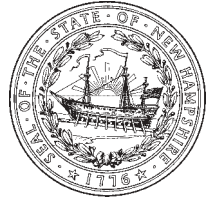


STATE OF NEW HAMPSHIRE

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SENATE JOURNAL 7 (*Cont.*)



March 4, 2004

Out of recess.

JOURNAL 6 (cont.) CORRECTION

INTRODUCTION OF SENATE BILL

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate Bill numbered **534**, shall be by this resolution read a first and second time by the therein listed title and referred to the therein designated committee.

Adopted.

First and Second Reading and Referral

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies. (Clegg, Dist 14; Morse, Dist 22; D'Allesandro, Dist 20; Barnes, Dist 17: Executive Departments and Administration)

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 516-L, relative to the standard of review for requests for excavating and dredging permits, relative to an appropriation for the expansion of the Port of Portsmouth, and relative to additional powers and duties of the Pease development authority.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 431, prohibiting the waiver of worker's compensation subrogation rights and prohibiting certain indemnification provisions in construction related contracts.

SB 458, relative to private driving instruction and exhibition facilities.

HOUSE MESSAGE

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

HB 761, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

HB 812, relative to state acquisition of privately-owned airports.

HB 1135, relative to appointment of the chief justice of the superior court.

HB 1155, clarifying alternative budget adoption procedures in school administrative units.

HB 1165, relative to extending domestic violence protection orders.

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

HB 1179-FN, relative to driver education training reimbursement.

HB 1183, relative to transporting manufactured housing or modular buildings.

HB 1227, relative to land assessed for current use which is taken by eminent domain.

HB 1243, prohibiting the collection of biometric data.

HB 1261, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.

HB 1263, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

HB 1308-FN, relative to lobbying activities by state employees.

HB 1352-FN, requiring school districts to recommend daily physical activity to pupils.

HB 1355, changing the name of the sweepstakes commission to the lottery commission.

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

HB 1397, relative to youth suicide prevention.

HB 1401-FN, limiting the use of traffic signal preemption devices.

HB 1410, relative to the release of information to persons receiving a child for placement.

HB 1414, establishing a commission to study issues regarding the women's prison facility.

CACR 5, relating to: the rulemaking authority of the supreme court. Providing that: the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

HCR 17, a resolution urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House legislation numbered **761-HCR 17** shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 761, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. (Public Affairs)

HB 812, relative to state acquisition of privately-owned airports. (Transportation)

HB 1135, relative to appointment of the chief justice of the superior court. (Executive Departments and Administration)

HB 1155, clarifying alternative budget adoption procedures in school administrative units. (Public Affairs)

HB 1165, relative to extending domestic violence protection orders. (Judiciary)

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads. (Wildlife and Recreation)

HB 1179-FN, relative to driver education training reimbursement. (Public Affairs)

HB 1183, relative to transporting manufactured housing or modular buildings. (Transportation)

HB 1227, relative to land assessed for current use which is taken by eminent domain. (Ways and Means)

HB 1243, prohibiting the collection of biometric data. (Transportation)

HB 1261, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike. (Transportation)

HB 1263, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program. (Public Affairs)

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations. (Executive Departments and Administration)

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (Internal Affairs)

HB 1308-FN, relative to lobbying activities by state employees. (Internal Affairs)

HB 1352-FN, requiring school districts to recommend daily physical activity to pupils. (Education)

HB 1355, changing the name of the sweepstakes commission to the lottery commission. (Executive Departments and Administration)

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements. (Public Affairs)

HB 1397, relative to youth suicide prevention. (Public Institutions, Health and Human Services)

HB 1401-FN, limiting the use of traffic signal preemption devices. (Transportation)

HB 1410, relative to the release of information to persons receiving a child for placement. (Public Institutions, Health and Human Services)

HB 1414, establishing a commission to study issues regarding the women's prison facility. (Executive Departments and Administration)

CACR 5, relating to: the rulemaking authority of the supreme court. Providing that: the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule. (Internal Affairs)

HCR 17, a resolution urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general. (Public Affairs)

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 8

March 11, 2004

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 God, wild and wonderful, free us from the concrete bunkers of our own fears and anxieties, and surround us instead with the protective embrace of Your love, as we do the listening, practice the caring and make the decisions that are the reasons we are here today. Amen

Senator Odell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 334, relative to the dredging of Hampton-Seabrook harbor. Capital Budget Committee. Inexpedient to Legislate, Vote 5-0. Senator Morse for the committee.

Committee report of inexpedient to legislate is adopted.

SB 356, relative to the authority of the community development finance authority. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Below for the committee.

Energy and Economic Development
March 4, 2004
2004-0706s
05/10

Amendment to SB 356

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

AN ACT relative to the powers and duties of the community development finance authority.

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

1 Community Development Finance Authority; Powers and Duties Relative to Community Development Block Grant Program. Amend RSA 162-L:16 to read as follows:

162-L:16 Powers and Duties of the Authority.

I. The authority shall be responsible for the former functions, duties, and responsibilities of the office of state planning relative to administration of the community development block grant program and shall, with the consent of the committee and with the approval of the governor[:

~~(a) Adopt rules, pursuant to RSA 541-A, relative to:~~

~~(1) The application process;~~

~~(2) Criteria and procedures for evaluating applications submitted by eligible municipalities;~~

~~(3) Procedures for the administration of program activities and funds by grantees;~~

~~(4) Procedures for monitoring grantees and for hearings.~~

~~(b)]~~ **and council** make final awards of grants and enter into contractual relationships with grantees for administering funds.

II. The authority shall provide advice and assistance to municipalities in dealing with community development concerns and problems.

III. The authority is authorized to accept federal funds to administer the small cities community development block grant program in accordance with the provisions of this subdivision.

IV. The authority shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application process.

(b) Criteria and procedures for evaluating applications submitted by eligible municipalities.

(c) Procedures for the administration of program activities and funds by grantees.

(d) Procedures for monitoring grantees and for hearings.

2 Status of State Employees; Benefits Eligibility. Amend RSA 162-L:19 to read as follows:

162-L:19 Status of State Employees. Classified employees of the office of state planning and energy programs responsible for administration of the community development block grant program shall be transferred to the community development finance authority. Any person employed in such a position at the time of the transfer shall be deemed an employee of the authority. Any individual transferred from the office of state planning and energy programs to the authority shall be entitled to continue to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state. **Service as an employee of the authority shall be creditable service for purposes of RSA 21-I:30, II.** [Such] Employees of the authority, however, shall not be classified employees of the state of New Hampshire within the meaning

of RSA 21-I:49 but employees at will of the authority. The authority shall pay from its revenues the state share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon transfer to the authority.

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

2004-0706s

AMENDED ANALYSIS

This bill requires the governor and council to approve certain actions taken by the community development finance authority in administering the community development block grant program. The bill also makes technical corrections relative to the authority's rulemaking process and employee eligibility for certain retirement benefits.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 443, relative to rural electric cooperatives. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Odell for the committee.

Energy and Economic Development

March 4, 2004

2004-0711s

03/10

Amendment to SB 443

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Electric Utility Restructuring; Implementation; Rural Electric Cooperatives. Amend RSA 374-F:4 by inserting after paragraph XI the following new paragraph:

XII. To the extent that the provisions of this chapter are applicable to rural electric cooperatives for which a certificate of deregulation is on file with the commission, the commission shall exercise its authority with regard to such deregulated rural electric cooperatives only when and to the extent that the commission finds, after notice and hearing, that such action is required to ensure that such deregulated rural electric cooperatives do not act in a manner which is inconsistent with the restructuring policy principles of RSA 374-F:3. The commission shall have the authority to require that such deregulated rural electric cooperatives participate in proceedings, answer commission requests for information and file such reports as may be reasonably necessary to permit the commission to make an informed finding concerning the relevant restructuring policy principle actions of such deregulated rural electric cooperatives. Absent such a finding by the commission, the active role of assuring that the restructuring policy principles are appropriately addressed within their service territories shall be reserved to the deregulated rural electric cooperatives. Notwithstanding the foregoing, deregulated rural electric cooperatives shall be subject to the commission's jurisdiction with regard to those provisions of RSA 374-F pertaining to stranded cost recovery, customer choice, open access tariffs, default service, energy efficiency, and low income programs to the same extent as other public utilities.

2004-0711s

AMENDED ANALYSIS

This bill delineates the authority and jurisdiction of the public utilities commission under the electric utility restructuring laws with respect to rural electric cooperatives.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 503, relative to septic system construction permits. Environment Committee. Ought to Pass, Vote 3-1. Senator Johnson for the committee.

MOTION TO TABLE

Senator Johnson moved to have **HB 503** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 503, relative to septic system construction permits.

HB 1141, relative to dioxin emissions reduction and medical waste incinerators. Environment Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 72, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator Prescott for the committee.

Adopted.

Ordered to third reading.

HB 1154, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Peterson for the committee.

Adopted.

Ordered to third reading.

HB 1248-FN, relative to the state board of nursing. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Peterson for the committee.

Adopted.

Ordered to third reading.

SB 331-FN, relative to the offset of workers' compensation lump sum payments against retirement system disability allowances and death benefits. Finance Committee. Inexpedient to Legislate, Vote 5-3. Senator Odell for the committee.

Committee report of inexpedient to legislate is adopted.

SB 347-FN, relative to financial responsibility and conduct after an OHRV accident. Finance Committee. Ought to Pass, Vote 6-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 361-FN-A, relative to fees of the postsecondary education commission for preserving certain academic records and relative to the responsibilities of the postsecondary education commission. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Senate Finance
March 3, 2004
2004-0655s
04/03

Amendment to SB 361-FN-A

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

AN ACT relative to fees of the postsecondary education commission for preserving certain academic records.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

2004-0655s

AMENDED ANALYSIS

This bill provides that transcript request fees collected by the postsecondary education commission shall be used to manage the storage, maintenance, and retrieval of closed school transcripts.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 382-FN-L, relative to medical service rates for state prisoners. Finance Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 384-FN, relative to drugs paid for by the state. Finance Committee. Ought to Pass, Vote 7-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

SB 399-FN, relative to the sale of animals. Finance Committee. Ought to Pass, Vote 7-0. Senator Gatsas for the committee.

Adopted.

Ordered to third reading.

SB 413-FN, relative to financing federally aided highway projects. Finance Committee. Ought to Pass, Vote 6-0. Senator Green for the committee.

Adopted.

Ordered to third reading.

SB 438, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities. Finance Committee. Ought to Pass, Vote 6-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 480-FN-A, making an appropriation to the tobacco use prevention fund for the purpose of smoking cessation programs. Finance Committee. Inexpedient to Legislate, Vote 7-1. Senator Boyce for the committee.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Estabrook.

Seconded by Senator Martel.

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

The following Senators voted No: Kenney, Below, Roberge, Peterson, Foster, Larsen, Martel, Sapareto, Estabrook, Cohen.

Yeas: 12 - Nays: 10

Committee report of inexpedient to legislate is adopted.

SB 490-FN, relative to the Help America Vote Act. Finance Committee. Ought to Pass, Vote 8-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 504-FN, relative to disbursements from the alcohol abuse prevention and treatment fund. Finance Committee. Ought to Pass, Vote 8-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 508-FN, relative to grant-funded programs. Finance Committee. Ought to Pass, Vote 8-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

SB 363, relative to notification of cancellation of insurance coverage. Insurance Committee. Inexpedient to Legislate, Vote 2-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

SB 368, relative to reinsurance. Insurance Committee. Ought to pass with amendment, Vote 2-0. Senator Flanders for the committee.

Insurance
March 2, 2004
2004-0630s
01/05

Amendment to SB 368

Amend RSA 405:46 as inserted by section 1 of the bill by replacing it with the following:

405:46 Definitions. In this subdivision:

I. "Assuming insurer" means any insurance company which assumes, in any manner or form whatever, the whole or any part of any risk or liability and shall include any underwriting member of an insurance exchange, assigned risk pool, joint underwriting association, syndicate, reciprocal exchange, reinsurance facility, health maintenance organization, health service corporation, or medical service corporation.

II. "Domestic ceding insurer" means any insurance company or association which is incorporated under the laws of this state and shall include health maintenance organizations licensed pursuant to RSA 420-B, and nonprofit health service corporations licensed pursuant to RSA 420-A.

III. "Evergreen letters of credit" means that the letter of credit is automatically renewed unless some affirmative action is taken prior to the expiration date.

IV. "Liability" includes the reserves of loss adjustment expense, unearned premiums, outstanding case, and incurred by not reported losses.

V. "NAIC" means the National Association of Insurance Commissioners.

VI. "Qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a U.S. office of a foreign banking organization, licensed, under the laws of the United States or any state thereof.

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(c) Has been determined by either the commissioner or the Securities Valuation Office of the NAIC to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit shall be acceptable to the commissioner.

VII. "Qualified United States financial institution" also means, for those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers.

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

VIII. "State" means the United States, District of Columbia, Virgin Islands, Guam, and Puerto Rico.

Amend RSA 405:47, IV(a) as inserted by section 1 of the bill by replacing it with the following:

IV.(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in RSA 405:46, VII, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination.

Amend RSA 405:47, IV(c)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

Amend RSA 405:47, VI as inserted by section 1 of the bill by inserting after subparagraph (c) the following:

(d) Before any unauthorized reinsurer files or causes to be filed any pleading in any court action or an appearance in response to any court action or administrative proceeding, such reinsurer shall either:

(1) Deposit with the clerk of the court in which such action, suit, or proceeding is pending, or with the commissioner in administrative proceedings, cash or securities or bond with good and sufficient sureties to be approved by the court, or the commissioner, in an amount to be fixed by the court or the commissioner sufficient to secure the payment of any final judgment which may be rendered in such court proceeding or in such administrative proceeding; or

(2) Procure a license to transact reinsurance business in this state.

(e) The court in any action, suit, or proceeding or the commissioner in any administrative proceeding referred to in subparagraph (d), may, in its or his or her discretion, order such postponement as may be necessary to afford the reinsurer reasonable opportunity to comply with subparagraph (d) and to defend such court action or administrative proceeding.

Amend RSA 405:49 through RSA 405:51 as inserted by section 1 of the bill by replacing them with the following:

405:49 Reinsurance Insolvency.

I. No credit shall be allowed, as an admitted asset or deduction from liability, to any ceding insurer for reinsurance, unless the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable by the assuming insurer on the basis of the claims allowed against the ceding insurer in the insolvency proceedings, under contract or contracts reinsured without diminution because of the insolvency of the ceding insurer directly to the ceding insurer or to its domiciliary liquidator or receiver except:

(a) Where the contract specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or

(b) Where the assuming insurer with the consent of the direct insured or insured has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

II. A reinsurance contract may provide that the domiciliary liquidator or receiver of any insolvent ceding insurer shall, within a specified or reasonable time after the claim is filed in court or in the receivership, give written notice to the assuming insurer of all or part of any claim against the ceding insurer on the policy or bond reinsured. During the pendency of the claim, any assuming insurer may investigate the claim and, unless forbidden to do so by the reinsurance agreement, may intervene in the proceeding in which the claim is pending and interpose any defenses it considers available which have not been raised by the ceding insurer, its liquidator or receiver. The expenses incurred by the assuming insurer in this type of action are payable up to the amount of the expenses or the amount of the benefit produced, whichever is less, as expenses of the receivership. If 2 or more assuming insurers have potential liability because of the same claim, the expenses shall be apportioned among them in proportion to the benefit received.

405:50 Asset or Reduction From Liability; Collateral. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of RSA 405:47 shall

be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under such contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in RSA 405:46. This security may be in the form of:

I. Cash.

II. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

III.(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in RSA 405:46, VI effective no later than December 31, of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement;

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

IV. Any other form of security acceptable to the commissioner.

405:51 Reinsurance Contract. No person shall have any rights against the reinsurer which are not specifically set forth in the contract of reinsurance or in a specific agreement between the reinsurer and the person.

405:52 Penalty. Any domestic ceding insurer failing to comply with any of the provisions of this subdivision shall be fined not more than \$2,500 for each ceded policy, or the commissioner may revoke the license of such company for one year, or both.

405:53 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, relative to forms of trusts and acceptable security, required information in filings, enforcement and penalties provided in this subdivision.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 370, relative to the insurance rating law. Insurance Committee. Ought to pass with amendment, Vote 2-0. Senator Flanders for the committee.

Insurance
March 2, 2004
2004-0631s
01/05

Amendment to SB 370

Amend the bill by inserting after section 5 the following and renumbering the original sections 6 and 7 to read as 7 and 8, respectively:

6 Insurance Rating; Definitions. Amend RSA 412:3, XI(b)(2) to read as follows:

(2) Aggregate property and casualty insurance premiums, excluding workers' compensation, medical malpractice, life, health, and disability insurance premiums of [~~\$100,000~~] **\$30,000** or more.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 371, relative to certain technical changes in the insurance laws. Insurance Committee. Ought to pass with amendment, Vote 2-0. Senator Flanders for the committee.

(b) The premium for the policy shall be paid by the policyholder, either [wholly] from the employer's funds or funds contributed by him, or [~~partly from such funds and partly~~] from funds contributed by the in-

sured employees. ~~[No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.]~~ A policy on which no part of the premium is to be derived from funds contributed by the insured employees, must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

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

2004-0632s

AMENDED ANALYSIS

This bill makes certain technical changes in the insurance laws, including but not limited to:

I. Extending the denial of coverage, with certain minimum financial exceptions, to any insured motor vehicle operator whose driver's license has been suspended or revoked.

II. Requiring that physicians conducting internal and external reviews have credentials and licensure for the specific health problem outlined in the grievance.

III. Reducing the pre-existing condition exemption from 12 months to 9 months in accordance with federal law.

IV. Changing the name of the assistant commissioner of insurance to the director of operations.

This bill is a request of the insurance department.

Amendment adopted.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

March 9, 2004

2004-0753s

01/10

Floor Amendment to SB 371

Amend the bill by replacing all after section 13 with the following:

14 Insurance; Health Plan Loss Information. Amend RSA 420-G:12-a, I and II to read as follows:

I. To ensure maximum competition in the purchase of group health insurance, all ~~[private and public]~~ **large** employers ~~[with at least 50 employees enrolled in their group health plan]~~ shall be entitled to receive their specific health plan loss information upon request and without charge. No contract between any health carrier, third-party administrator, employer group, or pool of employers shall abridge this right in any manner.

II. Upon written request from any ~~[private or public]~~ **large** employer ~~[with 50 or more employees enrolled in its group health plan]~~, every health carrier, third-party administrator, pooled risk management program under RSA 5-B, or any other type of multiple employer health plan shall provide that employer's loss information within 30 calendar days of receipt of the request. The loss information shall include all physician, hospital, prescription drug, and other covered medical claims specific to the employer's group plan incurred for the 12-month period paid through the 14 months which end within the 60-day period prior to the date of the request. An employer shall not be entitled by this section to more than 2 loss information requests in any 12-month period; however, nothing shall prohibit a carrier from fulfilling more frequent requests on a mutually agreed-upon basis.

15 Insurance; Prescription Drugs. Amend the introductory paragraph of RSA 420-J:7-b, I(a) to read as follows:

I.(a) Every health benefit plan that provides prescription drug benefits is required to provide prospective enrollees, and ~~[annually to]~~ covered persons, a description of the prescription drug benefit plan. Among the specific items that shall be included in the description are:

16 Insurance; Prescription Drugs. Amend RSA 420-J:7-b, III to read as follows:

III. Every health plan that provides prescription drug benefits shall notify covered persons ~~[of changes]~~ **affected by deletions** to the plan list or plan formulary, provide an explanation of the exception process by

which a covered person can access nonformulary medically necessary prescription drugs, and provide a toll-free telephone number through which a covered person can request additional information. ***For purposes of this paragraph, covered persons affected by deletions to the plan list or plan formulary shall include those covered persons for whom the health plan has provided coverage for the deleted prescription drugs during the 12-month period immediately prior to the deletion.*** Upon notification to covered persons, the health benefit plan shall allow at least 45 days before implementation of any formulary [change] ***deletions***; provided, however, that advance notice shall not be required if the federal Food and Drug Administration has determined that a prescription drug on the health benefit plan's formulary is unsafe.

III-a. Every health benefit plan that provides prescription drug benefits shall provide notice of additions and deletions to the plan list or plan formulary to all covered persons at least annually.

17 New Paragraph; High Risk Pool. Amend RSA 404-G:5-b by inserting after paragraph III the following new paragraph:

III-a. The association, subject to the approval of the commissioner, may from time to time offer such plans in addition to the 4 plans required under paragraphs II and III, as its board of directors determines would be helpful to advance the purposes of this chapter.

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

2004-0753s

AMENDED ANALYSIS

This bill makes certain technical changes in the insurance laws, including but not limited to:

I. Extending the denial of coverage, with certain minimum financial exceptions, to any insured motor vehicle operator whose driver's license has been suspended or revoked.

II. Requiring that physicians conducting internal and external reviews have credentials and licensure for the specific health problem outlined in the grievance.

III. Reducing the pre-existing condition exemption from 12 months to 9 months in accordance with federal law.

IV. Changing the name of the assistant commissioner of insurance to the director of operations.

V. Changing certain requirements regarding health loss information.

VI. Notifying enrollees regarding additions and deletions to the insurance plan formulary for prescription drugs.

This bill is a request of the insurance department.

Senator Flanders withdrew his floor amendment.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Cohen, Dist. 24

Sen. Below, Dist. 5

Sen. D'Allesandro, Dist. 21

Sen. Estabrook, Dist. 21

Sen. Foster, Dist. 13

March 10, 2004

2007-0787s

01/09

Floor Amendment to SB 371

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

AN ACT relative to certain technical changes in the insurance laws and relative to small group health insurance coverage.

Amend the bill by replacing all after section 13 with the following:

14 Definition; "Community Rating." RSA 420-G:2, I is repealed and reenacted to read as follows:

I. "Community rating" means a rating methodology which produces the same premium for every person covered under the same health coverage.

15 Definition of Large Employer. RSA 420-G:2, XII(a) is repealed and reenacted to read as follows:

XII.(a) "Large employer" means an employer that employed on average at least 101 persons, on business days, during the previous calendar year.

16 Definition of a Small Employer. RSA 420-G:2, XVI(a) is repealed and reenacted to read as follows:

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

17 Premium Rates for Small Employers. RSA 420-G:4, I is repealed and reenacted to read as follows:

I. Health carriers providing health coverage to individuals and small employers under this chapter shall be subject to the following:

(a) All premiums charged to small employers shall be solely based on a community rating basis and shall be guaranteed for at least 6 months. All premiums charged to individuals shall be solely based on a modified experience rating basis, as detailed in subparagraph I(a)(2) and shall be guaranteed for at least 6 months.

(1) Community rating shall be set by each health carrier as the single average premium computed for each month or quarter for each membership type (including single, 2 person, and family) with no modification for gender, geographical location, occupation, health status, individual and/or group claims experience or duration of health coverage, except as provided in subparagraph I(a)(2) for individual coverage.

(2) Health carriers providing coverage to individuals may modify such average premium as established pursuant to subparagraph I(a)(1) for age, health status, and tobacco use only in accordance with the following limitations:

(A) The maximum premium differential for age as determined by ratio shall be 4 to 1. The limitation shall not apply for determining rates for an attained age of less than 19.

(B) The maximum differential due to health status shall be 1.5 to 1 and the maximum differential rate due to tobacco use shall be 1.5 to 1. Rate limitations based on health status do not apply to rate variations based on an insured's status as a tobacco user.

(C) Permissible rating characteristics shall not include changes in health status after issue.

(3) Health carriers providing coverage to small employers under this chapter may modify such average premium as established pursuant to subparagraph I(a)(1) only in accordance with the following limitations:

(A) The maximum premium differential for age as determined by ratio shall be 3 to 1 beginning with age 19.

(B) Health carriers modifying such average premium for age may do so only by using the following age brackets:

0 - 18
 19 - 24
 25 - 29
 30 - 34
 35 - 39
 40 - 44
 45 - 49
 50 - 54
 55 - 59
 60 - 64
 65 +

(C) Carriers may use group size as a rating factor; however, the highest factor based on group size shall not exceed the lowest factor based on group size by more than 20 percent.

(b) Upon the renewal of an individual or small employer policy a health carrier is prohibited from increasing the premium rate by more than 25 percent of the rate which applied in the preceding year. Such rate increase limitation shall not include any premium rate increase which is based on a health carrier's annual cost and utilization trends; changes in the number of covered members in the group; or changes in group composition due to members moving to a different age bracket. This subparagraph shall expire on January 1, 2000.

(c) The same rating methodology shall apply to newly covered individuals and to individuals renewing at each annual renewal date, or to new small employers and small employers renewing at each annual renewal date or anniversary date. There shall be no adjustments in the form of new group discounts, rebates, experience, or tier or durational factors or any other factor which affects a small employer's rate, nor shall there be such adjustments to an individual's rates, with the exception of the consideration of health status as permitted under modified experience rating. Rating methodology shall not be construed to include health carrier incentives to individual subscribers or members to participate in wellness and fitness programs provided such incentives are approved by the insurance department.

(d) The commissioner shall not approve any filing if such filing is excessive, inadequate or contrary to the intent of this chapter.

18 Medical Underwriting. RSA 420-G:5 is repealed and reenacted to read as follows:

420-G:5 Medical Underwriting.

I. Health carriers providing health coverage for small employer groups shall not:

(a) Perform medical underwriting, including the use of group health statements or screenings or the use of prior individual or group claims history to establish or modify premium rates.

(b) Make any adjustments to the community rate due to any past, current, or anticipated medical condition.

(c) Make any inquiry about applicant's avocations, hobbies, or other activities.

(d) Require attending physician statements, questionnaires or any investigations or reviews regarding health status, health history or family health status.

(e) Knowingly provide health coverage to groups where medical underwriting has been performed by the employer or anyone acting on the group's behalf.

II. Health carriers providing health coverage for individuals may perform medical underwriting, including the use of individual health statements or screenings or the use of prior individual claims history, to the extent necessary to establish or modify premium rates, only as provided in RSA 420-G:4. Such underwriting may be limited to the use of a standardized health statement for use in adjustments to rating pursuant to RSA 420-G:4. The commissioner may, by rule, require carriers to use a standardized health statement.

III. Health carriers shall not:

(a) Offer riders or endorsements which provide for medical underwriting or offer incentives to individuals or small employers to provide medical information.

(b) Offer riders or endorsements to exclude certain illnesses or health conditions in order to avoid the purpose of this chapter.

IV. Individual health insurance carriers shall be responsible for ascertaining the eligibility of any individual applicant or insured for high risk pool coverage. If a carrier determines that an individual meets any of the eligibility criteria set forth in RSA 404-G:5-e, the carrier shall give the individual written notice, with the declination of coverage, the coverage offering or upon a rate increase at renewal. The notice shall include information about available benefits and exclusions of high risk pool coverage and the name, address, and telephone number of the pool administrator or the administrator's designee.

V. It shall constitute an unfair trade practice under RSA 417 for an insurer, insurance producer, or third party administrator to refer an individual employee to the pool, or arrange for an individual employee to apply to the pool, for the purpose of separating that employee from group health insurance coverage provided in connection with the employee's employment.

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

420-G:10 Qualified Association Trust. A qualified association trust or other entity, as defined in RSA 420-G:2, XV, shall:

I. Use the community rating methodology outlined in RSA 420-G:4 for all small employer members with 100 or fewer employees based upon the associations group experience;

II. Offer all eligible members, as defined under the applicable trust or other documents, coverage and rate on a guaranteed issue and renewability basis;

III. Comply with the prohibitions concerning medical underwriting contained in RSA 420-G:5; and

IV. Comply with the preexisting conditions provision of RSA 420-G:7.

20 Commissioner's Requested Information. RSA 420-G:14-a is repealed and reenacted to read as follows:

420-G:14-a Requested Information. As authorized in accordance with RSA 420-G:14, the commissioner may request the submission of such information by carriers as is necessary to better understand the coverage history and choices of participants in the nongroup market. The commissioner shall make every attempt to ensure the reasonableness of such request, both in terms of scope and timeframe, and to limit this request to information the commissioner deems necessary to better understand the dynamics of the nongroup health insurance market and to assess the appropriateness of alternative sources of funding for the nongroup subsidy.

21 Preexisting Condition Exclusion Periods. RSA 420-G:7, I(a) is repealed and reenacted to read as follows:

(a) No preexisting condition exclusion shall extend beyond a period of 3 consecutive months while the person's health coverage is in force and during which the person incurred no medical treatment expenses in connection with the preexisting condition, or beyond 6 consecutive months while the person has been continuously covered and actively at work full-time, or beyond 12 months after the effective date of the person's health coverage; and

22 Preexisting Condition Exclusion Periods. RSA 420-G:7, II(a) is repealed and reenacted to read as follows:

(a) No preexisting condition exclusion period shall extend beyond a period of 3 consecutive months ending while the individual's or covered person's health coverage is in force and during which the individual incurred no medical care treatment expenses in connection with the preexisting condition, or beyond 9 months following the effective date of the person's health coverage.

23 New Subparagraph; Medical underwriting. Amend RSA 420-G:8, I by inserting after subparagraph (c) the following new subparagraph:

(d) A health carrier shall not use medical underwriting questionnaires or health statements for any small employer employees or dependents eligible for enrollment.

24 Repeal. The following are repealed:

I. RSA 420-G:2, IX-a, relative to the definition of "health coverage plan rate."

II. RSA 420-G:14-c, relative to the legislative oversight committee.

III. 2003, 188:18, II, III, and IV, relative to certain prospective repeals.

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

2004-0787s

AMENDED ANALYSIS

This bill makes certain technical changes in the insurance laws, including but not limited to:

I. Extending the denial of coverage, with certain minimum financial exceptions, to any insured motor vehicle operator whose driver's license has been suspended or revoked.

II. Requiring that physicians conducting internal and external reviews have credentials and licensure for the specific health problem outlined in the grievance.

III. Reducing the pre-existing condition exemption from 12 months to 9 months in accordance with federal law.

IV. Changing the name of the assistant commissioner of insurance to the director of operations.

This bill also repeals the provisions of 2003, 188 (SB 110), which revised the laws relative to small group health insurance. The bill changes the definition of small group employers to employers with 1-100 employees.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Estabrook.

The following Senators voted Yes: Gallus, Below, Foster, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

Yeas: 8 - Nays: 15

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE FROM THE TABLE

Senator Gatsas moved to have **SB 419** taken of the table.

Adopted.

SB 419, relative to the use of standardized health statements.

Question is on the motion of ought to pass.

Senator Gatsas offered a floor amendment.

Sen. Gallus, Dist. 1
Sen. Johnson, Dist. 2
Sen. Kenney, Dist. 3
Sen. Green, Dist 6
Sen. Flanders, Dist. 7
Sen. Odell, Dist 8
Sen. Roberge, Dist. 9
Sen. Eaton, Dist. 10
Sen. Peterson, Dist. 11
Sen. O'Hearn, Dist. 12
Sen. Clegg, Dist. 14
Sen. Gatsas, Dist. 16
Sen. Barnes, Dist. 17
Sen. Martel, Dist. 18
Sen. Sapareto, Dist. 19
Sen. Morse, Dist. 22
Sen. Prescott, Dist. 23
March 11, 2004
2004-0818s
09/10

Floor Amendment to SB 419

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

AN ACT relative to the use of standardized health statements and relative to renewals of certain policies.

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

2 New Paragraph; Medical Underwriting; Standardized Health Statements. Amend RSA 420-G:5 by inserting after paragraph VI the following new paragraph:

VII. Health carriers and health insurance producers shall ensure that persons seeking coverage through a small employer group who are required to complete a health statement have an option to convey the required information directly to the carrier or the producer through a secure means and bypassing the employer.

3 Maximum Small Group Renewal Increases. Amend RSA 420-G:4, I(e)(7) to read as follows:

(7) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the *total* premium rate by more than 25 percent of the rate that was charged in the preceding year *including trend or, if the policy has been in force for longer than one year, by more than 50 percent of the rate including trend that was charged by that carrier in the year prior to the year immediately preceding renewal*. [~~Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends or changes in the rating factor for attained age of covered persons.~~]

4 Repeal. RSA 420-G:4, I(e)(7), relative to premium rate, is repealed.

5 Effective Date.

I. Section 4 of this act shall take effect January 1, 2006.

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

AMENDED ANALYSIS

This bill clarifies when standardized health statements are to be used for medical underwriting.

This bill also clarifies premium rates for renewals of small employer policies.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 429, relative to state and municipal contracting practices for public works. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-2. Senator Kenney for the committee.

Senate Executive Departments and Administration

March 4, 2004

2004-0710s

05/09

Amendment to SB 429

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

1 New Section; Department of Administrative Services; Contracting Practices for Public Works. Amend RSA 21-I by inserting after section 14-b the following new section:

21-I:14-c Contracting Practices for Public Works. The state of New Hampshire, its agencies, municipalities, and instrumentalities thereof, when engaged in procuring products for public works projects or services for public works projects, or contracting for the manufacture of public works, shall ensure that bid specifications, project agreements, or other controlling documents required or subject to the approval of the agency, municipality, or instrumentality, do not restrict any bidder, contractor, or subcontractor based on union affiliation, the furnishing of certain employee fringe benefits, apprenticeship programs except as required by RSA 319-C and RSA 329-A, compliance with a hiring plan unless required by the acceptance of federal funds, or public display of personal wage or benefits information. This section shall not apply to projects that do not use state or federal funds.

2 Repeal. RSA 21-I:14-c, relative to contracting practices for public works, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect June 1, 2006.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Kenney.

Seconded by Senator Barnes.

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

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

Yeas: 13 - Nays: 10

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Gatsas, having voted with the prevailing side, moved reconsideration on **SB 419** whereby it was ordered to third reading.

Adopted.

SB 419, relative to the use of standardized health statements.

Senator Gatsas offered a floor amendment.

Sen. Gallus, Dist. 1
 Sen. Johnson, Dist. 2
 Sen. Kenney, Dist. 3
 Sen. Green, Dist. 6
 Sen. Flanders, Dist. 7
 Sen. Odell, Dist. 8
 Sen. Roberge, Dist. 9
 Sen. Eaton, Dist. 10
 Sen. Peterson, Dist. 11
 Sen. O'Hearn, Dist. 12
 Sen. Clegg, Dist. 14
 Sen. Gatsas, Dist. 16
 Sen. Barnes, Dist. 17
 Sen. Martel, Dist. 18
 Sen. Sapareto, Dist. 19
 Sen. Morse, Dist. 22
 Sen. Prescott, Dist. 23
 March 11, 2004
 2004-0821s
 09/01

Floor Amendment to SB 419

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

AN ACT relative to the use of standardized health statements and relative to renewals of certain policies.

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

2 New Paragraph; Medical Underwriting; Standardized Health Statements. Amend RSA 420-G:5 by inserting after paragraph VI the following new paragraph:

VII. Health carriers and health insurance producers shall ensure that persons seeking coverage through a small employer group who are required to complete a health statement have an option to convey the required information directly to the carrier or the producer through a secure means and bypassing the employer.

3 Maximum Small Group Renewal Increases. Amend RSA 420-G:4, I(e)(7) to read as follows:

(7) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the **total** premium rate by more than 25 percent of the rate that was charged in the preceding year **including utilization trend or, if the policy has been in force for longer than one year, by more than 50 percent of the rate including utilization trend that was charged by that carrier in the year prior to the year immediately preceding renewal.** [Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends or changes in the rating factor for attained age of covered persons.]

4 Repeal. RSA 420-G:4, I(e)(7), relative to premium rate, is repealed.

5 Effective Date.

I. Section 4 of this act shall take effect January 1, 2006.

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

2004-0821s

AMENDED ANALYSIS

This bill clarifies when standardized health statements are to be used for medical underwriting.

This bill also clarifies premium rates for renewals of small employer policies.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Gatsas.

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

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 302-FN-L, making technical corrections to the education funding formula. Finance Committee. Ought to pass with amendment, Vote 4-3. Senator Gatsas for the committee.

Senate Finance

March 3, 2004

2004-0652s

04/09

Amendment to SB 302-FN-LOCAL

Amend the bill by deleting section 8 and renumbering the original sections 9-15 to read as 8-14, respectively.

Amend the bill by replacing sections 13-14 with the following:

13 Repeal. Section 12 of this act, relative to total state aid for education for the 2005 fiscal year, is repealed.

14 Effective Date.

I. Sections 1 and 13 of this act shall take effect July 1, 2005.

II. The remainder of this act shall take effect July 1, 2004 at 12:01 a.m.

MOTION TO TABLE

Senator Gatsas moved to have **SB 302-FN-L**, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 302-FN-L, making technical corrections to the education funding formula.

SB 335, relative to access to birth records. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 5-0. Senator O'Hearn for the committee.

Public Institutions, Health and Human Services

March 2, 2004

2004-0643s

05/10

Amendment to SB 335

Amend RSA 5-C:16, I as inserted by section 1 of the bill by replacing it with the following:

I. Upon written application by an adult adoptee, who was born in this state on or after January 1, 2005, and who has had an original birth certificate removed from vital statistics records due to an adoption, the registrar shall issue to such applicant a non-certified copy of the unaltered, original certificate of birth of the adoptee, with procedures and filing fees identical to those imposed upon non-adopted citizens of the state, except as otherwise provided in this paragraph. There shall be a 15-day waiting period between the date of application and the date of issuance of the original birth certificate, during which time the registrar shall make a good faith effort to notify the birth parent of the request.

Amend RSA 170-B:19, II as inserted by section 2 of the bill by replacing it with the following:

II. All papers and records, [including] ~~excluding~~ original birth certificates of adoptees born on or after January 1, 2005 but including birth certificates of adoptees born before January 1, 2005, pertaining to the adoption, whether part of the permanent record of the court or of a file in the division, in an agency or office of the town clerk or the division of vital records administration are subject to inspection only upon written consent of the court for good cause shown, except as otherwise provided in this section. ***Except as provided in paragraph V,*** upon the request of an ***adult*** adoptee ~~[over 21 years of age]~~, or a ~~[natural]~~ ***birth*** parent of an ***adult*** adoptee ~~[over 21 years of age]~~, for information concerning the ***adult*** adoptee or ~~[natural]~~ ***birth*** parent, the court shall refer the ***adult*** adoptee or ~~[natural]~~ ***birth*** parent to the child-placing agency which completed the investigation required under RSA 170-B:14.

Amend RSA 170-B:19, V as inserted by section 2 of the bill by replacing it with the following:

V. Upon written application by an adult adoptee who was born in this state on or after January 1, 2005, and who has had an original birth certificate removed from vital statistics records due to an adoption, the registrar shall issue to such applicant a non-certified copy of the unaltered, original certificate of birth of the adoptee, as provided in RSA 5-C:16.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 4-5, respectively:

3 New Paragraph; Vital Records Administration; Penalties. Amend RSA 5-C:21 by inserting after paragraph IV the following new paragraph:

V. A person shall be guilty of a misdemeanor if he or she knowingly contacts a birth parent in violation of a contact preference form filed pursuant to RSA 5-C:16.

Amendment failed.

Question is on the motion of ought to pass.

A division vote was requested.

Yeas: 12 - Nays: 11

Adopted.

Ordered to third reading.

SB 427, relative to the definition of marriage. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 4-1. Senator Martel for the committee.

Question is on the motion of ought to pass.

A roll call was requested by Senator Prescott.

Seconded by Senator Barnes.

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

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

Yeas: 16 - Nays: 7

Adopted.

Ordered to third reading.

SB 434, relative to importing prescription drugs from Canada. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 5-0. Senator Martel for the committee.

Public Institutions, Health and Human Services

March 3, 2004

2004-0664s

01/09

Amendment to SB 434

Amend RSA 21-I:14-c as inserted by section 1 of the bill by replacing it with the following:

21-I:14-c Program to Import Drugs From Canada Authorized. The commissioner of the department of administrative services may establish a program to import prescription drugs, which have been approved by the Canadian government for use by Canadian citizens, from Canada for state residents, including drugs for the Medicaid program, if such program is consistent with federal law. The commissioner of the department of administrative services may adopt rules, pursuant to RSA 541-A, relative to the proper disbursement of the drugs and other matters relative to the proper administration of this section.

Amendment adopted.

Senator Martel offered a floor amendment.

Sen. Martel, Dist. 18

March 9, 2004

2004-0756s

01/05

Floor Amendment to SB 434

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

1 Statement of Purpose. The general court hereby acknowledges its responsibility, and the responsibility of all elected officers, to uphold state and federal law and to protect the health and safety of citizens. The general court recognizes that federal law restricting the importation of foreign drugs preempts state law and prohibits the importation of drugs by anyone other than the original manufacturer in full compliance with an approved NDA (New Drug Application) or ANDA (Amended New Drug Application). The general court further recognizes that the health and safety of citizens may be at risk if foreign drugs are imported by individuals or state or local governments since neither the United States Food and Drug Administration nor the Canadian government will guarantee the safety of such drugs, and since many such drugs are imported via the Internet in which case the point of origin, manufacturing method, and means of storage and transportation are unknown. Finally, the general court recognizes that some individuals or state or local governments will continue to consider the importation of foreign drugs in an effort to reduce prescription drug expenditures. Therefore, the general court hereby requires the following to occur: that the purchasing, facilitating, distributing, and/or coordinating of the importation of foreign drugs shall be in accordance with federal law; and that information shall be available to citizens about the risks and benefits of importation of foreign drugs either by travel to a foreign country or by mail or Internet ordering.

2 New Sections; Program to Import Drugs From Canada. Amend RSA 126-A by inserting after section 4-a the following new sections:

126-A:4-b Program to Import Drugs From Canada Authorized.

I. The commissioner may establish a program to import prescription drugs from Canada for state residents, including drugs for the Medicaid program, if such program is consistent with federal law. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the proper disbursement of the drugs and other matters relative to the proper administration of this section.

II. Purchasing, facilitating, distributing, and/or coordinating of the importation of foreign drugs shall be in accordance with Section 1121, entitled "Importation of Prescription Drugs," of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173.

126-A:4-c Information Regarding Importation of Drugs Required. The department shall, within its existing resources, provide information to the citizens of New Hampshire about the risks and benefits of importation of foreign drugs either by travel to a foreign county or by mail or Internet ordering. The department shall include all information in the standardized pamphlet developed pursuant to RSA 318:47-e, and shall post such information on the department's website and any website that indicates the department's endorsement or certification of any foreign pharmacy.

3 New Section; Importation of Foreign Drugs; Information. Amend RSA 318 by inserting after section 47-d the following new section:

318:47-e Pharmacies; Information on Importation of Foreign Drugs.

I. Whenever a pharmacist dispenses a drug pursuant to a prescription, the pharmacist, or designee, shall present to the consumer a standardized pamphlet, developed by the board, in consultation with the department of health and human services, regarding the risks and benefits of importation of foreign drugs either by travel to a foreign country or by mail or Internet ordering.

II. The board, in consultation with the commissioner of the department of health and human services, shall adopt rules, under RSA 541-A, relative to the content, format, and any distribution in addition to the distribution required in paragraph I of any materials required under this section.

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

2004-0756s

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of health and human services to establish a program to import prescription drugs from Canada. This bill also requires the department and pharmacists to provide certain information to consumers regarding the importation of drugs from Canada.

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 333-FN, establishing a unique pupil identification system. Finance Committee. Inexpedient to Legislate, Vote 4-2. Senator D'Allesandro for the committee.

Motion failed.

Senator D'Allesandro moved ought to pass.

Adopted.

Ordered to third reading.

525-FN-A, relative to the deposit of a portion of real estate transfer tax revenue in the land and community heritage investment program trust fund. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Clegg for the committee.

Senate Finance

March 2, 2004

2004-0648s

10/04

Amendment to SB 525-FN-A

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

AN ACT relative to land and community heritage investment program administration.

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

1 Program Administration; Financial Assistance. Amend the introductory paragraph of RSA 227-M:8, III to read as follows:

III. Financial assistance to eligible applicants shall be provided through grants and block grants (grants to another organization for re-granting) **and loans**. Financial assistance may only be expended on eligible resources for the following purposes:

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

2004-0648s

AMENDED ANALYSIS

The bill allows loans to be made to eligible applicants for financial assistance under the land and community heritage investment trust program.

Amendment adopted.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

March 9, 2004

2004-0751s

09/10

Floor Amendment to SB 525-FN-A

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

AN ACT relative to the electricity consumption tax and the land and community heritage investment program.

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

1 Electricity Consumption Tax; Definition of Consumer. Amend RSA 83-E:1, II to read as follows:

II. "Consumer" means any person, including governmental units, receiving electrical energy for:

(a) Consumption in this state and includes any person receiving electrical energy for the use of such person's tenants; **or**

(b) **Consumption or resale out of this state when such electrical energy is generated within New Hampshire.**

2 Electricity Consumption Tax; Definition of Provider. Amend RSA 83-E:1, V to read as follows:

V. "Provider" means any person, including governmental units, distributing, redistributing, or transmitting electrical energy for consumption in this state **or distributing, redistributing, transmitting or generating electrical energy that is generated within New Hampshire for consumption or resale out of this state.** The term does not include persons who redistribute electrical energy solely for the use of their tenants and who are consumers pursuant to RSA 83-E:1, II.

3 Electricity Consumption Tax Revenues; Portion for Land and Community Heritage Investment Trust Fund. Amend RSA 83-E:9, I to read as follows:

I. The commissioner shall collect the taxes imposed under this chapter, interest on tax, additions to tax and penalties imposed, and pay over to the state treasurer the amount of funds collected under this chapter. **Of the funds collected under this chapter annually, the portion attributable to electrical energy generated within New Hampshire for consumption or resale out of state shall be appropriated to and deposited in the land and community heritage investment trust fund and the remainder shall be deposited in the general fund.**

4 Operating Budget Footnote Deleted; Land and Community Heritage Investment Program Trust Fund. Amend 2003, 318.1. 01, 08, 06 to read as follows:

01 GENERAL GOVERNMENT

08 TREASURY DEPARTMENT

06 LCHIP

90 LCHIP	[*]	1,000,000	500,000
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~~[*THE AMOUNTS APPROPRIATED SHALL ONLY BE USED FOR LAND PRESERVATION PURPOSES. LAND PRESERVATION PURPOSES SHALL INCLUDE, BUT NOT BE LIMITED TO, LAND ACQUISITIONS AND LAND EASEMENTS.]~~

TOTAL		1,000,000	500,000
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ESTIMATED SOURCE OF FUNDS FOR
LCHIP

GENERAL FUND	1,000,000	500,000
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TOTAL	1,000,000	500,000
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5 Administrative Fund. Amend RSA 227-M:7-a, I to read as follows:

I. There is established in the office of the state treasurer a fund to be known as the land and community heritage investment program administrative fund into which the state treasurer shall credit any revenue generated pursuant to RSA 261:97-b, I-a. ~~[For the biennium ending June 30, 2005]~~ There shall also be deposited, on a monthly basis, interest income generated on appropriations made to the land and community heritage investment program trust fund pursuant to RSA 227-M:7. The total revenues generated to the administrative fund from these 2 sources for each year ~~[of said biennium]~~ shall not exceed \$335,000.

6 Program Administration; Financial Assistance. Amend the introductory paragraph of RSA 227-M:8, III to read as follows:

III. Financial assistance to eligible applicants shall be provided through grants and block grants (grants to another organization for re-granting) **and loans**. Financial assistance may only be expended on eligible resources for the following purposes:

7 Effective Date. This act shall take effect July 1, 2004.

2004-0751s

AMENDED ANALYSIS

This bill extends the application of the electricity consumption tax to out-of-state consumers of New Hampshire generated electricity and dedicates a portion of tax revenues to the land and community heritage investment trust fund.

The bill deletes a footnote in the operating budget restricting the use of funds appropriated in the land and community heritage investment program trust fund to land preservation purposes.

This bill also permits interest income generated on appropriations made in any biennium to the land and community heritage investment trust fund to be deposited, on a monthly basis, in the land and community heritage investment program administrative fund. The bill also allows loans to be made to eligible applicants for financial assistance under the land and community heritage investment trust program.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Senator Larsen withdrew her request for a roll call.

A division vote was requested.

Yeas: 6 - Nays: 16

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 475, relative to employee leasing companies. Insurance Committee. Interim Study, Vote 2-0. Senator Roberge for the committee.

Committee report of interim study is adopted.

HB 158, allowing the voter to deposit the ballot into the ballot box. Internal Affairs Committee. Inexpedient to Legislate, Vote 3-0. Senator Kenney for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1403, extending the reporting dates of certain study committees. Internal Affairs Committee. Ought to Pass, Vote 4-1. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 453, changing a requirement for tobacco manufacturers not participating in the tobacco Master Settlement Agreement. Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Johnson for the committee.

Interstate Cooperation

March 4, 2004

2004-0698s

09/01

Amendment to SB 453

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

AN ACT establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

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

1 Committee Established. There is established a committee to study the tobacco master settlement agreement revenue stream to the state.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study the current effects of the implementation of the tobacco master settlement agreement as to the revenue that is being allocated to the state on a fiscal year basis. The committee shall research and analyze methods that states are considering and/or implementing to maximize tobacco revenues to the states.

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

5 Report. The committee shall 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.

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

2004-0698s

AMENDED ANALYSIS

This bill establishes a committee to study the tobacco master settlement agreement revenue stream to the state.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 386, relative to the guardian ad litem board and providing for certification of guardians ad litem. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

Senate Judiciary

March 3, 2004

2004-0662s

09/01

Amendment to SB 386

Amend RSA 490-C:4, I(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Adopt ethical standards and standards of practice for certified guardians ad litem.

Amend RSA 490-C:5, I(g) as inserted by section 2 of the bill by replacing it with the following:

(g) The ethical standards and standards of practice for guardians ad litem certified in New Hampshire.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Terms of Appointment; Replacement of Member. Amend RSA 490-C:3, I by inserting after subparagraph (b) the following new subparagraph:

(c) Notwithstanding the provisions of subparagraph (a), any member who is absent from at least 3 consecutive meetings of the board may be replaced by such member's appointing authority.

2004-0662s

AMENDED ANALYSIS

This bill revises the duties and rulemaking authority of the guardian ad litem board and provides for certification of guardians ad litem. The bill also allows the replacement of a board member who is repeatedly absent.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 392, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

Senate Judiciary

March 2, 2004

2004-0634s

04/10

Amendment to SB 392

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

1 Criminal Responsibility; Immaturity. The introductory paragraph of RSA 628:1, II is repealed and reenacted to read as follows:

II. A person may be held criminally responsible for the following offenses if committed when the person is 13 years of age or older but less than 15 years of age, as provided in paragraph III:

2 Criminal Responsibility; Immaturity. Amend RSA 628:1, III to read as follows:

III.(a) If a person is charged prior to his or her 17th birthday for an offense set forth in paragraph II which is alleged to have been committed when such person was 13 years of age ~~[but less than 15 years of age, the provisions of RSA 169-B:24 shall apply]~~ **or older, the person may be held criminally responsible if such person's case is transferred to the superior court under the provisions of RSA 169-B:24.**

(b) If a person is charged after his or her 17th birthday for an offense set forth in paragraph II which is alleged to have been committed when such person was 13 years of age but less than 15 years of age, **and the statute of limitations has not expired, and no juvenile petition based on the acts constituting the offense has been filed**, the provisions of RSA 169-B:24 shall not apply. In such cases, the superior court shall hold a hearing prior to trial to determine, based on a preponderance of the evidence, whether the defendant may be held criminally responsible. In making such determination, the court shall consider, but shall not be limited to, the following criteria:

- (1) The seriousness of the alleged offense to the community;
- (2) The aggressive, violent, premeditated, or willful nature of the alleged offense;
- (3) Whether the alleged offense was committed against persons or property;
- (4) The prosecutorial merit of the charge;
- (5) The sophistication and maturity of the defendant at the time of the alleged offense; and
- (6) The defendant's prior record and prior contacts with law enforcement as of the date of the hearing.

3 Repeal. RSA 169-B:24, V, relative to criminal offenses committed by an individual before the age of 17 which are not charged until after the individual has reached the age of 17, is repealed.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 406, relative to adoption procedures. Judiciary Committee. Ought to Pass, Vote 4-1. Senator Peterson for the committee.

Adopted.

Ordered to third reading.

SB 408, relative to a civil liability exemption for claims resulting from weight gain and obesity. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

SB 452, relative to qualifications of expert witnesses in medical injury actions. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary
March 2, 2004
2004-0641s
01/05

Amendment to SB 452

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

AN ACT relative to testimony of expert witnesses.

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

1 New Sections; Testimony of Expert Witnesses; Disclosure. Amend RSA 516 by inserting after section 29 the following new sections:

516:29-a Testimony of Expert Witnesses.

I. A witness shall not be allowed to offer expert testimony unless the court finds:

- (a) Such testimony is based upon sufficient facts or data;
- (b) Such testimony is the product of reliable principles and methods; and
- (c) The witness has applied the principles and methods reliably to the facts of the case.

II.(a) In evaluating the basis for proffered expert testimony, the court shall consider, if appropriate to the circumstances, whether the expert's opinions were supported by theories or techniques that:

- (1) Have been or can be tested;
- (2) Have been subjected to peer review and publication;
- (3) Have a known or potential rate of error; and
- (4) Are generally accepted in the appropriate scientific literature.

(b) In making its findings, the court may consider other factors specific to the proffered testimony.

516:29-b Disclosure of Expert Testimony.

I. A party shall disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the New Hampshire rules of evidence.

II. Except as otherwise stipulated or directed by the court, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report signed by the witness. The report shall contain a complete statement of :

- (a) All opinions to be expressed and the basis and reasons therefor;
- (b) The data or other information considered by the witness in forming the opinions;
- (c) Any exhibits to be used as a summary of or support for the opinions;
- (d) The qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years;
- (e) The compensation to be paid for the study and testimony; and
- (f) A listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

III. These disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 30 days after the disclosure made by the other party. The parties shall supplement these disclosures when required in accordance with the court's rules.

IV. The deposition of any person who has been identified as an expert whose opinions may be presented at trial, and whose testimony has been the subject of a report under this section, shall not be conducted until after such report has been provided.

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

2004-0641s

AMENDED ANALYSIS

This bill establishes certain requirements for the admissibility of expert testimony.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 455, removing the requirement that district courts be open on Saturdays for arraignments. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

SB 442, relative to manufactured housing installation standards. Public Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Public Affairs

March 3, 2004

2004-0666s

05/10

Amendment to SB 442

Amend RSA 205-D:1, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Provide a fair and effective recourse for consumers relative to installation standards; and provide a dispute resolution program for timely resolution of disputes between manufacturers, retailers, and installers of manufactured houses regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period beginning on the date of installation.

Amend RSA 205-D:1 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraphs:

VI. Provide protection for the consumer against an improperly installed manufactured house.

VII. Provide consumer protection within the provisions of RSA 358-A when a violation of this chapter constitutes an unfair trade practice within the meaning of RSA 358-A.

Amend RSA 205-D:2, VII as inserted by section 1 of the bill by replacing it with the following:

VII. "Installation" means the placement of a manufactured house on a permanent or temporary system. This term includes, but is not limited to, supporting, restraining, blocking, leveling, securing, anchoring and connection of plumbing, heating, cooling, and electrical systems and the multiple or expandable sections of the house. Installation shall include site preparation.

Amend RSA 205-D:3 as inserted by section 1 of the bill by replacing it with the following:

205-D:3 Installation Standards.

I. This chapter shall apply to the installation of all new and relocated manufactured housing that is used as a residential dwelling, except as provided in paragraph II.

II. The following manufactured housing sites are exempt from this chapter; provided that such housing sites are maintained and operated in a safe and sanitary condition:

(a) Sites that are already occupied as of the date of the enactment of this chapter.

(b) Sites for the installation of manufactured housing which provides temporary relief from fire, flood, or other disasters. The site shall be exempt from the provisions of this chapter for a period of one year from the date of the placement of the house.

III. Installers shall have the option of installing manufactured housing in accordance with one of the following standards:

(a) New Hampshire installation standards as developed by the installation standards board.

(b) A design prepared by a registered professional engineer or architect for the site.

(c) The manufacturer's installation instructions, provided that such instructions meet or exceed the New Hampshire installation standards as developed by the installation standards board.

Amend RSA 205-D:4, V as inserted by section 1 of the bill by replacing it with the following:

V. Upon satisfaction that a manufactured house has been installed in compliance with this chapter and the rules promulgated under this chapter, the local enforcement agency, or if there is no local enforcement agency, the state fire marshal or the state fire marshal's designee, shall issue a certificate of compliance. A certificate of occupancy shall be required for occupancy.

VI. Any installer aggrieved under the provisions of this section may file a complaint in accordance with RSA 205-D:5.

Amend the introductory paragraph of RSA 205-D:5 as inserted by section 1 of the bill by replacing it with the following:

205-D:5 Complaints. A consumer, park owner, manufacturer, retailer, or installer of manufactured housing aggrieved or having a dispute regarding the installation of a manufactured house under the provisions of this chapter may file a complaint with the board:

Amend RSA 205-D:5, III as inserted by section 1 of the bill by replacing it with the following:

III. If the board determines that a complaint requires further investigation, it shall be acted upon within 60 days. The board shall establish procedures for expedited hearings on complaints where the circumstances set forth in the complaint warrant it.

Amend RSA 205-D:6 as inserted by section 1 of the bill by replacing it with the following:

205-D:6 Board Established; Members; Terms; Chairperson.

I. There is hereby created an installation standards board consisting of the commissioner of the department of safety or the commissioner's designee and 12 additional members appointed by the commissioner of safety as follows:

(a) Two public members who are not tenants of a manufactured house, owners or operators of a manufactured housing park or in any way associated with the manufactured housing industry.

(b) One installer of manufactured housing, nominated by the New Hampshire Manufactured Housing Association.

(c) One structural engineer or architect licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.

(d) One dealer or retailer, nominated by the New Hampshire Manufactured Housing Association.

(e) One owner or operator of a manufactured housing park with 40 or fewer lots, nominated by the New Hampshire Manufactured Housing Association.

(f) One owner or operator of a manufactured housing park with more than 40 lots, nominated by the New Hampshire Manufactured Housing Association.

(g) One member of a cooperative manufactured housing park, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

(h) One municipal building code official, nominated by the New Hampshire Building Officials Association.

(i) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

(j) One civil engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.

(k) One homeowner of a manufactured house, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

II. Each person shall serve for a 3-year term and until a successor is appointed and qualified; provided, however, that the initial appointments shall be as follows:

(a) Members appointed pursuant to subparagraphs I(b), (d), (k), and (f) shall serve 3-year terms.

(b) Members appointed pursuant to subparagraphs I(c), (h), (e), and (i) shall serve 2-year terms.

(c) Members appointed pursuant to subparagraphs I(a), (j), and (g) shall serve one-year terms.

III. At the initial organizational meeting of the board, the commissioner of the department of safety shall appoint a chairperson from among the members.

IV. If there is a vacancy on the board, the provisions of RSA 21:33-a and RSA 21:34 shall apply to the public member, as well as to the members appointed pursuant to subparagraphs I(b) through (k).

V. The board shall hold meetings every 90 days and may meet more frequently as deemed necessary by the board or the chairperson.

VI. The board shall operate as a unit of the department of safety.

Amend the introductory paragraph of RSA 205-D:8 as inserted by section 1 of the bill by replacing it with the following:

205-D:8 Qualifications for License. The board shall issue a license to any applicant who at a minimum:

Amend RSA 205-D:11 as inserted by section 1 of the bill by replacing it with the following:

205-D:11 Fees. The board shall establish fees for licensure and for renewal of licensure to practice under this chapter. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. The board shall establish fees for the first year of its operation based upon its estimate of expenses necessary to carry out the provisions of this chapter during that fiscal year. The comptroller is authorized upon request of the department of safety to establish necessary budgetary components and operating accounts in the department of safety and to transfer revenues received from the fees in this section and in RSA 205-D:10 to the department of safety to carry out the responsibilities of the board.

Amend RSA 205-D:13 as inserted by section 1 of the bill by replacing it with the following:

205-D:13 Hearings. The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board. A hearing shall be held on all written complaints received by the board within 90 days of the date that notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

Amend RSA 205-D:14 as inserted by section 1 of the bill by replacing it with the following:

205-D:14 Penalty. Any person acting as an installer without a license, or violating any of the provisions of this chapter, shall be guilty of a class B misdemeanor.

Amend RSA 205-D:16 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. This chapter shall not apply to students engaged in a high school vocational program under the supervision of a licensed installer or as otherwise allowed by the board in its rules.

Amend RSA 205-D:18 as inserted by section 1 of the bill by inserting after paragraph IX the following new paragraph:

X. The establishment of a program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured housing regarding responsibility, for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period following the date of installation.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 531, permitting the state veterans' advisory committee to adopt bylaws. Public Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Public Affairs
March 3, 2004
2004-0673s
05/04

Amendment to SB 531

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

AN ACT permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit.

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

2 New Paragraph; Veterans' Tax Credit; Definitions; Theater of Operations Service Medal. Amend RSA 72:29 by inserting after paragraph VI the following new paragraph:

VII. The term "theater of operations service medal" for the purposes of RSA 72:28-34 shall mean any medal, ribbon, or badge awarded to a member of the armed forces which establishes that the member served in a theater of war or armed conflict. The department of revenue administration shall consult with the state veterans council in determining which medals, ribbons, or badges prove service in a theater of war or armed conflict.

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

2004-0673s

AMENDED ANALYSIS

This bill authorizes the state veterans' advisory committee to adopt bylaws governing the management and operation of the committee. The bill also defines "theater of operations service medal" for purposes of the veterans' tax credit.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1160, relative to the membership of the board of professional geologists. Public Affairs Committee. Ought to Pass, Vote 3-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

SB 349, relative to criteria for trail construction on state-owned property for all-terrain vehicles and trail bikes. Transportation Committee. Interim Study, Vote 3-2. Senator Kenney for the committee.

Committee report of interim study is adopted.

HB 1260, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge. Transportation Committee. Ought to Pass, Vote 5-0. Senator Below for the committee.

Adopted.

Ordered to third reading.

HB 1325-FN-A, relative to additional uses of the E-Z Pass system. Transportation Committee. Ought to Pass, Vote 5-0. Senator Kenney for the committee.

Adopted.

Ordered to third reading.

HB 459, relative to the taxation of manufactured housing. Ways and Means Committee. Ought to Pass, Vote 4-1. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

HB 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Ways and Means

March 4, 2004

2004-0690s

04/10

Amendment to HB 1254-FN

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

AN ACT relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Paragraph; Liquor Commission; Appropriation for Construction of Nashua Store; Provisions for Keene Store and Nashua Stores. Amend 2003, 319:180 by inserting after paragraph III the following new paragraph:

IV. The liquor commission is hereby authorized to expend funds for the purpose of leasing new locations in Bedford and Seabrook from the amount appropriated in paragraph I. Such appropriations shall not exceed \$110,000 in the 2004 fiscal year and \$170,000 in the 2005 fiscal year for the Seabrook store. Such appropriations shall not exceed \$120,000 in the 2004 fiscal year and \$260,000 for the 2005 fiscal year for the Bedford store.

2004-0690s

AMENDED ANALYSIS

This bill adds the postsecondary education vocational school licensing fund to the list of dedicated funds in RSA 6:12 and amends the language in RSA 6:12 to reflect the new forgivable loan fund in the workforce incentive program. This bill also authorizes the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1370, establishing a committee to study property tax relief. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator Odell for the committee

Senate Ways and Means

March 4, 2004

2004-0699s

10/03

Amendment to HB 1370

Amend subparagraph I(b) of section 2 of the bill by replacing it with the following:

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 517, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions. Wildlife and Recreation Committee. Ought to Pass, Vote 3-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 3-0. Senator Gallus for the committee.

Wildlife and Recreation
March 4, 2004
2004-0679s
10/04

Amendment to HB 736

Amend RSA 206:4-b as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Nothing in this section shall prohibit a commissioner from forwarding a citizen complaint or commendation relative to a classified employee to the executive director and the chairman of the commission.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Gatsas moved to have **SB 450-FN** taken off the table.

Adopted.

SB 450-FN, relative to pari-mutuel licenses.

Question is on the adoption of the committee amendment (0536).

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16
March 9, 2004
2004-0759s
08/09

Floor Amendment to SB 450-FN

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 6:

4 New Section; Trainer as Insurer. Amend RSA 284 by inserting after section 38 the following new section:
284:38-a Trainer as Insurer.

I. The trainer of record shall be responsible for and shall be the insurer of the condition of any kind of horses or dogs used for the purposes of racing, which such trainer of record enters to race. For purposes of this section, trainer of record means the person registered and identified as trainer of such horse or dog used for the purpose of racing in the records of the pari-mutuel commission.

II. The pari-mutuel commission, through its judges or stewards, may impose sanctions or penalties upon the trainer of record resulting from the condition of the horse or dog entered in a race failing to comply with the rules of the commission. Any person aggrieved by a decision by the commission, shall have the right to appeal the decision to the full commission. Any appeal to the commission shall be in accordance with RSA 284:13.

5 New Paragraph; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Sanctions and penalties imposed on the trainer of record provided in RSA 284:38-a.

2004-0759s

AMENDED ANALYSIS

This bill eliminates the restriction on one pari-mutuel licensee from holding more than one license.

This bill extends the time frame in which licensees may sell pari-mutuel pools.

This bill also makes trainers of horses and dogs responsible for the condition of horses and dogs under their control when used for racing.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 333-FN, establishing a unique pupil identification system.

SB 335, relative to access to birth records.

SB 347-FN, relative to financial responsibility and conduct after an OHRV accident.

SB 356, relative to the powers and duties of the community development finance authority.

SB 361-FN-A, relative to fees of the postsecondary education commission for preserving certain academic records.

SB 368, relative to reinsurance.

SB 370, relative to the insurance rating law.

SB 371, relative to certain technical changes in the insurance laws.

SB 382-FN-L, relative to medical service rates for state prisoners.

SB 384-FN, relative to drugs paid for by the state.

SB 386, relative to the guardian ad litem board and providing for certification of guardians ad litem.

SB 392, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.

SB 399-FN, relative to the sale of animals.

SB 406, relative to adoption procedures.

SB 408, relative to a civil liability exemption for claims resulting from weight gain and obesity.

SB 413-FN, relative to financing federally aided highway projects.

SB 419, relative to the use of standardized health statements and relative to renewals of certain policies.

SB 427, relative to the definition of marriage.

SB 429, relative to state and municipal contracting practices for public works.

SB 434, relative to importing prescription drugs from Canada.

SB 438, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.

SB 442, relative to manufactured housing installation standards.

SB 443, relative to rural electric cooperatives.

SB 450-FN, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

SB 452, relative to testimony of expert witnesses.

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

SB 455, removing the requirement that district courts be open on Saturdays for arraignments.

SB 490-FN, relative to the Help America Vote Act.

SB 504-FN, relative to disbursements from the alcohol abuse prevention and treatment fund.

SB 508-FN, relative to grant-funded programs.

SB 517, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions.

SB 525-FN-A, relative to land and community heritage investment program administration.

SB 531, permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit.

HB 72, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food.

HB 459, relative to the taxation of manufactured housing.

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners.

HB 1141, relative to dioxin emissions reduction and medical waste incinerators.

HB 1154, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court.

HB 1160, relative to the membership of the board of professional geologists.

HB 1248-FN, relative to the state board of nursing.

HB 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

HB 1260, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge.

HB 1325-FN-A, relative to additional uses of the E-Z Pass system.

HB 1370, establishing a committee to study property tax relief.

HB 1403, extending the reporting dates of certain study committees.

ANNOUNCEMENTS

RESOLUTION

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

Adopted.

In recess to the Call of the Chair.