

April 6, 2006  
No. 14A

# STATE OF NEW HAMPSHIRE

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Legislative

## SENATE CALENDAR ADDENDUM

REPORTS, AMENDMENTS, HEARINGS

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**THE SENATE WILL MEET IN SESSION ON  
THURSDAY, APRIL 13, 2006 AT 10:00 A.M.**

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**LAID ON THE TABLE**

**SB 240**, relative to transmission poles or structures on public highways. **3/9/06, pending motion ITL, Energy and Economic Development, SJ 7, pg. 157**

**SB 243**, establishing a commission to study rural transit in New Hampshire. **3/9/06, pending motion OTP, Energy and Economic Development, SJ 7, pg. 157**

**SB 247**, establishing a right to work act which provides for freedom of choice on whether to join a labor union. **3/22/06, pending motion Committee Amendment (1372s), Banks and Insurance, SJ 9, pg. 236**

**SB 248**, establishing a committee to study the issuance of dealer plates to bonded motor vehicle dealers. **2/2/06, pending motion OTP, Transportation & Interstate Cooperation, SJ 3, pg. 76**

**SB 292-FN**, relative to permits for combustion of certain waste. **3/9/06, pending motion ITL, Energy and Economic Development, SJ 7, pg. 157**

**SB 309-FN-A**, (New Title) establishing a commission to study inclusion of service as a part-time district court judge in the calculation of retirement benefits. **3/16/06, pending motion OTP, Finance, SJ 8, pg. 199**

**SB 316-FN-L**, requiring interpretation services upon request for persons receiving medical treatment. **2/16/06, pending motion Committee Amendment (0897s), Health and Human Services, SJ 5, pg. 100**

**SB 331**, relative to certain small loans. **03/22/06, pending motion Ought to pass as Amended, Banks and Insurance, SJ 9, pg. 255**

**SB 338**, relative to insurance coverage for childrens' early intervention therapy services. **3/22/06, pending motion Interim Study, Banks and Insurance, SJ 9, pg. 255**

**SB 360-FN-A**, establishing a surcharge on real estate transfers for deposit in the family stability fund and renaming the homeless prevention program the family stability program. **2/9/06, pending motion ITL, Public and Municipal Affairs, SJ 4, pg. 85**

**SB 365-FN**, relative to the lottery commission. **03/16/06, pending motion Committee Amendment (1343s), Finance, SJ 8, pg. 199**

**SB 375-FN**, relative to the executive branch code of ethics and establishing an executive branch ethics committee. **2/23/06, pending motion Interim Study, Internal Affairs, SJ 6, pg. 124**

**SB 381-FN-A-L**, expanding business tax credits to enhance research and development. **3/9/06, pending motion Interim Study, Finance, SJ 7, pg. 165**

**SB 385-FN**, relative to the membership and administration of the board of trustees of the New Hampshire retirement system, and relative to supplemental allowances. **3/22/06, pending motion Committee Amendment (1415s), Finance, SJ 9, pg. 225**

**SB 401-FN**, relative to the Hanover-Lebanon District Court. **3/9/06, pending motion Ought to Pass as Amended, SJ 7, pg. 176**

**SB 402-FN-A**, relative to payment of unreimbursed storm-related damages incurred by the town of Hanover and affected surrounding towns and making an appropriation therefor. **3/22/06, pending motion ITL, Finance, SJ 9, pg. 265**

**SB 406-FN-A**, establishing a manufacturer's tax on cigarettes sold in New Hampshire. **3/22/06, pending motion Committee Amendment (1473s), Finance, SJ 9, pg. 235**

**SCR 8**, declaring the general court in opposition to the federal Real ID Act of 2005. **3/9/06, pending motion OTP, Internal Affairs, SJ 7, pg. 166**

**CACR 43**, relating to the cost of education. Providing that the legislature shall determine and define the content, extent, and funding of education. **3/22/06, pending motion Ought to Pass as Amended, Finance, SJ 9, pg. 213**

**HB 175**, (New Title) relative to divestiture of PSNH generation assets, establishing an energy policy task force, and establishing a fund for the costs of the energy policy task force. **2/16/06, pending motion Committee Amendment (0814s), Energy and Economic Development, SJ 5, pg. 94**

**HB 177**, relative to home improvement contracts. **2/2/06, pending motion Ought to Pass as Amended, Public and Municipal Affairs, SJ 3, pg. 60**

**HB 270**, relative to procedures of the legislative ethics committee. **1/18/06, pending motion OTP, Internal Affairs, SJ 2, pg. 49**

**HB 312**, (New Title) relative to the appointment of parenting coordinators. **3/16/06, pending motion OTP, Health and Human Services, SJ 8, pg. 192**

**HB 325**, (New Title) relative to proceedings under the Child Protection Act. **3/16/06, pending motion Committee Amendment (1277s), Health and Human Services, SJ 8, pg. 193**

**HB 385**, (New Title) establishing a committee to study the adequacy of current substance abuse treatment available in the state prison system. **3/22/06, pending motion OTP, Public and Municipal Affairs, SJ 9, pg. 303**

**HB 578**, (New Title) relative to the current use advisory board and relative to construction or development constituting a change in use for purposes of assessing the land use change tax. **2/23/06, pending motion Committee Amendment (0976s), Environment and Wildlife, SJ 6, pg. 121**

**HB 621-FN**, requiring disclosure of gifts and campaign contributions by lobbyists. **4/6/06, pending motion Inexpedient to Legislate, Public and Municipal Affairs, SJ 10, pg. TBA**

**HB 669-FN**, (New Title) establishing a committee to study state laboratory water tests and fees for such tests collected by the department of environmental services. **3/16/06, pending motion Committee Amendment (1299s), Energy and Economic Development, SJ 8, pg. 186**

**HB 1121-L**, (New Title) establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care. **4/6/06, pending motion Committee Amendment (1565s), Health and Human Services, SJ 10, pg. TBA**

**HB 1140**, establishing a committee to study the establishment and enforcement of protection zones for nesting loons. **4/6/06, pending motion Committee Amendment (1515s), Environment and Wildlife, SJ 10, pg. TBA**

**HB 1146**, establishing a committee to study renewable portfolio standards. **4/6/06, pending motion Ought to Pass, Energy and Economic Development, SJ 10 pg. TBA**

**HB 1198**, establishing a committee to study highway rest areas. **3/09/06, pending motion OTP, Transportation and Interstate Cooperation, SJ 7, pg. 177**

**HB 1264**, establishing an advisory committee to study the information practices act and establishing a temporary moratorium on reports filed under the information practices act. **4/6/06, pending motion OTP, Executive Departments and Administration, SJ 10, pg. TBA**

**HB 1279**, establishing a committee to study state medicaid reimbursement. **3/22/06, pending motion Committee amendment (1391s), Ways and Means, SJ 9, pg. TBA**

**HB 1298**, (New Title) establishing a study committee to evaluate disciplinary procedures of the board of medicine. **4/6/06, pending motion Committee Amendment (1592s), Executive Departments and Administration, SJ 10, pg. TBA**

**HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts. **4/6/06, pending motion Committee Amendment (1480s), Banks and Insurance, SJ 10, pg. TBA**

**HB 1376**, relative to the duties of the legislative oversight committee on electric utility restructuring. **4/6/06, pending motion Committee Amendment (1554s), Energy and Economic Development, SJ 10, pg. TBA**

**HB 1409-FN**, relative to organ and tissue donation. **4/6/06, pending motion OTP, Health and Human Services, SJ 10, pg. TBA**

**HB 1512**, (New Title) establishing a committee to study volunteer activity related to transportation. **4/6/06, pending motion OTP, Transportation and Interstate Cooperation, SJ 10, pg. TBA**

**HB 1768**, (New Title) establishing a committee to study the effects of rescinding the charter of the New Hampshire Bar Association, and relative to the regulation of attorneys by the supreme court. **4/6/06, pending motion Committee amendment (1581s), Executive Departments and Administration, SJ 10, pg. TBA**

**HJR 24**, supporting efforts for commuter rail in the state of New Hampshire. **3/16/06, pending motion OTP, Transportation and Interstate Cooperation, SJ 8, pg. 185**

## REPORT

### JUDICIARY

**HB 1135**, making a technical correction to the Uniform Interstate Family Support Act.  
Ought to Pass, Vote 5-0  
Senator Gottesman for the committee.

**HB 1153**, establishing a commission to study the laws and rules relating to subpoenas, summonses and complaints.  
Inexpedient to Legislate, Vote 5-0  
Senator Letourneau for the committee.

**HB 1221-FN**, (New Title) relative to recovery of medical assistance.  
Interim Study, Vote 5-0  
Senator Clegg for the committee.

**HB 1332**, (New Title) establishing a commission to study health care in New Hampshire correctional facilities.  
Ought to Pass, Vote 5-0  
Senator Roberge for the committee.

**HB 1361**, relative to the penalty for shoplifting.  
Ought to Pass, Vote 4-0  
Senator Clegg for the committee.

**HB 1620-FN**, relative to hunting restrictions of certain convicted felons.  
Interim Study, Vote 4-0  
Senator Letourneau for the committee.

**HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements.  
Ought to Pass, Vote 5-0  
Senator Gottesman for the committee.

**HB 1660-FN**, regulating identity theft.  
Ought to pass with amendment, Vote 4-0  
Senator Gottesman for the committee.

**HB 1674-FN**, requiring emergency care providers to report information on certain sexual assault crimes to law enforcement officials.  
Interim Study, Vote 5-0  
Senator Clegg for the committee.

**HB 1692-FN**, establishing the New Hampshire sexual predators act.  
Ought to pass with amendment, Vote 4-1  
Senator Foster for the committee.

## AMENDMENTS

**Senate Judiciary**  
**April 7, 2006**  
**2006-1698s**  
**04/10**

### **Amendment to HB 1660-FN**

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

1 New Subdivision; Right to Privacy; Notice of Security Breach. Amend RSA 359-C by inserting after section 18 the following new subdivision:

## Notice of Security Breach

359-C:19 Definitions. In this subdivision:

I. “Computerized data” means personal information stored in an electronic format.

II. “Encrypted” means the transformation of data through the use of an algorithmic process into a form for which there is a low probability of assigning meaning without use of a confidential process or key, or securing the information by another method that renders the data elements completely unreadable or unusable. Data shall not be considered to be encrypted for purposes of this subdivision if it is acquired in combination with any required key, security code, access code, or password that would permit access to the encrypted data.

III. “Person” means an individual, corporation, trust, partnership, incorporated or unincorporated association, limited liability company, or other form of entity, or any agency, authority, board, court, department, division, commission, institution, bureau, or other state governmental entity, or any political subdivision of the state.

IV.(a) “Personal information” means an individual’s first name or initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.

(2) Driver’s license number or other government identification number.

(3) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account.

(b) “Personal information” shall not include information that is lawfully made available to the general public from federal, state, or local government records.

V. “Security breach” means unauthorized acquisition of computerized data that compromises the security or confidentiality of personal information maintained by a person doing business in this state. Good faith acquisition of personal information by an employee or agent of a person for the purposes of the person’s business shall not be considered a security breach, provided that the personal information is not used or subject to further unauthorized disclosure.

359-C:20 Notification of Security Breach Required.

I.(a) Any person doing business in this state who owns or licenses computerized data that includes personal information shall, when it becomes aware of a security breach, promptly determine the likelihood that the information has been or will be misused. If the determination is that misuse of the information has occurred or is reasonably likely to occur, or if a determination cannot be made, the person shall notify the affected individuals as soon as possible as required under this subdivision.

(b) Any person engaged in trade or commerce that is subject to RSA 358-A:3, I shall also notify the regulator which has primary regulatory authority over such trade or commerce. All other persons shall notify the New Hampshire attorney general’s office. The notice shall include the anticipated date of the notice to the individuals and the approximate number of individuals in this state who will be notified. Nothing in this section shall be construed to require the person to provide to any regulator or the New Hampshire attorney general’s office the names of the individuals entitled to receive the notice or any personal information relating to them. The disclosure shall be made to affected individuals as quickly as possible, after the determination required under this section.

(c) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify and cooperate with the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was acquired by an unauthorized person. Cooperation includes sharing with the owner or licensee information relevant to the breach; except that such cooperation shall not be deemed to require the disclosure of confidential or business information or trade secrets.

II. Notification pursuant to paragraph I may be delayed if a law enforcement agency, or national or homeland security agency determines that the notification will impede a criminal investigation or jeopardize national or homeland security.

III. The notice required under this section shall be provided by one of the following methods:

(a) Written notice.

(b) Electronic notice, if the agency or business' primary means of communication with affected individuals is by electronic means.

(c) Telephonic notice, provided that a log of each such notification is kept by the person or business who notifies affected persons.

(d) Substitute notice, if the person demonstrates that the cost of providing, notice would exceed \$5,000, that the affected class of subject individuals to be notified exceeds 1,000 or the person does not have sufficient contact information or consent to provide notice pursuant to subparagraphs I(a)-I(c). Substitute notice shall consist of all of the following:

(1) E-mail notice when the person has an e-mail address for the affected individuals.

(2) Conspicuous posting of the notice on the person's business website, if the person maintains one.

(3) Notification to major statewide media.

(e) Notice pursuant to the person's internal notification procedures maintained as part of an information security policy for the treatment of personal information.

IV. Notice under this section shall include at a minimum:

(a) A description of the incident in general terms.

(b) The approximate date of breach.

(c) The type of personal information obtained as a result of the security breach.

(d) The telephonic contact information of the person subject to this section.

V. Any person engaged in trade or commerce that is subject to RSA 358-A:3, I which maintains procedures for security breach notification pursuant to the laws, rules, regulations, guidances, or guidelines issued by a state or federal regulator shall be deemed to be in compliance with this subdivision if it acts in accordance with such laws, rules, regulations, guidances, or guidelines.

VI.(a) If a person is required to notify more than 1,000 consumers of a breach of security pursuant to this section, the person shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. section 1681a(p), of the anticipated date of the notification to the consumers, the approximate number of consumers who will be notified, and the content of the notice. Nothing in this paragraph shall be construed to require the person to provide to any consumer reporting agency the names of the consumers entitled to receive the notice or any personal information relating to them.

(b) Subparagraph (a) shall not apply to a person who is subject to Title V of the Gramm, Leach-Bliley Act, 15 U.S.C. section 6801 et seq.

359-C:21 Violation.

I. Any person injured by any violation under this subdivision may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages. If the court finds that the act or practice was a willful or knowing violation of this chapter, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this chapter without bond, subject to the discretion of the court.

II. The New Hampshire attorney general's office shall enforce the provisions of this subdivision pursuant to RSA 358-A:4.

III. The burden shall be on the person responsible for the determination under RSA 359-C:20, I to demonstrate compliance with this subdivision.

2 Effective Date. This act shall take effect January 1, 2007.

**Senate Judiciary**  
**April 7, 2006**  
**2006-1700s**  
**04/05**

**Amendment to HB 1692-FN**

Amend the bill by replacing section 13 with the following:

13 New Sections; Registration of Criminal Offenders; Registration Fee; Application. Amend RSA 651-B by inserting after section 10 the following new sections:

**651-B:11 Registration Fee.**

I. A sexual offender or offender against children shall pay a fee of \$15 at the time of the offender's initial registration and semi-annually at the time of the offender's re-registration. The department shall use all fees collected under this paragraph to defray the costs of maintaining the sex offender registry. Such funds shall be nonlapsing and shall be continually appropriated to the department for such use.

II. Anyone required to pay the registration fee who cannot afford to pay the fee shall, within 10 days of registration, request a waiver of the fee and a hearing on the matter before the commissioner. If such a request is made, the commission shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A. At the hearing the offender shall have the burden to prove that the offender cannot afford to pay the fee because the offender is indigent. After hearing, the decision of the commission shall be final, and the offender shall have a right to appeal the decision in the superior court. Under no circumstances shall the offender's request for a hearing or indigency relieve the offender of the obligation to register pursuant to the time-frames required by this chapter.

**651-B:12 Application.** Whenever possible, the provisions of this chapter shall be interpreted and applied consistent with the provisions of the federal Jacob Wetterling Act, as amended.

Amend the introductory paragraph to RSA 651:6, IV and RSA 651:6 IV(a) as inserted by section 20 of the bill by replacing them with the following:

IV. If authorized by subparagraphs I(l), (m), or (n) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment as follows:

(a) A minimum to be fixed by the court of not less than 25 years and a maximum of life imprisonment; and

Amend RSA 135-E:10 as inserted by section 21 of the bill by replacing it with the following:

**135-E:10 Rules of Procedure and Evidence.** In all civil commitment proceedings for sexually violent predators under this chapter:

I. The doctor-patient privilege under RSA 329:26, privileged communications pursuant to RSA 330-A:32, or other similar statutes or rules shall not apply in proceedings under this chapter.

II. The court may consider evidence of the person's prior conduct if such evidence is relevant to the issue of whether the person is a sexually violent predator.

III. Reports by a member of the multidisciplinary team or reports provided on behalf of the multidisciplinary team shall be inadmissible in proceedings under this chapter unless the court finds the report's probative value substantially outweighs its prejudicial effect.

Amend RSA 135-E:11, II as inserted by section 21 of the bill by replacing it with the following:

II. If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers other than detainers for deportation by the United States Bureau of Citizenship and Immigration Services, the person shall be committed to the custody of the department of corrections for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person no longer poses a potentially serious likelihood of danger to others. Persons who are detained or committed under this chapter shall be held at the secure psychiatric unit of the New Hampshire state prison or other appropriate facility controlled or contracted by the department of corrections if available. An order committing a person shall be valid for up to 5 years.

# HEARINGS

***WEDNESDAY, APRIL 12, 2006***

**TRANSPORTATION AND INTERSTATE COOPERATION**, Room 101, LOB

Sen. Letourneau (C), Sen. Morse (VC), Sen. Flanders, Sen. Martel, Sen. Burling, Sen. Estabrook

8:15 a.m.

**EXECUTIVE SESSION ON PENDING LEGISLATION**

8:30 a.m.

**HB 1155**, creating a violation for failure to pay a highway toll.

8:45 a.m.

**HB 347**, (New Title) relative to indicating citizenship on drivers' licenses and nondrivers' identification cards.

***(THE PREVIOUS HEARING FOR HB 347 WAS RECESSED ON FEBRUARY 22<sup>ND</sup>)***

9:00 a.m.

**HB 1215**, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown.

9:20 a.m.

**HB 1417-FN**, establishing gold star number plates.

**EXECUTIVE SESSION MAY FOLLOW**