

# STATE OF NEW HAMPSHIRE

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## SENATE JOURNAL 8 (*Cont.*)



*March 11, 2004*

### Out of Recess.

### HOUSE MESSAGE

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

**HB 369**, relative to the Henniker and Hillsborough district courts.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

**HB 1130**, relative to certain insurance agents.

**HB 1131**, establishing a committee to study exotic aquatic weeds and species.

**HB 1133**, relative to disclosures required prior to a condominium sale.

**HB 1136**, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

**HB 1138**, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

**HB 1161**, relative to solicitation and marketing of insurance products.

**HB 1172-L**, relative to compensation of county convention members for county business.

**HB 1210**, relative to self-service storage facility liens.

**HB 1224**, establishing the Uniform Trust Code in New Hampshire.

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program.

**HB 1228**, relative to changes to the uniform fine schedule.

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts.

**HB 1266**, relative to the long-term care ombudsman.

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

**HB 1293**, relative to emission control equipment for certain vehicles.

**HB 1295**, relative to certain court records.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

**HB 1301**, relative to extensions to the intent to cut.

### INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill(s) numbered **369-1301** 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 369**, relative to the Henniker and Hillsborough district courts. (Judiciary)

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. (Insurance)

**HB 1130**, relative to certain insurance agents. (Insurance)

**HB 1131**, establishing a committee to study exotic aquatic weeds and species. (Environment)

**HB 1133**, relative to disclosures required prior to a condominium sale. (Public Affairs)

**HB 1136**, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist. (Environment)

**HB 1138**, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases. (Wildlife and Recreation)

**HB 1161**, relative to solicitation and marketing of insurance products. (Insurance)

**HB 1172-L**, relative to compensation of county convention members for county business. (Public Affairs)

**HB 1210**, relative to self-service storage facility liens. (Public Affairs)

**HB 1224**, establishing the Uniform Trust Code in New Hampshire. (Judiciary)

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program. (Public Affairs)

**HB 1228**, relative to changes to the uniform fine schedule. (Finance)

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts. (Environment)

**HB 1266**, relative to the long-term care ombudsman. (Public Institutions, Health and Human Services)

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star. (Transportation)

**HB 1293**, relative to emission control equipment for certain vehicles. (Transportation)

**HB 1295**, relative to certain court records. (Judiciary)

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. (Executive Departments and Administration)

**HB 1301**, relative to extensions to the intent to cut. (Energy & Economic Development)

**REPORT OF COMMITTEE ON ENROLLED BILL**

**The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:**

**HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities.

Senator D'Allesandro moved adoption.

**Adopted.**

**LATE SESSION**

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

**Adopted.**

**Adjournment.**

# SENATE JOURNAL 9

***March 17, 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.

*Gracious God, kind and loving, remind us on this day of St. Patrick that Your kindness and Your love are directed, not only toward us, but right beyond us as well, to some people we really do not like at all, but that You call us to love and serve anyway.*  
Amen

Senator Roberge led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS MOTION OF RECONSIDERATION

Senator Gatsas, having voted with the prevailing side, moved reconsideration on **SB 450-FN**, relative to pari-mutuel licenses, whereby it was ordered to third reading.

### **Adopted.**

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

March 12, 2004

2004-0829s

08/09

### **Floor Amendment to SB 450-FN**

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

AN ACT relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

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

1 Pari-mutuel Licensing. Amend RSA 284:16-a to read as follows:

284:16-a Issuance of Licenses. If the greyhound racing commission is satisfied that all the provisions hereof and the rules and regulations prescribed have been and will be complied with by the applicant and that the financial backing upon which said application is predicated is sound and is committed in support of said application, it may issue a license which shall expire on the thirty-first day of December. ~~[No licensee shall hold more than one license under RSA 284:16 (running or harness horse) while holding a license under this section.]~~ The license shall set forth the name of the licensee, the place where the races or race meets are to be held, and the time and number of days during which racing may be conducted by said licensee. Any license issued shall not be transferable nor assignable. Said commission shall have power to revoke any license for good cause upon reasonable notice and hearing. The commission may at any time for cause require the removal of any employee or official employed by any licensee hereunder. The license of any corporation shall automatically cease upon the change in ownership, legal or equitable, of 50 percent or more of the voting stock of the corporation and the corporation shall not hold a dog race or meet for public exhibition without a new license. Any New Hampshire agricultural fair association certified as such, by the commissioner of agriculture, markets, and food, shall be entitled to one special 6-day license annually to hold a dog race meet.

2 Pari-mutuel Pools; Extension of Termination Date. Amend the introductory paragraph of RSA 284:22 to read as follows:

284:22 Pari-Mutuel Pools. During the calendar years of 1941-~~[2009]~~ **2029**, a licensee under this chapter may sell pari-mutuel pools in accordance with this chapter and rules adopted by the commission. Pari-mutuel pools shall be sold within the enclosure of the racetrack where a licensed race or race meet is held or as provided in RSA 284:22-a, and not elsewhere.

3 Pari-mutuel Pools; Extension of Termination Date. Amend the introductory subparagraph of RSA 284:22-a, II(a) to read as follows:

II.(a) During the calendar years 1941-~~2009~~ **2029**, a licensee may sell pari-mutuel pools on races held at racetracks other than the racetrack at which the licensee conducts its race meet, provided:

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.

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

2004-0829s

#### 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.**

**Senator Boyce is in opposition to the passage of SB 450-FN.**

#### MOTION TO VACATE

Senator Roberge moved to have **HB 1179** vacated from the Public Affairs Committee to the Transportation Committee.

**Adopted.**

**HB 1179 is vacated to the Transportation Committee.**

#### COMMITTEE REPORTS

**SB 421**, relative to charter schools. Education Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Senate Education

March 12, 2004

2004-0826s

04/05

#### Amendment to SB 421

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

1 New Paragraph; Charter Schools; Statement of Purpose. Amend RSA 194-B:1-a by inserting after paragraph VIII the following new paragraph:

IX. Encourage the establishment of charter schools that meet the needs and interests of pupils, parents, school districts, and the state as a whole.

2 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II (f) to read as follows:

(f) Curriculum ***and its relevant research base.***

3 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II (r) to read as follows:

(r) Annual budget, including all sources of funding, ***and a projected budget for the next 2 years.***

4 Charter Schools; Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, II to read as follows:

II. ***(a)*** The proposed charter school application shall be presented for approval directly to the state board of education by the applicant for the prospective charter school. The content of such application shall conform to the requirements set forth in RSA 194-B:3, II(a)-(bb). The department of education shall notify an applicant of any missing information within 10 days of the initial filing. The applicant shall file any missing information before the department reviews the application.

***(b)*** In addition to the requirements of RSA 194-B:3, II, charter school applications submitted directly to the state board of education shall be evaluated, selected, and approved by the state board of education based on criteria to be developed by the state board of education in rules, adopted pursuant to RSA 541-A, which evaluate the applicant's ability to:

***(1)*** Provide a quality educational mission, goals, and program to increase opportunities for learning and access to a quality education for all pupils.

***(2)*** Demonstrate sound financial planning and administration.

***(3)*** Demonstrate that board members and staff have adequate experience in the operation of a school, management of finances, and working on or with boards.

***(4)*** Demonstrate sound curriculum and instructional practices.

***(5)*** Provide an adequate plan to determine pupil expectations and performance beyond participation in the state assessment.

***(6)*** Provide educational leadership to encourage community and parent involvement in pupil learning and school decision making.

***(7)*** Demonstrate evidence of a need for a particular school.

***(8)*** Develop an accountability plan which clarifies expectations for evaluating the school's program.

5 Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, IV to read as follows:

IV. ~~The state board of education shall either approve or deny an application based on the criteria set forth in RSA 194-B:1-a.]~~ Approval of an application constitutes the granting of charter status and the right to operate as a charter school. The state board of education shall notify all applicants of its decision, and shall include in any notice of denial a statement that the applicant may reapply under RSA 194-B:3, RSA 194-B:4, or under this section in a subsequent year.

6 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II (g) to read as follows:

(g) Academic and other learning goals and objectives, ***including an accountability plan which clarifies expectations for evaluating the school's program.***

7 Charter Schools; Authority and Duties of Board of Trustees. Amend the introductory paragraph of RSA 194-B:5, III to read as follows:

III. An established charter school shall be a corporation, ***registered with the secretary of state,*** with authority necessary or desirable to carry out its charter program including, but not limited to, the following:

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

2004-0826s

## AMENDED ANALYSIS

This bill establishes criteria for the evaluation of charter school applications submitted directly to the state board of education and revises the general application requirements for charter schools.

**Amendment adopted.**

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21

March 16, 2004

2004-0853s

04/05

**Floor Amendment to SB 421**

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

1 New Section; School Performance and Accountability; Charter Schools. Amend RSA 193-H by inserting after section 5 the following new section:

193-H:6 Applicability to Charter Schools.

I. The provisions of this chapter, except for RSA 193-H:1, III, shall apply to charter schools established pursuant to RSA 194-B.

II. In this chapter, "school", "school district", or "superintendent" shall include the board of trustees of a charter school and "school budget" or "school district budget" shall include the budget of a charter school.

2 Charter Schools; Charter School Approval by State Board of Education. Amend RSA 194-B:18 to read as follows:

194-B:18 State Board Rulemaking Authority.

(a) The state board shall be authorized to adopt rules, under RSA 541-A, to permit administration of the provisions of this chapter.

***(b) In addition to the provisions of subparagraph (a), charter school applications submitted directly to the state board of education shall be evaluated, selected, and approved by the state board of education based on criteria to be developed by the state board of education in rules, adopted pursuant to RSA 541-A, which evaluate the applicant's ability to:***

***(1) Provide a quality educational mission, goals, and program to increase opportunities for learning and access to a quality education for all pupils.***

***(2) Demonstrate sound financial planning and administration.***

***(3) Demonstrate that board members and staff have adequate experience in the operation of a school, management of finances, and working on or with boards.***

***(4) Demonstrate sound curriculum and instructional practices.***

***(5) Provide an adequate plan to determine pupil expectations and performance beyond participation in the state assessment.***

***(6) Provide educational leadership to encourage community and parent involvement in pupil learning and school decision making.***

***(7) Demonstrate evidence of a need for a particular school.***

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

**Question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Estabrook.**

**Seconded by Senator Cohen.**

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



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

**Yeas: 7 - Nays: 16**

**Floor amendment failed.**

**Question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Gatsas.**

**Seconded by Senator Sapareto.**

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

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**SB 451**, giving degree-granting authority to the Hellenic American University. Education Committee. Ought to pass with amendment, Vote 4-0. Senator O'Hearn for the committee.

Senate Education  
March 10, 2004  
2004-0804s  
08/10

#### **Amendment to SB 451**

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

AN ACT giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.

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

2 St. Joseph's School of Nursing. St. Joseph's School of Nursing, is hereby authorized to confer degrees upon its graduates, subject to the authority of the postsecondary education commission under RSA 188-D:8, IV. The degrees shall be specified by the postsecondary education commission as provided in RSA 292:8-h, III.

2004-0804s

#### **AMENDED ANALYSIS**

This bill gives degree-granting authority to the Hellenic American University.

This bill also give degree-granting authority to the St. Joseph's School of Nursing.

**Amendment adopted.**

Senator O'Hearn offered a floor amendment.

Sen. O'Hearn, Dist. 12  
March 17, 2004  
2004-0864s  
08/03

#### **Floor Amendment to SB 451**

Amend the bill by replacing section 2 with the following:

2 St. Joseph's School of Nursing. St. Joseph's School of Nursing, located in Nashua, New Hampshire, is hereby authorized to confer degrees upon its graduates, subject to the authority of the postsecondary education commission under RSA 188-D:8, IV. The degrees shall be specified by the postsecondary education commission as provided in RSA 292:8-h, III.

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. Education Committee. Ought to pass with amendment, Vote 4-0

Senator Larsen for the committee.

Senate Education

March 12, 2004

2004-0823s

04/05

#### **Amendment to HB 133-LOCAL**

Amend the bill by replacing section 1 with the following:

1 Fall Mountain Regional Cooperative School District; Amendments to Articles of Agreement.

I. Notwithstanding the limitations on review set forth in RSA 195:18, III(i), the Fall Mountain regional cooperative school district articles of agreement relating to the method of apportioning operating expenses under RSA 195:18, III(e), and relating to the method of apportioning capital expenses under RSA 195:18, III(g), may be subject to review pursuant to an article for that purpose duly inserted in the warrant for a district meeting which may be held at any time between the effective date of this act and the 2007 annual school district meeting.

II. Notwithstanding the limitations on review set forth in RSA 195:18, III(i), if the apportionment formula for the Fall Mountain regional cooperative school district has been duly changed, the basis for the apportionment of all such costs may be subject to review pursuant to an article for that purpose duly inserted in the warrant for a district meeting which may be held at any time between the effective date of this act and the 2007 annual school district meeting.

2004-0823s

#### **AMENDED ANALYSIS**

This bill exempts the Fall Mountain regional cooperative school district from the 5-year waiting period required for amending those articles of agreement in a cooperative school district which refer to apportionment of operating expenses and apportionment of capital expenses, and permits such amendments to occur within a specific time period.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 374**, relative to emissions requirements for municipal waste combustion units. Energy and Economic Development Committee. Interim Study, Vote 3-2. Senator Gatsas for the committee.

**Question is on the adoption of the committee report of interim study.**

**A roll call was requested by Senator Below.**

**Seconded by Senator Cohen.**

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

**The following Senators voted No: Below, Green, Flanders, Odell, Foster, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.**

**Yeas: 13 - Nays: 10**

**Committee report of interim study is adopted.**

**SB 433-FN**, requiring the public utilities commission to conduct a comprehensive study of utility rates every 5 years. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-1. Senator Below for the committee.

Energy and Economic Development

March 11, 2004

2004-0812s

09/04

#### **Amendment to SB 433-FN**

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

AN ACT establishing a committee to study utility rate review by the public utilities commission.



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

1 Committee Established. There is established a committee to study utility rate review by the public utilities commission.

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 of representatives.

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 conduct a study of utility rate review procedures and practices by the public utilities commission. The committee shall consider the frequency and scope of desk analyses, field audits, and rate cases conducted by the public utilities commission. The committee shall also examine instituting new reporting requirements on utility rate reviews and the availability of information to the public concerning rate review processes and outcomes. The committee shall also consider potential costs and savings of various options.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 30, 2004.

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

2004-0812s

#### AMENDED ANALYSIS

This bill establishes a committee to study utility rate review by the public utilities commission.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 468**, relative to solid waste management. Environment Committee. Ought to pass with amendment, Vote 3-2. Senator Below for the committee.

Environment  
March 11, 2004  
2004-0822s  
08/10

#### Amendment to SB 468

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

AN ACT relative to tax exemptions for pollution control facilities.

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

1 New Paragraph; Property Taxation; Pollution Control Facilities. Amend RSA 72:12-a by inserting after paragraph I the following new paragraph:

I-a. Except as provided in RSA 72:12-b, the exemption from taxes under paragraph I shall not be granted to privately owned landfills and ancillary facilities, open and closed flares that use fuel waste gases produced by landfills, open and closed flares that burn landfill by-products, and privately owned solid waste incinerators, with the exception of pollution control devices installed on or within incinerators.

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

2004-0822s

## AMENDED ANALYSIS

This bill restricts certain private facilities from receiving tax exemptions for pollution control equipment.

## MOTION TO TABLE

Senator Johnson moved to have **SB 468** laid on the table.

**Adopted**

## LAID ON THE TABLE

**SB 468**, relative to solid waste management.

**SB 524**, relative to the incineration of construction or demolition debris. Environment Committee. Interim Study, Vote 3-2. Senator Johnson for the committee.

**Question is on the committee report of interim study.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Cohen.**

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

**The following Senators voted No: Below, Flanders, Odell, Roberge, Foster, Larsen, Barnes, D'Allesandro, Estabrook, Cohen.**

**Yeas: 13 - Nays: 10**

**Committee report of interim study is adopted.**

**SB 126-FN-A**, exempting certain transfers of title from the real estate transfer tax. Finance Committee. Ought to pass with amendment, Vote 6-2. Senator Green for the committee.

Senate Finance  
March 9, 2004  
2004-0744s  
09/10

## Amendment to SB 126-FN-A

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

AN ACT exempting transfers of title between spouses from the real estate transfer tax.

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

1 Real Estate Transfer Tax; Exceptions; Transfers of Title Between Spouses. Amend RSA 78-B:2, XIII to read as follows:

XIII. To *any transfer of title between spouses, including* a transfer of title between spouses pursuant to final decree of divorce or nullity.

2 Effective Date. This act shall take effect July 1, 2005.

2004-0744s

## AMENDED ANALYSIS

This bill exempts any transfers of title between spouses from the real estate transfer tax.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1363**, establishing a policy for naming state highways, bridges, and buildings. Transportation Committee. Inexpedient to Legislate, Vote 4-1. Senator Kenney for the committee.

**Motion failed.**

**Senator Peterson moved ought to pass.**

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11  
 Sen. Gallus, Dist. 1  
 Sen. Johnson, Dist. 2  
 Sen. Kenney, Dist. 3  
 Sen. Boyce, Dist. 4  
 Sen. Below, Dist. 5  
 Sen. Green, Dist. 6  
 Sen. Flanders, Dist. 7  
 Sen. Odell, Dist. 8  
 Sen. Roberge, Dist. 9  
 Sen. Eaton, Dist. 10  
 Sen. O'Hearn, Dist. 12  
 Sen. Foster, Dist. 13  
 Sen. Clegg, Dist. 14  
 Sen. Larsen, Dist. 15  
 Sen. Gatsas, Dist. 16  
 Sen. Barnes, Dist. 17  
 Sen. Martel, Dist. 18  
 Sen. Sapareto, Dist. 19  
 Sen. D'Allesandro, Dist. 20  
 Sen. Estabrook, Dist. 21  
 Sen. Morse, Dist. 22  
 Sen. Prescott, Dist. 23  
 Sen. Cohen, Dist. 24  
 March 17, 2004  
 2004-0863s  
 05/04

#### **Floor Amendment to HB 1363**

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

AN ACT designating "Goodbye Old Man" as a state song of New Hampshire.

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

1 New Paragraph; State Songs. Amend RSA 3:7 by inserting after paragraph IX the following new paragraph:

X. "Goodbye Old Man" with words and music by Ken Shelton.

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

2004-0863s

#### **AMENDED ANALYSIS**

This bill designates "Goodbye Old Man" by Ken Shelton as a state song of New Hampshire.

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 303-FN**, clarifying the language in the education funding formula. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Clegg for the committee.

Senate Finance  
 March 8, 2004  
 2004-0732s  
 04/09

### **Amendment to SB 303-FN**

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

AN ACT eliminating the business profits tax exemption for qualified investment companies.

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

1 Taxation of Incomes; Who Taxable. Amend RSA 77:3, I(b) to read as follows:

(b) Partnerships, limited liability companies, associations, and trusts, the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds \$2,400 during the taxable year, but not including ~~[a qualified investment company as defined in RSA 77-A:1, XXI, or]~~ a trust comprising a part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

2 Business Profits Tax; Definitions. Amend RSA 77-A:1, I to read as follows:

I. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization; organized for gain or profit, carrying on any business activity within the state, except such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX. Each enterprise under this definition shall be subject to taxation under RSA 77-A:2 as a separate entity, unless specifically authorized by this chapter to be treated otherwise, such as, but not limited to, combined reporting. Trusts treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their owners, and such owners shall be subject to the tax thereon to the extent such owners would be considered a business organization hereunder notwithstanding the existence of the trust. The use of consolidated returns as defined in the United States Internal Revenue Code as defined in RSA 77-A:1, XX is not permitted. ~~Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business organization and shall be excluded from taxation at the entity level if it is a qualified investment company as defined in RSA 77-A:1, XXI that is not taxable under RSA 77-A:2-e.]~~ A partnership, limited liability company, estate, trust except grantor trusts pursuant to section 671 of the United States Internal Revenue Code, "S" corporation, real estate investment trust, or any other such entity, ~~[other than a qualified investment company as defined in RSA 77-A:1, XXI that is not taxable under RSA 77-A:2-e.]~~ whose net income is reportable by the true owners either directly or indirectly shall be subject to tax at the entity level, and no part of such earnings or loss shall be included in the calculation of the gross business profits of the owners of such entity.

3 Business Profits Tax; Definitions. Amend RSA 77-A:1, XII to read as follows:

XII. "Business activity" means a group of actions performed by a business organization for the purpose of earning income or profit from such actions and includes every operation which forms a part of, or a step in, the process of earning income or profit from such group of actions. The actions ordinarily include, but are not limited to, the receipt of money, property, or other items of value and the incurring or payment of expenses. ~~[Notwithstanding any other provision of this paragraph, a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, shall not be deemed to be carrying on any business activity within this state due solely to its holding an ownership interest in such qualified investment company.]~~

4 Business Enterprise Tax; Definitions. Amend RSA 77-E:1, II-III to read as follows:

II. "Business activity" means a transfer of legal or equitable title to or rental of property, whether real, personal or mixed, tangible or intangible, or the performance of services, or a combination thereof, made or engaged in, or caused to be made or engaged in, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit, income, revenue or advantage, whether direct or indirect, to the business enterprise or to others, but shall not include the services rendered by an employee to an employer or services as a director of a corporation. Although an activity of an enterprise may be incidental to another of its business activities, each activity shall be considered to be business engaged in or carried on within the meaning of this chapter. ~~[Notwithstanding any other provision of this paragraph, a holder of an ownership interest in a qualified investment company as defined in RSA 77-E:1, XIV, shall not be deemed to be carrying on any business activity within this state due solely to its holding an ownership interest in such qualified investment company.]~~

III. "Business enterprise" means any profit or nonprofit enterprise or organization, whether corporation, partnership, limited liability company, proprietorship, association, trust, business trust, real estate trust or

other form of organization engaged in or carrying on any business activity within this state, except such enterprises as are expressly made exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent such enterprise does not engage in any business activity constituting unrelated business activity as defined by section 513 of the United States Internal Revenue Code. Each business enterprise under this definition shall be subject to the tax imposed under RSA 77-E as a separate entity except that trusts treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their owners, and such owners shall be subject to the tax thereon to the extent any such owners would be considered a business enterprise hereunder notwithstanding the existence of the trust. The use of consolidated returns as defined in the United States Internal Revenue Code or of combined reporting is not permitted. ~~[Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business enterprise and shall be excluded from taxation at the entity level if it is a qualified investment company as defined in RSA 77-E:1, XIV.]~~

5 Treatment of New Hampshire Investment Trusts; Definitions; New Hampshire Investment Trust; Other Investment Entity. RSA 293-B:2, IV and V are repealed and reenacted to read as follows:

IV.(a) "New Hampshire investment trust" means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as amended;

(2) An organization that is an investment company under the Investment Company Act of 1940 as amended;

(3) An organization that would be an investment company under the Investment Company Act of 1940 as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of the Investment Company Act; or

(4) An investment capital company as defined in paragraph IV-a.

(b) A New Hampshire investment trust shall limit its activities to investment or other activities consistent with its organizational purpose and those incidental to, or in support of, such activities, and provided further that any such exception from investment company status by reason of section 3(c)(7) of the Investment Company Act is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) of the Investment Company Act or any order, regulation, or interpretation thereunder, not to require protection under the provisions of the Investment Company Act by reason or their size, nature, status, or sophistication.

IV-a(a). "Investment capital company" means a business organization that satisfies the following criteria:

(1) The principal purpose of the investment capital company is to provide investment capital to companies through investment in equity and debt securities or interests issued by such companies, including common and preferred stock, indebtedness and convertible securities, to provide such management oversight and business advice to such companies as is reasonably appropriate to protect the investment and to encourage the success of the company and the investment, and to take any and all actions that may become necessary to preserve and protect investments in accordance with the terms of the investment securities.

(2) At least 30 percent of the investment capital company's outstanding equity, capital, and profits interest is owned by at least one person who is not related to the investment company's trustee or trustees.

(b) For purposes of this paragraph, a trustee is related to a person if it owns or controls, directly or indirectly, not including ownership through the investment capital company, more than 25 percent of the voting interests in such person.

V. "Other investment entity" means an out-of-state investment entity which otherwise meets the definition of New Hampshire investment trust.

6 Repeal. The following are repealed:

I. RSA 77:3, II, relative to interest and dividend taxation of qualified investment company income.

II. RSA 77:4, V and VI, relative to interest and dividend taxation of qualified investment company income and qualified investment capital company income.

III. RSA 77:4-f, relative to adjustments for contributions and distributions with respect to qualified investment capital companies.

IV. RSA 77-A:1, XXI, relative to the definition of qualified investment company for the purposes of the business profits tax.

V. RSA 77-A:1, XXIV and XXV, relative to the definition of qualified investment capital company and investment company manager for the purposes of the business profits tax.

VI. RSA 77-A:4, XV, relative to additions and deductions for qualified investment companies concerning business profits tax.

VII. RSA 77-A:4, XVII and XVIII, relative to additions and deductions for qualified investment capital companies concerning business profits tax.

VIII. RSA 77-A:5-b, relative to reporting for qualified investment capital companies.

IX. RSA 77-E:1, XIV, relative to the definition of qualified investment company for the purposes of the business enterprise tax.

7 Applicability. This act shall apply to returns for taxable periods ending after June 30, 2004.

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

2004-0732s

#### AMENDED ANALYSIS

This bill eliminates the tax-exempt status of qualified investment companies and qualified investment capital companies.

#### **Amendment adopted.**

Senator Barnes offered a floor amendment.

Sen. Barnes, Dist. 17

March 12, 2004

2004-0828s

04/10

#### **Floor Amendment to SB 303-FN**

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

AN ACT eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

Amend the bill by inserting after section 5 the following and renumbering the original sections 6-8 to read as 7-9:

6 Legislative Budget Assistant; Department of Revenue Administration; Conduct of Audits. Amend RSA 21-J:14, V(d)(4) to read as follows:

(4) The legislative budget assistant in the performance of his or her duties under RSA ~~[14:31-a, I(a) and (b) only]~~ **14:31-a**, provided that disclosure of department records, files, returns, or information to the legislative budget assistant shall be only for the purpose of, and to the extent necessary for, conducting audits of the department's accounts and records as are required by law as provided in section 6103(d)(2)(A) and (B) of the Internal Revenue Code of 1954, as amended. This exception shall not be construed to authorize disclosure to any member of the legislature or to any expert consultants, including certified public accountants and data processing experts, hired by the legislative budget assistant to assist the legislative budget assistant in the carrying out of his or her duties. ***The legislative budget assistant shall be subject to the same restrictions and penalties regarding disclosure of the information as the department.***

***(A) If the commissioner objects to providing confidential information under the provisions of this subparagraph, the commissioner may apply to the attorney general for disapproval of the request. The attorney general may examine any confidential information to which the legislative budget assistant has requested access to determine whether or not it is necessary for the legislative budget assistant to examine the information to carry out his or her duties as required by law. If the attorney general finds that such examination is not necessary, he or she shall disapprove the request, and the department shall not be required to provide such information. If the commissioner agrees to provide the requested information, or if the attorney general finds it is necessary for the legislative budget assistant to examine the requested information, such information shall be provided to the legislative budget assistant in a mutually agreeable and compatible format.***

***(B) The legislative budget assistant shall not disclose confidential taxpayer information in any detailed report prepared in accordance with RSA 14:31-a. Confidential taxpayer information obtained by the legislative budget assistant shall not be retained in the files of the legislative budget assistant.***



2004-0828s

## AMENDED ANALYSIS

This bill eliminates the tax-exempt status of qualified investment companies and qualified investment capital companies. This bill also allows the legislative budget assistant's audit division to have expanded access to confidential information in the records maintained by the department of revenue administration.

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 376-FN-A**, making an appropriation to the department of health and human services for mental health services. Finance Committee. Ought to pass with amendment, Vote 7-1. Senator Green for the committee.

Senate Finance  
March 9, 2004  
2004-0737s  
03/04

**Amendment to SB 376-FN-A**

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

AN ACT relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

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

1 New Paragraph; Administrative Services; Additional Purchasing Authority; Pharmaceuticals. Amend RSA 21-I:17 by inserting after paragraph II the following new paragraph:

III. The state through the director of plant and property management or any other appropriate purchasing authority may purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital, whenever the governing body thereof so desires and the director or other authority deems that he or she can make such purchases advantageously. Any savings realized from the state's purchase of pharmaceuticals and allied products and services for a receiving facility or nonprofit hospital shall be allocated equally between the state and that receiving facility or nonprofit hospital.

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

2004-0737s

## AMENDED ANALYSIS

This bill authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 411-FN-L**, relative to liability for special education transportation costs. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Below for the committee.

Senate Finance  
March 9, 2004  
2004-0743s  
04/10

**Amendment to SB 411-FN-LOCAL**

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

1 Special Education; Transportation. Amend RSA 186-C:11 to read as follows:

186-C:11 Transportation.

**I.** Each school district shall furnish suitable transportation to all educationally disabled children whose individualized education plan requires such transportation. The school district may board a child near the place where instruction is to be furnished and shall provide transportation if required by the child's individualized education plan from the place where the child is boarded to the place of instruction.

**II. Transportation costs for educationally disabled children shall be paid in accordance with RSA 198, provided that:**

**(a) A school district receiving and expending adequate education grant funds for the transportation of an educationally disabled child shall not apply for reimbursement for those same transportation costs under RSA 186-C:18. However, if an educationally disabled child's individualized education plan is amended resulting in transportation costs which exceed the per pupil adequate education grant amount for the fiscal year for that child, such excess transportation costs shall be eligible for reimbursement under RSA 186-C:18.**

**(b) A school district shall only count costs for educationally disabled children who are transported on a bus or other vehicle specifically designed or designated primarily for the transportation of educationally disabled children, net of any costs incurred for transportation of children without educational disabilities, in the calculation of special education transportation costs. A school district shall count an educationally disabled child transported on a regular school bus in the calculation of regular transportation costs.**

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

2004-0743s

#### AMENDED ANALYSIS

This bill revises the method of calculating transportation costs for educationally disabled children.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 444**, relative to the age at which a person remains under the juvenile court's jurisdiction under RSA 169-B, the juvenile delinquency statute. Finance Committee. Inexpedient to Legislate, Vote 6-1. Senator Green for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 448-FN**, relative to consumer guaranty contracts. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Below for the committee.

Senate Finance

March 9, 2004

2004-0750s

05/03

#### Amendment to SB 448-FN

Amend RSA 415-C:2, II as inserted by section 1 of the bill by replacing it with the following:

II. Consumer guaranty contracts are not insurance and are exempt from this state's insurance laws, except for the provisions of RSA 400-A:16 through RSA 400-A:25 and RSA 400-A:32-c, or as provided by this chapter.

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; Insurance Department; Consumer Guaranty Contracts; Premium Tax. Amend RSA 400-A by inserting after section 32-b the following new section:

400-A:32-c Consumer Guaranty Contracts; Premium Tax.

I. Every obligor of a service guaranty contract registered pursuant to RSA 415-C shall report to the commissioner, on or before March 1 of each year, premiums received during the prior calendar year.

II. The obligor shall annually pay to the insurance commissioner a tax of 2 percent upon premiums collected, as reported in paragraph I.

III. Premium taxes imposed herein shall become payable on or before March 1 of each year and shall be filed with the report required in paragraph I.

IV. If the premium tax is not paid when due, the commissioner may suspend or revoke the obligor's registration to do business in this state.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay. Finance Committee. Ought to Pass, Vote 5-0. Senator Green for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 532-FN**, exempting biodiesel from the road toll. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Odell for the committee.

Senate Finance  
March 9, 2004  
2004-0736s  
03/04

**Amendment to SB 532-FN**

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Road Tolls; Refunds; Biodiesel. Amend RSA 260:47 by inserting after paragraph VI the following new paragraph:

VII. Any distributor that sells or dispenses biodiesel or any blend of biodiesel with petroleum-based diesel fuel, where at least 20 percent of the blend by volume is biodiesel, shall be entitled to apply for a refund for the biodiesel or for the portion of the blend that is biodiesel as provided in this section.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Boyce is in opposition to the motion of ought to pass as amended on SB 532-FN.**

**SB 389**, relative to health carrier and provider contract disputes. Insurance Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

Insurance  
March 11, 2004  
2004-0811s  
01/09

**Amendment to SB 389**

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

AN ACT relative to certain insurance contracts.

Amend the bill by replacing section 1 with the following:

1 Provider Contract Standards; Continued Access. Amend RSA 420-J:8, XI to read as follows:

XI. (a) Every contract entered into after July 1, 2003 between a health carrier and any physician or facility shall contain a provision that ensures that covered persons will have continued access to the provider

in the event that the contract is terminated for any reason other than unprofessional behavior. The continued access to providers shall be made available for 60 days from the date of termination of the contract and shall be provided and paid for in accordance with the terms and conditions of the covered person's health benefit plan and the prior contract between a health carrier and a health care provider. Within 5 business days of the contract termination, the health carrier shall provide written notice to affected covered persons explaining their continued access rights.

***(b) Notwithstanding subparagraph (a) or any provision conforming with subparagraph (a) contained in the contract, if a contract between a health carrier and a health care facility is terminated, the health carrier shall not, for a period of 120 days from the termination of the contract, terminate its network affiliation with physicians having admitting privileges at the facility or otherwise disrupt or interfere with continued access to health care services for covered persons provided by such physicians for any reason other than unprofessional behavior. This prohibition against disrupting or interfering with continued access to health care services for covered persons shall include all services provided to covered persons at the terminated facility when such persons have been admitted by a physician who is a participating provider. The continued access to such facility shall be provided and paid for in accordance with the terms and conditions of the covered person's health benefit plan and the prior contract between the health carrier and the health care facility; provided, that the continued access required by this subparagraph shall no longer be required upon the effective date of a new contract between such health carrier and such health care facility.***

2004-0811s

#### AMENDED ANALYSIS

This bill clarifies that covered persons shall have continued access to their physicians in the event of a termination of a contract between a facility or facilities and a health carrier.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 437**, relative to unemployment compensation. Insurance Committee. Inexpedient to Legislate, Vote 5-0. Senator Prescott for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 502**, establishing a committee to study the feasibility of allowing certain groups to join together for purposes of small group insurance. Insurance Committee. Inexpedient to Legislate, Vote 4-1. Senator Flanders for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 311**, relative to civil penalties for unlawful campaign practices. Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Boyce for the committee.

Internal Affairs

March 10, 2004

2004-0791s

03/05

#### **Amendment to SB 311**

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

1 New Paragraph; Distributing Campaign Materials at Polling Place; Civil Penalty. Amend RSA 659:43 by inserting after paragraph III the following new paragraph:

IV.(a) Whoever violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$1,000.

(b) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 659:43 a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.

(c) The attorney general shall have authority to notify suspected violators of this section of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.

2 Push-Polling; Identification Required; Penalty. Amend RSA 664:16-a, II to read as follows:

II. Any person or entity who violates paragraph I shall be subject to penalty under RSA 664:21, V **and VI**.

3 New Paragraph; Push-Polling and Improper Removal or Destruction of Political Advertising; Civil Penalty. Amend RSA 664:21 by inserting after paragraph V the following new paragraph:

VI.(a) Whoever violates any of the provisions of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property shall be subject to a civil penalty not to exceed \$1,000.

(b) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.

(c) The attorney general shall have authority to notify suspected violators of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.

4 Impersonation of Candidates; Civil Penalty. Amend RSA 666:7-a to read as follows:

666:7-a Impersonation of Candidates.

*I.* Any person who places a telephone call during which the person falsely represents himself or herself as a candidate for office shall be guilty of a misdemeanor.

***II.(a) Whoever violates paragraph I shall be subject to a civil penalty not to exceed \$1,000.***

***(b) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 666:7-a a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.***

***(c) The attorney general shall have authority to notify suspected violators of this section of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the election fund established pursuant to RSA 5:6-d.***

5 Effective Date. This act shall take effect June 1, 2004.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 385**, relative to challengers appointed by party committee. Internal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator Boyce for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 489**, relative to requests for special elections. Internal Affairs Committee. Ought to Pass, Vote 4-0. Senator Boyce for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 526**, relative to sexual harassment complaint procedures for public employees. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Larsen for the committee.

Internal Affairs  
March 10, 2004  
2004-0796s  
0801

**Amendment to SB 526**

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Legislative Ethics Committee; Duties. Amend RSA 14-B:3, I by inserting after subparagraph (e) the following new subparagraph:

(f) Investigate allegations of sexual harassment by or against members of the general court, its officers, employees, or participants in officially sanctioned internships. Nothing in this section shall be construed to preclude legislative employees from pursuing any action against their employer in a court of law, the human rights commission, or any other forum.

2004-0796s

**AMENDED ANALYSIS**

This bill includes investigation of sexual harassment claims in the duties of the legislative ethics committee.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1292**, apportioning state representative districts. Internal Affairs Committee. Ought to Pass, Vote 4-0. Senator Kenney for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 462**, relative to limits on non-economic damages in medical injury actions. Judiciary Committee. Interim Study, Vote 3-1. Senator Peterson for the committee.

**Committee report of interim study is adopted.**

**Senators Foster and Larsen Rule #42 on SB 462.**

**SB 463**, relative to limits on attorney contingency fees in civil actions for medical injury. Judiciary Committee. Interim Study, Vote 3-1. Senator Peterson for the committee.

**Committee report of interim study is adopted.**

**Senators Foster and Larsen Rule #42 on SB 463.**

**SB 464**, relative to periodic payments of future damages in medical injury actions. Judiciary Committee. Interim Study, Vote 4-1. Senator Foster for the committee.

**Committee report of interim study is adopted.**

**Senator Larsen rule #42 on SB 464.**

**SB 465**, relative to the statute of limitations in an action for injury or death against a medical care provider. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary  
March 10, 2004  
2004-0797s  
06/03

**Amendment to SB 465**

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

AN ACT relative to testimony of witnesses about confidential settlements.



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

1 New Section; Confidential Settlements. Amend RSA 516 by inserting after section 33 the following new section:

516:33-a Confidential Settlements. Confidentiality agreements shall not prevent a party to an action from testifying about the facts and circumstances in a prior action when the court finds such information relevant in a pending action.

2 Effective Date. This act shall take effect January 1, 2005.

2004-0797s

#### AMENDED ANALYSIS

This bill allows testimony about the facts and circumstances in a prior action when the court finds the information relevant in a pending action, even if there is a confidentiality agreement.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Larsen rule #42 on SB 465.**

**HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Senate Judiciary

March 10, 2004

2004-0790s

05/03

#### Amendment to HB 1212

Amend the bill by replacing section 3 with the following:

3 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 461**, relative to the regulation of gift certificates under the consumer protection act. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Morse for the committee.

Senator Roberge offered a floor amendment.

Sen. Roberge, Dist. 9

March 17, 2004

2004-0869s

05/03

#### Floor Amendment to SB 461

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

1 Regulation of Business Practices for Consumer Protection; Acts Unlawful; Expiration of Gift Certificates. Amend RSA 358-A:2, XIII to read as follows:

XIII. Selling gift certificates [~~having a face value of less than \$100~~] to purchasers which contain expiration dates. [~~Gift certificates having a face value of \$100 or more shall expire when escheated to the state as abandoned property pursuant to RSA 471-C.~~] Dormancy fees, latency fees, or any other administrative fees or service charges that have the effect of reducing the total amount for which the holder may redeem a gift

certificate are prohibited. This paragraph shall not apply to season passes. 2 Unclaimed and Abandoned Property; Definition of Intangible Property; Reference to Gift Certificates Removed. Amend RSA 471-C:1, XI(b) to read as follows:

(b) Credit balances, customer overpayments, ~~[gift certificates,]~~ security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

3 Unclaimed and Abandoned Property; Gift Certificates Exempt from Chapter. Amend RSA 471-C:16 to read as follows:

471-C:16 Gift Certificates and Store Credits. Notwithstanding any law to the contrary, gift certificates ~~[under \$100,]~~ and store credits that were issued for store merchandise credit, regardless of when issued, shall not be property presumed abandoned and shall not be subject to RSA 471-C or any other past or present law. All gift certificates and store credits remitted to the state prior to January 1, 1998, and gift certificates and store credits that are properly determined to be reportable in any compliance audits initiated prior to January 1, 1998 and subsequently remitted, shall remain in the custody of the state unless and until returned to the owner. This section shall not apply to season passes or coupons that are nonrefundable and nonredeemable.

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

2004-0869s

#### AMENDED ANALYSIS

This bill prohibits gift certificates of any value from containing an expiration dates. The bill also provides that gift certificates shall not pass to the state as abandoned property. The law formerly provided that gift certificates of \$100 or more shall expire when escheated to the state as abandoned property.

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 492**, relative to registration requirements for home inspectors. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 533**, relative to licensing requirements for certain recreation and child care programs. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

Public Affairs

March 10, 2004

2004-0777s

05/10

#### Amendment to SB 533

Amend RSA 170-E:3, I(f) and (g) as inserted by section 1 of the bill by replacing it with the following:

(f) Municipal recreation programs, ***including after-school and summer recreation programs.***

(g) Any ***school-age program or*** recreation program ~~[of the Boys Club; Girls Club]~~ ***offered by the Boys and Girls Club;*** Girls, Inc.; YMCA; YWCA; and any school or church group.

2004-0777s

#### AMENDED ANALYSIS

This bill clarifies that municipal recreation programs and similar programs offered by the Boys and Girls Club; Girls Inc; YMCA, YWCA, and any school or church group shall be exempt from the child day care licensing requirements under RSA 170-E.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

**MOTION TO TABLE**

Senator Sapareto moved to have **HB 664-FN** laid on the table.

**Adopted.**

**LAI D ON THE TABLE**

**HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

**HB 1259**, relative to the medical certification required for a walking disability plate or placard. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-2. Senator Prescott for the committee.

Senate Executive Departments and Administration  
March 16, 2004  
2004-0849s  
09/01

**Amendment to SB 534-FN-A**

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

1 Definitions; Tobacco Tax. Amend RSA 78:1 by inserting after paragraph XX the following new paragraph:

XXI. "Liquor commission" means the liquor commission established in RSA 176:1.

2 Tobacco Products Retail Sales and Vending Machine Licensing Authority Transferred From Department of Revenue Administration to Liquor Commission; License Fees Increased. RSA 78:2 is repealed and reenacted to read as follows:

78:2 Licenses.

I.(a) Each manufacturer, wholesaler and sub-jobber shall secure a license from the commissioner before engaging in the business of selling or distributing tobacco products in this state or continuing to engage in such business. Each wholesale or sub-job outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person.

(b) The commissioner shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted.

(c) The annual fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a wholesaler's license; \$150 for a sub-jobber's license. All license fees collected by the commissioner shall be paid over to the state treasurer for deposit in the general fund.

(d) Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section shall be subject to the penalty provisions of RSA 21-J:39.

II.(a) Each vending machine operator, retailer and sampler shall secure a license from the liquor commission before engaging in the business of selling or distributing tobacco products in this state or continuing to engage in such business. Each retail outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person. Each tobacco products vending machine to be operated in this state shall be licensed by the liquor commission and shall be appropriately identified as being licensed.

(b) The liquor commission shall adopt rules pursuant to RSA 541-A relative to the licensing and identification of each tobacco products vending machine, and the information required in application for a license.

(c) The liquor commission shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted.

(d) The annual fees for licenses shall be: \$10 for a retailer's license; \$10 for a sampler's license; \$70 for a vending machine operator's license and \$10 for each vending machine location. All license fees collected shall be paid over by the liquor commission to the state treasurer for deposit in the general fund.

(e) Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section shall be guilty of a misdemeanor.

(f) The liquor commission, when issuing or renewing a retailer's license under RSA 78:2, shall furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco products by persons under age 18. Warning: violators of these provisions may be subject to a fine." The sign shall be posted at any location where tobacco products are sold or distributed. The liquor commission shall adopt rules, under RSA 541-A, relative to placement of these warning signs in areas where tobacco products are sold or distributed.

III. The liquor commission shall provide the commissioner with quarterly updated lists of all licensees under this section. To the extent necessary for their respective administration and enforcement duties and responsibilities under this chapter, the commissioner and the liquor commission may share information, including information in a compatible electronic data format.

IV. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section and information regarding enforcement actions taken pursuant to this chapter and RSA 126-K shall be public records.

V. Unlicensed tobacco product vending machines retailing tobacco products are those machines without a current sticker or license affixed to them. The commissioner or the commissioner's agent or the liquor commission or an agent of the liquor commission shall seal each unlicensed machine, until such time as said machine is licensed as evidenced by the presence of a visible current sticker or license on said machine. Said sealing shall be so as to prevent the purchase of tobacco products and the use of the machine.

VI. No person shall sell tobacco products through a vending machine unless access to said machine is readily available or it is constructed so as to permit the commissioner or the liquor commission or an agent of the liquor commission to readily determine whether the packages of tobacco products being sold have proper stamps affixed to them which show payment of the tobacco tax imposed under RSA 78:7.

3 Tampering With Seal. Amend RSA 78:3 to read as follows:

78:3 Tampering with Seal. It shall be unlawful for any person, licensed or unlicensed, to tamper with any seal affixed by the commissioner ~~[or his]~~, **the commissioner's agents, or the liquor commission or agents of the liquor commission** to any tobacco products vending machine, as required under RSA 78:2. Any person who violates this section shall be guilty of a violation for the first offense. For each subsequent offense ~~[he]~~ **such person** shall be guilty of a misdemeanor.

4 Reference Corrected. Term of License; Renewals. Amend RSA 78:4 to read as follow:

78:4 Term of License; Renewals. Licenses issued under RSA 78:2 shall expire ~~[on June 30 in each even-numbered year]~~ **12 months from date of issue, with the month in which the license is effective counted as the first month**, unless sooner revoked or unless the business in respect to which the license was issued should change ownership. Licenses may be renewed upon signed application as provided in RSA 78:2 and upon paying the prescribed fee, provided that a license shall not be renewed if there are unpaid fees, fines, or penalties resulting from violations of this chapter or RSA ~~[126-F]~~ **126-K** attributable to the license or the licensee.

5 Suspension and Revocation of License by Commissioner. RSA 78:6 is repealed and reenacted read as follows:

78:6 Suspension and Revocation of License by Commissioner and Liquor Commission.

I. The commissioner may adopt rules pursuant to RSA 541-A relative to accomplishing the purpose of RSA 78.

II. The commissioner may suspend or revoke any license issued by the commissioner under RSA 78:2 for failure to comply with the provisions of this chapter and with any rules which the commissioner may adopt.

III. The liquor commission may suspend or revoke any license issued by the liquor commission under RSA 78:2 for failure to comply with the provisions of this chapter or RSA 126-K and with any rules which the liquor commission may adopt pursuant to rulemaking authority granted in this chapter or RSA 126-K.

6 Unauthorized Sales. Amend RSA 78:12-a to read as follows:

78:12-a Unauthorized Sales. Manufacturers, wholesalers and sub-jobbers shall not sell tobacco products to any licensee who does not possess a valid or current license issued by the commissioner **or the liquor commission**. Any person who violates the provisions of this section shall be subject to the penalty provisions of RSA 21-J:39.

7 Vending Machines; Lists of Locations. Amend RSA 78:12-d, V to read as follows:

V. Vending machine operators shall supply the **liquor commission and the** commissioner with a list specifying the location of each licensed machine.

8 Vending Machines; Violations; Penalties. Amend RSA 78:12-d, VII to read as follows:

VII. Violations of this section shall be civil infractions punishable by administrative action by the ~~commissioner~~ **liquor commission** against the licensee. Fines for violations of paragraphs I-V shall be no more than \$100 for a first offense and no more than \$200 for a second offense. For the third offense, the ~~commissioner~~ **liquor commission** shall issue a letter of warning detailing necessary corrective actions and an administrative fine ranging from \$500 to \$1,500. In addition, the license to sell tobacco products shall be suspended for a period of 10 consecutive days and not exceeding 30 consecutive days. For the fourth offense, the ~~commissioner~~ **liquor commission** shall issue either an administrative fine and a suspension of a minimum of 10 consecutive days not to exceed 40 consecutive days, or a suspension. The administrative fine shall range from \$750 to \$3,000 while any suspension without a fine shall be 40-consecutive days. For any violation beyond the fourth, the ~~commissioner~~ **liquor commission** shall revoke any license for the business or business entity at the location where the infraction occurred or any principal thereof for a period of one year from the date of revocation. The **liquor commission** shall determine the level of the violation by reviewing the licensee's record and counting violations that have occurred within 3 years of the date of the violation being considered.

9 Forfeiture; Seizure by Liquor Commission Added. Amend RSA 78:16 to read as follows:

78:16 Forfeiture. Unless the tobacco products are subject to the exemption under RSA 78:12, II, tobacco products found at any place in this state without the necessary stamps affixed to them, unless they shall be in the possession of a licensed manufacturer or wholesaler, or unless they shall be in the course of transit by common carrier from a bonded warehouse and consigned to a licensed manufacturer, wholesaler or anyone exempted by statute, shall be declared to be contraband goods and subject to forfeiture to the state. The commissioner, ~~his~~ **the commissioner's** authorized agents, **the liquor commission or agents of the liquor commission**, sheriffs, deputy sheriffs and policemen shall have the power to seize such tobacco products in the manner provided under RSA 617.

10 Inspections Authorized. Amend RSA 78:26 to read as follows:

78:26 Inspections Authorized.

**I.** The commissioner or any agent or employee of the department of revenue administration, and any policeman, constable, sheriff or deputy sheriff, **or an agent of the liquor commission** may enter in and upon any place or premises where tobacco products are held, kept, located, **manufactured**, or stored for the purpose of inspecting such products and ascertaining that the tobacco products at such premises, or any portion thereof, shall not be sold, used or consumed in this state without the tobacco products tax first having been paid.

**II. Any member of the liquor commission, agent, or investigator with the liquor commission may enter any place where tobacco products are sold or manufactured, at any time, and may examine any license or permit issued or purported to have been issued under the terms of this title. They shall make complaints for violations of this chapter and RSA 126-K.**

11 Penalties; Violations of Federal Requirements. Amend RSA 78:34, VII to read as follows:

VII. The penalty for violation of ~~any provision~~ **paragraphs I-VI** of this section is loss of license for a period of 90 days for a first offense, loss of license for a period of one year for subsequent offenses, and a fine to be determined by the commissioner **or liquor commission** which shall not exceed \$10,000.



12 Youth Access to Tobacco Products; Penalties; License Suspensions and Revocations. Amend RSA 126-K:12, II-III to read as follows:

II. The commission may issue administrative warnings and assess fines and may ~~order the commissioner of revenue administration to~~ suspend or revoke a license issued pursuant to RSA 78 for a specified period of time for violations of this chapter.

III. On or before April 1 of each ~~even-numbered~~ year, the commission shall provide the department of revenue administration with a list of the names and addresses of all persons against whom fines and penalties were assessed pursuant to this chapter and who have not paid said fines and penalties in full by the date of the list. The commission shall update the information provided to the department of revenue administration prior to June 30 of each ~~even-numbered~~ year and thereafter as requested by the department.

13 Transition; Tobacco Licenses. Licenses issued pursuant to RSA 78:2 in effect prior to the effective date of this act shall expire on the date that such license would have expired under RSA 78:4 in effect prior to the effective date of this act. Upon such expiration such tobacco licenses shall be issued or renewed according to the provisions of RSA 78 as amended by this act.

14 New Paragraph; Pari-Mutuel Commission; Additional Duties. Amend RSA 284:6-a by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall administer RSA 287-E relating to bingo and lucky 7.

15 New Paragraph; Pari-Mutuel Commission; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

16 New Subparagraph; Purchase of Supplies; Exemption. Amend RSA 21-I:18, I by inserting after subparagraph (m) the following new subparagraph:

(n) The purchase of gaming tickets and their dispensing equipment by the pari-mutuel commission under RSA 287-E. The pari-mutuel commission shall make such purchases under competitive bidding requirements, except when waived by the pari-mutuel commission or its authorized agent with written justification.

17 Police Officer; Definition. Amend RSA 100-A:1, VII-a (b) to read as follows:

(b) Any bingo or lucky 7 inspector, security officer appointed pursuant to RSA ~~[135:41]~~ **21-P:7-b**, any juvenile probation and parole officer, or any person employed in the bureau of trails of the department of resources and economic development; or

18 Sweepstakes Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Sweepstakes Commission. There shall be and hereby is created a state sweepstakes commission consisting of 3 members who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. One member shall be appointed for one year, one for 2 years and one for 3 years, and upon the expiration of their terms of office their successors shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. No member of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[-or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,]~~ or in any licensee licensed under the provisions of this chapter.

19 Sweepstakes Commission. Amend RSA 284:21-i, I to read as follows:

I. The sweepstakes commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[-or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,]~~ or in any licensee licensed under this chapter.

20 Sweepstakes Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the sweepstakes commission **and all moneys received from the pari-mutuel commission under RSA 287-E**, and interest received on such mon-



eys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision, [and] ***all administration expenses of the pari-mutuel commission and all enforcement expenses of the department of safety under RSA 287-E.*** Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

21 Reference Change; Raffles Held in Conjunction With Bingo Games. Amend RSA 287-A:8, III to read as follows:

III. Notwithstanding RSA 287-A:4, raffle tickets sold in conjunction with bingo games shall be sold only by members of a charitable organization licensed by the [sweepstakes] ***pari-mutuel*** commission to conduct bingo and only at bingo games being operated by the charitable organization.

22 Bingo and Lucky 7; Definitions. Amend RSA 287-E:1, VI to read as follows:

VI. "Commission" means the state [sweepstakes] ***pari-mutuel*** commission.

23 Bingo; Administration and Enforcement. Amend RSA 287-E:2 to read as follows:

287-E:2 Administration and Enforcement. The [sweepstakes] ***pari-mutuel*** commission shall administer and the commissioner of safety shall enforce this subdivision relating to bingo.

24 Lucky 7; Administration and Enforcement. Amend RSA 287-E:16 to read as follows:

287-E:16 Administration and Enforcement. The [sweepstakes] ***pari-mutuel*** commission shall administer and the commissioner of safety shall enforce this subdivision relating to the sale of lucky 7 tickets.

25 Gambling Offenses; Exceptions. Amend RSA 647:2, V(a) to read as follows:

(a) Dispenser devices approved by the [sweepstakes] ***pari-mutuel*** commission which are located at the regular meeting place of, or at a facility owned, leased, or utilized by, a charitable organization licensed under RSA 287-E:20.

26 Transfer of Authority. The pari-mutuel commission shall assume all authority, functions, duties, and responsibilities of the sweepstakes commission regarding the administration and licensing of RSA 287-E. All existing rules adopted by the sweepstakes commission for administration and licensing under RSA 287-E shall remain in effect and be enforced by the respective commission.

27 Transfer of Employees. Classified employees of the sweepstakes commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the pari-mutuel commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the sweepstakes commission for administration and licensing of bingo and lucky 7.

28 New Paragraph; Department of Safety; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph X the following new paragraph:

XI. Have the discretion to grant to security officers of the New Hampshire hospital security force such titles, ranks and police powers as the commissioner deems necessary up to and including that of ex officio constables including the power of arrest for violations of the criminal and motor vehicle laws and the power to serve criminal process, and may limit such powers as deemed necessary. They shall have general police powers on the state office campus and New Hampshire hospital grounds and when in hot pursuit of a person who has committed a crime on the campus or escaped from the hospital, and when acting to transport a patient to or from the hospital, the court or another mental health facility.

29 New Sections; Department of Safety; New Hampshire Hospital Security Force. Amend RSA 21-P by inserting after section 7-a the following new sections:

21-P:7-b New Hampshire Hospital Security Force. The commissioner of safety is authorized to organize a hospital security force for the purpose of patrolling the hospital's buildings, roads, and grounds of the campus of the state office park south and providing for general security on the campus. The hospital security force shall be under the immediate control of and responsible to the commissioner of safety or his or her designee.

21-P:7-c Authority of Hospital Security Force Officers; Memorandum of Understanding; Funding.

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force hired after the effective date of this paragraph shall be required to meet the training standards required generally

of police officers by the police standards and training council pursuant to RSA 188-F and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the superintendent of the New Hampshire hospital.

II. The commissioner of the department of health and human services shall enter into a memorandum of understanding with the commissioner of safety for the purposes of delineating the functions, duties, and responsibilities of the department of safety in regard to the provision of security and dispatch services to the New Hampshire hospital. The memorandum of understanding shall include, but not be limited to: responding to emergencies within New Hampshire hospital, maintaining the security of the hospital buildings, insuring the safety of patients, staff and visitors, apprehending involuntarily committed persons who leave the hospital without authorization, accepting custody of involuntary admissions, transporting patients for medical, legal and other purposes, investigating cases of abuse, neglect, sexual assault and other criminal conduct, providing training and conducting searches and seizures of contraband. In addition, the department of safety shall provide dispatch services including, but not limited to: monitoring hospital access between 8 p.m. and 8 a.m. operating and monitoring video security systems, receiving incoming communications, assessing the priority of the call and dispatching appropriate assistance, coordinating emergency preparedness procedures, receiving incoming fire calls and alarms and operating the switchboard between 8 p.m. and 8 a.m. and at other times as needed.

III. Within the limits of funds budgeted for hospital security force positions, the department of health and human services shall maintain the funding for the hospital security force and pay the department of safety for providing these services.

### 30 Transfer of Functions, Positions, Equipment, Records and Accounts; Rules Continued.

I. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties and responsibilities of the department of health and human services, division of behavioral health, New Hampshire hospital security force used for the provision of security to the hospital's building, roads and grounds of the campus of the state office park south and providing for the general security on campus shall be transferred to the department of safety. The transfer provided in this section shall include all of the equipment, books, papers, and records of the department of health and human services, division of behavioral health, New Hampshire hospital related to the above functions and authorized for use by the New Hampshire hospital security force.

II. All existing rules, statutory responsibilities, regulations and procedures in effect, in operation or adopted in or by the department of health and human services, division of behavioral health, New Hampshire hospital security force are transferred to the department of safety, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

### 31 Repeal. The following are repealed:

I. RSA 135:41, relative to hospital security force.

II. RSA 135:42, relative to authority.

III. RSA 135:43, relative to training.

### 32 Transfer of Certain Public Health Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, and except as provided in paragraph III, all of the positions, functions, powers, duties and responsibilities of the department of health and human services, office of community and public health, bureau of environmental and occupational health, and bureau of radiological health shall be transferred to the department of environmental services on July 1, 2004. The transfer shall also include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the department of health and human services, office of community and public health, related to the above functions and authorized for use by the bureau of environmental and occupational health or the bureau of radiological health.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation or adopted in or by the former department of health and human services, bureau of environmental and occupational health and bureau of radiological health are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The duties and responsibilities of the department of health and human services under RSA 130-A, relative to lead paint poisoning prevention and control, shall be exempt from the transfers made in paragraphs I and II.

33 Transfer of Radiological Health Program From Department of Health and Human Services to Department of Environmental Services. Amend RSA 125-F by replacing "department of health and human services" with "department of environmental services" whichever such term occurs.

34 Department of Environmental Services; Nomination of Division Directors. Amend RSA 21-O:2, III(a) and (b) to read as follows:

(a) ~~[The water council shall, after consulting with]~~ The commissioner[;] ***shall, after consultation with and consent of the water council,*** nominate for appointment by the governor and council a director of the division of water. The nominee shall have a baccalaureate degree from an accredited college or university, hold a valid license or certificate of registration to practice civil, sanitary, or environmental engineering issued by the lawfully constituted registration board of any state of the United States, and shall have a minimum of 5 years' responsible experience in the administration of sanitary or environmental engineering programs in the public or private sector.

(b) ~~[The air resources council shall, after consultation with]~~ The commissioner[;] ***shall, after consultation with and consent of the air resources council,*** nominate for appointment by the governor and council a director of air resources. Each nominee shall be qualified by reason of education and experience.

35 Transfer of Certain Programs From Office of State Planning and Energy Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, all of the functions, powers, duties and responsibilities of the office of state planning and energy programs relating to the coastal zone management program and the New Hampshire estuaries project shall be transferred to the department of environmental services. The transfer provided in this section, shall include all of the personnel, equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the office of state planning and energy programs related to the above functions and authorized for use by the office of state planning and energy programs for said programs.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation, or adopted in or by the former coastal zone management program and New Hampshire estuaries program are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

36 Department of Revenue Administration; General Provisions. Amend RSA 21-J:2, II-III to read as follows:

II. The commissioner shall nominate a director, division of audits, and a director, division of ~~[returns]~~ ***document*** processing, for appointment by the governor, with the consent of the council. These division directors shall serve at the pleasure of the commissioner. The directors of the divisions shall be qualified by reason of professional competence, education, and experience.

III. The salaries of the commissioner and the director, division of audits, and the director, division of ~~[returns]~~ ***document*** processing, shall be as specified in RSA 94:1-a.

37 Department of Revenue Administration; General Provisions. Amend RSA 21-J:4, II to read as follows:

II. The assistant commissioner shall perform such duties as are assigned by the commissioner. ~~[The assistant commissioner shall assume the duties of the commissioner in the event that the commissioner is unable for any reason to perform such duties.]~~

38 New Section; Department of Revenue Administration; Deputy Commissioner for Taxation. Amend RSA 21-J by inserting after section 4 the following new section:

21-J:4-a Deputy Commissioner for Taxation.

I. The commissioner of the department of revenue administration shall nominate a deputy commissioner for taxation for appointment by the governor, with the consent of the council. The deputy commissioner shall serve for a term of 4 years. The deputy commissioner shall be qualified by reason of education and experience.

II. The deputy commissioner shall perform such duties as are assigned by the commissioner. The deputy commissioner shall assume the duties of the commissioner in the event that the commissioner is unable for any reason to perform such duties.

III. The salary of the deputy commissioner shall be as specified in RSA 94:1-a.

39 Department of Revenue Administration; General Provisions. Amend RSA 21-J:5, IV to read as follows:

IV. The commissioner shall appoint an assistant director for each division, ***except for the assistant director of audits***. Assistant division directors shall be classified employees, except for the assistant director of audits [~~and director of document processing;~~] who shall be ***an*** unclassified [~~employees~~] ***employee nominated by the commissioner for appointment by the governor with consent of council. The assistant director of audits shall serve for a term of 4 years.***

40 Department of Revenue Administration; General Provisions. Amend RSA 21-J:6 to read as follows:

21-J:6 Administration Unit. There is hereby established within the department an administration unit[~~The assistant commissioner shall supervise the administration unit and~~] ***which*** shall be responsible for the following functions, in accordance with applicable laws:

I. Budget, personnel, payroll, and purchasing matters.

II. [~~Handling~~] ***Internal control*** of all taxes receivable and the accounts receivable for the municipal services and property appraisal divisions.

III. Assistance to the commissioner with short and long range department level planning activities.

***IV. Taxpayer assistance services.***

41 Department of Revenue Administration; General Provisions. Amend the introductory paragraph of RSA 21-J:8, I to read as follows:

I. There is established within the department the division of collections, under the supervision of [~~a classified~~] ***an unclassified*** director of collections who shall be responsible for the following functions, in accordance with applicable laws:

42 New Paragraphs; Department of Revenue Administration; General Provisions. Amend RSA 21-J:8 by inserting after paragraph I the following new paragraphs:

I-a. The commissioner shall nominate for appointment by the governor, with the consent of council, an individual to serve in the position of director of collections who shall serve for a term of 4 years.

I-b. The salary of the director of collections shall be as specified in RSA 94:1-a.

43 New Section; Department of Revenue Administration; General Provisions. Amend RSA 21-J by inserting after section 12 the following new section:

21-J:12-a Central Account Maintenance.

I. There is established within the department the division of central account maintenance under the supervision of an unclassified director of central account maintenance who shall be responsible for all taxpayer account maintenance activities relative to tax returns filed with the department.

II. The commissioner shall nominate for appointment by the governor, with the consent of council, an individual to serve in the position of director of central account maintenance who shall serve for a term of 4 years.

III. The salary of the director of central account maintenance shall be as specified in RSA 94:1-a.

44 Compensation of Certain State Officers. Amend RSA 94:1-a, I(b) to read as follows:

I.(a) Delete:

HH	Department of revenue administration	director of audit division
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(b) Replace with:

HH	Department of revenue administration	deputy commissioner for taxation
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II. Delete:

FF	Department of revenue administration	director of community services
----	--------------------------------------	--------------------------------

## III.(a) Delete:

EE Department of revenue chief of field audits  
administration

## (b) Replace with:

EE Department of revenue assistant director, chief of field audits  
administration

## IV. (a) Delete:

FF Department of revenue assistant director, audit division  
administration

## (b) Replace with:

DD Department of revenue chief instate audit  
administration

## V. Insert:

GG Department of revenue director of audit division  
administration

## VI. Insert:

DD Department of revenue director, collections division  
administration

## VII. Insert:

DD Department of revenue director, central account maintenance  
administration

## VIII. Amend:

FF Department of revenue director of [~~returns~~] **document** processing  
administration

45 Repeal. RSA 21-J:10-a, relative to the division of community services, is repealed.

46 Transfer of Public Works From Department of Transportation to Department of Administrative Services.

I. As of July 1, 2005, the bureau of public works, division of plant and property management, department of administrative services, shall, through its officials, be responsible for all functions formerly performed by the department of transportation, division of public works.

II. As of July 1, 2005, the director of public works and the personnel under his or her supervision in the department of transportation immediately prior to the effective date of this act shall be transferred to the department of administrative services, division of plant and property management, bureau of public works, together with all of the books, papers, payroll, records, equipment, unexpended appropriations for personnel and all public works functions or other available funds in any account or subdivision of any account of the department of transportation related to public works projects funded through the capital budget.

III. All existing rules, statutory responsibilities, regulations and procedures in effect, in operation or adopted in or by the department of transportation are declared in effect and shall continue in effect until rescinded, revised or amended in accordance with applicable law. Further, rules or procedures of the commissioner of transportation currently in effect relating to the division of public works or bidding for major capital projects shall remain in effect and shall continue in effect until rescinded, revised or amended by the commissioner of transportation or until replaced or superceded by rules or procedures adopted by the commissioner of administrative services. The commissioner and department of administrative services may utilize the rules and procedures of the commissioner and department of transportation relating to public works, or to bidding for capital projects, or portions of those rules or procedures, with or without modification, as their own rules and procedures, until such a time as the commissioner of administrative services adopts rules or procedures relative to public works or bidding or capital projects.

47 New Subparagraph; Department of Administrative Services; General Functions. Amend RSA 21-I:1, II by inserting after subparagraph (j) the following new subparagraph:

(k) Public works.

48 Reference Change; Division of Accounting Services. Amend RSA 21-I:8, II(b) to read as follows:

(b) Developing and operating risk reduction programs, in accordance with the loss prevention guidelines adopted pursuant to RSA 21-I:14, [H] **I(b)**.

49 New Paragraph; Department of Administrative Services; Division of Plant and Property Management; Functions. Amend RSA 21-I:11 by inserting after paragraph XII the following new paragraph:



XIII. Except as otherwise provided by law, developing and maintaining state owned and supported land and buildings, and preparing a long range state capital improvements plan.

50 Reference Change; Bureau of Planning and Management. Amend RSA 21-I:12, II(c) and (d) to read as follows:

(c) Planning for any additional office space needs of the state in consultation with the ~~[department of public works and highways]~~ **bureau of public works.**

(d) Planning for any major renovation to state office buildings in consultation with the ~~[department of public works and highways]~~ **bureau of public works.**

51 New Paragraph; Division of Plant and Property Management; Bureau of Public Works. Amend RSA 21-I:12 by inserting after paragraph IV the following new paragraph:

V. A bureau of public works, under the supervision of a classified administrator of public works, who shall be a registered professional engineer or a registered architect and shall be responsible for the following functions, in accordance with applicable laws:

(a) Public works engineering, including planning and design for all public works projects.

(b) Field supervision of all public works construction.

(c) Maintenance, supervision, and coordination of all state owned and supported land and buildings, including, but not limited to, those functions specified in RSA 21-I:79, I.

(d) Operation of all public works not otherwise assigned.

52 Commissioner of Administrative Services; Rulemaking Authority. Amend RSA 21-I:14 to read as follows:  
21-I:14 Rulemaking Authority.

**I.** The commissioner of administrative services shall adopt rules, pursuant to RSA 541-A, relative to:

~~[F:]~~ **(a)** A comprehensive and uniform system of state financial management as required by RSA 21-I:8, I(a). Rules relating to accounting and financial reporting shall conform with generally accepted accounting principles. Rules adopted by the commissioner under this paragraph shall be contained in a written manual, to be updated and revised as he deems necessary, that clearly explains procedures applicable to all state agencies, officers and employees other than the legislative branch and the state judicial branch. Rules adopted pursuant to this section shall not be filed in final form with the director of legislative services until they shall be approved by the governor, with the consent of the council.

~~[H:]~~ **(b)** Loss prevention guidelines for the purpose of risk management.

~~[HH:]~~ **(c)** Standards governing state data processing facilities, including the acquisition of data processing equipment.

~~[IV:]~~ ~~[Repealed:]~~

~~[V:]~~ **(d)** Standards for the provision of graphic services which will insure efficiency and high quality work.

~~[VI:]~~ **(e)** Standards governing the purchase and continuing ownership of graphic services equipment by agencies not exempted by RSA 21-I:9, VIII.

~~[VII:]~~ **(f)** Standards governing the allocation and use of state photocopiers by the agencies not exempted by RSA 21-I:9, VIII.

~~[VIII:]~~ **(g)** Standards necessary to assure the continuation or granting of federal funds or other assistance not otherwise provided for by law.

~~[IX:]~~ **(h)** Standards for the format, content and style of agency annual or biennial reports, after consultation with the administrator of the bureau of graphic services with regard to format. These standards shall require that agency reports provide statistical information on agency activities and operations in addition to narrative discussions; and that agency reports analyze the operational efficiency of state operations and program performance in terms of explicitly stating the statutory functions each agency is to perform and how these statutory functions are being accomplished, in terms of unit-cost measurement, workload efficiency data, and program output standards established by the commissioner.

~~[X:]~~ **(i)** Qualification, continuing eligibility and disqualification of recipients to receive commodities distributed by the surplus distribution section established by RSA 21-I:12, I, and procedures for determining the same. Such rules shall:



~~[(a)]~~ **(1)** Comply with requirements, if any, established by the department, division or agency of the United States which is the source of the commodities.

~~[(b)]~~ **(2)** Be binding on all recipient agencies and shall have the force of law. No recipient agency, nor any officer or employee thereof, shall be liable for damages for any claimed injury arising from a determination made in accordance with said rules.

~~[(X)]~~ **(j)** Fair and equitable charges to be assessed against recipients receiving any donated surpluses from the surplus distribution section based on recommendations provided according to RSA 21-I:11, VIII.

~~[(X)]~~ **(k)** Standards and procedures governing the purchase of all materials, supplies and equipment by the division of plant and property management.

~~[(X)]~~ **(l)** Procedures for the waiver of certain provisions of RSA 21-I relative to purchasing under RSA 21-I:18, II.

~~[(X)]~~ **(m)** Management of the state employees group insurance program authorized by RSA 21-I:26 through 21-I:36.

~~[(X)]~~ **(n)** The administration of retirement benefits for certain legislative and constitutional officers as provided in RSA 14:27-c.

~~[(X)]~~ **(o)** The general liability insurance provisions of standard state contracts to reflect that a contractor, which qualifies for nonprofit status under section 501(c)(3) of the Internal Revenue Code and whose annual gross amount of contract work with the state does not exceed \$500,000, shall provide such insurance in amounts of not less than \$1,000,000 per claim or occurrence and \$2,000,000 in the aggregate.

***II.(a) The commissioner shall adopt rules relative to bidding for major capital projects, as authorized by RSA 21-I: 75; RSA 21-I: 76 and RSA 21-I: 77, but such rules shall be exempt from the requirements, procedures and provisions of RSA 541-A.***

***(b) The commissioner may adopt such other rules relating to public works as are necessary for the bureau of public works to properly perform its duties and functions in accordance with applicable law. Such rules shall be exempt from the requirements, procedures, and provisions of RSA 541-A.***

53 Reference Change; Delegation of Purchasing Authority. Amend RSA 21-I:17-a, II to read as follows:

II. Upon the joint recommendation of the commissioner of administrative services and the governing board of any agency, the governor and council, in their discretion, may authorize such governing board, or one or more individuals designated by such governing board to purchase supplies for the agency directly from vendors in such quantities and for such sums as the governor and council shall prescribe; provided, however, that any such authority shall be subject to the limitations of the amounts appropriated and the purposes authorized by the legislature for the agency, and provided further that all such delegations of purchasing authority shall expire on December 31 of the even numbered years. Whenever such purchasing authority is so delegated to any agency, the requirements of RSA 21-I:11, IV and V, and rules adopted pursuant to RSA 21-I:14, ~~[(X)]~~ **I(i)**, shall apply to the governing board or its authorized agent exercising such delegated authority.

54 New Subdivision; Capital Projects; Public Works. Amend RSA 21-I by inserting after section 72 the following new subdivision:

#### Capital Projects; Public Works

21-I:73 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of administrative services.

II. "Contract construction" means all construction performed in whole or in part by an independent contractor.

III. "Cost-plus contract" means one under which the payment for the work is the actual cost, plus either a fixed fee or a percentage of the cost as profit.

IV. "Department" means the department of administrative services.

V. "Force account basis" means use of a work force directly on the state payroll, rather than an independent contractor.

VI. "Registered architect or professional engineer" means a person licensed in the state as an architect or engineer.

VII. "Project" means any construction, reconstruction, alteration, or maintenance in any building, plant, fixture, or facility.

VIII. "Using agency or institution" means any executive department, commission, independent establishment or public corporation which is an instrumentality of a state board, bureau, division, institution, service, office, officer, authority, administration or other establishment in the executive branch of the government, which will have the control of the property after the work is completed.

21-I:74 Capital Projects Under \$25,000. Projects for which the estimated cost is equal to or does not exceed \$25,000 may be done on a force account basis, as defined in RSA 21-I:73, V, or by contracts awarded through competitive bidding administered by the using agency or institution with the approval of governor and council.

21-I:75 Major Capital Projects.

I. Each state capital budget project whose estimated cost is more than \$25,000 shall be built under contracts awarded to the lowest responsible bidder through competitive bidding. The following are excluded from this competitive bidding requirement:

(a) Normal highway and bridge maintenance and improvements, unless they involve federal funds. This includes state-aided town road and bridge projects.

(b) Projects executed under RSA 481 with approval of the governor and council.

(c) Projects for the department of fish and game and the department of resources and economic development whose estimated total cost is not more than \$250,000. Such projects may be done on a force account basis, by contracts awarded through competitive bidding, by short-term rental of construction equipment, or by any combination of these methods. These departments are authorized to rent construction equipment for periods not exceeding 6 months at rates the departments deem competitive through the use of quotes or bids.

(d) In an emergency, projects may be done on a force account basis upon the recommendation of the commissioner, with the approval of the governor and council.

(e) Projects may be built through lease-purchase arrangements based on a request for proposal; provided, that selection and award is based on an objective standard and that there are measurable criteria for evaluation. Capital budget projects may be built under the design build concept based on a request for proposal provided that selection and award is based on an objective standard and that there are measurable criteria for evaluation only if such projects are expressly designated as design build and authorized as such by the capital budget while the general court is in session or by the fiscal committee when the general court is out of session. The commissioner shall report the results of any capital budget project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.

(f) Statewide transportation improvement program projects with a cost not to exceed \$1,000,000 and which are related to transportation enhancement, congestion mitigation and air quality, or intelligent transportation systems, may be developed and constructed utilizing the design build concept based on a request for proposal; provided, that selection is based on an objective standard and measurable criteria for evaluation of the proposals. The commissioner shall report the results of any statewide transportation improvement program project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.

II. Any state capital budget project whose estimated cost is more than \$500,000 shall be designed by a registered architect or professional engineer unless, upon recommendation of the commissioner, the governor and council shall find that it is in the best interests of the state to provide for in-house design. He or she shall prepare plans and specifications which meet the requirements of all applicable codes and shall provide on-site observation and inspection services. Each registered architect or professional engineer shall carry professional liability insurance in an amount satisfactory to the commissioner consistent with industry standards.

III. After written application to the fiscal committee, the requirements of RSA 228:4, II may be waived upon approval of the fiscal committee and the governor and council.

IV. State capital budget projects shall not be awarded through cost-plus contracts.

V. Any repair project authorized in the capital budget which requires consultant services shall be put into effect within 90 days after the general court passes the capital budget.

21-I:76 Competitive Bidding. No project subject to the competitive bidding requirements of RSA 21-I:75 shall be awarded to any independent contractor except:

I. If the commissioner decides that the bid of the lowest bidder should be accepted, he or she shall prepare a contract of acceptance of the lowest bid within 60 days from the opening of bids. He or she shall execute the contract in the name of the state. After the contract is executed by the lowest bidder, the form of it approved by the attorney general, and the availability of funds approved by the commissioner of administrative services, he or she shall transmit the contract to the governor and council. Upon approval by the governor and council, it shall become a valid contract of the state.

II. The state reserves the right to reject any and all bids or to negotiate with the lowest responsible bidder.

III. If the commissioner decides that for just cause shown the lowest bid submitted should be rejected, the commissioner shall promptly transmit to the governor and council his or her recommendation for rejection including his or her reasons. The governor and council shall review the recommendation and any other facts available to them, and make such determination as in their judgment shall be for the best interest of the state. They shall require a public hearing upon request of any bidder or on their own motion to fully establish such facts. Their determination shall be entered upon the records of the secretary of state.

IV. If not more than one bid is received on any state project advertised for contract construction, the commissioner may negotiate a contract for such construction upon terms which he or she may deem most advantageous to the state, subject to the approval of the governor and council. For projects built with federal aid, if any provision of this section is inconsistent with the requirements of applicable federal law and regulations, the latter shall control.

21-I:77 Client Relationship. Without limiting the provisions of RSA 21-I:75 and RSA 21-I:76, and to enable the department to maintain a client relationship with the using agencies or institutions in the construction of capital budget items, the department is authorized to:

I. Determine requirements, prepare estimates, advertise, receive bids and award contracts subject to the approval of the governor and council. Also execute all contracts for projects in the name of the state and for the using agency or institution, with the advice and assistance of the attorney general; and after concurrence of the governor and council, commissioner of administrative services and using agency or institution, subject to other statutory limitations.

II. Cause to be undertaken and completed, all construction exceeding \$25,000 for any individual project, except as otherwise authorized by the governor and council.

III. Exercise general supervision, control and direction over all matters pertaining to design, construction, maintenance standards, and preservations of all state buildings, and related facilities.

IV. Except as otherwise authorized by the governor and council, cooperate with the department of environmental services by letting for contract and supervising all projects on state-owned dams and reservoirs, and perform inspections requested by the division. However, operation of facilities under the control of the department of environmental service shall not be delegated to the department of administrative services.

21-I:78 Compliance With Contracts.

I.(a) The performance of contracts for all state projects costing over \$25,000 shall be inspected to assure compliance with the plans and specifications. The department shall require inspection service by one of the following methods:

- (1) By the registered architect or professional engineer or his representative;
- (2) By qualified personnel of the state agency, institution, or department concerned; or
- (3) By personnel of the department of administrative services.

(b) Prior to the execution of a contract for a state project, the department shall notify the state agency, institution, or department concerned which method of inspection shall be followed.

II. The department or its agent shall periodically give to the using agency or institution signed statements that the contract is being executed according to specifications including a final statement that the project has been completed in accordance with the specifications.

III. Manifests for such payments shall be made and signed by the using agency or institution. Manifests for final payment shall certify that inspections have been carried out, that the project has been completed in accordance with the specifications and contract, and that it has been accepted. Such manifest shall be certified by the department that the progress reports furnished by the department are correct and that inspections have been made and the provisions of the plans and specifications have been carried out.

21-I:79 General Powers and Duties. The department is further authorized to:

I. Exercise general supervision over standards of operation and maintenance of state-owned buildings, (except state armories and military reservations) and fixed (plant) equipment, in the same manner as it has been exercised heretofore by the executive officers of the using agencies or institutions, and except as otherwise provided by law.

II. Coordinate long range capital planning to meet the needs of the state, as may be requested by the governor and council and subject to their approval.

III. Operate all public works, not otherwise assigned.

IV. Assist any using agency or institution of the state in the acquisition of lands for a public use, when requested.

V. Employ such technical consultants and other assistants as may be necessary, wherever required in the best interests of the state and consistent with the policy declared in RSA 21-I:75.

VI. Upon request of the director of plant and property management, inspect and test, and advise the acceptance or rejection of, all materials and supplies purchased by the division of plant and property management.

21-I:80 Planning and Design Costs. The bureau of public works shall not perform any design and planning work for any non-general fund state agency, unless the bureau is reimbursed for such work by the agency.

21-I:81 Public Works Appeals. Appeal of decisions of the bureau of public works shall be to the commissioner. Appeals of decisions of the commissioner relative to public works shall be to the department of transportation's appeals board established by RSA 21-L:14.

55 Department of Transportation; Division of Administration. Amend RSA 21-L:6, III-VIII to read as follows:

III. ~~[Property,]~~ Contracts[;] and grants management.

~~[IV. Data processing.]~~

~~[V.]~~ **IV.** Assistance to the commissioner with short and long range department level *financial* planning activities.

~~[VI.]~~ **V.** Control of department inventory.

~~[VII.]~~ **VI.** Department printing.

~~[VIII. Issuing of all permits, registrations, and licenses for which the department is responsible.]~~

56 Department of Transportation; Division of Aeronautics Changed to Division of Intermodal Transportation. Amend the introductory paragraph of RSA 21-L:7 to read as follows:

21-L:7 Division of ~~[Aeronautics]~~ **Intermodal Transportation**. There is established within the department the division of ~~[aeronautics]~~ **intermodal transportation**, under the supervision of an unclassified director of ~~[aeronautics]~~ **intermodal transportation**, who shall be responsible for the following functions:

57 New Paragraph; Department of Transportation; Division of Intermodal Transportation. Amend RSA 21-L:7 by inserting after paragraph VI the following new paragraph:

VII. Planning, designing, and facilitating construction, and servicing intermodal transportation facilities including but not limited to pedestrian, bicycle, transit, rideshare, and railroad modes.

58 Department of Transportation; Division of Project Development; Functions. Amend RSA 21-L:9, I to read as follows:

I. Transportation engineering, including planning and design for state highway, rail, and other forms of transportation, ***as required to coordinate the state's transportation system.***

59 New Paragraph; Department of Transportation; Division of Operations; Function Added. Amend RSA 21-L:10 by inserting after paragraph II the following new paragraph:

III. Issuing of all permits, registrations, and licenses for which the department is responsible.

60 Commissioner of Transportation; Rulemaking; Capital Projects. Amend RSA 21-L:12, I to read as follows:

I. Bidding for major capital projects, as authorized by RSA 228:4, I[;] ***and*** 228:4-a[; ~~and 228:5~~].

61 Department of Transportation; Appeals Board. Amend RSA 21-L:15, I to read as follows:

I. The board shall hear and decide appeals from decisions of the commissioner relative to contract interpretation or other decisions affecting persons not employed by the department, municipalities, or private property, except condemnations of property for public purposes, and the assessment of damages therefor. Decisions of division directors shall be appealed to the commissioner. Decisions of the commissioner may be appealed to the appeals board, except decisions relative to aeronautical matters, which may be appealed to the aviation users advisory board established under RSA 21-L:8, and decisions relative to common carriers by rail, which may be appealed to the railroad appeals board established under RSA 21-L:16. ***The board shall also hear appeals from the department of administrative services relating to such matters involving public works as were administered prior to July 1, 2005 by the division of public works, department of transportation.***

62 General Powers and Duties. RSA 228:6 is repealed and reenacted to read as follows:

228:6 General Powers and Duties. The department is further authorized to:

I. Cooperate with the department of administrative services in long range capital planning to meet the needs of the state, as may be requested by the governor and council and subject to their approval.

II. Assist any using agency or institution of the state in the acquisition of lands for a public use, when requested.

III. Employ such technical consultants and other assistants as may be necessary, wherever required in the best interests of the state and consistent with the policy declared in section RSA 228:4.

IV. Accept, subject to the approval of the governor and council, donations of money, labor and materials to be expended or used upon class I, class II or class III highways at such points or places designated by the donor, provided that in the commissioner's opinion the project is practicable and in the public interest.

63 Unclassified Salary. Amend RSA 94:1-a, I(b) by deleting:

HH Department of Transportation                      director of public works

64 Reference Change; Administrative Procedure Act; Definition of Rule. Amend RSA 541-A:1, XV to read as follows:

XV. "Rule" means each regulation, standard, or other statement of general applicability adopted by an agency to (a) implement, interpret, or make specific a statute enforced or administered by such agency or (b) prescribe or interpret an agency policy, procedure or practice requirement binding on persons outside the agency, whether members of the general public or personnel in other agencies. The term does not include (a) internal memoranda which set policy applicable only to its own employees and which do not affect private rights or change the substance of rules binding upon the public, (b) informational pamphlets, letters, or other explanatory material which refer to a statute or rule without affecting its substance or interpretation, (c) personnel records relating to the hiring, dismissal, promotion, or compensation of any public employee, or the disciplining of such employee, or the investigating of any charges against such employee, (d) declaratory rulings, or (e) forms. The term "rule" shall include rules adopted by the director of personnel, department of administrative services, relative to the state employee personnel system. Notwithstanding the requirements of RSA 21-I:14, the term "rule" shall not include the manual described in RSA 21-I:14, I(***a***) or the standards for the format, content, and style of agency annual and biennial reports described in RSA 21-I:14, [~~IX~~] I(***h***), which together comprise the manual commonly known as the administrative services manual of procedures. The manual shall be subject to the approval of governor and council.

65 Repeal. The following are repealed:

I. RSA 21-L:11, relative to the division of public works.



II. RSA 21-L:2, II(b), relative to a general function of the department of transportation.

III. RSA 228:4, I(c), relative to certain capital projects costing \$250,000 or less.

IV. RSA 228:5, relative to client relationship.

V. RSA 228:5-a, relative to compliance with contracts.

VI. RSA 228:46-a, relative to planning and design costs.

66 Change From Division of Aeronautics to Division of Intermodal Transportation. Amend the following RSA provisions by replacing "division of aeronautics" and "aeronautics division" with "division of intermodal transportation": 72:38, I-III; 21-L:8, III and V; 422:3, XIX; 422:39; 423:11, III; 423-A:3.

67 Change From Director of Aeronautics to Director of Intermodal Transportation. Amend the following RSA provisions by replacing "director of aeronautics" with "director of intermodal transportation": 21-L:8, VI; 94:1-a, I(b) FF; 149-H:1, I(g); 270:12, II; 422:6; 422:38, II and IV.

68 Change From Commissioner of Public Works and Highways to Commissioner of Transportation. Amend the following RSA provisions by replacing "commissioner of public works and highways" and "commissioner, public works and highways" with "commissioner of transportation": 12-A:5, I(b) and V; 14:15-b; 37:6, VII; 48-B:2; 215-A:8; 216-B:3; 216-B:5; 216-B:6; 216-C:2; 216-C:5; 216-C:6; 265:22; 266:72, V(a); 472:5.

69 Change From Department of Public Works, Department of Public Works and Highways, and Public Works and Highways Department to Department of Transportation. Amend the following RSA provisions by replacing "department of public works", "department of public works and highways," and "public works and highways department" with "department of transportation": RSA 21-I:8, I(e); 153:10; 162-B:3, III; 210:11, IV; 216-B:6; 216-C:6; 217:1; 237:17, VIII; 284:21-h, II(b); 447:17; 498-A:21, II.

70 Authority Over State House Rooms. Amend RSA 14:14-b, III to read as follows:

III. All rooms and other spaces in the basement and on the first and third floors of the state house ~~[-with the exception of rooms numbered 122, 123 and 124 and the passageway immediately adjacent thereto].~~

71 Effective Date.

I. Sections 1-13 and 46-69 of this act shall take effect July 1, 2005.

II. Sections 28-31 of this act shall take effect January 1, 2005.

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

2004-0849s

#### AMENDED ANALYSIS

This bill:

I. Transfers tobacco products sales retail licensing authority from the department of revenue administration to the liquor commission.

II. Transfers administration of bingo and lucky 7 to the pari-mutuel commission.

III. Transfers authority over the New Hampshire hospital security force from the department of health and human services to the department of safety.

IV. Transfers the bureau of environmental and occupational health and the bureau of radiological health from the department of health and human services to the department of environmental services.

V. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

VI. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.

VII. Reorganizes certain divisions and positions within the department of revenue administration.

VIII. Transfers the division of public works from the department of transportation to a new bureau of public works in the department of administrative services; reorganizes divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

IX. Transfers certain state house rooms from the executive branch to the legislative branch.

**Amendment adopted.**



**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 440**, relative to statutory bumping rights by state employees. Executive Departments and Administration Committee. Interim Study, Vote 2-1. Senator Prescott for the committee.

**Committee report of interim study is adopted.**

**SCR 5**, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. Executive Departments and Administration Committee. Ought to Pass, Vote 2-1. Senator Prescott for the committee.

**Question is on the motion of ought to pass.**

**A roll call was requested by Senator Estabrook.**

**Seconded by Senator Barnes.**

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

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**SB 528**, establishing a right to work act which provides for freedom of choice on whether to join a labor union. Insurance Committee. Interim Study, Vote 3-2. Senator Martel for the committee.

**Question is on the committee report of interim study.**

**A roll call was requested by Senator Prescott.**

**Seconded by Senator Barnes.**

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

**The following Senators voted No: Johnson, Kenney, Boyce, Barnes, Prescott.**

**Yeas: 18 - Nays: 5**

**Committee report of interim study is adopted.**

**SB 323-L**, relative to the age groups under the elderly property tax exemption. Ways and Means Committee. Inexpedient to Legislate, Vote 5-0. Senator D'Allesandro for the committee.

**Committee report of inexpedient to legislate is adopted.**

**Senator Barnes in opposition to the motion of inexpedient to legislate on SB 323-L.**

**SB 357**, authorizing municipalities to adopt quarterly billing of taxes. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator Odell for the committee.

Senate Ways and Means  
March 11, 2004  
2004-0817s  
08/10

**Amendment to SB 357**

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

1 New Section; Quarterly Collection of Taxes. Amend RSA 76 by inserting after section 15-a the following new section:

76:15-aa Quarterly Billing of Taxes in Certain Towns and Cities. Any city or town which has adopted an optional fiscal year may adopt a system for quarterly billing and collection of taxes as provided in RSA 76:15-b.

I. In a city or town that adopts the provisions of RSA 76:15-b, III, the first quarterly bill shall be due and payable on April 1 during the 6-month conversion period prior to the fiscal year beginning on July 1. This bill shall be an amount based on 1/4 of the total previous year's complete city or town, school, and county levy. The entire amount collected on April 1, except for the county portion, shall be credited to the city or town to fund the 6-month conversion period budget as adopted by the legislative body.

(a) For the purposes of RSA 76:16, RSA 76:16-a, and RSA 76:17, the "notice of tax" means the date the board of tax and land appeals determines to be the last date of mailing of the tax bill issued under this paragraph.

(b) For the purposes of RSA 80:19, the assessment date for the tax bills due and payable on April 1 of the first year of implementation of quarterly tax billing shall be that same date of April 1.

(c) Thereafter, beginning with the newly adopted fiscal year beginning July 1, tax payments shall be due as provided in paragraph III.

II. In any city or town which has adopted both an optional fiscal year and quarterly billing, taxes shall be collected in the following manner.

III.(a) Tax payments shall be due July 1, October 1, January 2, and March 31 of each fiscal year to fund the optional fiscal year budget and shall be the basis upon which the tax rate shall be established by the department of revenue administration.

(b) A partial billing of the taxes to be due in any tax year shall be computed by taking the previous year's assessed valuation times the previous year's tax rate, as determined by the department of revenue administration, divided by 4; provided, however, that whenever it appears to the assessors that certain individual properties have physically changed in valuation, they may use the current year's appraisal times the previous year's tax rate divided by 4 to compute the partial payment. Partial payments of taxes assessed under this section shall be due and payable on July 1 and October 1. For the purpose of the partial payments, a list of assessed property shall be committed by the board of assessors with 2 separate warrants under their hands and seal directed to the collector no later than January 15. The collector shall mail all the bills for the 2 quarterly partial payments no later than 30 days before their due dates. The collector shall receive such payments and credit the amount paid towards the amount of the taxes eventually assessed against the property.

(c) Payments of the remainder of the taxes, minus the 2 partial payments due on July 1 and October 1 of that year, shall be due and payable in 2 equal billings on January 2 and March 31. For the purpose of these final remaining partial payments, the assessor shall commit 2 separate warrants to the collector. The collector shall mail all the bills for the 2 remaining tax payments no later than 30 days before their due dates. For purposes of RSA 76:16, RSA 76:16-a, and RSA 76:17, the "notice of tax" shall mean the date the board of tax and land appeals determines to be the last date of mailing of the January 2 quarterly tax bill, which bill is based on the current year's tax rate and assessments.

(d) For the purpose of establishing the real estate tax lien under the provisions of RSA 80:59, for the tax bills due and payable each year after the adoption of quarterly tax billing, the real estate of every person or corporation may be subject to the tax lien procedure by the collector, in case all taxes against the owner shall not be paid in full on or before April 1 next after its assessment.

IV. If, subsequent to the collector issuing quarterly bills, the assessors are made aware of a change in ownership in a parcel so billed, the assessors shall amend the tax list and notify the collector, who, upon the request of the taxpayer, shall cause to be mailed to the new owner a statement of account showing the balance due on the current quarterly billing.

V. Interest at the rate of 12 percent per annum shall be charged on all taxes not paid on or after their due dates or 30 days after mailing, whichever is later.

2 Resident Taxes; Definitions. Amend RSA 72:1-d, I(b)-(c) to read as follows:

(b) In towns that bill semiannually, pursuant to RSA 76:15-a, the date the town mails the second tax bill to the taxpayers; ~~and~~

(c) In towns operating with an optional fiscal year, pursuant to RSA 31:94-a or a special legislative act, the date the town mails the first tax bill to the taxpayers, provided that first tax bill establishes the total tax liability for the tax year and the bill includes notice that abatements must be sought from the first bill[-]; **and**

***(d) In municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.***

3 Apportionment, Assessment and Abatement of Taxes; Definitions. Amend RSA 76:1-a, I(b)-(c) to read as follows:

(b) In towns that bill semiannually, pursuant to RSA 76:15-a, the date the town mails the second tax bill to the taxpayers; ~~and~~

(c) In towns operating with an optional fiscal year, pursuant to RSA 31:94-a or a special legislative act, the date the town mails the first tax bill to the taxpayers, provided that first tax bill establishes the total tax liability for the tax year and the bill includes notice that abatements must be sought from the first bill[-]; **and**

***(d) In municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.***

4 Collection of Taxes; Local Option. Amend RSA 76:15-b to read as follows:

76:15-b Local Option.

***I.*** Other provisions of law to the contrary notwithstanding, taxes shall be collected in any town or city in a manner pursuant to RSA 76:15-a if said town or city, by majority vote of the governing body, adopts the provisions thereof. A town or city which adopts the provisions of RSA 76:15-a may rescind said adoption by majority vote of the governing body, and the general statutes relating to collection of taxes shall once again apply.

***II.*** Taxes shall be collected in any town or city in a manner pursuant to RSA 76:15-aa, if said town or city, by majority vote of the legislative body, adopts the provisions thereof. A town or city which adopts the provisions of RSA 76:15-aa may rescind said adoption by majority vote of the legislative body, and the general statutes relating to collection of taxes shall once again apply.

***III.*** Any city or town may, by majority vote of the legislative body, adopt a fiscal year running from July 1 to June 30 of the following year. In conjunction with that vote, the city or town is also authorized, by majority vote, to adopt a budget for the purpose of funding a 6-month conversion period through the adoption of a system for quarterly collection and billing of taxes as provided in RSA 76:15-aa.

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

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 474-L**, exempting property owned by a private secondary or postsecondary educational institution from the education property tax. Ways and Means Committee. Ought to Pass, Vote 3-1. Senator Clegg for the committee.

#### **MOTION TO TABLE**

Senator Clegg moved to have **SB 474-L** laid on the table.

**Adopted.**

#### **LAID ON THE TABLE**

**SB 474-L**, exempting property owned by a private secondary or postsecondary educational institution from the education property tax.

**Senator D'Allesandro rule #42 on SB 474-L.**

**HB 618-FN-A**, making technical corrections to certain local property tax laws. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator D'Allesandro for the committee.

Senate Ways and Means

March 9, 2004

2004-0745s

09/10

#### **Amendment to HB 618-FN-A**

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

AN ACT making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, and allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities.

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

3 Property Taxation; Conditions for Elderly Exemption. Amend RSA 72:39-a, II(d) to read as follows:

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

4 Elderly Exemption; Adoption and Modification. Amend RSA 72:39-b, II to read as follows:

II. An elderly exemption, based on assessed value for qualified taxpayers, [shall] **may** be granted for a different dollar amount determined by the town or city, to a person 65 years of age up to 75 years, to a person 75 years of age up to 80 years, and to a person 80 years of age or older. To qualify, the person must have been a New Hampshire resident for at least 5 consecutive years, own the real estate individually or jointly, or if the real estate is owned by such person's spouse, they must have been married to each other for at least 5 consecutive years. In addition, the taxpayer must have a net income in each applicable age group of not more than a dollar amount determined by the town or city of not less than \$13,400 or, if married, a combined net income of not more than a dollar amount determined by the town or city of not less than \$20,400; and own net assets not in excess of a dollar amount determined by the town or city of not less than \$35,000 excluding the value of the person's residence or, if married, combined net assets not in excess of a dollar amount determined by the town or city of not less than \$35,000 excluding the value of the residence. Under no circumstances shall the amounts of the exemption for any age category be less than \$5,000. The combined net asset amount for married persons shall apply to a surviving spouse until the sale or transfer of the property by the surviving spouse or until the remarriage of the surviving spouse.

5 Municipal Budget Law; Posting of Budget. Amend RSA 32:5, VII to read as follows:

VII. The governing body shall post certified copies of the budget, with the warrant for the meeting. ***The operating budget warrant shall contain the amount as recommended by the budget committee if there is one.*** In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its posted budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

6 Property Tax Relief; Exemption for Certain Late Filed Claims. Amend RSA 198:57, VI and VII to read as follows:

VI. **(a)** Complete applications for state tax relief shall be filed with the department of revenue administration between May 1 and June 30 following the due date of the final tax bill as defined in RSA 76:1-a for state education property taxes. ~~[If an otherwise qualified claimant shall satisfy the commissioner that such claimant was prevented by accident, mistake, or misfortune from filing a complete application on or before June 30, the commissioner may receive the complete application at a later date and grant the relief for that tax year.]~~

**(b) The commissioner may accept late filed, but complete, applications filed on or before November 1, under the following circumstances:**

**(1) The claimant satisfies the commissioner that the claimant was prevented from timely filing the application due to accident, mistake or misfortune.**

**(2) The claimant or other adult member of the household requested an extension of time to file his or her federal income tax return.**

VII. Each claimant shall provide a copy of his or her federal income tax return and a copy of the federal income tax return for each adult member of the claimant's household for the corresponding tax period. Claimants and adult household members who were not required to file a federal tax return for the immediately prior tax period may submit an affidavit to such effect in lieu of a tax return which document shall include the affiant's social security number. ***A claimant or any other adult member of the household, who requested an extension to file his or federal income tax return, shall attach a copy of the federal extension to the***

**claim.** A claimant who asserts ownership in a homestead because he or she holds equitable title, or the beneficial interest for life, in the homestead shall also submit a copy of the document creating such interest and a copy of the federal tax return, if any, for the immediately prior tax period, of the trust holding legal title to the homestead. Any documents submitted shall be considered confidential, and protected under RSA 21-J:14.

7 New Paragraph; Property Tax Relief; Authority to Audit Claims for Relief. Amend RSA 198:59 by inserting after paragraph I the following new paragraph:

I-a. The commissioner shall have the authority to audit any claim for relief filed under this subdivision to determine whether the claim has been granted erroneously. Any such audit shall commence within 3 years after the claim has been granted. Any assessment made by the commissioner shall be subject to appeal in accordance with RSA 198:60, I.

8 Property Tax Relief; Appeal of Assessment. Amend RSA 198:60, I to read as follows:

I. Whenever the commissioner refuses to grant a claimant [a] tax relief, ***or after an audit, assesses an amount against the claimant for property tax relief granted including interest and applicable penalties for an erroneously paid*** claim, the claimant may appeal in writing within 30 days of notice of such refusal ***or assessment*** to the board of tax and land appeals.

9 Certificates of Occupancy and Other Building Permits.

I. Notwithstanding any law to the contrary and in furtherance of the Intermunicipal Agreements between the City of Manchester and the Town of Londonderry dated March 3, 1981 and March 9, 1992, as amended on June 16, 2003, the city of Manchester, through its department of aviation, shall, with respect to aeronautical facilities within the airport district, have the authority to issue certificates of occupancy and other permits which a local building inspector would be authorized to issue under the state building code as defined by RSA 155-A. "Aeronautical facilities" and "airport district" shall have the same meaning as such terms do in the above agreements, as they may be amended from time to time by the parties.

II. The authority granted in this section shall lapse in the event that the above-referenced agreements and/or their successors are amended by the city of Manchester and the town of Londonderry to eliminate the department of aviation's authority to issue such permits.

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

2004-0745s

#### AMENDED ANALYSIS

This bill:

I. Makes technical corrections to certain local property tax laws allowing for exemptions.

II Clarifies the requirements for posting of the budget with the warrant for a town or school district meeting.

III. Limits the filing period for late low and moderate income homeowners property tax relief claims to the November 1 after the June 30 filing deadline for that tax year. The bill extends the late filing allowance to claimants who have requested an extension for filing their federal income tax returns. The bill also authorizes the commissioner of the department of revenue to audit low and moderate income property tax relief claims up to 3 years after the claim has been paid.

IV. Allows the city of Manchester to issue certificates of occupancy and local building permits with respect to aeronautical facilities within the airport district.

#### **Amendment adopted.**

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

March 16, 2004

2004-0859s

09/01

#### **Floor Amendment to HB 618-FN-A**

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

AN ACT making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.



Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 Manchester Airport; Towing and Impounding Abandoned Vehicles.

I. Notwithstanding the provisions of RSA 262 or any other provision of law, Manchester Airport shall be authorized to tow, impound, and dispose of abandoned vehicles from parking lots, parking garages and roadways within the approved Airport district.

II. Abandoned vehicles towed and impounded shall be stored at a secure location until such time as they are claimed by an authorized person or disposed of in accordance with RSA 262:31 - RSA 262:40-c.

2004-0859s

#### AMENDED ANALYSIS

This bill:

I. Makes technical corrections to certain local property tax laws allowing for exemptions.

II Clarifies the requirements for posting of the budget with the warrant for a town or school district meeting.

III. Limits the filing period for late low and moderate income homeowners property tax relief claims to the November 1 after the June 30 filing deadline for that tax year. The bill extends the late filing allowance to claimants who have requested an extension for filing their federal income tax returns. The bill also authorizes the commissioner of the department of revenue to audit low and moderate income property tax relief claims up to 3 years after the claim has been paid.

IV. Allows the city of Manchester to issue certificates of occupancy and local building permits with respect to aeronautical facilities within the airport district.

V. Allows Manchester Airport to tow and impound abandoned vehicles.

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

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

**HB 1311-FN**, establishing a committee to study decreasing the insurance premium tax. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator D'Allesandro for the committee.

Senate Ways and Means

March 11, 2004

2004-0816s

01/09

#### Amendment to HB 1311

Amend subparagraph I(b) as inserted by 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 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. Wildlife and Recreation Committee. Ought to Pass, Vote 3-2. Senator Gallus for the committee.

**Adopted.**

**Ordered to third reading.**

**Senator Sapareto is in opposition to the passage of SB 343.**

**SB 495-FN**, relative to original and youth operators' licenses. Transportation Committee. Ought to pass with amendment, Vote 4-1. Senator Kenney for the committee.



Senate Transportation  
 March 10, 2004  
 2004-0803s  
 03/05

#### **Amendment to SB 495-FN**

Amend the bill by replacing section 4 with the following:

4 Original License; Revocation and Suspension. Amend RSA 263:14, III(a)-(b) to read as follows:

III.(a) The director is authorized to revoke or suspend any original license ~~[issued under title XXI]~~ **held by a person under 20 years of age** after a hearing **before a hearing officer** upon a showing by its records or other sufficient evidence that the driver has committed ~~[an offense during the first year following the issuance of an original license or has committed 2 or more offenses during the first 2 years]~~ **an offense listed in RSA 259:39, I(g)-(q) or II** following the issuance of an original license for which the original license holder has been convicted.

(b) The periods of suspension or revocation set forth in subparagraph III(a) of this section shall be as follows:

(1) For a first ~~[offense during the first year following the issuance of an original license]~~ **offense listed in RSA 259:39, I(g)-(q) or II, up to** 20 days.

(2) For a second ~~[offense during the first 2 years following the issuance of an original license]~~ **offense listed in RSA 259:39, I(g)-(q) or II, up to** 45 days.

(3) For a third or subsequent ~~[offense during the first 2 years following the issuance of an original license]~~ **offense listed in RSA 259:39, I(g)-(q) or II, up to** 90 days.

Amend the bill by replacing section 7 with the following:

7 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.**

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

*Slow us down, O Lord, less in the frenetic rush of those things we feel we must accomplish, we get in our own way, block our own effectiveness and forget who we are and whose we are.* Amen

Senator O'Hearn led the Pledge of Allegiance.

#### **INTRODUCTION OF GUESTS**

##### **TAKEN OFF THE TABLE**

Senator Gatsas moved to have **SB 302-FN-L** taken of the table.

**Adopted.**

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

**Question is on the adoption of the committee amendment (0652)**

**Amendment adopted.**

**Senator Boyce is in opposition to the committee amendment on SB 302-FN-L**

Senator Green offered a floor amendment.

Sen. Green, Dist. 6  
 March 15, 2004  
 2004-0836s  
 04/10

#### **Floor Amendment to SB 302-FN-LOCAL**

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

13 Repeal. The following are repealed:

I. Section 12 of this act, relative to total state aid for education for the 2005 fiscal year.

II. RSA 198:40-c, II, relative to the consumer price index adjustment for total state aid for education.

14 Effective Date.

I. Section 1 of this act and paragraph I of section 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.

2004-0836s

#### AMENDED ANALYSIS

This bill:

I. Includes the cost of transporting educationally disabled pupils in the distribution of state aid for education in each fiscal year.

II. Allows municipalities which have a local equalized valuation per pupil which is less than or equal to 150 percent of the statewide average equalized valuation per pupil to receive certain targeted per pupil aid.

III. Provides transition grants to certain municipalities for the 2005 fiscal year only.

IV. Amends certain statutory provisions concerning the distribution of state aid for education.

**Floor amendment adopted.**

**Senator Boyce is in opposition to the floor amendment (0836s) on SB 302-FN-L.**

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

Sen. Larsen, Dist. 15

Sen. Below, Dist. 5

Sen. Estabrook, Dist. 21

March 10, 2004

2004-0776s

04/10

#### **Floor Amendment to SB 302-FN-LOCAL**

Amend the bill by replacing all after section 11 with the following:

12 State Aid for Education; Fiscal Year 2005 Grants. Notwithstanding RSA 198:40-c, for the 2005 fiscal year, total state aid for education for a municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be determined as follows:

I. For the 2005 fiscal year, a municipality shall receive not less than 80 percent of the amount of total state aid for education received by such municipality in the 2004 fiscal year. A municipality which is scheduled to receive less than 80 percent of such amount shall receive a transition grant in an amount sufficient to increase the municipality's fiscal year 2005 total state aid for education to 80 percent of the amount received by such municipality in fiscal year 2004.

II. A municipality's total state aid for education, as calculated in paragraph I, shall be multiplied by 0.942, and the result shall be the adjusted total state aid for education for the 2005 fiscal year which shall be distributed to such municipality in the 2005 fiscal year.

III. A municipality's adjusted total state aid for education for the 2005 fiscal year, as calculated in paragraph II of this section, shall not be less than 95 percent of the amount of total state aid for education received by such municipality in the 2004 fiscal year.

13 Tobacco Tax; Fiscal Year 2005 Tax Imposed. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [52] **75** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold

at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

14 Tobacco Tax; Tax Imposed. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

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

16 Effective Date.

I. Sections 1, 14, and 15 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.

2004-0776s

#### AMENDED ANALYSIS

This bill:

I. Includes the cost of transporting educationally disabled pupils in the distribution of state aid for education in each fiscal year.

II. Allows municipalities which have a local equalized valuation per pupil which is less than or equal to 150 percent of the statewide average equalized valuation per pupil to receive certain targeted per pupil aid.

III. Provides transition grants to certain municipalities for the 2005 fiscal year only.

IV. Amends certain statutory provisions concerning the distribution of state aid for education.

V. Increases the tobacco tax from 52 cents to 75 cents for the 2005 fiscal year.

**Question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Sapareto.**

**The following Senators voted Yes: Below, Odell, O'Hearn, Foster, Larsen, D'Allesandro, Estabrook, Cohen.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Peterson, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.**

**Yeas: 8 - Nays: 15**

**Floor amendment failed.**

#### MOTION TO TABLE

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

**Question is on the motion to table.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Sapareto.**

**The following Senators voted Yes: Gallus, Kenney, Below, Green, Odell, Foster, Larsen, Sapareto, Estabrook, Cohen.**

**The following Senators voted No: Johnson, Boyce, Flanders, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, D'Allesandro, Morse, Prescott.**

**Yeas: 10 - Nays: 13**

**Motion failed.**

**Question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Barnes, Boyce, Clegg, D'Allesandro, Eaton, Flanders, Gatsas, Johnson, Morse, O'Hearn, Peterson, Prescott, Roberge.**

**The following Senators voted No: Below, Cohen, Estabrook, Foster, Gallus, Green, Kenney, Larsen, Martel, Odell, Sapareto.**

**Yeas: 13 - Nays: 11**

**Adopted.**

**Ordered to third reading.**

#### **HOUSE MESSAGE**

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

**SB 493**, repealing examination standards for certified public accountants.

#### **SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 493**, repealing examination standards for certified public accountants.

Senator Prescott moved to concur.

**Adopted.**

#### **MOTION OF RECONSIDERATION**

Senator Gatsas having voted with the prevailing side, moved reconsideration on **SB 302**, whereby it was ordered to third reading.

**Adopted.**

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

**Question is on the motion of ought to pass as amended.**

**A roll call was requested by Senator Sapareto.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Johnson, Boyce, Flanders, Roberge, Eaton, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, D'Allesandro, Morse, Prescott.**

**The following Senators voted No: Gallus, Kenney, Below, Green, Odell, Foster, Larsen, Sapareto, Estabrook, Cohen.**

**Yeas: 14 - Nays: 10**

**Adopted.**

**Ordered to third reading.**

**SB 449**, relative to fluoridation of municipally-owned public water systems. Environment Committee. Ought to pass with amendment, Vote 5-0. Senator Below for the committee.

Senate Environment

March 10, 2004

2004-0805s

06/10

#### **Amendment to SB 449**

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

1 Use of Fluorine; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluorine.

I. No fluorine shall be introduced into the water of any lake, pond, reservoir or stream tributary from which the domestic water supply is taken unless and until the municipality using said waters has held a public hearing as to the introduction of fluorine into the public water supply of said municipality, and the voters of such municipality have approved such action pursuant to RSA 44:16, RSA 31:17-a or RSA 52:23.

II. Where the supplier of water for a public water system is a municipal water company and the public water system serves residents of more than one municipality, fluorine may be introduced into the public water system upon being approved in accordance with the following procedure:

(a) The municipality whose municipal water company is the supplier of water for the public water system may approve the introduction of fluorine into the public water system in accordance with RSA 44:16, RSA 31:17-a, or RSA 52:23. The municipality, prior to the vote shall hold a public hearing on the introduction of fluorine into the public water system. In addition to any other notice required by law, the municipality acting as the supplier of water shall post notice of the time and place of the public hearing in 2 appropriate places in any municipality whose residents are, in whole or in part, directly served by the public water system.

(b) If the majority of voters of the municipality acting as the supplier of water approves the introduction of fluorine into their public water system, any other municipality whose residents, in whole or in part, are directly served by the public water system may insert a question about the introduction of fluorine on the ballot in accordance with RSA 44:16, RSA 31:17-a, or RSA 52:23, as may be applicable. For purposes of this paragraph, the term "voter" in RSA 44:16, RSA 31:17-a, or RSA 52:23 shall mean any person who may lawfully vote at a municipal election in said municipality and whose residence is directly served by the public water system. Any vote on the question of fluoridation shall occur no later than the first municipal election following the approval by the municipality acting as the supplier of water. If a municipality fails to conduct a timely vote on the question of fluoridation, it shall be deemed to have acquiesced to the introduction of fluorine. The municipal water company shall provide municipalities with the information necessary to identify residences directly served by its public water system. If the majority of voters in all municipalities served by the public water system approve the introduction of fluorine into the public water system, fluorine may be introduced or may continue to be introduced into the public water system.

(c) The appropriate official in each municipality shall verify the results of any vote on the question as to the introduction of fluorine and shall forward a certified statement of the results to the clerk of the municipality acting as the supplier of water for the public water system. The clerk shall add together the certified results of all municipalities voting on the introduction of fluorine into the public water system. If the majority of voters overall approves the introduction of fluorine into the public water system, fluorine may be introduced or continue to be introduced into the public water system. Notwithstanding any law to the contrary, after such series of votes, the question of fluoridation shall not be inserted on a ballot used at a municipal election for a minimum period of 3 years from the date of the last vote of any of the participating municipalities and, only upon written application at that time of not less than 10 percent of the registered voters of the municipality acting as the supplier of water.

(d) After the introduction of fluorine has been approved in accordance with this section, no additional vote shall be required if the service area of the public water system is extended to new customers or new municipalities. Said customers or municipalities may participate in future votes about the introduction of fluorine in accordance with this section.

(e) Nothing in this section shall be construed to restrict the authority of municipalities to agree to other procedures under RSA 53-A, RSA 485-D, or similar statutes.

(f) Where fluorine is currently being introduced into a public water system and the voters of the municipality acting as the supplier of water have approved such action after public hearing pursuant to RSA 44:16, RSA 31:17-a, or RSA 52:23, that municipality and any other municipality whose residents, in whole or in part, are directly served by the public water system may insert the question about the introduction of fluorine on the ballot in accordance with subparagraph (b) at the next state general election following the effective date of this act. If any municipality fails to conduct a timely vote on the question of fluoridation, it shall be deemed to have acquiesced to the introduction of fluorine. Fluoridation of public water system may continue until the majority of voters vote to discontinue it.

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

2004-0805s

#### AMENDED ANALYSIS

This bill:

I. Allows the introduction of fluorine into public water supplies that serve more than one municipality if the voters of the municipality which supplies the water vote to approve its use.

II. Establishes a procedure for a referendum on the use of fluorine in other municipalities served by the water system.

III. Limits voting on the referendum to voters who are also directly served by the water system.

**Amendment adopted.**

Senator Below offered a floor amendment.

Sen. Below, Dist. 5  
Sen. D'Allesandro, Dist. 20  
March 18, 2004  
2004-0886s  
06/10

**Floor Amendment to SB 449**

Amend RSA 485:14, II (f) as inserted by section 1 of the bill by replacing it with the following:

(f) Where fluorine is currently being introduced into a public water system and the voters of the municipality acting as the supplier of water have approved such action after public hearing pursuant to RSA 44:16, RSA 31:17-a, or RSA 52:23, but voters in other municipalities whose residents, in whole or in part, are directly served by the public water system have not voted on such action, all municipalities whose residents, in whole or in part, are directly served by the public water system shall insert a question about the introduction of fluorine on the ballot in accordance with RSA 44:16, RSA 31:17-a, or RSA 52:23 except that no petition shall be required for a first vote on the question. For purposes of this paragraph, the term "voter" in RSA 44:16, RSA 31:17-a, or RSA 52:23 shall mean any person who may lawfully vote at a municipal election in said municipality and whose residence is directly served by the public water system. Any vote on the question of fluoridation shall occur at the first state general election following the effective date of this act. The municipal water company shall provide municipalities with the information necessary to identify residences directly served by its public water system. To the extent that there is an additional expense to a municipality for printing the question, the expense shall be paid by the supplier of water. If the majority of voters in all municipalities served by the public water system approve the introduction of fluorine into the public water system, fluorine may continue to be introduced into the public water system. If the majority of voters casting votes on the question fails to approve the introduction of fluorine into the public water system, then the introduction of fluorine shall be discontinued immediately following certification of the vote by the clerk of the municipality of the water system in accordance with subparagraph (c).

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing. Ways and Means Committee. Inexpedient to Legislate, Vote 5-0. Senator Boyce for the committee.

**Question is on the adoption of the committee report of inexpedient to legislate.**

**A roll call was requested by Senator Gatsas.**

**Seconded by Senator Roberge.**

**The following Senators voted Yes: Gallus, Johnson, Boyce, Odell, Peterson, D'Allesandro, Morse, Prescott, Cohen.**

**The following Senators voted No: Kenney, Below, Green, Flanders, Roberge, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, Estabrook.**

**Yeas: 9 - Nays: 14**

**Motion failed.**

**Senator Roberge moved ought to pass.**

Senator Roberge offered a floor amendment.

Sen. Roberge, Dist. 9  
March 18, 2004  
2004-0884s  
08/01

**Floor Amendment to HB 520-FN**

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

1 New Sections; Records of Greyhounds Used in Racing. Amend RSA 284 by inserting after section 14-b the following new sections:



**284:14-c Records of Greyhound Disposition.**

I. The commission shall maintain accurate records and statistics regarding the disposition of all greyhounds that have participated in dog racing in the state, including racing greyhounds received from other jurisdictions. For the purposes of this section, the word "disposition" shall mean euthanasia, transfer to another jurisdiction, adoption, or donation or sale for medical research or other purpose. Such records shall include the following information:

(a) The greyhound's registered name and left and right ear tattoos, the name and address of the greyhound's owner, trainer, and kennel operator at the time of disposition, and the name and address of the race track where the greyhound last raced prior to disposition.

(b) If the greyhound has been transferred to another race track, the name and address of the race track that received the greyhound.

(c) If the greyhound has been retired for breeding, the name and address of the facility that received the greyhound.

(d) If the greyhound has been adopted or placed for adoption, the name, address and telephone number of the person or entity that received the greyhound.

(e) If the greyhound has been euthanized, the name, address, professional title and professional affiliation of the person performing the euthanasia, the manner of euthanasia, and a detailed statement of reasons why the greyhound was euthanized rather than adopted or placed for adoption.

(f) If the greyhound has been sold or donated to an individual, corporation or entity, the name and address of the individual, corporation or entity purchasing or receiving the greyhound, and the purpose for which the greyhound is being purchased or received.

(g) If the greyhound's disposition does not fit into any of the above categories, the owner, trainer or kennel operator shall state, in detail, the greyhound's destination, and the specific purpose for which the greyhound has been received, sold, transferred or donated.

II. All disposition forms shall be completed and signed under the pains and penalties of perjury by the greyhound's owner, trainer or kennel operator, whose signature shall be witnessed by a representative of the commission. Whoever knowingly makes a false written statement on a disposition form shall be guilty of a violation. A person found guilty of knowingly violating this section for a second or subsequent offense shall be guilty of a class A misdemeanor. Disposition records created and maintained under this section shall be retained by the commission for a period of 7 years and shall be made available to the public upon oral or written request.

**284:14-d Records of Greyhound Injuries.**

I. The commission shall maintain accurate records and statistics regarding injuries to greyhounds. The records shall include the following:

(a) The greyhound's registered name and right and left ear tattoo numbers.

(b) The owner, trainer and kennel operator's name, business address and telephone number.

(c) The color, weight, and sex of the greyhound.

(d) Where the injury took place on a race track or other area.

(e) If the injury occurred while the greyhound was racing, the race track where the injury occurred, along with the distance, grade, race and post position when the injury occurred; the specific type of injury, the cause of the injury, the estimated recovery time, and the location of injury on the greyhound.

II. All injury forms shall be completed and signed under the pains and penalties of perjury by the race track veterinarian, whose signature shall be witnessed by a representative of the commission. Whoever knowingly makes a false written statement on an injury form shall be guilty of a violation. A person found guilty of knowingly violating this section for a second or subsequent offense shall be guilty of a class A misdemeanor. Injury records created and maintained under this section shall be retained by the commission for a period of 7 years and shall be made available to the public upon oral or written request.

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

VII. Rules governing disposition records and injury records of greyhounds, including creating forms and establishing procedure, pursuant to RSA 284:14-c and RSA 284:14-d.

3 Effective Date. This act shall take effect January 1, 2005.

**Question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Kenney.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Kenney, Boyce, Below, Green, Flanders, Roberge, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, Estabrook, Morse, Cohen.**

**The following Senators voted No: Gallus, Johnson, Odell, Peterson, D'Allesandro, Prescott.**

**Yeas: 17 - Nays: 6**

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Boyce.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Kenney, Below, Green, Flanders, Roberge, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Sapareto, Estabrook, Cohen.**

**The following Senators voted No: Gallus, Johnson, Boyce, Odell, Peterson, Martel, D'Allesandro, Morse, Prescott.**

**Yeas: 14 - Nays: 9**

**Adopted.**

**Ordered to third reading.**

**SB 398**, relative to residency requirements for Medicaid recipients in nursing homes. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 3-2. Senator Boyce for the committee.

#### **MOTION TO TABLE**

Senator Clegg moved to have **SB 398** laid on the table.

**Adopted.**

#### **LAIID ON THE TABLE**

**SB 398**, relative to residency requirements for Medicaid recipients in nursing homes.

**SB 441**, relative to the operation of dental clinics by healthcare charitable trusts. 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 10, 2004

2004-0789s

08/01

#### **Amendment to SB 441**

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

AN ACT relative to the operation of dental clinics by health care charitable trusts and non-profit hospitals.

Amend RSA 317-A:20-a as inserted by section 1 of the bill by replacing it with the following:

317-A:20-a Health Care Charitable Trust and Non-Profit Hospital Dental Clinics.

I. Notwithstanding RSA 317-A:20, a health care charitable trust, as defined under RSA 7:32-d, V, and non-profit hospitals, may apply to the board to own, lease, maintain, or operate a dental clinic where dental operations are performed. The board shall approve such application if the following criteria are met:

(a) The health care charitable trust or non-profit hospital is a not-for-profit corporation under RSA 292 and section 501(c)(3) of the Internal Revenue Code;

(b) The health care charitable trust complies with the provisions of RSA 7:19 through RSA 7:32-b;

(c) The health care charitable trust identifies dental care as part of its mission statement in its community benefit plan required under RSA 7:32-e, or non-profit hospitals currently providing free dental care as part of their community health program.

(d) The provision of dental services provided by the health care charitable trust or non-profit hospital are under the general supervision of a dentist licensed by the board;

II. A clinic operated by a not-for-profit entity on the effective date of this section shall be allowed to continue to operate provided it meets the requirements of paragraph I.

Amend RSA 317-A:12, XII-d as inserted by section 3 of the bill by replacing it with the following:

XII-d. The application and approval of dental clinics operated by health care charitable trusts or non-profit hospitals under RSA 317-A:20-a; and

2004-0789s

#### AMENDED ANALYSIS

This bill allows health care charitable trusts and non-profit hospitals to own, lease, maintain, or operate dental clinics.

#### **Amendment failed.**

Senator Martel offered a floor amendment.

Sen. Martel, Dist. 18

March 17, 2004

2004-0874s

08/01

#### **Floor Amendment to SB 441**

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

1 New Subparagraph; Practice of Dentistry. Amend RSA 317-A:20, III by inserting after subparagraph (b) the following new subparagraph:

(c) A health care charitable trust, as defined under RSA 7:32-d, V, from owning, leasing, maintaining, or operating a dental clinic where dental operations are performed, provided:

(1) The health care charitable trust is a not-for-profit corporation under RSA 292 and section 501(c)(3) of the Internal Revenue Code;

(2) The health care charitable trust complies with the provisions of RSA 7:19 through RSA 7:32-l; and

(3) The practice of dentistry conducted under the authority of the health care charitable trust shall be under the supervision of a dentist licensed by the board. The health care charitable trust shall notify the board in writing of the name and location of the dental clinic and the name of the supervising dentist, and shall notify the board within 10 days of any change of the supervising dentist.

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

#### **Floor amendment adopted.**

#### **Question is on the adoption of the bill as amended.**

#### **Adopted.**

#### **Ordered to third reading.**

**SB 484**, establishing the Collaborative Practice for Emergency Contraception Act. Public Institutions, Health and Human Services Committee. Inexpedient to Legislate, Vote 3-2. Senator Martel for the committee.

#### **Motion failed.**

#### **Senator D'Allesandro moved ought to pass.**

#### **Question is on the motion of ought to pass.**

#### **A roll call was requested by Senator Prescott.**

#### **Seconded by Senator Boyce.**

**The following Senators voted Yes: Gallus, Below, Green, Flanders, Odell, Peterson, O'Hearn, Foster, Clegg, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.**

**The following Senators voted No: Johnson, Kenney, Boyce, Roberge, Gatsas, Barnes, Martel, Morse, Prescott.**

**Yeas: 14 - Nays: 9**

**Adopted.**

**Ordered to third reading.**

**TAKEN OFF THE TABLE**

Senator Cohen moved to have **SB 112** taken off the table.

**A 2/3<sup>rd</sup> vote to suspend the rules is necessary due to rule #24 (a) deadline.**

**A division vote was requested.**

**Yeas: 9 - Nays: 14**

**Motion failed.**

**Senator Peterson is in favor of the vote to remove SB 112 from the table.**

**TAKEN OFF THE TABLE**

Senator Roberge moved to have **SB 407** taken off the table.

**Adopted.**

**SB 407-FN-L**, relative to default budgets.

**Question is on the adoption of the committee amendment (0521)**

**Amendment adopted.**

Senator Roberge offered a floor amendment.

Sen. Barnes, Dist. 17

Sen. Roberge, Dist. 9

March 18, 2004

2004-0887s

08/09

**Floor Amendment to SB 407-FN-LOCAL**

Amend RSA 40:13, IX(b) as inserted by section 1 of the bill by replacing it with the following:

***(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year; reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body or the budget committee, if there is one, of the local political subdivision. The default budget shall not increase by an amount in excess of the cost of living index, as measured by the most recent available northeast region consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics, or by more than 3 percent of the operating budget of the previous year, whichever is less, unless otherwise provided for by the voters.***

**Senator Roberge withdrew her floor amendment.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Barnes is in favor of SB 407-FN-L as amended.**

**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 126-FN-A**, exempting transfers of title between spouses from the real estate transfer tax.

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

**SB 303-FN**, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

**SB 311**, relative to civil penalties for unlawful campaign practices.

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways.

**SB 357**, authorizing municipalities to adopt quarterly billing of taxes.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

**SB 389**, relative to certain insurance contracts.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

**SB 411-FN-L**, relative to liability for special education transportation costs.

**SB 421**, relative to charter schools.

**SB 433-FN**, establishing a committee to study utility rate review by the public utilities commission.

**SB 441**, relative to the operation of dental clinics by healthcare charitable trusts.

**SB 448-FN**, relative to consumer guaranty contracts.

**SB 449**, relative to fluoridation of municipally-owned public water systems.

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

**SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.

**SB 461**, relative to the regulation of gift certificates under the consumer protection act.

**SB 465**, relative to testimony of witnesses about confidential settlements.

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay.

**SB 484**, establishing the Collaborative Practice for Emergency Contraception Act.

**SB 489**, relative to requests for special elections.

**SB 492**, relative to registration requirements for home inspectors.

**SB 495-FN**, relative to original and youth operators' licenses.

**SB 526**, relative to sexual harassment complaint procedures for public employees.

**SB 532-FN**, exempting biodiesel from the road toll.

**SB 533**, relative to licensing requirements for certain recreation and child care programs.

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies.

**SCR 5**, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans.

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing.

**HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18.

**HB 1259**, relative to the medical certification required for a walking disability plate or placard.

**HB 1292**, apportioning state representative districts.

**HB 1311-FN**, establishing a committee to study decreasing the insurance premium tax.

**HB 1363**, designating "Goodbye Old Man" as a state song of New Hampshire.

### 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, and forming Committees of Conference.

**Adopted.**

**Out of recess.**

### HOUSE MESSAGE

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

**HB 1309**, relative to noise pollution from shooting ranges.

**HB 1372**, defining certain terms relating to military service.

**HB 1374**, relative to lightning protection systems.

**HB 1422**, relative to qualifications for persons who negotiate on behalf of the state.

**HB 2004**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

### INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, House legislation numbered from **1309** to **2004**, shall be by this resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

**Adopted.**

#### First and Second Reading and Referral

**HB 1309**, relative to noise pollution from shooting ranges. (Wildlife and Recreation)

**HB 1372**, defining certain terms relating to military service. (Public Affairs)

**HB 1374**, relative to lightning protection systems. (Public Affairs)

**HB 1422**, relative to qualifications for persons who negotiate on behalf of the state. (Internal Affairs)

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. (Transportation)

March 16, 2004

2004-0847-EBA

05/09

Enrolled Bill Amendment to HB 65

The Committee on Enrolled Bills to which was referred HB 65

AN ACT relative to educational assistance for national guard members.

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

FOR THE COMMITTEE

#### Explanation to Enrolled Bill Amendment to HB 65

This enrolled bill amendment makes a technical correction.



Enrolled Bill Amendment to HB 65

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

2 Repeal of Prospective Repeal Date of National Guard Education Assistance Act. 1996, 237:7, I as amended by 1998, 65:2 and 1999, 211:1, relative to the repeal date of RSA 110-B:63-a – 110-B:63-f,

Senator Eaton moved adoption.

**Adopted.**

March 17, 2004

2004-0867-EBA

03/01

Enrolled Bill Amendment to HB 258

The Committee on Enrolled Bills to which was referred HB 258

AN ACT relative to the regional community-technical college system and relative to the bonding of a Cannon Mountain capital appropriation.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 258

This enrolled bill amendment corrects certain references in the bill.

Enrolled Bill Amendment to HB 258

Amend 2003, 319:178, II-a as inserted by section 2 of the bill by replacing line 1 with the following:

II-a. Faculty positions, teachers, teacher assistants, teacher aides, and counselors within

Amend section 4 of the bill by replacing line 1 with the following:

4 Capital Budget; 2001; Cannon Mountain; Park Fund. Amend 2001, 202:1, XI, as extended by 2003, 240:34, LXXI and LXXII, to read as

Senator Eaton moved adoption.

**Adopted.**

March 17, 2004

2004-0879-EBA

06/09

Enrolled Bill Amendment to HB 620-FN

The Committee on Enrolled Bills to which was referred HB 620-FN

AN ACT providing various protections for parents in cases involving the guardianship of minors.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 620-FN

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to HB 620-FN

Amend RSA 463:6, II as inserted by section 2 of the bill by replacing line 1 with the following:

II. The orders of notice required by paragraph I shall further specify:

Amend RSA 463:8, VII (b) (2) as inserted by section 5 of the bill by replacing line 2 with the following:

conduct a hearing pursuant to this section as if the parent were objecting under paragraph III and

Senator Eaton moved adoption.

**Adopted.**

**In recess to the Call of the Chair.**