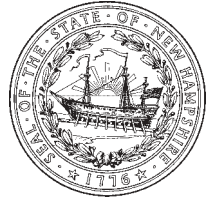


STATE OF NEW HAMPSHIRE

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SENATE JOURNAL 9 (*Cont.*)



March 20, 2003

Out of Recess.

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 517, relative to the classification of certain roads in the town of Hillsborough and transferring ownership of any residual interest in a certain parcel of property from the state to the city of Keene.

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 10

March 27, 2003

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, Chaplain to the Senate, offered the prayer.

Gracious God, we pray today especially for all who are in danger; for those who tell us their stories and for the leaders who must make the decisions. May Your wisdom, Your protection, Your purposes and Your love be deeply embedded in all our actions, all our words and all our lives. Amen.

Senator Peterson led the Pledge of Allegiance.

Senator Prescott is excused for the day.

INTRODUCTION OF GUESTS MOTION OF RECONSIDERATION

Senator Clegg, having voted with the prevailing side, moved reconsideration on **SB 222-FN-A**, relative to motor vehicle fees, whereby it was re-referred to committee.

Adopted.

SB 222-FN-A, relative to motor vehicle fees.

Senator Clegg moved ought to pass.

Adopted.

Referred to the Finance Committee (Rule #26).

COMMITTEE REPORTS

SB 122, relative to the regulation of first mortgage brokers. Banks Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Banks

March 19, 2003

2003-0855s

06/01

Amendment to SB 122

Amend RSA 397-A:3, II as inserted by section 1 of the bill by replacing it with the following:

II. At any location for which a license is sought, a mortgage broker shall have a person with supervisory authority over the brokerage activities who has at least 3 years experience within the last 5 years in the mortgage lending or mortgage brokerage business; provided, such experience requirements shall not apply to any person whose license was renewed before the effective date of this paragraph.

2003-0855s

AMENDED ANALYSIS

This bill requires anyone applying for a new license as a first mortgage broker to have a supervisor with at least 3 years recent experience at any location for which a license is sought.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 178, relative to guaranty funds. Banks Committee. Ought to Pass, Vote 2-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

Senator Flanders Rule #42 on SB 178.

SB 179-FN-A, relative to positions in the banking department. Banks Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SB 180, making certain changes in the banking laws. Banks Committee. Ought to Pass, Vote 5-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 181, relative to investigations by and license revocation appeals to the board of trust company incorporation. Banks Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SB 80, relative to vocational education and the automotive technology curriculum. Education Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Senate Education

March 20, 2003

2003-0916s

05/04

Amendment to SB 80

Amend the bill by replacing section 3 with the following:

3 New Subdivision; Automotive Technology Curriculum and Advisory Council. Amend RSA 188-E by inserting after section 17 the following new subdivision:

Automotive Technology Curriculum and Advisory Council

188-E:18 Automotive Technology Curriculum; Funding.

I. The department of education shall develop and implement an automotive technology curriculum in the regional career and technology education centers to provide statewide opportunities for high school students interested in careers in the automotive industry to enroll in a high quality automotive technology curriculum.

II. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to course content, curricular requirements, and general procedures for implementing the automotive technology curriculum. At a minimum, the curriculum shall include standards established by the National Automotive Technicians Education Foundation (NATEF).

III. In developing and implementing an automotive technology curriculum, the efforts of the department of education shall complement existing public and private actions, and shall include the pursuit of innovative public-private partnerships with businesses, nongovernmental organizations, the community-technical college system, and other appropriate groups. Such partnerships shall at a minimum consist of a 50/50 match of public and private funds, or like kind compensation.

(a) Funding shall not exceed \$5,000 per automotive technology program or \$90,000 in total non-lapsing appropriations in a fiscal year. Such funding shall be used exclusively to assist an automotive technology program in obtaining or maintaining NATEF certification and may include instructor professional development, including ASE certification, automotive laboratory equipment, hand tools, maintenance of equipment or tools, learning resources, multimedia periodicals, and any other items deemed necessary to assist an automotive technology program in obtaining or maintaining NATEF certification.

(b) Automotive technology programs that will meet certification requirements within 2 years shall be given priority for funding. All other programs not eligible to be certified within the first 2 years shall be eligible for any remaining funding.

IV. When appropriate, the department of education shall include in its biennial capital budget request funding for the planning, construction, and renovation of equipment necessary for the operation of automotive technology curriculum in the regional vocational education centers.

V. Regional career and technology education centers which implement the automotive technology curriculum shall be responsible for maintaining the program with funding requests made through the budgetary cycle

VI. Existing or new technical education centers that provide automotive technology education shall obtain program certification pursuant to paragraph II of this section prior to becoming eligible to receive state renovation and construction funds. All documentation relating to program certification shall be submitted to the automotive technology advisory council established in RSA 188-E:19 for approval prior to release of any such funding.

Amend RSA 188-E:20, I and II(a) as inserted by section 3 of the bill by replacing them with the following:

I. The members of the advisory council shall be as follows:

(a) One member of the house of representatives, appointed by the speaker of the house.

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

(c) The commissioner of the department of education, or designee.

(d) The commissioner of the regional community-technical college system, or designee.

(e) One automotive instructor teaching in the community-technical college system, appointed by the governor and council.

(f) One secondary education career technical education administrator, appointed by the governor and council.

(g) Four members of the New Hampshire Automobile Dealers Association, appointed by the governor and council.

II.(a) The term of office for each member appointed under subparagraphs I(e), I(f) and I(g) shall be 3 years, or until a successor is appointed and qualified in the case of a vacancy. The term of office for all other members shall be coterminous with the term of office for the position that qualifies that member to serve on the advisory council. A vacancy shall be filled in the same manner, but only for the unexpired term.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 107-FN-A-L, establishing a statewide education accountability system. Education Committee. Ought to pass with amendment, Vote 3-2. Senator O'Hearn for the committee.

Senate Education

March 20, 2003

2003-0915s

05/04

Amendment to SB 107-FN-A-LOCAL

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

1 Policy and Purpose. The general court finds that a statewide accountability system needs to be established to assure that public schools are providing all students an opportunity to receive an adequate public education as set forth in RSA 193-E:1-2. A comprehensive, statewide educational accountability system should include:

I. Statewide performance goals for all schools.

II. Systematic measurement of school performance at the state and local level using multiple valid measures.

III. Reporting on pupil performance at the school, school district, and state levels.

IV. The opportunity for schools that are not making satisfactory progress toward statutory performance goals to receive assistance from the state, including assistance with the development, implementation, and evaluation of local education improvement and assessment plans designed to meet state goals and any performance goals developed locally to meet identified educational needs.

V. A statewide system of recognition of achievement for schools that meet or exceed school performance and accountability goals and strategic responses for schools that do not meet these goals.

2 Adequate Public Education; Reporting on the Delivery of Education. RSA 193-E:3 is repealed and reenacted to read as follows:

193-E:3 Reporting on the Delivery of Education.

I. By August 1, 2003, and annually thereafter, each school district shall report data to the department of education, at the school and district levels for the previous school year, on the following indicators, provided that the department shall develop a reasonable schedule to phase-in the reporting of data that is not being collected systematically during school year 2002-2003:

(a) Numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, and economically disadvantaged pupils.

(b) Pupil mobility rates calculated as the percentages of pupils who transfer into or out of a school each year. These percentages shall not include pupils who enter the school on opening day at the lowest grade in the school or pupils who leave the school upon completion of the highest grade in the school.

(c) Attendance and dropout rates.

(d) Performance on statewide tests administered pursuant to RSA 193-C:3, IV(i) including the percentage of pupils reading at grade level on the reading component of the grade 3 statewide educational assessment and performance on any other standardized tests administered at local option.

(e) Percentage of graduating pupils going on to post-secondary education and military service.

(f) Number and percentage of all courses being taught outside of the educator's certification area.

(g) Teacher and administrator turnover rates at the school and district levels.

II. By August 1, 2003, and annually thereafter, each school district shall report to the department of education data at the school and district levels for the previous school year.

III. The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

IV. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in paragraph I and all enrollment and cost data related to determining the cost of an adequate education. The department shall request funds as part of its biennial operating budget to develop, update, and maintain the required forms and programs.

V. Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles." It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement and assessment plan.

3 New Chapter; School Performance and Accountability. Amend RSA by inserting after chapter 193-F the following new chapter:

CHAPTER 193-G SCHOOL PERFORMANCE AND ACCOUNTABILITY

193-G:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of education.

II. "Department" means the department of education.

III. "NHEIAP" means the New Hampshire education improvement and assessment program as established under RSA 193-C.

193-G:2 Statewide Performance Goals.

I. All pupils shall perform at grade level on the reading component of the statewide assessment administered in grade 3. The department shall provide an assessment of each third grade pupil's reading ability. Such assessment shall take into account the need to evaluate students with disabilities, students whose native language is other than English, minority students, students of low income households.

II. Schools shall make adequate yearly progress on the statewide tests administered annually.

III. Schools shall meet statewide targets relative to retention rate.

IV. Schools shall meet statewide targets relative to the percentage of pupils who graduate with a regular diploma from an approved high school.

193-G:3 Local School Improvement.

I. The commissioner shall annually compile and disseminate to the governor and council, the president of the senate, the speaker of the house, local school boards, superintendents of schools, the public, and shall make available on the department website, a list of schools that are not meeting the statewide performance goals set forth in this section.

II. The department shall provide technical assistance to the school districts upon request of the district.

193-G:4 State Assistance to Local School Districts; Education Improvement Fund Established.

I. There is hereby established a local education improvement fund in the state treasury for the purpose of providing assistance to local school districts. This fund shall be non-lapsing.

II.(a) The department of education is authorized to use the amount transferred to the education improvement fund, in addition to any available federal funds for similar purposes, for any of the following purposes:

- (1) To support and administer the local education improvement plan program.
- (2) To collect, analyze, and report the demographic and educational improvement data.
- (3) To administer the grade 3 reading component of the assessment program.
- (4) To assist local school staff with the analysis and use of school performance data.
- (5) To provide grants as available to school districts for local school improvement.
- (6) To provide a system of annual recognition to identify best practices and promote school improvement.

(b) For the biennium beginning July 1, 2003, and every biennium thereafter, appropriations from the fund shall be authorized by the legislative fiscal committee and the governor and council.

(c) Moneys transferred to the education improvement fund shall not be transferred, diverted, or used for any purpose not specified in this section.

III. The priority for the use of any state funds shall be given to lower-performing non Title I schools.

193-G:5 Powers of the Department of Education. Nothing in this chapter shall be construed to permit either the department of education to take control of the daily operations of any local public school.

4 Statewide Education Improvement and Assessment Program; Local Education Improvement and Assessment Plans and Strategic Responses. RSA 193-C:9, I is repealed and reenacted to read as follows:

I.(a) As a strategic response to meeting statewide performance goals, each school district appearing on the list required under RSA 193-G:3, I, shall develop and implement a local education improvement and assessment plan. The plan shall be reviewed annually and shall be included in the school district's annual report. The development and implementation of the plan and review shall be carried out with input from administrators, teachers, parents, employers, and other community members. The plan shall be approved by the local school board by December 31 of the year in which a school is designated as not meeting adequate yearly progress. At a minimum, each plan shall identify and set forth objectives for the school or each school in the district to achieve, including:

- (1) Objectives for improved pupil performance in each of the statewide performance goals.
- (2) Local assessment measures which focus on individual student performance.
- (3) The use of local and statewide assessment results to improve instruction and enhance student learning.
- (4) Methods for reporting the results of all assessment measures.
- (5) Strategies to promote family and community involvement.
- (6) Procedures detailing how the school district budget reflects the goals of the plan.

(b) In addition to the provisions of subparagraph I(a), each plan may include the following elements:

- (1) Curriculum and proficiency standards.
- (2) School and district performance goals based on reported data on educational indicators listed in paragraph II of this section.
- (3) Procedures for aligning curriculum and instructional practices.

- (4) Role of support services and programs.
- (5) Role of instructional leadership.
- (6) Staff supervision and evaluation and performance-based professional development.
- (7) Pupil behavior and conduct codes.
- (8) Provisions for addressing individual school needs.

5 New Subparagraphs; Statewide Education Improvement and Assessment Program; Program Goals Amended. Amend RSA 193-C:3, IV by inserting after subparagraph (h) the following new subparagraphs:

(i) At the end of grade 3, to determine if pupils are reading at grade level on a standardized reading test to be developed by the department as part of a statewide assessment system.

(j) At the school, district, and state levels, to provide performance reports on specific subgroups of pupils as required by federal law.

6 New Subparagraph; State Board of Education; Rulemaking. Amend RSA 21-N:9, II by inserting after subparagraph (bb) the following new subparagraph:

(cc) School accountability and performance standards and strategic responses, as required by applicable federal law and in accordance with RSA 193-G.

7 Statewide Education Improvement and Assessment; Duties of the Legislative Oversight Committee. RSA 193-C:8 is repealed and reenacted to read as follows:

193-C:8 Duties of the Legislative Oversight Committee. The committee shall:

I. Review the development and implementation of the program to ensure that they are in accordance with legislative policy. Implementation of the program shall be in conjunction with the committee's review.

II. Review the provisions of RSA 193-G and submit a report of such review every 2 years after the effective date of this section to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate education committees.

III. Prepare legislation that is needed as a result of the review of the progress and results of the policies implemented under this chapter.

IV. Confer with the commissioner and the state board of education to identify operational principles, which should guide the work of the department of education in supporting improved school performance and accountability.

V. Analyze existing department of education programs and initiatives which support improved school performance and accountability.

VI. Receive reports from the commissioner regarding the status of public education in New Hampshire, updates on the improvement made by local school districts toward achieving satisfactory progress in statewide student performance under RSA 193-G:2 and status reports on the on-going issues and implications of school accountability at the state and federal level. Reports by the commissioner shall occur at least once annually and more frequently as needed, as determined by the committee and the commissioner.

8 Repeal. The following are repealed:

I. RSA 194:23-d, relative to state financial aid.

II. Section 9 of this act, relative to the department of education investigation of gains-based testing.

9 Department of Education; Gains-Based Testing. The commissioner of the department of education shall investigate the feasibility of gains-based testing in meeting the needs of a statewide testing program. The commissioner shall report all findings and recommendations to the house and senate education committees no later than November 1 of each year.

10 Effective Date.

I. Paragraph II of section 8 of this act shall take effect June 30, 2005.

II. The remainder of this act shall take effect July 1, 2003.

2003-0915s**AMENDED ANALYSIS**

This bill establishes a statewide education accountability system which includes school performance standards, the creation of an education improvement fund, and the development of a local school improvement plan in each school district.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 124, establishing a family-community involvement program. Education Committee. Inexpedient to Legislate, Vote 3-2. Senator Green for the committee.

Committee report of inexpedient to legislate is adopted.

SB 132-FN-A, extending the Parents as Teachers program in Sullivan county and making an appropriation therefor. Education Committee. Ought to pass with amendment, Vote 5-0

Senator O'Hearn for the committee.

Senate Education
March 20, 2003
2003-0918s
05/04

Amendment to SB 132-FN-A

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

2 Parents As Teachers Program; Reference to Department of Health and Human Services Replaced with Department of Education. Amend the introductory paragraph of RSA 193:35, I to read as follows:

I. The department of [~~health and human services~~] **education** shall establish the school district based Parents as Teachers Program for a rural community in Sullivan county in cooperation with School Administrative Unit 6 and the Parent Information Center. Sullivan county will be the rural site for the program because of its unique demographic profile, including the high number of risk factors affecting its children, the demonstrated interest of its public officials in the program, and the capacity to link the program to existing programs within the county including Good Beginnings, the Parent Information Center, and department of [~~health and human services~~] **education** programs in Sullivan county. The department shall use the following criteria to measure the effectiveness of the program:

3 Parents As Teachers Program; Rulemaking; Reference to Department of Health and Human Services Replaced with Department of Education. Amend RSA 193:36 to read as follows:

193:36 Rulemaking. The commissioner of [~~health and human services~~] **the department of education** shall adopt rules, pursuant to RSA 541-A, necessary to carry out the provisions of this subdivision.

4 Parents as Teachers; Report and Recommendation; Information from Department of Education. Amend RSA 193:37 to read as follows:

193:37 Report and Recommendation. On or before October 1, 2004, the department of health and human services shall prepare and submit to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate education committees an evaluation and report of the school district based Parents as Teachers Programs established pursuant to this subdivision, and recommendations for the expansion of the program statewide. The evaluation and report shall incorporate the criteria set forth in RSA 193:35, I and shall include an assessment of the program's effectiveness based on those criteria. ***The department of education shall provide the department of health and human services with information on the Parents as Teachers Program from the date of transfer of the program through September 30, 2004, for the purposes of preparing the report.***

5 Effective Date. This act shall take effect July 1, 2003.

2003-0918s**AMENDED ANALYSIS**

This bill extends the Parents as Teachers Program through the fiscal year ending June 30, 2005 and makes an appropriation for the program.

The bill also transfers responsibility for the Parents as Teachers Program from the department of health and human services to the department of education.

Amendment adopted.**Question is on the adoption of the bill as amended.****Adopted.****Referred to the Finance Committee (Rule #26).**

SB 63-FN-A-L, relative to establishing community reinvestment areas and granting business tax credits for investments in community reinvestment area projects. Energy and Economic Development Committee. Ought to Pass, Vote 5-0. Senator Gallus for the committee.

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

SB 73, establishing a committee to study establishing enterprise zones in economically deprived or challenged communities. Energy and Economic Development Committee.

Ought to pass with amendment, Vote 4-0. Senator Gallus for the committee.

Energy and Economic Development**March 19, 2003****2003-0882s****09/04****Amendment to SB 73**

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

AN ACT establishing a committee to study establishing enterprise zones in economically deprived or challenged communities, and relative to the Black Brook Park Tax Increment Finance District.

Amend the bill by replacing section 6 with the following:

6 Black Brook Corporate Park Tax Increment Financing District. Notwithstanding the provisions of RSA 162-K:5, or any other law, the boundaries of the Black Brook Corporate Tax Increment Financing District located in Keene, Cheshire county, New Hampshire, established by Resolution R-95-6, of the Keene city council are hereby amended and expanded, by adding the following described parcel of land:

Being all the area located southwesterly of the northeasterly bound of the discontinued portion of the existing Summit Road as discontinued by the city council of the city of Keene on November 21, 2002, by Resolution R-2002-40A, and northeasterly of the southwesterly bound of the altered Summit Road as laid out by the city council of the city of Keene on November 21, 2002, by Resolution R-2002-42-B.

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

2003-0882s**AMENDED ANALYSIS**

This bill establishes a committee to study establishing enterprise zones in economically deprived or challenged communities.

The bill also expands the boundaries of the Black Brook Corporate Tax Increment Financing District located in Keene.

Amendment adopted.**Question is on the adoption of the bill as amended.****Adopted.****Ordered to third reading.**

SB 151-FN-A-L, relative to the taxation of telecommunications poles and conduits. Energy and Economic Development Committee. Re-refer to committee, Vote 3-0. Senator Odell for the committee.

MOTION TO TABLE

Senator Green moved to have **SB 151-FN-A-L** laid on the table.

Adopted.

LAID ON THE TABLE

SB 151-FN-A-L, relative to the taxation of telecommunications poles and conduits.

SB 170, relative to Public Service of New Hampshire. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-1. Senator Below for the committee.

Energy and Economic Development

March 19, 2003

2003-0888s

08/04

Amendment to SB 170

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

1 Repeal. 2000, 249:7, II as amended by 2001, 29:13, relative to the sale of PSNH assets, is repealed.

2 Authority to Issue Finance Orders to Finance RRB Costs. Amend RSA 369-B3, IV (b)(1)(A) to read as follows:

(1)(A) From competition day until the completion of the sale of PSNH's ownership interests in fossil and ~~[entitlement interests in nuclear]~~ **hydro** generation assets located in New Hampshire, PSNH shall supply all, except as modified pursuant to RSA 374-F:3, V(f), transition service and default service offered in its retail electric service territory from its generation assets and, if necessary, through supplemental power purchases in a manner approved by the commission. ~~[Once PSNH is no longer supplying transition service, to the extent applicable, any provider or providers of transition service shall have been chosen through a competitive bid process, administered by the commission, to provide such service or as determined under RSA 374-F:3, V(e). The commission may, if it finds it to be in the public interest, divide the competitive bid process into multiple categories or multiple competitive bids;]~~ **The price of such default service shall be PSNH's actual, prudent, and reasonable costs of providing such power, as approved by the commission.**

3 Authority to Issue Finance Orders to Finance RRB Costs; Cost Reconciliation. Amend RSA 369-B:3, IV(b)(1)(D) to read as follows:

(D) Any difference between the price of transition service, exclusive of the portion attributable to the renewable energy component under RSA 374-F:3, V(f), from competition day to the day that PSNH ceases to provide transition service and PSNH's actual, prudent, and reasonable costs of providing such power as determined by the commission shall first be separated between the 2 groups of customers described in subparagraphs (b)(1)(B) and (b)(1)(C), used first to offset any differences described in subparagraph (b)(1)(B), and the net then reconciled for each group of customers either by changing the recovery end date, or by decreasing the stranded cost recovery charge, **or if the recovery and date has passed, by implementing some other form of equitable reconciliation**, as the commission finds to be in the public interest;

4 New Section; Divestiture of PSNH Assets. Amend RSA 369-B by inserting after section 3 the following new section:

369-B:3-a Divestiture of PSNH Generation Assets. The sale of PSNH fossil and hydro generation assets shall not take place before April 30, 2006. Notwithstanding RSA 374:30, subsequent to April 30, 2006, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest of retail customers of PSNH to do so, and provides for the cost recovery of such modification or retirement.

5 Effect on Finance Order. The provisions of this act shall amend the specific provisions of public utilities commission Order No. 23,550, approving the issuance of rate reduction bonds, issued by the public utilities

commission in Docket No. DE 99-099. All provisions of RSA 369-B, including the amendments made by this act, and all provisions of commission Order No. 23,550, as amended by this act, shall remain in full force and effect and are hereby ratified and confirmed in all respects. The provisions of this act shall not affect the validity, effectiveness, or finality of commission Order No. 23,550, or the validity of any rate reduction bonds issued thereto. The general court finds that commissioner Order No. 23,550, as amended by this act, satisfies all of the conditions and requirements of RSA 369-B, as amended, including without limitation, RSA 369-B:3, IV, and is deemed to be authorized and issued pursuant to RSA 369-B, as amended, and that the implementation of such order, as amended, is in the public interest.

6 The legislative oversight committee on electric utility restructuring established by RSA 374-F:5 shall submit a report no later than November 1, 2004, to the governor, the senate president, the speaker of the house, the senate energy and economic development committee, the house science, technology and energy committee, the state library, and the public utilities commission, recommending legislation to address the provision of transition service and default service subsequent to April 30, 2006. In preparing the report, the committee shall consider the amount and volatility of wholesale and retail electricity prices in New Hampshire and throughout New England; the viability and number of competitive electric suppliers providing service in New Hampshire and throughout New England for different customer classes; the risks, costs, and benefits associated with different options for all electric utilities' continued provision of transition service; and other policy options to promote competition, low-cost energy, and renewable power.

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

2003-0888s

AMENDED ANALYSIS

This bill restricts PSNH from selling assets during the transition service period.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

March 27, 2003

2003-1008s

08/04

Floor Amendment to SB 170

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

1 Repeal. 2000, 249:7 as amended by 2001, 29:13, relative to the sale of PSNH assets, is repealed.

2 Authority to Issue Finance Orders to Finance RRB Costs. Amend RSA 369-B:3, IV (b)(1)(A) to read as follows:

(1)(A) From competition day until the completion of the sale of PSNH's ownership interests in fossil and ~~[entitlement interests in nuclear]~~ **hydro** generation assets located in New Hampshire, PSNH shall supply all, except as modified pursuant to RSA 374-F:3, V(f), transition service and default service offered in its retail electric service territory from its generation assets and, if necessary, through supplemental power purchases in a manner approved by the commission. ~~[Once PSNH is no longer supplying transition service, to the extent applicable, any provider or providers of transition service shall have been chosen through a competitive bid process, administered by the commission, to provide such service or as determined under RSA 374-F:3, V(e). The commission may, if it finds it to be in the public interest, divide the competitive bid process into multiple categories or multiple competitive bids;]~~ **The price of such default service shall be PSNH's actual, prudent, and reasonable costs of providing such power, as approved by the commission, provided that such price for residential service customers shall not exceed \$.050 per kilowatt-hour prior to April 30, 2006 or the recovery end date in the April 19 order, whichever comes first.**

3 Authority to Issue Finance Orders to Finance RRB Costs; Cost Reconciliation. Amend RSA 369-B:3, IV(b)(1)(B)(ii) to read as follows:

(ii) From initial transition service end day to the day that PSNH ceases to provide transition service, the price of transition service shall be PSNH's actual, prudent, and reasonable costs of providing such power, as approved by the commission, **provided that such price shall not exceed \$.050 per kilowatt-hour prior to April 30, 2006 or the recovery end date described in the April 19 order, whichever comes first,** to-

gether with, for those customers choosing a renewable energy transition service option under RSA 374-F:3, V(f), the price of the renewable energy component. Thereafter, the price of transition service, if offered, shall be the competitively bid price for transition service, or as determined under RSA 374-F:3, V(e), together with, for those customers choosing a renewable energy transition service option under RSA 374-F:3, V(f), the price of the renewable energy component;

4 Authority to Issue Finance Orders to Finance RRB Costs; Cost Reconciliation. Amend RSA 369-B:3, IV(b)(1)(D) to read as follows:

(D) Any difference between the price of transition service, exclusive of the portion attributable to the renewable energy component under RSA 374-F:3, V(f), from competition day to the day that PSNH ceases to provide transition service and PSNH's actual, prudent, and reasonable costs of providing such power as determined by the commission shall first be separated between the 2 groups of customers described in subparagraphs (b)(1)(B) and (b)(1)(C), used first to offset any differences described in subparagraph (b)(1)(B), and the net then reconciled for each group of customers either by changing the recovery end date, or by decreasing the stranded cost recovery charge, ***or if the recovery and date has passed, by implementing some other form of equitable reconciliation***, as the commission finds to be in the public interest;

5 New Section; Divestiture of PSNH Assets. Amend RSA 369-B by inserting after section 3 the following new section:

369-B:3-a Divestiture of PSNH Generation Assets. The sale of PSNH fossil and hydro generation assets shall not take place before April 30, 2006. Notwithstanding RSA 374:30, subsequent to April 30, 2006, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest of retail customers of PSNH to do so, and provides for the cost recovery of such modification or retirement.

6 Effect on Finance Order. The provisions of this act shall amend the specific provisions of public utilities commission Order No. 23,550, approving the issuance of rate reduction bonds, issued by the public utilities commission in Docket No. DE 99-099. All provisions of RSA 369-B, including the amendments made by this act, and all provisions of commission Order No. 23,550, as amended by this act, shall remain in full force and effect and are hereby ratified and confirmed in all respects. The provisions of this act shall not affect the validity, effectiveness, or finality of commission Order No. 23,550, or the validity of any rate reduction bonds issued thereto. The general court finds that commissioner Order No. 23,550, as amended by this act, satisfies all of the conditions and requirements of RSA 369-B, as amended, including without limitation, RSA 369-B:3, IV, and is deemed to be authorized and issued pursuant to RSA 369-B, as amended, and that the implementation of such order, as amended, is in the public interest.

7 Report. The legislative oversight committee on electric utility restructuring established by RSA 374-F:5 shall submit a report no later than November 1, 2004, to the governor, the senate president, the speaker of the house, the senate energy and economic development committee, the house science, technology and energy committee, the state library, and the public utilities commission, recommending legislation to address the provision of transition service and default service subsequent to April 30, 2006. In preparing the report, the committee shall consider the amount and volatility of wholesale and retail electricity prices in New Hampshire and throughout New England; the viability and number of competitive electric suppliers providing service in New Hampshire and throughout New England for different customer classes; the risks, costs, and benefits associated with different options for all electric utilities' continued provision of transition service; and other policy options to promote competition, low-cost energy, and renewable power.

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

2003-1008s

AMENDED ANALYSIS

This bill restricts PSNH from selling assets during the transition service period.

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 230, relative to transition service and relative to the sale of PSNH generation assets. Energy and Economic Development Committee. Re-refer to committee, Vote 4-1. Senator Below for the committee.

Committee report of re-refer is adopted.

SCR 3, urging maintenance of funding for the Low Income Home Energy Assistance Program. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-0. Senator Below for the committee.

Energy and Economic Development

March 20, 2003

2003-0910s

05/03

Amendment to SCR 3

Amend the resolution by replacing all after the title with the following:

Whereas, New Hampshire's federal allocation of the Low Income Home Energy Assistance Program (LIHEAP) is used to operate the statewide fuel assistance program, which provides benefits to qualified New Hampshire residents, such as low-income elderly, disabled, and low-income working households, to assist with paying their energy bills during the winter season. The fuel assistance program also helps New Hampshire residents in a heating emergency by securing an emergency delivery of fuel, delaying a shut-off notice, or referring individuals to another source of assistance; and

Whereas, fuel costs for this winter have proven to be higher than expected and higher than last winter, while the average temperature thus far this winter has been colder than usual; and

Whereas, during the 2001-2002 heating season, New Hampshire received \$13.2 million in LIHEAP funds based upon a \$1.7 billion federal appropriation. With these funds, New Hampshire assisted 24,876 low-income households, but was not able to provide full benefits to all income-eligible seniors and working poor families that requested assistance; and

Whereas, New Hampshire's fuel assistance program made numerous programmatic changes prior to this winter to further maximize federal LIHEAP dollars this winter season, including reducing income eligibility levels and reducing benefits amounts. In spite of these efforts, sufficient federal funds do not exist to serve all eligible New Hampshire residents who request assistance; and

Whereas, states are developing new and innovative ways to stretch available program resources, including the use of pre-purchase programs during the summer months that are not adequately supported by the current program legislation; and

Whereas, last winter many low-income residents unnecessarily suffered and took extreme and dangerous measures to stay warm. Results of a 2002 winter survey of New Hampshire's low-income residents identified disturbing facts which include that 16.4 percent of the over 900 respondents, many of whom are elderly, disabled, facing severe medical problems, or caring for small children, used dangerous alternatives to heat their homes, such as space heaters or ovens. Another 7.3 percent of the respondents indicated they went without medical care or medicine; and

Whereas, the current authorization level, set at \$2 billion, is not sufficient to meet the current need for program assistance as a result of rising unemployment and poverty levels and continuing volatility in energy pricing; and

Whereas, uncertainty in appropriations due to the lack of advance funding has made it more difficult for the states to set program eligibility levels and take advantage of program buying opportunities; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the general court hereby urges the New Hampshire congressional delegation to support:

- I. Extending LIHEAP's authorization through fiscal year 2008;
- II. Maintaining the current funding formula and hold-harmless provisions in order to maintain adequate funding levels for the region's programs;
- III. Increasing the authorization level to \$3.4 billion; and
- IV. Allowing states to draw-down funds prior to the start of the winter hearing season in order to take advantage of pre-purchase and other discount programs; and

That copies of this resolution be forwarded by the senate clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the New Hampshire congressional delegation.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Johnson, having voted with the prevailing side, moved reconsideration on **SB 80**, relative to vocational education and the automotive technology curriculum, whereby it was referred to the Finance Committee.

Adopted.

SB 80, relative to vocational education and the automotive technology curriculum.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 2

March 27, 2003

2003-1012s

04/10

Floor Amendment to SB 80

Amend the bill by replacing section 3 with the following:

3 New Subdivision; Automotive Technology Curriculum and Advisory Council. Amend RSA 188-E by inserting after section 17 the following new subdivision:

Automotive Technology Curriculum and Advisory Council

188-E:18 Automotive Technology Curriculum; Funding.

I. The department of education shall develop and implement an automotive technology curriculum in the regional career and technology education centers to provide statewide opportunities for high school students interested in careers in the automotive industry to enroll in a high quality automotive technology curriculum.

II. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to course content, curricular requirements, and general procedures for implementing the automotive technology curriculum. At a minimum, the curriculum shall include standards established by the National Automotive Technicians Education Foundation (NATEF).

III. In developing and implementing an automotive technology curriculum, the efforts of the department of education shall complement existing public and private actions, and shall include the pursuit of innovative public-private partnerships with businesses, nongovernmental organizations, the community-technical college system, and other appropriate groups. Such partnerships shall at a minimum consist of a 50/50 match of public and private funds, or like kind compensation.

(a) Funding shall not exceed \$5,000 per automotive technology program or \$90,000 in total non-lapsing appropriations in a fiscal year. Such funding shall be used exclusively to assist an automotive technology program in obtaining or maintaining NATEF certification and may include instructor professional development, including ASE certification, automotive laboratory equipment, hand tools, maintenance of equipment or tools, learning resources, multimedia periodicals, and any other items deemed necessary to assist an automotive technology program in obtaining or maintaining NATEF certification.

(b) Automotive technology programs that will meet certification requirements within 2 years shall be given priority for funding. All other programs not eligible to be certified within the first 2 years shall be eligible for any remaining funding.

IV. When appropriate, the department of education shall include in its biennial capital budget request funding for the planning, construction, and renovation of equipment necessary for the operation of automotive technology curriculum in the regional vocational education centers.

V. Regional career and technology education centers which implement the automotive technology curriculum shall be responsible for maintaining the program with funding requests made through the budgetary cycle

VI. Existing or new technical education centers that provide automotive technology education shall obtain program certification pursuant to paragraph II of this section prior to becoming eligible to receive state renovation and construction funds. All documentation relating to program certification shall be submitted to the automotive technology advisory council established in RSA 188-E:19 for approval prior to release of any such funding.

188-E:19 Automotive Technology Advisory Council. There is established an automotive technology advisory council to advise the department of education in the implementation and expansion of the automotive technology curriculum, to assist the department of education in pursuing public and private funds in order to ensure statewide access for all public high school students to automotive technology curriculum coursework, and to review and make recommendations on all requests for automotive technology renovation projects presented pursuant to RSA 188-E:18, VI.

188-E:20 Membership and Terms.

I. The members of the advisory council shall be as follows:

- (a) One member of the house of representatives, appointed by the speaker of the house.
- (b) One member of the senate, appointed by the president of the senate.
- (c) The commissioner of the department of education, or designee.
- (d) The commissioner of the regional community-technical college system, or designee.
- (e) One automotive instructor teaching in the community-technical college system, appointed by the governor and council.
- (f) One secondary education career technical education administrator, appointed by the governor and council.
- (g) Four members of the New Hampshire Automobile Dealers Association, appointed by the governor and council.

II.(a) The term of office for each member appointed under subparagraphs I(e), I(f) and I(g) shall be 3 years, or until a successor is appointed and qualified in the case of a vacancy. The term of office for all other members shall be coterminous with the term of office for the position that qualifies that member to serve on the advisory council. A vacancy shall be filled in the same manner, but only for the unexpired term.

(b) The advisory council shall meet at least quarterly, and may meet more often at the call of the chair, or at the request of a majority of the members directed to the chair. The council may, by majority vote of the voting members, adopt additional bylaws as deemed necessary by the council.

(c) The council shall, at its annual meeting, elect one voting member to serve as chair for a one-year term, or until a successor is elected and qualified.

(d) No member shall receive any compensation for serving on the council, provided that the legislative members shall receive legislative mileage when in performance of their duties and the public members may receive compensation dependent upon the availability of funds, other than from the general fund.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 35, relative to the transfer and exchange of certain state-owned land for certain land owned by the Manchester water works. Environment Committee. Ought to pass with amendment, Vote 3-2. Senator Below for the committee.

Environment
March 19, 2003
2003-0885s
08/04

Amendment to SB 35

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

1 Statement of Purpose. The purpose of this act is to permit the exchange of a 7 acre parcel of land owned by the state of New Hampshire for a 16.3 acre parcel of land and a 14.6 acre parcel of land for a total of 30.9 acres of land owned by the city of Manchester, Manchester water works. Subject to the conditions in this act, this exchange will allow Manchester water works to acquire a site upon which to construct a new public water supply source at a future date for the city of Manchester and 6 towns in the surrounding region.

2 Findings.

I. The general court finds that the state of New Hampshire acquired an approximately 7 acre parcel of land formerly owned by Public Service Company of New Hampshire, located on the western side of the Merrimack River and fronting on Goonan Road and Kimball Drive (formerly Riverside Road) in Hooksett, New Hampshire. This 7 acre parcel having approximately 500 feet of river frontage was originally acquired under the land conservation investment program by the New Hampshire fish and game department for the purpose of developing a boat access to the Merrimack River. However, the department was able to fulfill this objective at Lambert Park, in Hooksett, New Hampshire, thereby satisfying the original intent of providing boat access to the Merrimack River. The 7 acre parcel is now held in public trust primarily as a roosting site for eagle habitat by the New Hampshire fish and game department.

II. The general court finds that the city of Manchester, Manchester water works, owns a 16.3 acre parcel of land on the easterly side of the Merrimack River having approximately 3945 feet of river frontage in Hooksett, New Hampshire, and a 14.6 acre parcel of land with 2334 feet of river frontage.

III. The general court finds that the city of Manchester, Manchester water works, will utilize the 7 acre parcel of land for significant public benefit to construct a Merrimack River intake pumping station, water treatment plant, and associated infrastructure to provide for the future water supply needs of the regional Manchester area with a long term plan that minimizes environmental impacts and maintains the integrity of the land conservation investment program.

IV. The general court finds this land exchange to be in the public interest as the land exchange will enhance the land conservation investment program as both parcels, the 16.3 acre and the 14.6 acre parcels of land to be exchanged by the city of Manchester, Manchester water works for the 7 acre parcel acquired under the land conservation investment program and currently managed by the fish and game department, will be managed as a roosting site for eagle habitat consistent with the original purpose of the 7 acre acquisition.

V. The general court finds that in this specific and unique instance, this act balances the public purposes of providing a suitable public drinking water supply source with the need to ensure that the public's investment in conservation lands through the land conservation investment program is not diminished.

3 Transfer and Exchange.

I. Subject to the conditions below, and notwithstanding the prohibitions in RSA 162-C:10, the general court hereby authorizes and approves the exchange of an approximately 7 acre parcel of land in Hooksett, New Hampshire, now owned by the state of New Hampshire under the land conservation investment program and held in public trust by the New Hampshire fish and game department, for the 2 parcels of land for a total of 30.9 acres owned by the city of Manchester, Manchester water works.

II. Prior to transfer or exchange of parcels, the fish and game department, in conjunction with the office of state planning, shall find that the following criteria have been satisfied:

(a) The conservation values and the location of the replacement property is reasonably equivalent to the 7 acre parcel;

(b) An appraisal of the 7 acre parcel and the replacement parcels has been conducted and based on the unencumbered fair market value according to land conservation investment program guidelines, the city of Manchester, Manchester water works shall make a payment to the state of New Hampshire equal to the difference between the value of the 7 acre parcel of land being acquired by the city of Manchester, Manches-

ter water works, and the value of the 2 parcels of land being transferred to the state of New Hampshire, provided, however, that if the 2 parcels of land have a value greater than the 7 acre parcel of land, no payment to the city of Manchester, Manchester water works shall be required. If the state of New Hampshire requires compensation for any difference in value between the parcels any such deposit by the city of Manchester, Manchester water works shall be made to the monitoring endowment established under RSA 162-C:8. The appraiser shall be selected by the state of New Hampshire, fish and game department, at the expense of the city of Manchester, Manchester water works;

(c) A conservation easement will be granted to the fish and game department on the non-built portion of the 7 acre parcel to protect wildlife habitat consistent with the intent of the original purchase by the land conservation investment program; and,

(d) A reverter clause shall be placed in the deed of the 7 acre parcel providing that the property revert back to the state of New Hampshire if the parcel is not used for public water supply purposes by the city of Manchester, Manchester water works.

(e) A reverter clause shall be placed in the deed of the 16.3 acre parcel of land and the 14.6 acre parcel of land providing that the property revert back to the city of Manchester, Manchester Water Works should the city of Manchester be unsuccessful in obtaining all state and federal permits for the development of an intake pumping station, water treatment plant, or associated infrastructure.

(f) In the event of reversion pursuant to subparagraphs (c) and (d) the state shall return any payment made by the city of Manchester under subparagraph (b).

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

MOTION TO TABLE

Senator Barnes moved to have **SB 35** laid on the table.

Adopted.

Senator Foster Rule #42 on SB 35.

LAI D ON THE TABLE

SB 35, relative to the transfer and exchange of certain state-owned land for certain land owned by the Manchester water works.

SB 87, relative to setback requirements for septage, biosolids, and short paper fibers. Environment Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Environment
March 19, 2003
2003-0886s
08/04

Amendment to SB 87

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

AN ACT establishing a committee to study setback requirements for septage, biosolids, and short paper fibers, and extending the temporary use of septage, biosolids, and short paper fiber by certain persons.

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

1 Committee Established. There is established a committee to study setback requirements for land application of septage, biosolids, and short paper fiber.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, appointed by the speaker of the house.

(c) One member of the rivers management advisory committee, appointed by such committee.

(d) Two members selected by the Connecticut River Joint Commissions, Upper Merrimack Local River Management Advisory Committee, Pemigewasset Local River Management Advisory Committee.

(e) One member from the New Hampshire Rivers Council, appointed by the council.

(f) One representative from the New Hampshire department of environmental services, rivers management and protection program, appointed by the commissioner of environmental services.

(g) One representative from the New Hampshire department of environmental services, sludge and septage program, appointed by the commissioner of environmental services.

(h) One representative from the New Hampshire department of agriculture, markets, and food, appointed by the commissioner of agriculture, markets, and food.

(i) One representative selected by the university of New Hampshire cooperative extension.

(j) One farmer selected by the New Hampshire Farm Bureau Federation.

(k) The executive director of the New Hampshire Farm Bureau Federation.

(l) One member from the New England Biosolids and Residuals Association (NEBRA), appointed by NEBRA.

(m) One member of a land application company, selected by NEBRA.

(n) One member of the Natural Resource Conservation Service, appointed by such organization.

II. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall review literature and research on the effects of land application of septage, biosolids, and short paper fiber adjacent to surface waters, especially concerning surface run-off and water quality. The committee shall propose criteria for setbacks for land application of septage, biosolids, and short paper fiber from designated rivers in New Hampshire, or recommend specific studies to address gaps in existing research findings.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

5 Report. The committee shall submit an interim report on or before November 1, 2003 and a final report on or before July 1, 2004 on its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

6 Sludge, Biosolids, and Short Paper Fiber; Temporary Use: Amend 56:6, 1998 to read as follows:

56:6 Temporary Use Authorization. The septage and sludge land application restrictions contained in RSA 483:9, VI(c), RSA 483:9-a, VII(b), RSA 483:9-aa, VII(b), and RSA 483:9-b, VII(b) shall not apply until ~~[5 years after the effective date of this act]~~ **July 1, 2005** to any land upon which septage or sludge has been spread in accordance with all applicable rules adopted by the federal Environmental Protection Agency and the New Hampshire department of environmental services, during any portion of the 3-year period prior to January 1, 1998. In addition, there shall be no termination of this restriction exemption for qualifying land that is used for scientific research on septage or sludge. Any continued application of septage and sludge pursuant to this section shall comply with all applicable federal and state laws and any best management practices published by the university of New Hampshire cooperative extension.

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

2003-0886s

AMENDED ANALYSIS

This bill:

I. Establishes a committee to study setback requirements for septage, biosolids, and short paper fiber.

II. Extends the temporary use of septage, biosolids, and short paper fiber by certain persons.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 88-FN, relative to testing and monitoring requirements at soil manufacturing and reclamation sites. Environment Committee. Inexpedient to Legislate, Vote 4-0. Senator Johnson for the committee.

Committee report of inexpedient to legislate is adopted.

SB 159-FN, relative to milfoil and other exotic aquatic weeds. Environment Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Environment
March 20, 2003
2003-0904s
06/10

Amendment to SB 159-FN

Amend the bill by replacing sections 1 and 2 with the following:

1 Registration Fees Reduced; Uses Changed. Amend RSA 270-E:5, I to read as follows:

I. The registration fees for commercial, private, and pleasure vessels, including rentals and airboats shall be as follows:

- (a) Up to and including 16 feet \$[12] **8**
- (b) 16.1 feet to 21 feet \$[17] **13**
- (c) 21.1 feet to 30 feet \$[26] **22**
- (d) 30.1 feet to 45 feet \$[36] **32**
- (e) 45.1 feet and over \$[46] **42**

2 Vessel Registration Fees; Fees Removed. RSA 270-E:5, II is repealed and reenacted to read as follows:

II. In addition to the fees required by paragraph I, there shall be the following registration fees:

(a) \$1.50 for each registration processed by an authorized agent of the department who is not an employee of the department. The fees collected under this subparagraph shall be collected and retained by the authorized agent as compensation for processing the registration.

(b) \$6 for each registration for tidal or coastal waters. \$2 of the surcharge collected under this subparagraph shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46. The remaining \$4 of the surcharge collected under this subparagraph shall be paid into the navigation safety fund established under RSA 270-E:6-a.

Amend RSA 270-F:1 as inserted by section 4 of the bill by replacing it with the following:

270-F:1 Statement of Purpose. It is the intent of the general court in this chapter to establish a water access permit system for all boats using the inland public waters of the state of New Hampshire. This chapter specifies which boats are subject to the permit fee, how these revenues are to be allocated and used, and how the water access permit decals are displayed.

Amend RSA 270-F:3, I as inserted by section 4 of the bill by replacing it with the following:

I. No person shall operate a vessel on any inland waters of the state unless the vessel displays a water access permit decal as required in this chapter or is exempt as provided in RSA 270-F:4.

Amend RSA 270-F:7 and 8 as inserted by section 4 of the bill by replacing them with the following:

270-F:7 Disposition of Revenues. All fines collected under this chapter and the amount of fees generated by RSA 270-F:5, V shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

270-F:8 Display of Decal Required.

I. Every vessel requiring a water access permit in this state shall display the water access decal issued to the vessel permit process, unless the vessel is exempt under the provisions of RSA 270-F:9.

II. The owner shall attach the water access permit decal to each side of the forward half of the vessel above the waterline approximately three inches behind the registration decal.

III. This section shall be enforced only as a secondary action when the operator of a motorized vessel has been cited or charged with another violation.

IV. Any person who violates this section shall be issued a warning for a first offense and a violation for a second offense.

Amend paragraph II of section 14 of the bill by replacing it with the following:

II. The remainder of this act shall take effect January 1, 2004.

2003-0904s

AMENDED ANALYSIS

This bill:

I. Reduces the boat registration fee.

II. Creates a water access permit fee for 4 years to fund programs relative to milfoil and other exotic aquatic weeds.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 194, establishing a committee to study certain issues relative to large groundwater withdrawals and their effect on Darrah Pond in Litchfield. Environment Committee. Inexpedient to Legislate, Vote 4-0. Senator Barnes for the committee.

Committee report of inexpedient to legislate is adopted.

SB 95-FN-L, relative to the development of workforce housing within municipalities. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Cohen for the committee.

Senate Executive Departments and Administration

March 20, 2003

2003-0935s

06/09

Amendment to SB 95-FN-LOCAL

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

1 New Chapter; Workforce Housing. Amend RSA by inserting after chapter 674 the following new chapter:

CHAPTER 674-A WORKFORCE HOUSING

674-A:1 Definitions. In this chapter:

I. "Accessory apartment" means a separate dwelling unit designed for occupancy by no more than 2 people created largely within an existing single family home, which does not increase the overall size of the structure by more than 33 percent.

II. "Multi-family housing" means a building or structure containing 3 or more dwelling units, each designed for occupancy by an individual household.

III. "Municipal land use ordinances" means zoning, subdivision, site plan review, growth management, impact fee, and other such municipal ordinances and by-laws.

IV. "Realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's land use ordinances. The collective impact of all such ordinances on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are realistic.

V. "Reasonable opportunities for the development of workforce housing" means a sufficient amount of vacant, developable land on which workforce housing is permitted; or in municipalities which are largely built up, a sufficient area that is reasonably available for lawful development or redevelopment as workforce housing.

VI. "Workforce housing" means housing which is affordable to a household with income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban

Development in the Federal Register. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter. For the purpose of this chapter, the following types of housing shall be considered workforce housing:

(a) Owner-occupied housing (including a condominium unit):

(1) Which is initially purchased by a family earning no more than 80 percent of the median income for a family of 4 for the county or metropolitan area, as published by the U.S. Department of Housing and Urban Development from time-to-time, where the total cost of mortgage principal and interest, property taxes, association fees, and homeowner's insurance does not exceed 33 percent of the maximum allowed income of the purchaser. Calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the area.

(2) For which there are deed restrictions or some other legally enforceable mechanism requiring that the home be sold to a family earning no more than 80 percent of median income as set forth in subparagraph (1) for a period of not less than 15 years; or for which there is an equity-sharing arrangement by which a homeowner who sells the premises less than 15 years after purchasing it, contributes a share of the equity in said home to a non-profit workforce housing development organization, in accordance with written standards promulgated by the New Hampshire housing finance authority.

(b) Any housing subsidized by the state or federal government under any program to assist the creation of rental units in which all of the units are affordable to families earning 80 percent or less of median family income, as defined in the state or federal subsidy program. In order to qualify as workforce housing under this subparagraph, the developer must make a binding commitment that such units will remain affordable for not fewer than 30 years.

(c) Any subsidized or non-subsidized rental housing project in which the owner makes a legally-binding commitment for at least 20 years to maintain the rent in at least 25 percent of the dwelling units at no more than 30 percent of the income of a family earning 60 percent or less of the median income adjusted for family size for the county or metropolitan area in which the dwelling unit is located, as determined annually by the U.S. Department of Housing and Urban Development.

(d) Manufactured housing, as defined in RSA 674:31, which is placed in a manufactured housing park, as defined in RSA 205-A:1, in which the park owner makes a legally binding commitment for at least 20 years, that for at least 25 percent of the dwelling units that the lot rent plus the mortgage principal and interest will not exceed 30 percent of the income of a family of 4 earning 80 percent of median family income for the county or metropolitan area in which the housing is located, as determined annually by the U.S. Department of Housing and Urban Development. Calculation of housing costs shall be based on a 20-year fixed rate mortgage, 20 percent down payment, and prevailing mortgage rates for manufactured housing within the area.

(e) Accessory apartments.

674-A:2 Municipal Workforce Housing Obligation.

I. Municipal land use ordinances shall afford reasonable and realistic opportunities for the siting of workforce housing including multifamily workforce housing, and a municipality shall not exclude workforce housing completely from the municipality by regulation, zoning ordinance, or by any other police power. A municipality which adopts land use control measures shall allow, in its sole discretion, workforce housing to be located in most, but not necessarily all, land areas in districts zoned to permit residential uses or districts zoned to permit mixed uses within the municipality. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable.

II. Notwithstanding the provisions of paragraph I, no municipality in which the equalized value per student is in the lowest 25 percent of the municipalities in the state shall be subject to an obligation to provide reasonable opportunities for the creation of workforce housing. The determination as to which municipalities are in the lowest 25 percent of the state in equalized value per student shall be made on an annual basis by the department of education.

674-A:3 Appeal of Local Decisions.

I. Any person whose application to develop workforce housing, as defined in this chapter, is denied or is approved with conditions or restrictions which have a substantial adverse impact on the viability of the proposed workforce housing development may bring an action in the superior court to obtain permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the

municipality's failure to comply with the municipal workforce housing requirements of RSA 674-A:2 or how the conditions or restrictions of approval have a substantial adverse impact on the viability of the proposal.

II. Except as provided in this section, the provisions of RSA 677 shall apply to appeals filed under this chapter.

III. A hearing on the merits shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause.

IV.(a) The court shall grant judgment for the plaintiff and the municipality shall be ordered to issue the necessary permits to enable the plaintiff's project to proceed, notwithstanding the non-compliance of the proposed project with any municipal land use ordinance, if the plaintiff establishes by a preponderance of the evidence that:

(1) He or she has applied in good faith for approval of a proposal to create workforce housing, and that such application has been denied, or approved with conditions or restrictions that have a substantial adverse impact on the viability of the proposal;

(2) The land use regulations of the municipality fail to comply with the requirements of RSA 674-A:2;

(3) The proposed housing complies with the statewide building code, set forth in RSA 155-A:1, IV and RSA 155-A:2, II; and

(4) The proposed development would not increase the number of year-round dwelling units in the municipality by more than 40 in a municipality with fewer than 2,000 year-round dwelling units at the time the proposal is submitted to the planning board, or more than 2 percent in all other municipalities;

(5) The proposed development would be located in an area that permits residential uses; and

(6) The proposed development is not located on property that has been designated by the state or federal government or the municipality for historic preservation or environmental protection,

(b) Unless the municipality establishes that:

(1) The proposed project fails to comply with standards that are necessary to adequately provide for:

(A) water supply;

(B) sewage disposal and ground water protection;

(C) wetlands protection;

(D) roads and traffic safety;

(E) fire and life safety protection; and

(F) buffering of architecturally inconsistent development.

(2) The municipality's decision rejecting or modifying plaintiff's proposal is necessary to protect other substantial public interests in health or safety and that the public interests clearly outweigh the need for the workforce housing project;

674-A:4 Appeals. An appeal of superior court orders issued under RSA 674-A:3 shall be to the supreme court under the rules of said court.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(I), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674-A:1, VI, which shall be developed in accordance with a methodology developed by the office of state planning in consultation with the New Hampshire housing finance authority.

II-a. Each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance

with the municipality's obligation under RSA 674-A:2. The regional planning commissioner shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, ***or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units.*** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2003, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Effective Date.

I. Section 2 of this act shall take effect June 1, 2004.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

Senator Morse is in opposition to SB 95.

SB 97, limiting the liability of firefighters working for certain private firefighting units. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Executive Departments and Administration

March 20, 2003

2003-0921s

06/01

Amendment to SB 97

Amend RSA 154:1-d, II as inserted by section 1 of the bill by replacing it with the following:

II. Any firefighter, paid or volunteer, who is acting in an official capacity under the direction or supervision of the elected or appointed fire chief, or designee, of a municipal fire department organized in accordance with RSA 154:1, ***or who is a member of a not for profit private firefighting unit which has contracted with a municipality or other political subdivision and is organized in accordance with RSA 154:1-c,*** or who is participating in a fire department activity sanctioned by the local governing body or its designee, shall be an agent of the municipality, enjoying the same privileges and immunities as the municipality or employees of the municipality. Such privileges and immunities include, but are not limited to,

indemnification for civil rights damages to the extent set forth in RSA 31:106, and indemnification for any other accidental damages to the extent set forth in RSA 31:105, if the municipality has adopted that section.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 101-FN, relative to unemployment compensation. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Executive Departments and Administration

March 20, 2003

2003-0922s

08/04

Amendment to SB 101-FN

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

1 New Paragraph; Unemployment Compensation; Employer Defined. Amend RSA 282-A:8 by inserting after paragraph VII the following new paragraph:

VIII. An Indian tribe as defined by 26 U.S.C. section 3306(u) of the Federal Unemployment Tax Act for which services in employment are performed within this state unless such services are otherwise excluded from employment under 26 U.S.C. section 3306 (c) of the Federal Unemployment Tax Act or under RSA 282-A:9. Indian tribes shall also include wholly owned subdivisions, subsidiaries, or business enterprises of Indian tribes.

2 Unemployment Compensation. Amend RSA 282-A:9, IV(s)(1)(B) to read as follows:

(B) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products in the home or otherwise than in a permanent retail establishment; **or**

3 New Subparagraph; Unemployment Compensation. Amend RSA 282-A:9, IV(s)(1) by inserting after subparagraph (B) the following new paragraph:

(C) Is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business;

4 Unemployment Compensation. Amend RSA 282-A:31, III to read as follows:

III. Subparagraph I(c) shall be waived for any week with respect to any individual who is otherwise entitled to unemployment compensation benefits and is selected by the department of employment security and enrolled in a vocational training program [~~under the auspices of the New Hampshire department of education~~] **approved by the commissioner of the department of employment security** and is as to such week in good standing in the training program, and has not failed without good cause to attend all scheduled sessions. Remuneration for services in connection with the training program paid to any such individual shall be wages for the purposes of RSA 282-A:14.

5 New Paragraph; Benefit Eligibility Conditions. Amend RSA 282-A:31 by inserting after paragraph III the following new paragraph:

IV. Subparagraphs II(b) and II(c) shall apply only to services in the employ of the state or any political subdivision thereof, to Indian tribes, and to organizations defined in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code.

6 New Paragraph; Unemployment Compensation. Amend RSA 282-A:32 by inserting after paragraph III the following new paragraph:

IV. For any week during which the individual resides other than in New Hampshire, another state, the District of Columbia, Puerto Rico, the Virgin Islands or a contiguous country with which the United States has an agreement with respect to unemployment compensation.

7 Unemployment Compensation. Amend RSA 282-A:36 to read as follows:

282-A:36 Labor Dispute. ~~[An individual]~~ **A person** shall be disqualified for benefits for any week with respect to which the commissioner finds that his **or her** total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he **or she** is or was last employed; provided that this section shall not apply if it is shown to the satisfaction of the commissioner that:

I.(a) [He] **The person** is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) [He] **The person** does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that, if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; or

II. [He] **The person** has become unemployed and entitled to unemployment compensation before the commencement of the labor dispute and his connection with the employer has been totally severed, including the absence of recall rights, seniority rights and other fringe benefits and indicia of employment; or

II-a. The stoppage of work was due solely to a lockout or the failure of the employer to live up to the provision of any agreement or contract of employment entered into between the employer and his employees; or

III. The stoppage of work has continued for a period of 2 weeks after the termination of the labor dispute; or

IV. [He] **The person** has, since becoming unemployed for the reasons set forth in the introductory paragraph worked in 5 or more ~~[consecutive]~~ weeks in employment ~~[for an employer]~~ **as defined in RSA 282-A:9, except RSA 282-A:9, IV(f), or wages earned in a like manner in another state**, earning in each week an amount at least equal to [his] **such person's** maximum benefit rate plus 20 percent thereof, and then becomes unemployed from said employer due to a lack of work.

8 Unemployment Compensation. Amend RSA 282-A:58 to read as follows:

282-A:58 Decision. In every appeal, except those withdrawn, the chairman shall prepare a written decision which shall be sent by certified mail, return receipt requested, **or first class mail, whichever the commissioner determines to be most appropriate**, to each interested party at the last address of each according to the records of the department of employment security. The decision, except one on an appeal dismissed for lack of prosecution or defaulted for failure to attend, among other necessary things as determined by the commissioner, shall: set forth all the material findings and specific provisions of law necessary to support the conclusions; identify the interested parties and the account, whether fund or employer, to which benefits will be charged, if allowed; identify the week or period during which benefits are denied; identify the first week and subsequent period with respect to which benefits will be paid, if allowed; determine all things necessary to finally dispose of the case; and identify the members of the tribunal.

9 Unemployment Compensation. Amend RSA 282-A:69, II to read as follows:

II. Notwithstanding this section, any organization or group of organizations, described in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code **or Indian tribe as defined in RSA 282-A:8, VIII**, which becomes an employer under this act, may elect to change its status either to reimburse in the manner provided for the state in RSA 282-A:70 or to pay contributions as hereinabove provided. The change in status shall be irrevocable for 3 calendar years. Thereafter the employer may elect to change its status no later than January 1, for any year, but such new change in status shall be irrevocable for 3 calendar years. Any 2 or more of such employers or any 2 or more cities, towns, counties or other political subdivisions of this state may elect, for a period of not less than 3 years, to pool their separate accounts under such rules as may be adopted by the commissioner, including appropriate bonding and fiscal safeguard requirements, and each unit shall be jointly and severally liable for payments due.

10 Unemployment Compensation. Amend RSA 282-A:152, I to read as follows:

282-A:152 Collection of State Contributions.

I. Whenever used in this subdivision, unless the context shall otherwise require, or unless otherwise specifically provided, the word "contribution" shall include not only the principal of any contribution but also all interest, penalties, fees and other charges added thereto by law; and the term "serving officer" shall in-

clude any sheriff, deputy sheriff, constable or other officer authorized to serve any civil process. ***Delivery of written notice by an authorized representative of the commissioner shall be deemed proper service of process.***

11 Unemployment Compensation. Amend RSA 282-A:155 to read as follows:

282-A:155 Interstate Collections. The courts of this state shall~~[-in the manner provided in RSA 282-A:143 and 153,]~~ entertain actions ***in the name of the commissioner*** to collect ***benefits***, contributions or interest thereon for which liability has accrued under the employment security law of any other state or of the federal government. ***The commissioner shall have the authority to collect any such debt by civil action in any manner provided for the collection of contributions in RSA 282-A:141-156.***

12 Agreement Authorized. Amend RSA 282-A:178, I to read as follows:

I. The department of employment security, through its commissioner, is hereby authorized to enter into an agreement, effective April 3, 1975, with the secretary of labor of the United States to become an agent of the United States in order to carry out the provisions of Chapter 2 of Title II of the Trade Act of 1974, ***as amended*** (P.L. 93-618, ***as amended***), and to perform such acts and do all those things necessary to fully carry out such agreement.

13 Agreement Authorized. Amend the introductory paragraph of RSA 282-A:178, II(a) to read as follows:

(a) Solely for the purposes of carrying out the agreement authorized in ~~[paragraph]~~ ***paragraphs I and I-a***, and notwithstanding other provisions of this chapter to the contrary, the provisions of this section permit:

14 New Paragraph; Agreement Authorized. Amend RSA 282-A:178 by inserting after paragraph I the following new paragraph:

I-a. The department of employment security, through its commissioner, is hereby authorized to enter into an agreement, effective November 4, 2002, with the Secretary of Labor of the United States to become an agent of the United States in order to carry out the provisions of the Trade Adjustment Assistance Reform Act of 2002, as amended, (P.L. 107-210, as amended), and to perform such acts and do all those things necessary to fully carry out such agreement.

15 New Paragraph; Exclusions. Amend RSA 282-A:9 by inserting after paragraph VI the following new paragraph:

VII. For the purposes of paragraph I, the exclusions under paragraphs IV (o)(2), IV (o)(5), and IV (p)(4) shall apply to Indian tribes.

16 New Paragraph; Payments in Lieu of Contributions. Amend RSA 282-A:69 by inserting after paragraph IV the following new paragraph:

V. The following provisions shall apply to Indian tribes electing to make payments in lieu of contributions:

(a) At the discretion of the commissioner, any Indian tribe that elects to become liable for payments in lieu of contributions shall be required within 30 days after the effective date of its election, to:

(1) execute and file with the commissioner a surety bond approved by the commissioner; or

(2) deposit with the commissioner money or securities on the same basis as other employers with the same election option.

(b) Failure of the Indian tribe to make required payments, including assessments of interest and penalty, within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions for the following tax year unless payment in full is received before the contribution rate for the next tax year is computed.

(c) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment shall have such option reinstated if, after a period of one year, all contributions have been made timely, provided no contributions, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(d) Failure of the Indian tribe to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the commissioner have been exhausted, will cause services performed for such tribe to not be treated as employment for purposes of this section.

(e) The commissioner may determine that any Indian tribe that loses coverage under subparagraph (d) may have services performed for such tribe again included as employment for purposes of RSA 282-A:9 if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(f) The commissioner shall notify the United States Internal Revenue Service and the United States Department of Labor of any termination or reinstatement of coverage made under subparagraphs (d) and (e).

(g) Notices of payment and reporting delinquency to Indian tribes shall include information that failure to make full payment within the prescribed time frame:

(1) shall cause the Indian tribe to be liable for federal unemployment tax;

(2) shall cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(3) could cause the Indian tribe to be excepted from the definition of employer, as provided in RSA 282-A:8, and services in the employ of the Indian tribe to be excepted from employment.

(h) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

17 Waiver of Costs. Amend RSA 282-A:29 to read as follows:

282-A:29 Adjustment of Overpaid Benefit Account by Compromise.

I. The commissioner may, with the approval of the attorney general, effect by written stipulation such settlement of any overpaid benefit account due under the provisions of this chapter as he *or she* may deem to be for the best interests of the state; and the payment of the sum so agreed upon shall be a full satisfaction of such overpaid benefit account.

II. Payment by a debtor of interest, penalties, fees, and legal costs due under the provisions of this chapter totaling \$50 or less may be waived by the commissioner of the department of employment security as he or she may deem to be for the best interests of the state.

18 Waiver of Costs. Amend RSA 282-A:148 to read as follows:

282-A:148 Adjustment of Contribution by Compromise.

I. The commissioner of the department of employment security may, with the approval of the attorney general, effect by written stipulation such settlement of the contribution or interest due under the provisions of this chapter as he *or she* may deem to be for the best interests of the state, and the payment of the sum so agreed upon shall be a full satisfaction of such contribution and interest.

II. Payment by a debtor of interest, penalties, fees, and legal costs due under the provisions of this chapter totaling \$50 or less may be waived by the commissioner of the department of employment security as he or she may deem to be for the best interests of the state.

19 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

2003-0922s

AMENDED ANALYSIS

This bill adds Indian tribes to the definition of employer for the purposes of unemployment compensation and makes various other changes.

This bill is a request from the department of employment security.

MOTION TO TABLE

Senator Clegg moved to have **SB 101-FN** laid on the table.

Adopted.

LAID ON THE TABLE

SB 101-FN, relative to unemployment compensation.

SB 130-FN-L, relative to county departments of corrections. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Executive Departments and Administration

March 20, 2003

2003-0934s

04/09

Amendment to SB 130-FN-LOCAL

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

1 County Departments of Corrections; Superintendent Duties. Amend RSA 30-B:4 to read as follows:

30-B:4 Superintendent; General Duties and Powers. The superintendent of the county department of corrections, as an agent of the county commissioners, shall be vested with all of the powers and subject to all the duties and limitations provided in this and other chapters relative to the management of county correctional facilities. These shall include, but are not limited to, the following:

I. The superintendent shall report to the board of county commissioners of [his] **the** county and be answerable to it for the efficient and effective operation of county correctional facilities.

I-a. The superintendent shall manage all operations of the department and administer and enforce the laws with which the department is charged.

I-b. The superintendent shall have every power enumerated in the laws, whether granted to the superintendent, the department, or any administrative unit of the department. In accordance with these provisions, the superintendent shall:

(a) Annually compile a budget which reflects all fiscal matters related to the operation of the department and each program and activity of the department.

(b) Exercise general supervisory and authority over all department employees, in accordance with applicable personnel statutes and rules.

I-c. The superintendent shall adopt such reasonable policies and procedures necessary to carry out the duties of the department consistent with this chapter.

I-d. The superintendent shall not accept, on behalf of the department, any grants of money without first obtaining the express consent of the board of commissioners.

II. The superintendent shall, under the supervision of the county commissioners, have custody of all the inmates confined to those facilities.

III.(a) The superintendent shall, in person or by agent, receive all persons sent by lawful authority to the county department of corrections and retain them until they are released by process appropriate under law, except as provided in subparagraph (b).

(b) Whenever a person in the custody of the superintendent under subparagraph (a) is transported to a state court, the sheriff through the sheriff's deputies and bailiffs shall be responsible for custody and control of such person during the time period such person is in the courthouse.

IV. The superintendent shall monthly present to the presiding or designated justice and the clerk of the superior court in [his] **the** county a certified list of all pretrial prisoners who are or have been in [his] custody with the times and causes of their confinements or discharges.

V. The superintendent shall provide each prisoner in his **or her** custody with necessary sustenance, clothing, bedding, [and] shelter, **and medical care**.

VI. The superintendent of the county department of corrections shall cause to be kept a correct and itemized account of each employed prisoner's earnings and debits made and incurred on their account, and shall retain the balance of those earnings in escrow until the prisoner is discharged from the county department of corrections, whereupon the superintendent shall cause the prisoner to be paid the amount due and take a receipt.

2 County Departments of Corrections; Use of Force. Amend RSA 30-B:11 to read as follows:

30-B:11 Use of Force. Law enforcement officers [and guards] in county correctional facilities may use physical force as provided in RSA 627:5.

3 County Departments of Corrections; Commitment of Offenders. RSA 30-B:15 is repealed and reenacted to read as follows:

30-B:15 Place of Commitment. Any person committed to a county correctional facility for any offense shall be committed to a county correctional facility in the county in which the offense is committed.

4 County Departments of Corrections; Employment of Offenders. Amend RSA 30-B:18 to read as follows:

30-B:18 Prisoners Awaiting Trial. Any prisoner confined to a county correctional facility while awaiting trial in the superior court or for any other cause, who is not likely to flee or commit an act of violence, and who wishes to work, may do so voluntarily upon approval of the ~~[county commissioners]~~ **superintendent**, subject to rules and regulations of the ~~[commissioners and the superintendent of the]~~ correctional facility.

5 Probationers and Parolees; Detention of Violators. Amend RSA 504-A:5 to read as follows:

504-A:5 Detention of Violators. Any probationer or parolee who is arrested under the authority of RSA 504-A:4 or RSA 651-A:25 shall be detained at the county jail closest to the location where he was arrested or any other suitable confinement facility in reasonable proximity to the location where he **or she** was arrested. Such probationer or parolee shall be detained there pending a preliminary hearing **which shall be held within 72 hours from the time of arrest, excluding Saturdays, Sundays, and holidays**, or, if supervised pursuant to RSA 651-A:25, shall be detained pending a hearing, including a final revocation hearing, or transfer to the sending state. No ~~[sheriff]~~ or county correctional ~~[administrator]~~ **superintendent** shall refuse to accept a probationer or parolee committed to his **or her** facility for detention by or under the authority of a probation or parole officer.

6 Enforcement of Fines; Place of Committal. Amend RSA 618:6 to read as follows:

618:6 Place of Committal. Any person sentenced to pay a fine shall be ordered to be imprisoned until sentence is performed, or he **or she** is otherwise legally discharged, in ~~[any]~~ **the** county correctional facility ~~[at the discretion of the court]~~ **in which the crime was committed**. This section shall not be construed as authorizing the confinement of any juvenile under the age of 17 years in a county correctional facility for the nonpayment of a fine.

7 Enforcement of Fines; Balance of Payment. Amend RSA 618:8-10 to read as follows:

618:8 At End of Term, or on Payment of Balance. Any person sentenced conditionally to pay a fine or to be imprisoned for a term shall be discharged at the expiration of the term, and may be discharged at any time on payment of the balance of the fine, after deducting ~~[\$20]~~ **\$50** for each day ~~[he]~~ **such person** has been imprisoned under the sentence.

618:9 Committal for Nonpayment; Term. Whenever a person is committed to a county correctional facility in default of payment of a fine imposed by a justice of a municipal court or a district court, he **or she** shall be discharged from custody by the superintendent thereof at the expiration of a number of days after the date of his **or her** commitment equal to one day for each ~~[\$20]~~ **\$50** of the fine so imposed. The superintendent shall keep a record of all discharges made under the provisions of this section.

618:10 Petition for Discharge. Whenever a person under conviction for a criminal offense and confined in a county correctional facility is unable to pay the fine, the superior court, upon petition of the prisoner or the ~~[county commissioners]~~ **superintendent** and satisfactory proof of such inability, may order the prisoner to be discharged upon such terms as they may think proper.

8 Temporary Removal of Prisoners; Illness or Emergency. Amend RSA 623:1, I-II to read as follows:

623:1 Illness or Emergency.

I. Any person confined in a county department of corrections facility, state prison or other place of detention may, under necessary precautions, be taken by some regular or specially authorized officer from such place of detention to a medical facility for the purpose of receiving medical examination or treatment upon recommendation of a physician, **a physician's assistant**, or an advanced registered nurse practitioner (ARNP) and upon approval of the ~~[administrator]~~ **superintendent** of the institution in which the person is confined. In the case of a transfer **of a pretrial prisoner** for medical purposes for a period in excess of ~~[24 hours]~~ **10 days**, the justice of the court who originally ordered the prisoner's commitment shall be given written notice of the transfer within ~~[5]~~ **15** days of said transfer, and shall be given notice upon the return of the prisoner within ~~[5]~~ **15** days of the prisoner's return. The provisions of RSA 402:79 shall apply to payments for medical care provided pursuant to this section.

II. Any person confined in a county department of corrections facility, state prison or other place of detention may be temporarily taken from his place of confinement because of the imminently approaching death or funeral of a member of his immediate family or for other imperative and extraordinary purpose, including treatment, counseling or rehabilitation programs, for a period not exceeding [48] 72 hours without approval by a justice of the superior court.

9 Repeal. The following are repealed:

I. RSA 30-B:14, relative to superintendent's bills.

II. RSA 30-B:24, relative to transfer of female prisoners.

III. RSA 651:23, relative to change of place of confinement.

10 Effective Date. This act shall take effect January 1, 2004.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 227, relative to the board of occupational therapy, the board of respiratory care practice, the board of speech-language therapists, the board of athletic trainers practice, the board of physical therapy practice, and the board of directors of the office of licensed allied health professionals. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Executive Departments and Administration

March 20, 2003

2003-0923s

08/04

Amendment to SB 227

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

AN ACT relative to the board of occupational therapy, the board of respiratory care practice, the board of speech-language therapists, the board of athletic trainers practice, the board of physical therapy practice, and the board of directors of the office of licensed allied health professionals, and relative to the board of podiatry.

Amend RSA 326-C:8 as inserted by section 1 of the bill by replacing it with the following:

326-C:8 Physical Agent Modalities; Certificates.

I. Licensed occupational therapists and licensed occupational therapy assistants are required to hold a certificate issued by the board authorizing their use of specified physical agent modalities.

II. Licensees who have been using specified physical agent modalities for 3 consecutive years and who have been educated or trained on the job in their use may continue their use without holding authorizing certificates, but such licensees shall meet the eligibility and application requirements for authorizing certificates no later than 6 months after the adoption of rules establishing such requirements.

III. The board is authorized to issue certificates authorizing the use of specified physical agent modalities to eligible licensed occupational therapists and licensed occupational therapy assistants. Such certificates are not required to be renewed.

IV. The board may suspend a certificate authorizing the use of specified physical agent modalities as one of the conditions of a conditional license issued pursuant to this chapter and RSA 328-F. Such a certificate shall be suspended or revoked when the underlying license is suspended or revoked.

Amend section 2 of the bill by replacing the bill section heading with the following:

2 Respiratory Care Practice. RSA 326-E is repealed and reenacted to read as follows:

Amend RSA 326-E:1 as inserted by section 2 of the bill by replacing it with the following:

326-E:1 Definitions. As used in this chapter and RSA 328-F:

I. "Board" means the governing board of respiratory care practitioners established under RSA 328-F.

II. "Certified pulmonary function technician" or "CPFT" means a person having successfully completed and achieved a passing score on the entry level examination in pulmonary function and maintained the related credential issued by the National Board for Respiratory Care, Inc.

III. "Consultation by telecommunication" means that a respiratory care practitioner renders professional or expert opinion or advice via telecommunications or computer technology from another location. It includes the transfer of data or exchange of educational or related information by any means of audio, video, or data communications.

IV. "National Board for Respiratory Care, Inc." or "NBRC" means the national voluntary health certifying board that evaluates the professional competence of respiratory therapists and pulmonary function technicians.

V. "Nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA 326-B.

VI. "Physician" means a person licensed to practice medicine in this state pursuant to RSA 329.

VII. "Physician assistant" means a person licensed to practice as a physician's assistant pursuant to RSA 328-D.

VIII. "Registered polysomnographic technologist" or "RPSGT" means a person having successfully completed and achieved a passing score on the comprehensive registry examination for polysomnographic technologists administered by the Board of Registered Polysomnographic Technologists.

IX. "Registered pulmonary function technologist" or "RPFT" means a person having successfully completed and achieved a passing score on the advanced level examination in pulmonary function and maintained the related credential issued by the National Board for Respiratory Care, Inc.

X. "Respiratory care" means the treatment, management, diagnostic testing and evaluation of responses to respiratory or medical treatment and care of individuals or groups of individuals either having deficiencies or abnormalities of the cardiopulmonary system or requiring support of the cardiopulmonary system. Respiratory care is given in accordance with the prescription of a physician, nurse practitioner or physician's assistant. Respiratory care includes the implementation of respiratory care strategies and modalities, and the administration of pharmacological, diagnostic, and therapeutic agents necessary to implement a treatment, disease or injury prevention, rehabilitative or diagnostic regimen. Respiratory care includes, but is not limited to: initiating emergency procedures; providing health counseling and teaching; assembly, repair, testing and maintenance of respiratory equipment; and those respiratory care activities that require a substantial amount of scientific knowledge or technical skill.

XI. "Respiratory care educational program" means a program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education, by the Committee on Accreditation for Respiratory Care, or by the Commission on Accreditation of Allied Health Education Programs, or their successor organizations.

XII. "Respiratory care practitioner" means a person who is:

(a) Licensed in the practice or performance of respiratory care who has the knowledge and skill necessary to administer the functions defined in paragraph X of this section.

(b) Capable of serving as a resource in relation to the clinical and technical aspects of respiratory care as to the safe and effective methods for administering respiratory care modalities.

(c) Able to function in situations of unsupervised patient contact requiring individual judgment.

(d) Capable of supervising, directing, and teaching less skilled personnel in the provision of respiratory care services.

Amend the introductory paragraph of RSA 326-E:2 as inserted by section 2 of the bill by replacing it with the following:

326-E:2 Rulemaking. The board shall adopt rules pursuant to RSA 541-A:

Amend RSA 326-E:4, IV as inserted by section 2 of the bill by replacing it with the following:

IV. A person or business entity, its employees, agents, or representatives shall not use in conjunction with that person's name or the activity of the business the words "respiratory care", "respiratory therapy", "respiratory care practitioner", "respiratory therapist", the letters "R.T." or "R.C.P", or any other words, abbreviations, or insignia indicating or implying directly or indirectly that respiratory care is provided or supplied, including the billing of services labeled as respiratory care, unless such services are provided by or under the direction of a respiratory care practitioner licensed under this chapter.

Amend RSA 326-E:6, I as inserted by section 2 of the bill by inserting after subparagraph (h) the following new subparagraph:

(i) A polysomnography trainee from fulfilling training and experiential clinical requirements in pursuit of a degree or as set forth by the Board of Polysomnographic Technologists for the purpose of achieving eligibility for the RPSGT examination, while working under the direct supervision of a physician, a respiratory care practitioner, polysomnography technician or RPSGT; or a polysomnography technician from fulfilling training and experiential requirements in pursuit of a degree or as set forth by the Board of Polysomnographic Technologists for the purpose of achieving eligibility for the RPSGT examination, while working under the general supervision of a physician, respiratory care practitioner, or RPSGT.

Amend RSA 326-E:7, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) A list of licensees and conditional license holders that includes place of practice, license number, date of license or date of conditional license expiration, and status of license.

Amend RSA 326-E:7, IV(b) and (c) as inserted by section 2 of the bill by replacing it with the following:

(b) Confidential communications between licensees and their patients are placed on the same basis as those provided by law between physician and patient, and, except as otherwise provided by law, no licensee shall be required to disclose such privileged communications. Confidential communications between a patient of a licensee and any person working under the supervision of such licensee to provide services that are customary and necessary for diagnosis and treatment are privileged to the same extent as would be the same communications between the supervising licensee and the patient.

(c) The privilege established in subparagraph (b) shall not apply to investigations and disciplinary proceedings conducted by any agency regulating health professions in this state.

Amend RSA 326-E:8, I as inserted by section 2 of the bill by replacing it with the following:

I. The respiratory care practitioner is responsible for managing all aspects of the respiratory care of each patient under the orders of a physician, physician's assistant, or nurse practitioner. The respiratory care practitioner shall provide:

(a) Written documentation of therapeutic effectiveness of care provided.

(b) Periodic written evaluation of each patient.

(c) Written documentation of diagnostic studies performed.

Amend the introductory paragraph of RSA 326-E:10 as inserted by section 2 of the bill by replacing it with the following:

326-E:10 Eligibility for License Renewal. Licensees are eligible for renewal of their licenses if the licensees:

Amend RSA 326-F:2, I as inserted by section 3 of the bill by replacing it with the following:

I. This chapter and RSA 328-F shall not apply to speech-language specialists who are certified under rules adopted by the board of education pursuant to RSA 21-N:9, II(s), unless they are also licensed under this chapter.

Amend RSA 326-F:4, III as inserted by section 3 of the bill by replacing it with the following:

III. A holder of a provisional license practicing speech-language pathology full time shall complete 9 months of postgraduate professional experience in accordance with rules adopted by the board.

Amend the introductory paragraph of RSA 326-F:5 as inserted by section 3 of the bill by replacing it with the following:

326-F:5 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A, relative to:

Amend RSA 326-F:5, I and II as inserted by section 3 of the bill by replacing it with the following:

I. Eligibility requirements for provisional licenses.

II. Application procedures for provisional licenses.

Amend RSA 326-F:8, II as inserted by section 3 of the bill by replacing it with the following:

II. No person shall represent himself or herself or the services offered by using the letters "SLP" or the words "speech-language pathologist", "speech-language pathology", "speech pathologist", "speech pathology", "speech therapist", "speech therapy", "speech correctionist", "speech correction", "speech clinician", "language pathologist", "language pathology", "aphasiologist", "voice pathologist", "voice pathology", "language therapist", "language therapy", "communication disorders" or any similar words if the intent of such use is to imply that the person is licensed, unless licensed under this chapter.

Amend RSA 326-G:1, II and III as inserted by section 4 of the bill by replacing it with the following:

II. "Athletic trainer" means a person licensed under this chapter to practice athletic training.

III. "Athletic training" means the practice, with respect to injuries or conditions incurred by participants in organized or recreational sports, of:

- (a) Prevention;
- (b) Assessment and evaluation;
- (c) Acute care, management, treatment and disposition;
- (d) Rehabilitation and reconditioning; and
- (e) Education, counseling and program administration,

Provided such care is within the professional preparation and education of athletic trainers and under the direction of a physician licensed in any state or in Canada.

Amend RSA 326-G:2, III as inserted by section 4 of the bill by replacing it with the following:

III. The activities of athletic trainers not residents of this state, when called to perform athletic training services during a temporary visit in this state, provided such athletic trainers are currently licensed, certified or registered in any state or Canada, or are currently certified by the National Athletic Trainers Association Board of Certification, Inc.

Amend RSA 326-G:3 as inserted by section 4 of the bill by replacing it with the following:

326-G:3 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A, relative to the nature of the temporary visit in this state which is sufficient to exempt from the application of this chapter the practitioners of athletic training designated in 326-G:2, III.

Amend RSA 328-A:7, III as inserted by section 20 of the bill by replacing it with the following:

III. A physical therapist assistant applicant may take the examination for licensure after the application process has been completed ***with the exception of submission of documentation showing the applicant has passed the required examination.*** [The] A national examination shall test for requisite knowledge and skills in the technical application of physical therapy services.

Amend RSA 328-A:7, IV(a) and (b) as inserted by section 20 of the bill by replacing it with the following:

(a) The applicant has completed a new application for licensure, with the exception of submission of documentation showing that the applicant has passed the examination.

(b) The applicant has submitted, and the board has approved, a plan for completion of additional training or coursework or both.

Amend section 21 of the bill by replacing the bill section heading with the following:

21 Physical Therapy Practice; Exemptions. Amend RSA 328-A:8, II(a) to read as follows:

Amend section 22 of the bill by replacing the bill section heading with the following:

22 Physical Therapy Practice; Exemptions. RSA 328-A:8, II(d) is repealed and reenacted to read as follows:

Amend section 23 of the bill by replacing the bill section heading with the following:

23 Physical Therapy Practice; Exemptions. Amend RSA 328-A:8, III(a) to read as follows:

Amend the bill by replacing section 26 with the following:

26 Physical Therapy Practice; Obligations of Licensees. Amend the section heading of 328-A:11 to read as follows:

328-A:11 [~~Patient Care Management~~] **Obligations of Licensees.**

Amend RSA 328-A:12, II as inserted by section 27 of the bill by replacing it with the following:

II. It is unlawful for any person who is not licensed as a physical therapist assistant under this chapter to assist in selected components of physical therapy intervention requiring the knowledge and skill ~~or~~ **of** a physical therapist assistant. A person **licensed as a physical therapist assistant** who engages in an activity requiring a license ~~[pursuant to this chapter]~~ **as a physical therapist** or uses any ~~work,~~ title, letters, or any description of services that incorporates one or more of the terms, designations, or abbreviations in violation of RSA 328-A:10 is guilty of a misdemeanor.

Amend section 31 of the bill by replacing the bill section heading with the following:

31 Physical Therapy Practice; Rights of Consumers. RSA 328-A:15, I(c) is repealed and reenacted to read as follows:

Amend section 32 of the bill by replacing the bill section heading with the following:

32 Physical Therapy Practice; Rights of Consumers. Amend 328-A:15, II to read as follows:

Amend the bill by replacing section 33 with the following:

33 Physical Therapy Practice; Rights of Consumers. RSA 328-A:15, VI is repealed and reenacted to read as follows:

VI. Confidential communications between physical therapists and physical therapist assistants and their patients are placed on the same legal basis as those between physician and patient, and, except as otherwise provided by law, no licensee shall be required to disclose such privileged communications. Confidential communications between a patient of a licensee and any person working under the supervision of such licensee to provide services that are customary and necessary for diagnosis and treatment are privileged to the same extent as would be the same communications between the supervising licensee and the patient. The privilege for confidential communications shall not apply to investigations and disciplinary proceedings conducted by any agency regulating health occupations or professions in this state.

Amend section 34 of the bill by replacing the bill section heading with the following:

34 Physical Therapy Practice; Rights of Consumers. Amend 328-A:15, VII to read as follows:

Amend section 35 of the bill by replacing the bill section heading with the following:

35 Physical Therapy Practice; Rights of Consumers. RSA 328-A:15, VIII is repealed and reenacted to read as follows:

Amend RSA 328-A:15, VIII(b) as inserted by section 35 of the bill by replacing it with the following:

(b) Information and records acquired by the board during its investigations of complaints and other information relating to violations of this chapter coming to the attention of the board.

Amend RSA 328-F:2, II as inserted by section 37 of the bill by replacing it with the following:

II. "Governing boards" means individual licensing boards of athletic trainers, ~~[certified]~~ occupational therapy assistants, occupational therapists, physical therapists, physical ~~[therapy]~~ **therapist** assistants, respiratory care practitioners, and speech-language pathologists.

Amend RSA 328-F:2, VI as inserted by section 37 of the bill by replacing it with the following:

VI. "~~[Practice of]~~ Athletic training" means "~~[practice of]~~ "athletic training" as defined in RSA 326-G:1, III.

Amend RSA 328-F:3, II as inserted by section 38 of the bill by replacing it with the following:

II. The governing boards' chairpersons or their appointees shall make up the board of directors of the office of licensed allied health professionals. The board of directors shall, subject to the rules **adopted by the**

director of the division of personnel, have authority to establish and fill a supervisory position at labor grade 21 and technical and clerical positions to run the office's business in an efficient manner, **and to contract for the services of investigators and legal counsel. The board of directors shall have the authority to delegate to the person in the supervisory position matters of administrative and personnel management.**

Amend RSA 328-F:5, IV as inserted by section 39 of the bill by replacing it with the following:

IV. Take legal action against unauthorized practice in accordance with this chapter.

Amend RSA 328-F:5, VII as inserted by section 39 of the bill by replacing it with the following:

VII. Carry out the responsibilities set forth in the board's practice act.

Amend RSA 328-F:10 as inserted by section 42 of the bill by replacing it with the following:

328-F:10 Records of Licensees and Disciplinary History.

I. Each governing board shall maintain a current list of living or deceased persons who have ever been licensed to practice ~~[under this chapter]~~. The list shall show the licensee's last known place of employment, last known place of residence, ~~[and the date and]~~ **the number of the license, and the most recent date of issuance, renewal, or reinstatement. No information on the list shall be transferred to another entity for commercial use without the permission of the person to whom the information applies.**

II. Each governing board shall maintain a current list of persons against whom the board has taken any disciplinary actions. This list shall include the ~~[names, type and cause of action, date and penalty incurred, and the length of penalty. This list shall be available for public inspection during regular business hours. This list shall be supplied to similar boards in other states upon request]~~ **name of the person, the reason for the disciplinary action, the date of the disciplinary action, and the nature of the disciplinary action.**

Amend the section heading of RSA 328-F:11 as inserted by section 43 of the bill by replacing it with the following:

328-F:11 Rulemaking by the Governing Boards.

Amend RSA 328-F:11, I(f) as inserted by section 43 of the bill by replacing it with the following:

(f) The design and content of application forms, which forms may require a notarized affidavit that the information provided in the application is complete and accurate.

Amend RSA 328-F:11, I(h) as inserted by section 43 of the bill by replacing it with the following:

(h) The allocation of disciplinary sanctions in cases of misconduct by licensees.

Amend RSA 328-F:11, II(d) as inserted by section 43 of the bill by replacing it with the following:

(d) What constitutes, for disciplinary purposes, sexual relations with and sexual harassment of, a client or patient.

Amend RSA 328-F:18, I and II as inserted by section 49 of the bill by replacing it with the following:

I. Each governing board shall issue initial licenses and license renewals to applicants who have completed the required application procedures and have met the eligibility requirements established by the practice act and the rules of the governing board. If a governing board is authorized by its practice act to issue provisional licenses, it shall issue such licenses to applicants who have completed the required application procedures and have met the eligibility requirements for provisional licensure established by the practice act and the rules of the governing board.

II. The governing boards shall take no action on an application for any type of license, or reinstate any lapsed or suspended license, until the applicants have completed the application procedures required by the practice acts and the rules of the governing boards.

Amend RSA 328-F:19, II as inserted by section 50 of the bill by replacing it with the following:

II. Each governing board shall renew the licenses of applicants who meet the eligibility requirements and complete the application procedure.

Amend the section heading of RSA 328-F:20 as inserted by section 51 of the bill by replacing it with the following:

328-F:20 Reinstatement of Lapsed Licenses.

Amend RSA 328-F:20, II as inserted by section 51 of the bill by replacing it with the following:

II. Meets the reinstatement requirements and any continuing competency requirements established by the governing board.

Amend RSA 328-F:21, as inserted by section 52 of the bill by replacing it with the following:

328-F:21 [~~Change of Address~~] **Administrative Obligations of Licensees.**

I. Licensees shall maintain their current business and home address on file with ~~[the applicable board]~~ **their governing boards.** Any changes in address shall be provided to the office no later than 30 days from the date of the change.

II. Licensees shall notify their governing boards if licenses or other proof of licensure are lost or stolen.

Amend RSA 328-F:23, II(a) as inserted by section 53 of the bill by replacing it with the following:

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

Amend RSA 328-F:23, II(c) and (d) as inserted by section 53 of the bill by replacing it with the following:

(c) Violation of the ethical standards adopted by the governing board.

(d) Sexual relations with, or sexual harassment of, a client or patient.

Amend RSA 328-F:23, II(f) as inserted by section 53 of the bill by replacing it with the following:

(f) Actual or potential inability to render care with reasonable skill and safety by reason of illness, by reason of use of alcohol or drugs or any other material, or by reason of mental or physical condition.

Amend RSA 328-F:23, II(j) as inserted by section 53 of the bill by replacing it with the following:

(j) Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or of any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely.

Amend RSA 328-F:23, IV(e) and the introductory paragraph of subparagraph (f) as inserted by section 53 of the bill by replacing it with the following:

(e) A requirement that the licensee's practice be supervised for a specified period of time by a licensee practicing the same allied health profession for a specified period of time.

(f) The imposition of an administrative fine not to exceed \$1,000 for:

Amend the introductory paragraph of RSA 328-F:24, II as inserted by section 54 of the bill by replacing it with the following:

II. Unless used in disciplinary proceedings or required to be disclosed by an order of a court, the following information obtained during investigations shall be held confidential and shall be exempt from the disclosure requirements of RSA 91-A:

Amend RSA 328-F:24, II(d) as inserted by section 54 of the bill by replacing it with the following:

(d) Patient or client records, including clinical records, files, oral and written reports relating to diagnostic findings or treatment of licensees' patients or clients and oral and written information from which the identity of licensees' patients or clients or their families can be derived.

Amend RSA 328-F:24, IV(c) as inserted by section 54 of the bill by replacing it with the following:

(c) Issue subpoenas for persons, relevant documents and relevant things in accordance with the following conditions:

(1) Subpoenas for persons shall not require compliance in less than 48 hours after receipt of service.

(2) Subpoenas for documents and things shall not require compliance in fewer than 15 days after receipt of service.

(3) Service shall be made on licensees by certified mail to the address on file with the board or by hand and shall not entitle them to witness or mileage fees.

(4) Service shall be made on persons who are not licensees in accordance with the procedures and fee schedules of the superior court, and the subpoenas served on them shall be annotated "Fees Guaranteed by the New Hampshire Office of Allied Health Professionals."

Amend RSA 328-F:24, V as inserted by section 54 of the bill by replacing it with the following:

V. The governing board may dismiss allegations of misconduct if the investigation shows the allegations to be without basis in fact or law.

Amend RSA 328-F:25, I as inserted by section 55 of the bill by replacing it with the following:

I. Persons and entities regulated by the state, including but not limited to, licensees, insurance companies, health care organizations, and health care facilities shall report to the board of directors and the appropriate governing board any criminal conviction of a licensee or any determination by a regulatory agency indicating that a licensee has violated this chapter or the practice act of the licensee's governing board. Persons and entities so reporting shall be immune from civil liability if the report is made in good faith.

Amend RSA 328-F:27, V as inserted by section 57 of the bill by replacing it with the following:

V. The attorney general, the governing board of the allied health practice affected or the prosecuting attorney of any county or municipality where the act of unauthorized practice takes place may maintain an action to enjoin any person or entity from continuing to do acts of unauthorized practice. The action to enjoin shall not replace any other civil, criminal or regulatory remedy. An injunction without bond is available to the governing board of the allied health practice affected.

Amend the bill by replacing section 58 with the following:

58 Allied Health Professionals; Privileged Communications. Amend RSA 328-F:28 to read as follows:

328-F:28 ~~[Confidential]~~ **Privileged** Communications. The confidential ~~[relations and]~~ communications between ~~[a practitioner licensed under provisions of this chapter]~~ **allied health licensees** and ~~[the patient of such practitioner]~~ **their clients or patients** are placed on the same **legal** basis as those ~~[provided by law]~~ between ~~[attorney and client]~~ **physician and patient**, and, except as otherwise provided by law, no ~~[such]~~ allied health ~~[practitioner]~~ **licensee** shall be required to disclose such privileged communications. Confidential ~~[relations and]~~ communications between a patient **or client** and any person working under the supervision of ~~[an allied health practitioner]~~ **such licensee** that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those ~~[relations or]~~ communications were with ~~[such]~~ **the** supervising ~~[allied health practitioner]~~ **licensee**. This section shall not apply to investigations and hearings conducted by the ~~[board of allied health practitioners, or any other statutorily created health occupational licensing or certifying board conducting licensing, certifying, or disciplinary proceedings]~~ **governing boards or by any other agency regulating health professions in the state.**

Amend the bill by replacing section 60 with the following:

60 Effect of Amendments. Licenses valid under the provisions of RSA 326-C, RSA 328-A, RSA 326-G, RSA 326-E or RSA 326-F on the effective date of this act shall continue to be in effect.

Amend the bill by replacing all after section 60 with the following:

61 Podiatry; Examinations. Amend RSA 315:7 to read as follows:

315:7 Examinations. ~~[Examinations for licenses shall be given by the board, at least twice annually, at such time and place as the board may determine. The examination papers shall contain such questions relating to the subject as the board may deem necessary to determine the qualifications of the applicant for the business.]~~ **Successful passage of the National Board of Podiatric Medical Examiners test parts 1 and 2 as well as PM Lexis is required.** The board shall keep a record of ~~[examinations, together with the examination papers, all of which shall be open to public inspection]~~ **examination results.**

62 Podiatry; Licenses. Amend RSA 315:8, IV to read as follows:

IV. All licenses issued by the board shall expire ~~[one year from the date of issuance]~~ **on June 30 of every year** and shall be subject to the annual renewal requirements provided in RSA 315:11.

63 Podiatry; Fees. Amend RSA 315:15 to read as follows:

315:15 Fees. The board shall establish fees for [~~examination of applicants, for licenses~~] **license applications** and for renewal of licenses to practice podiatry and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

64 Repeal. The following are repealed:

- I. RSA 328-A:3, V, relative to physical therapy continuing competence.
- II. RSA 328-A:5, I(b), relative to physical therapist applications.
- III. RSA 328-A:5, II(b), relative to physical therapist applications.
- IV. RSA 328-A:5, II(d)-(f), relative to proof of education for physical therapy practice.
- V. RSA 328-A:5, IV(b), relative to physical therapist assistant applications.
- VI. RSA 328-A:6, relative to hearings on physical therapist applications.
- VII. RSA 328-A:11, VI, relative to use of assistive personnel in physical therapy practice.
- VIII. RSA 328-F:14, relative to receipts and disbursements.
- IX. RSA 328-F:16, relative to interim licenses.
- X. RSA 328-F:17, relative to applicants from other states.
- XI. RSA 328-F:22, relative to reinstatement.
- XII. RSA 315:4, IV, relative to rulemaking on examinations by the board of podiatry.

65 Effective Date. This act shall take effect July 1, 2003.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 37-FN, increasing the amount paid to the firemen's relief fund from insurance department revenues. Insurance Committee. Ought to Pass, Vote 4-0. Senator Flanders for the committee.

MOTION TO TABLE

Senator Flanders moved to have **SB 37-FN** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 37-FN, increasing the amount paid to the firemen's relief fund from insurance department revenues.

SB 197-FN, relative to extended unemployment benefits. Insurance Committee. Ought to pass with amendment, Vote 4-0. Senator Cohen for the committee.

Insurance

March 21, 2003

2003-0942s

08/09

Amendment to SB 197-FN

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

AN ACT relative to extended unemployment benefits and making an appropriation therefor.

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

1. Money Credited Under Section 90 of Social Security Act. RSA 282-A:140-a is repealed and reenacted to read as follows:

282-a:140-a Money Credited Under Section 903 of Social Security Act.

I. Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States of America pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this state's unemployment compensation law and public employment offices. Such money may be requisitioned pursuant to RSA 282-A:105 for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this state's unemployment compensation law and public employment offices but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the date of enactment of an appropriation law which specifies the purpose for which such money is appropriated and the amount appropriated therefor. Such appropriation is subject to the following conditions:

(a) The period within which such money may be obligated is limited to a period ending not more than 2 years after the date of the enactment of the appropriation law except that this restriction does not apply to the special Reed Act distribution under section 903(d) of the Social Security Act; and

(b) The amount which may be obligated is limited to an amount which does not exceed the amount by which, the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the Social Security Act exceeds the aggregate of the amounts used by this state pursuant to this act and charged against the amounts transferred to the account of this state.

II. For purposes of subparagraph I(b), the amounts obligated under an appropriation for the above-described administrative purposes shall be charged against transferred amounts at the exact time the obligation is entered into.

III. The appropriation, obligation, and expenditure or other disposition of money appropriated under this section shall be accounted for in accordance with standards established by the United States Secretary of Labor.

IV. Money appropriated as provided herein for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under such appropriation and, upon requisition, shall be deposited in the fund established in RSA 282-A:140 from which such payments shall be made. Money so deposited shall, until expended, remain a part of the unemployment fund and, if it will not be immediately expended, shall be returned promptly to the account of this state in the unemployment trust fund.

V. Notwithstanding paragraph I, moneys credited with respect to federal fiscal years 1999, 2000, and 2001, shall be used by the commissioner with the consent and acceptance of governor and council or budget legislation of allocated funds solely for the administration of the unemployment compensation program and are not subject to appropriation by the legislature. The Reed Act distribution under section 903(c) of the Social Security Act, transferred to the state in October 1998 with respect to the Federal fiscal year 1998, shall be used solely for the administration of this state's unemployment compensation law. The special Reed Act distribution under section 903(d) of the Social Security Act transferred to the state on March 13, 2002 may be used for all purposes set forth in paragraph I.

2 Additional Unemployment Benefits.

I. Additional unemployment benefits are available to an applicant who after May 31, 2002 exhausted benefits under the Temporary Unemployment Compensation Act of 2002.

II. Additional unemployment benefits under this section are payable from the Reed Act, section 903(d) of the Social Security Act, funds that were deposited in the unemployment trust fund account on March 13, 2002 and shall not be used in computing the future tax rate of a taxpaying employer nor charged to a government or nonprofit employer subject to reimbursing of benefits under RSA 282-A Payments under this section shall terminate upon exhaustion of such Reed Act funds and shall not be paid from any other source.

III. An applicant described in paragraph I is eligible to collect additional benefits for any week through the week ending December 28, 2003, if:

(a) The applicant meets the eligibility requirements of RSA 282-A:31;

(b) The applicant is not subject to a disqualification under RSA 282-A:32;

(c) The applicant is not entitled to any regular or extended unemployment benefits for that week and the applicant is not entitled to receive unemployment benefits under any other state or federal law or the law of Canada for that week; and

(d) The applicant does not become qualified for benefits under any new regular or any other type of unemployment benefits under any state or federal law or the law of Canada. If an applicant qualifies for new regular benefits at any time after exhausting regular unemployment benefits, the applicant must apply for and exhaust entitlement to those new, regular or any other type of unemployment benefits under any state or federal law or the law of Canada.

IV. Income support from any federal reemployment account shall be considered wages for purposes of RSA 282-A:14.

V. The weekly unemployment additional unemployment benefit amount available to an applicant under this section is the same as the applicant's regular weekly benefit amount in his or her applicable benefit year as defined for purposes of the Temporary Unemployment Compensation Act of 2002.

VI. The maximum amount of additional unemployment benefits available is 13 times the applicant's weekly additional unemployment benefit amount.

3 Appropriations.

I. There is hereby appropriated out of funds made available to this state under section 903(c) of the Social Security Act transferred to the state in October of 1998 and under 903(d) of the Social Security Act, as amended, transferred to the state on March 13, 2002, the sum of \$3,504,592.22, or so much thereof as may be necessary, not to exceed 10 percent of the total amount paid in benefits under the additional benefits program, to be used, under the direction of the New Hampshire department of employment security for the purpose of administering the additional benefits program, this state's unemployment compensation law and public employment offices.

II. There is hereby appropriated out of funds made available to this state under section 903(c) of the Social Security Act transferred to the state in October of 1998 and under 903(d) of the Social Security Act, as amended, transferred to the state on March 13, 2002, the sum of \$250,000, or so much thereof as may be necessary, to be used, under the direction of the New Hampshire department of employment security, for the purpose of reprogramming costs for the additional unemployment benefits program of this state's unemployment compensation law and public employment offices.

III. Whereas the legislature finds that immediate implementation will provide relief to the eligible unemployed citizens of the state, and notwithstanding any other law to the contrary, the commissioner of employment security may utilize all or any part of the \$250,000 referred to in paragraph II, he or she deems necessary to supplement the funding of any existing contracts for software maintenance, modification or development. The commissioner shall not be required to obtain approval of any other department, agency, the governor, the governor's council, or legislative committee and shall not be subject to any existing maximum contract or annual expenditure limitations or limitations concerning sole-source contracts.

4 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

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

2003-0942s

AMENDED ANALYSIS

This bill makes available additional unemployment benefits.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 186-FN, relative to sale of tobacco products. Interstate Cooperation Committee. Re-refer to committee, Vote 5-0. Senator Clegg for the committee.

Committee report of re-refer is adopted.

SB 94-FN, requiring criminal background checks for employees working in long-term care facilities and in home health care and for applicants for a license from the board of nursing. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Judiciary
March 18, 2003
2003-0836s
06/04

Amendment to SB 94-FN

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

AN ACT requiring criminal conviction record checks for employees working in long-term care facilities and in home health care and for applicants for a license from the board of nursing.

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

1 New Section; Home Health Care Providers; Criminal Record Check Required. Amend RSA 151 by inserting after section 2-c the following new section:

151:2-d Criminal Record Check Required.

I. Every applicant selected for employment with a home health care provider licensed under RSA 151:2, I(b), including those which provide only homemaker services, shall submit to the employer a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the facility pursuant to RSA 106-B:14.

II. Following submission of the notarized criminal conviction record release authorization form to the division of state police, a home health care provider may extend a conditional offer of employment to a selected applicant, with a final offer of employment subject to review by the employer of the results of a criminal conviction record check.

III.(a) Upon receipt of a notarized criminal conviction record release authorization form from a home health care provider, the division of state police shall conduct a criminal conviction record check pursuant to RSA 106-B:14 and provide the results to the home health care provider. The home health care provider shall review the criminal record information prior to making its final offer of employment and shall maintain the confidentiality of all criminal conviction records received pursuant to this section.

(b) The cost of criminal conviction record checks for such applicants shall be borne by the home health care provider, provided that the home health care provider may require an applicant to pay the actual cost of the criminal conviction record check.

IV.(a) Any agency providing temporary or per diem staff to a home health care provider shall conduct a criminal conviction record check pursuant to this section. The agency shall not offer the services of any person until the agency has reviewed the criminal history of the employee.

(b) The cost of criminal history record check for such temporary or per diem staff shall be borne by the agency providing temporary or per diem staff to a home health care provider, provided that the agency providing per diem staffing may require the selected applicant for employment to pay the actual costs of the criminal conviction record check.

V. The provisions of this section shall not apply to any person who is licensed by the board of nursing pursuant to RSA 326-B.

2 New Section; Residential Care Facilities; Employees; Criminal Record Check Required. Amend RSA 151 by inserting after section 3-b the following new section:

151:3-c Criminal Record Check Required.

I. Every applicant selected for employment with a residential care facility licensed under RSA 151:2, I(e), including a nursing home, shall submit to the employer a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the facility pursuant to RSA 106-B:14.

II. Following submission of the notarized criminal conviction record release authorization form to the division of state police, a residential care facility may extend a conditional offer of employment to a selected applicant, with a final offer of employment subject to review by the employer of the results of a criminal conviction record check.

III.(a) Upon receipt of a notarized criminal conviction record release authorization form from a residential care facility licensed under RSA 151:2, I(e), the division of state police shall conduct a criminal conviction record check pursuant to RSA 106-B:14 and provide the results to the residential care facility. The residential care facility shall review the criminal record information prior to making its final offer of employment and shall maintain the confidentiality of all criminal conviction records received pursuant to this section.

(b) The cost of criminal conviction record checks for such applicants shall be borne by the residential care facility, provided that the residential care facility may require an applicant to pay the actual costs of the criminal conviction record check.

IV.(a) The provisions of this section shall apply to any agency providing temporary or per diem staff to a residential care facility. The agency shall not offer the services of any person until the agency has reviewed the criminal history of the employee.

(b) The cost of criminal history record checks for such temporary or per diem staff shall be borne by the agency providing temporary or per diem staff to a residential care facility, provided that the agency providing per diem staffing may require the selected applicant for employment to pay the actual costs of the criminal conviction record check.

V. The provisions of this chapter shall not apply to any person who is licensed by the board of nursing pursuant to RSA 326-B.

3 New Section; Nursing; Criminal Record Checks. Amend RSA 326-B by inserting after section 4-b the following new section:

326-B:4-c Criminal Record Checks.

I. Every new applicant and every renewal applicant for a license under this chapter shall submit to the board a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the board pursuant to RSA 106-B:14.

II. Upon receipt of a notarized criminal conviction record release authorization form from the board, the division of state police shall conduct a criminal conviction record check pursuant to RSA 106-B:14 and provide the results to the board.

III. The board shall review the criminal record information prior to making a licensing decision and shall maintain the confidentiality of all criminal conviction records received pursuant to this section.

IV. The board may require the applicant to pay the actual costs of the criminal conviction record check.

4 Effective Date. This act shall take effect July 1, 2003.

2003-0836s

AMENDED ANALYSIS

This bill requires criminal conviction record checks for all applicants for a license from the board of nursing and all employees working in long-term care facilities, home health care, and residential care.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 203-FN, requiring the New Hampshire court system to automate mental health records to comply with federal law prohibiting possession of firearms by certain persons. Judiciary Committee. Inexpedient to Legislature, Vote 4-1. Senator Clegg for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 203-FN** laid on the table.

Question is on the motion to table.

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.

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

Yeas: 16 - Nays: 6

Motion is adopted.

LAID ON THE TABLE

SB 203-FN, requiring the New Hampshire court system to automate mental health records to comply with federal law prohibiting possession of firearms by certain persons.

SB 221-FN, relative to the offense of obstructing government administration by the use of simulated legal process. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Judiciary

March 19, 2003

2003-0844s

05/09

Amendment to SB 221-FN

Amend RSA 642:1, I as inserted by section 1 of the bill by replacing it with the following:

*I. A person is guilty of a misdemeanor if [he] **that person** uses [force, violence,] intimidation, **actual or threatened force or violence, simulated legal process**, or engages in any other unlawful [act] **conduct** with a purpose to **hinder or** interfere with a public servant, as defined in RSA 640:2, II, performing or purporting to perform an official function[; provided, however, that] **or to retaliate for the performance or purported performance of such a function.***

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Unlawful Simulation of Legal Process. Amend RSA 638:14 to read as follows:

638:14 Unlawful Simulation of [Official Notice] **Legal Process**. A person is guilty of a misdemeanor who, with a purpose to procure the compliance of another with a request made by such person, knowingly sends, mails or delivers to such person a notice or other writing which has no judicial or other sanction, but which in its format or appearance simulates a summons, complaint, court order or process, **including, but not limited to, lien, indictment, warrant, injunction, writ, notice, pleading, subpoena, or ordinance**, or an insignia, seal or printed form of a federal, state or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.

2003-0844s

AMENDED ANALYSIS

This bill defines simulated legal process in the context of obstructing government administration and in the context of giving official notice.

The bill also provides additional penalties for committing the offense of obstructing government administration by the use of simulated legal process.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 34, relative to independent living retirement communities. Public Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Larsen for the committee.

Public Affairs

March 19, 2003

2003-0864s

05/01

Amendment to SB 34

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

1 Assisted Living Residences and Housing for Older Persons; Independent Living Retirement Communities Added. Amend the chapter heading of RSA 161-J to read as follows:

CHAPTER 161-J
ASSISTED LIVING RESIDENCES,
INDEPENDENT LIVING RETIREMENT COMMUNITIES, AND
HOUSING FOR OLDER PERSONS

2 Assisted Living Residences; Purpose; Reference to Independent Living Retirement Communities Added. Amend RSA 161-J:1 to read as follows:

161-J:1 Purpose. The purpose of this chapter is to establish standards for the uniform disclosure of information to consumers of costs and services provided by assisted living residences, ***independent living retirement communities***, and housing for older persons, as well as rules and policies governing advance payments, rate increases, termination of agreements and the rights and responsibilities of residents, to enable consumers to make informed choices and comparisons.

3 New Paragraph; Definition of Independent Living Retirement Communities Added. Amend RSA 161-J:2 by inserting after paragraph III the following new paragraph:

III-a. "Independent living retirement community" means a facility, housing unit, or community, however designated, which is free-standing or part of a larger community, organization, or enterprise, that furnishes to senior citizens 55 years of age and older, on a contractual basis, housing and any additional on-site or off-site services.

4 Applicability of Chapter; Reference to Independent Living Retirement Community Added. Amend RSA 161-J:3 to read as follows:

161-J:3 Applicability. This chapter shall apply to assisted living residences as defined in RSA 161-J:2, II, ***independent living retirement communities as defined in RSA 161-J:2, III-a***, and housing for older persons as defined in RSA 161-J:2, III. ***This chapter shall not apply to continuing care communities as defined in RSA 420-D or condominiums as defined in RSA 356-B:3, V.***

5 Residential Services Agreement; Reference to Independent Living Retirement Community Added. Amend RSA 161-J:4, I to read as follows:

I. A person shall not begin residency in an assisted living residence, ***an independent living retirement community***, or housing for older persons unless a representative of the residence and either the proposed resident or the proposed resident's representative reads and signs a residential services agreement that complies with the provisions of this chapter. Upon signing of the agreement, the residence shall give the resident and the resident's representative, if any, a copy of the agreement and place a copy in the resident's file.

6 Standard Disclosure Summary; Copy and Notice to Prospective Residents. Amend RSA 161-J:5 to read as follows:

161-J:5 Standard Disclosure Summary.

I. The standard disclosure summary, which shall accompany a residential services agreement, shall be in a form adopted by the commissioner of the department of health and human services by rule pursuant to RSA 541-A.

II. A copy of residential services agreement shall be given to prospective residents upon request and at least 24 hours prior to signing.

7 Applicability of RSA 540 and 540-A; Reference to Independent Living Retirement Community Added. Amend RSA 161-J:7 to read as follows:

161-J:7 Applicability of RSA 540 and 540-A. All provisions of RSA 540 and RSA 540-A shall apply to assisted living residences, ***independent living retirement communities***, and housing for older persons where the residential premises, ***however designated***, are leased or rented to the resident, unless otherwise provided by RSA 151 and RSA 420-D or other applicable law.

8 New Sections; Use of Term Assisted Living; Registration with Department of Justice. Amend RSA 161-J by inserting after section 8 the following new sections:

161-J:9 Use of Term "Assisted Living." The term "assisted living" may only be used in a title, brochure, admission agreement, or other written or promotional materials by an entity that is licensed pursuant to RSA 151.

161-J:10 Registration with Department of Justice. Any person, corporation, partnership, association or other entity operating an independent living retirement community in this state shall file an annual registration statement with the consumer protection bureau of the department of justice, with a copy to the department of health and human services, bureau of health facilities administration. The registration statement shall include the name and address of the independent living retirement community, the name and address of the registered agent if a corporation, and a complete description of the type of all available services. The independent living retirement community shall insure that the registration statement is available to all current and prospective residents of the community upon request.

9 Effective Date. This act shall take effect January 1, 2004.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 45, relative to property tax exemptions and credits for the elderly, veterans, and the disabled, and allowing municipalities to adopt an optional date for filing exemptions. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

Public Affairs
March 19, 2003
2003-0862s
10/01

Amendment to SB 45

Amend the bill by replacing sections 4 - 6 with the following:

4 Property Taxes; Tax Credit for Service-Connected Total Disability; Amount Increased. Amend RSA 72:35, IV(a) to read as follows:

IV.(a) Upon its adoption by a city or town as provided in RSA 72:35-a, any person who has been honorably discharged or an officer honorably separated from the military service of the United States and who has total and permanent service-connected disability, or who is a double amputee or paraplegic because of service-connected injury, or the surviving spouse of such a person, shall receive a yearly tax credit in the amount ~~of~~ **from \$1,400 up to \$2,000** of property taxes on the person's residential property. ***A municipality which had elected under prior law to adopt a \$1,400 credit shall be required to comply with the procedure for adoption in RSA 72:35-a if the municipality wants to adopt an increased credit amount.***

5 Property Taxes; Tax Credit for Service-Connected Total Disability; Procedure for Adoption; Amount Increased. Amend RSA 72:35-a, I(c) to read as follows:

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 72:35, IV for an optional tax credit on the taxes due on residential property for a service-connected total disability? The optional disability tax credit is ***an amount from \$1,400 up to \$2,000***, rather than \$700."

6 Exemption for the Disabled; Optional Extension Added. Amend RSA 72:37-b to read as follows:

72:37-b Exemption for the Disabled.

I. Upon its adoption by a city or town as provided in RSA 72:37-c, any person who is eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled shall receive a yearly exemption in an amount to be chosen by the town or city.

I-a. Upon the adoption of this paragraph by a city or town as provided in RSA 72:37-c, a person eligible under Title II or Title XVI of the federal Social Security Act on his or her sixty-fifth birthday shall remain eligible for a yearly exemption either in the amount of the exemption applicable under paragraph I or the amount of the elderly exemption granted to the person under RSA 72:39-b, whichever is greater.

II. The ~~[exemption]~~ **exemptions** in paragraph I **and I-a** may be applied only to property which is ~~[occupied as the principal place of abode by]~~ the disabled ~~[person]~~ **person's principal place of residence and domicile for purposes of RSA 654:1**. The exemption may be applied to any land or buildings appurtenant to the residence or to manufactured housing if that is the principal place of ~~[abode]~~ **residence and domicile**.

III. No exemption shall be allowed under paragraphs I or I-a unless the person applying for an exemption:

(a) Has resided in this state for at least 5 years preceding April 1 in the year in which the exemption is claimed.

(b) Had, in the calendar year preceding said April 1, a net income from all sources, or if married, a combined net income from all sources, of not more than the respective amount determined by the city or town for purposes of paragraphs I or I-a. Under no circumstances shall the amount determined by the city or town be less than \$13,400 for a single person or \$20,400 for married persons. The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:

(1) Life insurance paid on the death of an insured.

(2) Expenses and costs incurred in the course of conducting a business enterprise.

(3) Proceeds from the sale of assets.

(c) Owns net assets not in excess of the amount determined by the city or town for purposes of paragraph I, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000 or, if married, combined net assets in such greater amount as may be determined by the town or city. "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances. "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

IV. Additional requirements for an exemption under paragraphs I or I-a shall be that the property is:

(a) Owned by the resident;

(b) Owned by a resident jointly or in common with the resident's spouse, either of whom meets the requirements for the exemption claimed;

(c) Owned by a resident jointly or in common with a person not the resident's spouse, if the resident meets the applicable requirements for the exemption claimed;

(d) Owned by a resident, or the resident's spouse, either of whom meets the requirements for the exemption claimed, and when they have been married to each other for at least 5 consecutive years.

Amend the bill by replacing section 13 with the following:

13 Property Taxation; Adoption or Modification of Elderly Exemption; Net Assets for Married Persons. Amend RSA 72:39-b, I(c) to read as follows:

(c) The wording of the question shall be: "Shall we modify the elderly exemptions from property tax in the town (city) of _____, based on assessed value, for qualified taxpayers, to be as follows: for a person 65 years of age up to 75 years, (here insert dollar amount); for a person 75 years of age up to 80 years, (here insert dollar amount); for a person 80 years of age or older (here insert dollar amount). To qualify, the person must have been a New Hampshire resident for at least 5 years, own the real estate individually or jointly, or if the real estate is owned by such person's spouse, they must have been married **to each other** for at least 5 **consecutive** years. In addition, the taxpayer must have a net income of not more than (here insert a dollar amount not less than \$13,400) or, if married, a combined net income of less than (here insert a dollar amount not less than \$20,400); and own net assets not in excess of (here insert a dollar amount not less than \$35,000 excluding the value of the person's residence) **or, if married, combined net assets not in excess of (here insert a dollar amount of \$35,000 or greater) excluding the value of the residence.**" Under no circumstances shall the amounts of the exemption for any age category be less than \$5,000. **The combined net asset amount for married persons shall apply to a surviving spouse until the sale or transfer of the property by the surviving spouse or until the remarriage of the surviving spouse.**

Amend the bill by deleting section 9 and renumbering the original sections 10-15 to read as 9-14, respectively.

2003-0862s

AMENDED ANALYSIS

This bill:

I. Allows towns and cities to increase the property tax credit for service-connected total disability from \$1,400 to an amount up to \$2,000.

II. Increases the amount of the optional veterans' property tax credit.

III. Allows for the adoption by municipalities of a married persons' net asset qualification for purposes of the elderly exemption. Such combined net asset qualification shall apply to a surviving spouse until the sale or transfer of the property, or until the remarriage of the surviving spouse.

IV. Allows towns or cities to adopt different net income limits for each age group in the elderly property tax exemption.

V. Allows municipalities to adopt an extension of the property tax exemption for disabled persons who are 65 years of age or older.

VI. Clarifies references to married persons in certain property tax exemption statutes.

VII. Allows towns or cities to adopt an optional filing date for all exemptions, deferrals, or tax credits. Current law allows adopting the optional filing date only for the elderly exemption.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16**March 19, 2003****2003-0903s****10/09****Floor Amendment to SB 45**

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

AN ACT relative to property tax exemptions and credits for the elderly, veterans, and the disabled, and allowing municipalities to adopt an optional date for filing exemptions.

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

1 Veterans' Tax Credit; Amount Increased. Amend RSA 72:28, V to read as follows:

V. Upon its adoption by a city or town as provided in RSA 72:28-a, the veterans' tax credit shall be **an amount from \$100 up to \$500** subtracted each year from the property tax on the veteran's residential property. However, the surviving spouse of a resident who suffered a service-connected death may have the sum subtracted from the property tax on any real property in the same municipality where the surviving spouse is a resident.

2 Procedure for Adoption. Amend RSA 72:28-a, I(c) to read as follows:

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 72:28, V and VI for an optional veterans' tax credit and an expanded qualifying war service for veterans seeking the tax credit? The optional veterans' tax credit is [~~\$100, rather than \$50~~] (**here insert amount from \$100 up to \$500**)."

3 Property Taxation; Optional Date for Filing Exemption. Amend RSA 72:33-b to read as follows:

72:33-b Optional Date for Filing for [~~Elderly Exemption~~] **Exemptions**.

I. Any town or city may opt to change the date for filing for [~~an elderly exemption~~] **all of the exemptions, deferrals, or tax credits listed** under RSA 72:33 from March 1 to the August 1 prior to the setting of the tax rate. Any town or city may adopt the August 1 date for filing in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39, and shall be voted upon by ballot. In a city or charter town, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. The legislative body of a city or charter town may vote to place the

question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(b) The governing body shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be: "Shall we adopt the August 1 prior to the setting of the tax rate as the date for filing for ~~[an elderly exemption from]~~ **exemptions, deferrals, and tax credits against the property tax?**"

II. If a majority of those voting on the question vote "Yes," the August 1 filing date for ~~[the elderly exemption]~~ **exemptions, deferrals, or tax credits** shall apply within the town or city on the date set by the governing body.

III. Within 60 days from the initial adoption of the August 1 filing date for ~~[the elderly exemption]~~ **exemptions, deferrals, or tax credits**, the governing body of the town or city shall send a prominent written notice of the change of filing date to all residential property taxpayers in the town or city.

4 Property Taxes; Tax Credit for Service-Connected Total Disability; Amount Increased. Amend RSA 72:35, IV(a) to read as follows:

IV.(a) Upon its adoption by a city or town as provided in RSA 72:35-a, any person who has been honorably discharged or an officer honorably separated from the military service of the United States and who has total and permanent service-connected disability, or who is a double amputee or paraplegic because of service-connected injury, or the surviving spouse of such a person, shall receive a yearly tax credit in the amount ~~[of]~~ **from \$1,400 up to \$2,000** of property taxes on the person's residential property. **A municipality which had elected under prior law to adopt a \$1,400 credit shall be required to comply with the procedure for adoption in RSA 72:35-a if the municipality wants to adopt an increased credit amount.**

5 Property Taxes; Tax Credit for Service-Connected Total Disability; Procedure for Adoption; Amount Increased. Amend RSA 72:35-a, I(c) to read as follows:

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 72:35, IV for an optional tax credit on the taxes due on residential property for a service-connected total disability? The optional disability tax credit is **an amount from \$1,400 up to \$2,000**, rather than \$700."

6 Exemption for the Disabled; Optional Extension Added. Amend RSA 72:37-b to read as follows:

72:37-b Exemption for the Disabled.

I. Upon its adoption by a city or town as provided in RSA 72:37-c, any person who is eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled shall receive a yearly exemption in an amount to be chosen by the town or city.

I-a. Upon the adoption of this paragraph by a city or town as provided in RSA 72:37-c, a person eligible under Title II or Title XVI of the federal Social Security Act on his or her sixty-fifth birthday shall remain eligible for a yearly exemption either in the amount of the exemption applicable under paragraph I or the amount of the elderly exemption granted to the person under RSA 72:39-b, whichever is greater.

II. The ~~[exemption]~~ **exemptions** in paragraph I **and I-a** may be applied only to property which is ~~[occupied as the principal place of abode by]~~ the disabled ~~[person]~~ **person's principal place of residence and domicile for purposes of RSA 654:1**. The exemption may be applied to any land or buildings appurtenant to the residence or to manufactured housing if that is the principal place of ~~[abode]~~ **residence and domicile** **Nothing in this section shall preclude a qualified applicant from earning an income.**

III. No exemption shall be allowed under paragraphs I or I-a unless the person applying for an exemption:

(a) Had, in the calendar year preceding said April 1, a net income from all sources, or if married, a combined net income from all sources, of not more than the respective amount determined by the city or town for purposes of paragraphs I or I-a. Under no circumstances shall the amount determined by the city or town be less than \$13,400 for a single person or \$20,400 for

married persons. The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:

(1) Life insurance paid on the death of an insured.

(2) Expenses and costs incurred in the course of conducting a business enterprise.

(3) Proceeds from the sale of assets.

(b) Owns net assets not in excess of the amount determined by the city or town for purposes of paragraph I, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000 or, if married, combined net assets in such greater amount as may be determined by the town or city. "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances. "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

IV. Additional requirements for an exemption under paragraphs I or I-a shall be that the property is:

(a) Owned by the resident;

(b) Owned by a resident jointly or in common with the resident's spouse, either of whom meets the requirements for the exemption claimed;

(c) Owned by a resident jointly or in common with a person not the resident's spouse, if the resident meets the applicable requirements for the exemption claimed;

(d) Owned by a resident, or the resident's spouse, either of whom meets the requirements for the exemption claimed, and when they have been married to each other for at least 5 consecutive years.

7 Procedure for Adoption; Exemption for the Disabled. RSA 72:37-c is repealed and reenacted to read as follows:

72:37-c Procedure for Adoption.

I. Any town or city may adopt the provisions of RSA 72:37-b, I, and may either jointly or separately adopt the provisions of RSA 72:37-b, I-a, in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3, and shall be voted upon by official ballot if that town has adopted the official ballot for the election of officers. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

II. The vote shall specify the provisions of the exemption provided in RSA 72:37-b, I or the extension of the exemption provided in RSA 72:37-b, I-a. The exemption shall take effect in the tax year beginning April 1 following its adoption.

III. A municipality may modify or rescind the exemptions provided by this section in the manner described in this section.

8 Tax Deferral for the Elderly and Disabled; Qualifications Clarified. Amend RSA 72:38-a, I(b) to read as follows:

(b) Has owned the homestead for at least 5 **consecutive** years; and

9 Conditions for Elderly Exemption. Amend the introductory paragraph of RSA 72:39-a, I(b) to read as follows:

(b) Had in the calendar year preceding said April 1 a net income from all sources, or if married, a combined net income from all sources, of not more than the respective amount **applicable to each age group as** determined by the city or town for purposes of RSA 72:39-b. Under no circumstances shall the amount

determined by the city or town be less than \$13,400 for a single person or \$20,400 for married persons. The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:

10 Property Taxation; Conditions for Elderly Exemption; Net Assets for Married Persons. Amend RSA 72:39-a, I(c) to read as follows:

(c) Owns net assets not in excess of the amount determined by the city or town for purposes of RSA 72:39-b, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000. ***A city or town may set a combined net assets amount for married persons in such greater amount as the legislative body of the city or town may determine.*** "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances. "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

11 New Paragraph; Exemption for Surviving Spouse; Combined Net Asset Amount. Amend RSA 72:39-a by inserting after paragraph II the following new paragraph:

III. Upon the death of an owner residing with a spouse pursuant to paragraph II(b) or II(d), the combined net asset amount for married persons determined by the city or town shall continue to apply to the surviving spouse for the purpose of the exemption granted under RSA 72:39-b until the sale or transfer of the property by the surviving spouse or until the remarriage of the surviving spouse.

12 Property Taxation; Adoption or Modification of Elderly Exemption; 5-year Residency Removed; Net Assets for Married Persons. Amend RSA 72:39-b, I(c) to read as follows:

(c) The wording of the question shall be: "Shall we modify the elderly exemptions from property tax in the town (city) of _____, based on assessed value, for qualified taxpayers, to be as follows: for a person 65 years of age up to 75 years, (here insert dollar amount); for a person 75 years of age up to 80 years, (here insert dollar amount); for a person 80 years of age or older (here insert dollar amount). To qualify, the person must ~~[have been a New Hampshire resident for at least 5 years,]~~ own the real estate individually or jointly, or if the real estate is owned by such person's spouse, they must have been married ***to each other*** for at least 5 ***consecutive*** years. In addition, the taxpayer must have a net income of not more than (here insert a dollar amount not less than \$13,400) or, if married, a combined net income of less than (here insert a dollar amount not less than \$20,400); and own net assets not in excess of (here insert a dollar amount not less than \$35,000 excluding the value of the person's residence) ***or, if married, combined net assets not in excess of (here insert a dollar amount of \$35,000 or greater) excluding the value of the residence.***" Under no circumstances shall the amounts of the exemption for any age category be less than \$5,000. ***The combined net asset amount for married persons shall apply to a surviving spouse until the sale or transfer of the property by the surviving spouse or until the remarriage of the surviving spouse.***

13 New Paragraph; Adoption or Modification of Elderly Exemption; Income Limits. Amend RSA 72:39-b by inserting after paragraph I the following new paragraph:

I-a. In addition to the provisions of paragraph I, a town or city may adopt or modify the elderly exemption by including different net income limits, or combined net income limits for married persons, applicable to each of the 3 age groupings listed in subparagraph I(c). Under no circumstances shall the amount determined by the city or town be less than \$13,400 for a single person or \$20,400 for married persons. Any town or city may adopt the provisions of this paragraph by including the provisions in the referendum under paragraph I, or by the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3, and shall be voted upon by official ballot if that town has adopted the official ballot for the election of officers. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

(c) The vote shall specify the provisions of the net income limits applicable to each age group listed in subparagraph I(c) as provided in this paragraph. The income limits for each age group shall take effect in the tax year beginning April 1 following its adoption.

(d) A municipality may rescind the net income limits applicable to each age group in the manner described in subparagraph (a) or (b).

14 Repeal. RSA 72:39-a, I(a), relative to the 5-year residency requirement for the elderly exemption, is repealed.

15 Effective Date. This act shall take effect April 1, 2003.

2003-0903s

AMENDED ANALYSIS

This bill:

I. Allows towns and cities to increase the property tax credit for service-connected total disability from \$1400 to \$2000.

II. Increases the amount of the optional veterans' property tax credit.

III. Allows for the adoption by municipalities of a married persons' net asset qualification for purposes of the elderly exemption. Such combined net asset qualification shall apply to a surviving spouse until the sale or transfer of the property, or until the remarriage of the surviving spouse.

IV. Allows towns or cities to adopt different net income limits for each age group in the elderly property tax exemption.

V. Allows municipalities to adopt an extension of the property tax exemption for disabled persons who are 65 years of age or older.

VI. Clarifies references to married persons in certain property tax exemption statutes.

VII. Allows towns or cities to adopt an optional filing date for all exemptions, deferrals, or tax credits. Current law allows adopting the optional filing date only for the elderly exemption.

VIII. Removes requirements for 5 years of residency in certain exemption and credits.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 54-FN-L, relative to the implementation of town or city property revaluations. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Public Affairs
March 19, 2003

2003-0863s

10/01

Amendment to SB 54-FN-LOCAL

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

AN ACT relative to the local inventory of property values for assessment of property taxes.

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

1 Department of Revenue Administration; Equalization Procedure. Amend the introductory paragraph of RSA 21-J:9-a to read as follows:

The following procedures shall apply in determining the equalization of property within the cities, towns, and unincorporated places as required by RSA 21-J:3, XIII, **but shall not affect a municipality's requirements for inventory of property and assessment of taxes as of April 1:**

2 Inventory of Property; September 1 Deadline; Penalty Added. Amend RSA 21-J:34 to read as follows:

I. A report filed by the governing body of each city, town, unincorporated town, and unorganized place, shall certify the number of residents and total valuation of each class of property included in the inventory of residents and ratable estates. This report shall be filed by September 1 of each year[~~unless this filing date is extended by the commissioner for just cause~~]. **Municipalities which fail to timely file the report re-**

quired by this paragraph due to willful neglect or intentional disregard of laws or rules and not reasonable cause shall pay a penalty to the state in the amount of \$100 for each day that the report is not timely filed. Within 30 days after the imposition of the penalty by the commissioner, officials of the city, town, or unincorporated place upon which the penalty was imposed may appeal by written application to the board of tax and land appeals or the superior court in the county in which the city, town, or unincorporated place is located. The board of tax and land appeals or the superior court, as the case may be, shall determine de novo the correctness of the commissioner's actions.

3 Property Taxation; Annual List. Amend RSA 74:1 to read as follows:

74:1 Annual List. The selectmen of each town shall annually, in April, make a list of all the polls **and the total assessed property value**, and **shall** take an inventory of all the estate liable to be taxed in such town on the first day of that month.

4 Revised Inventory; Date Clarified. Amend RSA 75:8, I to read as follows:

I. Annually **by the first day of the local property tax year**, and in accordance with state assessing standards, the assessors and selectmen shall adjust assessments to reflect changes so that all assessments are reasonably proportional within that municipality. All adjusted assessments **as of the first day of the local property tax year** shall be included in the inventory of that municipality and shall be sworn to in accordance with RSA 75:7.

5 Property Tax Inventory List. Amend RSA 76:10 to read as follows:

76:10 Selectmen's Lists and Warrant. A list of all property taxes by them assessed **as of April 1, or as otherwise permitted by statute**, shall be made by the selectmen under their hands, with a warrant under their hands and seal. The list shall be directed to the collector of such town, requiring ~~him~~ **the collector** to collect the same, and to pay to the town treasurer such sums and at such times as may be therein prescribed. The selectmen shall assess such taxes to the owner as of April 1, or to the current owner, if known. The selectmen of a town or the board of assessors of a city may round off to the nearest dollar the total tax due on each parcel appearing on the list.

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

2003-0863s

AMENDED ANALYSIS

This bill requires local tax officials to assess and collect property taxes on property valued as of April 1, unless otherwise permitted.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 134, relative to the regulation of real estate brokers by the real estate commission. Public Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Barnes for the committee.

Public Affairs

March 17, 2003

2003-0762s

10/01

Amendment to SB 134

Amend the bill by replacing section 4 with the following:

4 Bonds. Amend RSA 331-A:14 to read as follows:

331-A:14 Bonds. No principal or managing broker's license shall be issued or renewed until the applicant gives to the commission a surety bond in ~~the~~ **any** form approved by the commission in a sum of not less than \$25,000, executed by the applicant and by a surety company authorized to do business in this state. The bond shall be payable to the state of New Hampshire, for the benefit of any person aggrieved, and shall be conditioned upon the faithful accounting by the broker for all funds entrusted to the broker in the broker's capac-

ity as a principal or managing real estate broker. Any person so aggrieved may bring suit on the bond in the aggrieved person's own name; provided, however, that the aggregate liability of the surety to all persons shall, in no event, exceed the sum of such bond. The commission may revoke the license of any principal or managing broker whenever the bond filed by the broker ceases to be in full force and effect.

Amend the bill by replacing section 11 with the following:

11 Prohibited Conduct. Amend RSA 331-A:26, XXII to read as follows:

XXII. Failing to disclose in writing to an owner, the licensee's intention or true position if the licensee directly, or indirectly through a third party, purchases *or leases* for such licensee, or acquires or intends to acquire any interest in or any option to purchase *or lease* the property. Such disclosure shall be made prior to an offer to purchase *or lease*, and acknowledged in writing by all parties to the transaction.

Amend the bill by deleting section 9 and renumbering the original sections 10-14 to read as 9-13, respectively.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 148-FN, relative to the regulation of water treatment equipment installers by the plumber's board. Public Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Public Affairs
March 19, 2003
2003-0861s
08/10

Amendment to SB 148-FN

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

1 New Paragraphs; Plumber's Board; Water Treatment System Installers. Amend RSA 329-A:2 by inserting after paragraph V the following new paragraphs:

VI. "Water treatment system" means any apparatus for treating or processing water to modify, enhance, or improve its quality or to meet a specific water quality need, desire, or standard, and the pipes, fittings, and other components servicing such apparatus.

VII. "Water treatment technician" means any person who installs, maintains, or repairs water treatment systems.

VIII. "Water treatment trainee" means any person who is engaged in learning about and assisting in installing, maintaining, or repairing water treatment systems under the direct supervision of a person licensed under this chapter .

2 Board; Membership. Amend RSA 329-A:3, I to read as follows:

I. There shall be a state board for the licensing and regulation of plumbers consisting of [5] **7** members: **2** master plumbers, one journeyman plumber, ***one water treatment technician who is neither a master plumber nor a journeyman plumber***; and [2] **3** public members, each to be appointed by the governor, with the approval of the council, to a term of 5 years. No member of the board shall be appointed to more than 2 consecutive terms. A member of the board shall serve as the board secretary.

3 Fees. Amend RSA 329-A:5-a to read as follows:

329-A:5-a Fees. The board shall establish fees for examination of applicants, for licensure and for renewal of licensure to practice under this chapter, and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. ***The fee for the annual renewal of licenses issued to persons or business entities licensed as water treatment technicians shall not be more than the fee for the annual renewal of licenses issued to journeyman plumbers.***

4 Examinations and Licenses. Amend RSA 329-A:7 to read as follows:

329-A:7 Examinations; Licenses. The board shall have authority to examine and license master plumbers, ~~[and] journeyman plumbers,~~ **and water treatment technicians**. When issued, such license shall be valid throughout the state, and the licensee shall be entitled to perform the work of a master ~~[or] plumber,~~ journeyman plumber, **or water treatment technician**, as the case may be, anywhere within the state without any payment or additional fee. Each applicant for a license shall present to the secretary of the board on a blank furnished by the board a written application for license, containing such information as the board may require, accompanied by the required fee. Such examinations shall be held at such times and places as the board shall determine. The scope of such examinations and the methods of procedure shall be prescribed by the board, ***provided that the scope of examination of water treatment technicians shall be limited to the configuration and installation of water treatment systems and the provisions of this chapter and the rules adopted by the board that relate to water treatment systems.***

5 Licenses; Master Plumbers. Amend RSA 329-A:8 to read as follows:

329-A:8 Licenses; Master Plumbers. Any person who, having held a journeyman plumber's license for at least 6 months, shall, upon the payment of a fee established by the board, be entitled to an examination and, if found qualified by a majority of the board members, be licensed as a master plumber. A license issued under this section shall be publicly displayed at the licensee's principal place of business for as long as such business continues. Any person refused a license may be reexamined ~~[at any subsequent meeting of the board within one year of the time of the refusal without additional fee and thereafter may be examined]~~ as often as ~~[he]~~ **such person** may desire upon payment of a fee established by the board.

6 Licenses; Journeyman Plumbers. Amend RSA 329-A:9 to read as follows:

329-A:9 Licenses; Journeyman Plumbers. Any person who, having successfully completed his **or her** apprenticeship in plumbing, has received an official completion certificate from the organization conducting the program shall, upon payment of a fee established by the board, be entitled to examination and, if found qualified by a majority of the board members, be licensed as a journeyman plumber. A license issued under this section shall be carried on the person licensed and displayed at any time upon request. Any journeyman plumber refused a license may be reexamined ~~[at any subsequent meeting of the board within one year of the time of the refusal without additional fee and thereafter may be examined]~~ as often as he **or she** may desire upon payment of a fee established by the board.

7 New Section; Examinations; Water Treatment Technicians. Amend RSA 329-A by inserting after section 9 the following new section:

329-A:9-a Licenses; Water Treatment Technicians. Any person who has acted as a water treatment trainee for a period of not less than one year shall, upon payment of a fee established by the board, be entitled to examination and, upon achieving the passing score on the examination, be licensed as a water treatment technician. A license issued under this section shall be carried on the person licensed and displayed at any time upon request. Any person failing to achieve the passing score on the examination may be examined as often as he or she may desire upon payment of a fee established by the board. The scope of such examination and the methods of procedure shall be prescribed by the board, provided, however, that the scope of the examination of water treatment technicians shall be limited to the configuration and installation of water treatment systems and the provisions of this chapter and the rules adopted by the board that relate to water treatment systems.

8 New Paragraphs; Licenses Without Examination. Amend RSA 329-A:10 by inserting after paragraph III the following new paragraphs:

IV. A corporation, partnership, limited liability company, or other business entity that installs, maintains or repairs water treatment systems, provided the entity designates one employee licensed under this chapter who is responsible for the entity's compliance with this chapter and the rules adopted by the board. Within 30 days after termination of employment of such employee by such entity, he or she shall give notice thereof to the board and, if no other employee licensed under this chapter, the entity shall not act as a master plumber until some other employee has obtained a license. Notwithstanding any other provision of this chapter, the board shall not require a fee for an entity that installs, maintains or repairs water treatment systems where the person licensed under this chapter is the sole owner of the entity.

V. A person for an identification card as a water treatment trainee.

9 Exceptions. Amend RSA 329-A:13, V to read as follows:

V. To persons engaged in the installation of any heating, cooling, air conditioning or domestic water heating systems, whether solar, oil, gas or electric, and persons engaged in the installation and servicing of ~~[water softeners or]~~ swimming pools.

10 New Paragraph; Penalties. Amend RSA 329-A:18 by inserting after paragraph I the following new paragraph:

I-a. Any person, corporation, partnership, limited liability company or other legal entity that installs, maintains or repairs water treatment systems without first having obtained a license issued under this chapter or which employs a person who installs, maintains or repairs water treatment systems who has no such license, unless he or she is an apprentice or water treatment trainee, or procures any license wrongfully or by fraud, shall be guilty of a violation.

11 Transition. Notwithstanding RSA 329-A:9-a, no person shall be required to take an examination to obtain licensure as a water treatment technician under RSA 329-A if prior to January 1, 2005 such person files with the state board for the licensing and regulation of plumbers a statement sworn or affirmed before a notary or other person authorized to administer oaths that he or she has been engaged in the installation, maintenance, or repair of water treatment systems. Any person who files such a statement with the state board for the licensing and regulation of plumbers shall be deemed qualified to be licensed as a water treatment technician unless, after a public hearing, the board finds the person's knowledge and understanding of, and experience with the configuration and installation of water treatment systems are questionable enough to require examination as required under RSA 329-A:9-a. Such person shall be entitled to retain his or her license as a water treatment technician unless and until he or she fails to achieve a passing score on the examination for water treatment technicians. Notwithstanding RSA 329-A, no fee shall be charged for the annual renewal of the license granted to a water treatment system technician if under RSA 329-A:11 such license expires on or before September 30, 2004.

12 New Paragraph; Exceptions. Amend RSA 329-A:13 by inserting after paragraph VI the following new paragraph:

VII. To employees of public drinking water systems and public water system operators certified by the department of environmental services for drinking water treatment.

13 Effective Date.

I. Section 2 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2004.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 33-FN, implementing procedures for a hospital to assume care and custody of an abandoned child and creating an exception to the crime of endangering the welfare of a child. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-1. Senator Boyce for the committee.

Public Institutions, Health and Human Services

March 19, 2003

2003-0874s

04/01

Amendment to SB 33-FN

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

AN ACT establishing a putative fathers' registry in the department of health and human services.

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

1 New Chapter; Putative Fathers' Registry Amend RSA by inserting after chapter 132-A the following new chapter:

CHAPTER 132-B

PUTATIVE FATHERS' REGISTRY

132-B:1 Establishment of Registry; Purpose. The commissioner of the department of health and human services shall establish a putative fathers' registry for the purpose of determining the identity and location

of a putative father interested in a minor child who is or may be abandoned under RSA 132-A, and to provide notice to the putative father who is interested in asserting his parental rights relative to the minor child. The commissioner may establish informational material and public service announcements necessary to implement this chapter. The commissioner shall have no independent obligation to gather or update the information to be maintained on the registry. The registrant shall be responsible for updating personal information on the registry.

132-B:2 Search of Registry.

I. Within 24 hours of receiving a report under RSA 132-A:3, the commissioner of the department of health and human services shall conduct a search of the putative fathers' registry to determine whether a putative father is registered in relation to a child who is or may have been abandoned under RSA 132-A.

II. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of the department of health and human services that after a search, no registration has been found of a putative father in relation to a child who is or may have been abandoned under RSA 132-A.

132-B:3 DNA Record.

I.(a) A putative father may, at his own expense, submit a DNA sample for the purpose of establishing a personal DNA record within the putative father's registry. A search of the registry under this section shall include an analysis of the putative father's DNA record, if such record exists.

(b) The analysis shall be performed under the direction of the division, following procedures in conformance with the federal "DNA Identification Act of 1994" Identifying characteristics of the resulting DNA profile shall be stored in a DNA database compatible with and maintained by the Combined DNA Index System or "CODIS," which refers to the national DNA identification index system under the direction of the Federal Bureau of Investigation.

II. The division shall prescribe procedures compatible with the Federal Bureau of Investigation's requirements for the CODIS program, to be used in the collection, submission, identification, analysis, storage, and disposition of DNA samples and DNA records obtained pursuant to this subdivision.

III. The division may contract with third parties for the purposes of this subdivision. Any DNA sample sent to a third party for analysis shall be coded to maintain confidentiality concerning the donor of the sample.

IV. A certificate and the results of the analysis shall be admissible in any court as evidence of the facts stated in the analysis.

V. In this section, "DNA record" shall be as defined in RSA 651-C:1, V, and "DNA sample" shall mean a blood, tissue, hair follicle, or other biological sample provided by a putative father for inclusion in the registry for analysis or storage, or both.

132-B:4 Privacy of Registry Data. Information in the putative fathers' registry, including all information provided in requesting the search of the registry, shall not be considered public records. Information in the registry may be released to a person who is required to search the registry under the provisions of RSA 132-B:1 or RSA 132-B:2.

2 Contingency. If HB 104-FN of the 2003 legislative session is not enacted into law, then this act shall not take effect.

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

2003-0874s

AMENDED ANALYSIS

This bill establishes a putative fathers' registry in the department of health and human services to allow fathers to register and establish a DNA record in the registry,

Amendment adopted.

Senator Larsen moved recommit.

Motion failed.

Senator Barnes moved the question.

Adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 78-FN, establishing the New Hampshire health care information council. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-1. Senator O'Hearn for the committee.

Public Institutions, Health and Human Services

March 18, 2003

2003-0820s

01/09

Amendment to SB 78-FN

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

AN ACT establishing the New Hampshire health care information council.

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

1 New Chapter; New Hampshire Health Care Information Council. Amend RSA by inserting after chapter 420-J the following new chapter:

CHAPTER 420-K

NEW HAMPSHIRE HEALTH CARE INFORMATION COUNCIL

420-K:1 Statement of Purpose. The purpose of this chapter is to create a nonprofit, voluntary council to promote informed decision-making, increase accountability in the health care system, and improve health care planning through the collection and maintenance of useful, objective, reliable and comprehensive data and health care information. The council shall serve as a resource for insurers, employers, providers, and purchasers of health care, as well as state government, to continuously assess and improve the cost and quality of health care in New Hampshire and to enhance the ability of New Hampshire consumers and employers to make informed and cost effective health care choices.

420-K:2 Creation of Council. A New Hampshire health care information council is hereby created. The council shall be a nonprofit voluntary corporation under RSA 292 organized for the purpose of compiling, maintaining, and disseminating statewide health care information and data. The council shall be governed by a 17-member board of directors. The board shall administer this chapter and shall report to the governor, the legislature, New Hampshire's congressional delegation, and the public. The council shall be deemed a health oversight agency, as that term is defined by 45 CFR Part 164.501, and shall operate under the authority of the state of New Hampshire. The council shall possess all powers as provided in this chapter and as derived from its status as a nonprofit voluntary corporation, and such additional powers as are specified in its plan of operation approved by the commissioner of the department of health and human services.

420-K:3 Definitions. In this chapter:

I. "Board" means the board of directors of the New Hampshire health care information council.

II. "Commissioner" means the commissioner of the department of health and human services.

III. "Council" means the New Hampshire health care information council.

IV. "Claims data" means encounter information created or received by a licensed health carrier that is used or relied upon to carry out the financial or administrative activities related to the provision of health care.

V. "Direct personal identifier" means a name, postal address information other than town or city, state and zip code, telephone and fax number, electronic mail address, social security number, or other information that identifies a particular individual.

VI. "Health carrier" means any entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the insurance commissioner, that contracts or offers to provide, deliver, arrange for, pay for or reimburse any of the costs of health services; including an insurance company, a health maintenance organization, a nonprofit health services corporation, or any other entity providing health coverage.

VII. "Health care" means care, services, or prescription drugs that are related to the health of an individual and provided by a licensed health care provider for preventive, diagnostic, therapeutic, or rehabilitative reasons.

VIII. "Health care facility" means an institution primarily providing health care services, including, but not limited to, hospitals and licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.

IX. "Health care provider" means a hospital, pharmacy, nursing home, long-term care facility, health care facility, or licensed health care professional or group of hospitals or health care professionals that provide health care services, other than supplying medical equipment or products.

X. "Public use data set" means a data set from which all direct personal identifiers have been removed or blanked.

420-K:4 Board of Directors.

I. The council shall be governed by a 17-member board of directors. Members of the board shall serve in a volunteer capacity, and shall not receive compensation, other than reimbursement for expenses.

II. Two members shall serve in an ex-officio capacity and 15 members shall be appointed in accordance with this paragraph:

(a) The commissioner of health and human services, or designee, shall serve in an ex-officio capacity.

(b) The commissioner of insurance, or designee, shall serve in an ex-officio capacity.

(c) One physician representative, appointed by the New Hampshire Medical Society.

(d) Three consumer representatives, who shall be appointed by the commissioner of the department of health and human services, by the commissioner of the insurance department, and by the governor. No consumer representative shall be an employee, officer, or director of any health care insurer, health care provider or health care facility, or otherwise have a significant financial interest in a health care facility, insurer, or provider.

(e) Three business representatives, who shall be appointed by the New Hampshire Chambers of Commerce governing board, by the Business and Industry Association of New Hampshire, and by the governor. No business representative shall be an employee, officer, or director of any health care insurer, health care provider or health care facility, or otherwise have a significant financial interest in a health care facility, insurer, or provider.

(f) Two labor representatives who shall represent the state's largest public sector and private sector unions, appointed by the governor.

(g) One hospital representative, appointed by the New Hampshire Hospital Association.

(h) Two insurance representatives, appointed by the governor.

(i) One health insurance producer, appointed by the commissioner of insurance.

(j) One nursing home or long-term care facility representative, appointed by the commissioner of the department of health and human services.

(k) One local government representative, appointed by the New Hampshire Municipal Association.

III. The board of directors shall:

(a) Prepare a plan of operation for submission to the commissioner for approval.

(b) Fulfill the duties and responsibilities outlined in the plan of operation.

(c) Prepare an annual budget.

(d) Determine and collect assessments.

(e) Enter into a contract or memorandum of understanding for the compilation, storage and processing of data.

(f) Enter into contracts for the analysis of data and the preparation of reports.

(g) Develop and disseminate health care cost and other information designed to assist businesses and consumers in purchasing health insurance, health care, and long-term care services.

(h) Prepare and make public summaries, compilations and reports based on the data.

(i) Work collaboratively with the department of health and human services to establish a standard format for the submission of claims data.

(j) Develop a fee schedule for providing technical assistance and access to the council's data and information.

(k) Design, operate, and maintain facilities for public and state researchers' use of health care data.

(l) Retain an executive director and other staff to administer the council's activities.

(m) Approve and submit an annual report of its activities to the governor, the legislative oversight committee, the commissioner of the department of health and human services, and the commissioner of the insurance department.

(n) Evaluate biennially the impact and effectiveness of the data collection, the information needs of consumers and businesses, and the relevance and usefulness of the information developed by the council.

IV. The board shall nominate a chairperson from among its members.

V. The board shall establish the directors' terms of office.

420-K:5 Plan of Operation.

I. The board of directors of the council shall adopt a plan of operation that shall require the approval of the commissioner of the department of health and human services. The plan of operation shall include the following:

(1) A description of the council's proposed consumer education program;

(2) A proposal for the development of a comprehensive information system;

(3) A description of the data sets that the council intends to include in its comprehensive health care information system;

(4) A description of the criteria that the council intends to use to determine the data included in the public use data sets;

(5) The council's procedures for handling and accounting for funds;

(6) The methodology that the council intends to use to determine the amount of the assessment;

(7) The council's requirements for keeping financial and other records of its activities;

(8) The procedures that the council intends to use to establish and maintain public awareness of the council and the data and information available; and

(9) The regular times and places for meetings of the board.

II. The plan of operation shall provide for continuing collaboration with the commissioner on matters including, but not limited to, the criteria to be applied in developing public use data sets, and the format for the submission of claims data.

420-K:6 Duties of the Council.

I. The council shall have the following duties:

(a) The council shall develop a comprehensive health care information system that shall include an all payor claims data set, and other data and information from insurers, third party administrators, state and federal governmental agencies, health care providers, accreditation and other organizations. The information system shall:

(1) Compile and disseminate data pertaining to the cost and utilization of health care services that will assist businesses and consumers in purchasing health care and long-term care services, assist carriers and providers in managing health care delivery and insurance products, and assist government and other policymakers in analyzing and understanding the insurance and health care markets;

(2) Use, build, improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts;

(3) Provide public access to data collected and used by both public and private sector information systems;

(4) Minimize the burden on those providing data to the New Hampshire health care information council; and

(5) Preserve the reliability, accuracy and integrity of data and health care information while ensuring that the data and health care information is publicly available.

II.(a) The council shall review state, federal, and other data reporting requirements, and shall consider the research and initiatives being pursued by the United States Department of Health and Human Services, the National Committee for Quality Assurance, the Joint Commission on Accreditation of Health care Organizations, and the Centers for Medicare and Medicaid Services to reduce potential duplication and inconsistencies. The council shall report its findings to the New Hampshire congressional delegation and the state's legislative oversight committee on an annual basis.

(b) The council shall collaborate with state agencies and health insurance carriers that collect health-related data while maintaining confidentiality and providing other safeguards as may be required to protect the privacy of individual patients and physicians.

(c) The council shall evaluate biennially the impact and effectiveness of its data collection and data submission requirements. The council shall endeavor to ensure that the data collected and submitted to the council is used to produce information of value to consumers, providers, insurers, employers, and government. In the event that the council determines that the data is not sufficient to allow the council to carry out its duties, the council shall prepare and submit a report to the commissioner proposing legislative changes to require additional data collection.

420-K:7 Collection of Data.

I. The council shall develop and implement data reporting and submission requirements for the filing, processing, storage and analysis of health care data. The data reporting and submission procedures shall:

(a) Use, build and improve upon existing data sources;

(b) Minimize the burden on those providing the data; and

(c) Preserve the reliability, accuracy and integrity of the data while ensuring that data is available to the public.

II. The council shall enter into a memorandum of understanding with the department of health and human services for services necessary to carry out the data collection, analysis, processing and storage activities required under this chapter. The memorandum of understanding shall require that the department annually collect and process hospital discharge data, Medicaid, Medicare and claims data. The department shall provide each of these data sets on a timely basis to the council. The data sets provided to the council shall not include patient names, street addresses, e-mail addresses, telephone numbers, or social security numbers.

III. All licensed health carriers shall be required to submit their claims data to the department of health and human services in accordance with the format and schedule established by the council in collaboration with the department of health and human services. Health carriers and providers shall not be required to submit any data element to the department of health and human services that is not collected in the ordinary course of business.

IV. All health maintenance organizations or other health care plans that collect the Health Employer Data and Information Set (HEDIS) shall annually submit the HEDIS information and data to the council.

V. Data required for submission to the council shall be provided annually or more frequently as specified by the council. The council shall work collaboratively with the department of health and human services to establish a schedule for the submission of data.

VI. The council shall examine the feasibility of merging multiple data sets to create integrated public use data sets and shall report annually to the commissioner on its progress in integrating and merging its data sets.

VII. The council may provide analysis of data upon request. The council may also provide technical assistance at the request of third parties for a reasonable fee. Reasonable technical assistance shall be provided at no charge to any person or entity that is subject to the annual assessment.

420-K:8 Dissemination of Information.

I. The council shall prepare and submit an annual report on its operations, its accomplishments, its priorities, and its current and planned activities to the commissioner, the insurance commissioner, the governor and the legislative oversight committee by January 1 of each year.

II. The council shall have the authority to prepare and issue reports on health care expenditures, health care utilization, health care statistics, health care costs, the health insurance market and trends in benefit design, and access to health care facilities and equipment. The council shall prepare public summaries and shall compile relevant and useful health care information for consumers and for businesses.

III. The council shall establish priorities to fulfill its duties, and shall identify its priorities and proposed implementation schedule in its plan of operation. The council shall set its priorities with due recognition of the complexity of its duties. The council shall prepare a proposed work plan annually to implement and meet its statutory obligations, and shall submit its proposed work plan with its annual report.

IV. The council shall maintain a website for disseminating information to the public and for responding to public inquiries.

420-K:9 Powers of the Council.

I. The council shall retain an executive director, other staff, and professional consultants as necessary to perform its functions.

II. The council may apply, may receive, and may expend funds from any private source or governmental entity by way of grant, donation or loan or in any other manner.

III. The council may purchase, receive, hold, lease or acquire by foreclosure and operate, manage, license and sell, convey, transfer, grant or lease real and personal property together with such rights and privileges as may be incidental and appurtenant to the real and personal property and the use of the real and personal property, including, but not limited to, any real or personal property acquired by the council from time to time in the satisfaction of debts or enforcement of obligations.

IV. The council may accept and expend gifts and donations.

V. The council may enter into contracts, including contracts for services, and incur liabilities for any of the purposes authorized in the contracts.

VI. The council may coordinate with and avail itself of the services of government agencies and the University of New Hampshire System and may assist and otherwise encourage organizations, local or regional, private or public, in the various communities of the state in the collection and processing of health care data.

VII. The council shall adopt bylaws that are consistent with this chapter for the governance of its affairs and all other things necessary or convenient to carry out the lawful purposes of the council.

VIII. The council may enter into contracts and memoranda of understanding with state government for the transfer of funds or use of state government resources and facilities.

IX. The council shall have all powers necessary to provide services or such functions required to fulfill its responsibilities under this chapter.

420-K:10 Revenues and Expenditures.

I. The council shall establish an annual budget by July 1 of each year, and all revenues from fees, assessments and contracts shall be used to defray the costs incurred by the council.

II. Permanent funding for the council shall be obtained from user fees, licensing fees, assessments, contracts, and donations as provided herein.

(a) The council may charge reasonable fees for duplicating, mailing, producing, and publishing information and data.

(b) The council shall impose an annual assessment that shall not exceed \$700,000 on hospitals, ambulatory surgical centers, and licensed health insurance carriers. Any person or entity that is subject to the annual assessment shall not be charged a user fee for access to the council's data and information.

(1) The council shall assess 50 percent of its total assessment to hospitals and ambulatory surgical centers, and 50 percent of its total assessment to licensed health carriers.

(2) The fees assessed to hospitals and ambulatory surgical centers shall be calculated in the following manner: 1/2 of the amount of the total fee assessed shall be based on the ratio of the admissions of the hospital or ambulatory surgical center to all hospitals and ambulatory surgical centers, and 1/2 of the amount of the total fee assessed shall be based on the ratio of the gross operating revenue of each hospital or ambulatory surgical center to the total gross operating revenues of all hospitals and ambulatory surgical centers.

(3) The fee assessed to health carriers shall be a per member fee based on each health insurance certificate or policy issued, renewed, or delivered in New Hampshire, including stop-loss coverage, as provided in RSA 404-G:5, III. The council shall determine the per member assessment on an annual basis using the best available information on or before November 1 of each year.

III. If the council determines that a person or entity has failed to pay the duly imposed assessment, the council shall report that failure to the state agency having regulatory jurisdiction over that person or entity, and the state shall commence proceedings to compel compliance.

IV. The council may enter into contracts to perform analysis of data at the request of third parties. The council shall use revenues received from contracted services to reduce the amount of the assessment.

420-K:11 Public Access to Data.

I. The council shall ensure that public use data is made available and accessible to interested persons.

II. The council shall adopt guidelines for its public use data sets that provide for the release of data in a manner consistent with state and federal law. The guidelines shall protect confidential and privileged information from release, including, but not limited to, financial information regarding specific discounts off-charges, capitation agreements, and other similar contractual arrangements. The council shall submit its public use data guidelines to the commissioner for approval.

III. Notwithstanding any other provision of law, upon request the council shall release its public use data sets for the purposes of research, analysis and aggregate statistical reporting under the following conditions:

(a) The person requesting the data must sign a data use agreement that contains the following provisions;

(1) An agreement not to use or permit others to use the data in any way except for research, analysis and aggregate statistical reporting;

(2) An agreement that all persons using the data sign the data use agreement;

(3) An agreement that the data shall be maintained in a secure environment and that only authorized persons use the data;

(4) An agreement not to release or permit others to release any information that identifies an individual either directly or indirectly;

(5) An agreement not to release or permit the release of data where the number of observations in a particular cell is less than or equal to 5;

(6) An agreement not to link or permit others to link the data to attempt to ascertain the identity of individuals;

(7) An agreement not to use or permit others to use the data to learn the identity of any person included in the data set;

(8) An agreement to indemnify, defend and hold harmless the data sources and the council from any or all claims and losses accruing to any person, organization or other legal entity as a result of violation of this agreement; and

(9) An agreement to acknowledge the source of the data in all reports or analysis published.

(b) The person requesting the data must also provide an assurance to the council that by signing the data use agreement the person understands that a violation of the agreement is subject to criminal prosecution as a violation and subject to a civil penalty of up to \$10,000 per violation.

420-K:12 Collection and Use of Personally Identifiable Data. Notwithstanding any other provision of this chapter, the council shall not receive, collect or disclose, and shall have no power to receive, collect or disclose, any data that includes direct personal identifiers from any person or organization, including but not limited

to the state, its agencies and political subdivisions and insurers, hospitals, nursing homes, physicians and other health care providers. For the purposes of this chapter, direct personal identifiers include information relating to an individual which contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number and social security number.

420-K:13 Appointment of Subcommittees.

I. The council shall have the authority to appoint subcommittees consisting of persons who are not board members, to assist it in carrying out its duties and responsibilities. The subcommittees shall include representatives of hospitals, labor, employers, consumers, and insurance carriers, licensed physicians, experts in the area of health care, and government officials.

II. The subcommittees may assist the council in evaluating and recommending methodologies for use in a statewide health information system that allow for the quantification of variations in attributes and use among patient populations and health care providers and in developing methodologies for making useful and informative comparisons among providers with respect to cost and expenditures, utilization, structural and process measures, and outcomes on a statewide or regional basis. Subcommittees may also be formed to assist the council in developing and disseminating consumer educational materials, in developing methods for data collection, formatting and storage of data, in developing formats for preparing public reports on insurance products, health maintenance organizations, and insurance carriers, as well as health care providers, and in producing meaningful statistical reports that address the public's need for comparative information on health care quality and cost.

III. The council and the department of health and human services shall provide technical assistance to the subcommittees.

420-K:14 Rulemaking Authority. The commissioner may adopt rules as necessary to carry out the purposes of this chapter.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 96-FN, establishing a pharmacy assistance program for seniors and disabled persons. Public Institutions, Health and Human Services Committee. Re-refer to committee, Vote 5-0. Senator Boyce for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 96-FN** laid on the table.

Question is on the motion to table.

A roll call was requested by Senator Clegg.

Seconded by Senator Estabrook.

The following Senators voted Yes: Gallus, Johnson, Kenney, Flanders, Odell, Roberge, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Cohen.

The following Senators voted No: Boyce, Below, Green, Peterson, Foster, Larsen, D'Allesandro, Estabrook.

Yeas: 14 - Nays: 8

Adopted.

LAIID ON THE TABLE

SB 96-FN, establishing a pharmacy assistance program for seniors and disabled persons.

HB 104-FN, implementing procedures for a hospital or safe haven to assume temporary care and control of an abandoned child and creating an exception to the crime of endangering the welfare of a child. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-1. Senator Boyce for the committee.

Public Institutions, Health and Human Services**March 19, 2003****2003-0878s****04/09****Amendment to HB 104-FN**

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

2 New Paragraph; Offenses Against the Family; Endangering the Welfare of Child or Incompetent; Exception. Amend RSA 639:3 by inserting after paragraph V the following new paragraph:

VI. No person acting in accordance with the provisions of RSA 132-A shall be guilty of an offense under this section.

3 Repeal. RSA 460:28, relative to abandonment by wife, is repealed.

4 Effective Date. This act shall take effect 30 days after its passage.

2003-0878s**AMENDED ANALYSIS**

This bill declares that a hospital or safe haven shall assume temporary care and control of an abandoned child and shall notify the department of health and human services which shall then notify law enforcement officials. This bill also creates an exception to the crime of endangering the welfare of a child where a parent delivers the child to a hospital or safe haven and the parent does not express an intent to return for the child and repeals the statute on abandonment by a wife.

Amendment adopted.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21**March 26, 2003****2003-1001s****04/09****Floor Amendment to HB 104-FN**

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

AN ACT implementing procedures permitting the temporary care and control of an abandoned child and creating an exception to the crime of endangering the welfare of a child.

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

1 New Chapter; Temporary Care and Control of Children. Amend RSA by inserting after chapter 132 the following new chapter:

CHAPTER 132-A**TEMPORARY CARE AND CONTROL OF CHILDREN**

132-A:1 Definition. In this chapter:

I. "Department" means the department of health and human services.

II. "Hospital" means a public or private institution licensed under RSA 151, and engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitative services for the rehabilitation of such persons. For the purposes of this chapter, a hospital outpatient facility shall be deemed to be a hospital.

III. "911 responder" means an emergency medical care provider as defined in RSA 153-A:2, V.

132-A:2 Temporary Care and Control of Children.

I. A hospital, or a 911 responder at an agreed transfer location shall, without a court order, take temporary care and control of a child who is not more than 7 days old, provided that the child is handed to a person at the hospital, or to a 911 responder, by the child's parent or parents, and the parent or parents did not express an intent to return for the child.

II.(a) The hospital or 911 responder shall attempt to obtain information, as specified on a form provided by the department, from a child's parent or parents concerning the child's medical history and any other information which hospital personnel or a 911 responder deems necessary to protect the physical health or safety of the child.

(b) If the child's parent or parents refuse to provide the requested information, the hospital or 911 responder shall give the child's parent or parents a form on which such information may be submitted, and a prepaid envelope addressed to the department for mailing. The child's parent or parents shall at no time be required to reveal personally identifiable information.

III. A hospital or a 911 responder who takes temporary care and control of a child under this chapter shall ensure the provision of any medical services necessary to protect the physical health or safety of the child.

132-A:3 Notice to Department.

I. Within 24 hours after a hospital or a 911 responder assumes temporary care and control of a child under RSA 132-A:2, the hospital or 911 responder shall notify the department and law enforcement officials that the hospital or 911 responder has assumed temporary care and control of the child.

II. Upon receipt of notice by the hospital or 911 responder, the department shall assume the temporary care and control of the child and shall be responsible for all necessary medical and other costs incurred by the hospital or 911 responder related to the temporary care and control of the child. The department shall reimburse the hospital or 911 responder for any necessary costs incurred prior to the child's placement in the temporary care and control of the department.

III. Within 24 hours of receiving a report under this paragraph, the department shall request law enforcement officials to investigate the incident using all resources available, including the National Crime Information Center database, to determine if the child is a missing child.

IV. Within 7 days of the transfer of a child by one parent pursuant to this chapter, the department, in cooperation with law enforcement officials, shall initiate a search to identify and locate the other parent of the child. The department shall provide notice through appropriate media outlets in the county where the child was transferred. If the other parent is located, he or she shall be notified that his or her child is under the temporary care and control of the department. If the other parent cannot be located within a reasonable period of time, the department shall execute an affidavit attesting to the inability to locate the other parent. Such affidavit shall be filed with the department's petition to terminate parental rights.

132-A:4 Termination of Parental Rights. Transferring a child pursuant to this chapter shall constitute grounds for the termination of the parent-child relationship as to the parent or parents who made the transfer. The department shall initiate proceedings under RSA 170-C to terminate the parental rights of any parent who transfers a child pursuant to this chapter.

132-A:5 Liability. No hospital personnel or 911 responder shall be liable for any claim at law or in equity as a result of action taken pursuant to the requirements of this chapter.

132-A:6 Rulemaking. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, to implement the provisions of this chapter, including the preparation of a form to collect medical history details and other relevant information about any child transferred under this chapter. The department shall make such forms and prepaid envelopes available to hospitals and to 911 responders for use pursuant to RSA 132-A:2, II.

2 Husband and Wife; Support of Wife and Children; Abandonment by Wife. Amend RSA 460:28 to read as follows:

460:28 Abandonment by ~~[Wife]~~ **Parent**.

I. If any ~~[wife or mother]~~ **parent** shall separate **himself or** herself from **his or** her ~~[husband]~~ **child or children** without cause~~[-, or from her children;]~~ **he or** she shall be guilty of a misdemeanor. The fine, if any, shall be applied in the discretion of the court to the benefit of the deserted ~~[husband or]~~ **child or** children ~~[or both]~~.

II. A parent who separates himself or herself from his or her child or children, pursuant to RSA 132-A, shall not be guilty of an offense or subject to a fine under this section.

3 New Paragraph; Offenses Against the Family; Endangering the Welfare of Child or Incompetent; Exception. Amend RSA 639:3 by inserting after paragraph V the following new paragraph:

VI. No person acting in accordance with the provisions of RSA 132-A shall be guilty of an offense under this section.

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

2003-1001s

AMENDED ANALYSIS

This bill:

I. Allows a hospital, or a 911 responder at an agreed upon location, to assume temporary care and control of an abandoned child and requires that the department of health and human services be notified regarding the abandonment.

II. Provides that transferring temporary care and control of a child under the provisions of this act constitutes grounds for terminating the parental rights of a child as to the parent making the transfer.

III. Creates an exception to the crime of endangering the welfare of a child where a parent delivers the child to a hospital and the parent does not express an intent to return for the child.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Estabrook.

Seconded by Senator Cohen.

The following Senators voted Yes: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse.

Yeas: 6 - Nays: 16

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 12-FN-A-L, establishing a property tax relief program for low income homeowners. Ways and Means Committee. Re-refer to committee, Vote 4-0. Senator Clegg for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 12** laid on the table.

Adopted.

LAID ON THE TABLE

SB 12-FN-A-L, establishing a property tax relief program for low income homeowners.

SB 58-FN-A, relative to the net operating loss under the business profits tax. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Senate Ways and Means

March 20, 2003

2003-0927s

01/10

Amendment to SB 58-FN-A

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

1 Business Profits Tax; Additions and Deductions. Amend the introductory paragraph of RSA 77-A:4 to read as follows:

77-A:4 Additions and Deductions. ***Except as otherwise provided in this section***, the following adjustments shall be made to gross business profits in determining taxable business profits:

2 Business Profits Tax; Net Operating Loss; Double Apportionment Eliminated and Amended Returns Permitted. Amend RSA 77-A:4, XIII to read as follows:

XIII. A deduction ***from taxable business profits*** for the amount of the net operating loss carryover ***or carryback*** determined under section 172 of the United States Internal Revenue Code in effect on December 31, 1996 provided, however, that in calculating such net operating loss carryover, the election permitted under

section 172(b)(3) of the United States Internal Revenue Code in effect on December 31, 1996, shall not be allowed. A net operating loss shall **only** be apportioned in the year incurred according to RSA 77-A:3 **and shall not be apportioned in the year used to reduce taxable business profits**. Net operating losses may only be carried forward for the 10 years following the loss year. For taxable periods ending:

(a) On or before June 30, 2003, the amount of net operating loss generated in a tax year that may be carried forward may not exceed \$250,000.

(b) On or after July 1, 2003 and on or before June 30, 2004, the amount of net operating loss generated in a tax year that may be carried forward may not exceed \$500,000.

(c) On or after July 1, 2004 and on or before June 30, 2005, the amount of net operating loss generated in a tax year that may be carried forward may not exceed \$750,000.

(d) On or after July 1, 2005, the amount of net operating loss generated in a tax year that may be carried forward **or carried back** may not exceed \$1,000,000.

In the case of a business organization not qualifying for treatment as a subchapter C corporation under the United States Internal Revenue Code, such deduction shall be the amount that would be determined under section 172 of the United States Internal Revenue Code in effect on December 31, 1996 if the business organization were a subchapter C corporation and as limited by this section. A deduction for the amount of the net operating loss carryover shall be limited to losses incurred on or after July 1, 1997. **A business organization may file an amended return for net operating loss.**

3 Limitation. Notwithstanding the provisions of section 1 of this act, no taxpayer shall be entitled to any refund of taxes based upon a carryback, if the carryback involved any taxable period which preceded July 1, 2005.

4 Revenue Rule Rescinded. The department of revenue administration's rule Rev 303.03 shall be rescinded and the commissioner of the department of revenue administration shall adopt new rules consistent with this chapter.

5 Effective Date. This act shall take effect July 1, 2005 for taxable periods ending on or after July 1, 2005.

2003-0927s

AMENDED ANALYSIS

This bill eliminates double apportionment and permits amended returns for deductions for carrybacks for net operating loss under the business profits tax.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 66-FN-A-L, limiting the exemption from the meals and rooms tax for sales of alcoholic beverages by voluntary nonprofit organizations operating under one-day licenses from the liquor commission. Ways and Means Committee. Ought to Pass, Vote 4-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

SB 71-FN-A, establishing a credit against the business profits tax or the business enterprise tax for health insurance premiums paid by certain businesses. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Ways and Means

March 20, 2003

2003-0936s

09/10

Amendment to SB 71-FN-A

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

AN ACT establishing a committee to study improving access, affordability, and alternatives in health insurance for New Hampshire consumers.

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

1 Committee Established. There is established a committee to study options for improving access, affordability, and alternatives in health insurance for New Hampshire's residents, particularly for the self-employed and New Hampshire's small business employers.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

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

II. A representative from the insurance department and a representative from the department of health and human services shall provide advice to the committee, upon request of the committee chairperson.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study and review all health insurance options, including but not limited to:

I. A state-subsidized insurance plan.

II. Cost containment strategies, including the impact of product design changes on premium and medical costs.

III. A state-designed benefits package that provide tax credits, vouchers, or other financial assistance to offset premium costs.

IV. Pooling strategies among the 3 northern New England states, either to increase state purchasing power or to create a multi-state standardized health insurance benefit package.

V. Creating a purchasing alliance.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2003.

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

2003-0936s

AMENDED ANALYSIS

This bill establishes a committee to study improving access, affordability, and alternatives in health insurance for New Hampshire consumers.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 117-FN-A-L, authorizing video lottery administered by a gaming oversight authority. Ways and Means Committee. Ought to pass with amendment, Vote 2-0. Senator D'Allesandro for the committee.

Senate Ways and Means

March 20, 2003

2003-0928s

08/03

Amendment to SB 117-FN-A-LOCAL

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

AN ACT authorizing video lottery administered by a gaming oversight authority, and establishing a pharmacy benefit program.

Amend RSA 284-A:9, I as inserted by section 1 of the bill by deleting subparagraph (c).

Amend the bill by deleting section 12 and renumbering the original sections 13-22 to read as 12-21, respectively.

Amend the bill by inserting after section 20 the following and renumbering the original sections 21-22 to read as 22-23, respectively:

21 Pharmacy Benefit Program. The department of health and humans services shall seek a federal pharmacy plus waiver extending the existing Medicaid benefit package, pursuant to RSA 167, to eligible seniors over 65 years of age, not currently eligible for private coverage, with incomes less than 300 percent of the federal poverty level.

22 Appropriation. There is hereby appropriated a sum not to exceed \$6,317,672 to be matched by federal funds for each of the fiscal years ending June 30, 2004 and June 30, 2005 to the department of health and human services for the purposes of section 21 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

Amend the bill by replacing section 23 with the following:

23 Effective Date.

I. Sections 10-11 of this act shall take effect July 1, 2004.

II. Section 16-20 of this act shall take effect July 1, 2014.

III. The remainder of this act shall take effect July 1, 2003.

2003-0928s

AMENDED ANALYSIS

This bill authorizes video lottery administered by a gaming oversight authority.

This bill also establishes a pharmacy benefit program for seniors.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

Senator Gatsas Rule #42 on SB 117-FN-A-L.

SB 138-FN, clarifying the exemption from the interest and dividends tax for distributions from qualified tuition savings programs. Ways and Means Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 141-FN-A-L, relative to fire service aid payments to the city of Concord and making an appropriation therefor. Ways and Means Committee. Inexpedient to Legislate, Vote 3-1. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

TAKEN OFF THE TABLE

Senator Gatsas moved to have **SB 96-FN**, establishing a pharmacy assistance program for seniors and disabled persons, taken off the table.

Adopted.

SB 96-FN, establishing a pharmacy assistance program for seniors and disabled persons.

Question is on the adoption of the committee report of re-refer.

Motion failed.

Senator Gatsas moved ought to pass.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

March 27, 2003

2003-1021s

01/09

Floor Amendment to SB 96-FN

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

AN ACT establishing a pharmacy discount program for seniors and disabled persons and making an appropriation therefor.

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

1 New Subdivision; Pharmacy Discount Program. Amend RSA 167 by inserting after section 97 the following new subdivision:

Pharmacy Discount Program

167:98 Program Established. There is hereby established the pharmacy discount program for New Hampshire seniors and disabled persons below 200 percent of the federal poverty level. The department is hereby authorized to administer this program.

167:99 Definitions. In this subdivision:

I. "Department" means the department of health and human services.

II. "Drugs" means all prescription drugs that have been approved as safe and effective by the federal Food and Drug Administration or are otherwise legally marketed in the United States, including insulin, insulin syringes, and insulin needles.

III. "Eligible person" means a resident of New Hampshire who:

(a) Is 65 years of age or older; or

(b) Is 18 years of age or older and has been determined to be "disabled" by the Social Security Administration; and

(c) Has a gross annual household income of not more than 200 percent of the federal poverty level. For the purposes of determining eligibility under this section, annual income shall not include the cost of Medicare Part B premiums unless the cost of the premium is paid by the department.

IV. "Enrollee" means an eligible individual who receives benefits under the pharmacy assistance program established by this subdivision.

V. "Program" means the pharmacy discount program established under this subdivision.

167:100 Administration of the Program.

I. The department of health and human services shall administer the pharmacy discount program for eligible persons who lack coverage for necessary prescription drugs. Enrollment in the program shall be voluntary.

II. The department shall verify the income of applicants for the program according to the most recent income tax returns for the applicant. If an applicant is not required to pay income tax, the department shall verify the applicant's income through submission of monthly checks received by said applicant.

III. The department shall conduct outreach marketing efforts to ensure that eligible senior citizens and people with disabilities are aware of the availability of the program, to provide eligible individuals with the guidelines of the program, and to maximize enrollment in the program.

167:101 Federal Waiver. The pharmacy discount program authorized by this subdivision shall be implemented under a section 1115 Medicaid waiver, wherein the state makes a payment toward the cost of the drugs dispensed to individuals enrolled in this program of at least 2 percent of the cost of each prescription and refill, consistent with the appropriation for the program established in this subdivision.

167:102 Rulemaking. The department shall adopt rules, pursuant to RSA 541-A, in order to implement the program established in this subdivision.

167:103 Report. The department shall make a report on or before January 1 each year, commencing January 1, 2005, relative to the program established in this subdivision to the senate president, the speaker of the house of representatives, and the governor.

2 Appropriation. There is hereby appropriated the sum of \$1,000,000 for the fiscal year ending June 30, 2004, and the sum of \$1,000,000 for the fiscal year ending June 30, 2005, to the department of health and human services to implement the pharmacy discount program established by this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect on January 1, 2004.

2003-1021s

AMENDED ANALYSIS

This bill requires the department of health and human services to establish a pharmacy discount program for certain seniors and disabled persons.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Green.

Seconded by Senator Sapareto.

The following Senators voted Yes: Gallus, Johnson, Below, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Cohen.

The following Senators voted No: Kenney, Boyce.

Yeas: 20 - Nays: 2

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 144-FN, relative to the lease agreement between the department of regional community-technical colleges and Pease development authority. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator D'Allesandro for the committee.

Senate Ways and Means

March 20, 2003

2003-0931s

08/03

Amendment to SB 144-FN

Amend the bill by replacing section 1 with the following:

1 Lease Agreement Required; Pease Development Authority; Department of Regional Community-Technical Colleges. Amend 2001, 158:67 to read as follows:

158:67 Lease Agreement Required; Pease Development Authority; Department of Regional Community-Technical Colleges. The department of regional community-technical colleges and Pease development authority shall enter into a lease agreement in which the department shall occupy the first floor, consisting of 71,243 square feet, of 320 Corporate Drive in Portsmouth. In exchange, the state shall reduce by [~~\$1,068,644~~] **\$1,133,724** per year, starting with the commencement of the lease on July 1, [~~2001~~] **2003**, Pease development authority's debt owed to the state relative to start-up funding costs under RSA [~~12-G:27-b~~] **12-G:33** through [~~12-G:27-d~~] **12-G:35**; 1991, 355:110, as amended by 1992, 260:11; 1992, 260:12, as amended by 1993, 358:3; 1994, 415:1; and 1995, 307:10. **Commencing on July 1, 2004 and on each July 1 thereafter, the annual debt reduction shall be increased by the lesser of the consumer price index or 3 percent for that year, not to exceed 12 percent in any 5-year period. In this section, "consumer price index" means the Consumer Price Index for All Urban Consumers applicable to the Boston area (all items 1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics.** The lease

term shall be [2] **8** years or until such time as the debt owed to the state relative to the authority's start-up funding costs has been exhausted. ~~[The lease may be extended subject to the approval of the capital budget overview committee and the governor and council.]~~ ***If the department of regional community-technical colleges does not acquire property insurance for the leased premises, the Pease development authority may elect to obtain property insurance coverage for 320 Corporate Drive and the state shall reduce annually the authority's debt owed to the state relative to start-up funding costs, as described in this section, by an additional amount equal to the pro-rata allocation of the insurance costs attributable to the leased premises based on square footage.***

2003-0931s

AMENDED ANALYSIS

This bill extends the term of the lease agreement between the department of regional community-technical colleges and Pease development authority from 2 years to 8 years, modifies the debt reduction corresponding to the lease agreement, and authorizes the Pease development authority to receive a further debt reduction for obtaining certain property insurance.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 208-FN, establishing a property tax cap and abatement program. Ways and Means Committee. Re-refer to committee, Vote 4-0. Senator Clegg for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 208-FN** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 208-FN, establishing a property tax cap and abatement program.

SB 213, allowing municipalities to adopt a volunteer firefighter property tax credit. Ways and Means Committee. Inexpedient to Legislate, Vote 3-1. Senator Boyce for the committee.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Below.

Seconded by Senator Estabrook.

The following Senators voted Yes: Gallus, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn Clegg, Gatsas, Barnes, Morse.

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

Yeas: 12 - Nays: 9

Committee report of inexpedient to legislate is adopted.

Senator Johnson is excused on for the vote of SB 213.

SB 224-FN-A-L, relative to the education property tax and needs-based targeted education aid and reducing the rates of the business enterprise tax and the business profits tax. Ways and Means Committee. Re-refer to committee, Vote 4-0. Senator Gallus for the committee.

MOTION TO TABLE

Senator Gallus moved to have **SB 224-FN-A-L** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 224-FN-A-L, relative to the education property tax and needs-based targeted education aid and reducing the rates of the business enterprise tax and the business profits tax.

SB 79-FN-L, relative to animal cruelty. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Wildlife and Recreation

March 19, 2003

2003-0860s

08/10

Amendment to SB 79-FN-LOCAL

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

1 Animal Cruelty. RSA 644:8, IV is repealed and reenacted to read as follows:

IV. (a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal seized by an appropriate law enforcement officer. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar.

(b) The owner or custodian of any animal that has been seized pursuant to this section or 644:8-a, or because of investigation of charges of cruelty to animals or for exhibition of fighting animals shall have his or her animal held pursuant to RSA 595-A:6, and as provided as follows:

(1) The seizing officer shall notify the owner of the seized animals of the provisions of this section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and maturity residing at that location within 24 hours of the seizure. This notice shall provide the type and number of animals seized, the name of the officer, the time and date taken, the reason it was taken and any other relevant information.

(2) The seizing officer shall appoint as custodian a licensed veterinarian or other animal care center as defined by RSA 437:18 to care for any such animal. The custodian shall retain custody of the animal in accordance with this section.

(3) The custodian shall document by affidavit the animal's condition within 24 hours after posting of the notice of seizure.

(4) The seized animal shall be held by the custodian for a period of 15 days, including weekends and holidays, after such notice of seizure is given, or until a show cause hearing is held. Thereafter, a person who claims an interest in such animal but has not posted bond in accordance with subparagraph (c), the animal may be disposed of as provided in RSA 595-A:6.

(c) A person claiming an interest in any seized animal may prevent the disposition of the animal pursuant to subparagraph (b)(4) by posting a bond with the court within 14 days after the show cause hearing, in an amount sufficient to secure payment for all reasonable projected costs for the boarding and treatment for any confiscated animal for a 30 day period commencing on the date of initial seizure. Such bond shall not prevent the department, agency, humane society, or other custodian of the animal from disposing of the animal in accordance with subparagraph (b) at the end of the 30 day period covered by the bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional 30 day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with subparagraph (f). The department, agency, humane society or other custodian of the animal as authorized by the court and on the condition of the animal, shall determine the amount of the bond after examination by a licensed veterinarian.

(d) Upon a person's conviction pursuant to this section or RSA 644:8-a, the court may:

(1) Order the forfeiture and final determination of the custody of any animal, the forfeiture of the posted bond.

(2) Order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition.

(3) Prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(e) Upon a person's acquittal or final discharge without conviction, the court shall order the delivery of any animals held in custody to the owner and order the return of any bond posted pursuant to subparagraph (c).

(f) Nothing in this section shall prevent the destruction of any animal at any time, whether or not a bond is posted, if the animal is seized in accordance with RSA 644:8-a, or if a licensed veterinarian determines that the animal is not likely to survive or is suffering. In such instances, the court may order the return of any bond posted, less reasonable costs, unless the person is acquitted, the full amount of the bond shall be returned.

(g) If a person appeals his or her conviction and any confiscated animal remains in the care of the custodian pending disposition of the appeal, the trial court shall require any appellant to post or continue to post a bond as stated in subparagraph (c).

(h) Any person who knowingly makes a false complaint or statement of animal cruelty against another, shall be liable for all custodial costs incurred on behalf of the seized animals, and shall be guilty of a violation and fined not less than \$500.

2 Fighting Animals. Amend RSA 644:8-a to read as follows:

644:8-a Exhibitions of Fighting Animals.

I. No person shall keep or train any bird, dog, or other animal, with the ~~[intent]~~ **purpose** that it shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony ~~[in the case of dogs, and a misdemeanor in the case of birds or other animals]~~.

II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony ~~[in the case of dogs, and a misdemeanor in the case of birds or other animals]~~.

III. All animals so kept or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, **pursuant to RSA 595-A:6 and RSA 644:8** upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. ~~[The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.]~~

3 Effective Date. This act shall take effect January 1, 2004.

2003-0860s

AMENDED ANALYSIS

This bill requires the owner of animals seized under cruelty charges to post a bond for their care and support, and such bond shall be returned upon acquittal.

This bill also makes any person who makes a false complaint or statement of cruelty liable for custodial costs and guilty of a violation.

Amendment failed.

Senator Roberge offered a floor amendment.

Sen. Roberge, Dist. 9

March 21, 2003

2003-0950s

08/10

Floor Amendment to SB 79-FN-LOCAL

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

AN ACT relative to penalties for the exhibition of fighting animals.

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

1 Fighting Animals. Amend RSA 644:8-a to read as follows:

644:8-a Exhibitions of Fighting Animals.

I. No person shall keep, **breed**, or train any bird, dog, or other animal, with the intent that it **or its offspring** shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony ~~[in the case of dogs, and a misdemeanor in the case of birds or other animals]~~.

II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony ~~[in the case of dogs, and a misdemeanor in the case of birds or other animals]~~.

III. All animals so kept, ***bred***, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, ***pursuant to RSA 595-A:6 and RSA 644:8*** upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

2 Effective Date. This act shall take effect January 1, 2004.

2003-0950s

AMENDED ANALYSIS

This bill increases penalties for the keeping, training and breeding of animals for exhibition as fighting animals.

Floor amendment adopted.

Ordered to third reading.

HB 128, relative to the treatment of horses. Wildlife and Recreation Committee. Ought to Pass, Vote 5-0. Senator Sapareto for the committee.

Adopted.

Ordered to third reading.

HCR 1, endorsing the Canine Good Citizen Program. Wildlife and Recreation Committee. Ought to Pass, Vote 4-0. Senator Sapareto for the committee.

Adopted.

Ordered to third reading.

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 ordered to third reading be by this resolution read a third time and all titles be same as adopted, and that they be passed at the present time

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 33-FN, establishing a putative fathers' registry in the department of health and human services.

SB 34, relative to independent living retirement communities.

SB 45, relative to property tax exemptions and credits for the elderly, veterans, and the disabled, and allowing municipalities to adopt an optional date for filing exemptions.

SB 66-FN-A-L, limiting the exemption from the meals and rooms tax for sales of alcoholic beverages by voluntary nonprofit organizations operating under one-day licenses from the liquor commission.

SB 71-FN-A, establishing a committee to study improving access, affordability, and alternatives in health insurance for New Hampshire consumers.

SB 73, establishing a committee to study establishing enterprise zones in economically deprived or challenged communities, and relative to the Black Brook Park Tax Increment Finance District.

SB 79-FN-L, relative to penalties for the exhibition of fighting animals.

SB 87, establishing a committee to study setback requirements for septage, biosolids, and short paper fibers, and extending the temporary use of septage, biosolids, and short paper fiber by certain persons.

SB 94-FN, requiring criminal conviction record checks for employees working in long-term care facilities and in home health care and for applicants for a license from the board of nursing.

SB 97, limiting the liability of firefighters working for certain private firefighting units.

HB 104-FN, implementing procedures for a hospital or safe haven to assume temporary care and control of an abandoned child and creating an exception to the crime of endangering the welfare of a child.

SB 122, relative to the regulation of first mortgage brokers.

HB 128, relative to the treatment of horses.

SB 130-FN-L, relative to county departments of corrections.

SB 134, relative to the regulation of real estate brokers by the real estate commission.

SB 170, relative to Public Service of New Hampshire.

SB 178, relative to guaranty funds.

SB 179-FN-A, relative to positions in the banking department.

SB 180, making certain changes in the banking laws.

SB 181, relative to investigations by and license revocation appeals to the board of trust company incorporation. Banks Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

SB 197-FN, relative to extended unemployment benefits and making an appropriation therefor.

SB 227, relative to the board of occupational therapy, the board of respiratory care practice, the board of speech-language therapists, the board of athletic trainers practice, the board of physical therapy practice, and the board of directors of the office of licensed allied health professionals, and relative to the board of podiatry.

HCR 1, endorsing the Canine Good Citizen Program.

SCR 3, urging maintenance of funding for the Low Income Home Energy Assistance Program

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving House Messages, and receiving Enrolled Bill Reports and Amendments, and that when we adjourn, we adjourn to the Call of the Chair.

Adopted.

In recess to the Call of the Chair.