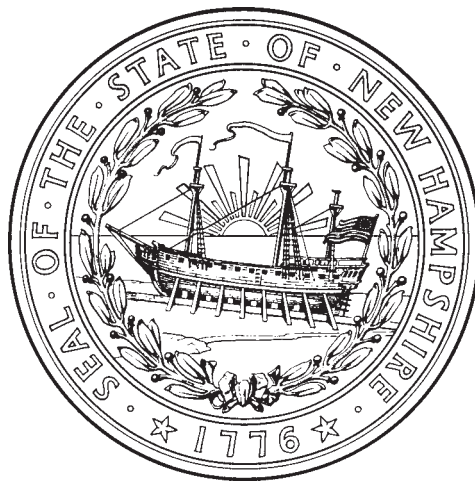


February 10, 2005
Nos. 4 - 5

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – FEBRUARY 3, 2005 SESSION
COMMENCEMENT – FEBRUARY 10, 2005 SESSION

SENATE JOURNAL 4 (*Cont.*)

February 3, 2004

INTRODUCTION OF SENATE BILLS

Senator Flanders offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered from 5 to SJR 2, 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

05-0404

SB 5, establishing a commission to study the state park system. (Odell, Dist 8; Eaton, Dist 10; Larsen, Dist 15; Gallus, Dist 1; Craig, Hills 9; Spang, Straf 7; Brueggemann, Merr 12; Russell, Belk 6: Environment and Wildlife)

05-1049

SB 6-FN, relative to small group insurers. (Flanders, Dist 7; Letourneau, Dist 19; Kenney, Dist 3; Odell, Dist 8; Clegg, Dist 14; Martel, Dist 18; Bragdon, Dist 11; Johnson, Dist 2; Hunt, Ches 7: Banks and Insurance)

05-1009

SB 125-FN, relative to small group health insurance and relative to reinsurance. (Gatsas, Dist 16; Barnes, Dist 17; Gallus, Dist 1; Green, Dist 6; Roberge, Dist 9; Stone, Rock 1; R. Wheeler, Hills 7; Wendelboe, Belk 1: Banks and Insurance)

05-1005

SB 213, authorizing the department of environmental services to adopt rules from the California Air Resources Board. (Johnson, Dist 2: Transportation and Interstate Cooperation)

05-0954

SB 214, relative to screening panels for medical injury claims. (Gallus, Dist 1; Odell, Dist 8; Morse, Dist 22; Roberge, Dist 9; Burling, Dist 5; Johnson, Dist 2; Kenney, Dist 3; Boyce, Dist 4; Green, Dist 6; Flanders, Dist 7; Barnes, Dist 17; Martel, Dist 18; Estabrook, Dist 21; Bragdon, Dist 11; Gatsas, Dist 16; S. Francoeur, Rock 15; Dickinson, Carr 1; French, Merr 5; Pilliod, Belk 5; Hunt, Ches 7: Judiciary)

05-0921

SB 215-FN, banning the incineration of construction and demolition debris. (Larsen, Dist 15; Burling, Dist 5; Hassan, Dist 23; Currier, Merr 5; Kennedy, Merr 4; C. Hamm, Merr 4: Energy and Economic Development)

05-0048

SB 216, establishing a commission to study area agencies and relative to rules regarding area agencies. (Burling, Dist 5; Almy, Graf 11; Bleyler, Graf 9; Naro, Graf 7; Harding, Graf 11: Health and Human Services)

05-0962

SB 217-FN, relative to the use of lottery revenue as purses for horse and dog racing. (Roberge, Dist 9; Barry, Hills 16; Gibson, Hills 19: Ways and Means)

05-0518

SB 218, eliminating straight ticket voting. (Burling, Dist 5; Barnes, Dist 17; Fuller Clark, Dist 24; Hassan, Dist 23; Norelli, Rock 16: Internal Affairs)

05-1061

SB 219-FN, relative to examinations under workers' compensation. (Flanders, Dist 7: Banks and Insurance)

05-0941

SB 220-FN-LOCAL, relative to the payment of medical benefits costs for certain group II permanent firemen members injured in the performance of duty, and for disabled group II members of the retirement system. (D'Allesandro, Dist 20; Gallus, Dist 1: Banks and Insurance)

05-1060

SB 221, relative to identification requirements for obtaining a driver's license. (Burling, Dist 5; Green, Dist 6; Larsen, Dist 15; Hager, Merr 12; Dickinson, Carr 1; Nordgren, Graf 9: Transportation and Interstate Co-operation)

05-1062

SB 222-FN, relative to cumulative trauma under workers' compensation. (Flanders, Dist 7: Banks and Insurance)

05-0968

SJR 2, urging Congress to reject the Streamlined Sales Tax Project. (Boyce, Dist 4; Clegg, Dist 14; Letourneau, Dist 19; Kurk, Hills 7; Weyler, Rock 8; Major, Rock 8; Hunt, Ches 7: Energy and Economic Development)

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 5

February 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.

Keep this Senate and those who work with them under Your watchful protection, O God. We pray this morning for freedom from legislative hydroplaning, partisan loss of control and any procedural collision. Make them skillful, quick, perceptive and wise, for then the highways of our welfare will be safe places to be. Amen

Senator Burling led the Pledge of Allegiance.

Senator Johnson is excused for the day.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 74, making certain technical changes in the insurance laws. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Foster for the committee.

Banks and Insurance

February 5, 2005

2005-0176s

01/09

Amendment to SB 74

Amend RSA 402:81, I(a)(1) as inserted by section 3 of the bill by replacing it with the following:

(1) The original policy to be cancelled; or

Amend the introductory paragraph of RSA 402-C:36 as inserted by section 4 of the bill by replacing it with the following:

The amount recoverable by the liquidator from a reinsurer shall not be reduced as a result of delinquency proceedings ~~unless~~ ***regardless of whether*** the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable by the assuming insurer on

the basis of the claims allowed against the ceding insurer in the insolvency proceedings, under contract or contracts reinsured without diminution because of the insolvency of the ceding insurer. ***Such payments shall be made*** directly to the ceding insurer or to its domiciliary liquidator or receiver except:

Amend the introductory paragraph of RSA 402-C:44 as inserted by section 5 of the bill by replacing it with the following:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under paragraphs II, V, and VI except claims of the guaranty associations as defined in RSA 404-B, ***404-H***, 404-D, and 408-B shall be deducted from the claim. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

Amend RSA 415-A:4-a, I(b)(1) as inserted by section 9 of the bill by replacing it with the following:

(1) Developed with input from appropriate ~~[actively practicing]~~ practitioners ~~[in the licensed entity's service area]~~ ***with professional knowledge or clinical expertise in the area being reviewed;***

Amend RSA 420-J:5, I(b) as inserted by section 11 of the bill by replacing it with the following:

(b) ~~[The]~~ ***For medical necessity appeals at least one*** person reviewing the ~~[grievance on a first or second level appeal have appropriate medical and professional expertise and credentialing to competently render a determination on]~~ appeal ***is a practitioner in the same or similar specialty who typically treats the medical condition, performs the procedure or provides the treatment at issue in the appeal. A practitioner is considered of the same specialty if he or she has similar credentials and licensure as those who typically treat the condition or health problem in question in the appeal. A practitioner is considered of a similar specialty if he or she has experience treating the same problems as those in question in the appeal, in addition to expertise treating similar complications of those problems;***

Amend RSA 420-J:5, II(a) as inserted by section 12 of the bill by replacing it with the following:

(a) The review shall be conducted by or in consultation with a health care professional ~~[who has appropriate training and experience in the field of medicine]~~ ***in the same or similar specialty who typically treats the medical condition, performs the procedure or provides the treatment at issue in the appeal. A practitioner is considered of the same specialty if he or she has similar credentials and licensure as those who typically treat the condition or health problem in question in the appeal. A practitioner is considered of a similar specialty if he or she has experience treating the same problems as those in question in the appeal, in addition to expertise treating similar complications of those problems;***

Amendment adopted.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

February 7, 2005

2005-0190s

01/09

Floor Amendment to SB 74

Amend RSA 402:81, I(c)-(f) as inserted by section 3 of the bill by replacing them with the following:

(c) No refund shall be required if the return premium is \$1 or less.

(d) For auditable policies, gross unearned premium shall be returned within 30 days from the date of the completed audit.

(e) This paragraph shall not apply to retrospectively rated policies.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 135-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. Capital Budget Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 203, relative to leases and contracts for buildings or lands owned by the fish and game department. Capital Budget Committee. Ought to pass with amendment, Vote 5-0. Senator Boyce for the committee.

Capital Budget
February 2, 2005
2005-0150s
10/01

Amendment to SB 203

Amend RSA 212:10-b, II as inserted by section 1 of the bill by replacing it with the following:

II. The executive director of the fish and game department may assign department housing without charge to a classified employee, including only, any or all of the following utilities: heat, fuel, gas, electricity, and water; provided, that said housing is being furnished for the operational convenience of the department, the housing is on state property administered and managed by the department, and the classified employee is required to accept such lodging as a condition of employment.

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

2 Fish and Game Department; Fee Schedule. The fish and game department shall develop a fee schedule for short-term use of less than 30 days of department buildings and lands authorized to be used pursuant to the authority in RSA 212:10-b, I as inserted by section 1 of this act. Prior to implementation, the department shall submit the fee schedule to the fiscal committee of the general court for its approval.

2005-0150s

AMENDED ANALYSIS

This bill allows the executive director of fish and game to lease or contract for short-term uses of department buildings or lands and requires the department to develop a fee schedule. This bill also allows the fish and game department to provide lodging to department employees without charge.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 12, relative to a certain contract to create a high school for the town of Bedford. Education Committee. Ought to pass with amendment, Vote 3-1. Senator Bragdon for the committee.

Senate Education
February 8, 2005
2005-0224s
08/09

Amendment to SB 12

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

AN ACT relative to contracts with non-profit public academies.

Amend the bill by replacing section 1 with the following:

1 Contracts With Schools. RSA 194:22 is repealed and reenacted to read as follows:

194:22 Contracts With Schools. A school district may choose one of the following methods to make a contract with:

I. An academy, high school or other literary institution located in this or, when distance or transportation facilities make it necessary, in another state, and raise and appropriate money to carry the contract into effect. If the contract is approved by the state board the school with which it is made shall be deemed a high school maintained by the district; or

II. A non-profit public academy to provide public education in grades 9 through 12 for the residents of the district, provided the contract is approved by the legislative body of the district, and complies with the provisions of this chapter.

2005-0224s

AMENDED ANALYSIS

This bill establishes a new procedure for school districts to make a contract with non-profit academies for the provision of secondary education.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Foster Rule #42.

SB 68, relative to certain costs for the development of a high school in the town of Bedford. Education Committee. Ought to Pass, Vote 6-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

SB 201, making technical corrections to certain environmental laws and the small business technical assistance program. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-0. Senator Burling for the committee.

Energy and Economic Development

February 2, 2005

2005-0144s

08/10

Amendment to SB 201

Amend RSA 21-O:19, I(f) as inserted by section 2 of the bill by replacing it with the following:

(f) Provide for the review of department outreach, education, and technical assistance activities for small businesses.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 83, establishing a commission to study issues relative to the comprehensive shoreland protection act and the public waters of the state. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Environment and Wildlife

February 2, 2005

2005-0147s

06/09

Amendment to SB 83

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

AN ACT establishing a commission to study issues relative to the comprehensive shoreland protection act.

Amend the bill by replacing paragraph I of section 2 with the following:

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 environmental services, or designee.
- (d) The director of the office of energy and planning, or designee.
- (e) One member of a regional planning commission, nominated by the New Hampshire Association of Regional Planning Commissions, and appointed by the governor.
- (f) A representative of the New Hampshire Lakes Association, nominated by the New Hampshire Lakes Association, and appointed by the governor.
- (g) Two members of the public who are waterfront property owners, appointed by the governor.
- (h) A representative of the New Hampshire Farm Bureau Federation, nominated by the New Hampshire Farm Bureau Federation, and appointed by the governor.
- (i) A representative of the Home Builders Association of New Hampshire, nominated by the Home Builders Association of New Hampshire, and appointed by the governor.
- (j) A member representing the University of New Hampshire, appointed by the governor.
- (k) A representative of the New Hampshire Association of Realtors, nominated by the New Hampshire Association of Realtors, and appointed by the governor.
- (l) An elected municipal officer of a waterfront community, nominated by the New Hampshire Municipal Association, and appointed by the governor.
- (m) A representative of the New Hampshire Rivers Council, nominated by the New Hampshire Rivers Council, and appointed by the governor.
- (n) A member representing forestry interests, appointed by the governor.
- (o) A member who is a landscaping consultant, appointed by the governor.
- (p) A member representing a conservation commission of a waterfront community, nominated by the New Hampshire Association of Conservation Commissions, and appointed by the governor.
- (q) A member from the New Hampshire Marine Traders Association, nominated by the association and appointed by the governor.
- (r) The attorney general, or designee.
- (s) A member from the new Hampshire Wildlife Federation, nominated by the federation and appointed by the governor.
- (t) A member from the New Hampshire Waterworks Association, nominated by the association and appointed by the governor.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall:

- I. Review current shoreland buffer and setback standards and recommend buffer and setback standards that are consistent with other applicable laws.
- II. Assess land-use impacts around the state's public waters.
- III. Review current nonconforming use, lot, and structure standards and make recommendations to revise and/or clarify these standards.
- IV. Explore funding options for the shoreland protection program at the department of environmental services.
- V. Assess current definitions and size, type, and location standards pertaining to structures as outlined in the comprehensive shoreland protection act, and make recommendations to revise and/or clarify these standards.
- VI. Recommend options, suggestions, or alternatives to the comprehensive shoreland protection act and determine whether it should be merged with other applicable laws such as the state's wetland laws.
- VII. Identify areas of the comprehensive shoreland protection act in need of revision.
- VIII. Review current structural exemption from setback requirements and make recommendations to revise and/or clarify these requirements.

IX. Review current viewing and access corridor options within the protected shoreland zone and make recommendations.

X. Review current permitting, waiver, variance, and enforcement provisions of the comprehensive shoreland protection act and make recommendations to revise and/or clarify these provisions.

2005-0147s

AMENDED ANALYSIS

This bill establishes a commission to study the effectiveness of the comprehensive shoreland protection act.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 91-FN, relative to an increase in the co-payment for participation in the animal population control program. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Gatsas for the committee.

Environment and Wildlife
February 2, 2005
2005-0141s
08/04

Amendment to SB 91-FN

Amend the bill by replacing section 2 with the following:

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 105, granting the executive director of fish and game authority to promote hunting, fishing, and wildlife-related activities. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

Environment and Wildlife
February 2, 2005
2005-0139s
10/03

Amendment to SB 105

Amend the bill by replacing section 2 with the following:

2 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 65, ratifying changes to the state building code adopted by the state building code review board. Executive Departments and Administration Committee. Ought to Pass, Vote 6-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

SB 100-FN, allowing the president of the National Education Association-New Hampshire to remain a member of the state retirement system. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 6-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

SB 16, establishing a pharmacy oversight committee. Health and Human Services Committee. Inexpedient to Legislate, Vote 5-0. Senator Gallus for the committee.

Committee report of inexpedient to legislate is adopted.

SB 27-FN, relative to licensing facilities and home health agencies certified by the Joint Commission on the Accreditation of Healthcare Organizations. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Health and Human Services

February 1, 2005

2005-0131s

01/09

Amendment to SB 27-FN

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

AN ACT relative to an exemption from the annual inspection of health facilities.

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

1 Health Facility Licensing; Annual Inspection. Amend RSA 151:6-a to read as follows:

151:6-a Annual Inspection. The department of health and human services shall make at least one annual unannounced inspection of every facility licensed under this chapter, ***unless exempted by rules as authorized by RSA 151:9, I(b)***. For residential care facilities, defined in RSA 151:2, I(e), the inspection shall include a review of the programs and services offered in the facility to assure that the facility is in compliance with its current level of licensure, and a survey of the most recent individual resident needs determinations where such surveys are not done under the survey and certification process for Titles XVIII and XIX of the Social Security Act, as amended, to assure that the facility and its programs and services are appropriate to the needs of the residents. Inspection results shall be provided as a written report which distinguishes between those findings that do, and those which do not, indicate a pattern of care, or which demonstrate over the period of at least 2 inspections, a trend in the care of residents or management of the facility which has the potential for adversely affecting the health of the residents. The results of this inspection and any later inspection shall be posted in a conspicuous place in the facility in the manner determined by the commissioner of the department of health and human services. The results so posted shall indicate the facilities and services inspected and the results for each such facility or service. This section shall not apply to acute care general hospitals when the department and the ~~[joint committee for accreditation of hospitals]~~ ***Joint Commission on Accreditation of Hospitals*** have agreed on joint inspection standards.

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

2005-0131s

AMENDED ANALYSIS

This bill exempts certain health care facilities from an annual unannounced inspection by the department of health and human services.

Amendment adopted.

Senator Kenney offered a floor amendment.

Sen. Kenney, Dist. 3

February 8, 2005

2005-0229s

01/09

Floor Amendment to SB 27-FN

Amend RSA 151:6-a as inserted by section 1 of the bill by replacing it with the following:

151:6-a Annual Inspection. The department of health and human services shall make at least one annual unannounced inspection of every facility licensed under this chapter, ***unless exempted by rules as autho-***

rized by RSA 151:9, I(b). For residential care facilities, defined in RSA 151:2, I(e), the inspection shall include a review of the programs and services offered in the facility to assure that the facility is in compliance with its current level of licensure, and a survey of the most recent individual resident needs determinations where such surveys are not done under the survey and certification process for Titles XVIII and XIX of the Social Security Act, as amended, to assure that the facility and its programs and services are appropriate to the needs of the residents. Inspection results shall be provided as a written report which distinguishes between those findings that do, and those which do not, indicate a pattern of care, or which demonstrate over the period of at least 2 inspections, a trend in the care of residents or management of the facility which has the potential for adversely affecting the health of the residents. The results of this inspection and any later inspection shall be posted in a conspicuous place in the facility in the manner determined by the commissioner of the department of health and human services. The results so posted shall indicate the facilities and services inspected and the results for each such facility or service. This section shall not apply to acute care general hospitals **and critical access hospitals** when the department and the ~~joint committee for accreditation of hospitals~~ **Joint Commission on Accreditation of Healthcare Organizations** have agreed on joint inspection standards.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 34-FN, relative to reimbursement rates for child care. Health and Human Services Committee. Ought to pass with amendment, Vote 5-1. Senator Martel for the committee.

Health and Human Services

February 3, 2005

2005-0168s

05/10

Amendment to SB 34-FN

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

1 Purpose. The general court hereby finds that an essential component of Temporary Assistance to Needy Families (TANF) is ensuring that parents of young children have access to safe, affordable child care. To enable low and moderate income parents who need child care to work, attend school and job training programs, and otherwise meet public assistance eligibility requirements, the department of health and human services shall establish reimbursement rates for child care services that better reflect the current market rate for licensed child care.

2 New Section; Public Assistance; Reimbursement Rates for Child Care. Amend RSA 167 by inserting after section 3-e the following new section:

167:3-f Reimbursement Rates for Child Care.

I. The commissioner of health and human services shall establish reimbursement rates for child care under the state public assistance program. To the extent that federal funds are available through the Temporary Assistance for Needy Families (TANF) or the Child Care and Development Block Grant (CCDBG) programs or from other federal sources, the rates shall reflect the current market rate for such services, based on the following criteria:

(a) Effective July 1, 2005, rates for child care reimbursement shall equal 50 percent of the market rate as measured by the survey of weekly costs of licensed child care centers conducted on behalf of the department in 2004. Rates for license-exempt providers may be established separately from this provision.

(b) Effective July 1, 2006, rates for child care reimbursement shall equal 75 percent of the market rate as measured by the survey of weekly costs of licensed child care centers conducted on behalf of the department in 2004. Rates for license-exempt providers may be established separately from this provision.

(c) To determine the current market rate in subsequent years, on or before October 1, 2005 and every 2 years thereafter, the department of health and human services shall conduct a survey of the weekly cost of licensed child care centers and licensed child care homes. The survey may be based upon a valid statistical sample of all licensed child care providers in the state.

(d) Effective July 1, 2007, the base reimbursement rate for child care shall equal 75 percent of the market rate for licensed child care, as measured by the survey conducted under subparagraph (c). The department shall develop a sliding scale to adjust the base reimbursement rate based on the type of child care provider, family size, income, and such additional eligibility criteria as the department may establish.

II. No more than 20 percent of the total federal TANF funds received annually by the state may be used for the child care reimbursement rate increases required by this section.

III. In order to expand the accessibility and availability of quality child care, the department also may establish, by rule under RSA 541-A, alternative or incentive reimbursement rates for quality enhancements to traditional child care services, innovative or specialized child care, and alternative child care delivery systems. The department shall maintain and expand a system of agreements with child care centers participating in the child care public assistance program. Rates for such agreements shall reflect the additional administrative costs assumed by such providers.

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

2005-0168s

AMENDED ANALYSIS

This bill requires state public assistance programs to include reimbursement for child care based on the current market rate for such services.

Senator Martel moved to recommit.

Adopted.

SB 34-FN is recommitted to Health and Human Services Committee.

SB 42, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services

February 1, 2005

2005-0128s

01/09

Amendment to SB 42

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

AN ACT establishing a pharmaceutical commission and making an appropriation therefor.

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

1 New Chapter; Pharmaceutical Commission. Amend RSA by inserting after chapter 126-Q the following new chapter:

CHAPTER 126-R PHARMACEUTICAL COMMISSION

126-R:1 Commission. There shall be a state pharmaceutical commission consisting of 3 members appointed by the governor with the consent of the council. Not more than 2 members shall belong to the same political party. Each member shall hold office for a term of 6 years and until his or her successor has been appointed and qualified. If a vacancy occurs in the commission, it shall be filled for the remainder of the term. Any or all of the commissioners may be removed by the governor and council for cause.

126-R:2 Chairperson; Compensation. The chairperson of the commission shall be appointed and commissioned as such by the governor with the consent of the council, and his or her term shall be coterminous with each term of the governor unless his or her successor shall have been sooner appointed. The expiration or termination of a commission member's term of office as chairperson of the commission shall in no way affect the length of his or her term as a commission member as established under RSA 126-R:1. The annual salary of each member of the commission shall be as specified in RSA 94:1-a, and the commissioners shall receive their reasonable expenses while traveling in the performance of their duties, provided that they shall not be allowed as expenses, travel between their places of residence and their office in Concord, nor shall they be allowed board or lodging while in Concord.

126-R:3 Duties. The primary duties of the pharmaceutical commission shall be to:

I. Provide the lowest possible cost for wholesale prescription drugs.

II. Maintain proper health and safety controls.

III. Assume responsibility for the effective, efficient, and self-sufficient operation of the commission.

IV. Provide wholesale prescription drug service to the state and customers of the commission, pursuant to this chapter.

126-R:4 Requirements. The members of the commission shall devote their entire time to the service of the commission. No member of the commission shall be directly or indirectly interested in the pharmaceutical business. The compensation and expenses of the commissioners and the expenses of the administration of this chapter shall be paid by the state on the warrant of the governor with the approval of the council.

126-R:5 Offices; Seal. The commission shall be provided with suitable offices in the city of Concord. The commission shall adopt a proper seal.

126-R:6 Assistants and Employees. The commission may employ such assistants as are, in its opinion, necessary for the proper transaction of its business, and fix their compensation, subject to the rules of the director of personnel. The commission may secure any necessary technical or professional assistance.

126-R:7 Personnel, Procedures, and Responsibilities.

I. There shall be a bureau of marketing and sales to be headed by an administrator, who shall have such labor grade as may be determined by the division of personnel. The administrator shall, as directed by the commission, oversee all aspects of the commission's functions relating to marketing, merchandising, purchasing, store operations, warehousing, and distribution, and shall perform such additional duties as the commission shall from time to time assign.

II. There shall be a bureau of administrative services to be headed by an administrator who shall have such labor grade as may be determined by the division of personnel. The administrator shall, as directed by the commission, oversee all aspects of the commission's administrative functions, to include accounting, financial management, data processing, management information systems, human resources, and contracting, and shall perform such additional duties as the commission shall from time to time assign.

126-R:8 Commission to Sell. It shall be the duty of the commission to buy and have in its possession prescription drugs for resale in the manner provided in this chapter. Such prescription drugs shall be free from adulteration and misbranding within the meaning of the provisions of RSA 146. All purchases of prescription drugs shall be made by the commission directly and not through the department of administrative services. The commission may negotiate and purchase prescription drugs from any source. The commission shall be subject to all the provisions so far as applicable of RSA 9, but the commission shall be exempt from the licensing requirements of RSA 318:51-a.

126-R:9 Rulemaking. The commission shall adopt rules, under RSA 541-A, necessary to carry out its powers and duties under this chapter. The commission shall not adopt any rule in conflict with any provision of RSA 541-A.

126-R:10 Insurance. The commission shall have power to insure the state prescription drug warehouse or warehouses and contents against fire and sprinkler damage and such insurance shall be purchased through the department of administrative services.

126-R:11 Purchases by the Pharmaceutical Commission. The commission shall purchase prescription drugs from primary sources. For the purposes of this chapter, "primary source" means the manufacturer or producer. The commission may also purchase prescription drugs from entities within Canada whether a primary source or a wholesaler. If a primary source is not available, the commission may, if it feels it is in the best interests of the state, vote at its regular meeting to allow an exemption and shall explain why such exemption has been allowed.

2 New Subparagraph; Personnel. Amend RSA 94:1-a, I(b) by inserting the following:

I. GG Pharmaceutical commission commissioner

II. HH Pharmaceutical commission chairperson

3 Appropriation. The sum of \$1,000,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the pharmaceutical commission for start-up costs associated with the purposes set forth in RSA 126-R as inserted by section 1 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

2005-0128s

AMENDED ANALYSIS

This bill establishes a pharmaceutical commission that is responsible for buying wholesale prescription drugs and reselling to retail pharmacies and state agencies. This bill also makes an appropriation of \$1,000,000 for start-up costs.

SPECIAL ORDER

Senator Clegg moved that we Special Order the following Bill to Thursday, February 17.

SB 42, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

Adopted.

SB 21, relative to voluntary mediated agreements in adoptions. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

Senate Judiciary
February 5, 2005
2005-0162s
05/01

Amendment to SB 21

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Probate Court Mediation Fund. Amend RSA 490:27, II(a) to read as follows:

(a) There is established in the office of the state treasurer a separate fund to be known as the probate court mediation fund. The sum of \$5 shall be added to each entry fee collected in the probate courts and shall be deposited in the fund for paid mediation in the probate courts *or, when funds are available, for paid mediation in family division cases related to: minor guardianships pursuant to RSA 463; the adoption of minors pursuant to RSA 170-B; the termination of parental rights pursuant to RSA 170-C; or abuse and neglect cases pursuant to RSA 169-C.* Costs of probate court mediators may be paid from this fund, provided that:

(1) Participation in the mediation sessions is not mandated by the court; and

(2) Mediation reports shall not be released to any judge or other officer of the court who may later decide or rule on the case without the written consent of all parties participating in the mediation.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.**Ordered to third reading.**

SB 75-FN, relative to the statute of limitations for a civil actions based upon a sexual assault case. Judiciary Committee. Ought to Pass, Vote 6-0. Senator Foster for the committee.

Adopted.**Ordered to third reading.**

Senator Boyce is in opposition to the motion of ought to pass on SB 75-FN.

SB 76, relative to the extension of restraining orders under the domestic violence protection act. Judiciary Committee. Ought to Pass, Vote 6-0. Senator Clegg for the committee.

Adopted.**Ordered to third reading.**

CACR 8, relating to the highway fund. Providing that the highway fund may be used for highways and intermodal transportation projects. Transportation and Instate Cooperation Committee. Inexpedient to Legislate, Vote 4-2. Senator Morse for the committee.

SPECIAL ORDER

Senator Clegg moved that we Special Order the following Bill to Thursday, February 17.

CACR 8, relating to the highway fund. Providing that the highway fund may be used for highways and intermodal transportation projects.

Adopted.

SB 32-FN, authorizing the department of safety to issue special amateur radio operator plates. Transportation and Instate Cooperation Committee. Inexpedient to Legislate, Vote 5-0. Senator Morse for the committee.

Committee report of inexpedient to legislate is adopted.

SB 96-FN, establishing Rotary Foundation special number plates. Transportation and Instate Cooperation Committee. Inexpedient to Legislate, Vote 5-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

SB 98-FN, relative to issuing duplicate registrations for off highway recreational vehicles. Transportation and Instate Cooperation Committee. Ought to pass with amendment, Vote 5-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation
February 3, 2005
2005-0159s
08/01

Amendment to SB 98-FN

Amend the bill by replacing section 1 with the following:

1 New Section; Duplicate Registration. Amend RSA 215-A by inserting after section 22-a the following new section:

215-A:22-b Duplicate Registration. A registration certificate which is lost, stolen, mutilated, or destroyed may be replaced by a duplicate registration, upon payment of a fee of \$5 and completion of an affidavit setting forth the circumstances of the loss or destruction of the registration. The duplicate registration shall entitle the registrant to engage in all activities permitted on the original registration. All fees collected under this section for duplicate registrations shall be nonlapsing and continually appropriated to the fish and game department for the purposes described in RSA 215-A:23, VIII.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

RESOLUTION

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

Adopted.

LATE SESSION**Third Reading and Final Passage**

SB 12, relative to contracts with non-profit public academies.

SB 21, relative to voluntary mediated agreements in adoptions.

SB 65, ratifying changes to the state building code adopted by the state building code review board.

SB 68, relative to certain costs for the development of a high school in the town of Bedford.

SB 74, making certain technical changes in the insurance laws.

SB 75-FN, relative to the statute of limitations for a civil actions based upon a sexual assault case.

SB 76, relative to the extension of restraining orders under the domestic violence protection act.

SB 83, establishing a commission to study issues relative to the comprehensive shoreland protection act.

SB 91-FN, relative to an increase in the co-payment for participation in the animal population control program.

SB 98-FN, relative to issuing duplicate registrations for off highway recreational vehicles.

SB 105, granting the executive director of fish and game authority to promote hunting, fishing, and wild-life-related activities.

SB 201, making technical corrections to certain environmental laws and the small business technical assistance program.

SB 203, relative to leases and contracts for buildings or lands owned by the fish and game department.

HB 135-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

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.

Adopted.

In recess to the Call of the Chair.