATOR SANBORN: Senator, thank you so much for the question. I cannot answer whether or not state employees are bound by the Department of Labor and if the Department of Labor is an examiner and overseer of the state of New Hampshire employees. That I can't answer but what I can answer on this is clearly there has been some question, and the statute has been very clear, the employer is responsible to provide employees with a uniform, but was never really clear to what extent. Do you need to give them a long-sleeved t-shirt in the summertime and then do you have to buy them a, I'm sorry the wintertime, buy them a short-sleeved t-shirt in the summertime? So we actually just included the reasonably suited, to try and embrace and encapsulate that we do recognize that if a business, business, I'm not sure if government is a business, if a business has a uniform and it requires its employees to wear it, that employees have to be provided free but at the same token, the other operative word we put out which was not there before was some employees like to buy extra because they want it in a different color, they want a hoodie, when it's not needed for work and we're giving them that ability to buy that extra uniform or pieces of it if they'd like.

SENATOR FELTES: Thank you, Mister President. Thank you, Senator. Section 6 changes how long the records, wage records are kept which were in rule but now you're limiting it to only three years. What happens if there's a wage and hour claim that involves wages and documentation of wages that stretch back further than three years?

SENATOR SANBORN: Senator, thank you so much for the question. This actually shows up in two different parts of the statute and you'll see within this amendment, shows up in two different places. Traditionally it only said that a business owner had to keep records for such period of time. It actually didn't say anything you could have thrown them out in a week, but it left the discretion and the determination to the department to determine what that length of time was. So what we're trying to do is use commercially reasonable standards and the same types of standards we see throughout all the other statutes relative to business records and record keeping and find something that is reasonable and rational. So we went from no definition to three years.

SENATOR FELTES: Thank you, Mister President. Thank you, Senator. Page 3 line 4 changing the hourly cap on youth employment for sixteen and seventeen year olds, per week, in any one week from forty-eight hours up eight hours to fifty-six hours. So if this passes, sixteen year olds could be in a situation where they're working up to fifty-six hours a week, in some situations?

SENATOR SANBORN: Senator, thank you so much for the question. I appreciate that. What we tried to do in the statute was the hour numbers were different throughout the statute, so we tried to find consistency, you'll see so where it was forty-eight going to fifty-six and in full acknowledgement, it was fifty-four. So at the request of Senator Innis to try and find eight hours a day, seven days a week as the outside, we had to come up with some reasonable number that we could actually justify the math. Now remember this fifty-six hours is only during the summer, summer vacation. So not during any school hours so we had to take in consideration that what about those weeks when a sixteen or seventeen year old is working at the fair or working at a golf course or something seasonal to try and provide some guardrails without making it excessive. Because for the record, I would have eliminated any hour requirements and let parents decide how much their kids work, so this was kind of a compromise number for all of us.

SENATOR FELTES: Thank you, Mister President. Thank you.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, I rise in opposition to the Floor Amendment. When this committee, Commerce Committee, considered the legislation, the legislation came in as changes to the youth employment law and I had some concerns with the policy at that time had asked some questions of the Department of Labor. And lo and behold the committee adopted an amendment, I was not present at the time, that made a whole host of changes to our labor laws, and interestingly enough those proposed changes had been defeated in the other body, had been heard in ED&A and we had also defeated them and yet they continue to come back. And I do have a concern because they're issues that have truly not had, when they had a public hearing people have been opposed to them, they're not changes that people are in support of.

In particular I would note with respect to inspections, we are significantly limiting the authority of the Commissioner of Labor. The Commissioner of Labor has authority right now without a complaint to investigate if there is the potential for harm. That's being taken away and now we're also limiting the spoke of an inspection to proportionality of inspections. There's an attempt at a definition starting on 21, that's de-

termined with reference to the importance of the issue at stake, the lost wage, I mean, how is an inspector on duty going to do that. You know, if something pops up and the commissioner is in the midst of a hearing, I don't know how that's going to happen. Very, very, very unclear.

Some of our clear posting laws which are being changed to make available to the employee. You know that cuts both ways, the reason for clear posting laws is not just to inform the employee of wage an hour. The reason for the posting laws is also to cover the employer. So that the employer is protected. So some of these changes I question.

But most importantly, and I do agree with my colleague from District 15, I find the uniform portion interesting given that's been a continual issue for our DOT employees and we haven't been able to resolve that yet. But I am particularly concerned Mister President, with what was the original issue and with what this amendment purports to do to our youth employment laws. This amendment, I think, you know, I know we've heard some testimony that this is about trying to help the situation for parents, but when the original bill was heard making changes, I specifically asked the Assistant Commissioner of Labor, do you get complaints about these issues, and he said yes. And he gets them routinely from parents and frequently when Department of Labor steps in, it's at the behest of parents because their children do not, their children want to work more hours, or there's a conflict between the children and the adults. I think this goes way beyond what we should expect of sixteen and seventeen year olds. I think this actually interferes with the parent child relationship. I see this as going down a really bad path. You know we discussed earlier, we were talking about Marsy's Law, juveniles and how certain laws impact juveniles. This is not going to be good for juveniles. Now, for some businesses it might be great because they're having trouble finding employees they can get kids working a lot longer. But sixteen and seventeen year olds working these kind of hours, I think is really poor policy. I do think that if we'd had a public hearing, that more parents would have weighed in with concern about this. I've actually heard a couple people who work in this building express concern about the very language in this amendment.

And lastly I would just state that on the last page on page 4, the section where repealing is about evidence of violations of working hours, which says, the employment of any youth in any place or establishment defined in RSA 276-A:11 at any time other than the posted hours of labor shall be prima facie evidence of a violation of the subdivision. How are we going to prove violations of this subdivision without that section? For these reasons Mister President, I cannot support this amendment, I cannot support this original legislation. And I think it's a slippery slope and I think we're doing a disservice to the parents of this state. Thank you, Mister President.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thirty seconds, I'm done. I'll use my announcement time too. I want the kids to do better. I know you're job at Brigham's Futures you had to work, your job out in your landscaping company's great, maybe I can get one of my kids there and teach him how to really work. But couldn't just put in words you didn't hear yesterday. Saint Paul's summer program, they take one kid from every high school, this is sort of the deal, if you're going to request, and that creates so much opportunity for her to get into an Ivy League, a little ivy, her life has taken a different path because that one thing. If you worked anywhere near these hours,

even half of them you're not going to, I don't mind the summer hours, you can break your back then. During the school year it's just too much. I want the kids studying more. I'm sorry. Thank you.

(The Chair recognized Senator Giuda)

SENATOR GIUDA: Thank you, Mister President. I rise in support of this amendment. I am meeting next week with three businesses who are closing in my district because the Departments of Environmental Services, Safety and Labor. The one business, a $28,000 fine for having people checking out two minutes late. But they mitigated it to 5,000. We need to allow our businesses a little bit of flexibility, we also need to get the niggling bureaucrats who love to get in and drive these businesses crazy with inspections for any reason whatsoever that they can find, out of the way. We're not going to harm anyone with this. Parents are going to authorize their kids to work. My son was working, when my son was working, I knew where he was working and for how long. I can't imagine that a parent takes so little interest that the parent's not going to say no. Or if it's inappropriate. We have a major problem in the business climate in this state and it is vested in the bureaucracies which go with unlimited scope of authority and unlimited access at any time and hamper businesses from doing what they're supposed to do. There is more than ample room in the statute if this is amended, for those agencies to do their jobs. But what it takes away is the absolute tyranny that they have exercised over three of my businesses that are closing. And these are significant businesses, they are leaving New Hampshire. A convenience store, a restaurant and an inn, because they have been inspected to death, harassed and fined over and over and over for as I said, niggling little deficiencies in the code. We need to let these people do their jobs so our kids can get jobs, learn how to work and participate in the workforce. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise and answer a couple of concerns from a couple of Senators. First and foremost, I'd like to reiterate to my colleague in District number 18 that this is language supported, involved in and agreed to and signed off on by the Commissioner of Labor and the Assistant Commissioner, so they are fully involved in the construct and feel very comfortable that they have the ability to enforce the statutes. And in fact it was the commissioner himself that said we actually do not go out to do any investigations unless there is a complaint. So it was his recommendation that actually put that into statute to provide to the business community some level of comfort and knowledge that their not trying to go fishing.

In addition to that you had indicated on the last page the repeal of RSA 276-A:22 is, again this is language in a request specifically from the commissioner, because it is rhetorical and duplicative in nature because then he has other powers that remain in statute that give him the ability to seek penalties if either, and it comes from two ways, if either an employee is working beyond the posted schedule or if an employee is at a manufacturing or high risk environment when technically they're not working because in our statutes presently that also constitutes potential for fine. So again, that specifically came as request from the commissioner himself.

And to my friend from District number 23, who I'm very happy and glad that your daughter got into Saint Paul's because we know the expense she's going to have carrying you around in later life. Very, very high.

But the expense that the hours worked for those while in school when the school's meeting during the week have not changed in this bill that is current in existing law that has not changed. So there's a level of consistency there.

So again I would submit to the body, truly a compromise legislation where everyone involved, including the commissioner, who still recognizes and has said more times that I care to repeat, that his number one job is to represent the employees and not the businesses and I believe there should be a balance so he clearly represented that side that this is a reasonable compromise that everybody agreed to. And I would ask the body support the amendment. Thank you very much.

(The Chair recognized Senator Birdsell for a question of Senator Sanborn.)

SENATOR BIRDSELL: Thank you for taking my question. On page 2, line 33 to 35; "in an employer's predetermined designated work week, during which school's in session for four days, no youths sixteen or seventeen years of age…" So on and so forth. Can an employer require them to work that?

SENATOR SANBORN: Thank you so much for the question. The simple answer is an employer can't force anybody to work, because that is against the law. It's called servitude. So in general, just to back up to the problem was there has been a problem in the Department of Labor statutes that the Department of Labor looks at a work week, looked at a work week from Sunday through Saturday, and not all businesses use a Sunday through Saturday work schedule. So they are constantly getting caught up in how the department was examining employers for compliance to the thirty hours or the forty-eight hours or the fifty-four hours fine print. So what we looked to do in addition to that, there's always been a challenge that we know today in school systems, as those of you with kids in school know, that the school calls school on like August 30th on Thursday and then let them out for Friday for Labor Day weekend. But because they show up for one day that traditionally has been considered a whole school week. So it again changes the laws of how many hours someone can work. So we came up with this compromise to recognize that if the school is in session for five days, there is that limit of thirty hours. If the school is completely out in the summertime, we have the upper limit and if the school is only holding classes one day a week or two days a week, we're providing a little bit more flexibility for both the student to work and the employer to be able to allow them to work.

SENATOR BIRDSELL: Thank you.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I rise in opposition. I think the hours are crazy and I don't know how many kids get out of school at sixteen years of age, graduated from high school. We've raised the age to eighteen now, so they aren't graduating and I don't think that they're getting GEDs at that age and what parent, what parent in their right mind would let a kid work fifty-six hours a week? Come on the kid's got to, they have to be home, they've got to be, they have to be studying. I've got three, I think my son got caught up in this when he was a kid, working too many hours. And luckily we were able to bring him back into the fold. But I think it's preposterous, really. It just doesn't make any sense to me. And I would hope that my colleagues would feel the same way. It just doesn't make any sense to me at all. And the uniform situation is another thing that doesn't make any sense. If

you're driving a truck and you don't have decent boots, you're in trouble. You're in big trouble. We've got to address that. And it's getting late in the day, I know I have a couple of things that I'd like to talk to you about later, but indeed I have to say this. You know I'll stay here all night to kill this one. Thank you, Mister President.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Thank you, Mister President. Some of us when we were young grew up in families that didn't have money. Didn't have money. Coca-Cola was a luxury. McDonalds was too expensive. When I was sixteen I was told it was time to buy my own clothes, to buy my own car, to pay for my car insurance, oh and by the way, start saving for college. It's hard to do. But I found a job, I went to work and for six years I worked in maintenance on a golf course. The grease is just now coming out of my fingernails. And I worked long hours, especially in the summer. Sometimes over fifty hours a week and I saved that money to go to college. Because my parents couldn't help me, they had nothing to help me. I picked up a great work ethic, I learned things on the job. No one said to me, the law says you have to work fifty-six hours a week. The law puts that as an upper limit, and if parents and the child decide that they're getting too many hours at a particular employer, they have a couple of options. Negotiate fewer hours or quit the job and find another. There are plenty of them available at this point. I don't believe it is our role as the state to tell parents how much their kids should work. It's a family decision and parents know what's best for their kids. And that's why I support this amendment. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise to respond to my friend from District number 20. Senator the GED language was already in statute, we did not change that, so while I know you might be concerned that a sixteen or seventeen year old has a GED, that exists in other parts of the statute. Number two, again as we talked to hours, it was already fifty-four hours in statute, no one had ever brought in a bill to change it, no one ever disputed it, never heard it from either side of the aisle, and just the conversation to round the number off was how the good senator from Portsmouth came up with it. I know, it's Rye or Newcastle but he would love to be in Portsmouth if he could. And Senator D, District number 20, the uniform section actually expands to your benefit, better protections for the employees that didn't exist. So that's actually a move more towards employee protection and away from where it was before in the statute. So I hope that would something again you would support it, because it's going in your direction versus my direction. Thank you, Mister President.

Senator Feltes moved to divide the question.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. Mister President, this is a big and complicated amendment that we're debating so I'm going to move to divide the question starting first with section 7 VII, which is on page 3, section 7 VII on page 3 and the effective date, 13, would be the first vote. The second, we just start there and go to, or just list them out?

PRESIDENT MORSE: One at a time, Senator.

SENATOR FELTES: Okay so I understand this is divisible. This is what we'd be voting on right now is just the provision increasing from forty-

eight hours to fifty-six hours during the summer. And I agree with the Dean, those hours I think he said are crazy. So I would encourage us to vote this down; section 7 VII that says sixteen and seventeen year olds should work fifty-six hours a week. Please vote it down. Thank you, Mister President.

The Chair ruled the question divisible.

Senator Feltes moved to divide the question: Section 7 VII and Section 13.

The question is on the adoption of Section 7 VII and Section 13.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: If I believe that we should proceed and vote for section 7 now, would I vote yes on the prevailing question?

PRESIDENT MORSE: If you're in favor you're going to say aye. If you're opposed you're going to say nay.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. If I believe that all this section does is to match another part of this section which was already at fifty-four hours, and we're just trying to find consistency and clarity for both the Department of Labor and the business community, would I then vote yes?

PRESIDENT MORSE: If you're in favor you're going to say aye. If you're opposed you're going to say nay.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: This vote that we are about to cast is only on page 3, lines 3 through 7. Is that correct?

PRESIDENT MORSE: I'm going to let the clerk answer that.

SENATOR SOUCY: Thank you, Mister President.

SENATE CLERK: It's section 7 lines 3 through 7.

SENATOR SOUCY: Of page 3?

SENATE CLERK: Of page 3.

SENATOR SOUCY: Thank you.

PRESIDENT MORSE: And the effective date.

A roll call was requested by Senator Bradley, seconded by Senator Feltes.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 12 - Nays: 9. Adopted.

Senator Feltes moved to divide the question: Section 8 and Section 13.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Section 8 on page 3, lines 14 through 18 is what we're voting on. This eliminates a great deal of the investigation and enforcement authority of the commissioner with respect to youth employment law. I don't think it's wise, we shouldn't be taking away this authority from the commissioner to investigate and enforce violations or potential violations of legal violations with respect to our youth and employment. Thank you, Mister President.

(The Chair recognized Senator Soucy for a question of Senator Feltes.)

SENATOR SOUCY: Senator on this issue that you just raised, if we eliminate the sentence starting on line 16, I note that that includes truant officers. They're specifically cited to the extent we delete them. Does the commissioner now lose the ability to include truant officers where they were previously? To engage in these investigations involving youth?

SENATOR FELTES: Thank you very much, Senator Soucy. If the legislature takes this action we are expressly saying to the commissioner that you cannot use truant officers. We're also saying that by not using them they don't have the power to issue warrants either. So this dramatically curtails the inspection and enforcement powers of the commissioner with respect to the employment of youths, which I think we all agree, and we've taken a lot of votes about child protection, talk about youth employment law, we're also talking about child protection in my view. Thank you, Senator Soucy.

SENATOR SOUCY: So in addition to the Department of Labor, the commissioner not being able to include truant officers, truant officers are not going to be privy to information because they're no longer participating in this activity. So we have limited the power not only of the commissioner, but of those in our schools who are attempting to get children back to school.

SENATOR FELTES: Thank you, Senator Soucy, I believe that's an accurate reading.

SENATOR SOUCY: Thank you.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise and I apologize if I'm confused I thought we were in the voting mode. But, so to answer the body's questions on even though I think we're voting on lines 8 through 13, there's conversations on 8 through 18. Oh we're only on 14 through 18, alright so on 14 through 18 using the truant officers actually came out of, is coming out of the statute, again as a specific request from the commissioner. So let's not confuse the fact that what the commissioner can and cannot do, from a specific request from the commissioner because a) they do not use truant officers anymore in this provision, so they don't use it anymore and b) the commissioner and the assistant commissioner confirm that they have the powers they need to investigate that are still and remain within statute. So this is just clearing up something that they say, they came to us and said they don't use truant officers and that they still maintain the powers that the commissioner has for investigation and enforcement. So I'd ask people to vote in favor of passage.

(The Chair recognized Senator Soucy for a question of Senator Sanborn.)

SENATOR SOUCY: On line 18 it says that for this purpose they shall have power to serve warrants. Can you tell me where the commissioner, where in statute the commissioner retains the power to serve warrants, if it's not expressed as it is here?

SENATOR SANBORN: Thank you for asking the question. The commissioner said he does not serve warrants.

SENATOR SOUCY: He may not as the current commissioner but is there any history in the department of serving warrants, and where in the statute would that be found, if we're removing it?

SENATOR SANBORN: Thank you so much for the question and the conversations we had with the commissioner, he indicated that he does not serve warrants, he is not aware that warrants have been used, and that the agency does not use truant officers. So again, he has asked to have it removed.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. This says investigators and truant officers. And then it says for the purposes they shall have the power to serve warrants. They referring to investigators and truant officers, so the investigators of the department don't serve warrants anymore if we erase this. Now I haven't talked with the commissioner about this provision, I don't know what the commissioner has said, I don't know what the commissioner, if he currently uses truant officers. I presume he still uses investigators and I presume those investigators should still have warrant authority. I would hope. So this is dramatically curtailing specifically. If we pass this as a legislature we're saying you can't do this. Your investigators can't issue these warrants. I would encourage us to vote no. Thank you, Mister President.

The question is on the adoption of Section 8 and Section 13.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Mister President, if I know that the commissioner and the assistant commissioner who I think also serves as legal counsel, or at least as an attorney for the Department of Labor, was included and supports this provision that they do not use truant officers and they do not issue warrants and they feel they have all the other powers that they need to enforce the provisions of statute for the Department of Labor and are comfortable with taking it out, would I then vote yes on the divisional question?

PRESIDENT MORSE: If you're in favor of sections 8 and 13 you're going to say aye. If you're opposed you're going to say nay.

A roll call was requested by Senator Avard, seconded by Senator French.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 12 - Nays: 9. Adopted.

Senator Feltes moved to divide the question: Section 12 and Section 13.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. I believe that my colleague from Manchester, District 18 spoke earlier about this provision that's being erased in this amendment. The prima facie evidence, evidentiary standards about how the department conducts its

business. So, I mean on the one hand you could say, hey we're getting rid of investigatory powers and warrant authority so why don't we just get rid of evidentiary standards too. But I disagree with that, I think evidentiary standards are good. I think it's good rules of the road for both employees and employers to know it and we should keep it. So vote no on this repeal. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise to ask people to support the divisional question and remind the body that some days it's good to actually repeal laws and statutes we don't use or are ineffective or are no longer valid in a practical matter. Again this is something that the Commissioner of Labor and the Assistant Commissioner came to us in our discussions and asked to remove, and let me give a very practical sense; if a sixteen or seventeen year old is standing in a business and not on the clock, they would be guilty of violating something under this statute. So all we are trying to do again, is to clean up the statutes and recognize the fact that the commissioner has the powers of enforcement to ensure that sixteen and seventeen year olds are not working more than the hours that are prescribed, and if they happen to be hanging out at a restaurant or a nursery when they're not on the clock, they're actually not guilty of anything. So I would ask for the body to support passage of the divisional question. Thank you, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Mister President, if I know that these issues, not these exact issues, but similar issues had a hearing where the deputy commissioner was present and in another committee some of these issues were raised and the commissioner and deputy commissioner were present and none of these things were asked for at those two hearings, would I now vote no so that we can have an open and public and transparent process where we debate these issues? Thank you, Mister President.

The question is on the adoption of Section 12 and Section 13.

A roll call was requested by Senator Feltes, seconded by Senator Giuda.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 11 - Nays: 10. Adopted.

Senator Gannon moved to divide the question: Section 7 VI and Section 13.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: My kid was lucky, she studies like a dog because I break her back. The kids from Senator D'Allesandro's district probably don't have the same home environment, don't have the educational push. If you then put them into working where their life is going to be work, I have friends, the kids don't think, they just don't think about the possibilities of what they could do because they don't have the time studying if they're always working, working for the car that's going to get them to the job, that's going to get them to a nice at best mediocre lifestyle. I want them all to have the aspirations to be doctors, lawyers, Senate Presidents and it comes with education. It doesn't come with do-

ing a blue collar job, which is a good thing, it teaches you a work ethic but education is the way if you look at any estimate of a study, without education you go nowhere. If you work this many hours, forty and a quarter hours during six consecutive days during a school week, you're going nowhere. Maybe some will, but most won't so I can't support this. Thank you.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Thank you, Mister President. I went somewhere. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. For the record, my parents told me that they could not afford to send me to college. We didn't have anything. I started pumping gas full-time at ten years old. I remember the first time a little Honda 600 came to the gas station, back during the gas embargo and filled up their tank of gas for 38 cents, because that's all that person had in their pocket. It has stuck with me my entire life. So work isn't a bad thing. And some of us have to work and some of us should be able to work. And our parents should have the right to determine what is best and not best. I understand that in society today, some people believe kids shouldn't be working ever. Other families believe they should, other families have to work. All this provision does, it does not change the base that sixteen and seventeen year old kids who are in school can only work thirty hours a week. That is current statute, that doesn't change. We know in conversations with the commissioner and the business community that there's been a lot of confusion about what happens if schools only in session one or two days a week. And then what happens during the summertime. So all this change in the statute does is to clarify and provide some guidance that the statute remains identical if kids are in school five days a week, they cannot work more thirty hours. Current statute, doesn't change the statute. If school is not in session for a day, it says you're not in school so you can work that day, and provides a graduated scale for that to happen. We have to remember all those kids working at Canobie State Park during the summer vacation, we have to think about the kids working up in Laconia at the lakes during Labor Day or Memorial Day weekend, or Christmas or Thanksgiving. They could pick up a couple of hours, make a couple bucks. I know Senator French wants his grandkids to get him something nice, pack of cigarettes, unfiltered Camels, but all this does is provide again a graduated scale that goes up current statute that doesn't change, provides for the fact that if the kids are not in school, they can work. If they're in school, still bound by the low hours. So with that I would commend to the body that they would continue to support passage, which is again just clarifying what we need to do so we don't get businesses, parents or kids in trouble. Thank you, Mister President.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. Thank you for talking about my former employer. I did work at Canobie Lake Park in the summer. It was a terrible job in the fried dough booth. They told me I was going to get roller coasters and the cool girls all liked the roller coaster guy. Unfortunately in the summer before college I was only seventeen, state law said I couldn't operate the roller coaster, had to go to food. Fried dough was hot, horrible. But it probably taught me something. I'm a blue collar lawyer, I went to law school at night. I did get in B.C.

Law, got no scholarship and the only way I could do it was at night. So I realize I had to hang curtains, I went to work for my uncle in a curtain company, horrible job, still do it but it pays well. And so it did teach me a lot of values but I saw the kids, and my kids who are going to the Connecticut College, they have such advantages, they're getting the world handed to them. They have the opportunity to go to Wall Street, go to Harvard, incomes that we can't imagine. You can't do that if you've got these hours, these thirty hours during a school week, no way, you're not going to do it. AP Calculus, physics. You want to go to these nice colleges that are going to give you a golden life, you've got to be on every sports team, the demands of school are so hard, then you have to get home and study five hours. You do the job five hours a day six hours a day, your future's limited. Thank you.

(The Chair recognized Senator Fuller Clark for a question of Senator Gannon.)

SENATOR FULLER CLARK: I wanted to ask you if you know in today's economy if there's any job that you can work in the summertime, where you can earn enough money to pay to go to college?

SENATOR GANNON: Would depend on the college obviously, but no, certainly not in today's world, no. Your summer jobs are going to pay, if you were lucky, you'd be getting ten or twelve bucks an hour as a kid. Certainly I can tell you Connecticut College is $74,000 a year. No way. All the top colleges that are going to give you those opportunities. You either have to have a great scholarship, being born with the right gene pool. No you can't, these kids aren't going to make it there.

SENATOR FULLER CLARK: Thank you.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. You think we expired on thirty hours a week yet? No just today. Anyway, I just say, it's really a parliamentary inquiry. I want to make sure that I understand that this separation of the question is on page 2 line 28 continuing through page 3 line 2.

PRESIDENT MORSE. I' m getting nods from the lawyer. I don't have the bill. You're voting on section 7, VI and section 13.

(The Chair recognized Senator Sanborn for a question of Senator Gannon.)

SENATOR SANBORN: Senator Gannon I know and understand and appreciate that attorneys are hanging curtains and send their kids to $70,000 colleges, but those of us who come from blue collar backgrounds recognize that one of the best schools in America, Southern New Hampshire University headquartered in Senate District number 20, offers an online degree for $10,000 today. So would you believe that someone working $10 an hour forty hours a week in the summertime for the twenty weeks could darn near pay for a four year education in one summer?

SENATOR GANNON: Oh are advocating a minimum wage higher than 7.25? Is that what you just said? I think you just said, no okay. We do need to address that someday, not this year. No can you afford it, a) I don't pay 74 because they were smart. I got lucky. But so can you go to that school's going to limit your future. You are not going to get into an Ivy League.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Just briefly Mister President, bringing it back to the pending motion. Senator Gannon's motion to divide is lines 28 on page 2 through line 2 on page 3. And the effective date section 13. And just to be clear, it doesn't have anything to do with summertime. We already voted on that. This has to do with the school year. How many hours can employers ask kids to work during the school year? If it's in session for four days or more of school, it goes from thirty hours to forty and one fourth hours. And then if it's between one and four days, it goes from thirty hours to forty-eight. That is substantial increases, and I agree with Senator Gannon, these hours are not, they're not productive for anybody and so I would encourage us to vote no on Senator Gannon's motion.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. Is it not requiring parental permission for a person to work? Number one. Number two; why are we as a state attempting to limit opportunities to work, not everyone goes to college, in fact today I know in my campaigning I ran into about four or five PHDs living with their parents at the age of fifty. So a college degree is no insurance of success. Hard work is one component of success. This is an opportunity for kids to work if their parents allow them to. This is not mandated and if the child doesn't want to work that much, they don't have to. They just go somewhere else or don't work at all. This is about freedom of choice, without the state mandating what you can and can't do in the system where we believe constitutionally that the parents should be the voice of authority over the actions of their children. Thank you, Mister President.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Very quickly, Mister President. Coming from the city of Manchester where the textile mills were the place where many twelve and fourteen and sixteen year olds were forced to work many hours, the reason we have limitations in youth employment laws is to prevent exploitation. The policy we have on the books accomplishes that, these hours go way too far and conflict with our policies in trying to educate our children. Thank you, Mister President.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. Again, a clarification. We aren't dealing in this with section 8 on page 3, we are dealing only with that section 7, number 7 on page 2 line 28 through page 3 line 2. So we aren't–.

PRESIDENT MORSE: We're dealing in section 7, VI and section 13.

SENATOR KAHN: Yes, and so we are not dealing with the section that deals with parental permission, we're merely dealing with the section that deals with number of hours worked in a week during the school session. Thank you, Mister President.

The question is on the adoption of Section 7 VI and Section 13.

A roll call was requested by Senator Soucy, seconded by Senator Daniels.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 11 - Nays: 10. Adopted.

The question is on the adoption of All Remaining Sections and Section 13.

A roll call was requested by Senator Avard, seconded by Senator Sanborn.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 11 - Nays: 10. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Avard, seconded by Senator French.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Birdsell, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 11 - Nays: 10. Adopted, bill ordered to Third Reading.

RULES AND ENROLLED BILLS
SB 343, relative to legislative ethics guidelines.
Ought to Pass, Vote 3-2. Senator Daniels for the committee.

SENATOR DANIELS: Thank you, Mister President. I move Ought to Pass on Senate Bill 343. This bill clarifies certain terms used in legislative ethics guidelines and has two specific parts. The first speaks to the meaning of a rule and means any rule adopted pursuant to the legislative ethics chapter shall not include any rule of proceeding adopted by the House of Representatives or the Senate. The second part of the bill deals with legal representation being considered a gift. This legislation clarifies the word service which relates to the acceptance of legal services on an individual basis when the legislator enters into an attorney client relationship with the attorney, thus clarifying that receiving legal counsel does count as a gift. Please join the committee in voting Senate Bill 343 Ought to Pass. Thank you, Mister President.

(The Chair recognized Senator Feltes for a question of Senator Daniels.)

SENATOR FELTES: Thank you, Senator for taking my question. Reading this language it says for the purposes of the section "service shall include but not be limited to acceptance of legal services on an individual basis when the legislator enters into an attorney client relationship with the attorney." Having read that, is the goal of this legislation to prohibit any legislator from receiving legal advice pro bono?

SENATOR DANIELS: No. I'll defer to the Senator from District 14.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you. Thank you, Mister President. No it does not. That's one of the things that the Ethics Committee talked at length about was that we as legislators we get free legal advice all day. Many of the lobbyists here are attorneys. So we don't want to catch people

in that situation, but when someone does say I am representing you, that means something different than someone giving you legal advice. And so I brought the bill forward because I disagreed with the final ruling of the Ethics Committee. I believe that when you are represented by an attorney, that has value. I think we all know attorneys are not cheap, they can be very expensive, upward of hundreds of dollars an hour. And you can get all the legal advice you want but that changes when the attorney, you enter into an agreement with the attorney that they're going to represent you. That is more than $50, which is allowable under our current ethics law, and should be prohibited.

SENATOR FELTES: Thank you, Mister President. None of the Senators here pay for the Senate legal counsel's advice. Anytime you give legal advice the attorney client relationship generally attaches so does this prohibit us from receiving advice from Senate legal counsel?

SENATOR CARSON: Not at all.

SENATOR FELTES: Thank you.

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10
March 22, 2018
2018-1191s
03/10

Floor Amendment to SB 343

Amend the bill by replacing section 2 with the following:

2 Gifts, Honorariums, and Reimbursements. Amend RSA 14-C:2, IV(a)(2) to read as follows:

(2) Any other tangible thing, intangible thing, service, or the use thereof having an individual value of greater than $50. ***For purposes of this section, "service" shall not include acceptance of legal services on an individual basis when the legislator enters into an attorney-client relationship with the attorney for the purposes of addressing a complaint or petition if the attorney is not a registered lobbyist and not in a law firm or other business organization that has as a member, partner, associate, employee, or other person with a similar relationship who is a registered lobbyist.***

SENATOR KAHN: Thank you, Mister President. So I think we're all thinking as soon as we ask for somebody's opinion, the clock starts ticking. That's not exactly what this, I've read the hearing notes, by the way our colleague from District 14's answered a lot of questions today. I appreciate her work on this. But I've got to say when I first saw this, this is pretty constraining. It says for the purpose of responding, responding only responding, I can't ask maybe I would want to bring forward a complaint. Responding to a complaint or petition that could result in a member being expelled. So I think we're missing, wrong one? Anyway this amendment makes it clear that's not what we're doing, this is saying, for the purpose of this it shall not include legal services for the purposes of addressing a complaint or a petition. For addressing, it could go either way. I think we should be more thoughtful about our own needs for legal advice, and I felt as I read this that it was more constraining than it needed to be. I think this is a good idea, hope you'll concur. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you very much, Mister President. I rise in support of this amendment and I also rise because I sit as a member of the Ethics Committee. And we were challenged with this issue when a complaint was brought before us that an individual in the House had sought pro bono legal services to advise that individual when she was called up before the House Committee on Administration which very likely threatened her position in the House. And it was the determination of the Ethics Committee that she was entitled to pro bono support, and that it should not fall under the rubric of receiving a gift. And the issue was we as legislators serve for $100 a year and that there are many people serving in the legislature who are unable to afford the services of an attorney and that if their integrity, if their role as a legislator is being constrained because they cannot seek legal services, we're actually depriving them of due process. And so this amendment has been crafted very carefully to make clear that it says that if a legislator enters into an attorney client relationship, with the attorney, for the purpose of addressing a complaint or a petition, it cannot be a registered lobbyist, cannot be in a law firm or other business organization that has as a member partner, associate employee or other person with a similar relationship who is a registered lobbyist. The purpose for that is to make sure that that attorney cannot gain favor by offering these services to a legislator in need. So I would ask you to support this amendment. I believe it's unconscionable to put barriers around a legislator when she or he is in need of legal support and may not have the ability to pay for it himself or herself. Thank you.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I rise to speak against amendment 1191s. I find it interesting when we talk about registered lobbyists. As you know we're all on committees and we have a great variety of people who come to speak before us. As the Chair of Senate Judiciary, I've had the pleasure of meeting a number of retired jurists who appear before the committee. They are not lobbyists, they're not connected to a firm anymore because they're retired. But their reputation has value. Their reputation has value. People know who they are, they have spent years establishing a reputation, not only within the legal community, but within the public at large. That has value. You can take whatever advice you want from that attorney. No one is saying you cannot sit down with that attorney, you cannot consult with that attorney. But when that attorney says, I represent so and so, whoever it is, that has value. Even if they're not working anymore, their reputation has value, their name has value. And what the bill tries to do is just says look, we recognize this has a value to it.

No one is trying to deprive anyone of legal representation. Representatives and Senators are free to go out and hire whatever attorney you want and that's between you and the attorney. But when you're talking about getting something of value for free, you are now talking about legislative ethics. And whether or not it is ethical for Senators, Representatives to receive free legal advice. It is a prohibition in my opinion on the gift statute which says we can only receive something worth $50 or less. A lawyer who has spent decades grooming their reputation. You can't tell me that doesn't have value. If they were working what would they charge per hour? Couple hundred, 300, 400, 500 I'm not sure but I do know it's more than $50. So I'd like all of you to think about that for a minute, and how the possibility of abuse can arise. Even if they're

not a lobbyist. These folks come and testify in front of us. You can't tell me that somewhere down the line a question might not arise. We're trying to be as transparent as possible. People nowadays really don't trust government that much, and sometimes we give them good reason not to. But we've worked very hard on our ethics laws, to rein in what many have considered to be bad behavior. And I'm not accusing anybody in this room of bad behavior. But we want to be as transparent as we possibly can to our constituents. So I ask you Mister President, to turn down Floor Amendment 1191s. Thank you very much.

(The Chair recognized Senator Lasky for a question of Senator Carson.)

SENATOR LASKY: If in fact one of those esteemed lawyers, and I were in trouble, and were to send me a bill for $35. Would that be okay?

SENATOR CARSON: Senator, that's between you and the attorney. If you reach that kind of agreement, that's what you've agreed. We don't interfere in that. It's only when it's offered for free.

SENATOR LASKY: Okay. Thank you.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. That's exactly it. This is about interference with the right to contracts. It's about interference with forming those relationships that happen in the legal profession all the time. In fact lawyers are encouraged to provide pro bono advice and counsel. They're encouraged to do it. Especially to the indigent, state legislators. I used to say I used represent low income people now I am low income people. But anyways, interference with the right to contract and in some context potentially infringing on due process rights depending on the context and what's at stake. So with those issues at play, the only way to pass this in a way that I think survives scrutiny is if it's narrowly tailored. And what does this amendment do? It narrowly tailors it, to situations of complaints or petitions number one and number two, who is a lawyer? Is that lawyer a lobbyist? If so, they're out. Is that lawyer affiliated with a lobbyist, or a member or a partner of affiliate with a firm of a lobbying firm then they're out. It's narrowly tailored to the issues at hand and I think it's reasonably crafted and we should adopt the Floor Amendment if we're going to pass this at all. Thank you, Mister President.

(The Chair recognized Senator Giuda for a question of Senator Carson.)

SENATOR GIUDA: Thank you, Senator for taking my question. Does the commission have an attorney or counsel available to them?

SENATOR CARSON: Thank you for the question. There are a number of attorneys that are on the Ethics Committee.

SENATOR GIUDA: Thank you, and those attorneys provide advice or counsel to the commission?

SENATOR CARSON: They provide, they are not seen as attorneys, they are seen as members of the commission and they take part in every discussion.

SENATOR GIUDA: Is there an attorney or counsel available to the commission as a whole?

SENATOR CARSON: Mister Lehmann does come in from time to time when he's requested to come in.

SENATOR GIUDA: Thank you, Mister President. Now for my remarks. I'm going to support this amendment, I'm going to tell you why, okay?

Someone levels a challenge against a person's integrity. That's what this is all about, okay? And if a person can't afford it and I don't care if it's in this room or across the hall or anywhere else in this state. When a person's integrity is at stake, they may not be able to afford it. I think this affords a clear definition of what's allowable and not. I think a person has the right to defend their integrity against a council stacked with lawyers who are seeking the truth in the complaint that tries to assail that integrity. This is a matter of the ability of an individual to protect themselves. And I will support this amendment because I think it does what needs to be done. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark for a question of Senator Feltes.)

SENATOR FULLER CLARK: Senator Feltes, I have two questions for you. One is I just heard that if an attorney made an arrangement with a legislator that the legislator was only going to charge, the attorney was only going to charge $35, isn't that a form of pro bono, because that lawyers services are actually worth much more than that?

SENATOR FELTES: Thank you very much, Senator Fuller Clark. Yes that would be reduced fee pro bono.

SENATOR FULLER CLARK: So, as I understand it, that that would prohibit a legislator from being able to acquire the legal advice and the legal representation when the legislator may not feel that they're qualified to represent themselves. So there's one issue around seeking legal advice, but there's also the issue of being able to have the ability to seek legal representation and without this amendment, that legislator would be preventing form doing that. Am I understanding this correctly?

SENATOR FELTES: I think you are Senator Fuller Clark and your prior question raises something that I think is an additional issue that we haven't talked about. If you do a reduced fee and that reduction in fee is greater than 50, then you potentially implicate this particular bill if we don't amend it. So there's going to be disputes over hey did you get advice and get a reduced fee above 50 bucks? That's going to open up a whole can of worms, so the limitation that we have here in this amendment I think is narrowly crafted and serves a correct purpose.

SENATOR FULLER CLARK: Thank you.

PRESIDENT MORSE: Okay there's two speakers left and then we'll vote.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. I agree with the comments of my colleague from Senate District 2. This is narrowly crafted to the instance where a legislator is defending themselves in the legislative capacity. This isn't about a divorce, this isn't about a closing or a mortgage, this is simply about legislative activities and the ability of someone to be able to defend themselves effectively. Thank you.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. You know it's really rather interesting. My good friend from Concord gives me free legal advice all the time. He always tells me close the loopholes. So my friend from Concord, you're creating a gigantic loophole in our ethics guidelines if you don't pass this bill as is. We have a $50 gift limit. Probably the best gift I could give to everybody, it's worth a lot more that $50 is to sit down and shut up which I will but I just have to say there is a reason for these

ethics guidelines. The public thinks we are above them and if we don't have these guidelines, the integrity of the process gets undermined. I've served as our friend from Portsmouth and our friend from Londonderry have also on the Ethics Committee. The integrity of the process and how the public views us is very, very important. I urge that we vote down this amendment and vote Ought to Pass on the bill.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Kahn, seconded by Senator Fuller Clark.

The following Senators voted Yes: Woodburn, Giuda, Hennessey, French, Kahn, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators voted No: Bradley, Gray, Ward, Sanborn, Daniels, Avard, Carson, Birdsell, Innis, Morse.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 11 - Nays: 10. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Avard, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Hennessey, French, Kahn, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators voted No: Gray, Ward, Sanborn, Daniels, Avard, Carson, Birdsell, Innis, Morse.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 12 - Nays: 9. Adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator D'Allesandro moved to remove SB 586-FN-A-L from the Table. Adopted.

WAYS AND MEANS
SB 586-FN-A-LOCAL, relative to casino gambling.

The pending motion is Refer to Interim Study.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I would like the body to vote against the Interim Study so that I can offer another motion and speak to that motion. So I'm asking the body to vote against Interim Study so that I can offer the motion of Ought to Pass and speak to that motion.

The question is on the adoption of the motion of Interim Study. Failed.

Senator D'Allesandro moved Ought to Pass.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I'm going to quote Yogi Berra, "It's déjà vu all over again," because nineteen years ago, about this time, Senator Klemm was in the Chair, and together we introduced an amendment to a bill to bring casino gambling to the state of New Hampshire. Now we've been here a long time and I don't want to over play the game here, but I just want to say that since we made that suggestion those many years ago, Massachusetts has accepted it,

Maine has accepted it, Connecticut has accepted it, and Rhode Island has accepted it. The only people that didn't listen to me were Vermont. And we're no Vermont! Okay? We're no Vermont. But, everyone around us has accepted the fact that an enhanced revenue producer is casino gambling.

I don't want to go through the bill. You've heard it. You've heard me speak about this bill over, and over, and over again. But, I'd just say, what kind of a psychological exam must we all go through when we've given up a billion dollars in revenue. That's what we have given up from the day Senator Klemm and I introduced this piece of legislation to today–a billion dollars in revenue.

To the south of us there is an institution that's being built and they're spending 2.3 billion just to build a building–2.3 billion. They will employ thousands of people; the average wage will be between 50 and $100,000 a year. And they'll take people from New Hampshire to work at these jobs. We have, during that time period, expanded our charitable gaming. We now have eleven little casinos that aren't really casinos because they're for charitable gaming. So they're charitable gaming casinos. And if you looked at the last little piece of information we got from the lottery commission, which managed these charitable casinos, they did about $30 million worth of business–$30 million worth of business. I don't know how many people are employed, but the charities get 35 percent, 35 percent. So we've got a situation that over the last twenty years charities have become very accustomed to the dollars they get from the little non-casinos, because we don't gamble in New Hampshire. Charitable gaming isn't gambling. What is it? They got cards, they got roulette wheels, they have it all, but we call it charitable gaming.

So, my friends, I don't want to keep going because obviously my level of frustration has increased every year over the last twenty, and we still need money, alright? We still could use the jobs, we could use the revenue; all of these things are still present in the environment. As time has gone on, we've spent time increasing the wage that you spend in charitable gaming, we have added more to charitable gaming, and last year we even brought Keno back. Keno, the worst form of gambling in the world–Keno; addictive, problematic, I don't know anybody who has ever won in Keno. Harold French won! Well, that's a miracle in disguise. He wins at Keno.

I'll tell you, and I know, I wish I could say I was preaching to the choir, but I know a lot better than that. God gave me the ability to count to thirteen, and I can still do that. But I'll just say this; this is probably the last go around for me doing this. My highest level of frustration since I've been around here was when we passed this, we brought it over to the House, and I lost by one vote, and that vote was cast by the Speaker because it was a tie vote. So we lost the vote. At the same time we lost that vote we were cutting the budget because we didn't have any money. We were cutting the budget. So, the fortunes of the time have not shined, has not shone on me all of these years. I think we gave up an opportunity with Rockingham Park to do wonderful things for the community. That's lost.

So what's left? Our bill calls for two licenses. The licenses are worth $40 million each, you'd have to pay 40 million to get the license. I don't have to go through the process with you. That gives you a license that's good for ten years. The renewable fee is 1.5 million. And I looked at the latest financials based on the activity the could take place and it's still

between 100 and $150 million a year in revenue–100 and $150 million a year. Okay? That may be chump change to some people, but that's a lot of money to me. And it could make life better for a lot of people.

So, with that, Mister President, I make my last plea for this body to support it, send it over to the House, where the House, at one time, put in a camping tax, a gambling tax, a recreation tax, and then repealed all of them–good conscience. Put a gambling tax on when we don't have gambling! Huh? Pretty good, huh? Pretty smart, huh, brilliant? Brilliant idea! Let's tax gambling! But we don't have any gambling! We don't have any gambling! But let's tax it at 10 percent. The camping tax was even better; let's tax them for going camping! Pretty good, huh, Senator? Huh? A camping tax? That was repealed the next day. Okay? So we've tried all of these things, and we've passed some of them, repealed most of them, and yet gambling, the sinful activity that would produce $100 million. We let them do it in Massachusetts, Maine, Connecticut, Rhode Island. You know, as I said, the only place it doesn't exist is Vermont. And Vermont doesn't even have charitable gaming, I think. So there we are, there we are; the people's republic of Vermont, once again. You know. It's like Cambridge, Mass, huh? They're sister cities. Vermont and Cambridge, Mass. Vermont and Cambridge; they have a synergistic relationship.

So, with that, Mister President, we're going to end the day at 10 minutes past 7. It's still a great, great American day. Oh, we've got to vote first! We have more bills. Anyway, anyway, that's my plea; I would hope you could support it. I don't get anything out of this except aggravation. I've had stomach surgery because of it, it kills me. But, indeed, if you think it's the right thing you keep working at it, and I've worked at it for a long time. And I thank Mister President for allowing me to speak. Thank you very much for listening, and I hope you'll support it. Thank you.

(The Chair recognized Senator French.)

SENATOR FRENCH: Thank you, Mister President. I too rise in support of this finely crafted legislation. We have a problem facing us. Twenty years we've had the opportunity to pass this great bill. Twenty years, I've been going to Foxwoods, all the way to Connecticut to lose my money. We have an opportunity here today. Keno one time on a two dollar ticket I won two bucks. We really do have an opportunity here to pass this. I believe that the good Senator is not bluffing when he's holding his cards and saying this will be the last time he will put it in. So I ask you, please vote for this bill, send it along its way so I can stay within the state, close to the State House and do my gambling here. Thank you, Mister President.

(The Chair recognized Senator Lasky.)

SENATOR LASKY: Thank you, Mister President. I rise too in favor of, finally putting some legal gambling where we can enjoy the revenue that other states enjoy from it and it will rise and fall, it'll do all the things that other businesses do. It is a business. And we in New Hampshire who claim to be so self-righteous when liquor is the family business for crying out loud. We use liquor to gain the revenues that we do and we look to new and better ways all the time to expand that business. I'm not saying that's wrong, but if we were to have a bill such as Senator D has put forth many times, we'd be able to do something about a lot of things. But in particular, about the things that people say they vote against gambling. You know it encourages gambling, we would have the resources to fight and to help problem gamblers. The bills have always said they would not be in a place that the towns and cities didn't approve. So every person would you know would get a chance to approve it. If you don't want it in your town you don't

have it in your town. I think the final straw for me was when we voted, I didn't, for Keno to be used as Senator D said, to help kindergarten of all things. I mean you really lose your moral authority folks. So it is just really ludicrous to me that, and we have passed, I mean Rockingham would have been a wonderful place for a gaming facility. There's land outside of Nashua and Hudson, Green Meadows we went through that land you know two or three times. Would have been another great place. We have been behind the eight ball, we're losing this, in short there probably is very little time to even bother to do this, once you know all the other states have had it. But I do believe it could be done right, it could be done well, Senator D's bills through the years, I believe have taken all the gambling out of it. And I think that we really would solve so many of our problems if we would do this. So, thank you. And I hope you'll vote to pass it.

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you very much, Mister President. It will be of no surprise to many here that I cannot support this legislation. And I cannot agree with the good Senator from District 20 that by bringing gambling to the state of New Hampshire that it would make lives better for people in New Hampshire. One of the problems that we have today is that we have seen now that Massachusetts is investing as you heard more than one and a half billion dollars in a facility in Massachusetts. That facility is not just going to have gaming, it's going to have a number of other venues that bring individuals to the site, including shows, including entertainment, including all kinds of restaurants, including places for people to stay where the cost of staying in those hotels will be very cheap, so that you can afford to go and gamble. And that has the potential, if that were to happen in New Hampshire, to have an enormous impact on so many other aspects of our economy.

I don't oppose gambling on a moral basis, I oppose it on an economic basis, that we have quite an extraordinary economy here that is based on tourism, that is based on outdoor recreation, that is based on cultural recreation as individuals we only have so much time and so many resources to take advantage of that time. This would suck so much revenue out of other elements of our economy and now with this $2.5 billion enterprise being built up in Massachusetts, and again with people having gone to Connecticut, people don't go to Connecticut just for gambling, they also go there for the entertainment value. They go to Las Vegas for the entertainment value. In no way would these casinos that are being proposed in this bill be able to compete with Massachusetts, compete with Las Vegas, compete with Connecticut and so we're going to continue to see people going elsewhere for that type of entertainment. And what will we have left here? We'll have a casino left here, that isn't really a casino, it's going to be a slot barn. All you need to do is go to Oxford and see the casino that has been created there and look at what they promised to build, which was really quite an extraordinary facility, when they got permission to build it in Maine. But that's not what they ended up building. They built a slot barn, and you go there and you see people who used to spend time let's say bowling together, having a cup of coffee together, socializing together. That's not what they're doing anymore. And they're not recreating, they are going to Oxford and they are sitting in front of addictive machines and no, not being able to win, losing money.

We also know when you talk about the wages that have been lost, that the history of these casinos elsewhere has brought in individuals from the outside to which they pay very high salaries, but in terms of the

people who work there on a daily basis, they don't receive wages that are much better than the minimum wage. So I continue to argue that bringing casinos to New Hampshire will hurt our indigenous economy, and that it is a false promise in this day and age in terms of the money that it would create for the state. But it will drain money out of the pockets of New Hampshire residents because people from other states are not going to come here, they have more fancy, more lush, more extravagant casinos to go elsewhere. So it's really a false promise and I would urge you to vote against this legislation. Thank you.

Senator Bradley presiding.

Without Objection, Senator Soucy moved the question. Adopted.

PRESIDING OFFICER SENATOR BRADLEY: The chair would ask everybody to hone their 30 second speeches. We have four speakers remaining. I would ask the members to hone their 30 second speeches please. We have Senators Daniels, Giuda, Gannon and Hennessey.

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. While I very much appreciate the assistance of my colleague from District 20 I must rise against the Ought to Pass motion and maybe for a little bit different reason. As we have progressed through this session, as Finance Chair I have tried to be very protective of the integrity of the process that we're using in this institution. Every week we take a look at bills that have FNs on them, fiscal notes, we also look at bills that may have a fiscal impact and we sit down and determine whether those will be waived or whether they will go through Finance. I generally set a low threshold and I'll waive those bills that do not have much of a fiscal impact, but on the ones that have a larger amount, I ask them to go to Finance so we can duly assess them. Obviously with this bill here, whether it's in revenue or expenses, this has a tremendous fiscal impact to it. We are on the last day now, it would not have time to come to Finance and I think to protect the integrity and the work that comes out of this institution, I would ask that we vote against the Ought to Pass motion just because we don't have the time to do the analysis that should within Finance. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I would argue that this is a bill about revenue, not about, raising revenue not about spending it. And that on Ways and Means I voted for the bill. I will support it because I would much rather have roulette garden than keno garden. Thank you, Mister President.

(The Chair recognized Senator Gannon.)

SENATOR GANNON: Thank you, Mister President. If you build it they will come. All my friends from Medford who are police, they go to Cobbetts Pond in Salem and they will come and they will be there every weekend gambling. New Hampshire is open for business, all types of business. Live Free or Die, it's right on my license plate. Individual choice, jobs, jobs, jobs, construction jobs, great jobs at the casino, if you're a dealer, French, you're going to get twenty-five an hour, you're going to be happy. And jobs, I'm over my limit. Thank you.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you very much I rise to say that I have a conflict of interest because I am psychologist and I stand to gain substantially, the more people that are addicted the better off I do. Thank you.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Lasky, seconded by Senator Giuda.

The following Senators voted Yes: Woodburn, Giuda, French, Lasky, Soucy, Birdsell, D'Allesandro, Morse, Gannon, Innis.

The following Senators voted No: Hennessey, Gray, Ward, Sanborn, Kahn, Daniels, Avard, Carson, Feltes, Fuller Clark, Bradley.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 10 - Nays: 11. Failed.

Senator Daniels moved Inexpedient to Legislate.

Senator Feltes moved to Lay on the Table SB 586-FN-A-L. Adopted.

President Morse presiding.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, if I wanted to pull SB 375 off the table. It's already ready for third reading. That would not require another vote after it's pulled off the table and would just go to third reading, or would we have to debate it again?

PRESIDENT MORSE: Senator, if the body were to agree to take Senate Bill 375 off the table, I would just order it to third reading at that point.

MOTION TO REMOVE FROM THE TABLE

Senator Birdsell moved to remove SB 520-FN from the Table. Adopted.

TRANSPORTATION

SB 520-FN, relative to organizations authorized to issue decals for multi-use decal plates.

The pending motion is Ought to Pass with Amendment.

Senator Birdsell offered a Floor Amendment.

Sen. Birdsell, Dist 19
March 20, 2018
2018-1149s
03/05

Floor Amendment to SB 520-FN

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

AN ACT relative to organizations authorized to issue decals for multi-use decal plates.

Amend the bill by replacing section 1 with the following:

1 Multi-Use Decal Plates; Authorized Organizations. Amend RSA 261-B:9 to read as follows:

261-B:9 Authorized [~~Organization~~] ***Organizations***. The ***following organizations are authorized to issue decals under this chapter:***

I. Rotary District 7870 Foundation [~~is authorized to issue decals under this chapter~~].

II. New Hampshire Catholic Charities, provided that all proceeds from decals issued by New Hampshire Catholic Charities shall be for the benefit of the New Hampshire Food Bank.

III. New England Donor Services, Inc.

IV. Sophia's Fund.

V. The New Hampshire Breast Cancer Coalition.

VI. The university system of New Hampshire. Granite state college, Keene state college, and Plymouth state university are each authorized to issue decals, provided that all proceeds shall remain with the issuing institution and be used only for student scholarships.

2018-1149s

AMENDED ANALYSIS

This bill authorizes New Hampshire Catholic Charities, New England Donor Services, Inc., Sophia's Fund, the New Hampshire Breast Cancer Coalition, and the university system of New Hampshire to issue decals for multi-use decal plates.

SENATOR BIRDSELL: This is a bill we had when all the decals started coming out and I just ask for your support. We actually have them all numbered, we have the, I'm not going to name them all, I'm just going to say that they're all numbered appropriately so that we can go ahead and move them on up and out. Thank you, Mister President.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Carson moved to remove SB 461 from the Table. Adopted.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION
SB 461, relative to continuing education for real estate brokers and salespersons.

There is no pending motion.

Senator Carson moved Ought to Pass.

SENATOR CARSON: Thank you very much, Mister President. I move Senate Bill 461 Ought to Pass with Amendment. This bill was brought forward as a result of a collaborative effort between the New Hampshire Association of Realtors and the New Hampshire Real Estate Commission. This legislation as amended makes three changes relating to continuing education. It increases the required core course from three hours every two years to six hours every two years. It increased the total number of elective continuing education classes from twelve to fifteen and it requires the commission to specify topics or courses which a licensee would need to take prior to their first renewal. This brings New Hampshire more in line with nationwide requirements for a real estate license. The ED&A Committee voted Ought to Pass with Amendment and asks for your support. Thank you very much, Mister President.

PRESIDENT MORSE: Senator Carson, the amendment failed. So you can offer an Ought to Pass on the bill and if there's an amendment somewhere that someone wants to add to it, we could do that, but the amendment that was on the bill failed.

Senator Carson moved Ought to Pass.

SENATOR CARSON: Mister President, I took this off the table because a number of Senators came to me afterwards and said, oops, I didn't realize what was going on. I really want to vote in favor of this. So I'm taking it off the table. Please support the committee and thank you very much.

(The Chair recognized Senator French.)

SENATOR FRENCH: I would just like to say Mister President, that the only people that are for this continuing education are the Board of Realtors, they're pushing it, the reason they're pushing it is they offer classes, all the people that don't belong to the board can take the classes for free if they become and join the Board of Realtors. This is adding six more hours every two years to continuing education. I ask you to vote against it so I can bring a motion of ITL. Thank you.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Bradley, seconded by Senator Sanborn.

The following Senators voted Yes: Woodburn, Bradley, Hennessey, Ward, Kahn, Avard, Lasky, Carson, Feltes, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon.

The following Senators voted No: Giuda, Gray, French, Sanborn, Daniels, Innis, Morse.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 14 - Nays: 7. Adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Bradley moved to remove SB 576-FN from the Table. Adopted.

EDUCATION
SB 576-FN, relative to home health services rate setting.

The pending motion is Inexpedient to Legislate.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I would ask the body overturn the Inexpedient to Legislate so that I can introduce a Floor Amendment that I understand the Senate President has reviewed with the Finance Committee members and they are okay with this Floor Amendment as a compromise.

The question is on the adoption of the motion of Inexpedient to Legislate. Failed.

Senator Bradley moved Ought to Pass.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
March 22, 2018
2018-1182s
01/03

Floor Amendment to SB 576-FN

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

AN ACT relative to home health services rate setting.

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

1 Department of Health and Human Services; Establishing Home Health Services Rates. The commissioner of the department of health and human services shall review Medicaid reimbursement rates for home health services and determine whether they reflect the average cost for providers to deliver services. The commissioner shall consult with stakeholders in reviewing the rates considering the factors of economy, efficiency, quality of care, and access to care, in accordance with guidelines in federal regulations. The commissioner shall report the findings to the president of the

senate, the speaker of the house of representatives, the governor, and the chairpersons of the house and senate finance committees for consideration for inclusion in the state operating budget for the biennium ending June 30, 2021.

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

2018-1182s

AMENDED ANALYSIS

This bill requires the department of health and human services to review Medicaid reimbursement rates for home health services.

SENATOR BRADLEY: So when I introduced this bill it was to resume the rate setting proceeding that we have suspended for the past few budgets. This compromise says that the Commissioner of the Department of Health and Human Services shall review Medicaid reimbursement rates for home health services and determine whether they reflect the average cost. And then it goes on to say the commissioner shall consult with all the stakeholders. Look, I think we all know that there are issues with health care provider rates. All this does is send a signal to the Department of Health and Human Services to get started on the discussion about provider rates before the next budget. I thank the Senate President for helping draft this, what I hope is a good compromise. Thank you.

(The Chair recognized Senator Daniels for a question of Senator Bradley.)

SENATOR DANIELS: Just wanted to ensure, I know that the issues that we had before was a direct to the commission to set the rates. It doesn't look like this directs the commissioner to set the rates, but just to review them, is that correct?

SENATOR BRADLEY: Review and consult.

SENATOR DANIELS: Thank you.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Sanborn moved to remove SB 375 from the Table.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, if I know that this bill passed by a 24-0, I think roll call vote, Tammy might want to confirm that, but there was no opposition to it, would I now vote yes on the motion to take off the table?

PRESIDENT MORSE: If you're in favor of taking Senate Bill 375 off the table you're going to say aye, if you're opposed you're going to say nay.

A roll call was requested by Senator Sanborn, seconded by Senator Giuda.

The following Senators voted Yes: Giuda, French, Ward, Sanborn, Daniels, Avard, Birdsell, Innis, Morse.

The following Senators voted No: Woodburn, Bradley, Hennessey, Gray, Kahn, Lasky, Carson, Feltes, Soucy, D'Allesandro, Fuller Clark, Gannon.

The following Senators were excused: Watters, Cavanaugh, Reagan.

Roll Call, Yeas: 9 - Nays: 12. Failed.

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted. Adjournment from the Early Session.

LATE SESSION

LIST OF RULE 6-25'S FOR THE DAY

Senator Morse: SB 318
Senator Sanborn: CACR 22, SB 318, SB 343, SB 350, SB 375, SB 388, SB 383, SB 453, SB 461, SB 520-FN, SB 526-FN, SB 541-FN-A, SB 548-FN, SB 564-FN-A, SB 569-FN, SB 576-FN, SB 577, SB 582-FN, SBS 586-FN-A-L, SB 590-FN-A, SB 592-FN-A, HB 410, HB 1278, HB 1292, HB 1386
Senator Soucy: SB 541-FN-A
Senator Woodburn: SB 461

ANNOUNCEMENTS

(The Chair recognized Senator Gannon.)

SENATOR GANNON: The Sandown Lions are having their world famous Irish dinner at 4:30 in Sandown on Saturday. Any legislator, or anybody up in the gallery, if you come, I'll pay for your nice Irish dinner on Saturday at 4:30. Come on down. Thank you.

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSELL: I just want to remind everyone that we're not having session next Thursday, so Transportation will be meeting at 1 o'clock.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. I would just like members of Senate Judiciary to know we are meeting next Thursday at 9:30.

PRESIDENT MORSE: If the Senate could just pay attention for two more minutes, a close friend of mine for the past thirty years, passed away this past week. And it's kind of ironic because when Senator Downing was alive we used to have a St. Patrick's Day party, and we took a year off and then we started it up a year ago. And a bunch of us put together a group called Inspiring Futures and we actually try to help young people with after school programs and projects like that. Chief Consentino came to the event this past Friday night, which was a huge event, and a lot of good friends getting together and when he went to leave I chased him down because he was in a wheelchair and he obviously wasn't feeling good. And he said to me, at the time, this will be the last event that I get to go to, and he passed away. He was one of those guys that did everything for his community, and has been a long time mentor and role model. He served as Police Chief in Atkinson for thirty-five years, was well known for his work for the elderly community serving as Atkinson's Elderly Services Program director for twenty-six years. He's been the driving force behind positive changes in the community in Atkinson, has seen and made caring for the elderly and the disabled a priority in this town. He never stopped giving to the community, having served on the Atkinson Fire Department, as a Selectman, and with the Atkinson Lions Club. He had a hand in many things to make the community of Atkinson great. His unending dedication to the community was obvious even in the last days. He even attended a Board of Selectman meeting

last week. He was devoted, selfless and caring–probably the best way to describe Phil. His many contributions and his leadership will sorely be missed, and his loss will undoubtedly be felt by the town for many years. I want to share my gratitude for all the work he has done over the many years in serving the community. He leaves behind his wife of fifty-two years, Jody, and two sons, Philip and David. Susan and I wish them the best, and our thoughts and prayers are with them.

Without objection, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate.* (Rule 2-16 and Rule 2-17). Adopted.

LATE SESSION

Third Reading and Final Passage

CACR 22, relating to rights for crime victims. Providing that crime victims shall be afforded constitutional rights.
HB 410, relative to the legislative youth advisory council.
HB 1278, naming the rest area in Colebrook in honor of Frederick W. King, Sr. and naming a bridge in Farmington in honor of Major John W. Lawrence, Jr.
HB 1292, relative to the effective dates of changes to the rates for the business profits tax and the business enterprise tax.
HB 1386, establishing a joint committee on employee relations.
SB 318, relative to posting and notification requirements for employers, establishing criteria for workplace inspections, and amending certain provisions of the youth employment law.
SB 343, relative to legislative ethics guidelines.
SB 350, relative to biological products dispensed by pharmacists.
SB 383, establishing a commission to recommend policies that will enhance access to affordable health care for all New Hampshire residents.
SB 388, relative to dispensary locations for therapeutic cannabis.
SB 453, relative to requirements and criteria for a competitive grant program for drinking water protection.
SB 461, relative to continuing education for real estate brokers and salespersons.
SB 520-FN, relative to organizations authorized to issue decals for multi-use decal plates.
SB 541-FN-A, establishing a fund to reimburse costs associated with firefighters who have cancer and establishing a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer.
SB 548-FN, relative to therapeutic intervention needs of infants diagnosed with neonatal abstinence syndrome.
SB 564-FN-A, relative to a business tax exemption and a workforce development program for regenerative manufacturing businesses.
SB 569-FN, relative to animal cruelty and establishing a commission to study certain language applicable to the transfer of animals.
SB 576-FN, relative to home health services rate setting.
SB 577, requiring the public utilities commission to consider its order affecting the Burgess BioPower plant in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.
SB 582-FN, authorizing an assessment to determine appropriate caseload and workload standards for the division for children, youth and families; establishing additional child protection services positions in the division for children, youth and families; relative to foster care and adoption programs and services; and making appropriations therefor.

SB 590-FN-A, making a supplemental appropriation to the state loan repayment program and relative to emergency involuntary admissions, the child protection act, and the developmental disabilities wait list and making appropriations therefor.
SB 592-FN-A, relative to the child welfare system.

MOTION TO RECESS TO CALL OF THE CHAIR

Senator Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments and when we recess, we recess to the Call of the Chair.

Adopted. The Senate is in recess to the Call of the Chair.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 407-FN, requiring workers' compensation to cover prophylactic treatment for exposure.
HB 1295, relative to persons held in civil contempt.
HB 1347, relative to information to be included in the minutes under the right-to-know law.
HB 1373, relative to an individual's property right in his or her DNA.
HB 1411-FN-A, relative to funds transferred to the nongame species account.
HB 1471-FN, relative to telemedicine and establishing a committee to study health care reimbursement for telemedicine and telehealth.
HB 1549, relative to the availability of vehicle accident reports.
HB 1550, requiring electric bills to include the cost of compliance with renewable energy standards.
HB 1586, relative to judicial review for underage marriage.
HB 1627-FN, prohibiting the transmission of images or sounds of another person who is on private property or to conduct surveillance activity.
HB 1698-FN-LOCAL, relative to the cost of special education services for foster children.
HB 1816-FN, relative to Medicaid managed care.
HB 1817-FN, establishing the position of state demographer and a commission on demographic trends; requiring state agencies to prepare 10-year current services cost projections; and relative to the inclusion of a demographic analysis as part of the legislative fiscal note process.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 324, establishing a commission to study utility property valuation and recommend legislation to reform the current system of taxing utility property in New Hampshire.
HB 628-FN, relative to a family and medical leave insurance program.
HB 1104-FN, relative to dredge and fill permit time limits; relative to time limits under the administrative procedure act; and relative to online filing with the secretary of state's office.
HB 1313, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile.
HB 1316-FN, relative to revenue collected from concealed carry licenses.

HB 1415-FN-A, establishing a death benefit for a school employee killed in the line of duty.
HB 1499, relative to the focus and components of New Hampshire kindergartens.
HB 1521, relative to the definition of an emergency for a special assessment in a condominium.
HB 1592-FN, requiring the commissioner of the department of environmental services to review standards relative to arsenic contamination in drinking water.
HB 1718-FN, relative to surveillance on the public ways of the state.
HB 1763-FN-A, establishing a road usage fee and making an appropriation therefor.
HB 1819-FN, relative to administration of the education tax credit.
HB 1822-FN, making hormonal contraceptives available directly from pharmacists by means of a standing order.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1370, relative to a school's emergency management plan.

HOUSE MESSAGE

The following entitled bill is returned to the Senate pursuant to House Rule 35 (e), as the subject matter of the bill was found Inexpedient to Legislate in the first year, and the House failed to achieve the 2/3 vote to consider the bill.

SB 401, relative to repair of roads not maintained by a municipality.

INTRODUCTION OF LEGISLATION

Senator Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committee. Adopted.

First and Second Reading and Referral

HB 324, establishing a commission to study utility property valuation and recommend legislation to reform the current system of taxing utility property in New Hampshire. (Ways and Means)
HB 407-FN, requiring workers' compensation to cover prophylactic treatment for exposure. (Commerce)
HB 628-FN, relative to a family and medical leave insurance program. (Finance)
HB 1104-FN, relative to dredge and fill permit time limits; relative to time limits under the administrative procedure act; and relative to online filing with the secretary of state's office. (Executive Departments and Administration)
HB 1295, relative to persons held in civil contempt. (Judiciary)
HB 1313, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile. (Judiciary)
HB 1316-FN, relative to revenue collected from concealed carry licenses. (Judiciary)
HB 1347, relative to information to be included in the minutes under the right-to-know law. (Judiciary)

HB 1373, relative to an individual's property right in his or her DNA. (Judiciary)
HB 1411-FN-A, relative to funds transferred to the nongame species account. (Finance)
HB 1415-FN-A, establishing a death benefit for a school employee killed in the line of duty. (Executive Departments and Administration)
HB 1471-FN, relative to telemedicine and establishing a committee to study health care reimbursement for telemedicine and telehealth. (Health and Human Services)
HB 1499, relative to the focus and components of New Hampshire kindergartens. (Education)
HB 1521, relative to the definition of an emergency for a special assessment in a condominium. (Commerce)
HB 1549, relative to the availability of vehicle accident reports. (Transportation)
HB 1550, requiring electric bills to include the cost of compliance with renewable energy standards. (Energy and Natural Resources)
HB 1586, relative to judicial review for underage marriage. (Judiciary)
HB 1592-FN, requiring the commissioner of the department of environmental services to review standards relative to arsenic contamination in drinking water. (Energy and Natural Resources)
HB 1627-FN, prohibiting the transmission of images or sounds of another person who is on private property or to conduct surveillance activity. (Judiciary)
HB 1698-FN-LOCAL, relative to the cost of special education services for foster children. (Education)
HB 1718-FN, relative to surveillance on the public ways of the state. (Transportation)
HB 1763-FN-A, establishing a road usage fee and making an appropriation therefor. (Transportation)
HB 1816-FN, relative to Medicaid managed care. (Health and Human Services)
HB 1817-FN, establishing the position of state demographer and a commission on demographic trends; requiring state agencies to prepare 10-year current services cost projections; and relative to the inclusion of a demographic analysis as part of the legislative fiscal note process. (Executive Departments and Administration)
HB 1819-FN, relative to administration of the education tax credit. (Ways and Means)
HB 1822-FN, making hormonal contraceptives available directly from pharmacists by means of a standing order. (Health and Human Services)

March 23, 2018
2018-1220-EBA
04/08

Enrolled Bill Amendment to HB 1370

The Committee on Enrolled Bills to which was referred HB 1370

AN ACT relative to a school's emergency management plan.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 1370

This enrolled bill amendment inserts an omitted section heading and corrects a reference.