

STATE OF NEW HAMPSHIRE

CHESHIRE, SS  
SALADA, et al. v KEENE SCHOOL DISTRICT  
DOCKET NO:

SUPERIOR COURT

MEMORANDUM OF LAW

**Statement of Facts:** For more than one hundred years, state courts have looked to evidence of legislative intent in construing state law. Legislative intent's importance can be traced to early common law cases, such as *William v. Berkeley*, Plow 223, 231 (1601) where the Court stated: "Whoever would consider an act well ought always have particular regard to the intent of it, and accordingly as the intent appears, he ought to construe the words." Later, U.S. Supreme Court Justice Oliver Wendell Holmes, Jr., reminded the Court that "a page of history is worth a volume of logic." (*New York v. Eisner*, 256 U.S. 345, 349 (1921)).

The intent of this legislation is known, and was cited by the Rockingham Superior Court in the decision of *Bailey v Town of Exeter*. HB 77, which amended RSA 40:13(IV) to add subsection (c), was introduced into the State House on January 3, 2011 by Rep. Kathleen Hoelzel, and into the Senate as SB 16 by Senator Jack Barnes on January 5, 2011. As introduced, the bill would add "(c) No warrant article shall be amended to delete the substance of the original subject matter."

On February 3, the House version of the bill was amended to add the sentence, "An amendment that changes the dollar amount of an appropriation in a warrant article shall not be deemed to violate this subparagraph." The amended bill passed through the House on Feb. 3, and was signed by the Governor the next day.

The House Journal from January 26, 2011 reads "It was the consensus of the entire committee that it is important for voters in towns operating under the SB 2 form of government to be able to vote on each article that contains the intent as originally proposed. To eliminate all the subject matter creates confusion and often discourages citizen's participation." (House Journal Vol. 33, No. 14)

The attached Press Release was released by the State Senate, and includes a quote from Senator Barnes, "To see a warrant article you've worked so hard to get on a ballot be gutted is disheartening to its supporters, not to mention terribly confusing to voters. We absolutely had to make this change."

**Conclusion:** Based upon written and verbal testimony, the court will find that all of the petitioned warrant articles were amended in a manner that eliminated the subject matter, which violates not only the letter, but also the legislative intent of the law.

Respectfully submitted,  
Conan Salada  
Darryl W. Perry  
David Crawford  
Eric LaRoche

By and through their Attorney-in-Fact,  
Darryl W. Perry

I certify that one copy of this Memorandum of Law was hand delivered to the Superior Court, and one copy of this Memorandum of Law was delivered via mail to the Keene School District.

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signature

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date