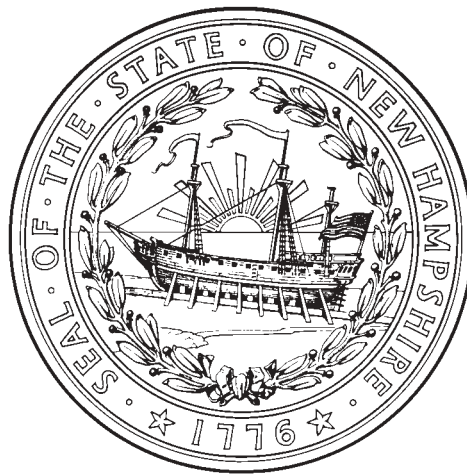


March 10, 2005
Nos. 7 - 8

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – FEBRUARY 24, 2005 SESSION
COMMENCEMENT – MARCH 10, 2005 SESSION

SENATE JOURNAL 7 *(Cont.)*

February 24, 2005

INTRODUCTION OF SENATE BILL(S)

Senator Flanders offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered SB 225-226, 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

05-0936

SB 225-FN-A, establishing video lottery. (D'Allesandro, Dist 20; Gallus, Dist 1; Morse, Dist 22: Ways and Means)

05-0667

SB 226, relative to the regulation of snowmobiles and off highway recreational vehicles. (Flanders, Dist 7; Kenney, Dist 3; Burling, Dist 5; Odell, Dist 8; Alger, Graf 6; Patten, Carr 4; Russell, Belk 6; Daniel Eaton, Ches 2: Transportation and Interstate Cooperation Committee)

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 8

March 10, 2005

The Senate met at 10:00 a.m.

A quorum was present.

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

O God, You care greatly about us and about our issues. Teach us to return the favor. May the fingerprints we leave behind through the choices and decisions we make be ones that are marks of indelible and essential dignity and importance and value. Amen

Senator Odell led the Pledge of Allegiance.

Senator Green is excused for the day.

INTRODUCTION OF GUESTS

SPECIAL ORDER

SB 11-FN, extending the local property tax exemption for wooden poles and conduits. Energy and Economic Development Committee. Ought to Pass, Vote 3-2. Senator Boyce for the committee.

SPECIAL ORDER

Senator Boyce moved that we Special Order the following Bill(s) to March 17, 2005 at 10:00 a.m.

SB 11-FN, extending the local property tax exemption for wooden poles and conduits.

Adopted.

Without Objection.

COMMITTEE REPORTS

SB 49-FN, including multiple sclerosis in the catastrophic illness program. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Roberge for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 58-FN, relative to the workers' compensation special fund for second injuries. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Flanders for the committee.

Banks and Insurance

February 24, 2005

2005-0472s

01/10

Amendment to SB 58-FN

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

AN ACT making certain changes in the workers' compensation law.

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

2 Hearings and Awards; Workers' Compensation. Amend RSA 281-A:43, II to read as follows:

II. A decision of the commissioner, the commissioner's authorized representative, or the board shall take effect ~~[upon the date of notification]~~ and shall become final, in the absence of an appeal from it, 30 days ~~[after notification]~~ **from the date of the decision**. Payment of weekly compensation and entitlement to medical and vocational benefits, if necessary and so ordered by the commissioner **or the board**, shall begin or continue as soon as possible, but no later than 5 working days after the decision's effective date, and shall not be terminated except in accordance with the terms of the decision or of a final court determination. If the commissioner determines that the employer **or carrier** has failed to comply with ~~[the]~~ **any** order, then the commissioner may assess a penalty not to exceed \$100 for each day of noncompliance, beginning on the date of notification of its assessment. Upon continued failure to comply with an order to make payment of the compensation or medical benefits, or to institute vocational rehabilitation, or to pay the penalty, or any combination thereof, the commissioner shall petition the superior court for an injunction to comply. The commissioner shall deposit with the state treasurer any penalty collected under this section.

3 Special Fund for Second Injuries; Workers' Compensation. Amend RSA 281-A:55, III to read as follows:

III. Each insurance carrier and self-insurer shall, pursuant to rules adopted by the commissioner, make payments to the fund in an amount equal to that proportion of ~~[175]~~ **115** percent of the total obligation of the fund during the preceding 12 months, less the amount of the net assets in the fund as of March 31 of the current year, which the total workers' compensation benefits, including medical benefits, paid by each insurance carrier and self-insurer bore to the total workers' compensation benefits, including medical benefits, paid by all insurance carriers and self-insurers in the fiscal year ending in the preceding calendar year.

4 Workers' Compensation; Appeals Board. Amend RSA 281-A:42-a, I to read as follows:

I. There is established a compensation appeals board. The board shall consist of a pool of 33 members, of which 11 members shall represent labor, 11 members shall represent employers or workers' compensation insurers and 11 members shall be attorneys who shall be neutral. Members of the board shall be appointed by the governor and council from a list of nominees submitted by the commissioner. The commissioner shall submit at least 2 nominees for each vacancy to be filled. Any person appointed by the governor and council who is not qualified or who ceases to be qualified in the capacity in which such person is serving on the appeals board shall be replaced by the governor and council. Terms of board members shall be 3 years, except the initial appointments shall be staggered so that no more than 1/3 of the members' terms shall ex-

pire in the same year. Members of the board shall have at least 5 years' experience in the area of workers' compensation. As a condition to maintaining eligibility to hear appeals, board members shall have at least 20 hours annually of training and briefing in the area of workers' compensation and relevant disciplines. The commissioner, or designee, with the assistance of the attorney general's staff shall supervise and approve the training. The commissioner shall have the authority to suspend the eligibility of any member of the board who is not in compliance with such annual training requirements, and to reinstate such member's eligibility upon compliance. ***The commissioner may suspend from active participation any board member who fails to render a decision or order within 30 days of the hearing as required by RSA 281-A:43, I(b). The commissioner may rescind the suspension once the board member is in compliance with RSA 281-A:43, I(b).*** Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel, composed of an attorney who shall serve as chair, one member representing labor and one member representing employers or workers' compensation insurers. At least 2 like votes shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, I(b), from the decisions of the commissioner made pursuant to RSA 281-A:43. No person who is an interested party or an employee of an interested party shall participate as a member of the panel. The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing.

5 New Paragraph; First Report of Injury. Amend RSA 281-A:53 by inserting after paragraph II the following new paragraph:

III. On or after July 1, 2006, all "First Reports of Injury" shall be filed by the insurance carrier or self-insured employer electronically in a manner prescribed by the department. The commissioner may grant an insurance carrier or self-insured employer a variance if the carrier or self-insured employer documents to the satisfaction of the commissioner that compliance would cause the carrier or self-insured employer "undue hardship" which, for the purposes of this section, means significant difficulty or expense.

6 Workers' Compensation; Notice of Hearing. Amend RSA 281-A:45 to read as follows:

281-A:45 Manner of Giving Notice of Hearing. A notice of a hearing under the provisions of this chapter ~~[shall]~~ **may** be given by giving notice in hand or by sending it by **regular or** certified mail return receipt requested addressed to the employee, the employer and the employer's insurance carrier, at each party's last known residence or place of business. ~~[The superior court shall send by certified mail to the commissioner a copy of each notice of a hearing it sets.]~~

7 Workers' Compensation; Medical, Hospital and Remedial Care. Amend RSA 281-A:23, V(a) to read as follows:

(a) The act of the worker in applying for workers' compensation benefits constitutes authorization to any physician, hospital, chiropractor, or other medical vendor to supply all relevant information regarding the worker's occupational injury or illness to the insurer, **the insurer's representative**, the worker's employer, the worker's representative, **the worker's employer's representative**, and the department. Medical information relevant to a claim includes a past history of complaints of, or treatment of, a condition similar to that presented in the claim. Any person who supplies information in accordance with this subparagraph and with rules adopted by the commissioner shall be immune from any liability, civil or criminal, that might otherwise be incurred for such action. The physician may require evidence from the workers' representative in his or her representative capacity. This authorization shall be valid for the duration of the work-related injury or illness.

8 Fees and Interest. Amend RSA 281-A:44, VI to read as follows:

VI. No attorney representing a claimant shall contract for, charge for, or collect a fee for legal service rendered to the claimant at the department level unless the fee has been approved by the commissioner. In determining the amount of the allowable fee, the commissioner shall consider, among other things, the nature, length and complexity of the service performed, the usual and customary charge for work of the like kind and the benefit accruing to the claimant as a result of the legal service performed; provided, however, that when an insurance carrier, self insurer, or payor acting on behalf of such carrier or self insurer disputes the causal relationship of a medical bill to the claimant's injury, or whether a medical bill was required by the nature of the injury, and denies payment of such bill, is after a hearing, ordered to pay or reimburse the bill by the commissioner, the ~~[employee]~~ **claimant** shall be entitled to reimbursement of reasonable counsel fees and costs as approved by the commissioner. ***The claimant shall be entitled to reasonable fees and costs pending appeal.***

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

2005-0472s

AMENDED ANALYSIS

This bill makes certain changes in the workers' compensation law. Specifically, the bill:

I. Changes the amount insurance carriers and self-insurers pay to the special fund for second injuries.

II. Clarifies when a decision of the commissioner or the compensation appeals board becomes final.

III. Allows the commissioner to suspend a board member who fails to render a decision in a timely manner as required by statute.

IV. Requires First Reports of Injury to be filed electronically, unless it causes a carrier or self-insured employer undue hardship.

Amendment adopted.**Senator Flanders offered a floor amendment.**

Sen. Flanders, Dist. 7

March 4, 2005

2005-0503s

01/09

Floor Amendment to SB 58-FN

Amend the bill by replacing section 9 with the following:

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

Floor amendment adopted.**The question is on the adoption of the bill as amended.****Adopted.****Ordered to third reading.**

SB 66, establishing a commission to study the creation of a northern New England purchasing alliance for small business health insurance. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Barnes for the committee.

Banks and Insurance

February 24, 2005

2005-0468s

01/04

Amendment to SB 66

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

AN ACT establishing a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

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

1 Committee Established. There is established a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

2 Membership and Compensation.

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

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

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

II. The committee shall solicit information from the following:

(a) The insurance commissioner.

(b) The governor's office.

(c) The Endowment for Health.

(d) Any other person or entity the committee deems relevant.

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

3 Duties. The committee's study shall include, but not be limited to:

I. Whether collaboration with our border states to offer a variety of plans which would offer meaningful competition, and choice down to the employee level.

II. A review of high carrier administrative costs, as part of total premium, as it compares to New England and national averages.

III. Examining any necessary regulatory or statutory requirements which may need to be waived in order to facilitate and expedite a pilot project of this nature.

IV. Investigating whether a collaboration is necessary with neighboring states to effect meaningful change relative to border issues.

V. Investigating whether a northern New England stop-loss plan would afford conjoining states an opportunity to negotiate stop-loss premium based on volume for the public purchasing sector.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2005.

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

2005-0468s

AMENDED ANALYSIS

This bill establishes a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 72, relative to the licensing of public adjusters. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

SB 77, relative to the review of proposed health care provider contracts. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Gottesman for the committee.

Banks and Insurance

February 24, 2005

2005-0470s

01/09

Amendment to SB 77

Amend the introductory paragraph of RSA 420-J:8, VIII(b)(1) as inserted by section 1 of the bill by replacing it with the following:

(b)(1) Prior to the execution of a health care provider contract, a health carrier shall give to the provider, in writing or in computer format, a complete copy of the proposed contract including:

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 78, relative to payment of health care providers by health carriers. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

SB 135-FN, relative to retirement system service and benefits for county corrections employees. Banks and Insurance Committee. Inexpedient to Legislate, Vote 5-0. Senator Roberge for the committee.

Committee report of inexpedient to legislate is adopted.

SB 150-FN, relative to application fees for certain bank incorporations. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

SB 172, establishing a committee to study a medical fee schedule for workers' compensation. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Flanders for the committee.

Banks and Insurance

February 24, 2005

2005-0469s

01/05

Amendment to SB 172

Amend the bill by replacing sections 2-4 with the following:

2 Membership and Compensation.

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

(a) One member 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. The committee shall solicit information from members of the medical community, the insurance department, the department of labor, and any other person or entity the committee deems relevant to its study.

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

3 Duties. The committee shall study a medical fee schedule for workers' compensation or any other mechanism which would reduce the costs for workers' compensation.

4 Chairperson. 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 senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 191-FN, allowing retirement system members to make additional contributions to their accounts. Banks and Insurance Committee. Ought to Pass, Vote 4-0. Senator Odell for the committee.

The question is on the motion of ought to pass.

A roll call was requested by Senator Odell

Seconded by Senator D'Allesandro.

The following Senators voted Yes: Johnson, Kenney, Burling, Odell, Roberge, Gottesman, Foster, Larsen, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Boyce, Eaton, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Morse.

Yeas: 13 - Nays: 9

Senator Flanders rule #42.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 197-FN, relative to captive insurance companies and reciprocal insurers. Banks and Insurance Committee. Ought to Pass, Vote 4-2. Senator Flanders for the committee.

MOTION TO TABLE

Senator Flanders moved to have SB 197-FN laid on the table.

Adopted

LAIID ON THE TABLE

SB 197-FN, relative to captive insurance companies and reciprocal insurers.

SB 219-FN, relative to examinations under workers' compensation. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SB 222-FN, relative to cumulative trauma under workers' compensation. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

SB 94-FN-A-L, prohibiting the taxation of internet access and internet activities under the communications services tax and repealing the local property tax exemption for wooden poles and conduits. Energy and Economic Development Committee. Inexpedient to Legislate, Vote 3-2. Senator Boyce for the committee.

SPECIAL ORDER

Senator Boyce moved that we Special Order the following Bill(s) to March 17, 2005 at 10:00 a.m.

SB 94-FN-A-L, prohibiting the taxation of internet access and internet activities under the communications services tax and repealing the local property tax exemption for wooden poles and conduits.

Adopted.

SJR 2, urging Congress to reject the Streamlined Sales Tax Project. Energy and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SB 5, establishing a commission to study the state park system. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Gallus for the committee.

Environment and Wildlife

February 23, 2005

2005-0426s

04/05

Amendment to SB 5

Amend the bill by replacing section 2 with the following:

2 Membership and Compensation.

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

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of resources and economic development, or designee.
- (d) Six members of the public, appointed by the governor and council, who shall each represent one of the following interests: natural resources, cultural resources, tourism, not-for-profit conservation interests, municipal interests, and motorized outdoor recreational interests.

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

Amend the bill by replacing section 4 with the following:

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

2005-0426s

AMENDED ANALYSIS

This bill establishes a commission to study the mission of the state park system and the division of parks and recreation, department of resources and economic development, including the continued efficacy of self-funding the state park system, the limitations on leasing public lands to private interests and the circumstances under which such leasing is permissible, and the development of a long-term capital improvements plan for the state park system.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 114-FN, relative to licensing and certification responsibilities under the lead paint poisoning prevention and control program. Environment and Wildlife Committee. Inexpedient to Legislate, Vote 4-0. Senator Barnes for the committee.

Committee report of inexpedient to legislate is adopted.

SB 115-FN, relative to the transfer of responsibility for asbestos-related issues from the department of health and human services to the department of environmental services. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Gatsas for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 123, relative to the liability of pet shops for the sale of sick animals. Environment and Wildlife Committee. Ought to pass with amendment, Vote 4-1. Senator Hassan for the committee.

Environment and Wildlife

February 23, 2005

2005-0434s

06/10

Amendment to SB 123

Amend RSA 437-B:2 as inserted by section 1 of the bill by replacing it with the following:

437-B:2 Liability Imposed.

I. A pet shop shall be liable for veterinary charges and other costs related to the treatment and care of a pet animal it has sold that was sick or injured at the time of sale and that the pet shop failed to disclose was ill or injured to the purchaser.

II. A pet shop shall be liable for veterinary charges and other costs related to the treatment and care of any other animals owned by the purchaser if such animals become ill as a result of the purchase of an animal and the pet store owner failed to disclose the illness to the purchaser at the time of sale.

III. A pet shop shall not be liable for more than \$1,000 in veterinary charges and other costs for all pet animals under paragraphs I and II.

Amend the bill by replacing section 2 with the following:

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

2005-0434s

AMENDED ANALYSIS

This bill makes pet shops liable for certain veterinary and other costs when the shop failed to disclose that an animal it sold was sick or injured at the time of sale.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 140, relative to the acceptance of in-lieu payments for the preservation of upland areas adjacent to wetland areas. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Gallus for the committee.

Environment and Wildlife

February 23, 2005

2005-0448s

08/09

Amendment to SB 140

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

AN ACT relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

Amend RSA 482-A:7, II as inserted by section 1 of the bill by replacing it with the following:

II. The department is authorized to accept payment in lieu of requiring compensatory mitigation provided such payment shall be used to restore or create wetlands or to preserve upland areas adjacent to wetlands and to provide funds to support the long-term administration of the program.

2005-0448s

AMENDED ANALYSIS

This bill authorizes the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 93-FN, transferring the electricians board to the department of safety. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-2. Senator Letourneau for the committee.

Senate Executive Departments and Administration

February 24, 2005

2005-0473s

10/04

Amendment to SB 93-FN

Amend RSA 319-C:5, I as inserted by section 3 of the bill by replacing it with the following:

I. The state fire marshal ~~and the board~~, with the ~~[advice and consent of the board]~~ **approval of the commissioner of safety**, shall be empowered to appoint such inspectors as may be necessary to carry out the purposes of this chapter. Any person so employed shall be ~~[located in the office of the state fire marshal and]~~ under the administration and supervisory direction of the state fire marshal.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 97-FN, abolishing county departments of corrections and authorizing the department of corrections to contract with the counties to utilize former county correctional facilities as state facilities. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 5-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

SB 152-FN, relative to audits by the department of revenue administration of enhanced 911 charges. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Senate Executive Departments and Administration
February 24, 2005
2005-0461s
09/01

Amendment to SB 152-FN

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

AN ACT relative to audits by the department of revenue administration of enhanced 911 charges and relative to the confidentiality of information collected by the department of safety regarding the surcharge for the enhanced 911 system.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 New Paragraph; Confidentiality of Proprietary Information. Amend RSA 106-H:9 by inserting after paragraph II the following new paragraph:

III.(a) Notwithstanding any other provision of law, and except as otherwise provided in RSA 82-A, the records and files of the department, related to this section, are confidential and privileged. Neither the department, nor any employee of the department, nor any other person charged with the custody of such records or files, nor any vendor or any of its employees to whom such information becomes available in the performance of any contractual services for the department shall disclose any information obtained from the department's records, files, or returns or from any examination, investigation, or hearing, nor may any such employee or person be required to produce any such information for the inspection of any person or for the use in any action or proceeding except as provided in this paragraph.

(b) The following exceptions shall apply to this paragraph:

(1) Delivery to the surcharge collector or its representative of a copy of any return or other papers filed by the surcharge collector.

(2) Disclosure of department records, files, returns, or information in a New Hampshire state judicial or administrative proceeding pertaining to administration of the surcharge where the information is directly related to an issue in the proceeding regarding the surcharge under this section, or the surcharge collector whom the information concerns is a party to such proceeding, or the information concerns a transactional relationship between a person who is a party to the proceeding and the taxpayer.

(3) Disclosure to the department of revenue administration of records, files, and information required by the department of revenue administration to administer the communications services tax pursuant to RSA 82-A.

2005-0461s

AMENDED ANALYSIS

This bill allows the department of revenue administration to audit telephone companies for enhanced 911 charges when they are audited for other state fees and taxes.

The bill also requires the department of safety to keep confidential and privileged any information it obtains in the administration of the enhanced 911 surcharge.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 160, providing that the state board of education shall appoint the commissioner, deputy commissioner, and division directors of the department of education. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 4-2. Senator Barnes for the committee.

Committee report of inexpedient to legislate is adopted.

SB 211-FN, relative to pharmaceutical marketers. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Letourneau for the committee.

Adopted.

Ordered to third reading.

SB 108-FN, relative to newborn screening tests and fees for newborn screening tests. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services
February 23, 2005
2005-0445s
01/10

Amendment to SB 108-FN

Amend RSA 132:10-a, I as inserted by section 2 of the bill by replacing it with the following:

I. The physician, hospital, nurse midwife, midwife, or other health care provider attending a newborn child shall test a newborn child for ~~metabolic~~ **heritable** disorders. Such tests shall include, but not be limited to, phenylketonuria, galactosemia, homocystinuria, maple syrup urine disease, and hypothyroidism. ***Additional disorders shall be added to the newborn screening panel based upon, but not limited to, the following considerations:***

(a) The disorder is well-defined with a known incidence.

(b) The disorder is associated with significant morbidity and/or mortality.

(c) The disorder can be detected with a screening test that is ethical, safe, accurate, and cost-effective.

(d) Effective treatment exists for the disorder; and that early treatment, meaning before the onset of symptoms, is more effective in improving health outcomes than later treatment.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 163-FN, establishing the New Hampshire pharmaceutical assistance program. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services
 February 24, 2005
 2005-0477s
 01/09

Amendment to SB 163-FN

Amend the section heading and the introductory paragraph of RSA 161-K:2, I as inserted by section 1 of the bill by replacing them with the following:

161-K:2 New Hampshire Pharmaceutical Assistance Program; Eligibility; Enrollment.

I. The commissioner is authorized to establish a New Hampshire pharmaceutical assistance program which shall be administered by the department. The program shall coordinate prescription drug coverage with the prescription drug benefit under the federal Medicare Modernization Act. Persons eligible for the drug benefits under this program are as follows:

Amend RSA 161-K:3, III as inserted by section 1 of the bill by replacing it with the following:

III. Preliminarily enroll or re-enroll beneficiaries into a preferred Medicare Part D plan, or disenroll such beneficiaries from another non-preferred PDP with an "opt out" provision for the individual. Individuals that opt out of the preferred PDP shall remain enrolled in the program unless they choose to disenroll from such program.

Amend the bill by replacing section 2 with the following:

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

2005-0477s

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of health and human services to establish a New Hampshire pharmaceutical assistance program which shall coordinate prescription drug coverage with the prescription drug benefits under the Medicare Prescription Drug, Improvement and Modernization Act of 2003. This bill grants the commissioner of the department of health and human services rulemaking authority for the purposes of the bill.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SCR 4, supporting federal funding for Lyme disease research. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Health and Human Services
 February 23, 2005
 2005-0443s
 01/09

Amendment to SCR 4

Amend the resolution by replacing the 5th and 6th paragraph after the title with the following:

Whereas, the lack of early detection of Lyme disease may result in unrecognized illness and persistent symptoms of Lyme disease infection; and

Whereas, further research and health care provider education about Lyme disease laboratory testing is needed; and

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 40, permitting special school district meetings to be held in conjunction with the biennial election in certain school districts. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Flanders for the committee.

Internal Affairs
February 23, 2005
2005-0456s
03/01

Amendment to SB 40

Amend the bill by replacing section 1 with the following:

1 Special School Meetings; Exception to Prohibition. Amend RSA 197:2 to read as follows:

197:2 Special. A special meeting of a school district shall be held whenever, in the opinion of the school board, there is occasion therefor, or whenever 50 or more voters, or 1/4 of the voters of the district, whichever is less, shall have made written application to the school board therefor, setting forth the subject matter upon which action is desired. ~~[In no event shall a]~~ **No** special school district meeting ***shall*** be held in conjunction with the biennial election, ***except when a special school district meeting has been approved by the court and a school district has adopted the official ballot referendum form of meeting pursuant to RSA 40:14.***

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 71, relative to amending warrant articles in towns that have adopted the official ballot form of town meeting. Internal Affairs Committee. Inexpedient to Legislate, Vote 4-2. Senator Bragdon for the committee.

MOTION TO TABLE

Senator Bragdon moved to have SB 71 laid on the table.

Adopted.

LAIID ON THE TABLE

SB 71, relative to amending warrant articles in towns that have adopted the official ballot form of town meeting.

SB 193, relative to Occupational Safety and Health Administration Certification requirements for state contracts. Internal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Boyce for the committee.

The question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Clegg.

Seconded by Senator Larsen.

The following Senators voted Yes: Boyce, Flanders, Odell, Eaton, Clegg, Letourneau, Morse.

The following Senators voted No: Gallus, Johnson, Kenney, Burling, Roberge, Gottesman, Foster, Larsen, Gatsas, Barnes, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 7 - Nays: 15

Senator Bragdon rule #42.

Motion failed.

Senator Gallus moved ought to pass.

Senator Gallus offered a floor amendment.

Sen. Gallus, Dist. 1
March 9, 2005
2005-0542s
05/04

Floor Amendment to SB 193

Amend RSA 277:5-a, I and II as inserted by section 1 of the bill by replacing them with the following:

I. Any person submitting a bid for, or signing a contract to work on, the construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building by a state agency or instrumentality thereof and estimated by the awarding authority to cost more than \$10,000, shall certify on such bid or contract, under penalties of perjury, as follows: that all employees to be employed at the worksite shall have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and that documentation of successful completion of said course shall be provided to the awarding authority prior to the time each employee begins work.

II. Any employee found on the worksite without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall have 60 days to comply with the requirements of this section.

2005-0542s

AMENDED ANALYSIS

This bill requires bidders on state building and public works contracts over \$10,000 to certify that the employees have completed an Occupational Safety and Health Administration safety course.

Floor amendment Adopted.

The question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 24, relative to disposition upon death of patient accounts in nursing homes. Judiciary Committee. Re-refer to committee, Vote 5-0. Senator Foster for the committee.

Adopted.

SB 24 was re-referred to the Judiciary Committee.

SB 70, relative to the Timothy and Abigail B. Walker Lecture Fund. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Larsen for the committee.

Public and Municipal Affairs

February 17, 2005

2005-0349s

01/09

Amendment to SB 70

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

AN ACT relative to the powers of special corporations.

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

1 Special Corporations; Powers Extended. Amend RSA 292:8-1 to read as follows:

292:8-1 Powers Extended. Any non-profit corporation heretofore organized by special act of the legislature for purposes as set forth by RSA 292:1 may:

I. Change its name, [may] eliminate any limitation on the assets it is authorized to hold, [may] provide for distribution of its assets upon dissolution of the said corporation, by a majority vote of such corporation, unless otherwise provided by any such special act or the bylaws of any such corporation, at a meeting duly called for that purpose, and by recording a certified copy of such vote in the office of the secretary of state. The fee for recording said certified copy in the office of the secretary of state shall be \$10.

II. Change its purpose by a majority vote of said corporation. A written notice of the proposed change shall be provided to the director of charitable trusts, department of justice before the vote is taken. If legal cause exists which would prevent the proposed change in purpose, the director of charitable trusts shall have 30 days to notify the corporation of any additional requirements. A certified copy of the vote shall be filed in the office of the secretary of state. The fee for recording said certified copy in the office of the secretary of state shall be \$10.

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

2005-0349s

AMENDED ANALYSIS

This bill establishes a procedure for non-profit corporations to extend their powers.

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

SB 192, relative to service in a war or conflict qualifying for the veterans' tax credit. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

Public and Municipal Affairs

February 23, 2005

2005-0447s

10/04

Amendment to SB 192

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect April 1, 2006.

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

SB 18, relative to sales of tickets for pure lotteries by those not employed by the lottery commission. Ways and Means Committee. Ought to Pass, Vote 3-1. Senator D'Allesandro for the committee.

Adopted.**Ordered to third reading.**

SB 63-FN-A, establishing a court mediation fund to pay the costs of a mediation program in the district courts. Ways and Means Committee. Ought to Pass, Vote 3-1. Senator Gallus for the committee.

Adopted.**Ordered to third reading.**

SB 99-FN, relative to the penalty for failure to file a property inventory form. Ways and Means Committee. Ought to Pass, Vote 5-0. Senator Odell for the committee.

Adopted.**Ordered to third reading.**

SB 104-FN, relative to the tax exemption for water and air pollution control facilities. Ways and Means Committee. Ought to Pass, Vote 4-1. Senator Odell for the committee.

Adopted.**Ordered to third reading.**

SB 117-FN, relative to utility property tax appeals. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator D'Allesandro for the committee.

Senate Ways and Means

February 23, 2005

2005-0454s

09/04

Amendment to SB 117-FN

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

2 Applicability. This act shall apply to all utility property tax appeals under RSA 83-F for property tax years beginning on or after April 1, 2005.

3 Effective Date. This act shall take effect April 1, 2005.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 166-FN, relative to procedures for the forfeiture and sale of unstamped tobacco products. Ways and Means Committee. Inexpedient to Legislate, Vote 5-0. Senator D'Allesandro for the committee.

Committee report of inexpedient to legislate is adopted.

SB 210-FN, relative to the nexus required for application of the business profits tax and business enterprise tax and relative to the obligation to collect and remit taxes in another state. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Senate Ways and Means
February 23, 2005
2005-0453s
05/10

Amendment to SB 210-FN

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

AN ACT relative to a declaratory judgment to adjudicate constitutional nexus.

Amend the bill by deleting sections 1-3 and renumbering the original sections 4-5 to read as 1-2, respectively.

2005-0453s

AMENDED ANALYSIS

The bill declares that the state superior court has the authority to determine whether requiring a New Hampshire business to pay taxes in another state is an undue burden on interstate commerce in violation of the United States Constitution.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

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 5, establishing a commission to study the state park system.

SB 18, relative to sales of tickets for pure lotteries by those not employed by the lottery commission.

SB 40, permitting special school district meetings to be held in conjunction with the biennial election in certain school districts.

SB 58-FN, making certain changes in the workers' compensation law.

SB 63-FN-A, establishing a court mediation fund to pay the costs of a mediation program in the district courts.

SB 66, establishing a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

SB 70, relative to the powers of special corporations.

SB 72, relative to the licensing of public adjusters.

SB 77, relative to the review of proposed health care provider contracts.

SB 78, relative to payment of health care providers by health carriers.

SB 99-FN, relative to the penalty for failure to file a property inventory form.

SB 104-FN, relative to the tax exemption for water and air pollution control facilities.

SB 117-FN, relative to utility property tax appeals.

SB 123, relative to the liability of pet shops for the sale of sick animals.

SB 140, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

SB 150-FN, relative to application fees for certain bank incorporations.

SB 152-FN, relative to audits by the department of revenue administration of enhanced 911 charges and relative to the confidentiality of information collected by the department of safety regarding the surcharge for the enhanced 911 system.

SB 172, establishing a committee to study a medical fee schedule for workers' compensation.

SB 192, relative to service in a war or conflict qualifying for the veterans' tax credit.

SB 211-FN, relative to pharmaceutical marketers.

SB 219-FN, relative to examinations under workers' compensation.

SB 222-FN, relative to cumulative trauma under workers' compensation.

SCR 4, supporting federal funding for Lyme disease research.

SJR 2, urging Congress to reject the Streamlined Sales Tax Project.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, sending and receiving messages and processing enrolled bill reports.

Adopted.

In recess to the Call of the Chair.