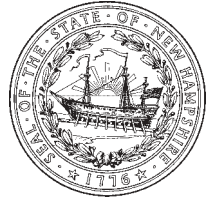


# STATE OF NEW HAMPSHIRE

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## SENATE JOURNAL 1 (*Cont.*)



*January 7, 2004*

**Out of Recess.**

**January 14, 2004**

**2004-0098-EBA**

**08/10**

Enrolled Bill Amendment to HB 299

The Committee on Enrolled Bills to which was referred HB 299

AN ACT removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses.

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 299

This enrolled bill amendment changes the effective date section to eliminate a retrospective effective date.

Enrolled Bill Amendment to HB 299

Amend the bill by replacing section 4 with the following:

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

Senator Eaton moved adoption.

**Adopted.**

### INTRODUCTION OF SENATE BILL

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate Bill numbered 303, shall be by this resolution read a first and second time by the therein listed titles and referred to the therein designated committee.

**Adopted.**

### First and Second Reading and Referral

**04-3260**

**SB 303-FN**, clarifying the language in the education funding formula. (Eaton, Dist 10; Chandler, Carr 4: Finance)

### LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

# SENATE JOURNAL 2

*January 22, 2004*

The Senate met at 10 a.m.

A quorum was present.

*The Reverend David P. Jones, chaplain to the Senate, offered the prayer:*

*Loving Creator, remind us as we do our work, that whenever You look at any of us it is with a kind of respect that surpasses anything we deserve or understand. Give us the strength to look at one another in the same way. Amen*

Senator Johnson led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### SENATE INTERNS

Karen Schreiner	Senate Research Office, Director June Goulson
Rachel Burton	Sen. Sylvia Larsen
Marjolaine Madore	Sen. Robert Flanders
John Melanson	Sen. Andre Martel
Rachael Meyer	Sen. Richard Green
Hannah Murray	Sen. John Gallus
Erica Sargent	Sen. Chuck Morse

## MOTION TO AMEND SENATE RULES

Senator Clegg moved to amend the New Hampshire Senate Rules for the purpose of completing the list of legislative deadlines for session year 2004:

- (1). Amend the last sentence of Rule #18(c) to read, "The last day to act on all Senate Bills in the first body (crossover) is **Thursday, March 18, 2004.**"
- (2). Amend Rule #24(c) to read, "The last day to act on all House Bills in the second year session is **Thursday, May 6, 2004.**"
- (3). Amend Rule #19(i) to read, "The last day to form Committees of Conference is **Thursday, May 13, 2004.** The deadline to sign off Committee of Conference Reports is **Wednesday, May 19, 2004 at 3:00 p.m.**"

**A 2/3 vote is necessary.**

**Adopted.**

## COMMITTEE REPORTS

**SB 498-FN**, relative to the regulation of debt adjustment services. Banks Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

**Banks**

**January 14, 2004**

**2004-0104s**

**06/09**

### Amendment to SB 498-FN

Amend RSA 399-D:2 as inserted by section 1 of the bill by inserting after paragraph VII the following new paragraph:

VIII. "Principal office" means the main office location of a person required to be licensed under this chapter.

Amend RSA 399-D:3 as inserted by section 1 of the bill by replacing it with the following:

399-D:3 License Required. Any person that, in its own name or on behalf of other persons, engages in the business of debt adjustment in this state or with persons located in this state shall be required to obtain a license from the banking department. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

Amend the introductory paragraph of RSA 399-D:13, I as inserted by section 1 of the bill by replacing it with the following:

I. The commissioner may issue an order requiring a person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that it has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. If the person fails to request a hearing or respond to the show cause order within 30 calendar days of receipt of the order, the person shall be deemed to be in default, and the penalties requested shall be imposed. The commissioner may by order, after notice and opportunity for hearing, assess penalties and deny, refuse to renew, suspend, or revoke a license if it is in the public interest and the applicant or licensee, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

Amend RSA 399-D:18 as inserted by section 1 of the bill by replacing it with the following:

399-D:18 License Surrender.

I. A licensee who ceases to engage in the business of a debt adjuster at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the bank commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The bank commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

II. Failure to comply with the provisions of this chapter and rules or orders adopted under this section, shall be cause for denial of future license applications and the imposition of penalties under RSA 399-D:24.

III. Withdrawal of the surrendered license shall become effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, the withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and the withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 361-A:3 within one year after the withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was effective.

Amend RSA 399-D:28 as inserted by section 1 of the bill by replacing paragraphs I – III with the following:

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before February 1 of each year concerning its business and operations for the preceding calendar year or license period ending December 31 in the form prescribed by the commissioner. A separate annual report shall be filed for each type of license held by the licensee.

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report, as required in paragraph I(a), notwithstanding the fact that such person is not licensed on the date that the report is due.

(c) Each licensee shall also file, under oath, its financial statement with the commissioner within 60 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

II. The commissioner shall publish an analysis of the information required in the licensee's annual report as part of the commissioner's annual report.

III. Any licensee failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue up to a maximum penalty of \$2,500 per report or statement, and shall be subject to suspension or revocation of its license.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 90 days after its passage.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 500-FN**, relative to certain procedures of financial institutions. Banks Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

**Banks**

**January 15, 2004**

**2004-0107s**

**01/09**

#### **Amendment to SB 500-FN**

Amend the bill by replacing all after section 2 with the following:

3 Removal by Bank Commissioner; Financial Institution. Amend RSA 384:6 to read as follows:

384:6 Removal by Bank Commissioner. Whenever, in the opinion of the bank commissioner, any officer, trustee, or director of a [~~savings bank, state bank, guaranty savings bank or trust company~~] **financial institution or financial institution holding company** shall have continued to violate any law relative thereto, or shall have continued unsafe or unsound practices in conducting the business of said [~~bank~~] **financial institution or financial institution holding company**, after having been warned in writing by the commissioner to discontinue such violations of law or such unsafe or unsound practices, he may cause notice to be served upon such officer, trustee, or director to appear before him to show cause why he should not be removed from office. A copy of such order shall be sent by registered mail to each trustee or director of the [~~bank~~] **financial institution or financial institution holding company** affected. If, after granting such officer, trustee, or director a reasonable opportunity to be heard, the commissioner finds that he has continued to so violate the law, or has continued unsafe or unsound practices after having been warned, the commissioner may, with the approval of 2 persons of good standing in the banking business, to be named by the governor upon the request of the bank commissioner, order that such officer, director, or trustee be removed from office. A copy of such order shall be served upon such officer, trustee, or director and upon the [~~bank~~] **financial institution or financial institution holding company** of which he is an officer, trustee, or director whereupon he shall cease to be an officer, trustee, or director of such [~~bank~~] **financial institution or financial institution holding company**. Provided that such order and the findings of fact upon which it is based shall not be made public or disclosed to any one except the officer, trustee, or director involved and the trustees or directors of the [~~bank~~] **financial institution or financial institution holding company** affected, otherwise than in connection with proceedings for a violation of this section. No such officer, trustee, or director removed from office as herein provided shall, without the consent of the bank commissioner, participate in any manner in the management or operation of said [~~bank~~] **financial institution or financial institution holding company**. Any person so removed from office may, with the approval of the trustees or directors of the [~~bank~~] **financial institution or financial institution holding company** affected ex-

pressed by majority vote in which he shall not participate, appeal by petition to the supreme court within 30 days from the date of the order of removal. Upon hearing, after such notice as the court may order, the burden of proof shall be upon the petitioner to show that the order of removal is clearly unreasonable or unlawful, and all findings of the bank commissioner upon all questions of fact properly before him shall be deemed to be prima facie lawful and reasonable and the order shall not be set aside or vacated except for errors of law unless the court by a clear preponderance of the evidence before it finds that such order is unjust or unreasonable. Pending decision of the supreme court, the order of removal shall continue in effect.

4 Interest on Escrow Accounts; "Regular" Added. Amend RSA 384:16-c to read as follows:

384:16-c Interest on Escrow Accounts. Any bank which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on property secured by real estate mortgages shall credit each such escrow account with interest at a minimum rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on **regular** savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each bank subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

5 Escrow Accounts of Mortgage Companies; "Passbook" Removed. Amend RSA 384:16-e to read as follows:

384:16-e Escrow Accounts of Mortgage Companies. Any company which is in the business of or customarily makes loans for the purpose of financing the acquisition of single family homes and which is not subject to the requirements of RSA 384:16-c and which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on single family homes secured by real estate mortgages on property located in New Hampshire shall credit each such escrow account with interest on all existing and future escrow accounts at a rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on regular ~~[passbook]~~ savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each company subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

6 Annual Audit; Engagement Letter Requirement Removed. Amend RSA 384:43, IV to read as follows:

IV. Each financial institution shall direct its auditor to provide the bank commissioner with a copy of its ~~[engagement letter, and the subsequent]~~ audit report, within 60 days after each is made available to the financial institution. Reports on the review of internal audit program shall be submitted in a format prescribed by the commissioner in a rule adopted pursuant to RSA 541-A. All such reports, memoranda, and correspondence remain the property of the individual financial institution.

7 Branch Offices; Board Replaced by Commissioner. Amend RSA 384-B:2 to read as follows:

384-B:2 Branch Offices. No bank or officer, director, agent, or employee thereof shall transact any part of its usual business of banking at any branch office except as follows:

I. With the approval of the ~~[board]~~ **commissioner**, any bank with its principal office within the state of New Hampshire may establish and operate one or more branch offices in any town within the state. The ~~[board]~~ **commissioner** shall not grant any application for a branch office if the dollar volume of the total deposits, time, savings, and demand of the applicant bank is greater than 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing the application; nor if the applicant bank is an affiliate of a bank holding company which with all its affiliates then holds a dollar volume of total deposits, time, savings, and demand greater than 30 percent of the dollar volume of total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

I-a. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more mobile branch offices. A mobile branch office shall consist of a motor vehicle specifically designed to conduct a banking business which is moved to one or more predetermined locations in any town or towns within or without the state on a pre-



determined schedule. A mobile branch office may conduct any banking business that is permitted for a stationary branch. A mobile branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation, location, and schedule of mobile branch offices.

I-b. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more defined service branch offices. A defined service branch office shall consist of an office designed to conduct a banking business which may be operated on a predetermined schedule for fewer than the normal hours of operation of the bank or for designated days and times. A defined service branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation and schedule of defined service branch offices.

I-c. For purposes of this section "bank" shall mean:

(a) A "bank" or "national bank" as defined in this chapter; and

(b) An "out-of-state bank" as defined in RSA 384:57, V which has merged with such a bank or a national bank pursuant to RSA 384:59.

II. With the approval of the ~~[board]~~ **commissioner**, the resulting bank, after a consolidation as herein defined, may operate as a branch office or offices the business of any other bank acquired in such consolidation, at any location in the same town or towns in which such business was formerly carried on, wherever in the state such town or towns may be; provided, however, that the dollar volume of the total deposits, time, savings, and demand of the remaining bank at the time of filing its application for such branch office or offices does not exceed 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

III. Written applications for branch offices shall be submitted by the bank, in the first instance, to the commissioner and shall be verified under oath and made upon forms which may be prescribed by the commissioner for the purpose with all the information required by such form fully set forth thereon, including the types of service to be offered at such branch office. Each application shall be accompanied by a fee of \$1,500 in the case of a new branch and one single fee of \$1,500 for the composite of all branches. The ~~[commissioner]~~ **department** shall investigate and examine each application ~~[and if the commissioner finds that it is duly completed, the commissioner shall then refer the application to the board for consideration]~~. A notice stating the date before which objections may be filed shall then be published by the petitioner in such form as the ~~[board]~~ **commissioner** may order. Any interested person or corporation may, within the time specified, file with the board a statement of objection to the granting of such application. The ~~[board]~~ **commissioner** may, upon request of any interested person or corporation, or at the ~~[board's]~~ **commissioner's** own discretion, order a public hearing, or may approve said application without a hearing. If a public hearing is to be held, the petitioners shall cause to be published such notices as the ~~[board]~~ **commissioner** may order. Said hearing shall be held at the time and place fixed by the ~~[board]~~ **commissioner**. The ~~[board]~~ **commissioner** shall keep a permanent verbatim record of all such evidence. ~~[The commissioner shall serve as chairperson of the board.]~~ The ~~[board]~~ **commissioner** may prescribe reasonable procedural rules to govern the proceedings~~[-and it may be convened to consider any pending business on call of the commissioner]~~. There shall be no refund allowed on any application fee once it has been filed. In addition to the application fee, each applicant for a branch office shall be obligated to pay the reasonable cost of processing, hearing and deciding each such application, as assessed by the ~~[board]~~ **commissioner**, which cost may be collected by the commissioner in an action of debt unless paid within 30 days after demand. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

IV. In making the decision on each application, the ~~[board]~~ **commissioner** shall take into consideration the following factors:

(a) The financial history and condition of the bank or banks concerned including the adequacy of its or their capital funds;

(b) Its or their prospects; and

(c) The character of the management.

V. The ~~[board]~~ **commissioner** shall render a decision granting or denying each application in writing and shall maintain a file of all such approvals or denials ~~[at the banking department]~~ and shall forthwith furnish a certified copy thereof to the applicant bank. ~~[No application shall be granted except upon the affirmative vote of a majority of members of the board.]~~ Full power is delegated to the ~~[board]~~ **commissioner** to grant a particular application upon such reasonable conditions, including limitations on the scope of service which may be offered and given, consistent with the general purposes of this chapter and sound banking principles as the ~~[board]~~ **commissioner** may determine and set forth in the decision. The authority derived from an application which has been granted in whole or upon conditions shall lapse and terminate unless business is actually commenced thereunder not later than one year after the date of the ~~[board's]~~ **commissioner's** decision; provided, however, that the ~~[board]~~ **commissioner**, for good cause shown, may extend the time after which such authority shall lapse. Rehearings of and appeals from decisions of the ~~[board]~~ **commissioner** shall be governed by RSA 541.

8 Limited Liability Company. Amend RSA 386-A:1-a to read as follows:

386-A:1-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a guaranty savings bank may be organized as a limited liability company. A bank organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity, provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the banking statutes shall also include a limited liability company. A bank organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a bank organized as a corporation. ~~[Any manager or senior executive officer of a bank organized as a limited liability company who exercises significant influence over, or participates in, major policymaking decisions shall be subject to the same duties and liabilities as pertain to directors, trustees, and senior executive officers of a bank organized as a corporation.]~~ **All managers and employees of a bank organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a bank organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the banking statutes shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instruments of a bank either chartered or operating as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed "incorporated" for purposes of federal deposit insurance.**

9 Name and Charter Powers. Amend RSA 388:14 to read as follows:

388:14 Name and Charter Powers. The bank resulting from a consolidation under the provisions of this chapter may adopt the charter of either of the consolidating banks with such change of name as may be desirable. Any proposal for such adoption of charter and change of name shall be set forth in the petition filed under RSA 388:1 and 388:8 and shall become effective upon approval thereof by the bank commissioner ~~[and the attorney general or assistant attorney general]~~, and filing in the office of the secretary of state together with the payment of a fee of \$5.

10 Record of. Amend RSA 386-A:15 to read as follows:

386-A:15 Record of. Thereupon the certificate shall be filed in the office of the secretary of state, who, upon payment of a fee ~~[equal to 1/10 of one percent of the authorized capital debentures, special deposit, or capital stock of the corporation as set forth in the articles of agreement]~~ **equal to the fee charged by the secretary of state to business corporations under RSA 293-A** shall cause the certificate with the indorsement thereon, to be recorded.

11 Approval of Petition; Filing With Secretary of State. Amend RSA 386-A:29, II to read as follows:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and that the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee ~~[equal to 1/10 of one percent of any increase in its authorized capital debentures, capital stock or special deposits provided for by such amendment]~~ **equal to the fee charged by the secretary of state to business corporations under RSA 293-A**. The secretary of state shall

thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be \$25.

12 New Section; Limited Liability Company. Amend RSA 392 by inserting after section 2 the following new section:

392:2-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a trust company subject to the regulation of the bank commissioner may be organized as a limited liability company. A trust company organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity; provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the statutes governing trust companies shall also include a limited liability company. A trust company organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a trust company organized as a corporation. All managers and employees of a trust company organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a trust company organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the statutes governing trust companies shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instruments of a trust company chartered as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed "incorporated" for purposes of federal deposit insurance.

13 Record of. Amend RSA 392:17 to read as follows:

392:17 Record of. Thereupon said certificate shall be filed in the office of the secretary of state, who, upon payment of a fee [~~equal to 1/10 of one percent of the capital stock of said corporation as set forth in said articles~~] ***equal to the fee charged by the secretary of state to business corporations under RSA 293-A***, shall cause the same, with the indorsement thereon, to be recorded.

14 Repeal. The following are repealed:

I. RSA 386-B:9, VII, relative to an exemption for the directors or trustees of certain financial institutions from the responsibilities of directors, trustees and officers.

II. RSA 387:19, relative to safe deposit business buildings.

III. RSA 392:21, relative to the payment of par value and surplus before the issue of trust company stock.

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

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 108-FN-L**, relative to charter schools. Education Committee. Inexpedient to Legislate, Vote 4-0. Senator Green for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 118-FN-A**, establishing a ladders to literacy program and making an appropriation therefor. Education Committee. Interim Study, Vote 4-0. Senator Larsen for the committee.

**Committee report of interim study is adopted.**

**SB 352-FN-L**, relative to computing school building aid grant amounts. Education Committee. Ought to Pass, Vote 4-0. Senator O'Hearn for the committee.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**



**HB 499**, expanding opportunities for teacher certification. Education Committee. Interim Study, Vote 4-0. Senator O'Hearn for the committee.

**MOTION TO TABLE**

Senator O'Hearn moved to have **HB 499** laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 499**, expanding opportunities for teacher certification.

**SB 105-FN**, establishing state appliance and equipment energy efficiency standards. Energy and Economic Development Committee. Interim Study, Vote 4-0. Senator Below for the committee.

**Committee report of interim study is adopted.**

**SB 230**, relative to transition service and relative to the sale of PSNH generation assets. Energy and Economic Development Committee. Interim Study, Vote 4-0. Senator Below for the committee.

**Committee report of interim study is adopted.**

**SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies. Energy and Economic Development Committee. Ought to Pass, Vote 4-0. Senator Odell for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking. Environment Committee. Ought to pass with amendment, Vote 3-0. Senator Johnson for the committee.

**Environment**

**January 14, 2004**

**2004-0094s**

**03/10**

**Amendment to SB 412**

Amend the bill by replacing section 1 with the following:

1 Gunstock Area Ski Resort Water Withdrawal Authorization; Date Extended. Amend 1990, 144:1 to read as follows:

144:1 Gunstock Area Ski Resort. Consistent with the best interests of the public as a whole and with state ownership or stewardship over such water bodies, the Gunstock Area of Gilford, and its successors and assigns, is authorized to take water for purposes of implementing a system of snowmaking and other activities incidental to present use and potential expansion of ski area operations from Lake Winnepesaukee, partly situated in the town of Gilford, subject to all applicable conditions and limitations incorporated in any permit issued by or agreements with the United States government or any agency thereof, the state of New Hampshire, or the town of Gilford. If the department of environmental services determines that a cessation, reduction, or other modification of such withdrawal is necessary for the preservation of environmental quality, protection of water quality, regulation of water quantity, or protection of habitat, the Gunstock Area and its successors and assigns shall, pursuant to written notice and order, cease, reduce, or modify its withdrawal as directed, provided that such order shall expire after 10 days unless during such 10-day period a public hearing is held by the department and a decision is made to extend such order. The department shall adopt rules under RSA 541-A establishing criteria and procedures for issuing such orders for such special hearings and for making such decisions. If the water withdrawals authorized by this act for the potential expansion of ski area operations of the Gunstock Area have not commenced [~~within 15 years of the effective date of this act~~] **by April 19, 2020**, such authorization shall expire.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 380**, establishing a statewide incident command system. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Peterson for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 497-FN**, relative to renewal of electrician's licenses. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Peterson for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 117-FN-A-L**, authorizing video lottery administered by a gaming oversight authority, and establishing a pharmacy benefit program. Finance Committee. Interim Study, Vote 6-1. Senator D'Allesandro for the committee.

**Question is on the motion of interim study.**

**A roll call was requested by Senator Boyce.**

**Seconded by Senator Below.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Foster, Clegg, Larsen, Gatsas, Martel, Sapareto, D'Allesandro, Morse, Prescott, Cohen.**

**The following Senators voted No: Boyce, Below, Peterson, O'Hearn, Barnes, Estabrook.**

**Yeas: 18 - Nays: 6**

**Committee report of interim study is adopted.**

**HB 304-A**, relative to state acquisition of certain acreage in the Connecticut Lakes headwaters tract and making an appropriation therefor. Finance Committee. Inexpedient to Legislate, Vote 7-0. Senator Clegg for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 314**, relative to access to medical records. Insurance Committee. Ought to Pass, Vote 4-0. Senator Cohen for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 316**, relative to the payment of salaried employees. Insurance Committee. Ought to Pass, Vote 3-0. Senator Martel for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 322-FN**, relative to payment of medical benefits costs for disabled group II members of the retirement system. Insurance Committee. Inexpedient to Legislate, Vote 4-0. Senator Prescott for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. Insurance Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**SB 330-FN**, relative to creditable service of retirement system members reemployed after qualifying military service. Insurance Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**SB 390**, relative to liability of third person under workers' compensation. Insurance Committee. Ought to pass with amendment, Vote 4-0. Senator Flanders for the committee.

**Insurance**  
**January 15, 2004**  
**2004-0109s**  
**01/05**

**Amendment to SB 390**

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

2 Workers' Compensation; Recovery Against Third Person. Amend RSA 281-A:13, IV to read as follows:

IV. Whenever there is a recovery against a third person under paragraph I, II, or III, the commissioner, the arbitrator, or the superior court, as the case may be, shall order ~~[such]~~ **a pro rata** division of expenses and costs of action, including attorneys' fees, between the employer or the employer's insurance carrier and the employee ~~[as justice may require]~~ **in proportion to the amount each recovers from the third person. Whenever such recovery exceeds the amount of the employer's or employer's insurance carrier's lien at the time of such recovery, the employer or the employer's insurance carrier shall be entitled to claim credit to the extent of such excess against benefits under this chapter which may become payable to the employee in the future on account of the same injury. The employer's or employer's insurance carrier's share of expenses, costs, and attorneys' fees shall become payable when the credit is actually taken against future benefits.**

3 Applicability. Section 2 of this act applies to any recovery against a third person after the effective date of this act.

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

**MOTION TO TABLE**

Senator Larsen moved to have **SB 390** Laid on the table.

**Senator Larsen requested a roll call.**

**Senator Larsen withdrew her motion for a roll call.**

**Motion failed.**

**Amendment adopted.**

**Question is on the motion of ought to pass as amended.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Cohen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.**

**The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.**

**Yeas: 17 - Nays: 6**

**Adopted.**

**Ordered to third reading.**

**SB 395**, relative to wireless communications equipment insurance. Insurance Committee. Inexpedient to Legislate, Vote 4-0. Senator Martel for the committee.

**Committee report of inexpedient to legislate is adopted.**

**HB 829**, relative to ward boundaries in Manchester and Nashua to be used in state elections. Internal Affairs Committee. Ought to pass with amendment, Vote 2-0. Senator Boyce for the committee.

**Internal Affairs**  
**January 13, 2004**  
**2004-0068s**  
**03/01**

**Amendment to HB 829**

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

AN ACT relative to ward boundaries in Manchester to be used in state elections.

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

1 Manchester; Ward Boundaries. For purposes of elections for state senator and state representative conducted after the effective date of this act in districts established by the supreme court in Below v. Gardner, No. 2002-0243 (June 24, 2002) and Burling v. Chandler, No. 2002-0210 (July 26, 2002), ward boundaries for senate and representative districts in Manchester shall be the ward boundaries established by the city of Manchester in its charter.

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

**2004-0068s**

**AMENDED ANALYSIS**

This bill requires that state senate and representative elections in Manchester be conducted in accordance with the ward lines established in its city charter.

**MOTION TO TABLE**

Senator Boyce moved to have **HB 829** laid on the table.

**Adopted.**

**LAID ON THE TABLE**

**HB 829**, relative to ward boundaries in Manchester and Nashua to be used in state elections.

**SB 325-FN-L**, relative to penalties for a false report to a law enforcement officer. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 339-FN**, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Peterson for the committee.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**SB 360**, requiring written notification concerning certain offenders against children. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Foster for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 521-FN**, increasing the penalty for identity fraud. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

**Senate Judiciary**

**January 15, 2004**

**2004-0113s**

**05/03**

**Amendment to SB 521-FN**

Amend the bill by replacing section 2 with the following:

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

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 126-FN-A**, exempting certain transfers of title from the real estate transfer tax. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**SB 332-FN**, relative to tolls for disabled veterans. Transportation Committee. Ought to Pass, Vote 4-0. Senator Kenney for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 458**, relative to private driving instruction and exhibition facilities. Transportation Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

**Adopted.**

**Ordered to third reading.**

**SJR 2**, designating a Purple Heart Trail in New Hampshire. Transportation Committee. Ought to Pass, Vote 5-0. Senator Kenney for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 340**, repealing the restriction on the fish and game department related to release of information on fish stocking. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 4-0. Senator Gatsas for the committee.

**Wildlife and Recreation**

**January 14, 2004**

**2004-0095s**

**10/04**

#### **Amendment to SB 340**

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

AN ACT relative to the release of information by the fish and game department on the stocking of fish.

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

1 Fish and Game; Fish Stocking; Release of Information. Amend RSA 206:18, I to read as follows:

I. ~~[Not less than 30 days]~~ **At any time before or** after stocking of said fish the executive director of fish and game shall release at such time as he **or she** deems advisable the number and size of fish and the name of the stream or pond or lake planted, but in no instance shall any employee of the fish and game department disclose where or when they were or will be planted. The executive director may penalize any employee who violates the provisions of this section as he **or she** deems reasonable and just.

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

**2004-0095s**

#### **AMENDED ANALYSIS**

This bill allows the executive director of fish and game to release information on fish stocking at any time before or after the stocking.

#### **MOTION TO TABLE**

Senator Gatsas moved to have **SB 340** laid on the table.

**Adopted.**

#### **LAIID ON THE TABLE**

**SB 340**, repealing the restriction on the fish and game department related to release of information on fish stocking.



**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. Wildlife and Recreation Committee. Ought to Pass, Vote 4-0. Senator Sapareto for the committee.

**Adopted.**

**Ordered to third reading.**

#### **TAKEN OFF THE TABLE**

Senator D'Allesandro moved to have **HB 107** taken off the table.

**Adopted.**

**HB 107**, relative to bingo.

**Question is on the motion of ought to pass.**

#### **MOTION TO TABLE**

Senator Morse moved to have **HB 107** laid on the table.

**Adopted.**

#### **LAIID ON THE TABLE**

**HB 107**, relative to bingo.

#### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 299**, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses.

Senator D'Allesandro moved adoption.

**Adopted.**

#### **RESOLUTION**

Senator Clegg moved that the Senate now 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.**

#### **LATE SESSION**

##### **Third Reading and Final Passage**

**SB 314**, relative to access to medical records.

**SB 316**, relative to the payment of salaried employees.

**SB 332-FN**, relative to tolls for disabled veterans.

**SB 325-FN-L**, relative to penalties for a false report to a law enforcement officer.

**SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies.

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

**SB 360**, requiring written notification concerning certain offenders against children.

**SB 380**, establishing a statewide incident command system.

**SB 390**, relative to liability of third person under workers' compensation.

**SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking.

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

**SB 458**, relative to private driving instruction and exhibition facilities.

**SB 497-FN**, relative to renewal of electrician's licenses.

**SB 498-FN**, relative to the regulation of debt adjustment services.

**SB 500-FN**, relative to certain procedures of financial institutions.

**SB 521-FN**, increasing the penalty for identity fraud.

**SJR 2**, designating a Purple Heart Trail in New Hampshire.

#### **ANNOUNCEMENTS**

**Senator Eaton (Rule #44).**

#### **RESOLUTION**

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving Messages, and processing Enrolled Bill Reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**