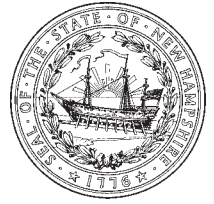


STATE OF NEW HAMPSHIRE

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SENATE JOURNAL 17 (*Cont.*)



May 22, 2003

Out of Recess.

May 22, 2003
2003-1772-EBA
03/01

Enrolled Bill Amendment to HB 593-FN-LOCAL

The Committee on Enrolled Bills to which was referred HB 593-FN-LOCAL

AN ACT relative to solid waste facilities in small towns.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 593-FN-LOCAL

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to HB 593-FN-LOCAL

Amend RSA 149-M:9, XIII(a) as inserted by section 1 of the bill by replacing lines 1-2 with the following:

XIII.(a) No permit issued by the department to a town with a population of 5,000 persons or fewer shall require the town to clean up an inactive, municipally-owned, unlined landfill (inactive

Amend RSA 149-M:9, XIII(c) as inserted by section 1 of the bill by replacing it with the following:

(c) This paragraph shall not apply to those facilities governed under the terms of 40 C.F.R. part 258.

Senator Eaton moved adoption.

Adopted.

May 21, 2003
2003-1732-EBA
08/01

Enrolled Bill Amendment to HB 278-FN

The Committee on Enrolled Bills to which was referred HB 278-FN

AN ACT relative to certain acts of sexual assault.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 278-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 278-FN

Amend RSA 632-A:4, II as inserted by section 1 of the bill by replacing line 1 with the following:

II. A person found guilty under subparagraph I(b) of this section shall not be required to
Senator Eaton moved adoption.

Adopted.

May 21, 2003
2003-1747-EBA
08/10

Enrolled Bill Amendment to HB 711-FN

The Committee on Enrolled Bills to which was referred HB 711-FN

AN ACT relative to the regulation of retail installment sales of motor vehicles.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 711-FN

This enrolled bill amendment makes various technical corrections.

Enrolled Bill Amendment to HB 711-FN

Amend RSA 361-A:2, VIII(a) as inserted by section 4 of the bill by replacing line 2 with the following:

payment of the required application fee, if the commissioner determines that the applicant's

Amend RSA 361-A:2-b, I(c) as inserted by section 5 of the bill by replacing line 2 with the following:

of their most recent Securities and Exchange Commission Form 10-K and Form 10-Q statements.

Amend RSA 361-A:3 as inserted by section 6 of the bill by replacing paragraphs IV and V with the following:

IV. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a retail seller or sales finance company, 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.

Senator Eaton moved adoption.

Adopted.

May 22, 2003
2003-1789-EBA
03/09

Enrolled Bill Amendment to SB 82-FN

The Committee on Enrolled Bills to which was referred SB 82-FN

AN ACT relative to awards of fees and interest under workers' compensation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 82-FN

This enrolled bill amendment modifies RSA subparagraph designations within RSA 281-A:44, I as inserted by the bill, inserts an RSA section title omitted from the bill, and makes technical corrections.

Enrolled Bill Amendment to SB 82-FN

Amend section 2 of the bill by replacing lines 1-15 with the following:

2 Workers' Compensation; Awards of Fees and Interest. Amend RSA 281-A:44 to read as follows:

281-A:44 Award of Fees and Interest.

I. **(a)** In any dispute over the amount of the benefit payable under this chapter which is appealed to the board or supreme court or both, the employee, if such employee prevails, shall be entitled to reasonable

counsel fees and costs as approved by the board or court and interest [at the rate of 10 percent per year] on that portion of any award the payment of which is contested. [The interest shall be computed from the date of injury.] ***For the purposes of this paragraph, to "prevail" means:***

(1) If the employee is the appealing party, the employee shall have received an award for disability benefits, medical, hospital, and remedial care, a scheduled permanent impairment award, vocational rehabilitation, or reinstatement of the employee, which is greater in amount than awarded by the decision which is the subject of the appeal; or

(2) If the appeal is by the employer or insurance carrier, the appealed decision shall have been affirmed.

(b) If the insurance carrier appeals multiple issues and the employee prevails

Amend RSA 281-A:44, V as inserted by section 2 of the bill by replacing line 2 with the following:
only on amounts which have been paid directly by the employee and not by a third party, in
Senator Eaton moved adoption.

Adopted.

**May 21, 2003
2003-1751-EBA
04/10**

Enrolled Bill Amendment to SB 101-FN

The Committee on Enrolled Bills to which was referred SB 101-FN

AN ACT relative to unemployment compensation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 101-FN

This enrolled bill amendment makes certain technical corrections.

Enrolled Bill Amendment to SB 101-FN

Amend section 3 of the bill by replacing line 2 with the following:

after subparagraph (B) the following new subparagraph:

Amend RSA 282-A:36, II-a as inserted by section 7 of the bill by replacing line 3 with the following:
and his ***or her*** employees; or

Amend section 10 of the bill by replacing lines 1-3 with the following:

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

I. Whenever used in this subdivision, unless the context shall otherwise require, or unless

Amend section 13 of the bill by replacing line 1 with the following:

13 Agreement Authorized. Amend RSA 282-A:178, II(a) to read

Amend section 15 of the bill by replacing line 3 with the following:

VII. For the purposes of paragraph I, the exclusions under subparagraphs IV (o)(2), IV (o)(5),

Senator Eaton moved adoption.

Adopted.

**May 21, 2003
2003-1730-EBA
06/01**

Enrolled Bill Amendment to SJR 1

The Committee on Enrolled Bills to which was referred SJR 1

AN ACT approving certain uses of Weeks state park.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SJR 1

This enrolled bill amendment makes 2 technical corrections.

Enrolled Bill Amendment to SJR 1

Amend the fourth paragraph following the resolving clause of the resolution by replacing line 2 with the following:

ancillary structures shall be approved by the Weeks State Park Association.

Amend the fifth paragraph following the resolving clause of the resolution by replacing line 3 with the following:

equipment shall be remitted to the department of resources and economic development, division of Senator Eaton moved adoption.

Adopted.

May 21, 2003
2003-1739-EBA
06/09

Enrolled Bill Amendment to SB 43

The Committee on Enrolled Bills to which was referred SB 43

AN ACT relative to archives and records management.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 43

This enrolled bill amendment makes a correction to a statutory reference.

Enrolled Bill Amendment to SB 43

Amend RSA 228:43 as inserted by section 3 of the bill by replacing line 4 with the following:

and records management [~~and archives~~], as promulgated under RSA [8-B:17] **5:40**, may provide that Senator Eaton moved adoption.

Adopted.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 18

May 29, 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.

Loving Creator, You are able to call forth acts of astonishing courage and breathtaking wisdom from even the most unlikely sources. Use us today, good God, for Your higher purposes and for Your greater good, that what we give our lives to and what we risk them for may bring to those we serve safety, pride and dignity. Amen.

Senator D'Allesandro led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 40, relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 40, relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

Senator Peterson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 94-FN, requiring criminal conviction record checks for employees working in long-term care facilities and in home health care and for applicants for a license from the board of nursing.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 94-FN, requiring criminal conviction record checks for employees working in long-term care facilities and in home health care and for applicants for a license from the board of nursing.

Senator Peterson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 114, implementing an unsafe school choice option for pupils attending schools which have been classified as persistently dangerous and authorizing the state board of education to implement a complaint process to address school safety and school violence issues in nonpublic schools.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 114, implementing an unsafe school choice option for pupils attending schools which have been classified as persistently dangerous and authorizing the state board of education to implement a complaint process to address school safety and school violence issues in nonpublic schools.

Senator O'Hearn moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 135, relative to hotel keeper liability for personal care services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 135, relative to hotel keeper liability for personal care services.

Senator Flanders moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 139, relative to exhibition fees charged by the boxing and wrestling commission.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 139, relative to exhibition fees charged by the boxing and wrestling commission.

Senator Roberge moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 221-FN, relative to the offense of obstructing government administration by the use of simulated legal process.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 221-FN, relative to the offense of obstructing government administration by the use of simulated legal process.

Senator Peterson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 98-FN, prohibiting telemarketers from contacting customers on a federal do-not-call registry.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 98-FN, prohibiting telemarketers from contacting customers on a federal do-not-call registry.

Senator Roberge moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as member of said Committee of Conference:

SENATORS: BOYCE, ROBERGE, LARSEN

CONFeree CHANGE: Senator Green is replacing Senator Boyce.

CONFeree CHANGE: Senator Estabrook is replacing Senator Larsen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 121-FN, relative to mortgage originator registration.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 121-FN, relative to mortgage originator registration.

Senator Flanders moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as member of said Committee of Conference:

SENATORS: FLANDERS, SAPARETO, LARSEN

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

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

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

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

Senator Flanders moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as member of said Committee of Conference:

SENATORS: JOHNSON, FLANDERS, COHEN

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

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

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

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

Senator Flanders moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: D'ALLESANDRO, FLANDERS, BARNES

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

HB 185, relative to pretermitted heirs.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: ROWE, JOHN PRATT, HAYTAYAN AND SORG.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 185, relative to pretermitted heirs.

Senator Peterson moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: PETERSON, ROBERGE, FOSTER

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

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

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: ROWE, JOHN PRATT, WALL AND HAYTAYAN.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

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

Senator Peterson moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: PETERSON, CLEGG, FOSTER

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

HB 481, establishing a committee to study the pricing of milk products.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: HUNT, QUANDT, HOLDEN AND MEADER.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 481, establishing a committee to study the pricing of milk products.

Senator Gallus moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: BARNES, ODELL, COHEN

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

HB 768, establishing a committee to study the flow in the Connecticut River and the effect of the flow on water levels in Lake Francis and the Connecticut Lakes, and to study the use of certain state-owned property along the Baker River.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: LAWTON, D.L. CHRIS CHRISTENSEN, C. LAFLAMME AND BRUEGGEMANN.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 768, establishing a committee to study the flow in the Connecticut River and the effect of the flow on water levels in Lake Francis and the Connecticut Lakes, and to study the use of certain state-owned property along the Baker River.

Senator Gallus moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: JOHNSON, GALLUS, BELOW

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

HB 811, relative to limiting the liability of manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from misuse.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: ROWE, JAMES WHEELER, DUDLEY AND HAYTAYAN.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 811, relative to limiting the liability of manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from misuse.

Senator Gallus moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: CLEGG, GALLUS, D'ALLESANDRO

COMMITTEE REPORTS

HB 139, relative to the collection and reporting of school drop-out, suspension, and expulsion data and relative to the deadlines for submitting certain reports to the department of education. Education Committee. Ought to pass with amendment, Vote 2-0. Senator Johnson for the committee.

Senate Education

May 21, 2003

2003-1744s

04/05

Amendment to HB 139

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

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

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

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

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

(b) Annual and cumulative dropout rates for highschools and annual dropout rates for grades 7 and 8.

(c) Performance on statewide tests administered pursuant to RSA 193-C:3, IV(i) including the percentage of pupils reading at grade level on the reading component of the grade 3 statewide educational assessment.

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

(e) Number and percentage of classes taught by highly qualified teachers.

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

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

III. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in paragraph I and all enrollment and cost data related to determining the cost of an adequate education.

IV.(a) Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles" and shall be made available at every school administrative unit for public review. It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Compari-

sons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement plan.

(b) A school or school district designated as in need of improvement under this paragraph shall have 30 days from the date of the report to appeal such designation to the commissioner of the department of education.

V. The department of education shall promote school improvement through annual recognition as deemed appropriate.

2 Statistical Reports. RSA 189:28 is repealed and reenacted to read as follows:

189:28 Statistical Reports; Failure to File Report.

I. School boards of every school district or city maintaining a school department within its corporate organization, and the board of trustees of approved public academies, shall, on or before September 1 in each year, submit to the department of education those statistical reports necessary to compute the average daily membership of pupils in attendance and the average daily membership in residence. Information relating to the fall enrollment, drop-outs, teacher and administrator census, and average teacher salary, as of October 1 of each school year, shall be submitted to the department of education on or before October 15.

II. The information needed to determine compliance with performance or accountability measures of the school district or city maintaining a school department within its corporate organization under RSA 193-E:3, shall be submitted to the department of education in a timely manner as determined by the department of education. If the department of education requests verification of information submitted, the school district or city maintaining a school department within its corporate organization shall provide corrected information or verification within 10 business days of such request. A school district or city maintaining a school department within its corporate organization shall maintain files of all records, data, and other information submitted pursuant to this section for not less than 5 years from the date of submission.

III. Each statistical report submitted under this section shall include a certification, signed by the superintendent of the school district, that states: "I certify, under the pains and penalties of perjury, that all of the information contained in this document is true, accurate, and complete." The statistical report shall also include a certification, signed by the chairperson of the school district's governing body or the chairperson of the board of trustees of approved public academies, that states: "I certify, that, to the best of my knowledge, all of the information contained in this document is true, accurate, and complete."

IV. The commissioner of the department of education may grant a school district or city maintaining a school department within its corporate organization up to a 30-day extension of the reporting deadlines. The commissioner of the department of education shall notify the governing body of the school district or city maintaining a school department within its corporate organization that all state aid to education and all federal aid, if the report is required by federal law, shall be withheld until such time as complete and accurate information is submitted.

3 Submission of Data. Amend RSA 198:45 is repealed and reenacted to read as follows:

198:45 Submission of Data. School boards of every school district or city maintaining a school department within its corporate organization, and the board of trustees of approved public academies shall submit all records, data, or other information required under this subdivision in accordance with the provisions of RSA 189:28.

4 Penalty for Failure to File Report. RSA 198:4-f is repealed and reenacted to read as follows:

198:4-f Penalty for Failure to File Report. A school district or city maintaining a school department within its corporate organization shall file the report due under RSA 198:4-d, III no later than September 1 of each year. For just cause, the commissioner of the department of education may grant a school district or city maintaining a school department within its corporate organization up to a 30-day extension to this reporting deadline. The commissioner may further extend the deadline when unusual or unforeseen circumstances prevent a school district or a city maintaining a school department within its corporate organization from

submitting the required report before the expiration of the extension provided in this section. The commissioner shall notify the governing body of the school district or city maintaining a school department within its corporate organization that all state aid to education shall be withheld until complete and accurate information is submitted.

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

2003-1744s

AMENDED ANALYSIS

This bill provides for the collection and reporting of certain school drop-out, suspension, and expulsion data and makes certain changes to the deadlines for a school district and city maintaining a school department within its corporate organization to submit certain reports to the department of education.

Amendment adopted.

Senator O'Hearn offered a floor amendment.

Sen. O'Hearn, Dist. 12

May 29, 2003

2003-1866s

04/10

Floor Amendment to HB 139

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

AN ACT relative to the collection and reporting of school drop-out, suspension, and expulsion data and relative to the deadlines for submitting certain reports to the department of education, and establishing a statewide education accountability system.

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

1 Statistical Reports. RSA 189:28 is repealed and reenacted to read as follows:

189:28 Statistical Reports; Failure to File Report.

I. School boards of every school district or city maintaining a school department within its corporate organization, and the board of trustees of approved public academies, shall, on or before September 1 in each year, submit to the department of education those statistical reports necessary to compute the average daily membership of pupils in attendance and the average daily membership in residence. Information relating to the fall enrollment, drop-outs, teacher and administrator census, and average teacher salary, as of October 1 of each school year, shall be submitted to the department of education on or before October 15.

II. The information needed to determine compliance with performance or accountability measures of the school district or city maintaining a school department within its corporate organization under RSA 193-E:3, shall be submitted to the department of education in a timely manner as determined by the department of education. If the department of education requests verification of information submitted, the school district or city maintaining a school department within its corporate organization shall provide corrected information or verification within 10 business days of such request. A school district or city maintaining a school department within its corporate organization shall maintain files of all records, data, and other information submitted pursuant to this section for not less than 5 years from the date of submission.

III. Each statistical report submitted under this section shall include a certification, signed by the superintendent of the school district, that states: "I certify, under the pains and penalties of perjury, that all of the information contained in this document is true, accurate, and complete." The statistical report shall also include a certification, signed by the chairperson of the school district's governing body or the chairperson of the board of trustees of approved public academies, that states: "I certify, that, to the best of my knowledge, all of the information contained in this document is true, accurate, and complete."

IV. The commissioner of the department of education may grant a school district or city maintaining a school department within its corporate organization up to a 30-day extension of the reporting deadlines. The commissioner of the department of education shall notify the governing body of the school district or city maintaining a school department within its corporate organization that all state aid to education and all federal aid, if the report is required by federal law, shall be withheld until such time as complete and accurate information is submitted.

2 Submission of Data. Amend RSA 198:45 is repealed and reenacted to read as follows:

198:45 Submission of Data. School boards of every school district or city maintaining a school department within its corporate organization, and the board of trustees of approved public academies shall submit all records, data, or other information required under this subdivision in accordance with the provisions of RSA 189:28.

3 Penalty for Failure to File Report. RSA 198:4-f is repealed and reenacted to read as follows:

198:4-f Penalty for Failure to File Report. A school district or city maintaining a school department within its corporate organization shall file the report due under RSA 198:4-d, III no later than September 1 of each year. For just cause, the commissioner of the department of education may grant a school district or city maintaining a school department within its corporate organization up to a 30-day extension to this reporting deadline. The commissioner may further extend the deadline when unusual or unforeseen circumstances prevent a school district or a city maintaining a school department within its corporate organization from submitting the required report before the expiration of the extension provided in this section. The commissioner shall notify the governing body of the school district or city maintaining a school department within its corporate organization that all state aid to education shall be withheld until complete and accurate information is submitted.

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

I. Statewide targets for all schools.

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

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

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

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

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

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

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

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

(b) Annual and cumulative dropout rates for high schools and annual dropout rates for grades 7 and 8.

(c) Performance on statewide tests administered pursuant to RSA 193-C:3, IV(i) including the percentage of pupils reading at grade level on the reading component of the grade 3 statewide educational assessment.

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

(e) Number and percentage of classes taught by highly qualified teachers.

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

(g) Expulsion and suspension rates, including in-house suspensions and partial day suspensions which shall be reported for each school year.

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

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

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

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

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

CHAPTER 193-G SCHOOL PERFORMANCE AND ACCOUNTABILITY

193-G:1 Definitions. In this chapter:

I. "Adequate yearly progress" means that measure of school performance as defined in 34 C.F.R sections 200.13 through 200.18.

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

III. "Department" means the department of education.

IV. "Highly qualified teacher" means a person who is certified by the department of education and who has demonstrated, through a process approved by the department of education, teaching skills in the core subjects of instruction.

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

193-G:2 Statewide Targets.

I. On or before the 2013-2014 school year, schools shall ensure that all pupils are performing at the basic level or above on the statewide assessment as established in RSA 193-C.

II. In addition to the requirements of paragraph I, schools shall meet statewide targets as established in rules adopted by the state board of education pursuant to RSA 541-A, relative to 3rd grade reading.

III. Schools shall meet statewide targets as established in rules adopted pursuant to RSA 541-A, relative to the statewide assessment.

IV. Schools shall meet statewide targets as established in rules, adopted pursuant to RSA 541-A, relative to retention rate.

V. Schools shall meet statewide targets as established in rules, adopted pursuant to RSA 541-A, relative to the percentage of pupils who graduate with a regular diploma from an approved high school.

193-G:3 Identification and Public Disclosure.

I. The commissioner shall annually compile and disseminate to the governor and council, the president of the senate, the speaker of the house, local school boards, superintendents of schools, the public, and shall make available on the department website, a list of schools that are not meeting the statewide targets set forth in RSA 193-G:2.

II. The department shall notify schools identified under this section of the availability of technical assistance. The department shall provide technical assistance to the school districts upon request.

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

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

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

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

(6) To provide a system of annual recognition to identify best practices and promote school improvement.

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

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

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

193-G:5 Local Education Improvement Plan and Strategic Responses.

I.(a) Each school district appearing on the list required under RSA 193-G:3, shall develop and implement a local education improvement plan. The plan shall be reviewed annually and shall be included in the school district's annual report. The development and implementation of the plan and review shall be carried out with input from administrators, teachers, parents, employers, and other community members. The plan shall be approved by the local school board by December 31 of the year in which a school is identified for disclosure and a copy shall be forwarded to the department of education.

(b) At a minimum, each plan shall:

(1) Identify the area in which the school failed to meet the annual statewide targets established under RSA 193-G:2.

(2) Identify and describe the strategy the school intends to implement to improve its performance.

(3) Establish and explain a strategy designed to promote family and community involvement.

(4) Detail how the school district budget reflects the goals of the local education improvement plan.

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

(a) The school's curriculum including curricular priorities and instructional materials.

(b) Instructional models that incorporate research-based practices that have been proven to be effective in improving student achievement.

(c) Formal and informal opportunities to assess and monitor each child's progress.

(d) Evidence of data-based decisions.

(e) Structural reform strategies that may include schedule, organization, support mechanisms, and resources.

- (f) Shared leadership structure to support school improvement.
- (g) Professional development that is aligned with school improvement goals.
- (h) External support and resources based on their effectiveness and alignment with school improvement plan.
- (i) Extended learning activities for students.

193-G:6 Education Improvement Fund Established.

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

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

- (1) To support and administer the local education improvement plan program.
- (2) To collect, analyze, and report the demographic and educational improvement data.
- (3) To assist local school staff with the analysis and use of school performance data.
- (4) To provide grants as available to school districts for local school improvement.
- (5) To provide a system of annual recognition to identify best practices and promote school improvement.
- (b) For the biennium beginning July 1, 2003, and every biennium thereafter, appropriations from the fund shall be authorized by the legislative fiscal committee and the governor and council.
- (c) Moneys transferred to the education improvement fund shall not be transferred, diverted, or used for any purpose not specified in this section.

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

193-G:7 Powers of the Department of Education. Nothing in this chapter shall be construed to permit either the department of education or the state board of education to take control of the daily operations of any local public school.

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

- (i) At the end of grade 3, to determine if pupils are reading at grade level on a standardized reading test to be developed by the department as part of a statewide assessment system.
- (j) At the school, district, and state levels, to provide performance reports on specific subgroups of pupils as required by federal law.

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

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

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

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

- I. Review the development and implementation of the program to ensure that they are in accordance with legislative policy. Implementation of the program shall be in conjunction with the committee's review.
- II. Review the provisions of RSA 193-G and submit a report of such review every 2 years after the effective date of this section to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate education committees.
- III. Prepare legislation that is needed as a result of the review of the progress and results of the policies implemented under this chapter, including any changes necessitated by federal law.

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

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

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

VII. Receive reports from the state board of education regarding any rules proposed pursuant to RSA 193-G:2 prior to the submission of those rules to the joint legislative committee on administrative rules.

10 Repeal. The following are repealed:

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

II. Section 11 of this act, relative to the department of education investigation of gains-based testing.

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

12 Effective Date.

I. Paragraph II of section 10 of this act shall take effect June 30, 2005.

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

2003-1866s

AMENDED ANALYSIS

This bill provides for the collection and reporting of certain school drop-out, suspension, and expulsion data and makes certain changes to the deadlines for school districts and cities to submit certain reports to the department of education. The bill also establishes a statewide education accountability system which includes school performance standards, the creation of an education improvement fund, and the development of a local school improvement plan in each school district.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 336-L, relative to the development and adoption of the school administrative unit budget. Education Committee. Ought to pass with amendment, Vote 2-0. Senator O'Hearn for the committee.

Senate Education

May 21, 2003

2003-1743s

04/05

Amendment to HB 336-LOCAL

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

1 New Paragraph; School Administrative Units; Budget Adoption Process Amended. Amend RSA 194-C:9 by inserting after paragraph II the following new paragraph:

III. Paragraph I of this section shall not apply to school districts which have adopted the provisions of RSA 194-C:9-a.

2 New Sections; School Administrative Units; Alternative Procedure for Budget Adoption. Amend RSA 194-C by inserting after section 9 the following new sections:

194-C:9-a Alternative Budget Procedure; Method of Adoption.

I.(a) Each school district, within a school administrative unit that is composed of 2 or more town school districts, may vote to adopt the provisions of RSA 194-C:9-b to determine the means for adopting the school administrative unit budget by placing a question on the warrant of their next annual school district meeting. The question shall be voted on in accordance with the ballot and voting procedures in effect in that school district.

(b) The wording of the question shall be: "Shall the voters of the _____ school district within school administrative unit number _____ adopt the provisions of RSA 194-C:9-b to allow for insertion of the school administrative unit budget as a separate warrant article at annual school district meetings?"

(c) If a majority of the voters in the school districts within the school administrative unit approve the question, then RSA 194-C:9-b shall apply starting with the next annual school district meeting of the school districts within that school administrative unit, and shall continue until rescinded.

II. If, in any year, the question presented to the voters in subparagraph I(b) is not adopted, the question may be resubmitted as part of the warrant of the next annual school district meeting, provided each school district within the school administrative unit complies with the petition procedure set forth in RSA 197:6.

III. In order to rescind the adoption of RSA 194-C:9-b, each school district within the school administrative unit shall comply with the petition procedure set forth in RSA 197:6 and upon such compliance, a question shall be placed on the warrant of the next annual school district meeting. The wording of the question shall be: "Shall the voters of the _____ school district within school administrative unit number _____ rescind the adoption of RSA 194-C:9-b, relative to the alternative school administrative unit budget adoption procedure, and adopt the provisions of RSA 194-C:9 as the method for governing the adoption of the school administrative unit budget?" If a majority of the voters in the school districts within the school administrative unit approve the question, then the provisions of RSA 194-C:9 shall govern the procedure for adopting the school administrative unit budget in such school administrative unit.

IV. For any town which has adopted a charter under RSA 49-D:3, the method of adoption shall be the manner of amending the charter as provided under RSA 49-B.

194-C:9-b Alternative Budget Procedure.

I.(a) For school administrative units composed of 2 or more town school districts, the budget adopted in RSA 194-C:9-a, I may be placed before the voters of each school district of that school administrative unit at the annual school district meeting in a separate warrant article and adopted by majority vote of all the districts. Notwithstanding RSA 32 and RSA 40:13, the budget adopted by the school administrative unit board shall not be amended or changed in any way prior to the vote. If the budget is not adopted, the amount accepted shall be that of the previous year adjusted for continuing contracts. The vote of each town school district on this warrant shall be given by the respective town clerks to the superintendent of the school administrative unit who shall accumulate the total vote for all the towns and announce the result. Wording of the warrant article shall be as follows:

Shall the voters of _____ (name of town) _____ adopt a school administrative unit budget of \$_____ for the forthcoming fiscal year in which \$_____ is assigned to the school budget of this school district.

This year's adjusted budget of \$_____, with \$_____ assigned to the school budget of this town, will be adopted if the article does not receive the weighted majority vote of the school district voters in this school administrative unit.

(b) School administrative units consisting of one or more cities and one or more towns shall be required to accept the school administrative unit budget adopted by the provisions of paragraph I by the school administrative unit board.

II. This section shall not apply to a city maintaining a school department within its corporate organization, or a school district within a city regardless of whether the city operates the school district or not.

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

2003-1743s

AMENDED ANALYSIS

This bill sets forth the procedure for an alternative method of adopting the school administrative unit budget and requires that the school administrative unit board shall prepare a preliminary budget for approval at a joint meeting of the school districts in the school administrative unit.

Amendment adopted.

MOTION TO TABLE

Senator O'Hearn moved to have **HB 336-L** laid on the table.

Adopted.

LAID ON THE TABLE

HB 336-L, relative to the development and adoption of the school administrative unit budget.

HB 499, expanding opportunities for teacher certification. Education Committee. Re-refer to committee, Vote 3-0. Senator Larsen for the committee.

Committee report of re-referred is adopted.

HB 528, establishing a commission to study computer standards used in public schools in New Hampshire. Education Committee. Inexpedient to Legislate, Vote 2-0. Senator Johnson for the committee.

MOTION TO TABLE

Senator Johnson moved to have **HB 528** laid on the table.

Adopted.

LAID ON THE TABLE

HB 528, establishing a commission to study computer standards used in public schools in New Hampshire.

HB 568-L, relative to legal residency for the purpose of public school education. Education Committee. Ought to pass with amendment, Vote 2-0. Senator O'Hearn for the committee.

Senate Education

May 21, 2003

2003-1745s

04/05

Amendment to HB 568-LOCAL

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

1 Pupils; Legal Residence of Homeless Children. RSA 193:12, IV is repealed and reenacted to read as follows:

IV. The term "homeless children and youths" means individuals who lack a fixed, regular, and adequate nighttime residence, and shall include the following:

(a) Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement.

(b) Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

(c) Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.

(d) Migratory children, as defined in 20 U.S.C. 6399 who qualify as homeless because such children are living in circumstances as described in subparagraphs (a)-(c).

2 Pupils; Legal Residence. RSA 193:12, VI is repealed and reenacted to read as follows:

VI.(a) The commissioner of the department of education, or designee, shall decide residency issues for all pupils, including homeless children and youths, in accordance with this section. If more than one school district is involved in a residency dispute, or the parents who live apart cannot agree on the residence of a minor child, the respective superintendents shall jointly make such decision. In those instances when an agreement cannot be reached, the commissioner of the department of education, or designee, shall make a determination within 14 days of notice of the residency dispute and such determination shall be final. In any case, a written explanation shall be provided to the parties of record and a copy of such explanation shall be kept on file by the department of education. No school district shall deny a pupil attendance or implementation of an existing individual education plan.

(b) A pupil shall remain in attendance in the pupil's school of origin during the pendency of a determination of residency. If a child does not have a school of origin within this state, the child shall be immediately admitted to the school in which enrollment is sought pending determination of the residency dispute, provided such school is in the school district in which the child temporarily resides. For the purpose of this paragraph, "school of origin" means the school the child attended when permanently housed or the school in which the child was last enrolled.

(c) Notwithstanding the provisions of RSA 21-N:11, III any person aggrieved by a determination of the commissioner may appeal such determination to a court of competent jurisdiction.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 210-FN-A, relative to passenger tramway registration fees and relative to carnival or amusement ride fees. Finance Committee. Ought to Pass, Vote 4-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

HB 591-FN, allowing a certain former state employee to apply for accidental disability benefits. Finance Committee. Ought to Pass, Vote 5-1. Senator Below for the committee.

Adopted.

Ordered to third reading.

HB 460-FN, relative to property and casualty insurance. Finance Committee. Ought to Pass, Vote 5-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

HB 737-FN-A, relative to the state conservation committee and making an appropriation therefore. Finance Committee. Ought to pass with amendment, Vote 5-1. Senator D'Allesandro for the committee.

Senate Finance

May 20, 2003

2003-1725s

06/09

Amendment to HB 737-FN-A

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

AN ACT relative to the state conservation committee.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as 5.

2003-1725s

AMENDED ANALYSIS

This bill makes a change in the language of the state conservation committee, creates a new unclassified position of executive director of the state conservation committee, and establishes a salary for the position.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 738-FN-A-L, permitting aid to public water systems to be used for forming or improving regional water systems and making an appropriation therefor. Finance Committee. Ought to Pass, Vote 5-1. Senator Green for the committee.

Adopted.

Ordered to third reading.

HB 303, relative to life, accident, and health technicals. Insurance Committee. Ought to pass with amendment, Vote 5-0. Senator Prescott for the committee.

Insurance
May 21, 2003
2003-1737s
01/09

Amendment to HB 303

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

AN ACT relative to life, accident, and health technicals and relative to minimum standards for claim review.

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

4 Minimum Standards for Claim Review; Accident and Health Insurance. Amend RSA 415-A:4-a, I(c)(2) to read as follows:

(2) A statement of the claimant's or the representative of the claimant's right to access the internal grievance process and the process for obtaining external review. The notification shall also include a written explanation of any claim denial~~], with the name and credentials of the carrier or other licensed entity medical director, including board status and the state or states where the person is currently licensed,~~] and the relevant clinical rationale used to make the claim denial. ***If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, the licensee shall include with the notification the name and credentials of the carrier or other licensed entity, the medical director, including board status and the state or states where the person is currently licensed.*** If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third party contracts;

5 Minimum Standards for Claim Review; Accident and Health Insurance. RSA 415-A:4-a, I(c)(5) is repealed and reenacted to read as follows:

(5) If clinical review criteria was relied upon in making the benefit determination, a reference to the specific clinical review criteria, a statement that such clinical review criteria was relied upon in making the claim denial, and a copy of the clinical review criteria shall be provided free of charge to the claimant or the claimant's representative, upon request. If a copy of the clinical review criteria is requested, the clinical review criteria shall be accompanied by the following notice: "The materials provided to you are criteria used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract;" and

6 Minimum Standards for Claim Review; Accident and Health Insurance. Amend RSA 415:4-a, II(a) and (b) to read as follows:

(a) The determination of a claim involving urgent care shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the claim, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the licensee shall notify the claimant or claimant's representative within 24 hours of receipt of the claim and shall advise the claimant or claimant's representative of the specific information necessary to determine the claim. ~~[The 72-hour period shall be tolled until such time as the claimant submits the required information.]~~ ***The claimant or the claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the benefit determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.***

(b) The determination of a claim involving urgent care and relating to the extension of an ongoing course of treatment and involving a question of medical necessity shall be made within 24 hours of receipt

of the claim, provided that the claim is made at least 24 hours prior to the expiration of the prescribed period of time or course of treatment. ~~[In the event the claimant or claimant's representative fails to provide sufficient notice or sufficient information, the licensee shall notify the claimant or claimant's representative within 24 hours of the receipt of the claim and shall advise the claimant or claimant's representative of the specific information necessary to determine the claim. If the determination relates to a reduction or termination of coverage for a course of treatment beyond the end of the period of time or number of treatments previously approved, coverage for the services shall not be terminated during the pendency of the determination proceeding.]~~

7 Minimum Standards for Claim Review; Accident and Health Insurance. RSA 415:4-a, II(c) is repealed and reenacted to read as follows:

(c) The determination of all other claims for preservice benefits shall be made within a reasonable time period appropriate to the medical circumstances, but in no event more than 15 days after receipt of the claim. This period may be extended one time by the licensee for up to 15 days; provided, that the licensee both determines that such an extension is necessary due to matters beyond the control of the licensee and notifies the claimant or claimant's representative, prior to the expiration of the initial 15-day period, of the circumstances requiring the extension of time and the date by which the licensee expects to render a decision. If such an extension is necessary due to a failure of the claimant or claimant's representative to provide sufficient information to determine whether, or to what extent, benefits are covered as payable, the notice of extension shall specifically describe the required additional information needed, and the claimant or claimant's representative shall be given at least 45 days from receipt of the notice within which to provide the specified information. Notification of the benefit determination following a request for additional information shall be made as soon as possible, but in no case later than 15 days after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.

8 Minimum Standards; Licensure of Medical Utilization Review Entities. RSA 420-E:4, IV is repealed and reenacted to read as follows:

IV. Notification of claim benefit determinations shall be made within the following time periods:

(a) The determination of a claim involving urgent care shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the claim, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the licensee shall notify the claimant or claimant's representative within 24 hours of receipt of the claim and shall advise the claimant or claimant's representative of the specific information necessary to determine the claim. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the benefit determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.

(b) The determination of a claim involving urgent care and relating to the extension of an ongoing course of treatment and involving a question of medical necessity shall be made within 24 hours of receipt of the claim; provided, that the claim is made at least 24 hours prior to the expiration of the prescribed period of time or course of treatment.

(c) The determination of all other claims for preservice benefits shall be made within a reasonable time period appropriate to the medical circumstances, but in no event more than 15 days after receipt of the claim. This period may be extended one time by the licensee for up to 15 days; provided, that the licensee both determines that such an extension is necessary due to matters beyond the control of the licensee and notifies the claimant or claimant's representative, prior to the expiration of the initial 15-day period, of the circumstances requiring the extension of time and the date by which the licensee expects to render a decision. If such an extension is necessary due to a failure of the claimant or claimant's representative to provide sufficient information to determine whether, or to what extent, benefits are covered as payable, the notice of extension shall specifically describe the required additional information needed, and the claimant or claimant's representative shall be given at least 45 days from receipt of the notice within which to provide the specified information. Notification of the benefit determination following a request for additional information shall be made as soon as possible, but in no case later than 15 days after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.

(d) The determination of a post service claim shall be made within 30 days of the date of filing. In the event the claimant fails to provide sufficient information to determine the claim, the carrier shall notify the claimant within 15 days as to what additional information is required to process the claim and the claimant shall be given at least 45 days to provide the required information. The 30-day period for claim determination shall be tolled until such time as the claimant submits the required information.

9 Minimum Standards; Licensure of Medical Utilization Review Entities. Amend RSA 420-E:4, V(c) to read as follows:

(c) The notification shall include a statement of the claimant's right or the right of the claimant's representative to access the internal grievance process and the process for obtaining external review. The notification shall also include a written explanation of any claim denial~~[-with the name and credentials of the carrier or other licensed entity medical director; including board status and the state or states where the person is currently licensed;]~~ and the relevant clinical rationale used to make the claim denial. ***If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, the licensee shall include with the notification the name and credentials of the carrier or other licensed entity, the medical director, including board status and the state or states where the person is currently licensed.*** If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third party contracts.

10 Minimum Standards; Licensure of Medical Utilization Review Entities. RSA 420-E:4, V(f) is repealed and reenacted to read as follows:

(f) If clinical review criteria was relied upon in making the benefit determination, a reference to the specific clinical review criteria, a statement that such clinical review criteria was relied upon in making the claim denial, and a copy of the clinical review criteria shall be provided free of charge to the claimant or claimant's representative, upon request. Any disclosure of clinical review criteria shall be accompanied by the following notice: "The materials provided to you are criteria used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract."

11 Utilization Review. RSA 420-J:6, III is repealed and reenacted to read as follows:

III. Notification of claim denial shall be made within the following time period:

(a) The determination of a claim involving urgent care shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the claim, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the licensee shall notify the claimant or claimant's representative within 24 hours of receipt of the claim and shall advise the claimant or claimant's representative of the specific information necessary to determine the claim. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the benefit determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.

(b) The determination of a claim involving urgent care and relating to the extension of an ongoing course of treatment and involving a question of medical necessity shall be made within 24 hours of receipt of the claim, provided that the claim is made at least 24 hours prior to the expiration of the prescribed period of time or course of treatment.

(c) The determination of all other claims for preservice benefits shall be made within a reasonable time period appropriate to the medical circumstances, but in no event more than 15 days after receipt of the claim. This period may be extended one time by the licensee for up to 15 days, provided that the licensee both determines that such an extension is necessary due to matters beyond the control of the licensee and notifies the claimant or claimant's representative, prior to the expiration of the initial 15-day period, of the circumstances requiring the extension of time and the date by which the licensee expects to render a decision. If such an extension is necessary due to a failure of the claimant or claimant's representative to provide sufficient information to determine whether, or to what extent, benefits are covered as payable, the notice of extension shall specifically describe the required additional information needed, and the claimant

or claimant's representative shall be given at least 45 days from receipt of the notice within which to provide the specified information. Notification of the benefit determination following a request for additional information shall be made as soon as possible, but in no case later than 15 days after the earlier of (1) the licensee's receipt of the specified additional information, or (2) the end of the period afforded the claimant or claimant's representative to provide the specified additional information.

(d) The determination of a post service claim shall be made within 30 days of the date of filing. In the event the claimant fails to provide sufficient information to determine the claim, the carrier shall notify the claimant within 15 days as to what additional information is required to process the claim and the claimant shall be given at least 45 days to provide the required information. The 30-day period for claim determination shall be tolled until such time as the claimant submits the required information.

12 Effective Date.

I. Sections 4-11 shall take effect July 1, 2003.

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

2003-1737s

AMENDED ANALYSIS

This bill makes certain technical corrections in the laws relating to life, accident, and health insurance.

This bill also clarifies the minimum standards for claim review and denials.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 507, relative to certain statutes that set minimum requirements for employee benefit plan procedures pertaining to the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations. Insurance Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 601, relative to the long-term care insurance act. Insurance Committee. Ought to Pass, Vote 5-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 725, relative to fraternal benefit societies. Insurance Committee. Ought to Pass, Vote 5-0. Senator Cohen for the committee.

Adopted.

Ordered to third reading.

HB 420, relative to state-owned trails and parking lots in the town of Windham. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 4-0. Senator Sapareto for the committee.

Wildlife and Recreation

May 20, 2003

2003-1718s

03/09

Amendment to HB 420

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

AN ACT relative to the Rockingham recreational trail.

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

1 New Section; ATV and Trail Bike Operation on State Lands; Rockingham Recreational Trail. Amend RSA 215-A by inserting after section 43 the following new section:

215-A:44 Rockingham Recreational Trail.

I. No person shall operate an OHRV on any portion of the Rockingham recreational trail west of Route 28 in Derry when it is not snow-covered.

II. No person shall use the parking lot at the Windham depot along the Rockingham recreational trail during the period from ½ hour after sunset to ½ hour before sunrise.

III. Year-round OHRV use shall be permitted on the portion of the Rockingham recreational trail from Route 28 in Derry to Route 125 in Epping.

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

2003-1718s

AMENDED ANALYSIS

This bill:

I. Prohibits operation of an OHRV on the Rockingham recreational trail west of Route 28 in Derry when it is not snow-covered.

II. Prohibits using the parking lot at the Windham depot along the Rockingham recreational trail during the period from ½ hour after sunset to ½ hour before sunrise.

III. Permits year-round OHRV use on the portion of the Rockingham recreational trail from Route 28 in Derry to Route 125 in Epping.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 295, relative to information filed with the regional planning commissions. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Larsen for the committee.

Internal Affairs

May 21, 2003

2003-1770s

06/09

Amendment to HB 295

Amend the bill by replacing section 1 with the following:

1 Procedure; Plans to be Submitted to Regional Planning Commission. Amend RSA 36:57, II to read as follows:

II. Within 72 hours of reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. ***The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.***

2003-1770s

AMENDED ANALYSIS

This bill requires a local land use board reviewing a development of regional impact to submit an initial set of plans to the regional planning commission, with the cost to be borne by the applicant.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 829, relative to ward boundaries in Manchester and Nashua to be used in state elections. Internal Affairs Committee. Re-refer to committee, Vote 4-0. Senator O'Hearn for the committee.

Committee report of re-referred is adopted.

HCR 14, declaring the directives of the judicial branch in the Claremont cases that the legislative and executive branches define an “adequate education,” adopt “standards of accountability,” and “guarantee adequate funding” of a public education are not binding on the legislative and executive branches. Internal Affairs Committee. Ought to Pass, Vote 3-2. Senator Kenney for the committee.

Question is on the motion of ought to pass.

A roll call was requested by Senator Sapareto.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Roberge, Clegg, Barnes, Prescott.

The following Senators voted No: Below, Green, Odell, Peterson, O’Hearn, Foster, Larsen, Gatsas, Martel, Sapareto, D’Allesandro, Estabrook, Morse, Cohen.

Yeas: 9 - Nays: 14

Motion failed.

Senator Sapareto moved inexpedient to legislate.

MOTION TO TABLE

Senator Boyce moved to have **HCR 14** laid on the table.

Question is on the motion to table.

A roll call was requested by Senator Sapareto.

Seconded by Senator Roberge.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Roberge, Clegg, Barnes, Morse, Prescott.

The following Senators voted No: Below, Green, Odell, Peterson, O’Hearn, Foster, Larsen, Gatsas, Martel, Sapareto, D’Allesandro, Estabrook, Cohen.

Yeas: 10 - Nays: 13

Motion failed.

Senator Sapareto moved inexpedient to legislate.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Estabrook.

Seconded by Senator Sapareto.

The following Senators voted Yes: Below, Green, Odell, Peterson, O’Hearn, Foster, Larsen, Gatsas, Martel, Sapareto, D’Allesandro, Estabrook, Morse, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Roberge, Clegg, Barnes, Prescott.

Yeas: 14 - Nays: 9

Committee report of inexpedient to legislate is adopted.

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 Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

Senate Judiciary

May 22, 2003

2003-1784s

04/09

Amendment to HB 105

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

AN ACT relative to sexual assaults committed by corrections officers, probation and parole officers, and juvenile probation and parole officers against individuals under their supervision, and making a technical correction.

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

2 Aggravated Felonious Sexual Assault; Section Amended. Amend RSA 632-A:2, I(n) to read as follows:

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has **direct** supervisory **or disciplinary** authority over the victim by virtue of the victim being incarcerated in a correctional institution, **the secure psychiatric unit**, or juvenile detention facility **where the actor is employed**; or

(2) When **the actor is** a probation or parole officer **or a juvenile probation and parole officer who** has **direct** supervisory **or disciplinary** authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the [above] circumstances **set forth** in subparagraph (n) shall not be considered a defense.

3 Felonious Sexual Assault; Gender Neutral. Amend the introductory paragraph of RSA 632-A:3 to read as follows:

A person is guilty of a class B felony if ~~he~~ **such person**:

4 Felonious Sexual Assault; Disciplinary Authority. Amend RSA 632-A:3, IV to read as follows:

IV. Engages in sexual contact with the person when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:

(a) When the actor has **direct** supervisory **or disciplinary** authority over the victim by virtue of the victim being incarcerated in a correctional institution, **the secure psychiatric unit**, or juvenile detention facility **where the actor is employed**; or

(b) When **the actor is** a probation or parole officer **or a juvenile probation and parole officer who** has **direct** supervisory **or disciplinary** authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the circumstances set forth in paragraph IV shall not be considered a defense.

5 Sexual Assault. RSA 632-A:4 is repealed and reenacted to read as follows:

632-A:4 Sexual Assault. A person is guilty of a misdemeanor if such person:

I. Subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2; or

II. Engages in sexual contact or sexual penetration with another person when the actor is in a position of authority over the person under any of the following circumstances:

(a) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(b) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the circumstances set forth in paragraph II shall not be considered a defense.

6 Technical Correction to 2003, SB 39; Off Highway Recreational Vehicles; Preliminary Breath Tests. Amend RSA 215-A:11-i, I to read as follows:

I. Any law enforcement officer, who has been certified by the police standards and training council according to standards for such certification contained in rules adopted by said council pursuant to RSA 541-A, hav-

ing reasonable grounds to believe that a person has been driving or operating an OHRV while under the influence of intoxicating liquor or controlled drug, or while the person's alcohol concentration was 0.08 or more, or in the case of a person under the age of 21, 0.02 or more may, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of any test administered under this section may be introduced into evidence in a court for any relevant purpose. Failure to submit to the test shall not constitute a violation of this chapter. Evidence of failure to submit to a preliminary breath test shall not be admissible in court in any prosecution under this chapter, except for the purpose of determining whether the officer had probable ~~course~~ **cause** to arrest the person. The provisions of this section shall not limit the introduction of any other competent evidence bearing on the question of whether a person charged with violating RSA 215-A:11 was under the influence of intoxicating liquor or any controlled drug. Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 215-A:11-a. The law enforcement officer requesting the test shall advise orally the person to be tested that his or her failure to take the test or his or her taking of the test shall not be construed to prevent or require a subsequent test pursuant to RSA 215-A:11-a. The results of the test shall be furnished immediately to the person tested by the law enforcement officer administering the test and in writing, if requested.

7 Contingency. If SB 39 of the 2003 legislative session becomes law, section 6 of this act shall take effect January 1, 2004 at 12:01 a.m. If SB 39 does not become law, section 6 of this act shall not take effect.

8 Effective Date.

I. Section 6 of this act shall take effect as provided in section 7 of this act.

II. Section 7 of this act shall take effect upon its passage.

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

2003-1784s

AMENDED ANALYSIS

This bill:

I. Prohibits sexual conduct between any person, including juvenile probation and parole officers, in a supervisory or disciplinary capacity and any person being held at the Secure Psychiatric Unit at the state prison in Concord.

II. Eliminates consent as a defense to aggravated felonious sexual assault and felonious sexual assault.

III. Makes a technical correction to 2003, SB 39.

Amendment adopted.

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11

May 29, 2003

2003-1880s

04/09

Floor Amendment to HB 105

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

AN ACT relative to sexual assaults committed by corrections officers, probation and parole officers, and juvenile probation and parole officers against individuals under their supervision, making a technical correction, and permitting the court to prohibit visitation between a parent convicted of sexual abuse or sexual assault against a minor child or stepchild and a sibling or step-sibling of the victim.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 New Paragraph; Support and Custody of Children. Amend RSA 458:17 by inserting after paragraph IV the following new paragraph:

IV-a. Where the court finds that a parent seeking visitation has been convicted of sexual abuse or sexual assault against such parent's minor child or minor stepchild, the court may prohibit visitation between such parent and any sibling or step-sibling of the victim. The court shall make visitation orders that best protect

the victim of the abuse and the siblings and step-siblings of such victim. In this paragraph, "sexual abuse" shall mean sexual abuse as defined in RSA 169-C:3, XXVII-a, and "sexual assault" shall mean sexual abuse as provided in RSA 632-A:2, RSA 632-A:3, and RSA 632-A:4.

2003-1880s

AMENDED ANALYSIS

This bill:

I. Prohibits sexual conduct between any person, including juvenile probation and parole officers, in a supervisory or disciplinary capacity and any person being held at the Secure Psychiatric Unit at the state prison in Concord.

II. Eliminates consent as a defense to aggravated felonious sexual assault and felonious sexual assault.

III. Allows the court to prohibit visitation between a parent convicted of sexual abuse or sexual assault against a minor child or minor stepchild and any sibling of the victim.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 122, relative to an informed jury. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Peterson for the committee.

Committee report of inexpedient to legislate is adopted.

HB 177, excluding stepchildren from the definition of "child" in the context of support orders. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Roberge for the committee.

MOTION TO TABLE

Senator Roberge moved to have **HB 177** laid on the table.

Adopted.

LAID ON THE TABLE

HB 177, excluding stepchildren from the definition of "child" in the context of support orders.

HB 194, relative to appeals in landlord/tenant actions. Public Affairs Committee. Inexpedient to Legislate, Vote 4-1. Senator Roberge for the committee.

Committee report of inexpedient to legislate is adopted.

HB 259, relative to the regulation of gift certificates under the consumer protection act. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Green for the committee.

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

May 29, 2003

2003-1876s

06/09

Floor Amendment to HB 259

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

AN ACT relative to the regulation of gift certificates under the consumer protection act and establishing a study committee relative to the regulation of gift certificates.

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

3 Committee Established. There is established a committee to study the regulation of gift certificates under the consumer protection act.

4 Membership and Compensation.

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

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

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

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

5 Duties. The committee shall study the regulation of gift certificates under the consumer protection act. The committee shall examine application of the statute to gift cards and shall consider the possibility of prohibiting dormancy fees and similar administrative charges.

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

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2004.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2004.

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

2003-1876s

AMENDED ANALYSIS

This bill defines and regulates the use of gift certificates under the consumer protection act.

This bill also establishes a study committee relative to the regulation of gift certificates.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 311, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus. Public Affairs Committee. Ought to Pass, Vote 4-1. Senator Barnes for the committee.

MOTION TO TABLE

Senator Prescott moved to have **HB 311** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 311, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus.

HB 431, eliminating application of the rule against perpetuities to instruments that contain safeguards relative to the continued alienability of property. Public Affairs Committee. Ought to Pass, Vote 4-1. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 753, establishing the fourth Monday in April as General John Stark Day. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 709-FN, relative to nursing homes in receivership. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Boyce for the committee.

Senator Martel offered a floor amendment.

Sen. Martel, Dist. 18

May 28, 2003

2003-1849s

01/09

Floor Amendment to HB 709-FN

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

AN ACT relative to nursing homes and other residential care facilities in receivership.

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

1 New Chapter; Nursing Homes; Receivership. Amend RSA by inserting after chapter 151-E the following new chapter:

CHAPTER 151-F
RECEIVERSHIP OF NURSING HOMES AND OTHER
RESIDENTIAL CARE FACILITIES

151-F:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of health and human services.

II. "Department" means the department of health and human services.

III. "Emergency" means a situation or condition which presents imminent danger of death or serious physical harm to residents, including but not limited to, imminent or actual abandonment of an occupied facility, and excluding a crisis due solely to a natural disaster beyond the control of the licensee where the licensee is taking appropriate remedial steps. An organized labor activity conducted for union recognition or as a tactic in contract negotiations shall not, of itself, constitute an emergency. Voluntary withdrawal from participation as a provider of services under the medicaid program, established under Title XIX of the Social Security Act, or under the Medicare program established under Title XVIII of the Social Security Act where such withdrawal was not occasioned by the denial of certification to the facility, shall not, of itself, constitute an "emergency."

IV. "Facility" means any nursing home or other residential care facility subject to licensing under RSA 151:2.

151-F:2 Appointment of Receiver. The probate court, upon petition of the department, as hereinafter provided, may appoint a receiver for any facility; provided, that the court finds that lives, health, safety or welfare of the residents cannot be adequately assured without the appointment of a receiver and either that an emergency exists, or that the facility is operating without a valid license.

151-F:3 Action to Appoint Receiver; Hearing; Purpose of Receivership.

I. The department may petition the probate court for the appointment of a receiver, after notification to the attorney general, requesting the appointment of a receiver to operate a facility. Before the department files such a petition, the commissioner shall consult with a facility administrator. The administrator shall have appropriate experience as a nursing home or other residential care facility administrator and shall have no financial ties or affiliation with the facility that is the subject of the proposed receivership. When the petition concerns a nursing home, the administrator shall be chosen from a list provided by the New Hampshire Health Care Association. The administrator may submit his or her recommendations concerning the facility proposed for receivership within 2 business days after receiving all relevant information from the commissioner. The consulting administrator shall be immune from any damages action arising out of these recommendations. After the 2-day period, the department, in its sole discretion may file a petition in the probate court. Nothing in this chapter shall be construed as abrogating or superseding any common law or statutory right of any person to bring an action requesting appointment of a receiver to operate a facility.

II. The court shall immediately issue an order of notice and set the matter for hearing not less than 5 days and not more than 14 days after filing of the action. The petition and notice of the hearing shall be served on both the licensee and the owner of the real estate where the facility is located not less than 3 days before the date of the hearing, unless a different period is specified by the court. A receiver may be appointed

immediately, on an ex parte basis, if the court determines by verified complaint or by affidavit that there are grounds for the appointment of a receiver and that immediate appointment is necessary to prevent immediate, irreparable harm to the residents, and that there is no adequate alternative remedy. The licensee shall be given prior notice of the ex parte hearing unless such notice is impossible. If a receiver is appointed on an ex parte basis, service shall be made on the licensee and owner and a hearing held within 5 days of the date the order was issued.

III. The court shall appoint as a receiver any person appearing on a list of names maintained by the commissioner. The list for purposes of receiverships involving nursing homes shall be established by the New Hampshire Health Care Association and provided to the commissioner. If those persons are unwilling or unable to serve, the commissioner may provide other appropriate candidates' names to the court. Persons appearing on any such list shall have experience in the delivery of health care services, and, if feasible, shall have experience with the operation of long-term care facilities. A receiver shall not have a financial interest in or any affiliation with the facility that is the subject of the receivership.

IV. The purpose of a receivership created under this section shall be to safeguard the health, safety, and continuity of care to residents and to protect them from the adverse health effects and increased risk of death caused by abrupt or unsuitable transfer. A receiver appointed under this section shall not take any actions or assume any responsibilities inconsistent with this purpose.

V. No person shall impede the operation of a receivership created under this section. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver, of any action that would interfere with the functioning of the facility, including but not limited to cancellation of insurance policies executed by the licensee, termination of utility services, attachments or set-offs of resident trust funds and working capital accounts, and repossession of equipment used in the facility.

151-F:4 Authority of Receiver; Duties; Closure of Facility.

I. When a receiver is appointed, the licensee shall be divested of possession and control of the facility in favor of the receiver. The receiver shall have the same rights to possession of the building in which the facility is located and of all goods and fixtures in the building at the time the petition for receivership is filed as the licensee would have had if the receiver had not been appointed. The receiver shall take such action as is reasonably necessary to protect or conserve the tangible assets or property of which the receiver takes possession, or the proceeds of any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

II. With the approval of the court, the receiver shall have authority to remedy violations of federal and state law and regulations governing the operation of the facility; to hire, direct, manage and discharge any consultant or employees, including the administrator of the facility; to receive and expend in a reasonable and prudent manner the revenues of the facility; to continue the business of the facility and the care of the residents; to perform those acts necessary or desirable to accomplish the purpose of the receivership; to perform regular accountings and make periodic reports to the court; and to exercise such additional powers and perform such additional duties, as the court may deem appropriate.

III. The receiver shall apply the current revenues of the facility to current operating expenses and, subject to the following provisions, to debts incurred by the licensee prior to the appointment of the receiver. The receiver shall ask the court for direction in the treatment of debts incurred prior to this appointment where such debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility, or where payment of such debts will interfere with the purposes of the receivership. Priority shall be given by the receiver to expenditures for current, direct resident care, including nursing care, medications, social services, dietary services, and housekeeping.

IV. Revenues held by or owing to the receiver in connection with the operation of the facility shall be exempt from attachment and trustee process. Any retroactive payment that may be due or owing to the facility as the result of a retroactive rate adjustment shall be disposed of in accordance with the orders of the court, after it considers competing claims to said payments.

V. The receiver shall not close the facility without leave of court. In ruling on the issue of closure, the court shall consider:

(a) The best interest of the residents and the possibility of transferring them to suitable, alternative placements.

(b) The rights, interests and obligations of the licensee, the owner, the mortgagees, and other secured parties and lienholders.

(c) The licensure status of the facility.

(d) The condition of the real estate with respect to state and federal construction requirements.

(e) Any other factor which the court deems relevant.

VI. The receiver may make repairs to the facility but only to the extent necessary to prevent or remove jeopardy to the health, safety, or welfare of the residents or to minimally qualify the facility for continuing participation in the Medicaid program, established under Title XIX of the Social Security Act, or in the Medicare program, under Title XVIII of the Social Security Act; provided that the total cost of repair does not exceed \$3,000. Expenditures for this purpose in excess of \$3,000 may be made by agreement of all parties or upon order of the court after motion by the receiver.

VII. In the event that the facility does not have sufficient capital for major repairs or improvements, the receiver may petition the court for permission to apply to the department for a loan. Notice shall be given to the owner of the real estate, the licensee, the department, and to any mortgagee and other secured parties and lienholders of record. The court shall after hearing, authorize the receiver to apply for such assistance if it determines that the facility should not be closed, and the commissioner certifies that the repair or improvement is necessary to prevent or remove jeopardy to patients or to minimally qualify the facility for participation in the Medicaid or Medicare program; or it determines that the facility should be closed and the commissioner certifies that the repair or improvement is necessary to prevent jeopardy to residents for the limited period of time that they are awaiting transfer. The purposes of this paragraph shall be to protect residents and to prevent the closure of facilities which, given proper management, are likely to be viable operations. This section shall not be construed as a method of financing major repairs or capital improvements to facilities which have been abandoned because the licensee has been unable to secure financing by conventional means. Upon court approval, application for financial assistance shall be made to the department, which shall administer such funds as the legislature may appropriate for this purpose. The court may set a reasonable rate of interest to be paid by the receiver to the department. In no case shall funds advanced by the department under this paragraph exceed funds available in the department's civil monetary penalty fund.

VIII. The licensee or the facility owner may apply to the court to determine the reasonableness of any expenditure by the receiver.

151-F:5 Leases, Mortgages or Secured Transactions.

I. A receiver shall not be required to honor any lease, mortgage, or secured transaction entered into by the licensee of the facility if the court finds that the agreement was entered into for a fraudulent purpose or to hinder or delay creditors or that the rental, price or rate of interest required to be paid under the agreement is in excess of a reasonable rental, price or rate of interest at the time the agreement was entered into; or the agreement is unrelated to the operation of the facility.

II. If the receiver is in possession of real or personal property subject to a lease, mortgage or security interest which the receiver is permitted to avoid, and if the possession of such property is necessary for the continued operation of the facility, the receiver shall apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver to the person entitled thereto during the duration of the receivership. The court shall hold a hearing on the application within 15-days. The receiver shall send notice of the application to any owners of record and to mortgagees and other secured parties and lienholders of record of the property involved at least 10 days prior to the hearing. In no event shall the amount set by the court exceed what is reasonable for the facility in light of the usual regulations of the department and the private census of the facility. Payment by the receiver of the amount determined by the court to be reasonable shall be a defense to any action against the receiver for payment or for the possession of said property subject to the lease, mortgages or security interest involved by any person who received such notice, but the payment shall not relieve the owner or operator of the facility of any liability following the termination of the receivership for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or other agreement.

III. Notwithstanding paragraphs I and II, there shall be no foreclosure or eviction during the receivership period where such foreclosure or eviction would, in the view of the court, serve to defeat the purpose of the receivership.

151-F:6 Compensation of Receiver; Recoupment of State Expenditures.

I. The court shall set a reasonable compensation for the receiver that is consistent with the regulations of the department, and may require the receiver to furnish a bond. Such expenses shall be paid from the revenues of the facility.

II. The state shall have a lien for any loan under RSA 151-F:4, VII upon the following property: the building in which the facility is located; the land on which the facility is located; and any fixtures, equipment or goods used in the operation of the facility. Such lien shall be prior to any mortgage or lien which the court finds has been executed or obtained for a fraudulent purpose or to hinder or delay creditors. Such lien shall also be prior to a mortgage or lien held by any person with an ownership interest in the facility; or any person which controls or has the ability to directly or indirectly control to any significant degree the management of policies of the licensee or the facility; or any person related to the licensee or to the facility by any significant degree of common ownership or common control. The receiver shall cause notice of any lien created hereunder to be duly filed.

151-F:7 Termination of Receivership.

I. The court may terminate a receivership under the following conditions:

(a) The department grants a license to operate the facility to the licensee divested of possession and control by the receiver;

(b) There is a transfer of ownership or management of the facility to a transferee approved for licensure by the department; or

(c) All residents of the facility have been provided appropriate alternative placements, either in another facility or otherwise, and the subject facility is closed.

II. Notwithstanding the provisions of paragraph I, a receivership shall not be terminated in favor of the former licensee, or, in the discretion of the court, a related person, unless such person assumes all obligations incurred by the receiver and provides collateral or other assurance of payment deemed sufficient by the department.

III. As an additional precondition to termination in favor of the former licensee, or in the discretion of the court, a related person, the court may require the posting of a bond in an amount fixed by the court as security for maintaining compliance with the laws and regulations governing the operation of the facility. If it shall appear that the licensee fails to maintain the facility in substantial compliance with such laws and regulations, the court, after notice to those persons who have appeared in the proceeding, and after hearing, shall reinstate its order appointing a receiver. A receiver thus appointed may use the security, or such part of the security as is necessary, to remedy the deficient conditions.

IV. The receivership shall be reviewed after 30, 60, and 90 days by the probate court. If the receivership has not been terminated within 90 days of the appointment of the receiver, the court shall, after hearing, order either that the facility shall be closed, after an orderly transfer of the residents to appropriate alternative placements; or the facility shall be transferred, under reasonable terms approved by the court, to a new owner or operator approved for licensure by the department. The receivership period may be extended by the court following the 90-day review only with the agreement of all of the parties involved or as necessary to protect the health and safety of the residents.

V. Within 30 days after termination of the receivership, or such time as the court may allow, the receiver shall submit to the court a final accounting of all property of which the receiver has taken possession, of all funds collected under this section and all expenses of the receivership. The court shall fix the fees and expenses of the receiver and issue orders for the disposition of funds held by the receiver following a hearing, at which time the following parties may appear and be heard: the licensee at the time the receivership was established, the current licensee, the owner of the real estate, the department, and any mortgagee or lienholder whose interests could be impacted by the court's order. Following the court's determination of the receiver's fees and expenses, and the disposition of funds held by the receiver, control of the facility shall be relinquished by the receiver to the current licensee or owner subject to the rights of any third parties.

151-F:8 Actions Against Receiver; Liability. No person shall bring an action against a receiver appointed under RSA 151-F:3 without first securing leave of court. The receiver shall be liable in his or her personal capacity for gross negligence or intentional wrongdoing. In all other cases, the receiver shall be liable in his or her official capacity only, and any judgment rendered shall be satisfied out of the receivership assets.

151-F:9 Effect of Appointment; Violation of Regulations. An order appointing a receiver under RSA 151-F:3 shall have the effect of a license for the duration of the receivership. The receiver shall comply with all state and federal laws and regulations governing the rights of residents and provision of health care services. The receiver shall be responsible to the court for the conduct of the facility during the receivership, and any violation of regulations governing the conduct of the facility, if not promptly corrected, shall be reported by the department to the court.

151-F:10 The department shall adopt rules, pursuant to RSA 541-A and necessary for the implementation of this chapter.

2 Applicability. The repeal under section 3 of this act shall not affect receiverships which are in effect as of July 1, 2005.

3 Repeal. RSA 151-F, relative to receivership of nursing homes and other residential care facilities, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2005.

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

2003-1849s

AMENDED ANALYSIS

This bill details the procedure for nursing homes and other residential care facilities in receivership. This law is repealed on July 1, 2005; provided, that the repeal shall not affect receiverships in effect on such date.

MOTION TO TABLE

Senator Martel moved to have **HB 709-FN** laid on the table.

Adopted.

LAI D ON THE TABLE

HB 709-FN, relative to nursing homes in receivership.

HB 82, to change the name of "Mount Clay" to Mount Reagan. Wildlife and Recreation Committee. Ought to Pass, Vote 5-0. Senator Sapareto for the committee.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

May 29, 2003

2003-1893s

06/09

Floor Amendment to HB 82

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

AN ACT to change the name of certain mountains.

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

3 Carter Dome and Carter Notch. The mountainous elevation known as Carter Dome and the geologic feature known as Carter Notch which are located in the White Mountain range, shall hereby be known to be named for President James Earl Carter, Jr., the 39th president of the United States.

4 Effective Date.

I. Sections 2 and 3 of this act shall take effect upon its passage.

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

2003-1893s

AMENDED ANALYSIS

This bill changes the names of "Mount Clay" located in the White Mountains to Mount Reagan. The bill also states that Carter Dome and Carter Notch shall be known to be named for President James Earl Carter, Jr.

Floor amendment failed.

Question is on the motion of ought to pass.

A roll call was requested by Senator Sapareto.

Seconded by Senator Barnes.

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

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

Yeas: 18 - Nays: 5

Adopted.

Ordered to third reading.

HB 162, relative to remedies and penalties for injuries to domestic animals caused by dogs. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Wildlife and Recreation

May 20, 2003

2003-1723s

08/04

Amendment to HB 162

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

1 Remedy and Penalties for Injuries Done by Dogs; Killing Dogs Legalized. Amend RSA 466:28 to read as follows:

466:28 Killing Dogs Legalized. Any person may kill a dog that suddenly assaults ~~[the]~~ **a** person while such person is peaceably walking or riding without the enclosure of its owner or keeper; and any person may kill a dog that is found out of the enclosure or immediate care of its owner or keeper worrying, wounding, or killing sheep, lambs, fowl, or other domestic animals. ***However, this paragraph shall not permit the owner or keeper of agricultural livestock to kill a dog if that person has not confined his or her livestock within a building or fenced pen, but permits them to range freely outside and across an unfenced boundary on to the land of a neighbor.***

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

2003-1723s

AMENDED ANALYSIS

This bill provides for the legalized killing of dogs that wound or kill certain domestic animals provided such domestic animals are fenced in on the owner's property.

MOTION TO TABLE

Senator Roberge moved to have **HB 162** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 162, relative to remedies and penalties for injuries to domestic animals caused by dogs.

MOTION TO REMOVE FROM THE TABLE

Senator Prescott moved to have **HB 281-FN** taken of the table.

Adopted.

HB 281-FN, exempting automatic irrigation system installers from licensure by the electrician's board.

Question is on the adoption of the committee amendment (1396).

Amendment failed.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

May 29, 2003

2003-1871s

08/10

Floor Amendment to HB 281-FN

Amend the bill by replacing section 2 with the following:

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

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Kenney moved to have **HB 819** taken of the table.

Adopted.

HB 819, relative to original and youth operators' licenses.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Kenney moved to have **HB 419** taken of the table.

Motion failed.

MOTION OF RECONSIDERATION

Senator Peterson, having voted with the prevailing side, moved reconsideration of **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, whereby we ordered it to third reading.

Adopted.

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.

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11

May 29, 2003

2003-1887s

04/10

Floor Amendment to HB 105

Amend the bill by replacing section 9 with the following:

9 Effective Date.

I. Section 6 of this act shall take effect as provided in section 7 of this act.

II. Sections 7 and 8 of this act shall take effect upon its passage.

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

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Martel moved to have **HB 393** taken of the table.

Adopted.

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

Question is on the adoption of the committee amendment (1368).

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**

HB 82, to change the name of "Mount Clay" to Mount Reagan.

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 139, relative to the collection and reporting of school drop-out, suspension, and expulsion data and relative to the deadlines for submitting certain reports to the department of education.

HB 210-FN-A, relative to passenger tramway registration fees and relative to carnival or amusement ride fees.

HB 259, relative to the regulation of gift certificates under the consumer protection act.

HB 281-FN, exempting automatic irrigation system installers from licensure by the electrician's board.

HB 295, relative to information filed with the regional planning commissions.

HB 303, relative to life, accident, and health technicals.

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

HB 420, relative to state-owned trails and parking lots in the town of Windham.

HB 431, eliminating application of the rule against perpetuities to instruments that contain safeguards relative to the continued alienability of property.

HB 460-FN, relative to property and casualty insurance.

HB 507, relative to certain statutes that set minimum requirements for employee benefit plan procedures pertaining to the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations.

HB 568-L, relative to legal residency for the purpose of public school education.

HB 591-FN, allowing a certain former state employee to apply for accidental disability benefits.

HB 601, relative to the long-term care insurance act.

HB 725, relative to fraternal benefit societies.

HB 737-FN-A, relative to the state conservation committee and making an appropriation therefore.

HB 738-FN-A-L, permitting aid to public water systems to be used for forming or improving regional water systems and making an appropriation therefor.

HB 753, establishing the fourth Monday in April as General John Stark Day.

HB 819, relative to original and youth operators' licenses.

ANNOUNCEMENTS

Senator D'Allesandro Rule #42.

RESOLUTION

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

Adopted.

In recess to the Call of the Chair.