

PA12-036

HB5498

House	2132-2138	7
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		20

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2012**

**VOL.55
PART 7
2096 – 2446**

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HOUSE OF REPRESENTATIVES

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April 19, 2012

DEPUTY SPEAKER ARESIMOWICZ:

Is there objection? Is there objection?

Hearing none, so ordered.

Will the Clerk please call Calendar Number 232.

THE CLERK:

On Page 12, Calendar 232, substitute for House
Bill Number 5501, AN ACT CONCERNING EYEWITNESS
IDENTIFICATION PROCEDURES. Favorable report from
Committee of Judiciary.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Riley.

REP RILEY (46th):

Thank you, Mr. Speaker. I move that this matter
be referred to the Public Safety Committee. Thank
you.

DEPUTY SPEAKER ARESIMOWICZ:

Is there objection? Is there objection?

Hearing none, so ordered.

(Chamber at ease.)

DEPUTY SPEAKER ARESIMOWICZ:

The House will return to order.

Will the Clerk please call Calendar Number 284.

THE CLERK:

On Page 17, Calendar 284, substitute for House

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April 19, 2012

Bill 5498, AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES. Favorable report on the Committee of Public Health.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Ritter of the 38th, you have the floor, madam..

REP. RITTER (38th):

Thank you, Mr. Speaker. I move for acceptance of the joint committee's favorable report and passage of the Bill.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the joint committee's favorable report and passage of the Bill.

Representative Ritter, you still have the floor, madam.

REP. RITTER (38th):

Thank you, Mr. Speaker. Mr. Speaker this Bill, as the title indicates, concerns changes to the funeral service statutes. Mr. Speaker, the Clerk has an amendment, LCO Number 3496. I would ask the Clerk to please call the amendment and I be granted leave of the chamber to summarize.

DEPUTY SPEAKER ARESIMOWICZ:

Will the Clerk please call LCO Number 3496.

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THE CLERK:

LCO 3496, House Amendment "A", offered by
Representative Ritter, Senator Garritano.

DEPUTY SPEAKER ARESIMOWICZ:

The Representative seeks leave of the chamber to
summarize the amendment.

Is there objection? Is there objection?

Hearing none, Representative Ritter, please
proceed, madam.

REP. RITTER (38th):

Thank you very much, Mr. Speaker. Mr. Speaker,
this amendment strikes the original sections three and
four from Bill and adds a new section, section three.
Section three deals with the ability for a prepaid
funeral contract to be used to finance a funeral. I
urge adoption.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, madam.

Will you remark further on the Bill before us?

Representative Perillo of the 113th, you have the
floor, sir.

REP. PERILLO (113th):

Thank you, Mr. Speaker. And, on the amendment I
just wish to say briefly, that this is something that

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will make life easier for those who are pursuing funerals. It's a very, very difficult time for a lot of folks either being in the midst of it or planning ahead and this is something that will definitely be a good service to those folks who are trying to do that. So, I would urge adoption of the amendment as well.

DEPUTY SPEAKER ARESIMOWICZ:

Will you remark further on the amendment before us?

If not, I'll try your minds.

Those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed Nay.

The Ayes have it. The amendments adopted.

Will you remark further on the Bill as amended?

Representative Ritter, you still have the floor, madam.

REP. RITTER (38th):

Thank you, Mr. Speaker. Mr. Speaker, this Bill retains the original first and second sections of the Bill. It does two things in those sections -- it requires death certificates that are filed in paper

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form to be filed within five business days rather than calendar days after the death and secondly, it requires funeral service businesses to maintain original signed cremation authorization documentation forms for at least six years rather than the original 20 years. And, as we already briefly discussed in the amendment, it will now allow people to pay for funeral service contracts by assigning a death benefit under an existing life insurance policy and I urge passage of the Bill.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, madam.

Will you remark further on the Bill as amended?

Representative Perillo of the 113th, you have the floor, sir.

REP. PERILLO (113th):

Mr. Speaker, thank you. The Chair did a wonderful job of summarizing the benefits of this Bill. I should say that in Committee in working with all interested parties, it was very much a collaborative and team effort. I think that everyone who had an interest in this Bill had an opportunity to be heard and many folks did have an opportunity to have input in generating what I believe is a

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comprehensive and appropriate approach to prepayment of funerals and I would urge passage of the Bill.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Will you remark further on the Bill as amended?

Will you remark further on the Bill as amended?

If not, staff and guests to the well of the House. Members take your seat. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. All members to the chamber, please. The House of Representatives is voting by roll call. All members to the chamber.

DEPUTY SPEAKER ARESIMOWICZ:

Have all the members voted? Have all the members voted? Please check the board to ensure that your vote has been properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

THE CLERK:

House Bill 5498 as amended by House "A".

Total number voting

146

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Necessary for adoption	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	5

DEPUTY SPEAKER ARESIMOWICZ:

The Bill as amended is passed.

Will the Clerk please call Calendar Number 315?

THE CLERK:

On Page 20, Calendar Number 315, substitute for Senate Bill Number 28, AN ACT IMPLEMENTING THE GOVERNOR'S RECOMMENDATION CONCERNING AN ANNUAL REPORT ON HIGHER EDUCATION. Favorable report from the Committee of Higher Education and Employment Advancement.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Willis of the 64th, you have the floor, madam.

REP. WILLIS (64th):

Thank you very much, Mr. Speaker. I move for acceptance of the joint committee's favorable report and passage of the Bill.

DEPUTY SPEAKER ARESIMOWICZ:

Question is on acceptance of the joint committee's favorable report and passage of the Bill.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PUBLIC
HEALTH
PART 5
1367 - 1694**

2012

PUBLIC TESTIMONY

RAISED BILL 5498,

**AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES
STATUTES**

PUBLIC HEALTH COMMITTEE – PUBLIC HEARING

MARCH 16, 2012

Co- Chairs Senator Gerratana and Representative Ritter, Vice-Chairs Senator Slossberg and Representative Lyddy and Ranking Members Senator Welch and Representative Perillo and Members of the Public Health Committee.

My name is James Mengacci and I thank you for allowing me the opportunity to address the Public Health Committee to offer comment on RAISED BILL 5498, AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES.

I am a licensed funeral director and embalmer in Connecticut and Florida and a licensed Insurance Producer in Connecticut, Massachusetts and Rhode Island. I have been involved in the

funeral industry in Connecticut for over 30 years, 21 years as a funeral home owner and presently as the owner of a funeral consulting business based in Connecticut and working with funeral homes in Connecticut, Massachusetts, Rhode Island and Vermont.

I am here today to respectfully suggest the following changes to the language of Raised Bill 5498:

Sec. 42-200. Funeral service contracts: Definitions; requirements. Funeral service establishment to maintain copies of contracts. Notification to purchaser of transfer of more than fifty percent ownership or of closure. (a) For the purposes of this section and sections 42-201 to 42-206c, inclusive, "funeral service contract" means a contract which requires the payment of money or the delivery of securities in exchange for the final disposition of a dead human body, including funeral, burial or other services, or the furnishing of personal property or funeral merchandise in connection with any such disposition, wherein the use or delivery of such services, property or merchandise is not required immediately, "beneficiary" means the person for whom the goods or services purchased in a funeral service contract are to be provided, and "purchaser" means the person who signs the funeral service contract, and "prearranged funeral contract" shall mean a contract for funeral, burial or other services, or the furnishing of personal property or funeral merchandise in connection with any such disposition, wherein the use or delivery of such services, property or merchandise is not required immediately, but which may not require the immediate payment of money or delivery of securities.

.....
 (e) Notwithstanding section 42-200 through 42-206, a funeral service establishment may enter into a prearranged funeral contract funded through the assignment of the death benefit payable under a life insurance policy or certificate of insurance issued under a group policy that is filed in accordance with Title 38a.

Sec. 42-207. Irrevocable funeral contract. Revocation of revocable funeral contract purchased by Medicaid beneficiary. An irrevocable funeral contract may be entered into in which the amount held in escrow or an insurance policy may be disbursed only upon the death of the beneficiary, provided such a contract does not exceed five thousand four hundred dollars and all interest, growth or dividends accumulate to the escrow account or insurance policy and isare inaccessible to the beneficiary Such irrevocable funeral contracts may be transferred from one funeral service establishment to another upon request of the beneficiary or the representative of the beneficiary. The purchase of an irrevocable funeral contract shall not preclude an individual from purchasing other funeral contracts that are revocable, provided any such revocable funeral contract purchased by a Medicaid beneficiary may be revoked only upon written notice by the Medicaid beneficiary to the Commissioner of Social Services.

Sec. 17b-91. (Formerly Sec. 17-83a). Eligibility exclusions. State supplement program. Temporary family assistance program. (a) The commissioner shall exclude, in the determination of eligibility for the state supplement program and the temporary family assistance

program, burial funds in an amount not to exceed the maximum amount provided in section 17b-84. Such funds may be in the form of prepaid funeral service contracts or **prearranged funeral contracts** as described in section 42-200, irrevocable funeral contracts or the face value of life insurance policies if the cash surrender value is excluded, or any combination thereof, not to exceed the maximum amount provided in said section 17b-84.

for the following reasons.

- 1. To clear up the confusion that presently exists in CGS 42-200 regarding allowable funding options for a preneed funeral contract.**
- 2. To allow the consumer and the licensed funeral director the choice of mutually selecting the most beneficial investment for a preneed funeral contract for their individual circumstances.**
- 3. The suggested language will not affect the present process for a Connecticut resident applying for Title 19 Assistance nor would passage of this Bill impugn the integrity of the Irrevocability requirement of the Title 19 contract. Insurance proceeds are irrevocably assigned and are payable only to the funeral provider and only upon certification of the death of the insured.**
- 4. Presently, 46 states allow funding of a preneed funeral contract with life insurance. In 2011 almost 2 billion dollars was written throughout the United States in insurance funded prearranged funeral contracts. Most preneed regulators favor insurance funding because of the inherent safeguards, one of which is state by state insurance guaranty funds, which are voluntarily funded**

by the insurance companies that issue preneed insurance policies and is not present with trust and escrow funding. Also, unlike trust and escrow funding, when a funeral director and a consumer choose insurance funding, the consumer makes payment directly to the insurance company, which eliminates the risk of funds intended for a preneed funeral contract being diverted elsewhere.

5. As a funeral director, when I meet with someone who wants to prearrange and pre pay a funeral, and I accept payment and guaranty the price, I have to be assured that the funds I accept and deposit today, can be invested appropriately to keep pace with rising costs. The funeral home should have the ability to legally place preneed funds in the investment that is best suited for each individual case. Trust accounts and insurance policies both play a vital role in giving the consumer and the funeral director responsible and safe investment options for preneed funeral funds.
6. Insurance products used to fund preneed funeral contracts and the companies that underwrite the policies, are required by Connecticut law to be licensed and to have their products approved by the Department of Insurance. A funeral home that offers consumers the insurance option to fund a preneed funeral contract is required to be licensed with the Department of

Insurance, and to have a licensed insurance producer responsible for strict adherence to the laws governing preneed insurance. Additionally, Connecticut law presently requires that the licensed insurance producer complete 24 hours of continued education every two years, which is monitored by the Department of Insurance.

Funeral homes are small businesses that give back to their communities, but they like others, are experiencing difficulties due to economic and regulatory constraints, while dealing with ever changing consumer preferences. Having a choice of viable preneed funding options for these businesses will give them a better chance for continued success, which will benefit consumers as well as the individual cities and towns throughout Connecticut that they serve.

Thank you for your time and for your consideration regarding this matter.

Sincerely,

James A. Mengacci



Mark C Neidinger
mneidinger@nglic.com
 608.443.5253

Co-Chair Senator Terry Geratana
 Co-Chair Representative Betsy Ritter
 • Public Health Committee
 Legislative Office Building, Room 1D
 Hartford, CT 06106-1591

RE: Connecticut HB 5498

To the Members of the Committee on Public Health:

Founded in 1909, National Guardian Life Insurance Company (NGL) is a mutual insurance company located in Madison, Wisconsin and is licensed to do business in Connecticut and nationwide, excluding New York. NGL markets preneed and final expense life insurance, as well as group dental and vision coverage, through independent agents. It is also active in mergers and acquisitions to supplement its growth. National Guardian Life is rated "A-g (Excellent)" by A.M. Best.

National Guardian Life Insurance Company would like to take this opportunity to testify as to necessary changes to the Connecticut preneed statutes in order to clarify the legality of the use of insurance policies and annuities to fund a prearranged funeral contract.

Although the Connecticut statutes currently do not prohibit the use of insurance to fund a preneed contract under the "funeral service contract" statutes, it has become clear to my company that regulatory misinterpretations of the existing law have occurred in the State of Connecticut and have had a significant chilling effect on the sales of insurance by funeral homes throughout the state. Specifically, our business has declined in the State of Connecticut by 44% over the past 2 years, despite showing significant increases in neighboring states.

Since there is no payment from the consumer to the funeral home prior to the furnishing of funeral goods and services, the use of insurance to fund a preneed funeral contract is not a "funeral service contract" as defined in Section 42-200 of the Connecticut Statutes. However, the misinterpretations of this law have led some regulators to erroneously insist that insurance funding is not allowed in the State. For this reason, my company would appreciate a legislative clarification that would solve the problem of the inappropriate application of Section 42-200, et seq., to insurance-funded prearranged funeral contracts.

Accordingly, we request a legislative fix that would clearly indicate that insurance policies or certificates are an appropriate funding mechanism for preneed funeral contracts. Since this legislative tweak may add new terms to the statutory lexicon in Connecticut, I believe that related Medicaid statutes may also require some tweaks in order to maintain the status quo (exemption of insurance-funded preneed contracts) for Connecticut consumers seeking to become eligible for Medicaid.

I believe that the confusion in the industry caused by past regulatory misinterpretations of the law could be resolved without requiring significant changes to the existing statutory framework. Even though the necessary fixes are minimal, the resulting clarification would greatly benefit Connecticut consumers, the funeral industry and the insurance industry. NGL supports House Bill 5498.

If you have any questions, you may contact me at 608-443-5253.

Sincerely,



Mark C. Neidinger
Associate General Counsel



Tracy A. Kelly
Legal Counsel

Tell: 515-440-7731

Fax: 515-440-7690

email: tkelly@homesteaderslife.com

March 15, 2012

Co-Chair Senator Terry Geratana
Co-Chair Representative Betsy Ritter
Public Health Committee
Legislative Office Building, Room 1D
Hartford, CT 06106

RE: House Bill 5498

Dear Members of the Committee on Public Health.

Homesteaders Life Company is a life insurance company authorized to sell life insurance policies to fund prearranged funeral contracts in 49 states plus the District of Columbia. Homesteaders is a national leader in the preneed insurance market and has been in business for over 106 years.

Homesteaders respectfully submits testimony on House Bill 5498, specifically in support of the substituted language that will clarify that insurance-funded prearranged funeral contracts are permitted as an alternative to escrow funding.

Homesteaders, along with a coalition of preneed insurers, requests that language reflecting that insurance funded prearranged funeral contracts are allowed in the state of Connecticut be inserted into Section 42-200 of the Connecticut Statutes and corresponding statutes.

Insurance funded prearranged funeral contracts have always been allowed in the state of Connecticut, however there has been confusion recently based upon misinterpretation by some regulators and funeral home inspectors. Section 42-200 currently only identifies one funding mechanism, escrow funding. This leads to confusion by consumers and industry providers. Insurance funding is currently allowed and controlled by insurance statutes and regulations, however it has become difficult throughout the past few years to overcome the confusion of consumers, regulators and the industry providers. To overcome this confusion we are requesting that clarifying language be placed in Section 42-200.

Insurance funded prearranged funeral contracts are not a new concept. They are allowed in all states except New York and Maine. In 2011, almost \$2 billion was written in insurance funded prearranged funeral contracts. It is an alternative favored by regulators throughout the United States due to the protections afforded by the extensive network of state life insurance guaranty associations.

Homesteaders, therefore submits testimony in support of House Bill 5498.

Sincerely,

Tracy A. Kelly

/tk

March 15, 2012

Public Health Committee
Legislative Office Building
Hartford, CT

Re: Raised Bill #5498, An Act Concerning Changes To The Funeral Service Statutes

Good morning.

My name is Daniel P. Jowdy of Danbury, CT, a licensed embalmer and current Chair of the CT Board of Embalmers and Funeral Directors (the State Board).

I am in favor of Raised Bill # 5498 in part and request the one section be considered in the next session of the General Assembly and one part be considered for revision.

Sec. 3, Section 20-230-a currently maintains a higher requirement of funeral directors in dealing with the general public that amending the section to consider the Federal Trade Commission Standard referred to a 16 CFR 453.2 which relaxes the current standard that Connecticut adheres to than the Federal Standard. This is an area of needed review by the Department of Health, Department of Consumer Protection and Office of the Attorney General.

Sec. 2, Subsection (g) of section 20-222, does not make reference to a current Public Act which needs to be incorporated in this piece of legislation. Notification must be made through public media as well. Very often, residents of nursing homes and elderly are moved from one nursing home to another or are taken in by family members, although required in pre-need to notify the funeral home that hold preneed they don't. Therefore, it would be necessary to follow the Public Act which mandates funeral homes that move records from one location to another for reasons of incorporating, merging and curtailing business to serve notice to the general public via the newspaper most widely read in that area two times at least 7 to 10 days apart of the transfer of the records. Nor does it make provisions for any state agency that is involved with funeral homes have access and be able to inspect the records if need be during normal business hours. This too needs to be revamped to allow for the provisions that would be affected by this legislation as it presently raised.

Good and viable legislation but these two parts certainly need fine tuning not to affect present legislation.

I request these two parts be withdrawn for further review and language.

Sincerely,

Daniel P. Jowdy, Chairman



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

**TESTIMONY PRESENTED BEFORE THE COMMITTEE ON PUBLIC HEALTH
March 16, 2012**

Jewel Mullen MD, MPH, MPA, Commissioner, (860) 509-7101

House Bill 5498 – AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES

The Department of Public Health opposes Section 2 of House Bill 5498

Currently, funeral homes are required to store all records relating to contracts for funeral services, prepaid funeral service contracts or escrow accounts, as well as copies of death certificates, burial permits, authorizations for cremation, documentation of receipt of cremated remains and written agreements used in making arrangements for final disposition of dead human bodies, including, but not limited to, copies of the final bill and other written evidence of agreement or obligation furnished to consumers on-site at the funeral home in which these services were provided. Section 2 of House Bill 5498 would allow funeral homes to relocate these records and store them at the address of another funeral service business in the state that is owned by the same person or corporation identified on the certificate of inspection.

The requirement that records be maintained on-site at the funeral home where services are provided was inserted into the statute at the request of the Department in 2007, primarily to ensure that such records are available to be reviewed at the time of each funeral home's unannounced annual inspection and at any other time the department conducts an inspection or investigation. Implementation of this proposal would negatively impact the department in that records may not be available at the time of unannounced visits and would require the inspector to make a second visit to another funeral home, either on that day or depending on other variables such as time of day or distance between the two funeral homes, on another day. The department has not been made aware of any issues related to the storage of records on-site at the funeral home in which services were provided.

The Department does not oppose sections 1, 3 and 4.

Thank you for your consideration of the Department's views on this bill

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

**VOL. 55
PART 9
2639 - 2991**

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SENATE

313
May 3, 2012

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Calendar page 11, Calendar 389, House Bill 5318.
Madam President, move to place this item on the
consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 13, Calendar 400, House
Bill 5515, Madam President, move to place this item on
the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

On calendar page 14, Calendar 407, House Bill 5484,
Madam President, move to place that item on the
consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

And calendar page 15, Calendar 409, House Bill 5498,
move to place this item on the consent calendar.

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SENATE

314
May 3, 2012

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

And a final item is on calendar page 25, Calendar 112, Senate Bill 61, move to place that item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk would now read the items on the consent calendar, both these just added and the ones placed on it earlier today, and then if we might move to a vote on the consent calendar.

THE CHAIR:

Absolutely.

Mr. Clerk, will you please call the calendar first, the consent calendar.

THE CLERK:

On calendar page 1, Calendar 106, Senate Bill 316; page 3, Calendar 235, House Bill 5030; on page 6, Calendar 315, Senate Bill 367; on page 9, Calendar 363, House Bill 5073; on page 10, Calendar 377, House Bill 5346; on page 11, Calendar 39, House Bill 5318; on page 13, Calendar 400, House Bill 5515; and on page 14, Calendar 407, House Bill 5484.

On page 15, Calendar 409, House Bill 5498; page 25, Calendar 178, Senate Bill 384. On page 25, Calendar 112, Senate Bill 61; page 26, Calendar 202,

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May 3, 2012

Senate Bill 383; page 27, Calendar 280, Senate
Bill 345. And on page 29, Calendar 352, Senate
Bill 353.

THE CHAIR:

Okay. All right.

Mr. Clerk, will you please call for a roll call vote on the consent calendar, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll
call has been ordered in the Senate.

THE CHAIR:

Have all members voted?

If all members voted, the machine will be locked.

Mr. Clerk, will you call the tally.

THE CLERK:

On today's consent calendar.

Total Number voting	36
Necessary for passage	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The consent calendar passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

First of all, of the matters referred to committee earlier, would move that those items be immediately