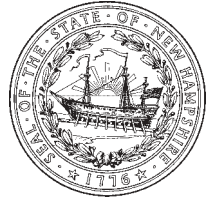


STATE OF NEW HAMPSHIRE

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SENATE JOURNAL 10 (*Cont.*)



March 27, 2003

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 179, establishing a committee to study enhancement of laws relating to vehicle pursuits.

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions.

HB 206, relative to filing of complaints for violation-level offenses.

HB 244, establishing a committee to study landowner liability for owners providing public access to snow-mobile trails.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **179 - 244** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 179, establishing a committee to study enhancement of laws relating to vehicle pursuits. (Transportation)

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions. (Judiciary)

HB 206, relative to filing of complaints for violation-level offenses. (Judiciary)

HB 244, establishing a committee to study landowner liability for owners providing public access to snow-mobile trails. (Wildlife and Recreation)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 57, relative to the use of inhalers by pupils and campers with asthma.

HB 59, relative to court reporting.

HB 92, relative to the use of epinephrine auto-injectors by pupils and campers with severe allergies.

HB 105, relative to sexual assaults committed by corrections officers, probation and parole officers, and juvenile probation and parole officers against individuals under their supervision.

HB 195, prohibiting all part-time district court judges and district court clerks from practicing law in the district courts.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **57 - 195** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 57, relative to the use of inhalers by pupils and campers with asthma. (Public Institutions, Health and Human Services)

HB 59, relative to court reporting. (Judiciary)

HB 92, relative to the use of epinephrine auto-injectors by pupils and campers with severe allergies. (Public Institutions, Health and Human Services)

HB 105, relative to sexual assaults committed by corrections officers, probation and parole officers, and juvenile probation and parole officers against individuals under their supervision. (Judiciary)

HB 195, prohibiting all part-time district court judges and district court clerks from practicing law in the district courts. (Judiciary)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 77, establishing a committee to study the process of de novo appeals from the district courts.

HB 204, relative to venue in juvenile proceedings.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **77 - 204** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 77, establishing a committee to study the process of de novo appeals from the district courts. (Judiciary)

HB 204, relative to venue in juvenile proceedings. (Judiciary)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 212, defining "terrorize" for the purpose of criminal threatening.

HB 278, relative to certain acts of sexual assault.

HB 393, extending the reporting dates for certain study committees.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **212 - 393** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 212, defining "terrorize" for the purpose of criminal threatening. (Judiciary)

HB 278, relative to certain acts of sexual assault. (Judiciary)

HB 393, extending the reporting dates for certain study committees. (Public Institutions, Health and Human Services)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 186, relative to the effect of divorce or annulment upon trusts.

HB 196, establishing a commission to study means to integrate services for people with co-occurring disorders.

HB 225, extending the task force on deafness and hearing loss and changing the task force's membership and duties.

HB 240, establishing a committee to study ways to prevent suicide among young people in New Hampshire.

HCR 3, calling on the President and the Congress to fully fund the federal government's share of special education services in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **186 – HCR 3** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 186, relative to the effect of divorce or annulment upon trusts. (Banks)

HB 196, establishing a commission to study means to integrate services for people with co-occurring disorders. (Public Institutions, Health and Human Services)

HB 225, extending the task force on deafness and hearing loss and changing the task force's membership and duties. (Public Institutions, Health and Human Services)

HB 240, establishing a committee to study ways to prevent suicide among young people in New Hampshire. (Public Institutions, Health and Human Services)

HCR 3, calling on the President and the Congress to fully fund the federal government's share of special education services in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act. (Education)

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 11

April 3, 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.

O God, in these times when it is hard to know how best to pray, give to our inarticulate lips words that heal and do not harm; fill to overflowing our worrying hearts with courageous comfort, and take our halting and unsteady steps and turn them into brave actions that result in respect, justice, compassion and, at the end, Your peace. Amen.

Senator O'Hearn led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 72, relative to the regulation of title loans and payday loans. Banks Committee. Ought to pass with amendment, Vote 3-0. Senator Flanders for the committee.

Banks
March 26, 2003
2003-0997s
05/10

Amendment to SB 72

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

AN ACT relative to the regulation of small loans, title loans, and payday loans.

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

1 Regulation of Small Loans, Title Loans, and Payday Loans. RSA 399-A is repealed and reenacted to read as follows:

CHAPTER 399-A REGULATION OF SMALL LOANS, TITLE LOANS, AND PAYDAY LOANS

399-A:1 Definitions. In this chapter:

- I. "Check" means a draft drawn on the account of an individual or individuals at a depository institution.
- II. "Closed-end loan" means a loan other than an open-end loan.
- III. "Commissioner" means the bank commissioner.
- IV. "Engaged in the business of making title loans" means that at least 10 percent of all loans made by the lender are title loans.
- V. "Financial institution" means a bank, savings institution, credit union, or trust company.
- VI. "License" means the authority to do business issued by the commissioner under the provisions of this chapter.
- VII. "Licensee" means a person to whom one or more licenses have been issued under this chapter.
- VIII. "Lender" means individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies or other forms of organizations that lend money or give credit temporarily on condition that the amount borrowed be returned, usually with an interest fee. "Lender" shall not include a financial institution.
- IX. "Open-end loan" means an open-end credit arrangement pursuant to which a creditor may permit a borrower from time to time to obtain loans from the creditor pursuant to RSA 358-K:1, XI.
- X. "Payday loan" means a small, short-maturity loan on the security of:
 - (a) A check;
 - (b) Any form of assignment of an interest in the account of an individual or individuals at a depository institution; or
 - (c) Any form of assignment of income payable to an individual or individuals.
- XI. "Payday loan lender" means a person engaged in the business of making payday loans.
- XII. "Person" means any individual, firm, voluntary association, joint-stock company, incorporated society, partnership, association, trust, corporation, limited liability company or legal or commercial entity or group of individuals however organized.

XIII. "Principal" means any person who, directly or indirectly, owns or controls:

- (a) Ten percent or more of the outstanding stock of a stock corporation; or
- (b) Ten percent or greater interest in a nonstock corporation or a limited liability company.

XIV. "Small loan" means a closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for, exacts or receives, directly or indirectly, in connection with any such loan any charges, whether for interest, compensation, brokerage, endorsement fees, consideration, expense or otherwise, which in the aggregate are greater than 10 percent per annum.

XV. "Small loan lender" means any person engaged in the business of making small loans.

XVI. "Title loan" means a loan, other than a purchase money loan:

- (a)(1) Secured by the title to a motor vehicle;
- (2) Made for a period of 60 days or less;
- (3) With a single payment payback; and
- (4) Made by a lender in the business of making title loans; or

(b) That is secured, substantially equivalent to a title loan, and designated as a title loan by rule or order of the commissioner.

XVII. "Title loan lender" means a person engaged in the business of making title loans.

399-A:2 License Required.

I. No person shall engage in the business of making small loans, title loans or payday loans, without first obtaining a license from the commissioner as provided in this chapter.

II. Each such license shall terminate on December 31st. Each license shall remain in full force and effect until surrendered, revoked, suspended, or terminated.

III. This chapter shall not apply to any person lawfully engaged in business as permitted by the laws of this state or of the United States relative to banks, trust companies, insurance companies, savings or building and loan associations, credit unions or to loans made by them, nor shall this chapter apply to any person engaged solely in the business of making loans for educational purposes or to the loans made by such persons, nor shall it apply to any person engaged in the business of second mortgage loans in accordance with the provisions of RSA 398-A, as amended, or to loans made by such persons.

IV. Any person not exempt under paragraph III, and the several members, officers, directors, agents and employees thereof, who shall willfully violate or participate in the violation of any provisions of paragraph I shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. If in the making or collection of a loan the licensee violates paragraph I of this section, the loan contract shall be void and the lender shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever.

399-A:3 Application and Fees.

I. Every applicant for licensing under this chapter shall file with the commissioner a written application, under oath and penalty of perjury, and in the form prescribed by the commissioner. The application shall contain the name of the applicant; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers; names of any branch managers, the trade name, if any, under which the applicant proposes to conduct such business; the articles of incorporation or organization or partnership agreement; the name and address of the New Hampshire resident agent if the applicant is a foreign entity; and such other pertinent information as the commissioner may require. Each initial and renewal license application shall be accompanied by a nonrefundable application fee of \$450 for the principal place of business of the licensee within this state and the sum of \$450 for each branch of such licensee maintained in this state.

II. Every applicant for licensing shall be required to submit to the banking department detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a small loan lender, payday lender, or title loan lender with financial integrity. The application shall include a balance sheet or a statement of net worth prepared in accordance with generally accepted accounting principles. Net worth statements provided in connection with a license application under this section shall

be subject to review and verification during the course of any examination or investigation conducted under this chapter. Each applicant shall demonstrate that it has available for use in such business at each location specified in the application, at least \$25,000, or in the case of a licensee, has such amount available or actually invested in loans made under this chapter at each location.

III. Every applicant for licensing under this chapter shall file with the commissioner, in such form as the commissioner prescribes by rule, irrevocable consent appointing the commissioner to receive service of any lawful process in any non-criminal suit, action or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

(a) The plaintiff, who may be the attorney general in a suit, action or proceeding instituted by him or her, forthwith sends a notice of the service and a copy of the process by registered mail to the defendant or respondent at such person's last address on file with the commissioner, and

(b) The plaintiff's affidavit of compliance with this paragraph is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

399-A:4 Investigation of Application; License Requirements.

I. Upon the filing of the complete application for a small loan lender license, a payday loan lender license or a title loan lender license and payment of the required application fee, if the commissioner determines that the applicant's financial resources and responsibility, experience, character and general fitness, personnel, and record of past or proposed conduct warrant the public's confidence and that the business will be operated lawfully, honestly, and fairly within the purposes of this chapter, the commissioner shall enter an order approving such application and shall issue a license to the applicant and shall issue licenses to the applicant's branches to engage in the business of a small loan lender, payday loan lender, or title loan lender under and in accordance with the provisions of this chapter.

II. If a person holds a valid license under this section and is in compliance with this chapter and the rules adopted pursuant to this chapter, such licensee may renew the license by paying the required annual fee of \$450 for the principal license and \$450 for each branch office to the banking department on or before December 1st for the ensuing year that begins on January 1st. Failure to renew the license shall result in the license terminating on December 31st.

III. Each license shall specify the name and address of the licensee, the location of the office or branch, and shall be conspicuously displayed there in a public area of the location. In case such location is changed, the commissioner shall endorse the change of location on the license without charge.

IV. No licensee shall transact any business provided for by this chapter under a trade name or any other name different from the name stated in its license or branch office license without immediately notifying the commissioner, who shall then amend the license accordingly. Before the corporate, organization, or trade name under which the licensed business is conducted is changed, the lender shall give notice to the commissioner who shall amend the license accordingly without cost. The name or trade name of the licensee shall not be confusing to the public or conflict with any existing licensed lender's name.

V. No license shall be issued to any person whose principal place of business is located outside of this state unless that person designates an agent residing within this state for service of process. Licensees shall be required to post their license at the agent's New Hampshire business location.

VI. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

VII. A licensee who ceases to engage in the business of a small loan lender, payday loan lender, or title loan lender at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

VIII. Any licensee may surrender any license by delivering it to the commissioner with written notice of a surrender, but such surrender shall not affect administrative, civil, or criminal liability for acts committed prior thereto.

399-A:5 Consumer Credit Administration License Fund. The bank commissioner shall keep a separate account, in the state treasurer's office, to be known as the consumer credit administration license fund. Moneys received from payment of fees under this chapter shall be credited to the consumer credit administration license fund. This fund may be expended by the commissioner with the approval of the governor and council for the purpose of supervising persons subject to supervision and licensing by the consumer credit administration division of the banking department.

399-A:6 Reporting and Recordkeeping Requirements.

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

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

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

III. Any licensee failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue.

IV. In addition to the annual report and financial statement required by this section, the commissioner may require such regular or special reports as the commissioner deems necessary to the proper supervision of licensees under this chapter.

V. A licensee who files an annual report under this section which fails to disclose or materially misstates loan contracts made during the reporting year may, in addition to any other penalty provided by law and after notice and opportunity for hearing pursuant to RSA 541-A, be subject to a fine of not more than \$1,000 and to license revocation or suspension.

VI. Each licensee shall keep and use such books and accounting records as are in accord with sound and accepted accounting practices and enable the commissioner to determine whether the licensee is complying with this chapter.

399-A:7 Denial, Suspension or Revocation of Licenses.

I. The commissioner may by order deny, suspend or revoke any license or application if the commissioner finds that the order is in the public interest and the applicant or licensee, any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

(a) Has filed an application for licensing which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) Has made a false or misleading statement to the commissioner or in any reports to the commissioner;

(c) Has made fraudulent misrepresentations, has circumvented or concealed, through whatever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to a borrower under the provisions of this chapter;

(d) Has failed to supervise its agents, managers or employees;

(e) Is the subject of an order entered within the past 5 years by this state, any other state or federal regulator denying, suspending or revoking licenses or registration;

(f) Is permanently, preliminarily, or temporarily enjoined by any court of competent jurisdiction from in engaging in or continuing any conduct or practice involving any aspect of lending or collection activities;

(g) Is not qualified on the basis of such factors as experience, knowledge, and financial integrity;

(h) Has engaged in dishonest or unethical practices in the conduct of the business of making or collecting small loans, payday loans, or title loans;

(i) Has violated this chapter or any rule or order thereunder or has violated applicable federal laws or rules thereunder; or

(j) For other good cause shown.

II. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be suspended or revoked. The order shall be calculated to give reasonable notice of the opportunity for hearing, and shall state the reasons for the issuance of the order.

III. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act on behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for supervision of its branch offices and for the acts of any or all of his or her employees while acting as his or her agent if such licensee, after actual knowledge of such acts, retained the benefits, proceeds, profits or advantages accruing from such acts or otherwise ratified such acts.

IV. Any license revocation, suspension, or unfavorable action by the department on a license shall comply with the provisions of RSA 541-A. An aggrieved licensee may, pursuant to RSA 541-A and RSA 541, appeal an unfavorable action by the department. The department may take action for immediate suspension of a license, pursuant to RSA 541-A.

V. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a small loan lender, payday loan lender, or title loan lender, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application. The commissioner may deem abandoned and withdraw any application for licensure made pursuant to this chapter, if any applicant fails to respond in writing within 180 days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

VI. No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any obligors, and such contracts and all lawful charges thereon may be collected by the licensee, its successors and assigns.

399-A:8 Cease and Desist Orders. The banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe has violated or is about to violate the provisions of this chapter or any rule or order under this chapter. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall comply with 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

399-A:9 Consumer Inquiries.

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the bank commissioner, shall be forwarded via certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 30 days after receipt of such complaint, send a written acknowledgement thereof to the consumer and the banking department. Not later than 60 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

(a) Make appropriate corrections in the account of the consumer and transmit to the consumer and the banking department written notification of such corrections, including documentary evidence thereof; or

(b) Transmit a written explanation or clarification to the consumer and the banking department which sets forth, to the extent applicable, the reasons why the licensee believes its actions are correct, including copies of documentary evidence thereof.

II. A licensee who fails to respond to consumer complaints as required by this section within the time prescribed shall pay to the commissioner the sum of \$50 for each day such response is overdue. For purposes of this section, the date of transmission shall be the date such response is received by the commissioner.

III.(a) Licensees who because of extenuating circumstances beyond the control of the licensee, are unable to comply with the time frames prescribed in this section, may make written request to the commissioner for a waiver of such time frames. Waivers shall not be granted or considered unless the request for the waiver:

(1) Is received by the banking department within 50 days following the licensee's receipt of the complaint;

(2) Specifies the reason for the request; and

(3) Specifies a date certain by which the licensee shall comply with the provisions of this section.

(b) Requests for waivers shall be either granted or denied within 5 days of receipt by the banking department.

399-A:10 Examinations and Investigations.

I. The commissioner or the commissioner's duly authorized representative may at any time, and shall periodically, with or without notice to the licensee or person, examine the business affairs of any licensee or any other person subject to this chapter, whether licensed or not, as the commissioner deems necessary to determine compliance with this chapter and the rules adopted pursuant to it. In determining compliance, the commissioner or the duly authorized representative may examine the books, accounts, records, files, and other documents, whether electronically stored or otherwise, and any other matters of any licensee or person. The commissioner or the duly authorized representative shall have and be given free access to the office and places of business, files, safes, and vaults of all such persons, and shall have authority to require the attendance of any person and to examine him or her under oath relative to such loans or such business or to the subject matter of any examination or investigation and shall have authority to require the production of books, accounts, papers, and records of such persons.

II. Every person being examined, and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or the commissioner's examiners the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination. The expense of such examination shall be chargeable to and paid by the licensee or person being examined. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11.

III. Those licensees or persons that maintain their files and business documents in another state shall appoint a New Hampshire agent and shall return such files and documents to their principal New Hampshire office or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the banking department. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the banking department shall be sufficient cause for license revocation, suspension, or denial or other penalties under this chapter.

IV. The commissioner or the commissioner's duly authorized representative may investigate at any time any person that the commissioner reasonably believes is engaged in the business of making small loans, payday loans, or title loans, or participating in such business as principal, agent, broker, or otherwise; or any person who the commissioner has reasonable cause to believe is violating or is about to violate any provision

of this chapter, or any rule or order under this chapter, whether such person shall claim to be within the authority or beyond the scope of this chapter. Any person not exempt hereunder who shall advertise for, solicit or hold himself or herself out as willing to make or procure small loans, payday loans, or title loans shall be presumed to be engaged in the business of making such loans.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the commissioner's finding that the person violated this chapter or a rule or order under this chapter, or the person charged with the violation being found in default, the commissioner shall be entitled to recover the cost of the investigation, in addition to any other penalty provided for under this chapter.

VI. If the commissioner or examiner finds any accounts or records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting principles, the commissioner may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete or correct such records or accounting after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

VII. Any individual who refuses without just cause to be examined under oath or who willfully obstructs or interferes with the examiners in the exercise of their authority pursuant to this section shall be guilty of a misdemeanor.

VIII.(a) Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set forth in writing the remedial course of action the licensee will pursue to correct any reported deficiencies outlined in the report.

(b) If so requested by the person examined, within the period allowed in subparagraph (a), or if deemed advisable by the commissioner without such request, the commissioner shall hold a closed hearing relative to the report and shall not file the report in the department until after such closed hearing and issuance of his or her order thereon. If no such closed hearing has been requested or held, the examination report, with such modifications, if any, thereto as the commissioner deems proper, shall be accepted by the commissioner and filed upon expiration of the review period provided for in subparagraph (a). The report shall in any event be so accepted and filed within 6 months after final hearing thereon.

(c) All reports pursuant to this section shall be absolutely privileged and although filed in the department as provided in subparagraph (b) shall nevertheless not be for public inspection. The comments and recommendations of the examiner shall also be deemed confidential information and shall not be available for public inspection.

399-A:11 Provisions Applicable to all Persons under this Chapter.

I. Any loan made outside this state, as permitted by the laws of the state in which the loan was made, may be collected in this state in accordance with its terms.

II. No person making small loans, payday loans, or title loans, shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions which is false, misleading or deceptive.

III. This chapter, or any part thereof may be modified, amended, or repealed so as to effect a cancellation or alteration of any license, or right of a licensee hereunder, provided that such modification, amendment or repeal shall not impair or affect the obligation of any pre-existing lawful contracts between any licensee and any borrowers.

IV. No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and interest shall be computed only on unpaid principal balances. For the purpose of computing interest, whether at the maximum rate or less, a month shall be considered a calendar month and, where a fraction of a month is involved, a day shall be considered 1/30 of a month. However, if all or any part of the consideration for a loan contract is the unpaid principal balance of the prior loan with the same licensee then the loan contract may include unpaid interest of such prior loan which has accrued within 60 days of the making of the loan contract.

V. If charges in excess of those permitted by this chapter shall be charged, contracted for or received except as a result of an accidental or bona fide error the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, charges or recompense whatsoever.

VI. No person shall take any confession of judgment or any power of attorney running to himself, herself, or any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor take any note, agreement, or promise to pay which does not disclose the date and amount or maximum credit line of the note or agreement, a schedule or description of the payments to be made thereon, and the agreed charges or rates of charge; nor take any instrument in which blanks are left to be filled in after the loan is made.

VII. No person shall include any of the following provisions in a small loan, payday loan, or title loan contract:

- (a) A hold-harmless clause;
- (b) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in an action;
- (c) An agreement by the consumer not to assert any claim or defense arising out of the contract against the lender or any holder in due course;
- (d) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held by, owned by or due to the consumer, unless the waiver or limitation applies only to property subject to security interest executed in connection with the loan; or
- (e) A clause permitting the continuation of interest after repossession of the consumer's motor vehicle.

VIII. No person shall be permitted to accept as collateral on a loan under this chapter:

- (a) Real estate; or
- (b) Household furniture presently in use on loans of \$2,000 or less.

IX. Any agreement purporting to convey to a licensee a security interest in the property listed in paragraph VII shall be null and void.

X. If a borrower desires to renew an existing closed-end loan, payday loan, or title loan for the purpose of obtaining additional cash a new contract shall be drawn up in its entirety and such prior loan shall be paid in full from such proceeds of the new loan. All legal papers in connection with such prior loan shall be stamped "PAID IN FULL" and returned to such borrower.

XI. No charge for any examination, service, brokerage, commission, or other fee shall be directly or indirectly made or contracted for on closed-end loans, payday loans, or title loans except the lawful fees, if any, actually and necessarily paid out by the licensee to any public officer, for filing or recording in any public office any instrument securing such loan, which fees may be collected when such loan is made, or at any time thereafter and except the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security in foreclosure proceedings or upon entry of judgment.

XII. Credit life insurance, credit accident and health insurance, and credit involuntary unemployment insurance may be issued in connection with a loan or other credit transaction authorized by this chapter in compliance with the provisions of RSA 408:15, II and the cost of such insurance and any commission, benefit or return to the licensee therefrom shall not be deemed a violation of any provision of this chapter; provided, however, that if there is more than one borrower or obligor on any such loan or credit transaction, credit life insurance providing a single benefit may cover both borrowers or obligors.

XIII. The licensee may require a borrower to insure tangible personal property given to secure the loan against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is less, and for the customary insurance term approximating the term of the loan. The borrower shall not be required to insure against unusual or exceptional risks not ordinarily insured against in policies issued to nonborrowers. The premium for such insurance may be included in the principal amount of the loan. Such insurance shall be written by or through a duly licensed insurance agent or broker with a company qualified to do business in New Hampshire. Such insurance shall name the borrower as insured but may include the licensee as co-insured or protect the interest of the licensee under a loss-payable clause. No licensee shall require a borrower to duplicate or cancel existing insurance or to purchase insurance from a licensee or any employee, affiliate, or associate of the licensee or from any agent, broker, or insurance company designated by the licensee, as a condition precedent to the making of the loan.

XIV. A lender in the business of making small loans, payday loans, or title loans shall include in every loan contract a notice, printed in type size equal to at least 12-point type, stating that the consumer or the consumer's attorney may file a complaint with the commissioner.

399-A:12 Provisions Applicable to Loans.

I. For any closed-end loan of \$10,000 or less, excluding charges, a licensee may lend in money, goods or things of value upon such security not forbidden by RSA 399-A:12, VIII as may be agreed upon and may charge, contract for and receive charges on the entire principal of the loan, at rates agreed to in writing by the borrower and licensee.

II. For any open-end loan with a line of credit of \$10,000 or less, excluding charges, a licensee may charge, contract for and receive charges on the unpaid balances of the account at rates agreed to in writing by the borrower and the licensee.

III. No small loan lender shall permit any person to be obligated to him or her on one or more contracts of loan the total principal balance of which is more than \$10,000.

IV. For the purpose of applying paragraphs II and III of this section only, small loan lender licensee shall mean any single small loan lender, except that in the event any person or affiliated group of persons holds more than one small loan lender license, such person or affiliated group of persons shall be considered a single small loan lender licensee.

V. No small loan lender shall induce any potential borrower who is not a loan customer of the licensee to enter into a closed-end loan agreement, by delivering in the first instance a negotiable check for such loan to such potential borrower, without including the following information clearly printed on the endorsement side of the check:

(a) A statement which reads, "By endorsing this check, you become legally liable for repaying all moneys, including interest, as specified in the following loan agreement/disclosure statement;"

(b) The amount financed;

(c) The annual percentage rate;

(d) The number of installments; and

(e) The amount of each installment payment.

VI. Every small loan lender shall:

(a) Mail or deliver to the borrower, or if more than one, to one of them, at the time of making a loan under this chapter, a payment book in which space shall be provided for the record of all payments showing principal, interest and balance and which shall contain statements showing the date of such loan; the amount of the principal of such loan; the total interest charged for the period of such loan; the nature of the security, if any, for such loan; the name and address of the borrower and of the licensee; and the description of schedule of payments on such loans. The payment book shall also have printed therein the following:

"Interpretation of Interest Charges in the Event Payments are Made when Due.

2% per month = 24% per year or \$13.47 per year on \$100

1 1/2% per month = 18% per year or \$10.01 per year on \$100"

Provided, however, a licensee may provide a borrower with a monthly billing statement in lieu of a payment book and the information required above, if the licensee has previously made a disclosure in accordance with the Federal Truth-in-Lending Act;

(b) Give to the person making any cash payment on account of any closed-end loan a receipt at the time such payment is made;

(c) Permit payment in advance in an amount equal to one or more full installments at any time during the regular business hours of the licensee;

(d) Upon repayment of a closed-end loan in full, mark plainly every note or other evidence of the indebtedness or assignment signed by an obligor or a copy of any of the foregoing documents with the words "PAID IN FULL" or "CANCELLED" and release or provide the borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the licensee. If the original is retained by the lender, the original shall be returned within a reasonable period of time upon the written request of the borrower;

(e) Upon repayment of an open-end loan in full, written notice from the borrower to the licensee of termination of such loan and surrender to the licensee of any checks or other device used to obtain credit; mark plainly every note, agreement or assignment signed by an obligor, with the words "PAID IN FULL" or "CANCELLED" and release or provide the borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the licensee.

VII. No lender shall conduct the business of making loans under this chapter at any office, suite, room, or place of business where liquor or lottery tickets are sold.

399-A:13 Provisions Applicable to Payday Loan Lenders.

I. Each licensee shall conspicuously post in its licensed location a schedule of fees and interest charges, with examples using a \$300 loan payable in 14 days and 30 days.

II. Each payday loan shall be evidenced by a written loan agreement, which shall be signed by the borrower and a person authorized by the licensee to sign such agreements and dated the same day the loan is made and disbursed. The loan agreement shall set forth, at a minimum:

- (a) The principal amount of the loan;
- (b) The fee charged;
- (c) The annual percentage rate, which shall be stated using that term, applicable to the transaction calculated in accordance with Federal Reserve Board Regulation Z;
- (d) Evidence of receipt from the borrower of a check, dated the same date, as security for the loan, stating the amount of the check;
- (e) An agreement by the licensee not to present the check for payment or deposit until a specified maturity date, which date shall be at least 7 days after the date the loan is made and after which date interest shall not accrue at a greater rate than 6 percent per year;
- (f) An agreement by the licensee that the borrower shall have the right to cancel the loan transaction at any time before the close of business of the next business day following the date of the transaction by paying to the licensee, in the form of cash or other funds instrument, the amount advanced to the borrower; and
- (g) An agreement that the borrower shall have the right to prepay the loan prior to maturity by paying the licensee the principal amount advanced and any accrued and unpaid fees.

III. The lender shall give a duplicate original of the loan agreement to the borrower at the time of the transaction.

IV. A lender shall not obtain any agreement from the borrower:

- (a) Giving the lender or any third person power of attorney or authority to confess judgment for the borrower;
- (b) Authorizing the lender or any third party to bring suit against the borrower in a court outside the state; or
- (c) Waiving any right the borrower has under this chapter.

V. A lender shall not require, or accept, more than one check from the borrower as security for any loan at any one time.

VI. A licensee shall not cause any person to be obligated to the licensee in any capacity at any time in the principal amount of more than \$500.

VII. A lender shall not refinance, renew, or extend any loan.

VIII. A lender shall not cause a borrower to be obligated upon more than one loan at any time for the purpose of increasing charges payable by the borrower.

IX. A lender shall not require or accept a post-dated check as security for, or in payment of, a loan.

X. A lender shall not threaten, or cause to be instigated, criminal proceedings against a borrower if a check given as security for a loan is dishonored.

XI. A lender shall not take an interest in any property other than a check payable to the licensee as security for a loan.

XII. A lender shall not make a loan to a borrower to enable the borrower to pay for any other product or service sold at the licensee's business location.

XIII. Loan proceeds shall be disbursed in cash or by the lender's business check. No fee shall be charged by the lender or an affiliated check cashier for cashing a loan proceeds check.

XIV. A check given as security for a loan shall not be negotiated to a third party.

XV. Upon receipt of a check given as security for a loan, the lender shall stamp the check with an endorsement stating "This check is being negotiated as part of a payday loan pursuant to RSA 399-A, and any holder of this check takes it subject to all claims and defenses of the maker."

XVI. Before entering into a payday loan, the lender shall provide each borrower with a pamphlet, in form consistent with regulations promulgated by the commissioner, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number in the banking department for assistance with complaints.

XVII. Before disbursing funds pursuant to a payday loan, a lender shall provide a clear and conspicuous printed notice to the borrower indicating that a payday loan is not intended to meet long-term financial needs and that the borrower should use a payday loan only to meet short-term cash needs.

XVIII. A borrower shall be permitted to make partial payments, in increments of not less than \$50 on the loan at any time prior to maturity without charge. The licensee shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.

399-A:14 Provisions Applicable to Title Loan Lenders. A title loan lender shall not:

I. Charge the consumer more than one fee for dishonored checks when the consumer issues more than one check to the lender. However, the title loan lender may recover from the consumer any fee charged to the lender by an unaffiliated financial institution for each dishonored check;

II. Make more than one outstanding loan that is secured by one title;

III. Make a title loan without providing the borrower within the title loan agreement the right to cancel the title loan at any time before the close of business of the next business day following the date of the transaction by repaying to the licensee in cash the amount advanced to the borrower.

IV. Offer, advertise, or make a loan with a rate of interest that is lower in the original period than in subsequent renewals.

399-A:15 Title Loan Renewals. A title loan shall be for an original term of no more than 60 days. A title loan lender may allow such loan to be renewed no more than 9 additional periods each equal the original term, provided however, that at each such renewal the borrower must pay at least 5 percent of the loan's original principal balance, in addition to any finance charge owed, to reduce the principal balance outstanding. If the borrower cannot pay this principal reduction at any renewal, the title loan lender may either: (i) declare the borrower in default, or (ii) allow the loan to be renewed, provided that the lender shall reduce the current principal amount of the loan by 5 percent of the original principal amount for the purposes of calculating interest thereafter. This reduction in principal shall continue to be owed by the borrower, but such amount shall not be entitled to accrue interest thereafter. For the purpose of this section, a renewal is any extension of a title loan for an additional period without any change in the terms of the title loan other than a reduction in principal. No accrued interest shall be capitalized or added to the principal of the loan at the time of any renewal.

399-A:16 Powers of the Commissioner.

I. The commissioner shall have the power to subpoena witnesses and administer oaths in any adjudicative proceeding and to compel, by subpoena duces tecum, the production of documents, papers, books, records, files and other evidence, whether electronically stored or otherwise, before the commissioner in any matter over which the commissioner has jurisdiction, control or supervision pertaining to the provisions of this chapter. The commissioner shall have the power to administer oaths and affirmation to any person whose testimony is required. If any person shall refuse to obey any such subpoena or to give testimony or to produce evidence as required thereby, any justice of the superior court may, upon application and proof of such refusal, order the issuance of a subpoena, or subpoena duces tecum, out of the superior court, for the witness to appear before the superior court to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the superior court, the clerk shall issue such subpoena, as directed, requir-

ing the person to whom it is directed to appear at the time and place therein designated. If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the commissioner may apply to any justice of the superior court who, after proof of such refusal, shall issue such citation, directed to any sheriff, for the arrest of such person, and, upon such person's being brought before such justice, proceed to a hearing of the case. The court shall have power to enforce obedience to such subpoena, and the answering of any question and the production of any evidence that may be proper, by a fine not exceeding \$10,000 or by imprisonment, or by both.

II. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the administration and enforcement of this chapter.

III. The commissioner may prepare, alter, or withdraw such forms as are necessary to comply with the provisions of this title.

IV. The commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.

V. The commissioner may, for good cause shown, abate all or a portion of delinquency penalties assessed under this chapter.

VI. All actions taken by the commissioner pursuant to this chapter shall be taken only when the commissioner finds such action necessary or appropriate to the public interest or for the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title.

399-A:17 Records and Filings.

I. A document is filed when it is received by the commissioner. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.

II. Electronic filings, when received by the commissioner, are deemed filed, and are prima facie evidence that a filing has been duly authorized and made by the signatory on the application or document, are admissible in any civil or administrative proceeding under this chapter, and are admissible in evidence in accordance with the rules of superior court in any action brought by the attorney general under this chapter.

III. A licensee may maintain its records in electronic format if, upon request, the licensee provides the commissioner with:

- (a) A full explanation of the programming of any data storage or communications systems in use; and
- (b) Information from any books, records, electronic data processing systems, computers, or any other information storage system in the form requested by the commissioner.

399-A:18 Penalties.

I. Any person and the several members, officers, directors, agents, and employees thereof who shall knowingly violate any provision of this chapter, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. Any person violating the provisions of RSA 399-A:12 through RSA 399-A:15 or engaging in the business of a small loan lender, payday loan lender, or title loan lender without first obtaining a license if a license is required under this chapter shall be barred from recovering any finance charge, delinquency, or collection charge on the contract.

III. Any person who knowingly violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to such suspension or revocation of any registration or license, or administrative fine not to exceed \$2,500 for each violation in lieu of or in addition to such suspension or revocation as may be applicable under this title for violation of the provision to which such rule or order relates. Each of the acts specified shall constitute a separate violation.

IV. Any person who negligently violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to such suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or administrative fine not to exceed \$1,500 for each violation in lieu of or in addition to such suspension or revocation as may be applicable under this title for violation of the provision to which such rule or order relates. Each of the acts specified shall constitute a separate violation.

V. Any person who, either knowingly or negligently, violates any provision of this chapter may, upon notice and opportunity for hearing, and in addition to any such other penalty provided for by law, be subject to such suspension, revocation or denial of any registration or license, including forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and each such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

VI. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

399-A:19 Review. In addition to any other available remedy, any person considering himself or herself aggrieved by any act or omission of the commissioner may, within 30 days from the date of such act, or failure to act, bring an action in the superior court to review such act, or failure to act. The hearing before the court shall be based on the record before the commissioner and his or her findings and on such new evidence as may be introduced.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 99, relative to high cost mortgage loans. Banks Committee. Ought to pass with amendment, Vote 4-0. Senator Peterson for the committee.

Banks

March 26, 2003

2003-0995s

06/09

Amendment to SB 99

Amend RSA 397-C:1, III as inserted by section 1 of the bill by replacing it with the following:

III. "Lender" means any individual or entity that in any 12-month period originates 4 or more covered loans. The individual or entity to whom the covered loan is initially payable, either on the face of the note or contract, shall be the lender.

Amend RSA 397-C:8 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Nothing in this chapter shall limit or prevent the right of the New Hampshire housing finance authority to adopt rules and regulations authorized under RSA 204-C.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 177, relative to credit unions. Banks Committee. Ought to pass with amendment, Vote 4-0. Senator Barnes for the committee.

Banks
March 26, 2003
2003-0996s
06/01

Amendment to SB 177

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

1 Voting; Prohibition Against Voting by Proxy Removed. Amend RSA 394-B:11 to read as follows:

394-B:11 Voting. No member shall be entitled to ~~[vote by proxy or to]~~ have more than one vote.

2 Purchase of Real Estate; Lease Added. Amend the section heading of RSA 394-B:27 to read as follows:

394-B:27 Purchase **or Lease** of Real Estate.

3 Lease; Approval of Bank Commissioner Required. Amend RSA 394-B:27, II to read as follows:

II. Any purchase, **lease**, mortgage, exchange or sale of real estate acquired or to be acquired for the purposes of this section shall be subject to the approval of the bank commissioner.

4 Declaring; Use of Earnings of Previous Years. Amend RSA 394-B:39 to read as follows:

394-B:39 Declaring. At such intervals and for such periods as the board of directors may authorize, and after ~~[provision for]~~ **any required transfers to** the required reserves, the board of directors may declare dividends on shares and interest on deposits from ~~[the undivided]~~ **current** earnings. Dividends may be paid at various rates with due regard to the conditions that pertain to each type of share or deposit account such as minimum balance, notice and time requirements. ~~[Such dividends may be paid in whole or in part from undivided earnings of preceding years, not to exceed 20 percent of such earnings in any one year without the commissioner's approval and provided that such earnings are a part of the surplus of the credit union in excess of all requirements of the guaranty fund.]~~ **Dividends may be paid from the undivided earnings of previous years if the payment of the dividends does not cause the net worth of the credit union to fall below "Well Capitalized," as set forth in Title 12 of the code of Federal Regulations, Part 702 Prompt Corrective Action (PCA). Payment of these dividends from prior years' undivided earnings shall be reported to the bank commissioner within 30 days of dividend declaration. With prior approval of the bank commissioner, dividends may be paid from the undivided earnings of previous years if the payment of the dividends does cause the credit union's net worth to fall below "Well Capitalized" as set forth in Title 12 of the Code of Federal Regulations, Part 702 Prompt Corrective Action (PCA).**

5 Preliminary Audit; 100 Percent Verification Removed. Amend RSA 394-B:41 to read as follows:

394-B:41 Preliminary Audit. The supervisory committee shall at least semi-annually conduct or cause to be conducted an audit of the books and records and an examination of the business and affairs of the credit union, or, with the approval of the bank commissioner, the credit union may engage an independent professional auditor to conduct such an audit and examination at least annually. The supervisory committee or such independent professional auditor shall conduct a thorough audit of receipts, disbursements, assets and liabilities. The supervisory committee or such independent professional auditor shall conduct ~~[100 percent]~~ verification not less than every 2 years.

6 Loans to Officials; Approval and Ratification. Amend RSA 394-B:46 to read as follows:

394-B:46 Loans to Officials. Members of the board of directors, credit committee, or supervisory committee may borrow from the credit union. Members of the board of directors, credit committee, and supervisory committee may borrow or become surety for loans in excess of their holdings in such credit union provided such loans are approved by a majority of the members of the ~~[credit]~~ **board of directors** and **ratified by a majority of the members of the** supervisory ~~[committees]~~ **committee**; provided, that no member of a credit committee or supervisory committee shall have a vote concerning his **or her** own loan application, or be entitled to participate in the deliberations regarding said loan. No loan to any such official shall receive terms more favorable than those extended to other persons borrowing from said credit union.

7 Guaranty Fund Replaced with Regular Reserves. RSA 394-B:49 is repealed and reenacted to read as follows:

394-B:49 Regular Reserves. At the end of each quarterly reporting period, a transfer from current earnings shall be made to the regular reserve as set forth in Title 12 of the Code of Federal Regulations, Part 702

Prompt Corrective Action (PCA). In the event that current earnings are incapable of providing the required transfer, undivided earnings shall be utilized to augment the amount transferred from current earnings. The credit union shall notify the commissioner within 30 days of any required transfers made from undivided earnings to the regular reserve. Prior approval of the commissioner is required before any disbursements from the regular reserve.

8 Repeal. The following are repealed:

I. RSA 394-B:14, relative to the inclusion of shares in the capital of a credit union.

II. RSA 394-B:48, relative to the purpose for the loan, security offered, and the requirement that the application be in writing, is repealed.

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

2003-0996s

AMENDED ANALYSIS

This bill makes various changes to the law regulating credit unions, including:

I. Makes a change in member voting.

II. Requires the bank commissioner's approval for any lease of property by a credit union.

III. Makes a change in dividend payments.

IV. Establishes certain conditions when credit union directors, credit committee and supervisory committee members may borrow from the credit union in excess of their holdings in it.

V. Adds a provision for regular reserves and deletes the provision for a guaranty fund.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 207, relative to transactions exempt from the consumer protection act. Banks Committee. Re-refer to committee, Vote 3-0. Senator Barnes for the committee.

Committee report of re-refer is adopted.

Senator Foster Rule #42 on SB 207.

SB 160-FN-A, making a capital appropriation to continue construction of the vocational center in Nashua. Capital Budget Committee. Re-refer to committee, Vote 3-0. Senator Clegg for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 160-FN-A** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 160-FN-A, making a capital appropriation to continue construction of the vocational center in Nashua.

SB 229, making reference changes to the school building aid statutes. Education Committee. Ought to Pass, Vote 2-0. Senator Johnson for the committee.

Adopted.

Ordered to third reading.

CACR 14, relating to the funding of public education. Providing that the state shall fund an amount not less than 30 percent of the total average statewide expenditure for public education for kindergarten through grade 12 during the previous biennium and that the general court shall have the power to apportion this amount by statute; that the state shall assure the opportunity for an adequate public education for all pupils in the state in grades kindergarten through 12; and that no tax in any form on the value of real property shall be used to fund the state's obligation to cherish and support public education. Education Committee. Re-refer to committee, Vote 4-0. Senator O'Hearn for the committee.

MOTION TO TABLE

Senator O'Hearn moved to have **CACR 14** laid on the table.

Adopted.

LAIID ON THE TABLE

CACR 14, relating to the funding of public education. Providing that the state shall fund an amount not less than 30 percent of the total average statewide expenditure for public education for kindergarten through grade 12 during the previous biennium and that the general court shall have the power to apportion this amount by statute; that the state shall assure the opportunity for an adequate public education for all pupils in the state in grades kindergarten through 12; and that no tax in any form on the value of real property shall be used to fund the state's obligation to cherish and support public education.

HB 91, relative to the telecommunications planning and development initiative and advisory committee. Energy and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

HB 233, relative to the nuclear planning and response program. Energy and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Gallus for the committee.

Adopted.

Ordered to third reading.

HB 502, establishing a committee to study options for reducing the impact of exhaust emissions from diesel engines in New Hampshire. Environment Committee. Ought to pass with amendment, Vote 4-0. Senator Below for the committee.

Environment
March 28, 2003
2003-1027s
08/10

Amendment to HB 502

Amend the bill by replacing section 2 with the following:

2 Membership and Compensation.

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

(a) Five members of the house of representatives, appointed by the speaker of the house.

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

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 199, revising the nurse practice act. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-0. Senator Estabrook for the committee.

Senate Executive Departments and Administration
March 27, 2003
2003-1014s
08/10

Amendment to SB 199

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

326-B:2 Definitions.

I. "Advanced registered nurse practitioner (ARNP)" means a registered nurse currently licensed in New Hampshire who is additionally licensed by the board in one or more practice specialties.

II. "Board" means the New Hampshire board of nursing established in RSA 326-B:3.

III. "Certified graduate nurse (CGN)" means those graduate nurses exempted by chapter 265, laws of 1959 and certified prior to January 1, 1975.

IV. "Delegation" means the transfer of authority for the performance of a specific task from a licensed nurse authorized to perform the task to someone who does not have that authority when such transfer is authorized by this chapter or the rules adopted by the board.

V. "Licensed nursing assistant" means an individual who holds a current license to provide client care under the direction of a registered nurse or licensed practical nurse.

VI. "Licensed practical nurse (LPN)" means an individual who holds a current license to practice practical nursing as defined in paragraph IX.

VII. "Medication nursing assistant" means a licensed nursing assistant holding a currently valid certificate authorizing the delegation to the nursing assistant of tasks of medication administration.

VIII. "Nursing" means assisting clients or groups of clients to attain or maintain optimal health by implementing a strategy of care to accomplish defined goals and by evaluating responses to nursing care and medical treatment. Nursing includes basic health care that helps both clients and groups of clients cope with difficulties in daily living associated with their actual or potential health or illness status and also those nursing activities that require a substantial amount of scientific knowledge or technical skill. Nursing also includes, but is not limited to:

(a) Promoting an environment conducive to well being.

(b) Planning and implementing independent nursing strategies and prescribed treatment in the prevention and management of illness, injury, disability and achievement of a dignified death.

(c) Providing health counseling and teaching.

(d) Collaborating on aspects of the health regimen.

(e) Advocating for the client.

IX. "Nursing-related activities" means client care provided by a licensed nursing assistant directed by an ARNP, an RN, or an LPN.

X. "Practical nursing" means the practice of nursing as defined in paragraph VIII by a nurse whom:

(a) Uses sound nursing judgment based on preparation, knowledge, skills, understanding, and past nursing experience.

(b) Works under the direction of a registered nurse, advanced registered nurse practitioner, dentist or physician.

(c) Functions as a member of a health care team and contributing to the assessment, planning, implementation and evaluation of client care.

XI. "Registered nurse (RN)" means an individual who holds a current license to practice registered nursing as defined in paragraph XI.

XII. "Registered nursing" means the application of nursing knowledge, judgment and skill drawn from broad in-depth education in the biological, psychological, social, and physical sciences in assessing and diagnosing the health status of a client, and in planning, implementing and evaluating client care which promotes the optimum health, wellness and independence of the individual, the family and the community.

Amend RSA 326-B:11 as inserted by section 1 of the bill by replacing it with the following:

326-B:11 Qualifications for Licensure to Practice as a Registered Nurse or a Licensed Practical Nurse.

I. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who has never been licensed or who holds a currently valid license issued by a foreign jurisdiction other than a Canadian jurisdiction shall:

- (a) Submit a completed application and pay the license fee.
- (b) Be a graduate of a board-approved nursing education program or a program that is determined by the board to be comparable to a board-approved nursing education program.
- (c) Pass a national examination approved by the board.
- (d) Be of a good character as character relates to the practice of nursing; and
- (e) Have complied with continuing competence requirements, if applicable.

II. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who holds or has held a license issued by another state shall meet the requirements of paragraph I, except that an applicant who has passed a national examination approved by the board shall not be required to take the examination again.

III. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who received nursing education in Canada and was never licensed by any state shall:

- (a) Meet the requirements of paragraph I above; or
- (b) Meet the requirements of paragraph I (a), (d) and (e) above, have graduated from a Canadian nursing education program, and demonstrate that:
 - (1) Between the years 1939 and 1970 he or she passed the English version of the National League for Nursing Board Test Pool Examination;
 - (2) Between the years 1970 and 1980 he or she wrote the English version of the Canadian Nurses' Association testing service 5-part examination and received a minimum passing score of 350 in each of the following topics: medical nursing, surgical nursing, pediatric nursing, maternity nursing, and psychiatric nursing; or
 - (3) Since the year 1980 he or she wrote the English version of the Canadian Nurses' Association testing service comprehensive examination and received a minimum passing score of 400.

Amend RSA 326-B:13 as inserted by section 1 of the bill by replacing it with the following:

326-B:13 Certificate of Medication Administration for Licensed Nursing Assistants. The board may issue a certificate of medication administration to a currently licensed nursing assistant who qualifies under rules adopted by the board pursuant to RSA 541-A, and may renew such certificate on a biennial basis in accordance with 326-B:18.

Amend RSA 326-B:14 as inserted by section 1 of the bill by replacing it with the following:

326-B:14 Advanced Registered Nurse Practitioner.

I. The board may issue one or more specialty licenses to applicants meeting the qualifications stated in paragraph III. Holding one or more currently valid specialty licenses qualifies the holder as an advanced registered nurse practitioner.

II. An applicant for licensure in a specialty shall:

- (a) Hold a currently valid license as a registered nurse;
- (b) Submit a completed application for specialty licensure and pay the specialty license fee;
- (c) Have graduated after July 1, 2003 with a master's degree earned in an advanced registered nurse practitioner education program accredited by a national accrediting body or have graduated before July 1, 2003 from an advanced registered nurse practitioner education program accredited by a national accrediting body; and
- (d) Be currently certified by a board-approved national certifying body in the specialty for which the applicant was educated.

III. An applicant for renewal of a specialty license issued after September 30, 1984 shall:

- (a) Submit a completed application for renewal and pay the renewal fee;
- (b) Hold, and have since first specialty licensure maintained, a currently valid license as a registered nurse;

(c) Be, and have since first specialty licensure continued to be, certified by a board-approved national certifying body;

(d) Meet any continued competence requirements set by the board; and

(e) Complete a minimum of 4 contact hours training in pharmacology appropriate to the academic degree achieved by the applicant and to the specialty for which licensure renewal is sought.

IV. An applicant for renewal of a specialty license issued before September 30, 1984 shall meet the requirements of paragraph III except that the applicant shall not be required to be and continue to have been certified by a board-approved national certifying body.

V.(a) An advanced registered nurse practitioner shall have authority to possess, compound, prescribe, administer, and dispense and distribute to clients controlled and non-controlled drugs in accordance with the formulary established by the joint health council.

(b) Such plenary authority may be denied, suspended, or revoked by the board after notice and the opportunity for hearing, upon proof that the authority has been abused.

Amend the introductory paragraph of RSA 326-B:26 as inserted by section 1 of the bill by replacing it with the following:

The provisions of this chapter shall not prohibit or limit:

Amend RSA 326-B:26 as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. Direct care, including the administration of medications, by any person employed, or under contract, to provide direct care to clients receiving community-based services pursuant to RSA 135-C or RSA 171-A, provided that persons delivering such care who administer medications shall have successfully completed a medication administration educational program conducted by a registered nurse and approved by the board under rules adopted pursuant to RSA 541-A. The commissioner of health and human services, in consultation with the board, shall adopt rules establishing criteria for the delivery of direct care, including the administration of medications, and for the process of approving a registered nurse to conduct the medication administration educational program.

Amend RSA 326-B:30, II as inserted by section 1 of the bill by replacing it with the following:

II. With respect to the education programs named in paragraph I, the board is authorized to establish:

(a) Minimum qualification of faculty and administrators;

(b) The content of the curriculum;

(c) The minimum number of hours of instruction and clinical work;

(d) Any standards to be met for successful completion of the programs which may be additional to any required by the entities conducting the programs;

(e) Procedures for initial, full, and conditional approval of the programs by the board;

(f) Qualifications for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which qualifications may be additional to any required by the entities conducting the programs;

(g) Application procedures for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which procedures may be additional to any required by the entities conducting the programs;

(h) Administrative organization of education programs intended to prepare licensed nursing assistants to become medication nursing assistants; and

(i) The content of, and standards for passing, examinations administered by education programs intended to prepare licensed nursing assistants to become medication nursing assistants.

Amend the section heading of RSA 326-B:31 as inserted by section 1 of the bill by replacing it with the following:

326-B:31 Disciplinary Action; Misconduct.

Amend RSA 326-B as inserted by section 1 of the bill by inserting after section 37 the following new RSA section:

326-B:38 Direct Care in Community-Based Services. The delivery of direct care, including the administration of medications, by non-licensees to individuals receiving community-based services pursuant to RSA 135-C or RSA 171-A shall not be construed as practicing nursing or nursing-related activities.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 64, establishing a commission to study the creation of an integrated criminal justice information system and any issues related to the privacy, security, and dissemination of such criminal justice information. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-0. Senator Cohen for the committee.

Senate Executive Departments and Administration

March 27, 2003

2003-1015s

04/01

Amendment to HB 64

Amend paragraph I of section 2 of the bill by inserting after subparagraph (n) the following new subparagraph:

(o) The United States attorney for New Hampshire, or designee.

Amend paragraph II(f) of section 2 of the bill by replacing it with the following:

(f) Study the effect of any such integrated criminal justice system on the privacy rights and other rights of individuals guaranteed under the New Hampshire constitution and the Bill of Rights of the United States Constitution.

(g) Solicit information from any source deemed relevant to its work.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 69, relative to the reinstatement of expired licenses for architects. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Cohen for the committee.

Adopted.

Ordered to third reading.

HB 79, relative to the regulation of the installation and servicing of fire suppression systems. Executive Departments and Administration Committee. Re-refer to committee, Vote 3-0. Senator Cohen for the committee.

MOTION TO TABLE

Senator Kenney moved to have **HB 79** laid on the table.

Adopted.

LAID ON THE TABLE

HB 79, relative to the regulation of the installation and servicing of fire suppression systems.

SB 15, relative to election day registration. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Boyce for the committee.

Senate Finance
March 25, 2003
2003-0984s
03/10

Amendment to SB 15

Amend the bill by replacing section 1 with the following:

1 Voters and Checklists; Registering at Polling Place, Same Day Registration; Affidavit. RSA 654:7-a, II is repealed and reenacted to read as follows:

II. Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place on election day. The voter may then vote at that election. The applicant may be required to produce appropriate proof of qualifications as provided in RSA 654:12. The applicant shall complete an election day affidavit which shall be supplied by the secretary of state, and which shall contain the following written oath or affirmation:

"My name is _____, I am today registering to vote in the city/town of _____, New Hampshire.

I understand that to vote in this city/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this city/town.

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By voting today, I am acknowledging that I am not domiciled in any other state or any other city/town. I understand that if I were domiciled in another state or city/town, I would be entitled to vote in elections held within that state or city/town by absentee ballot.

In declaring New Hampshire as my domicile, I am subject to the laws of the State of New Hampshire which apply to all residents, including laws requiring me to register my motor vehicles and apply for a New Hampshire driver's license within 60 days of becoming a resident.

In declaring New Hampshire as my domicile, I realize that I may be forfeiting benefits or rights, including the right to vote in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town on this day, and I have not voted and will not vote at any other polling place this election."

Date

Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 16-FN, establishing the governor's incentive and reward program. Finance Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 18-FN, relative to vehicle stops at railroad grade crossings. Finance Committee. Ought to Pass, Vote 4-1. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services. Finance Committee. Ought to Pass, Vote 5-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

SB 23-FN, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces. Finance Committee. Ought to Pass, Vote 5-0. Senator D'Allesandro for the committee.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

April 2, 2003

2003-1097s

10/04

Floor Amendment to SB 23-FN

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

AN ACT allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces, relative to the purchase of certain service resulting from an employer's failure to enroll an employee, and including harbor master in group II of the retirement system.

Amend the bill by replacing all after section 3 with the following:

4 Retirement System; Membership; Employer Fault; Purchase of Credit. Amend RSA 100-A:3, VI(d)(1) to read as follows:

(d)(1) In the case of an employer which through its own fault, and not the fault of the employee, failed to enroll an eligible employee at the time such employee became eligible for membership in this retirement system or a predecessor system, the employer and not the employee shall pay the cost of the actuary's statement obtained under this subparagraph. The actuary's statement shall be based on the product of the member's annual rate of compensation at the time of buy-in, multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of prior service credit bought. In addition, if such employee has not received final approval of the board before July 1, 1989, to receive credit for such service, the employer shall pay 1/2 of the amount determined by the actuary and the employee shall pay 1/2. Upon payment, and with the approval of the board, the member shall receive credit for prior service. The amount paid by the employee for prior service credit under this subparagraph shall be credited to the member annuity savings fund, and the amount paid by the employer shall be credited to the state annuity accumulation fund. ***An employee may elect to provide the funds to pay the costs required of the employer if the employer is unable to provide the funds under this subparagraph.***

5 Retirement System; Group II; Harbor Master Added. Amend the introductory paragraph of 100-A:1, VII(a) to read as follows:

(a) A police officer, conservation officer of the fish and game department, ***harbor master***, or inspector of the state liquor commission who:

6 Effective Date.

I. Sections 1 - 3 of this act shall take effect July 1, 2003.

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

003-1097s

AMENDED ANALYSIS

This bill allows veterans who are active employees in the retirement system to purchase as additional creditable service certain time in the armed forces of the United States.

This bill allows an employee who is purchasing certain service due to an employer's failure to enroll to pay the employer's share of costs if the employer cannot.

This bill also adds the harbor master to the definition of permanent policeman for purposes of membership in group II of the retirement system.

MOTION TO TABLE

Senator Green moved to have **SB 23-FN** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 23-FN, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces.

SB 27, extending the kindergarten construction program. Finance Committee. Ought to pass with amendment, Vote 3-2. Senator Below for the committee.

Senate Finance

March 25, 2003

2003-0981s

04/10

Amendment to SB 27

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

AN ACT extending the kindergarten construction program and making an appropriation therefor.

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

1 Kindergarten Construction Program; Program Extended. Amend RSA 198:15-r, I to read as follows:

I. There is established in the department of education a kindergarten construction program. For the [7-year] period starting July 1, 1997, and ending June 30, [2004] **2006**, the commissioner of education shall make grants available to eligible districts that currently do not operate a public kindergarten program to cover 75 percent of the actual cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities. Grants shall also cover the cost of initial equipment needed to operate a kindergarten program.

2 Appropriation; Kindergarten Construction. Amend 1997, 348:6 as amended by 2001, 287:3 to read as follows:

348:6 Appropriation; Kindergarten Construction. A sum not to exceed [~~\$28,500,000~~] **\$31,500,000** is hereby appropriated to the department of education for the purposes of constructing kindergarten classrooms. This appropriation shall be nonlapsing and in addition to any other appropriation to the department of education; provided, however, that the department of education shall not approve grant requests for such purposes for more than:

I. \$6,000,000 in the biennium ending June 30, 1999.

II. \$5,000,000 in the fiscal year ending June 30, 2000.

III. \$5,000,000 in the fiscal year ending June 30, 2001.

IV. \$6,500,000 in the fiscal year ending June 30, 2002.

V. \$2,000,000 in the fiscal year ending June 30, 2003.

VI. \$4,000,000 in the fiscal year ending June 30, 2004.

VII. \$3,000,000 in the biennium ending June 30, 2005.

3 Kindergarten Construction Program; Bonding Amount Amended. Amend 1997, 348:7, I as amended by 1997, 351:56, as amended by 2001, 287:4 to read as follows:

I. To provide funds for the appropriation made in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$28,500,000~~] **\$31,500,000** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A; provided that bonds or notes shall not be issued in excess of:

(a) \$6,000,000 in the biennium ending June 30, 1999.

(b) \$5,000,000 in the fiscal year ending June 30, 2000.

(c) \$5,000,000 in the fiscal year ending June 30, 2001.

(d) \$6,500,000 in the fiscal year ending June 30, 2002.

(e) \$2,000,000 in the fiscal year ending June 30, 2003.

(f) \$4,000,000 in the fiscal year ending June 30, 2004.

(g) \$3,000,000 in the biennium ending June 30, 2005.

4 Repeal. The following are repealed:

I. 2001, 287:6, II, relative to the prospective repeal of the kindergarten construction program.

II. 2001, 287:7, I, relative to the effective date for the prospective repeal of the kindergarten construction program.

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

2003-0981s

AMENDED ANALYSIS

This bill extends the kindergarten construction program from June 30, 2004 to June 30, 2006 and repeals the prospective repeal of the program which would have taken effect June 30, 2004. The bill also makes an additional appropriation of \$3,000,000 to the department of education for the kindergarten construction program.

Senator Barnes moved the question.

Adopted.

Question is on the adoption of the committee amendment.

A roll call was requested by Senator Estabrook.

Seconded by Senator Cohen.

The following Senators voted Yes: Below, Odell, Roberge, Peterson, O'Hearn, Foster, Larsen, Gatsas, Sapareto, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Eaton, Clegg, Barnes, Martel, Morse, Prescott.

Yeas: 12 - Nays: 12

Amendment failed.

MOTION TO TABLE

Senator Below moved to have **SB 27** laid on the table.

Adopted.

LAI D ON THE TABLE

SB 27, extending the kindergarten construction program.

SB 38-FN-A-L, authorizing special number plates for firefighters. Finance Committee. Inexpedient to Legislate, Vote 5-0. Senator Boyce for the committee.

MOTION TO TABLE

Senator Boyce moved to have **SB 38-FN-A-L** laid on the table.

Adopted.

LAI D ON THE TABLE

SB 38-FN-A-L, authorizing special number plates for firefighters.

SB 46-FN, relative to dedicated funds. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Boyce for the committee.

Senate Finance

March 25, 2003

2003-0980s

05/09

Amendment to SB 46-FN

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

AN ACT repealing the meat inspection account and the poultry inspection account.

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

1 Meat Inspection; Costs of Inspection; Reference to Special Account Removed. Amend RSA 427:32 to read as follows:

427:32 Costs of Inspection; Limitation. The cost of inspection rendered under the requirements of this subdivision shall be borne by the state, except that the cost of overtime and holiday work performed in establishments subject to the provisions of this subdivision shall be at such rates as the commissioner of agriculture, markets, and food may determine, and shall be borne by such establishments. Such costs shall be collected by the commissioner. ~~[and shall be paid into a special account, and]~~ All employees of the department who are required to make inspections at any time after working 40 hours per week or after working 8 hours per day shall be paid ~~[from said account]~~ at the rate of time and a half. Labor performed on Saturdays, Sundays and holidays shall also be compensated at the rate of time and a half. Costs collected by the commissioner for such premium pay work shall be available without fiscal year limitation to carry out the purposes of this section.

2 Poultry Inspection; Costs of Inspection; Reference to Special Account Removed. Amend RSA 428:8 to read as follows:

428:8 Costs of Inspection; Limitation. The cost of inspection rendered under the requirements of this subdivision shall be borne by the state, except that the cost of overtime and holiday work performed in establishments subject to the provisions of this subdivision shall be at such rates as the commissioner of agriculture, markets, and food may determine, and shall be borne by such establishments. Such costs shall be collected by the commissioner. ~~[and shall be paid into a special account, and]~~ All employees of the department who are required to make inspections at any time after working 40 hours per week or after working 8 hours per day shall be paid ~~[from said account]~~ at the rate of time and a half. Labor performed on Saturdays, Sundays and holidays shall also be compensated at the rate of time and a half. Costs collected by the commissioner for such premium pay work shall be available without fiscal year limitation to carry out the purposes of this section.

3 Repeal. The following are repealed:

I. RSA 6:12, I(eeeeeeeee), relative to the meat inspection account.

II. RSA 6:12, I(ffffffff), relative to the poultry inspection account.

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

2003-0980s

AMENDED ANALYSIS

This bill repeals the meat inspection account and the poultry inspection account.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 60-FN, relative to voluntary certification of persons installing or servicing propane gas or heating oil equipment. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Boyce for the committee.

Senate Finance

March 25, 2003

2003-0982s

08/01

Amendment to SB 60-FN

Amend RSA 153:16-b, III as inserted by section 1 of the bill by replacing it with the following:

III. The state fire marshal, with the approval of the commissioner of safety, shall adopt rules, pursuant to RSA 541-A, relative to the establishment of fees for voluntary certification under this section. After the first year of this program, such fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the previous fiscal year.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 64-FN, relative to updating the drought management plan. Finance Committee. Ought to Pass, Vote 5-0. Senator Green for the committee.

Adopted.

Ordered to third reading.

SB 86-FN, relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services. Finance Committee. Ought to Pass, Vote 4-1. Senator Below for the committee.

Question is on the committee report of ought to pass.

A roll call was requested by Senator Estabrook.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted unanimously.

Ordered to third reading.

SB 91, extending the committee to study eminent domain proceedings and adding certain duties. Finance Committee. Ought to Pass, Vote 5-0. Senator Gatsas for the committee.

Adopted.

Ordered to third reading.

SB 129, relative to the board of tax and land appeals and eminent domain cases. Finance Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 140-FN, establishing an optional renewal period for licenses to carry a pistol or revolver. Finance Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 142-FN, relative to advertisements on utility poles and highway signs. Finance Committee. Ought to Pass, Vote 6-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

SB 145-FN-A, relative to the duties of the board of trustees of the department of regional community-technical colleges. Finance Committee. Ought to Pass, Vote 6-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 149-FN, establishing criminal penalties for the use of a credit card scanning device or reencoder to defraud. Finance Committee. Ought to Pass, 5-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

SB 163-FN, relative to the procedures of the health services planning and review board. Finance Committee. Ought to Pass, Vote 5-1. Senator Green for the committee.

Adopted.

Ordered to third reading.

SB 202-FN-A, relative to funding for kidney dialysis patients and making an appropriation therefor. Finance Committee. Inexpedient to Legislate, Vote 4-2. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

SB 216-FN-A, relative to the developmental services priority waiting list and making an appropriation therefor. Finance Committee. Ought to Pass, Vote 6-0. Senator Below for the committee.

MOTION TO TABLE

Senator Clegg moved to have **SB 216-FN-A** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 216-FN-A, relative to the developmental services priority waiting list and making an appropriation therefor.

SB 226-L, increasing the homestead exemption. Finance Committee. Ought to Pass, Vote 6-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 11-FN, establishing new special justice positions in the Manchester, Concord, and Nashua district courts. Finance Committee. Inexpedient to Legislate, Vote 5-0. Senator Odell for the committee.

Committee report of inexpedient to legislate is adopted.

SB 29-FN-A-L, refunding certain meals and rooms taxes paid by the city of Manchester. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator D'Allesandro for the committee.

Senate Finance
March 31, 2003
2003-1056s
08/09

Amendment to SB 29-FN-A-LOCAL

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

1 Reimbursement of Meals and Rooms Taxes Paid by the City of Manchester. Notwithstanding any other provision of law, the state shall reimburse the city of Manchester up to \$44,293 in addition to the amount calculated to be reimbursed under RSA 78-A:26. Reimbursement shall be contingent upon submission of documentation from the city of Manchester to the department of revenue administration supporting that up to \$44,293 of meals and rooms tax payments have been made by the city to vendors. Such additional sum, up to \$44,293 as certified by the department of revenue administration, shall be paid at the time distribution under RSA 78-A:26 is made for fiscal year 2004.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 69-FN-A, combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education, and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Senate Finance

March 31, 2003

2003-1055s

04/10

Amendment to SB 69-FN-A

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

AN ACT combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education.

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

2003-1055s

AMENDED ANALYSIS

This bill consolidates the career incentive loan program and the nursing leveraged scholarship loan program into the workforce incentive program which contains a forgivable loan component and a loan repayment program for individuals who work in designated shortage areas.

MOTION TO TABLE

Senator Gatsas moved to have **SB 69-FN-A** laid on the table.

Adopted.

LAID ON THE TABLE

SB 69-FN-A, combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education, and making an appropriation therefor.

SB 70, creating the Great Bay Estuary district and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Senate Finance

March 31, 2003

2003-1063s

06/01

Amendment to SB 70

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

AN ACT establishing a commission to study implementing a recommendation of the New Hampshire estuaries project management plan and making an appropriation to the Strafford regional planning commission and the Rockingham planning commission for certain related projects therefor.

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

1 Commission Established.

I. There is established a commission to study:

(a) The feasibility of implementing a recommendation of the estuaries project management plan that the discharge from area wastewater treatment plants be combined for discharge further offshore.

(b) Ways to aid in achieving restoration of the estuary habitat in a manner that is compatible with the National Estuary Restoration Act of 2000.

(c) Creation of a watershed district in the Great Bay Estuary area and the rivers that flow into it.

(d) Funding strategies for creating and maintaining effective partnerships between the federal government, the state government, local community governments and the private sector to fund and assist in the Great Bay estuary habitat restoration project.

(e) The need for joint public wastewater facilities for collection and discharge of treated wastewater and ways to achieve the construction, maintenance and management of these facilities.

II. Participation in this commission shall be voluntary.

2 Membership and Compensation.

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

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

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

(c) One member, appointed by the governor.

(d) One member from each participating town or city along the Great Bay estuary, river basin, and the estuarine watersheds appointed by the governing body of the town or city.

(e) One member of the Strafford Regional Planning Commission, appointed by the commission.

(f) One member of the Rockingham Regional Planning Commission, appointed by the commission.

(g) One Strafford County commissioner, appointed by the county commission.

(h) One Rockingham County commissioner, appointed by the county commission.

(i) The commissioner of the department of environmental services, or designee.

(j) The reserve manager of the Great Bay National Estuarine Research Reserve.

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

3 Duties. The commission shall study:

I. The feasibility of implementing a recommendation of the estuaries project management plan that the discharge from area wastewater treatment plants be combined for discharge further offshore.

II. Ways to aid in achieving restoration of the estuary habitat in a manner that is compatible with the National Estuary Restoration Act of 2000.

III. Creation of a watershed district in the Great Bay Estuary area and the rivers that flow into it.

IV. Funding strategies for creating and maintaining effective partnerships between the federal government, the state government, local community governments, and the private sector to fund and assist in the Great Bay estuary habitat restoration project.

V. The need for joint public wastewater facilities for collection and discharge of treated wastewater and ways to achieve the construction, maintenance, and management of these facilities.

VI. The merits of forming a watershed district among area towns to provide for the collection, conveyance, and disposal of treated wastewater in the deep waters of the Piscataqua River or the Atlantic Ocean and for other water-related purposes and an appropriate name for any districts recommended.

VII. Funding strategies that a watershed district might use in conjunction with the state and federal governments for the benefit of the Great Bay Estuary and its environment.

4 Notice of First Meeting; Chairperson; Quorum. The senate member shall create a list of commission members and shall call the first meeting of the commission. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eight members of the commission shall constitute a quorum.

5 Report. The commission 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 Appropriation; Strafford Regional Planning Commission and Rockingham Planning Commission.

I. The sum of \$1,000,000 is hereby appropriated to the Strafford regional planning commission and the Rockingham planning commission for the biennium ending June 30, 2005 to be placed in an account established by the Strafford Regional Planning Commission for the purposes delineated in paragraphs II and III of this section

II. An amount of \$500,000 is allocated for the first phase, facilities planning. The facilities plan shall evaluate the needs and alternatives for regional wastewater collection/disposal facilities in light of the area's unique demographic, topographic, hydrologic, and institutional characteristics. The facilities plan shall assess and compare the present worth values of capital, operational, and maintenance costs of feasible alternatives, and identify the least-cost alternative which may be implemented from legal, institutional, financial, and management standpoints. If additional funding is needed to complete the defined scope of the first phase, funds from the second phase may be allocated to the first phase for this purpose.

III. An amount of \$500,000 is allocated for the second phase; preliminary design and water quality modeling or testing. In the event that the first phase has funds remaining after it is completed, funds from the first phase may be allocated to the second phase.

7 Bonds Authorized. To provide funds for the appropriation made in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,000,000 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state. The bonds shall be 20 year bonds.

8 Effective Date.

I. Sections 1-5 of this act shall take effect upon its passage.

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

2003-1063s

AMENDED ANALYSIS

This bill establishes a commission to study certain recommendations of the New Hampshire estuaries project management plan and other issues related to the Great Bay estuary. This bill also makes an appropriation to the Strafford regional planning commission and the Rockingham planning commission for the preparation of a facilities plan, preliminary design, and water quality modeling or testing.

MOTION TO TABLE

Senator Flanders moved to have **SB 70** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 70, creating the Great Bay Estuary district and making an appropriation therefor.

SB 85-FN, making certain revisions to the special education laws. Finance Committee. Ought to Pass, Vote 5-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 115, establishing a commission to study implementing a recommendation of the New Hampshire estuaries project management plan and establishing the estuary alliance for sewerage treatment. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Green for the committee.

Senate Finance

March 31, 2003

2003-1061s

01/05

Amendment to SB 115

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

AN ACT increasing the fees for review of subdivisions and waste disposal systems by the department of environmental services and making an appropriation for implementing information technology and regulatory process improvements.

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

1 Purpose. The general court finds that the current fees for sewage disposal system and subdivision plan review under RSA 485-A are inadequate to cover the costs of conducting the reviews and of operating the program to assure compliance with statutory and regulatory requirements.

2 Fees; Subdivision and Waste Disposal System Reviews. Amend RSA 485-A:30, I to read as follows:

I. Any person submitting plans and specifications for a subdivision of land shall pay to the department a fee of [~~\$80~~] **\$150** per lot. Said fee shall be for reviewing such plans and specifications and making site inspections. Any person submitting plans and specifications for sewage or waste disposal systems shall pay to the department a fee of [~~\$80~~] **\$140** for each system. Said fee shall be for reviewing such plans and specifications, making site inspections, [~~and for~~] the administration of sludge and septage management programs, **and for establishing a system for electronic permitting for waste disposal systems, subdivision plans, and for permits and approvals under the department's land regulation authority.** The fees required by this paragraph shall be paid at the time said plans and specifications are submitted and shall be deposited with the treasurer as unrestricted revenue. For the purposes of this paragraph, the term "lot" shall not include tent sites or travel trailer sites in recreational parks which are operated on a seasonal basis for not more than 9 months per year.

3 Appropriation. The sum of \$1 is hereby appropriated to the department of environmental services for the biennium ending June 30, 2005 for the purpose of implementing information technology and regulatory process improvements. This appropriation is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

2003-1061s

AMENDED ANALYSIS

This bill increases the fees for subdivision and waste system review by the department of environmental services and makes an appropriation to the department for implementing information technology and regulatory process improvements including electronic permitting for waste disposal systems, subdivision plans, and other permits and approvals under the department's land use regulation authority.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 128-FN, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state. Finance Committee. Ought to pass with amendment, Vote 4-1. Senator Green for the committee.

Senate Finance

March 31, 2003

2003-1046s

01/09

Amendment to SB 128-FN

Amend RSA 5-C:2, I as inserted by section 2 of the bill by replacing it with the following:

I. There is established within the department a division of vital records administration under the supervision of a director of vital records administration. The secretary of state, with the approval of the governor and council, shall appoint the director of vital records administration. In addition to the title of director, the director shall also be known as the registrar of vital records. The director of vital records administration shall be academically and technically qualified to hold the position. The director shall be a citizen of this state or become a citizen of this state within one year of the director's appointment.

Amend RSA 5-C:5, I as inserted by section 2 of the bill by replacing it with the following:

I. The secretary of state shall adopt rules relative to facts which must be recorded relative to births, marriages, divorces, deaths, and fetal deaths. At a minimum, the rules that are adopted relative to the facts included on the forms and data fields maintained electronically shall include all facts contained on the national standard certificate forms developed by the National Center for Health Statistics, United States Department of Health and Human Services. As revisions to the National Center for Health Statistics standard certificates are made, the secretary of state shall adopt new rules to incorporate new facts contained on the standard certificates.

Amend RSA 126:24-c as inserted by section 25 of the bill by replacing it with the following:

126:24-c Access to Information from Vital Records for Public Health Purposes. The department shall have a direct and tangible interest in vital records data including personal identifiers. The secretary of state shall provide continuous electronic access to the department of the entire contents of the data files on a 24-hour, 7-day per week basis. If a means of electronic access becomes possible that will allow access at a faster rate, the department may utilize such new means of access, provided that it assumes the full cost of implementing the new means of access. Such access shall be provided in standard database format that establishes a remote electronic link from the secretary of state's office to the department that would not restrict the ability of the department to transfer data. However, under no circumstance shall any information relative to any adoption or any restricted record as determined by a court of law be provided to the department.

Amend RSA 126:24-e as inserted by section 25 of the bill by inserting after paragraph VI the following new paragraph:

VII. The board shall have 2 part-time staff persons to conduct the duties associated with the work of the board. The board shall reimburse members for travel expenses associated with board activities.

Amend RSA 126:24-f as inserted by section 25 of the bill by inserting after paragraph II the following new paragraph:

III. Annually, on or after April 30 for birth data, and on or after August 31 for death data, the committee shall produce a report on the quality of the prior year's vital records data based on the final data year reports received from the National Center for Health Statistics for natality and mortality demographic files. The report shall include a statement on the quality and completeness of each element recorded on the statistical forms as they are maintained electronically. The report shall be submitted to the commissioner, or designee, the secretary of state, the registrar of vital records, the speaker of the house of representatives, and the president of the senate.

Amend the bill by inserting after section 27 the following and renumbering the original section 28 to read as 29:

28 Transfer.

I. All existing rules, regulations and procedures in effect, in operation, or adopted in or by the former department of health and human services, office of community and public health, bureau of vital records are declared in effect and shall continue in effect until rescinded, revised, or amended by the secretary of state.

II. All of the functions, powers, duties, and responsibilities of the department of health and human services, office of community and public health, bureau of vital records are transferred to the secretary of state. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds in any account or subdivision of an account of the department of health and human services and authorized for use by the office of community and public health, bureau of vital records, actions and other property or obligations of any kind of the department of health and human services, office of community and public health, bureau of vital records.

III. The transfer of the office of community and public health, bureau of vital records from the department of health and human services to the secretary of state shall not affect the terms or appointments of current members of the vital records improvement advisory committee established under RSA 126:32.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 161, relative to procedures in eminent domain proceedings. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator D'Allesandro for the committee.

Senate Finance

March 31, 2003

2003-1058s

01/09

Amendment to SB 161

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

1 Preliminary Steps to Initiating Action. RSA 498-A:4 is repealed and reenacted to read as follows:

498-A:4 Preliminary Steps to Initiating Action.

I. DISCLOSURE. At the initial contact with a property owner, the condemnor shall provide to the condemnee a copy of "Public Projects and Your Property," as amended, which provides information regarding acquisition and relocation to the property owner. "Public Projects and Your Property" shall include a disclosure, conspicuously located, which states that the condemnor does not represent the rights of the condemnee and that the condemnee may not rely upon the condemnor or its employees for independent advice or unbiased counsel.

II. APPRAISAL.

(a) The condemnor shall have an impartial, qualified appraiser make at least one appraisal of all property proposed to be acquired. The appraiser shall make reasonable efforts to confer with the condemnees or their personal representatives.

(b) Every condemnee who is the subject of a residential property acquisition shall have a reasonable opportunity to have his or her property appraised by an independent, qualified appraiser, employed by the condemnor. The condemnor shall reimburse the cost of the residential appraisal up to \$1,000.

(c) Before making the offer provided for in paragraph III, the condemnor shall make reasonable efforts to negotiate with the condemnees or their personal representatives for the purchase of the property, but failure to confer or negotiate shall not be a defense to condemnation of a property. Any sum of money or other consideration discussed by either the condemnor or the condemnee during any such negotiations shall not be admissible in evidence and shall not be referred to in any proceedings for the determination of just compensation.

(d) Within 10 days of receipt of a notice of offer provided for in paragraph III of this section a municipal condemnee shall, at the request of the condemnor, furnish the condemnor with the estimated amount of unpaid taxes, fees and interest for which notice has not been recorded at the registry of deeds for the county in which the property is located. Failure to timely provide such estimate shall not affect any right of a municipal condemnee under this chapter.

(e) When the condemnor is the department of transportation, the condemnor shall review any independent appraisals for accuracy before formulating a notice of offer.

(f) The condemnor shall provide a copy of the appraisal, and if requested, review notes on which the negotiations are based to the condemnee at the time of negotiation or at least 45 days prior to making the notice of offer, whichever comes first.

III. NOTICE OF OFFER.

(a) The condemnor shall make its notice of offer within a reasonable time after it publicly announces its plans to take a property.

(b) No property shall be taken unless the condemnor shall serve upon the condemnee a written notice of offer to purchase, which shall set forth:

(1) The purpose for which the property will be taken.

(2) A description of the property to be taken sufficient for the identification thereof, including sources of title, if ascertainable.

(3) The amount of compensation offered and whether the offer is based on the appraisal required by RSA 498-A:4, II(a), or on some other basis.

(4) The date the property value was determined.

(5) That an action to condemn the property in the manner provided by this chapter will be commenced if the offer is not accepted within 30 days after service of the notice, or that the condemnee may reject the offer within 20 days and request a notice of offer based on the value of the property at the time the taking was announced or at the time of the notice of offer.

(c) When the taking of a portion of the property will have a substantial unfavorable impact on the condemnee's use of the property, the condemnee shall have the option of rejecting the notice of offer and electing to have the entire property condemned. The condemnee shall have this option regardless of the financial value of the portion to be taken.

(d) Any offer shall remain outstanding and may be accepted by the condemnee until such time as either the condemnor or the condemnee files a petition in the superior court to have the damages reassessed under RSA 498-A:27.

(e) The condemnor shall make public a complete list of such offers showing the name of each condemnee and the amount of the offer in each case, including the value of the property before and after the taking, if different, and the amount of damages.

IV. SERVICE OF NOTICE.

(a) The giving of the notice of offer is a jurisdictional prerequisite to instituting condemnation proceedings. The notice may be served by certified mail and service shall be complete on the date of mailing. If the condemnee is a minor, an incompetent person, unknown, or is one whose whereabouts are unknown, the condemnor shall serve such notice upon the legal guardian of the condemnee. If there is no such guardian, the condemnor shall petition the board and request that a guardian ad litem be appointed to represent such condemnee. If the condemnee is unknown or one whose whereabouts are unknown, such notice shall also be published once in a newspaper of general circulation in the county where the property is located.

(b) If the offer is accepted, the transfer of title shall be accomplished within 30 days after acceptance, including payment of the considerations set forth in the offer or as agreed upon between the parties, unless such time is extended by mutual written consent by the condemnor and condemnee. In the event the condemnee fails to convey the property within the specified time, the condemnor may commence condemnation proceedings.

(c) If the offer is not accepted within 30 days after the service of the notice, the condemnor shall commence condemnation proceedings within 90 days after the expiration of such 90-day period.

2 New Section; Abandonment of Property Not Condemned. Amend RSA 498-A by inserting after section 12 the following new section:

498-A:12-a Abandonment of Property Not Condemned. If a condemnor acquires property before condemning a fee, the property may not be disposed of for any reason without first offering to the condemnee, his or her heirs and assigns, the property including any improvements made on such property, at the fair market value. The condemnee, his or her heirs and assigns shall be served notice in the same manner as prescribed for the service of notices in RSA 498-A:4, and shall have 90 days after receipt of such notice to make the written acceptance thereof.

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

2003-1058s

AMENDED ANALYSIS

This bill clarifies certain eminent domain proceedings.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 90-FN, increasing the cap for relocation assistance for businesses in eminent domain proceedings. Finance Committee. Ought to Pass, Vote 5-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 21, relative to health insurance riders. Insurance Committee. Ought to pass with amendment, Vote 4-1. Senator Prescott for the committee.

Insurance

March 26, 2003

2003-0992s

01/05

Amendment to SB 21

Amend the bill by replacing section 1 with the following:

1 Medical Underwriting; Individual Policies. Amend RSA 420-G:5, II to read as follows:

II. Health carriers providing health coverage for individuals may perform medical underwriting, including the use of individual health statements or screenings or the use of prior individual claims history, to the extent necessary to establish or modify premium rates, only as provided in RSA 420-G:4. Such underwriting may be limited to the use of a standardized health statement for use in adjustments to rating pursuant to RSA 420-G:4. The commissioner may, by rule, require carriers to use a standardized health statement. ***Health carriers providing health coverage for individuals may issue policies containing riders or endorsements that exclude coverage for a specified condition that existed prior to the issuance of coverage and complications that arise from the specified condition if all of the following standards are met:***

(a) The coverage exclusion shall be for a specific medical condition and complications arising from the condition.

(b) The coverage exclusion shall not apply to any other medical condition not related directly to the specific medical condition being excluded.

(c) The health carrier shall provide to the applicant before issuance of the policy a written notice explaining the coverage exclusion for the specified condition and complications arising from the condition.

(d) The health carrier's offer of coverage and policy shall clearly indicate in bold print as a separate section of the policy or on a separate form that the applicant is being offered coverage with a coverage exclusion and specifying the excluded medical condition and related complications that will be considered as arising from the excluded condition.

(e) The health carrier's offer of coverage and policy shall not include riders or endorsements that exclude coverage for more than 2 specified conditions.

(f) The health carrier shall notify the applicant that it will review the underwriting basis for the coverage exclusion upon request one time per year, and remove the coverage exclusion, no later than the next policy renewal date, if the health carrier determines that evidence of insurability is satisfactory.

(g) The health carrier shall notify the applicant in writing that the applicant may decline the offer of coverage with a coverage exclusion and obtain coverage through the New Hampshire health insurance high risk pool, under RSA 404-G.

(h) The coverage exclusion period shall be concurrent with any other applicable preexisting condition limitation or exclusion period.

(i) The health carrier shall provide to covered persons who may be subject to coverage exclusions a means by which coverage for specific services can be verified in advance.

(j) Riders or endorsements containing coverage exclusions shall not apply to services, benefits, or options required by state or federal law to be included in the coverage.

Amend the bill by replacing section 3 with the following:

3 High Risk Pool Eligibility. Amend RSA 404-G:5-e, I(c) and (d) to read as follows:

(c) The individual has a history of any medical or health condition that is on a list adopted by the association; ~~or~~

(d) The individual is an "eligible individual" as defined in section 2741(b) of the Public Health Service Act[-]; ***or***

(e) The individual has received an offer of coverage from a carrier of individual health insurance that contains a rider or endorsement excluding coverage for a specified condition pursuant to RSA 420-G:5, II.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 110, relative to small group health insurance coverage. Insurance Committee. Ought to pass with amendment, Vote 4-1. Senator Prescott for the committee.

Insurance
March 26, 2003
2003-0993s
01/05

Amendment to SB 110

Amend RSA 420-G:2, XVI(a) as inserted by section 4 of the bill by replacing it with the following:

XVI.(a) "Small employer" means a business or organization which employed on average, ~~[one]~~ **2** and up to ~~[100]~~ **50** employees, including owners and self-employed persons, on business days during the previous calendar year. ***"Small employer" shall also include self-employed persons who had small employer coverage on June 30, 2003 and, since then, have continuously maintained small-employer coverage through the exercise of renewal or replacement rights under RSA 420-G:6, V or VI.*** A small employer is subject to this chapter whether or not it becomes part of an association, multi-employer plan, trust, or any other entity cited in RSA 420-G:3 provided it meets this definition. ***With prior notice to the commissioner, a health carrier may elect to treat all self-employed persons as small employers.***

Amend RSA 420-G:4, I(e)(7) as inserted by section 5 of the bill by replacing it with the following:

(7) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the premium rate by more than 25 percent of the rate that was charged in the preceding year. Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends; changes in the rating factor for group size; or changes in the rating factor for attained age of covered persons. This subparagraph shall expire on September 1, 2005.

Amend the bill by replacing all after section 6 with the following:

7 Small Group Coverage Renewal and Replacement Rights Extended to Certain Self-employed Persons. RSA 420-G:6, V is repealed and reenacted to read as follows:

V.(a) Health coverages subject to this chapter shall be renewable as follows:

(1) Individual policies shall be renewable to all individuals, regardless of age or eligibility for medicare.

(2) Small group policies shall be renewable to employees and eligible dependents at the option of the small employer and to self-employed persons who had small-employer coverage on June 30, 2003 and who have continuously maintained small-employer coverage through the exercise of renewal or replacement rights under RSA 420-G:6, V or VI.

(3) Large group policies shall be renewable to employees and eligible dependents at the option of the large employer.

(b) The right of renewal under this section shall not exist when the following circumstances apply:

(1) Nonpayment of required premiums.

(2) Fraud or intentional misrepresentation on the part of an individual or an individual's representative, or on the part of an employer, employee, dependent, or an employee's representative.

(3) Failure to meet the minimum employee participation number or percentage requirement of the health coverage.

(4) The small employer is no longer actively engaged in the business that it was engaged in on the effective date of the health coverage.

(5) The employer medically underwrites or otherwise violates a provision of this chapter.

(6) The health carrier is ceasing to offer health coverage in such market, in accordance with paragraph VII.

8 Qualified Association Trust. RSA 420-G:10 is repealed and reenacted to read as follows:

420-G:10 Qualified Association Trust.

I. A qualified association trust or other entity, as defined in RSA 420-G:2, XV, shall:

(a) Employ the rating methodology outlined in RSA 420-G:4 for all small employer members with 50 or fewer employees based upon the association's group experience.

(b) Offer all eligible members, as defined under the applicable trust or other documents, coverage and rates on a guaranteed issue and renewable basis.

(c) Comply with the regulations concerning medical underwriting in RSA 420-G:5.

(d) Comply with the preexisting conditions provision of RSA 420-G:7.

II. Nothing in this chapter shall be interpreted to limit the size of employers who may participate in coverage with a qualified association trust.

9 Repeal. The following are repealed:

I. RSA 420-G:8, I(b), relative to medical underwriting.

II. RSA 420-G:8, I-a, relative to open enrollment periods.

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

Amendment adopted.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

April 3, 2003

2003-1134s

01/09

Floor Amendment to SB 110

Amend RSA 420-G:2, XVI(a) as inserted by section 4 of the bill by replacing it with the following:

XVI.(a) "Small employer" means a business or organization which employed on average, one and up to ~~[100]~~ **50** employees, including owners and self-employed persons, on business days during the previous calendar year. A small employer is subject to this chapter whether or not it becomes part of an association, multi-employer plan, trust, or any other entity cited in RSA 420-G:3 provided it meets this definition.

Amend RSA 420-G:4, I(e)(3) as inserted by section 5 of the bill by replacing it with the following:

(3) Carriers may use group size as a rating factor. However, the highest factor based on group size shall not exceed the lowest factor based on group size by more than 20 percent; provided that for groups of one, an additional 10 percent rating factor shall be allowed from the highest factor.

Amend RSA 420-G:4, I(e)(7) as inserted by section 5 of the bill by replacing it with the following:

(7) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the premium rate by more than 25 percent of the rate that was charged in the preceding year. Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends or changes in the rating factor for attained age of covered persons. This subparagraph shall expire on January 1, 2005.

Amend the bill by deleting section 7 and renumbering the original sections 8-10 to read as 7-9, respectively.

Amend section 8 of the bill by replacing it with the following:

8 Repeal. RSA 420-G:8, I(b), relative to medical underwriting, is repealed.

2003-1134s

AMENDED ANALYSIS

This bill revises the laws relative to small group health insurance. The bill changes the definition of small group employer to employers with 1-50 employees. Current law defines small group employers to have 1-100 employees.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Estabrook.

Seconded by Senator Cohen.

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

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

Yeas: 15 - Nays: 8

Adopted.

Ordered to third reading.

SB 174, relative to scheduled permanent impairment awards under workers' compensation. Insurance Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

Insurance

March 26, 2003

2003-0994s

01/05

Amendment to SB 174

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

AN ACT relative to scheduled permanent impairment awards and remedial care under workers' compensation.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Medical, Hospital, and Remedial Care. Amend RSA 281-A:23, II to read as follows:

II. The employer, or the employer's insurance carrier, shall pay the cost of artificial limbs, eyes, teeth, orthopedic appliances, and physical and surgical aids made necessary by such injury; shall pay the cost of replacement or repair when such is made necessary by wear and tear or by physical change in the person; and shall pay compensation for disability resulting from the replacement or repair, based on the employee's average wages at the time of the original injury. ~~[Notwithstanding RSA 281-A:48, I, a party may petition the commissioner for payment of such compensation at any time, if the disability results solely from the replacement or repair.]~~ If an employee by [accident] **accidental injury** arising out of and in the [cause] **course** of the employment has **additionally** suffered the loss of glasses, false teeth, an artificial member, or hearing aid, the employer shall pay the employee an amount equal to the value of the property so lost.

2003-0994s

AMENDED ANALYSIS

This bill clarifies the wage to be used when calculating permanent impairment awards under workers' compensation.

This bill also clarifies certain remedial care issues.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 201, establishing a committee to study insurance practices relative to homeowner's insurance. Insurance Committee. Ought to Pass, Vote 5-0. Senator Cohen for the committee.

Adopted.

Ordered to third reading.

SB 209, relative to permissible campaign contributions by business organizations and labor unions. Internal Affairs Committee. Re-refer to committee, Vote 3-2. Senator Boyce for the committee.

MOTION TO TABLE

Senator Boyce moved to have **SB 209** laid on the table.

Question is on the motion to table.

A roll call was requested by Senator Below.

Seconded by Senator Estabrook.

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

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

Yeas: 17 - Nays: 6

Motion is adopted.

LAIID ON THE TABLE

SB 209, relative to permissible campaign contributions by business organizations and labor unions.

HB 99, relative to absentee ballot requests. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 246, relative to availability of absentee voting applicant lists. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

HB 260, relative to checklists used on election day. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 83, relative to paralegals and legal assistants. Judiciary Committee. Ought to pass with amendment, Vote 4-1. Senator Roberge for the committee.

Senate Judiciary

March 25, 2003

2003-0976s

10/03

Amendment to SB 83

Amend RSA 311:7 as inserted by section 1 of the bill by replacing it with the following:

311:7 Prohibition.

I. No person shall be permitted commonly to practice as an attorney in court unless [he] **the person** has been admitted by the court and taken the oath prescribed in RSA 311:6.

II. A paralegal or legal assistant appearing under the direct supervision of an attorney admitted to practice in New Hampshire shall not be deemed to be commonly practicing as an attorney in court, provided that:

(a) An attorney responsible for the direct supervision of such paralegal or legal assistant shall comply with the rules of professional conduct adopted by the supreme court relating to paralegals and legal assistants and shall be familiar with the facts and legal issues with respect to any proceeding at which a paralegal or legal assistant may appear without the supervising attorney's presence.

(b) If a paralegal or legal assistant is appearing in court or in an administrative hearing without the presence of the supervising attorney, the attorney shall, by sworn statement, verify that the attorney is familiar with the facts of the matter and that, in the attorney's professional judgment, the paralegal or legal assistant is qualified to appear without the supervising attorney's presence. The attorney shall be liable for the acts of the paralegal or legal assistant performed in court without the supervising attorney's presence.

(c) A paralegal or legal assistant shall not be permitted to appear under the provisions of this section in a criminal matter or a civil commitment.

Amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Larsen.

Seconded by Senator Cohen.

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

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

Yeas: 17 - Nays: 6

Adopted.

Ordered to third reading.

SB 109, adopting the model Drug Dealer Liability Act. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Foster for the committee.

Motion failed.

Senator Peterson moved to re-refer.

Adopted.

SB 109 is re-referred to committee.

SB 120, relative to testimony by the state personnel in criminal cases. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary

March 25, 2003

2003-0975s

03/01

Amendment to SB 120

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

AN ACT relative to testimony by video teleconference in criminal cases.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Testimony by Video Teleconference in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by Video Teleconference in Criminal Cases

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory. Notice shall be provided to the state, and the state shall have an

opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-0975s

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 204, relative to bail recovery agents. Judiciary Committee. Re-refer to committee, Vote 5-0. Senator Peterson for the committee.

Committee report of re-refer is adopted.

HB 151, authorizing the county convention to contract and fund performance audits of county departments. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

Public Affairs
March 26, 2003
2003-0989s
08/10

Amendment to HB 151

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

AN ACT authorizing the county convention to contract and fund performance audits of county departments, and authorizing employees of the Hillsborough and Rockingham county delegations.

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

3 County Delegation Employees; Hillsborough and Rockingham. Amend RSA 24:12-a to read as follows:

24:12-a Delegation Coordinators for Hillsborough and Rockingham Counties. The county conventions for Hillsborough and Rockingham counties shall each have the authority to employ a delegation coordinator **and other employees** who shall perform duties as required by the executive committee, subcommittees, and the legislative delegation.

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

2003-0989s

AMENDED ANALYSIS

This bill allows the county convention of any county to contract for a performance audit of a county department, institution, or office. The cost of an audit is to be paid from a contingency fund expended by the county convention.

This bill also allows the Hillsborough and Rockingham county delegations to hire employees.

Amendment adopted.

MOTION TO TABLE

Senator Clegg moved to have **HB 151** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 151, authorizing the county convention to contract and fund performance audits of county departments.

HCR 8, urging the United States Congress to improve the prescription drug program provided to veterans. Public Affairs Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SB 133, relative to amending the charter of Dartmouth college. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 5-0. Senator O'Hearn for the committee.

Adopted.

Ordered to third reading.

SB 153, adopting the nurse licensure compact. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 3-2. Senator Martel for the committee.

Public Institutions, Health and Human Services

March 27, 2003

2003-1013s

08/01

Amendment to SB 153

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

1 Definitions; Licensed Nurse. Amend RSA 326-B:2, XII-a to read as follows:

XII-a. "Licensed nurse" means an advanced registered nurse practitioner, registered nurse, or licensed practical nurse. ***Licensed nurse shall include nurses practicing as provided in the nurse licensure compact adopted in RSA 326-B:34.***

2 New Paragraph; Rulemaking; Nurse Licensure Compact. Amend RSA 326-B:4-a by inserting after paragraph XVII the following new paragraph:

XVIII. The implementation and coordination of the nurse licensure compact adopted in RSA 326-B:34, and according to the provisions of RSA 326-B:35.

3 New Section; Multistate Nurse Licensure Compact. Amend RSA 326-B by inserting after section 33 the following new sections:

326-B:34 Nurse Licensure Compact. The nurse licensure compact is adopted and entered into with all other jurisdictions that legally join the compact, which is substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(b) The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction; and

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II Definitions

In this compact:

(a) "Adverse action" means a home or remote state action.

(b) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

(c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

(d) "Current significant investigative information" means:

(1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(e) "Home state" means the party state which is the nurse's primary state of residence.

(f) "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.

(g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(h) "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.

(i) "Nurse," means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.

(j) "Party state," means any state that has adopted this compact.

(k) "Remote state," means a party state, other than the home state:

(1) Where the patient is located at the time nursing care is provided; or

(2) In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

(l) "Remote state action" means:

(1) Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(2) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

(m) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(n) "State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term, state practice laws, does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

(a) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(c) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

(d) This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

(e) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE IV

Applications for Licensure in a Party State

(a) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

(c) A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

(d) When a nurse changes primary state of residence by:

(1) Moving between 2 party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) Moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not affected and will remain in full force if so provided by the laws of the nonparty state;

(3) Moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V

Adverse Actions

In addition to the general provisions described in Article III, the following provisions apply:

(a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(c) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.

(d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

(e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

(f) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI

Additional Authorities Invested in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(a) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(b) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

(c) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

(d) Promulgate uniform rules and regulations as provided for in Article VIII(c).

ARTICLE VII

Coordinated Licensure Information System

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(e) Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.

(g) The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII

Compact Administration and Interchange of Information

(a) The head of the nurse licensing board, or his or her designee, of each party state shall be the administrator of this compact for his or her state.

(b) The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

(c) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under Article VI(d).

ARTICLE IX

Immunity

No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact is liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

ARTICLE X

Entry into Force, Withdrawal, and Amendment

(a) This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(b) No withdrawal affects the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

(c) Nothing contained in this compact may be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(d) This compact may be amended by the party states. No amendment to this compact becomes effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI

Construction and Severability

(a) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared

to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance may not be affected thereby. If this compact is held contrary to the constitution of any state party thereto, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state; an individual appointed by the compact administrator in the remote state or states involved; and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) The decision of a majority of the arbitrators shall be final and binding.

326-B:35 Nurse Licensure Compact Model Rules. The board shall use the model rules and regulations developed for the nurse licensure compact by the National Council of State Boards of Nursing Inc., as the basis for adopting rules for the implementation of the nurse licensure compact adopted in RSA 326-B:34, and shall amend or modify these rules as necessary to comply with state statutes.

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

Amendment failed.

Question is on the adoption of the bill.

Motion failed.

Senator Martel moved to re-refer.

Adopted.

SB 153 is re-referred to committee.

SB 191, creating a committee to study establishing a prescription drug program for the elderly and disabled. Public Institutions, Health and Human Services Committee. Inexpedient to Legislate, Vote 5-0. Senator Martel for the committee.

Committee report of inexpedient to legislate is adopted.

SB 169, relative to frivolous actions against the state concerning state construction projects. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Morse for the committee.

Senate Transportation

March 27, 2003

2003-1010s

06/09

Amendment to SB 169

Amend RSA 507:15-a, I as inserted by section 2 of the bill by replacing it with the following:

I. If, upon the hearing of any action against the state pertaining to a state construction project, which has commenced after the necessary state and federal approvals for construction have been issued, it appears to the court that the action is frivolous or intended to otherwise harass or intimidate the prevailing party, then the court, upon motion of a prevailing party or on its own motion, may order summary judgment or other relief against the party who brought such action, and award the amount of costs and attorneys' fees incurred by the prevailing party. Costs shall include, but not be limited to, increased construction costs incurred by the state.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 76, relative to neighborhood electric vehicles. Transportation Committee. Ought to Pass, Vote 5-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

HB 270, relative to issuing drivers' licenses to aliens temporarily residing in the state. Transportation Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 271, relative to walking disability plates and placards. Transportation Committee. Ought to Pass, Vote 5-0. Senator Morse for the committee.

Adopted.

Ordered to third reading.

SB 127, authorizing the sweepstakes commission to license multi-hall linked bingo for charitable purposes. Ways and Means Committee. Inexpedient to Legislate, Vote 3-1. Senator Clegg for the committee.

Committee report of inexpedient to legislate is adopted.

SB 106, relative to the operation of personal watercraft. Wildlife and Recreation Committee. Inexpedient to Legislate, Vote 3-2. Senator Gatsas for the committee.

MOTION TO TABLE

Senator Gatsas moved to have **SB 106** laid on the table.

Adopted.

LAIID ON THE TABLE

SB 106, relative to the operation of personal watercraft.

TAKEN OFF THE TABLE

Senator Green moved to have **SB 69-FN-A** taken off the table.

Adopted.

SB 69-FN-A, combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education, and making an appropriation therefor.

Question is on the adoption of the committee amendment (1055).

Amendment failed.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

April 3, 2003

2003-1140s

04/03

Floor Amendment to SB 69-FN-A

Amend the bill by replacing section 6 with the following:

6 Appropriation. The sum of \$1 for the fiscal year ending June 30, 2004 is hereby appropriated to the postsecondary education commission to fund the workforce incentive program set forth in this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

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 and resolutions ordered to third reading be by this resolution read a third time and all titles be the same as adopted, and that they be passed at the present time

Adopted.

LATE SESSION**Third Reading and Final Passage**

SB 15, relative to election day registration.

SB 16-FN, establishing the governor's incentive and reward program.

SB 18-FN, relative to vehicle stops at railroad grade crossings.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

SB 21, relative to health insurance riders.

SB 29-FN-A-L, refunding certain meals and rooms taxes paid by the city of Manchester.

SB 46-FN, repealing the meat inspection account and the poultry inspection account.

SB 60-FN, relative to voluntary certification of persons installing or servicing propane gas or heating oil equipment.

HB 64, establishing a commission to study the creation of an integrated criminal justice information system and any issues related to the privacy, security, and dissemination of such criminal justice information.

SB 64-FN, relative to updating the drought management plan.

HB 69, relative to the reinstatement of expired licenses for architects.

SB 69-FN-A, combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education, and making an appropriation therefor.

SB 72, relative to the regulation of small loans, title loans, and payday loans.

HB 76, relative to neighborhood electric vehicles.

SB 83, relative to paralegals and legal assistants.

SB 85-FN, making certain revisions to the special education laws.

SB 86-FN, relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services.

SB 90-FN, increasing the cap for relocation assistance for businesses in eminent domain proceedings.

HB 91, relative to the telecommunications planning and development initiative and advisory committee.

SB 91, extending the committee to study eminent domain proceedings and adding certain duties.

HB 99, relative to absentee ballot requests.

SB 99, relative to high cost mortgage loans.

SB 110, relative to small group health insurance coverage.

SB 115, increasing the fees for review of subdivisions and waste disposal systems by the department of environmental services and making an appropriation for implementing information technology and regulatory process improvements.

SB 120, relative to testimony by video teleconference in criminal cases.

SB 128-FN, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state.

SB 129, relative to the board of tax and land appeals and eminent domain cases.

SB 133, relative to amending the charter of Dartmouth college.

SB 140-FN, establishing an optional renewal period for licenses to carry a pistol or revolver.

SB 142-FN, relative to advertisements on utility poles and highway signs.

SB 145-FN-A, relative to the duties of the board of trustees of the department of regional community-technical colleges.

SB 149-FN, establishing criminal penalties for the use of a credit card scanning device or reencoder to defraud.

SB 161, relative to procedures in eminent domain proceedings.

SB 163-FN, relative to the procedures of the health services planning and review board.

SB 169, relative to frivolous actions against the state concerning state construction projects.

SB 174, relative to scheduled permanent impairment awards and remedial care under workers' compensation.

SB 177, relative to credit unions.

SB 199, revising the nurse practice act.

SB 201, establishing a committee to study insurance practices relative to homeowner's insurance.

SB 226-L, increasing the homestead exemption.

SB 229, making reference changes to the school building aid statutes.

HB 233, relative to the nuclear planning and response program.

HB 246, relative to availability of absentee voting applicant lists.

HB 260, relative to checklists used on election day.

HB 270, relative to issuing drivers' licenses to aliens temporarily residing in the state.

HB 271, relative to walking disability plates and placards.

HB 502, establishing a committee to study options for reducing the impact of exhaust emissions from diesel engines in New Hampshire.

HCR 8, urging the United States Congress to improve the prescription drug program provided to veterans.

ANNOUNCEMENTS

RESOLUTION

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

Adopted.

In recess to the Call of the Chair.