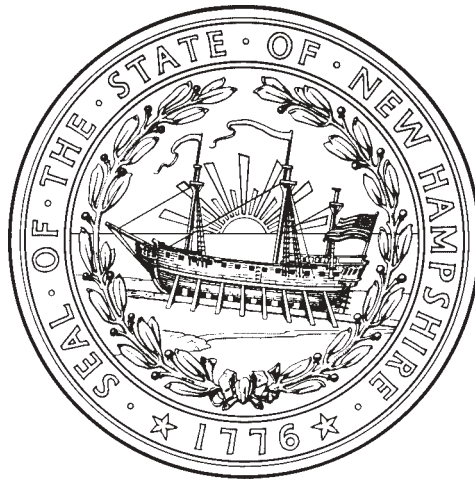


April 20, 2006
Nos. 11 - 12

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 13, 2006 SESSION
COMMENCEMENT – APRIL 20, 2006 SESSION

SENATE JOURNAL 11 (*Cont.*)

April 13, 2006

JOURNAL #11 CORRECTION FROM APRIL 13, 2006

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

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.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Foster (Rule #42) on HB 1660.

HOUSE MESSAGE

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

SB 207-FN, relative to enhanced penalties for certain crimes against the elderly and persons with a physical or mental disability.

SB 328, relative to the regulation of snowmobiles and off highway recreational vehicles.

SB 332, making technical corrections to the uniform trust code and related statutes.

SB 344, establishing a committee to study state benefit programs for national guard members.

SB 395, relative to the number of children in a licensed foster home.

SJR 4, urging Congress to require the Department of Defense to reinstate the terminology of "POW" or "Prisoner of War" into the classification of military personnel.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 268, raising the age of required attendance of children in school and establishing a 2-year pilot program for increasing vocational education opportunities in the Manchester and Nashua school districts and making an appropriation therefor.

SB 407-FN-A, relative to enforcement of labor statutes under current federal immigration laws.

HOUSE MESSAGE

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

SB 264, relative to the chief financial officer of the department of environmental services.

SB 330, relative to outdoor advertising.

SB 333, relative to inquiries of DWI defendants regarding establishments serving alcohol to the defendants.

HOUSE MESSAGE

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

HB 719-FN, recodifying the Articles 1 and 7 of the Uniform Commercial Code and relative to lobbyist name tags.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

SB 344, establishing a committee to study state benefit programs for national guard members.

SJR 4, urging Congress to require the Department of Defense to reinstate the terminology of "POW" or "Prisoner of War" into the classification of military personnel.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 254-FN, establishing lifetime licenses for bow and arrow, muzzle loading firearm, and crossbow and bolt licenses.

HB 1125, relative to the filing period for candidates in the presidential primary.

HB 1128-FN, relative to definition of teacher in the New Hampshire retirement system, and relative to approval of supplemental allowances.

HB 1132, relative to qualifications for the Global War on Terrorism operations service bonus payment.

HB 1154-FN, relative to eligibility for special number plates for veterans.

HB 1179, repealing a requirement that the department of transportation spend a certain amount for litter removal that is determined based on fees paid to the liquor commission.

HB 1185, relative to Volunteer NH.

HB 1188, relative to notice before entry into a condominium unit.

HB 1217, requiring the secretary of state to publish certain information on campaign contributions.

HB 1222-FN, relative to unlawful voting.

HB 1362, relative to permitting audio and video recording on school buses.

HB 1418-FN, relative to road toll refunds.

HB 1484, relative to including motorcycle and tractor-trailer safety in driver education courses.

HB 1497-L, relative to certification by a superintendent regarding statistical reports.

HB 1498, establishing a risk management unit within the department of administrative services and relative to the rulemaking authority of the department of administrative services.

HB 1517-FN, relative to membership on the board of medicine and the medical review subcommittee.

HB 1579, relative to membership of the air resources council.

HB 1609-FN, requiring a pilot project to estimate future water needs and availability.

HB 1636-FN, relative to appeals from class A misdemeanor sentences imposed by the district courts.

HB 1646-FN, relative to the use of a leashed tracking dog in the recovery of a wounded deer, moose, or bear.

HB 1663-FN, relative to the licensing fee for motor vehicle recycling yards.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 334, relative to the type of notice provided in court proceedings.

HB 413, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices.

HB 460-FN, relative to the reimbursement to certain providers by the bureau of emergency communications.

HB 544, relative to the land and community heritage program.

HB 649-FN-A-L, establishing a commission to study the costs and funding of medicolegal investigations and autopsies.

HB 1147, relative to the conduct of recounts.

HB 1765-FN-A-L, relative to funding for disaster relief efforts in response to the October 2005 floods and making an appropriation therefor.

SB 256, relative to the definition of "harm" for purposes of the crime of improper influence.

SB 274, adding court security to the duties of the New Hampshire court accreditation commission.

SB 296-FN, relative to recovery of public assistance.

SB 349, relative to the HIV/AIDS service delivery system.

SB 379-FN, relative to harm or threats to certain government officials.

SB 396, repealing the rulemaking authority of the New Hampshire children's trust fund board.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

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

HB 2006, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack.

INTRODUCTION OF HOUSE BILL(S)

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, House legislation numbered from **HB 2006**, shall be by this resolution read a first and second time by the therein listed title(s) and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 2006, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack. (Capital Budget)

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 12

April 20, 2006

The Senate met at 10:00 a.m.

A quorum was present.

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

Let us pray: Great God as Peanuts waited in the pumpkin patch for the arrival of the Great Pumpkin, give us patience, give us expectation and give us gratitude for all the gifts that we are to one another, and make us wise in how we use the fruit that comes into our lives. Amen

Senator Gottesman led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 1111, designating the pumpkin as the New Hampshire state fruit. Banks and Insurance Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

The question is on the adoption of the committee report of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator Flanders.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: Boyce.

Yeas: 23 - Nays: 1

Adopted.

Ordered to third reading.

HB 678-FN, relative to the insurance premium tax. Banks and Insurance Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 716-FN, relative to securities regulation. Banks and Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Gottesman for the committee.

Sen. Flanders, Dist. 7

April 11, 2006

2006-1716s

06/01

Amendment to HB 716-FN

Amend the bill by replacing section 1 with the following:

1 "Issuer-Dealer" Expanded. RSA 421-B:2, XIII-a is repealed and reenacted to read as follows:

XIII-a. "Issuer-dealer" means any person including, but not limited to, a corporation, partnership, limited liability company, association, joint stock company, or trust where the interests of the beneficiaries are evidenced by a security, unincorporated organization, government, political subdivision of a government, or any other entity, organized in this state or having its principal office in this state, and issuing its own securities for sale directly to any member of the general public who is not a general partner, executive officer, manager, or director of the issuer.

Amend RSA 421-B:3, II as inserted by section 2 of the bill by replacing it with the following:

II. For purposes of this section, a fraudulent or deceptive device or contrivance shall include, but shall not be limited to:

(a) Representing in the offer or sale of securities, in writing or orally, that there is a guarantee against risk or loss.

(b) Inducing excessive trading in a customer's account, or inducing trading beyond that customer's known financial resources.

(c) Effecting transactions in the account of a customer without his or her knowledge or maintaining discretionary accounts without written authorization.

Amend RSA 421-B:5, V-VI as inserted by section 4 of the bill by replacing them with the following:

V. Using information in violation of Rule 10b-5 of the Securities Exchange Act of 1934 about an issuer, learned from the issuer's officers, directors, or key employees, which is not generally available to the public and which would significantly affect the market price of the issuer's securities for personal benefit, directly or indirectly, in the offer, sale, or purchase of the issuer's securities, as a basis for making a recommendation regarding a security.

VI. Creating an atmosphere of false supply or demand in a market for publicly traded securities or engaging in market manipulations.

Amend RSA 421-B:5, IX as inserted by section 4 of the bill by replacing it with the following:

IX. Selling or soliciting the purchase of one security from a market in publicly traded securities conditioned upon the customer's agreement to purchase another security.

Amend RSA 421-B:17, II(a)(1) as inserted by section 15 of the bill by replacing it with the following:

(a)(1) Any non-issuer transactions, whether or not effected by or through a broker-dealer resulting in the completion of 5 or fewer sales of securities of a single issuer by the same non-issuer within any period of 12 consecutive months. The secretary of state, on a case-by-case basis, may by rule or order, retroactively or prospectively, increase the number of persons to whom sales may be made under this exemption.

Amend the introductory paragraph of RSA 421-B:17-a as inserted by section 18 of the bill by replacing it with the following:

The following standards shall apply to all registered offerings of securities and to any exempt offerings which require a filing with the secretary of state other than the filing of the notice described in RSA 421-B:11, I-a(e), except as provided by RSA 421-B:6, I-b:

Amend the bill by replacing section 31 with the following:

31 Effective Date. This act shall take effect July 1, 2006.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1592-FN, making certain changes in the insurance laws. Banks and Insurance Committee. Interim Study, Vote 6-0. Senator Barnes for the committee.

MOTION TO TABLE

Senator Barnes moved to have HB 1592-FN laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1592-FN, making certain changes in the insurance laws.

HB 1634-FN, making technical changes to the law governing the New Hampshire retirement system. Banks and Insurance Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

HB 1652-FN, relative to certain insurance claims. Banks and Insurance Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 1681-FN, establishing the unused prescription drug program. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Foster for the committee.

Banks and Insurance

April 11, 2006

2006-1744s

01/09

Amendment to HB 1681-FN

Amend RSA 318:58, I as inserted by section 1 of the bill by replacing it with the following:

I. Any patient, or other person licensed pursuant to RSA 318:42, II and acting on behalf of the patient, may donate unused prescription drugs and medical devices to the program.

Amend RSA 318:58, III(b) and (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Any hospital, nursing home, hospice, or outpatient clinic licensed pursuant to RSA 151;

(c) New Hampshire hospital, Glenclyff home for the elderly, New Hampshire veterans home, and the state and county correctional facilities, and

(d) Any licensed prescriber of prescription drugs pursuant to RSA 318:42, II.

Amend section 1 of the bill by inserting after RSA 318:59 the following new section:

318:60 Limited Immunity. Accepting or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any entity pursuant to this subdivision shall not subject a prescription drug manufacturer to criminal or civil liability for injury, death, or loss to person or property for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug, or for damages related to improper storage of the donated prescription drug or use after the expiration date. Except as provided in this section, nothing in this subdivision shall in any way limit liability that would have existed under the original prescription.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1711-FN, relative to the regulation of fuel gas fitters. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Executive Departments and Administration

April 12, 2006

2006-1794s

10/05

Amendment to HB 1711-FN

Amend the bill by replacing section 3 with the following:

3 New Subdivision; Fuel Gas Fitters. Amend RSA by inserting after RSA 153:26 the following new subdivision:

Fuel Gas Fitters

153:27 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of safety.

II. "Fuel gas fitter" means a hearth system installation and service technician, a liquefied propane installation technician, a liquefied propane service technician, a natural gas installation technician, a natural gas service technician, or a piping installer regulated by this subdivision.

III. "Fuel gas fitting" means the installation, repair, alteration, service, demolition or removal of pipes, fixtures, fittings, appliances, or apparatus necessary for supplying natural gas or propane for residential or non-residential use from the point of delivery and all gas piping before connection to the combustion zone and including the applicable venting of flue gases to the outside atmosphere and the provisions for air for combustion and ventilation.

IV. "Hearth system installation and service technician" means any person engaged in the installation, servicing, and repair of liquefied propane or natural gas hearth appliances and venting systems.

V. "Liquefied propane installation technician" means any person engaged in the installation of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using liquefied propane gas.

VI. "Liquefied propane service technician" means any person engaged in the servicing and repair of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using liquefied propane gas.

VII. "License" means any license issued pursuant to this subdivision, including any specialty license.

VIII. "Natural gas installation technician" means any person engaged in the installation of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using natural gas.

IX. "Natural gas service technician" means any person engaged in the service and repair of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using natural gas.

X. "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

XI. "Piping installer" means any person engaged in the installation of liquefied propane gas or natural gas piping or who is a New Hampshire licensed plumber, approved by the commissioner through affidavit, experience, education or training in the use of NFPA 54, national fuel gas code as adopted pursuant to RSA 153:5 in the state fire code.

153:28 Powers and Duties of the Commissioner; Rulemaking.

I. The commissioner shall adopt rules under RSA 541-A necessary for the proper performance of the state fire marshal's duties to implement the licensure requirements established in this subdivision, which shall include the following:

(a) Standards regarding education or its equivalent, experience requirements, and testing requirements for applicants for initial licensure for the following specialty licenses:

- (1) Hearth system installation and service technician.
- (2) Liquefied propane installation technician.
- (3) Liquefied propane service technician.
- (4) Natural gas installation technician.
- (5) Natural gas service technician.
- (6) Piping installer.

(b) Standards for license renewal and continuing education requirements. Continuing education requirements may be fulfilled in full or in part by existing training programs approved by the commissioner. The rules shall address continuing education requirements for each specialty license, including but not limited to the number of hours of continuing education for each specialty license, and education applicable to holders of multiple specialty licenses.

(c) The commissioner shall adopt rules relative to the establishment of application fees for licensure, for renewal, and for late renewal of licenses under this subdivision. The fee for examination by third parties shall be separate from the fees established by the commissioner.

(d) After the first year, fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the previous fiscal year. Fees shall be deposited in the fire standards and training and emergency medical services fund, established by RSA 21-P:12-d.

II. The commissioner shall adopt technical standards for fuel gas fitting by rule under RSA 541-A. The state fire marshal shall adopt the most recent edition of the national fuel gas code adopted by the state under RSA 153:5.

III. The state fire marshal shall administer, and enforce the provisions of this subdivision. The heating system certification advisory committee established under RSA 153:16-c shall assist the state fire marshal in carrying out the duties under this subdivision by providing advice regarding:

- (a) Developing rules required for this subdivision.
- (b) Implementing the licensing requirements under this subdivision.

153:29 Examinations; Licenses.

I. The commissioner shall establish, through rulemaking pursuant to RSA 541-A, the nature of the examinations required for issuance of fuel gas fitter licenses. The scope of such examinations and the methods of procedure shall be prescribed by the commissioner. This may include an outside organization approved by the commissioner.

II. Each license issued by the commissioner shall identify which of the following special licenses applies to the licensee.

- (a) Hearth system installation and service technician.
- (b) Liquefied propane installation technician.
- (c) Liquefied propane service technician.
- (d) Natural gas installation technician.
- (e) Natural gas service technician.
- (f) Piping installer.

III. No licensee shall engage in any activity not covered by his or her specialty license.

IV. The licensee shall have in his or her possession a current biennial license issued by the commissioner. The license shall be available for inspection on request. The commissioner shall issue both a wall license and a license suitable to be carried by the individual licensee.

153:30 Expiration and Renewal.

I. Licenses shall be renewed as follows:

(a) All licenses shall expire every 2 years on the last day of the month of the holder's birth. The commissioner shall renew a valid license issued under this subdivision on receipt of an application for renewal and the required fee before the expiration date of the license.

(b) If a person fails to renew his or her license prior to expiration, the person may have the license reinstated within 90 days of its expiration by paying the reinstatement fee in addition to the renewal fee. A late fee is not required during the first 30 days of expiration.

(c) Any application received 90 days or more after the expiration of the license shall be rejected unless accompanied by proof of successful completion of the examination required under RSA 153:29 subsequent to its expiration.

(d) Applicants for license renewal shall provide to the commissioner evidence of completion of continuing education within the previous 24-month period.

II. Upon the request of a licensed fuel gas fitter who is a member of any reserve component of the armed forces of the United States or the national guard and is called to active duty, the commissioner shall place the person's license on inactive status. The license may be reactivated within one year of the licensee's discharge by payment of the renewal fee and with proof of completion of the most current continuing education requirement unless still within the renewal period.

153:31 Emergencies. The commissioner is authorized, at his or her discretion, to waive the requirements of this subdivision for the purpose of restoring service during an emergency.

153:32 Disciplinary Action.**I. The commissioner may undertake disciplinary proceedings:**

(a) Upon his or her own initiative; or

(b) Upon written complaint of any person which charges that a person licensed by the commissioner has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this subdivision shall include:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this subdivision;

(b) Conviction of any criminal offense involving injury to a victim or the risk of such injury or any criminal offense involving dishonesty;

(c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession;

(d) Unfitness or incompetence by reason of negligent habits or other causes; or negligent or willful acts performed in a manner inconsistent with the health or safety of persons under the care of the licensee;

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders him or her unfit to practice under this subdivision;

(f) Mental or physical incompetence to practice under this subdivision;

(g) Willful or repeated violation of the provisions of this subdivision; or

(h) Suspension or revocation of a license, similar to one issued under this subdivision, in another jurisdiction and not reinstated.

III. The commissioner may take disciplinary action in any one or more of the following ways:

(a) By reprimand;

(b) By suspension, limitation, or restriction of license for a period of up to 5 years after hearing before the commissioner or his or her designee pursuant to RSA 541-A, unless waived by the licensee;

(c) By revocation of license after hearing before the commissioner or his or her designee pursuant to RSA 541-A, unless waived by the licensee; or

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he or she has been found deficient.

153:33 Appeals. Any person affected by a final decision of the commissioner may appeal such final decision pursuant to RSA 541.

153:34 Inspectors.

I. The commissioner shall have the authority to appoint such inspectors as are necessary to insure compliance throughout the state with practices consistent with the public safety and welfare.

II. An inspector appointed under this subdivision shall have the authority to enter any premises in which a fuel gas fitter subject to regulation is performing, or has completed, work regulated under this subdivision for the purpose of making such inspection as is necessary to carry out his or her duties under this subdivision. If consent for such inspection is denied or not reasonably obtainable, the state fire marshal or his or her designee may obtain an administrative inspection warrant under RSA 595-B.

III. An inspector appointed under this subdivision may order the removal or correction of any violation of this subdivision.

IV. Whenever an inspector orders the removal or correction of a violation under paragraph III, he or she shall immediately notify the local building inspection department or administrative authority of the town where the violation is located, and further order that all the work in violation be corrected prior to continuance. The local building authority shall approve the continuation of work upon being satisfied that violations have been corrected and shall notify the inspector of such approval.

153:35 Local Enforcement. The rules adopted pursuant to RSA 153:28, may be enforced by the building inspection department or by any officer designated by the administrative authority of the city or town; provided, however, that a city or town may adopt and enforce ordinances more stringent than the rules adopted under this subdivision.

153:36 Exceptions.

I. The license requirements of this subdivision shall not apply to anyone who performs fuel gas fitting within an existing single family, stand alone structure owned or occupied by the person who performs the fuel gas fitting work, and such structure is used as the individual's primary residence. Notwithstanding any provision to the contrary, any person who is exempt under this paragraph shall perform fuel gas fitting work in accordance with applicable technical standards, and comply with any applicable code, application, and inspection requirements that may apply to the fuel gas fitting work performed.

II. The license requirements of this subdivision shall not apply to persons performing tasks covered by federal and state regulation of public utilities pursuant to 49 C.F.R. part 192 and rules of the New Hampshire public utilities commission for gas service.

153:37 Penalties.

I. Any person who performs fuel gas fitting without first having obtained a license, shall be guilty of a misdemeanor.

II. Any person who violates any rule adopted under RSA 153:28 or whoever violates any ordinance or bylaw enacted pursuant to the provisions of RSA 153:35 shall be guilty of a misdemeanor.

III. Any person which procures any license based upon inaccurate information contained on an application, or procures any license by fraud, shall be guilty of a misdemeanor.

IV. Any person who performs fuel gas fitting without first having obtained a license, or who violates any rule adopted pursuant to this subdivision, and such performance of fuel gas fitting results in serious bodily injury or death, shall be guilty of a felony.

V. The penalties in this subdivision shall not apply until after one calendar year following the effective date of rules first adopted under this subdivision.

Amend the bill by replacing all after section 4 with the following:

5 Transition; Certified Installers. Individuals certified as gas piping installers or hearth system installers under RSA 153:16-b immediately prior to the effective date of this act, shall be permitted to continue practicing as certified gas piping installers or hearth system installers for one year following the adoption of rules by the commissioner under RSA 153:28. Following the one-year period all such persons shall be required to be licensed pursuant to RSA 153:27-37.

6 Short Title. This act shall be known as "Amilia's Law."

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

2006-1794s**AMENDED ANALYSIS**

This bill establishes the licensure of fuel gas fitters by the commissioner of safety.

Amendment adopted.

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

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: Boyce.

Yeas: 23 - Nays: 1

Adopted.

Ordered to third reading.

HB 1223-FN, relative to the use of real estate brokers by the department of transportation. Capital Budget Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Capital Budget
April 13, 2006
2006-1815s
06/01

Amendment to HB 1223-FN

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

1 Intent. The intent of this act is to require the department of transportation to contract with licensed real estate professionals to sell excess property owned by the department. The proceeds from the sale of the properties will be deposited into either the highway fund or the turnpike fund, depending on which fund was used to obtain the property.

2 Use of Real Estate Professionals in the Disposal of Highway and Turnpike Funded Real Estate. Amend RSA 228:31-b, I-III by replacing them with the following:

I. For purposes of this section:

(a) "Professional real estate services" means those professional services of licensed real estate professionals, as well as incidental services that members of the profession and those in their employ may logically and justifiably perform. ***These services shall include at a minimum a market analysis based on the highest and best use of all excess property being sold.***

(b) "Licensed real estate professional" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the real estate profession in this state under RSA 331-A.

II. The general court hereby declares that it shall be the policy of the department of transportation to negotiate contracts for professional real estate services on the basis of demonstrated competence and qualifications for the type of professional services required, and at fair and reasonable prices, to sell surplus ~~[commercial and industrial]~~ property obtained with funds derived from the highway fund or the turnpike fund.

III. The department shall publish a request for qualifications for professional real estate services to be procured. The department shall select licensed real estate professionals who have demonstrated competence and qualifications to market and sell highway and turnpike funded surplus ~~[commercial and industrial]~~ property.

3 Disposal of Highway and Turnpike Funded Real Estate. Amend RSA 228:31-b, VIII-X by replacing them with the following:

VIII. All requests for disposal of surplus ~~[commercial and industrial]~~ property owned by the department of transportation shall be reviewed and approved by the long range capital planning and utilization committee prior to submission to the governor and council for approval.

IX. The sale of surplus ~~[commercial and industrial]~~ property owned by the department which was purchased with highway or turnpike fund money shall be exempt from review by the council on resources and development under RSA 162-C.

X. All proceeds from sales of surplus ~~[commercial and industrial]~~ property owned by the department shall be deposited in the fund from which they originated.

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

2003-1780s

AMENDED ANALYSIS

This bill requires the department of transportation to use licensed real estate professionals in the sale of certain real estate.

This bill requires the department of transportation to deposit the proceeds from such sale in the fund originally used to obtain the property.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Gatsas moved that without objection that HB 1426 be heard at the end of the day.

HB 1241-FN-L, extending the kindergarten construction aid program. Education Committee. Ought to Pass, Vote 2-0. Senator Johnson for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1249-FN-A-L, relative to state reimbursement for school breakfasts and making an appropriation therefor. Education Committee. Ought to Pass, Vote 2-0. Senator Eaton for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

Senator Boyce is in opposition to the motion of ought to pass on HB 1249-FN-A-L.

HB 1578, to provide enhanced awareness of and education on methamphetamine to the citizens of New Hampshire. Education Committee. Inexpedient to Legislate, Vote 2-0. Senator Bragdon for the committee.

MOTION TO TABLE

Senator Bragdon moved to have HB 1578 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1578, to provide enhanced awareness of and education on methamphetamine to the citizens of New Hampshire.

HB 1593-FN-L, relative to the construction of high school athletic fields in the town of Bedford. Education Committee. Ought to Pass, Vote 3-0. Senator Bragdon for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1673-FN, relative to the reduction of mercury emissions. Energy and Economic Development Committee. Ought to Pass, Vote 4-1. Senator Odell for the committee.

The question is on the adoption of the committee report of ought to pass.

A roll call was requested by Senator Green.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: Boyce, Barnes.

Yeas: 22 - Nays: 2

Adopted.

Ordered to third reading.

Senator Barnes is in opposition to HB 1673-FN.

HB 1690, relative to renewable energy. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-1. Senator Bragdon for the committee.

Energy and Economic Development

April 12, 2006

2006-1763s

03/04

Amendment to HB 1690

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

AN ACT relative to renewable energy and relative to divestiture of PSNH generation assets.

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

3 Divestiture of PSNH Generation Assets. Amend RSA 369-B:3-a to read as follows:

369-B:3-a Divestiture of PSNH Generation Assets. The sale of PSNH fossil and hydro generation assets shall not take place before ~~[April 30, 2006]~~ **June 30, 2008**. Notwithstanding RSA 374:30, subsequent to ~~[April 30, 2006]~~ **June 30, 2008**, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest ~~[of retail customers of PSNH]~~ to do so, and provides for ~~[the]~~ cost recovery of such modification or retirement. ***PSNH may build or acquire additional generating assets that employ renewable wood-fired energy proximate to the northern forests of the state if the commission finds it is in the public interest to do so, and provides for the cost recovery of such additional generating assets. The addition of generating assets that employ renewable energy shall be deemed in the public interest, provided that there is a reasonable plan for the construction and operation of such a facility, that all prudent measures will be taken to control costs, and due consideration is given to the sharing of risks between shareholders and customers.***

2006-1763s

AMENDED ANALYSIS

This bill:

- I. Authorizes electric utilities to offer a renewable energy default service option.
- II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.
- III. Extends the prohibition on PSNH divestiture of generation assets.

Amendment adopted.

Senator Burling offered a floor amendment.

Sen. Odell, Dist. 8

Sen. Burling, Dist. 5

April 20, 2006

2006-1931s

03/09

Floor Amendment to HB 1690

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

3 New Section; Wood-Fired Generation Assets. Amend RSA 369-B by inserting after section 3-a the following new section:

369-B:3-b Wood-Fired Generation Assets. PSNH may build or acquire additional generating assets that employ renewable wood-fired energy proximate to the northern forests of the state if the commission finds it is in the public interest to do so, and provides for the cost recovery of such additional generating assets. The addition of generating assets that employ renewable wood-fired energy shall be deemed in the public interest, provided that there is a sound balance between the interests of PSNH's retail customers and the interests of the area and the state, that there is a reasonable plan for the construction and operation of such a facility, that all prudent measures will be taken to control costs, that there is an appropriate sharing of risks between shareholders and customers, and that any recovery of costs will be through default service rates. The commission shall take all reasonable steps to expedite any proceeding under this section.

4 Effective Date.

- I. Section 3 of this act shall take effect 90 days after its passage.
- II. The remainder of this act shall take effect 60 days after its passage.

2006-1931s

AMENDED ANALYSIS

This bill:

- I. Authorizes electric utilities to offer a renewable energy default service option.
- II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.

III. Establishes standards for building or acquiring wood-fired generation assets by PSNH and authorizes recovery of costs through default service rates.

Senator Burling moved to withdraw the floor amendment.

Adopted.

MOTION OF RECONSIDERATION

Senator Odell, having voted with the prevailing side, moved reconsideration of **HB 1690**, relative to renewable energy, whereby the committee amendment was adopted.

Adopted.

HB 1690, relative to renewable energy.

The question is on the adoption of the committee amendment (#1763).

Amendment failed.

Senator Odell moved ought to pass.

Senator Burling offered a floor amendment (#1931).

Floor amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

Senator Gatsas is in opposition to the amendment on HB 1690.

HB 1265, establishing the council on the relationship between public health and the environment. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Environment and Wildlife

April 12, 2006

2006-1771s

01/04

Amendment to HB 1265

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

AN ACT extending the final report date of the commission to study the relationship between public health and the environment.

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

1 Extending the Reporting Date for the Commission to Study the Relationship Between Public Health and the Environment. Amend 2000, 114:6, as amended by 2001, 23:2; 2003, 196:1; and 2004, 20:9 to read as follows:

114:6 Report. The commission shall make an interim report on its findings and any recommendations for proposed legislation on or before November 1, 2000 and a final report on or before November 1, [2005] **2007** to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library.

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

2006-1771s

AMENDED ANALYSIS

This bill extends the final report date of the commission to study the relationship between public health and the environment, established in 2000, 114, from November 1, 2005 to November 1, 2007.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1315, relative to the definition and classification of dams. Environment and Wildlife Committee. Ought to pass with amendment, Vote 4-0. Senator Gallus for the committee.

Sen. Gallus, Dist. 1

April 5, 2006

2006-1652s

06/01

Amendment to HB 1315

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

AN ACT relative to the definition and classification of dams and relative to the acceptance of Jericho Lake Dam in Berlin.

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

7 New Paragraph; Dam Acquisition Authorized; Jericho Lake Dam. Amend RSA 482:48 by inserting after paragraph V the following new paragraph:

VI. For a consideration of \$1, the department of resources and economic development, division of parks and recreation, is authorized to accept the Jericho Lake Dam in the city of Berlin.

2006-1652s

AMENDED ANALYSIS

This bill changes the names for classification of dams from letters to names based on the hazard potential of the dam. It also exempts certain storm water detention dams from the definition of "dam."

This bill authorizes the department of resources and economic development to accept the Jericho Lake Dam in Berlin.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1446, requiring the department of resources and economic development to prepare and submit a management and financial plan to the general court and the public prior to the opening of the Berlin regional ATV park. Environment and Wildlife Committee. Inexpedient to Legislate, Vote 3-2. Senator Gallus for the committee.

MOTION TO TABLE

Senator Barnes moved to have HB 1446 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1446, requiring the department of resources and economic development to prepare and submit a management and financial plan to the general court and the public prior to the opening of the Berlin regional ATV park.

HB 1506, requiring children 12 years of age or under to wear personal flotation devices. Environment and Wildlife Committee. Ought to Pass, Vote 3-2. Senator Johnson for the committee.

MOTION TO TABLE

Senator Bragdon moved to have HB 1506 laid on the table.

The question is on the motion to lay on the table.

A roll call was requested by Senator Foster.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Martel, Letourneau, Morse.

The following Senators voted No: Johnson, Burling, Odell, Gottesman, Foster, Larsen, Barnes, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 13 - Nays: 11

Adopted.

LAID ON THE TABLE

HB 1506, requiring children 12 years of age or under to wear personal flotation devices.

HB 1630-L, relative to land use change taxes imposed for certain road construction on rights-of-way. Environment and Wildlife Committee. Ought to Pass, Vote 4-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

HB 1337, establishing the amusement ride safety advisory board. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration

April 12, 2006

2006-1804s

05/10

Amendment to HB 1337

Amend RSA 321-A:10, I and II as inserted by section 1 of the bill by replacing it with the following:

I. There is established the amusement ride safety advisory board, comprised of the following members:

- (a) The commissioner or designee, who shall serve as the chair of the board.
- (b) One representative of owners or operators of carnival or amusement rides which are portable in nature, appointed by the governor with the advice and consent of the council.
- (c) Two representatives of owners or operators of permanently placed carnival or amusement rides, one of whom shall be a water park operator, appointed by the governor with the advice and consent of the council.
- (d) An insurance professional with experience underwriting carnival or amusement rides, appointed by the governor with the advice and consent of the council.
- (e) An electrical engineer with experience in the mechanisms of amusements, appointed by the governor with the advice and consent of the council.
- (f) A member of the general public, appointed by the governor.

II. The first members of the board shall serve staggered terms, appointed as follows: members appointed under subparagraphs I(b) and (d) shall be appointed for one-year terms, members appointed under subparagraph I(c) shall be appointed for 2-year terms, members appointed under subparagraphs I(e) and (f) shall be appointed for 3-year terms. Thereafter, appointed members shall serve 4-year terms, and until their successors are appointed. Any vacancy on the board shall be filled for the remainder of the unexpired term.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1595-FN, relative to certification of electronic systems technicians by the electricians' board. Executive Departments and Administration Committee. Interim Study, Vote 5-0

Senator Flanders for the committee.

Motion failed.

Senator Larsen moved inexpedient to legislate.

Adopted.

HB 1595-FN is inexpedient to legislate.

HB 1735-FN, relative to awarding the state employees' health insurance plan. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

Senate Executive Departments and Administration
April 12, 2006
2006-1799s
08/09

Amendment to HB 1735-FN

Amend the bill by replacing section 1 with the following:

1 Administration. Amend RSA 21-I:27 to read as follows:

21-I:27 Administration. Administration of the state employees permanent group life and *state employees and retirees* group hospitalization, hospital medical care, surgical care and other medical and surgical insurance benefits shall be the responsibility of the commissioner of administrative services. *If the commissioner of administrative services concludes that inclusion of the university system of New Hampshire in the health plan would best serve the interests of the state employees and the state of New Hampshire, then the commissioner shall, with the consent of the university system board of trustees, administer the health benefits of the university system of New Hampshire employees as set forth in this subdivision.*

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HCR 20, a resolution commending the New Hampshire committee for Employer Support of the Guard and Reserve. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Barnes for the committee.

The question is on the committee report of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 1182-FN, relative to the limited commercial lobster license fees. Finance Committee. Ought to Pass, Vote 5-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

HB 1410-FN-L, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator D'Allesandro for the committee.

Sen. Clegg, Dist. 14

April 5, 2006

2006-1644s

04/05

Amendment to HB 1410-FN-LOCAL

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

AN ACT relative to the addition of a disciplinary period to a minimum sentence and relative to the application of good time credits for prisoners transferred to the state prison.

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

1 Sentences and Limitations. Amend RSA 651:2, II-e to read as follows:

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. ***The minimum sentence to which the disciplinary period is added pursuant to this section shall include all periods of confinement prior to the imposition of sentence for which credit against the sentence is awarded pursuant to RSA 651-A:23.*** The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. ~~[There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.]~~

2 New Paragraph; Parole of Prisoners; Credits for Good Conduct. Amend RSA 651-A:22 by inserting after paragraph V the following new paragraph:

VI. Upon sentencing to the state prison of any person who was held at a county correctional facility while awaiting trial or sentencing for the offense on which sentence was imposed, the county correctional facility shall forward to the commissioner a copy of such prisoner's disciplinary record while confined in the county correctional facility. Within 30 days of the prisoner's arrival at the state prison, the commissioner shall review the prisoner's conduct record while incarcerated at the county correctional facility using the same standards and procedures specified in paragraphs I, II, and IV of this section. If, as a result of such review, the commissioner determines that the prisoner exhibited good conduct while incarcerated at the county correctional facility, the commissioner may reduce the additional disciplinary period applicable to such period of county confinement in accordance with paragraph III of this section.

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

2006-1644s

AMENDED ANALYSIS

This bill specifies the procedures for applying a disciplinary period to a minimum sentence and for the application of good time credits for prisoners incarcerated in a county correctional facility who are transferred to the state prison.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1489, relative to school emergency response plans. Finance Committee. Inexpedient to Legislate, Vote 7-0. Senator Morse for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1613-FN, relative to polling place arrangement and accessibility. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Morse for the committee.

Senate Finance

April 12, 2006

2006-1797s

03/01

Amendment to HB 1613-FN

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

AN ACT relative to polling place arrangement and accessibility and establishing the position of state filings officer.

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

4 New Section; Organization of Executive Branch; Code of Ethics; State Filings Officer Established. Amend RSA 21-G by inserting after section 35 the following new section:

21-G:36 Filings Officer; Duties and Responsibilities. There is established within the department of state a designated position of state filings officer who shall communicate when necessary with candidates for public office, public officials, public employees, and lobbyists on the submission of forms pursuant to RSA 21-G:28, RSA 15, RSA 15-A, and RSA 15-B.

2006-1797s

AMENDED ANALYSIS

This bill:

- I. Modifies the requirements for accessible voting booths.
- II. Authorizes table-top voting screens.
- III. Establishes minimum requirements for numbers of voting booths and screens at polling places.
- IV. Modifies requirements for accessibility to the polling place.
- V. Establishes within the department of state the position of state filings officer.

Amendment adopted.

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

April 20, 2006

2006-1938s

03/01

Floor Amendment to HB 1613-FN-LOCAL

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

AN ACT relative to polling place arrangement and accessibility and authorizing the designation of a state filings officer.

Amend the bill by replacing all after section 3 with the following:

4 New Section; Department of State; State Filings Officer Authorized. Amend RSA 5 by inserting after section 3 the following new section:

5:3-a Filings Officer; Duties and Responsibilities. The secretary of state shall designate a person employed within the department of state as the state filings officer who shall communicate when necessary with candidates for public office, public officials, public employees, and lobbyists on the submission of forms pursuant to RSA 21-G:28, RSA 15, RSA 15-A, and RSA 15-B.

5 Effective Date.

- I. Sections 1 and 2 of this act shall take effect September 1, 2006.
- II. The remainder of this act shall take effect upon its passage.

2006-1938s

AMENDED ANALYSIS

This bill:

- I. Modifies the requirements for accessible voting booths.
- II. Authorizes table-top voting screens.
- III. Establishes minimum requirements for numbers of voting booths and screens at polling places.
- IV. Modifies requirements for accessibility to the polling place.
- V. Authorizes within the department of state the designation of an employee as the state filings officer.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

CACR 30, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. Finance Committee. Ought to Pass, Vote 6-0. Senator Green for the committee.

The question is on the motion of ought to pass.

A roll call was requested by Senator Green.

Seconded by Senator Flanders.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted by the necessary 3/5 vote.

Ordered to third reading.

HB 688-FN, relative to the regulation of mental health practitioners and the procedures of the board of mental health. Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 1611-FN, relative to reimbursement for personal care services. Health and Human Services Committee. Ought to Pass, Vote 3-0. Senator Bragdon for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1672-FN, relative to a registry for substantiated cases of abuse, neglect, or exploitation of incapacitated adults and establishing a task force relative to central registries. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Estabrook for the committee.

Health and Human Services

April 12, 2006

2006-1795s

01/04

Amendment to HB 1672-FN

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

AN ACT relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.

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

1 Elderly and Adult Services; Immunity From Liability. Amend RSA 161-F:47 to read as follows:

161-F:47 Immunity From Liability. Any person or agency, other than an alleged perpetrator, participating in good faith in the making of a report of an alleged incident of adult abuse, neglect or exploitation, providing information relative to such incident or following a reporting protocol developed jointly with the department, ***or who in good faith investigates the report, administers the registry, or who participates in a judicial or administrative proceeding resulting from that report***, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any person or agency providing information in good faith, including materials requested by the department pursuant to RSA 161-F:56, shall have the same immunity with respect to participation in any investigation by the commissioner or his authorized representative or in any judicial proceeding resulting from such report.

2 Registry for Founded Cases of Abuse, Neglect, or Exploitation of Incapacitated Adults. RSA 161-F:49 is repealed and reenacted to read as follows:

161-F:49 Registry.

I. There shall be established a state registry of abuse, neglect, and exploitation reports at the department for the purpose of maintaining a record of information on each case of alleged abuse, neglect, or exploitation

toward an individual by a paid or volunteer caregiver or a caregiver hired or obtained by an agency, individual, family, or guardian. Unfounded cases shall not be maintained on the registry. The department shall maintain statistical, non-identifying information on founded cases as the department determines is necessary to track and address trends. This section shall apply in each case of abuse, neglect, or exploitation by a paid caregiver toward an individual that is founded by an investigator. For the purposes of this section:

(a) "Individual" means an individual found eligible for or receiving services pursuant to RSA 171-A, RSA 135-C:13, RSA 135-C:14, RSA 161-E, RSA 161-I, or programs licensed under RSA 151:2, I(b), (e), or (f), or who is an incapacitated adult, as defined under RSA 161-F:43, VII.

(b) The investigators shall be designated or employed by the department, in accordance with a protocol developed by the department to ensure objectivity, thoroughness, timeliness, and uniformity in methodology and format in the conduct of investigations and investigation reports. The investigators may include investigators employed by area agencies or community mental health centers, if designated by the department.

II. Within 5 business days of completion of an investigation report by an investigator of alleged abuse, neglect, or exploitation by a caregiver of an individual, the investigator shall provide the investigation report to the commissioner, or designee. Except as provided in paragraph IV, for a founded report, the commissioner, or designee, shall, within 5 business days, notify the perpetrator:

(a) Of the founded case against him or her and that such information shall be entered on the registry and the consequences of such a finding.

(b) Of the right to contest the finding by appealing within 10 business days.

(c) Of the right to receive a full and fair administrative hearing, including the right to be represented by counsel at his or her own expense.

(d) Of the right to appeal an adverse administrative hearing decision to the probate court in accordance with paragraph IV.

(e) That he or she may petition the probate court to expunge his or her name from the registry pursuant to RSA 161-F:49, VIII.

III. Except as provided in paragraph IV, for a founded report, the commissioner, or designee, shall notify the employer:

(a) Relative to a prospective employee who is not on the registry of that fact within 5 days of receipt of a request from the employer.

(b) Relative to a prospective employee who is on the registry of that fact within 5 business days of receipt of the request from the employer, and the employer shall include in the notice the date the person was placed on the registry.

IV. A founded case of abuse, neglect, or exploitation, and other information the commissioner deems appropriate, shall be entered on the registry upon:

(a) Expiration of the 10-day period for appeal when the perpetrator does not request an appeal.

(b) An administrative hearing officer sustaining the finding, unless an appeal is filed in accordance with paragraph V and an order of stay is issued by the probate court.

V. If the finding is sustained after an administrative hearing, a person shall have the right to appeal as follows:

(a) A person may file a petition in the Merrimack county probate court to review the final order by the commissioner, or designee, within 30 days of the date of the final order. Jurisdiction to hear such appeals is vested in the Merrimack county probate court.

(b) At the earliest practical time, the court shall review the record as developed before the commissioner, or designee, together with any written legal argument presented to the court. Based on that review, the court may affirm or reverse the decision of the commissioner, or designee, or order that oral argument be held. As justice may require, the court may remand the case to the commissioner, or designee, for further findings or rulings. The petition for appeal shall set forth all the grounds upon which the final order is sought to be overturned. Issues not raised by the appellant before the commissioner, or designee, shall not be raised before the probate court. The burden of proof shall be upon the appellant to show that the decision of the commissioner, or designee, was clearly unreasonable or unlawful, and all findings of the commissioner, or designee, upon all

questions of fact properly before him or her shall be deemed to be prima facie lawful and reasonable. The order or decision appealed from shall not be vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence, that the order is unjust or unreasonable.

(c) No new or additional evidence shall be introduced in the probate court. The case shall be determined upon the record and evidence transferred, except that in any case, if it shall be necessary in order that no party shall be deprived of any constitutional right, or if the court determines that justice requires the reception of evidence of facts which have occurred since the hearing, or which by reason of accident, mistake, or misfortune could not have been offered before the commissioner, or designee, it shall remand the case to the commissioner, or designee, to receive and consider such additional evidence.

VI. If it is determined by the investigator or after a hearing requested pursuant to subparagraph II(c) that a founded case was caused by factors beyond the control of the perpetrator, then the finding shall not be entered onto the registry as founded.

VII. All employers of programs which are licensed, certified, or funded by the department to provide services to individuals shall be required before hiring a prospective employee who may have client contact to submit his or her name, for review against the registry of founded reports of abuse, neglect, and exploitation to determine whether the person is on the registry. The employer shall not hire the prospective employee if the person is listed on the registry with a founded case of abuse, neglect, or exploitation, unless the employer requests and obtains a waiver from the department to hire such person. The employer, upon receiving of notice that a prospective employee is on the registry and in order to determine whether he or she should request a waiver from the department, may request permission from the prospective employee for the authority to obtain further information about a founded case of abuse, neglect, or exploitation. Any individual hiring a caregiver directly, or through an authorized representative or fiscal intermediary, to provide personal care services, as defined in RSA 161-E or RSA 161-I, may, with the consent of the prospective employee, submit the prospective employee's name for review against the registry and, if the prospective employee is on the registry, and with the further permission of the prospective employee, obtain information about any founded case. The individual shall not be required in such situations to obtain a waiver prior to hiring a person on the registry. It shall be unlawful for any employer other than those specified under this paragraph to require as a condition of employment that the employee submit his or her name for review against the registry of founded reports of abuse, neglect, or exploitation and any violation of this provision shall be punishable as a violation.

VIII. Founded reports of abuse, neglect, or exploitation shall be retained for a period of 7 years subject to an individual's right to petition for the earlier removal of his or her name from the registry as provided in this section.

IX. Any individual whose name is listed in the founded reports maintained on the central registry may petition the probate court to have his or her name expunged from the registry as follows:

(a) A petition to expunge shall be filed in the probate court where the petitioner resides or where the abuse, neglect, or exploitation occurred.

(b) A petition to expunge shall be filed on forms provided by the probate courts. The petition shall include certified copies of the petitioner's criminal record and may include any other information the petitioner deems relevant.

(c) When a petition to expunge is filed, the probate court shall require the department to report to the court concerning any additional founded abuse, neglect, or exploitation reports relative to the petitioner and shall require that the petitioner submit the petitioner's name, birth date, and address to the state police to obtain information about criminal convictions. The court may require the department to provide any additional information that the court believes may aid it in making a determination on the petition.

(d) Upon the receipt of the department's report, the court may act on the petition without further hearing or may schedule the matter for hearing at the request of either party. If the court determines that the petitioner does not pose a present threat to the safety of adults and has exhibited best efforts to eliminate the likelihood of reoccurrence of the type of behavior that resulted in his or her entry onto the registry, the court shall grant the petition and order the department to remove the individual's name from the registry. Otherwise, the petition shall be dismissed.

X. The department shall, in the notice it sends out pursuant to RSA 161-F:49, II(d), notify the perpetrator of his or her right to petition to have his or her name expunged from the registry. No petition to expunge shall be brought within one year from the date that the petitioner's name was initially entered on the registry. If the petition to expunge is denied, no further petition shall be brought more frequently than every 3 years thereafter.

XI. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Setting forth the process and criteria for requesting and granting a waiver pursuant to RSA 161-F:49, VII.

(b) Safeguarding the confidentiality of and access to the registry except for the functions necessary to comply with this section. Such safeguards shall include limitations on which persons in an employment situation may request and access the names of persons on the registry.

3 Task Force Established.

I. There is established a task force to study:

(a) The need for further improvements in the efficiency, effectiveness, and accessibility of the registries established pursuant to RSA 161-F:49 and RSA 169-C:35. The task force shall also study the provisions of 42 C.F.R. 488(c)-(e);

(b) The efficiency, effectiveness, and accessibility of the criminal records check process and the statutes relative to such checks for those providing care to vulnerable populations, served through the department, including, but not limited to, individuals eligible for or receiving services pursuant to RSA 171-A, RSA 135-C:13, RSA 135-C:14, or programs licensed under RSA 151:2, I(b), (e), or (f), or who is an incapacitated adult as defined in RSA 161-F:43, VII; and

(c) Whether the department shall make available certain information regarding a complaint about a permitted or licensed child day care agency, under RSA 170-E:17.

II. The task force may form such subcommittees as deemed appropriate.

4 Membership and Compensation.

I. The members of the task force shall be as follows:

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

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

(c) The commissioner of the department of health and human services and a member appointed by the commissioner of the department of health and human services, or 2 designees.

(d) The long-term care ombudsman, department of health and human services.

(e) The commissioner of the department of education, or designee.

(f) The attorney general, or designee.

(g) A representative of the Disabilities Rights Center, appointed by the center.

(h) A representative of New Hampshire Legal Assistance, appointed by such office.

(i) A representative of the Community Support Network, Inc. of New Hampshire, appointed by the network.

(j) A representative of the New Hampshire Community Behavioral Health Association, appointed by the association.

(k) A representative of Granite State Independent Living Foundation, appointed by such foundation.

(l) A representative of the Child Care Advisory Council, appointed by such council.

(m) A representative of a licensed child day care agency, appointed by the commissioner of the department of health and human services.

(n) Two parents of children attending a licensed child day care agency, appointed by the commissioner of the department of health and human services.

II. The task force shall solicit information from any other person or entity the task force deems relevant to its study.

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

5 Duties. The task force shall study the need for further improvements in the efficiency, effectiveness, and accessibility of the registries established pursuant to RSA 161-F:49 and RSA 169-C:35 and shall include in its study an examination of 42 C.F.R. 488(c)-(e). The task force shall determine the need, desirability, and feasibility of merging or combining the registries into one registry or otherwise improving access to and between the registries so that all licensed, certified, and funded programs by the department of health and human services and the department of education or other local or state programs have greater access to founded perpetrator information in and across all systems serving children and incapacitated or vulnerable adults. The task force shall also study the confidentiality issues concerning complaints and investigations and the public availability of such information relative to licensed child day care agencies.

6 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Nine members of the task force shall constitute a quorum.

7 Report. The task force shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2006.

8 State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. RSA 170-E:7, I and II are repealed and reenacted to read as follows:

I. Child day care providers who are required to be licensed or registered according to the provisions of this chapter shall, no later than an individual's first day of employment, which individual is responsible for the care of, or having regular contact with children, and upon adding new household members or other individuals who will have regular contact with children, submit to the department, the names, birth names, birth dates, and addresses of such individuals and other information required by the department as prescribed by rules adopted by the commissioner under RSA 541-A. The persons described in this paragraph shall submit to the department a notarized criminal history records release form, as provided by the New Hampshire division of state police, which authorizes the release of the person's criminal records, if any. The person shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

II.(a) The department shall, for every name submitted on an application, in the registration process, and for each individual for whom information is required to be submitted pursuant to paragraph I, review the names, birth names, birth dates, and current and previous addresses of such persons against the state registry of founded abuse and neglect reports.

(b) The department shall submit the criminal history records release form to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(c) The costs of criminal history record checks shall be borne by the child day care provider; provided, that the child day care provider may require an applicant to pay the actual costs of the criminal history check of the employee.

9 Effective Date.

I. Sections 3-7 and 9 shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2007.

2006-1795s

AMENDED ANALYSIS

This bill:

I. Requires employers of programs licensed, certified, or funded by the department of health and human services to check the backgrounds of certain prospective employees against the registry for founded cases of abuse, neglect, or exploitation of incapacitated adults.

II. Clarifies the criminal records check procedures for child day care providers.

III Establishes a task force to study certain registries.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1709-FN, establishing an autism registry in the department of health and human services. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 1713-FN, restricting the over-the-counter sale of pseudoephedrine base and ephedrine base drugs and establishing commission to study the feasibility of an electronic tracking system for sales of pseudoephedrine base and ephedrine base drugs. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Bragdon for the committee.

MOTION TO TABLE

Senator Clegg moved to have HB 1713-FN laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1713-FN, restricting the over-the-counter sale of pseudoephedrine base and ephedrine base drugs and establishing commission to study the feasibility of an electronic tracking system for sales of pseudoephedrine base and ephedrine base drugs.

HB 1727-FN-L, relative to transfer or discharge of patients or residents in licensed facilities. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Bragdon for the committee.

Health and Human Services

April 11, 2006

2006-1754s

01/09

Amendment to HB 1727-FN-LOCAL

Amend RSA 151:26, V and VI as inserted by section 3 of the bill by replacing them with the following:

V. For the purposes of this section, "transfer" or "discharge" shall not include transfers or discharges initiated at the request of the patient or his or her legal guardian, except that transfer or discharge of a resident from a nursing home certified under federal law even if initiated at the request of the resident or his or her legal guardian shall be subject to all federal notice requirements.

VI. If the patient or his or her legal guardian wishes to have the patient relocate to another facility or place, the patient shall be relocated according to the patient's or legal guardian's wishes; provided, that the patient or legal guardian gives written notice of such relocation to the facility.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1741-FN, relative to reporting requirements concerning infections in hospitals.

Ought to pass with amendment, Vote 4-0. Health and Human Services Committee. Senator Fuller Clark for the committee.

Health and Human Services
April 12, 2006
2006-1793s
01/09

Amendment to HB 1741-FN

Amend RSA 151:32-34 as inserted by section 1 of the bill by inserting after RSA 151:34 the following new section:

151:35 Limitation. No hospitals shall provide, and the department shall not collect, any data that identifies an individual patient, including but not limited to name, street address, city or town, telephone number, and social security number.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 2007.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HJR 20, supporting stem cell research. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Estabrook for the committee.

MOTION TO TABLE

Senator Clegg moved to have HJR 20 laid on the table.

The question is on the motion to lay on the table.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.

The following Senators voted No: Burling, Odell, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 15 - Nays: 9

Adopted.

LAID ON THE TABLE

HJR 20, supporting stem cell research.

HB 391, relative to election affidavits. Internal Affairs Committee. Ought to Pass, Vote 3-1. Senator Boyce for the committee.

The question is on the committee report of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator Kenney.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Fuller Clark.

The following Senators voted No: Burling, Larsen, Hassan.

Yeas: 21 - Nays: 3

Adopted.

Ordered to third reading.

HB 501, relative to citizenship and domicile affidavits. Internal Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator Bragdon for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1172-FN, relative to registration of political committees. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

HB 1311-FN-A, relative to the electronic filing of reports and applications with the secretary of state. Internal Affairs Committee. Ought to Pass, Vote 3-2. Senator Roberge for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1567, relative to removing names from the checklist. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Internal Affairs

April 12, 2006

2006-1800s

03/04

Amendment to HB 1567

Amend the bill by replacing section 1 with the following:

1 New Sections; Periodic Maintenance and Verification of Checklists; Request to Correct the Checklist; Reports of Change of Address. Amend RSA 654 by inserting after section 36 the following new sections:

654:36-a Request to Correct the Checklist.

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

654:36-b Reports of Change of Address If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice.

2006-1800s

AMENDED ANALYSIS

This bill authorizes any person to request that a person be removed from the checklist based on evidence that the person is not qualified as a voter in the town or ward. This bill also authorizes the supervisors of the checklist to strike names from the checklist based on a report of change of address from the United States Postal Service, the department of safety, or the secretary of state.

Amendment adopted.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5
April 20, 2006
2006-1944s
03/04

Floor Amendment to HB 1567

Amend the bill by replacing section 1 with the following:

1 New Sections; Periodic Maintenance and Verification of Checklists; Request to Correct the Checklist; Reports of Change of Address. Amend RSA 654 by inserting after section 36 the following new sections:

654:36-a Request to Correct the Checklist.

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice by certified mail return receipt requested to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

654:36-b Reports of Change of Address If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice.

2006-1944s

AMENDED ANALYSIS

This bill authorizes any person to request that a person be removed from the checklist based on evidence that the person is not qualified as a voter in the town or ward. This bill also authorizes the supervisors of the checklist to strike names from the checklist based on a report of change of address from the United States Postal Service, the department of safety, or the secretary of state.

The question is on adoption of the floor amendment.

A roll call was requested by Senator Burling.

Seconded by Senator Barnes.

The following Senators voted Yes: Burling, Green, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes Martel, Letourneau, Morse.

Yeas: 9 - Nays: 15

Floor amendment failed.

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

A roll call was requested by Senator Boyce.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Morse, Hassan.

The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Fuller Clark.

Yeas: 18 - Nays: 6

Adopted.

Ordered to third reading.

HB 1597-FN-L, relative to municipal obligations for indigent medical expenses. Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Bragdon for the committee.

Internal Affairs

April 12, 2006

2006-1798s

05/01

Amendment to HB 1597-FN-LOCAL

Amend RSA 165:1, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The local governing body of a town or city may adopt written guidelines to limit the coverage of its general assistance program for surgical and medical expenses, provided that there shall be no limitation for prescribed medication when there is no other means to provide such medication.

2006-1798s

AMENDED ANALYSIS

This bill permits a municipality to limit coverage for surgical and medical expenses under the municipality's local assistance program.

MOTION TO TABLE

Senator Roberge moved to have HB 1597-FN-L laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1597-FN-L, relative to municipal obligations for indigent medical expenses.

HB 627-FN, relative to including persons 17 years old in the juvenile justice system. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

Senate Judiciary

April 11, 2006

2006-1757s

05/09

Amendment to HB 627-FN

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

AN ACT relative to extended jurisdiction over certain 17 year old offenders.

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

1 Delinquent Children; Jurisdiction Over Certain Persons. Amend RSA 169-B:4, V(c) to read as follows:

(c) Who is ~~[committed to the custody of the department of health and human services at the youth development center pursuant to RSA 169-B:19, I(j)]~~ ***subject to the jurisdiction of the court prior to the minor's seventeenth birthday*** and for whom the department has filed a motion with the court requesting that the court retain jurisdiction under this subparagraph; provided that the department's motion is filed within the 90 days prior to the minor's seventeenth birthday and provided further that the court's jurisdiction pursuant to this subparagraph shall continue until the minor's eighteenth birthday.

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

2006-1757s

AMENDED ANALYSIS

This bill permits the court to retain jurisdiction over certain 17 year old offenders until their eighteenth birthday and removes the requirement that such offenders be committed to the youth development center.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 656-FN, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

Senate Judiciary

April 12, 2006

2006-1760s

01/09

Amendment to HB 656-FN

Amend the bill by replacing section 2 with the following:

2 Written Directives for Medical Decision Making for Adults Without Capacity to Make Health Care Decisions for Themselves. RSA 137-J is repealed and reenacted to read as follows:

CHAPTER 137-J

**WRITTEN DIRECTIVES FOR MEDICAL DECISION MAKING FOR ADULTS
WITHOUT CAPACITY TO MAKE HEALTH CARE DECISIONS**

137-J:1 Purpose and Policy.

I. The state of New Hampshire recognizes that a person has a right, founded in the autonomy and sanctity of the person, to control the decisions relating to the rendering of his or her own medical care. In order that the rights of persons may be respected even after such persons lack the capacity to make health care decisions for themselves, and to encourage communication between patients and their attending physicians or ARNPs, the general court declares that the laws of this state shall recognize the right of a competent person to make a written directive:

(a) Delegating to an agent the authority to make health care decisions on the person's behalf, in the event such person is unable to make those decisions for himself or herself, either due to permanent or temporary lack of capacity to make health care decisions;

(b) Instructing his or her attending physician or ARNP to provide, withhold, or withdraw life-sustaining treatment, in the event such person is near death or is permanently unconscious.

II. All persons have a right to make health care decisions, including the right to refuse cardiopulmonary resuscitation. It is the purpose of the "Do Not Resuscitate" provisions of this chapter to ensure that the right of a person to self-determination relating to cardiopulmonary resuscitation is protected, and to give direction to emergency services personnel and other health care providers in regard to the performance of cardiopulmonary resuscitation.

137-J:2 Definitions. In this chapter:

I. "Advance directive" means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term "advance directives" shall include living wills and durable powers of attorney for health care.

II. "Advanced registered nurse practitioner" or "ARNP" means a registered nurse who is licensed in good standing in the state of New Hampshire as having specialized clinical qualifications as provided in RSA 326-B:10.

III. "Agent" means an adult to whom authority to make health care decisions is delegated under an advance directive.

IV. "Attending physician or ARNP" means the physician or advanced registered nurse practitioner, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient. If more than one physician or advanced registered nurse practitioner shares that responsibility, any one of those physicians or advanced registered nurse practitioners may act as the attending physician or ARNP under the provisions of this chapter.

V. "Capacity to make health care decisions" means the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

VI. "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.

VII. "Commissioner" means the commissioner of the department of health and human services.

VIII. "Do not resuscitate identification" means a standardized identification necklace, bracelet, card, or written medical order that signifies that a "Do Not Resuscitate Order" has been issued for the principal.

IX. "Do not resuscitate order" or "DNR order" (also known as "Do not attempt resuscitation order" or "DNAR order") means an order that, in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs.

X. "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions executed in accordance with the provisions of this chapter. It shall not mean forms routinely required by health and residential care providers for admissions and consent to treatment.

XI. "Emergency services personnel" means paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, paramedics or other emergency services personnel, providers, or entities acting within the usual course of their professions.

XII. "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to any type of health care, treatment, admission to a health care facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental condition except as prohibited in this chapter or otherwise by law.

XIII. "Health care provider" means an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

XIV. "Life-sustaining treatment" means any medical procedures or interventions which utilize mechanical or other medically administered means to sustain, restore, or supplant a vital function which, in the written judgment of the attending physician or ARNP, would serve only to artificially postpone the moment of death, and where the person is near death or is permanently unconscious. "Life-sustaining treatment" includes, but is not limited to, the following: mechanical respiration, kidney dialysis or the use of other external mechanical or technological devices. Life sustaining treatment may include drugs to maintain blood pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the administration of medication, natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

XV. "Living will" means a directive which, when duly executed, contains the express direction that no life-sustaining treatment be given when the person executing said directive has been diagnosed and certified in writing by the attending physician or ARNP to be near death or permanently unconscious, without hope of recovery from such condition and is unable to actively participate in the decision-making process.

XVI. "Medically administered nutrition and hydration" means invasive procedures such as, but not limited to the following: Nasogastric tubes; gastrostomy tubes; intravenous feeding or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by eating and drinking.

XVII. "Near death" means an incurable condition caused by injury, disease, or illness which is such that death is imminent and the application of life-sustaining treatment would, to a reasonable degree of medical certainty, as determined by 2 physicians or a physician and an ARNP, only postpone the moment of death.

XVIII. "Permanently unconscious" means a lasting condition, indefinitely without improvement, in which thought, awareness of self and environment, and other indicators of consciousness are absent as determined by an appropriate neurological assessment by a physician in consultation with the attending physician or an appropriate neurological assessment by a physician in consultation with an ARNP.

XIX. "Physician" means a medical doctor licensed in good standing to practice in the state of New Hampshire pursuant to RSA 329.

XX. "Principal" means a person 18 years of age or older who has executed an advance directive pursuant to the provisions of this chapter.

XXI. "Qualified patient" means a patient who has executed an advance directive in accordance with this chapter and who has been certified in writing by the attending physician or ARNP to lack the capacity to make health care decisions.

XXII. "Reasonable degree of medical certainty" means a medical judgment that is made by a physician or ARNP who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XXIII. "Residential care provider" means a "facility" as defined in RSA 161-F:11, IV, a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified, or otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care facility for adults, including but not limited to those operating pursuant to RSA 420-D.

XXIV. "Witness" means a competent person 18 years or older who is present when the principal signs an advance directive.

137-J:3 Freedom From Influence; Notice Required.

I. No health care provider or residential care provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall charge a person a different rate because of the existence or non-existence of an advance directive or do not resuscitate order, or require any person to execute an advance directive or require the issuance of a do not resuscitate order as a condition of admission to a hospital, nursing home, or residential care home, or as a condition of being insured for, or receiving, health or residential care services. Health or residential care services shall not be refused because a person is known to have executed an advance directive or have a do not resuscitate order.

II. The execution of an advance directive pursuant to this chapter shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired, modified or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured person notwithstanding any term of the policy to the contrary.

III. Any health care provider or residential care provider which does not recognize DNR's or living wills shall post at every entrance and every place of admission, a notice which shall be a minimum size of 8"x 12" stating the following in legible print: "This hospital/ facility does not honor Do Not Resuscitate (DNR) or Living Will documents."

137-J:4 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Advance Directives

137-J:5 Scope and Duration of Agent's Authority.

I. Subject to the provisions of this chapter and any express limitations set forth by the principal in an advance directive, the agent shall have the authority to make any and all health care decisions on the principal's behalf that the principal could make.

II. An agent's authority under an advance directive shall be in effect only when the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician or ARNP, and filed with the name of the agent in the principal's medical record. When and if the principal regains capacity to make health care decisions, such event shall be certified in writing by the principal's attending physician or ARNP, noted in the principal's medical record, the agent's authority shall terminate, and the authority to make health care decisions shall revert to the principal.

III. If the principal has no attending physician or ARNP for reasons based on the principal's religious or moral beliefs as specified in his or her advance directive, the advance directive may include a provision that a person designated by the principal in the advance directive may certify in writing, acknowledged before a notary or justice of the peace, as to the lack of decisional capacity of the principal. The person so designated by the principal shall not be the agent, or a person ineligible to be the agent.

IV. The principal's attending physician or ARNP shall make reasonable efforts to inform the principal of any proposed treatment, or of any proposal to withdraw or withhold treatment. Notwithstanding that an advance directive is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may not be given to or withheld from the principal over the principal's objection unless the principal's advance directive includes the following statement initialed by the principal, "Even if I am incapacitated and I object to treatment, treatment may be given to me against my objection."

V. Nothing in this chapter shall be construed to give an agent authority to:

(a) Consent to voluntary admission to any state institution;

(b) Consent to a voluntary sterilization; or

(c) Consent to withholding life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

137-J:6 Requirement to Act in Accordance with Principal's Wishes and Best Interests. After consultation with the attending physician or ARNP and other health care providers, the agent shall make health care decisions in accordance with the agent's knowledge of the principal's wishes and religious or moral beliefs, as stated orally or otherwise communicated by the principal, or, if the principal's wishes are unknown, in accordance with the agent's assessment of the principal's best interests and in accordance with accepted medical practice.

137-J:7 Physician, ARNP, and Provider's Responsibilities.

I. A qualified patient's attending physician or ARNP, or a qualified patient's health care provider or residential care provider, and employees thereof, having knowledge of the qualified patient's advance directive shall be bound to follow, as applicable, the dictates of the qualified patient's living will and or the directives of a qualified patient's designated agent to the extent they are consistent with this chapter and the advance directive, and to the extent they are within the bounds of responsible medical practice.

(a) An attending physician or ARNP, or other health care provider or residential care provider, who is requested to do so by the principal shall make the principal's advance directive or a copy of such document a part of the principal's medical record.

(b) Any person having in his or her possession a duly executed advance directive or a revocation thereof, if it becomes known to that person that the principal executing the same is in such circumstances that the terms of the advance directive might become applicable (such as when the principal becomes a "qualified patient"), shall forthwith deliver the same to the health care provider or residential care provider with which the principal is a patient.

(c) The principal's attending physician or ARNP, or any other health care provider under the attending physician's or ARNP's control or direction, who is aware of the principal's execution of an advance directive shall, without delay, take the necessary steps to provide for written verification of the principal's lack of capacity to make health care decisions (in other words, to certify that the principal is a "qualified patient"), and/or the principal's near death or permanently unconscious condition, as applicable and as appropriate to the principal's medical condition, so that the attending physician or ARNP and the principal's agent may be authorized to act pursuant to this chapter.

(d) If a physician or an ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of the advance directive, he or she shall immediately inform the qualified patient, the qualified patient's family, or the qualified patient's agent. The qualified patient, or the qualified patient's agent or family, may then request that the case be referred to another physician or ARNP.

II. An attending physician or ARNP who, because of personal beliefs or conscience, is unable to comply with the advance directive pursuant to this chapter shall, without delay, make the necessary arrangements to effect the transfer of a qualified patient and the appropriate medical records that document the qualified patient's lack of capacity to make health care decisions to another physician or ARNP who has been chosen by the qualified patient, by the qualified patient's agent, or by the qualified patient's family, provided, that pending the completion of the transfer, the attending physician or ARNP shall not deny health care treatment, nutrition, or hydration which denial would, within a reasonable degree of medical certainty, result in or hasten the qualified patient's death against the express will of the qualified patient, the advance directive, or the agent.

III. When the direction of an agent or instruction under a living will requires an act or omission contrary to the moral or ethical principles or other standards of a health care provider or residential care provider of which the principal is a patient or resident, the health care provider shall allow for the transfer of the principal and the appropriate medical records to another health care provider chosen by the principal or by the agent and shall incur no liability for its refusal to carry out the terms of the direction by the agent; provided, that, pending the completion of the transfer, the health care provider or residential care provider shall not deny health care treatment, nutrition, hydration, or life sustaining treatment which denial would

with a reasonable degree of medical certainty result in or hasten the principal's death against the expressed will of the principal, the principal's advance directive, or the agent; and further provided, that, the health care provider or residential care provider shall inform the agent of its decision not to participate in such an act or omission.

137-J:8 Restrictions on Who May Act as Agent. A person may not exercise the authority of agent while serving in one of the following capacities:

I. The principal's health care provider or residential care provider.

II. A nonrelative of the principal who is an employee of the principal's health care provider or residential care provider.

137-J:9 Confidentiality and Access to Protected Health Information.

I. Health care providers, residential care providers, and persons acting for such providers or under their control, shall be authorized to;

(a) Communicate to an agent any medical information about the principal, if the principal lacks the capacity to make health care decisions, necessary for the purpose of assisting the agent in making health care decisions on the principal's behalf.

(b) Provide copies of the principal's advance directives as necessary to facilitate treatment of the principal.

II. Subject to any limitations set forth in the advance directive by the principal, an agent whose authority is in effect shall be authorized, for the purpose of making health care decisions, to:

(a) Request, review, and receive any information, oral or written, regarding the principal's physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute any releases or other documents which may be required in order to obtain such medical information.

(c) Consent to the disclosure of such medical information.

137-J:10 Withholding or Withdrawal of Life-Sustaining Treatment.

I. In the event a health care decision to withhold or withdraw life-sustaining treatment, including medically administered nutrition and hydration, is to be made by an agent, and the principal has not executed the "living will" of the advance directive, the following additional conditions shall apply:

(a) The principal's attending physician or ARNP shall certify in writing that the principal lacks the capacity to make health care decisions.

(b) Two physicians or a physician and an ARNP shall certify in writing that the principal is near death or is permanently unconscious.

(c) Notwithstanding the capacity of an agent to act, the agent shall make a good faith effort to explore all avenues reasonably available to discern the desires of the principal including, but not limited to, the principal's advance directive, the principal's written or spoken expressions of wishes, and the principal's known religious or moral beliefs.

II. Notwithstanding paragraph I, medically administered nutrition and hydration shall not be withdrawn or withheld under an advance directive unless:

(a) There is a clear expression of such intent in the directive;

(b) The principal objects pursuant to RSA 137-J:5, IV; or

(c) Such treatment would have the unintended consequence of hastening death or causing unnecessary harm as certified by an attending physician and a physician knowledgeable about the patient's condition.

III. The withholding or withdrawal of life-sustaining treatment pursuant to the provisions of this chapter shall at no time be construed as a suicide or murder for any legal purpose. Nothing in this chapter shall be construed to constitute, condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission to end one's own life or to end the life of another other than either to permit the natural process of dying of a patient near death or the removal of life-

sustaining treatment from a patient in a permanently unconscious condition as provided in this chapter. The withholding or withdrawal of life-sustaining treatment in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the principal's condition.

IV. Nothing in this chapter shall be construed to condone, authorize, or approve:

(a) The consent to withhold or withdraw life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

(b) The arbitrary withholding or withdrawing of life-sustaining treatment from mentally incompetent or developmentally disabled persons.

V. Nothing in this chapter shall impair or supersede any other legal right or responsibility which any person may have to effect life-sustaining treatment in any lawful manner; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

VI. Nothing in this chapter shall be construed to revoke or adversely affect the privileges or immunities of health care providers or residential care providers and others to provide treatment to persons in need thereof in an emergency, as provided for under New Hampshire law.

VII. Nothing in this chapter shall be construed to create a presumption that in the absence of an advance directive, a person wants life-sustaining treatment to be either taken or withdrawn. This chapter shall also not be construed to supplant any existing rights and responsibilities under the law of this state governing the conduct of physicians or ARNPs in consultation with patients or their families or legal guardians in the absence of an advance directive.

137-J:11 Liability for Health Care Costs. Liability for the cost of health care provided pursuant to the agent's decision shall be the same as if the health care were provided pursuant to the principal's decision.

137-J:12 Immunity.

I. No person acting as agent pursuant to an advance directive shall be subjected to criminal or civil liability for making a health care decision on behalf of the principal in good faith pursuant to the provisions of this chapter and the terms of the advance directive if such person exercised such power in a manner consistent with the requirements of this chapter and New Hampshire law.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed to have engaged in unprofessional conduct for:

(a) Any act or intentional failure to act, if the act or intentional failure to act is done pursuant to the dictates of an advance directive, the directives of the principal's agent, and the provisions of this chapter; and said act or intentional failure to act is done in good faith and in keeping with reasonable medical standards pursuant to the advance directive and in accordance with this chapter; or

(b) Failure to follow the directive of an agent if the health care provider or residential care provider or other such person believes in good faith and in keeping with reasonable medical standards that such directive exceeds the scope of or conflicts with the authority of the agent under this chapter or the contents of the principal's advance directive; provided, that this subparagraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. Nothing in this section shall be construed to establish immunity for the failure to exercise due care in the provision of services or for actions contrary to the requirements of this chapter or other laws of the state of New Hampshire.

IV. For purposes of this section, "good faith" means honesty in fact in the conduct of the transaction concerned.

137-J:13 Use of Statutory Forms.

I. Every person wishing to execute an advance directive shall be provided with a disclosure statement substantially in the form set forth in RSA 137-J:18 prior to execution. The principal shall be required to sign a statement acknowledging that he or she has received the disclosure statement and has read and understands its contents.

II. An advance directive executed on or after the effective date of this chapter shall be substantially in the form set forth in RSA 137-J:19.

III. Medically administered nutrition and hydration shall not be withdrawn or withheld under an advance directive unless there is a clear expression of such power in the document.

137-J:14 Execution and Witnesses.

I. The advance directive shall be signed by the principal in the presence of either of the following:

(a) Two or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's spouse or heir at law, or a person entitled to any part of the estate of the principal upon death of the principal under a will, trust, or other testamentary instrument or deed in existence or by operation of law, or attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP. No more than one such witness may be the principal's health or residential care provider or such provider's employee. The witnesses shall affirm that the principal appeared to be of sound mind and free from duress at the time the advance directive was signed and that the principal affirmed that he or she was aware of the nature of the document and signed it freely and voluntarily; or

(b) A notary public or justice of the peace, who shall acknowledge the principal's signature pursuant to the provisions of RSA 456 or RSA 456-A.

II. If the principal is physically unable to sign, the advance directive may be signed by the principal's name written by some other person in the principal's presence and at the principal's express direction.

III. A principal's decision to exclude or strike references to ARNPs and the powers granted to ARNPs in his or her advance directive shall be honored.

137-J:15 Revocation.

I. An advance directive consistent with the provisions of this chapter shall be revoked:

(a) By written revocation delivered to the agent or to a health care provider or residential care provider expressing the principal's intent to revoke, signed, and dated by the principal; by oral revocation in the presence of 2 or more witnesses, none of whom shall be the principal's spouse or heir at law; or by any other act evidencing a specific intent to revoke the power, such as by burning, tearing, or obliterating the same or causing the same to be done by some other person at the principal's direction and in the principal's presence;

(b) By execution by the principal of a subsequent advance directive;

(c) By the filing of an action for divorce, legal separation, annulment or protective order, where both the agent and the principal are parties to such action, except when there is an alternate agent designated, in which case the designation of the primary agent shall be revoked and the alternate designation shall become effective. Re-execution or written re-affirmation of the advance directive following a filing of an action for divorce, legal separation, annulment or protective order shall make effective the original designation of the primary agent under the advance directive; or

(d) By a determination by a court under RSA 506:7 that the agent's authority has been revoked.

II. A principal's health or residential care provider who is informed of or provided with a revocation of an advance directive shall immediately record the revocation, and the time and date when he or she received the revocation, in the principal's medical record and notify the agent, the attending physician or ARNP, and staff responsible for the principal's care of the revocation. An agent who becomes aware of such revocation shall inform the principal's health or residential care provider of such revocation. Revocation shall become effective upon communication to the attending physician or ARNP.

137-J:16 Documents from Other States; Documents Executed Prior to Enactment. Nothing in this chapter limits the enforceability of a durable power of attorney for health care or living will or similar instrument validly executed under prior New Hampshire law or in another state or jurisdiction in compliance with the law of that state or jurisdiction. However, any exercise of power under such a previously valid or foreign advance directive or similar instrument shall be restricted by and in compliance with the requirements of this chapter and the laws of the state of New Hampshire.

137-J:17 Naming of Multiple Agents. If the principal lists more than one person as the agent in a durable power of attorney for health care directive, the agents shall have authority in priority of the order in which their names are listed on the document, unless the method of joint agency is expressly included.

137-J:18 Durable Power of Attorney; Disclosure Statement. The disclosure statement which must accompany a durable power of attorney for health care shall be in substantially the following form:

INFORMATION CONCERNING THE DURABLE POWER OF
ATTORNEY FOR HEALTH CARE

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING IT, YOU SHOULD
KNOW THESE IMPORTANT FACTS:

Except if you say otherwise in the directive, this directive gives the person you name as your health care agent the power to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care). "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition. Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent, or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Your health care agent cannot consent to or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

You may state in this directive any treatment you do not want, or any treatment you want to be sure you receive. Your health care agent's power will begin when your doctor certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). If for moral or religious reasons you do not want to be treated by a doctor or to be examined by a doctor to certify that you lack capacity, you must say so in the directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent or any person who is not eligible to be your health care agent. You may attach additional pages to the document if you need more space to complete your statement.

If you want to give your health care agent power to withhold or withdraw medically administered nutrition and hydration, you must say so in your directive. Otherwise, your health care agent will not be able to direct that. Under no conditions will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

Your agent shall be guided by your written instructions in this document when making decisions on your behalf, and as further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your agent will have the same power to make decisions about your health care as you would have made, if those decisions by your health care agent are made consistent with state law.

It is important that you discuss this directive with your doctor or other health care providers before you sign it, to make sure that you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone else who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

The person you choose as your health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, advanced registered nurse practitioner, or an employee of a hospital, nursing home, home health agency, or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not allow a person to do both at the same time.

You should consider choosing an alternate health care agent, in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this directive with your health care agent and your doctor or advanced registered nurse practitioner and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

EVEN AFTER YOU HAVE SIGNED THIS DIRECTIVE, YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AS LONG AS YOU ARE ABLE TO DO SO, AND TREATMENT CANNOT BE GIVEN TO YOU OR STOPPED OVER YOUR CLEAR OBJECTION. You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive.

THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR JUSTICE OF THE PEACE OR TWO (2) OR MORE QUALIFIED WITNESSES, WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND WHO WILL ACKNOWLEDGE YOUR SIGNATURE ON THE DOCUMENT. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:

- ___ The person you have designated as your health care agent;
- ___ Your spouse or heir at law;
- ___ Your attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP;

ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF YOUR PROVIDER'S EMPLOYEES.

137-J:19 Advance Directive; Durable Power of Attorney and Living Will; Form. An advance directive in its individual "Durable Power of Attorney for Healthcare" and "Living Will" components shall be in substantially the following form:

NEW HAMPSHIRE ADVANCE DIRECTIVE

NOTE: This form has two sections.

You may complete both sections, or only one section.

I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, _____, hereby appoint _____ of _____ *(Please choose only one person. If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.)* as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This durable power of attorney for health care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint _____ of _____ as alternate agent. *(Please choose only one person. If you choose more than one alternate agent, they will have authority in priority of the order their names are listed.)*

STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

A. LIFE-SUSTAINING TREATMENT.

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that:
(Initial beside your choice of (a) or (b).)

___ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

___ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

(Initial beside your choice of (a) or (b).)

_____ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

_____ (b) life-sustaining treatment continue to be given to me.

B. MEDICALLY ADMINISTERED NUTRITION AND HYDRATION.

1. I realize that situations could arise in which the only way to allow me to die would be to not start or to discontinue medically administered nutrition and hydration. In carrying out any instructions I have given in this document, I authorize my agent to direct that:

(Initial beside your choice of (a) or (b).)

_____ (a) medically administered nutrition and hydration not be started or, if started, be discontinued.

-or-

_____ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

(If you fail to complete item B, your agent will not have the power to direct the withholding or withdrawal of medically administered nutrition and hydration.)

C. ADDITIONAL INSTRUCTIONS.

Here you may include any specific desires or limitations you deem appropriate, such as when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason. You may leave this question blank if you desire.

(attach additional pages as necessary)

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this directive. I have read and understand the information contained in the disclosure statement.

The original of this directive will be kept at _____ and the following persons and institutions will have signed copies:

Signed this _____ day of _____, 2_____

Principal's Signature: _____

[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]

THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing durable power of attorney for health care was acknowledged before me this _____ day of _____, 20_____, by _____ ("the Principal").

Notary Public / Justice of the Peace

My commission expires:

II. LIVING WILL

Declaration made this day _____ of _____, 20_____.

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by my attending physician or ARNP, and my attending physician or ARNP has determined that my death is imminent whether or not lifesustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

In carrying out any instruction I have given under this section, I authorize that:

(Initial beside your choice of (a) or (b).)

_____ (a) medically administered nutrition and hydration not be started or, if started, be discontinued,

-or-

_____ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this _____ day of _____, 2_____.

Principal's Signature: _____

[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]

THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

We declare that the principal appears to be of sound mind and free from duress at the time the living will is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing living will was acknowledged before me this _____ day of _____, 20_____, by _____ (the "Principal").

Notary Public / Justice of the Peace

My commission expires:

137-J:20 Effect of Appointment of Guardian; Inconsistency.

I. On motion filed in connection with a petition for appointment of a guardian or on petition of a guardian if one has been appointed, the probate court shall consider whether the authority of an agent designated

pursuant to an advance directive should be suspended or revoked. In making its determination, the probate court shall take into consideration the preferences of the principal as expressed in the advance directive. No such consideration shall change the procedures or burden of proof involved in the guardianship process as otherwise provided by law or procedures. In such consideration, the advance directive and agent appointed shall be presumed to be in the best interest of the principal and valid, absent clear and convincing evidence to the contrary.

II. To the extent that a durable power of attorney for health care, or such component of an advance directive as set forth in RSA 137-J:19, conflicts with a terminal care document or living will, or such component of an advance directive as set forth in RSA 137-J:19, the durable power of attorney for health care shall control.

137-J:21 Civil Action.

I. The principal or any person who is a near relative of the principal, or who is a responsible adult who is directly interested in the principal by personal knowledge and acquaintance, including, but not limited to a guardian, social worker, physician, or clergy, may file an action in the probate court of the county where the principal is located at the time:

(a) Requesting that the authority granted to an agent by an advance directive be revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or undue influence when the advance directive was executed, and shall have all the rights and remedies provided by RSA 506:7 which shall apply to directives executed under this chapter and persons acting pursuant to this chapter.

(b) Challenging the right of any agent who is acting or who proposes to act as such pursuant to this chapter and naming another person, who agrees to so act, to be appointed guardian over the person of the principal for the sole purpose of making health care decisions, as provided for in RSA 464-A.

II. A copy of any such action shall be given in hand to the principal's attending physician or ARNP and, as applicable, to the principal's health care provider or residential care provider. To the extent they are not irreversibly implemented, health care decisions made by a challenged agent shall not thereafter be implemented without an order of the probate court or a withdrawal or dismissal of the court action; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. The probate court in which such a petition is filed shall hold a hearing as expeditiously as possible.

137-J:22 Penalty. A person who knowingly and falsely makes, alters, forges, or counterfeits, or knowingly and falsely causes to be made, altered, forged, or counterfeited, or procures, aids or counsels the making, altering, forging, or counterfeiting, of an advance directive or revocation of same with the intent to injure or defraud a person shall be guilty of a class B felony, notwithstanding any provisions in title LXII.

Do Not Resuscitate

137-J:23 Applicability. The provisions of this subdivision apply to all persons regardless of whether or not they have completed an advance directive.

137-J:24 Presumed Consent to Cardiopulmonary Resuscitation; Health Care Providers and Residential Care Providers Not Required to Expand to Provide Cardiopulmonary Resuscitation.

I. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider or residential care provider has actual knowledge, apply:

(a) A do not resuscitate order in accordance with the provisions of this chapter has been issued for that person;

(b) A completed advance directive for that person is in effect, pursuant to the provisions of this chapter, in which the person indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her agent has determined that the person would not wish to receive cardiopulmonary resuscitation;

(c) A person who lacks capacity to make health care decisions is near death and admitted to a health care facility, and the person's agent is not reasonably available or is not legally capable of making health care decisions for the person, and the attending physician or ARNP, and a concurring second physician, have determined that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause harm to the person, and the attending physician or ARNP has completed a do not resuscitate order; or

(d) A person is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof.

II. Nothing in this section shall be construed to revoke any statute, regulation, or law otherwise requiring or exempting a health care provider or residential care provider from instituting or maintaining the ability to provide cardiopulmonary resuscitation or expanding its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation.

137-J:25 Issuance of a Do Not Resuscitate Order; Order to be Written by the Attending Physician or ARNP.

I. An attending physician or ARNP may issue a do not resuscitate order for a person if the person, or the person's agent, has consented to the order. A do not resuscitate order shall be issued in writing in the form as described in this section for a person not present or residing in a health care facility. For persons present in health care facilities, a do not resuscitate order shall be issued in accordance with the policies and procedures of the health care facility and in accordance with the provisions of this chapter.

II. A person may request that his or her attending physician or ARNP issue a do not resuscitate order for the person.

III. An agent may consent to a do not resuscitate order for a person who lacks the capacity to make health care decisions if the advance directive signed by the principal grants such authority. A do not resuscitate order written by the attending physician or ARNP for such a person with the consent of the agent is valid and shall be respected by health care providers and residential care providers.

IV. If an agent is not reasonably available or is not legally capable of making a decision regarding a do not resuscitate order, an attending physician or ARNP may issue a do not resuscitate order for a person who lacks capacity to make health care decisions, who is near death, and who is admitted to a health care facility if a second physician who has personally examined the person concurs in the opinion of the attending physician or ARNP that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause harm to the person.

V. For persons not present or residing in a health care facility, the do not resuscitate order shall be noted on a medical orders form or in substantially the following form on a card suitable for carrying on the person:

Do Not Resuscitate Order

As attending physician or ARNP of _____ and as a licensed physician or advanced registered nurse practitioner, I order that this person SHALL NOT BE RESUSCITATED in the event of cardiac or respiratory arrest.

This order has been discussed with _____ (or, if applicable, with his/her agent,) _____, who has given consent as evidenced by his/her signature below.

Attending physician or ARNP Name _____

Attending physician or ARNP Signature _____

Address _____

Person Signature _____

Address _____

Agent Signature (*if applicable*) _____

Address _____

VI. For persons residing in a health care facility, the do not resuscitate order shall be reflected in at least one of the following forms:

(a) Forms required by the policies and procedures of the health care facility in compliance with this chapter;

(b) The do not resuscitate card as set forth in paragraph V; or

(c) The medical orders form in compliance with this chapter.

137-J:26 Compliance With a Do Not Resuscitate Order.

I. Health care providers and residential care providers shall comply with the do not resuscitate order when presented with one of the following:

(a) A do not resuscitate order completed by the attending physician or ARNP on a form as specified in RSA 137-J:25;

(b) A do not resuscitate order for a person present or residing in a health care facility issued in accordance with the health care facility's policies and procedures in compliance with the chapter; or

(c) A medical orders form on which the attending physician or ARNP has documented a do not resuscitate order in compliance with this chapter.

II. Pursuant to this chapter, health care providers shall respect do not resuscitate orders for persons in health care facilities, ambulances, homes, and communities within this state.

137-J:27 Protection of Persons Carrying Out in Good Faith a Do Not Resuscitate Order; Notification of Agent by Attending Physician or ARNP Refusing to Comply With Do Not Resuscitate Order.

I. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to criminal or civil liability, or be deemed to have engaged in unprofessional conduct, for carrying out in good faith a do not resuscitate order authorized by this chapter on behalf of a person as instructed by the person, or the person's agent, or for those actions taken in compliance with the standards and procedures set forth in this chapter.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, or other individual who witnesses a cardiac or respiratory arrest shall be subjected to criminal or civil liability for providing cardiopulmonary resuscitation to a person for whom a do not resuscitate order has been issued; provided, that such provider or individual:

(a) Reasonably and in good faith is unaware of the issuance of a do not resuscitate order; or

(b) Reasonably and in good faith believed that consent to the do not resuscitate order has been revoked or canceled.

III.(a) Any attending physician or ARNP who, because of personal beliefs or conscience, refuses to issue a do not resuscitate order at a person's request or to comply with a do not resuscitate order issued pursuant to this chapter shall take reasonable steps to advise promptly the person or agent of the person that such attending physician or ARNP is unwilling to effectuate the order. The attending physician or ARNP shall thereafter at the election of the person or agent permit the person or agent to obtain another attending physician or ARNP.

(b) If a physician or ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of a do not resuscitate order, he or she shall immediately inform the person, the person's agent, or the person's family. The person, the person's agent, or the person's family may then request that the case be referred to another physician or ARNP, as set forth in RSA 137-J:7, II and III.

137-J:28 Revocation of Do Not Resuscitate Order.

I. At any time a person in a health care facility may revoke his or her previous request for or consent to a do not resuscitate order by making either a written, oral, or other act of communication to the attending physician or ARNP or other professional staff of the health care facility.

II. At any time a person residing at home may revoke his or her do not resuscitate order by destroying such order and removing do not resuscitate identification on his or her person. The person is responsible for notifying his or her attending physician or ARNP of the revocation.

III. At any time an agent may revoke his or her consent to a do not resuscitate order for a person who lacks capacity to make health care decisions who is admitted to a health care facility by notifying the attending physician or ARNP or other professional staff of the health care facility of the revocation of consent in writing, or by orally notifying the attending physician or ARNP in the presence of a witness 18 years of age or older.

IV. At any time an agent may revoke his or her consent for a person who lacks capacity to make health care decisions who is residing at home by destroying such order and removing do not resuscitate identification from the person. The agent is responsible for notifying the person's attending physician or ARNP of the revocation.

V. The attending physician or ARNP who is informed of or provided with a revocation of consent pursuant to this section shall immediately cancel the do not resuscitate order if the person is in a health care facility and notify the professional staff of the health care facility responsible for the person's care of the revocation and cancellation. Any professional staff of the health care facility who is informed of or provided with a revocation of consent pursuant to this section shall immediately notify the attending physician or ARNP of such revocation.

VI. Only a physician or advanced registered nurse practitioner may cancel the issuance of a do not resuscitate order.

137-J:29 Not Suicide or Murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter shall not, for any purpose, constitute suicide or murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the person's condition. Nothing in this chapter shall be construed to legalize, condone, authorize, or approve mercy killing or assisted suicide.

137-J:30 Interinstitutional Transfers. If a person with a do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of a do not resuscitate order to the receiving facility prior to the transfer. The written do not resuscitate order, the do not resuscitate card as described in RSA 137-J:25, or the medical orders form shall accompany the person to the health care facility receiving the person and shall remain effective until a physician at the receiving facility issues admission orders. The do not resuscitate card or the medical orders form shall be kept as the first page in the person's transfer records.

137-J:31 Preservation of Existing Rights.

I. Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding of cardiopulmonary resuscitation in any lawful manner. In such respect, the provisions of this chapter are cumulative; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

II. Nothing in this chapter shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do not resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of this chapter.

137-J:32 Do Not Resuscitate Identification. Do not resuscitate identification as set forth in this chapter may consist of either a medical condition bracelet or necklace with the inscription of the person's name, date of birth in numerical form and "NH Do Not Resuscitate" or "NH DNR" on it. Such identification shall be issued only upon presentation of a properly executed do not resuscitate order form as set forth in RSA 137J:25, a medical orders form in which a physician or advanced registered nurse practitioner has documented a do not resuscitate order, or a do not resuscitate order properly executed in accordance with a health care facility's written policy and procedure.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Barnes in opposition to HB 656-FN

HB 1335, relative to the authority of law enforcement officers during a state of emergency. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

Senator Bragdon offered a floor amendment.

Sen. Bragdon, Dist. 11

April 20, 2006

2006-1947s

05/04

Floor Amendment to HB 1335

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

AN ACT relative to the authority of law enforcement officers during a state of emergency and prohibiting the taking of arms and ammunition in a declared state of emergency.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 State of Emergency; Taking of Private Property. Amend RSA 4:46, I(c)(1) to read as follows:

(1) Any high explosives[, ~~except small arms ammunition~~].

3 New Paragraph; State of Emergency; Taking of Firearms, Ammunition, and Ammunition Components Prohibited. Amend RSA 4:46 by inserting after paragraph I the following new paragraph:

I-a. Under no circumstances shall this section be construed to authorize the taking, confiscation, or seizure of firearms, ammunition, or ammunition components.

2006-1947s

AMENDED ANALYSIS

This bill clarifies the authority of law enforcement officers to make arrests and exercise police powers anywhere in the state during a state of emergency. The bill also clarifies that the state may not take possession of firearms, ammunition, and ammunition components in a declared state of emergency.

Floor amendment adopted.

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

A roll call was requested by Senator Clegg.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 1419-FN, relative to mediation in divorce proceedings. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

Senate Judiciary

April 11, 2006

2006-1751s

04/09

Amendment to HB 1419-FN

Amend RSA 458:15-c, III(f) as inserted by section 1 of the bill by replacing it with the following:

IV. The court shall not order mediation if there is a finding of domestic violence as defined in RSA 173-B:1, unless all parties agree to mediation.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1565, relative to evictions in cases involving incidents of domestic violence. Judiciary Committee. Interim Study, Vote 3-0. Senator Foster for the committee.

MOTION TO TABLE

Senator Foster moved to have HB 1565 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1565, relative to evictions in cases involving incidents of domestic violence.

HB 1667-FN, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Judiciary
April 12, 2006
2006-1767s
04/09

Amendment to HB 1667-FN

Amend RSA 318-D:1, as inserted by section 1 of the bill by replacing it with the following:

318-D:1 Definitions. In this chapter:

I. "Anhydrous ammonia" means ammonia that has been cooled, pressurized, or both so that it exists in liquid form. Water may be present in varying degrees, if at all. This definition shall not include commercially available water solutions of ammonia such as glass cleaners.

II. "Clandestine lab site" means any structure or conveyance or location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine.

III. "Emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by a public entity, a private contractor paid by a public entity, or the property owner.

IV. "Remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property.

V. "Removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

Amend RSA 318-D:2, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Possesses one or more of the following substances or their salts or isomers, with the intent to manufacture methamphetamine:

- (1) Acetic acid.
- (2) Acetic anhydride.
- (3) Aluminum.
- (4) Ammonium nitrate.
- (5) Anhydrous ammonia.
- (6) Benzaldehyde.
- (7) Benzyl chloride.
- (8) Benzyl cyanide.
- (9) Chloroephedrine.
- (10) Chloropseudoephedrine.
- (11) Elemental phosphorous.
- (12) Ephedrine.
- (13) Ethylamine.
- (14) Formic acid.
- (15) Hydriodic acid.
- (16) Hydrochloric acid.
- (17) Hydrogen.
- (18) Hydrogen peroxide.
- (19) Hypophosphorus acid.
- (20) Iodine.
- (21) Lithium metal.
- (22) Mercuric chloride.
- (23) Methylamine.

- (24) N-methyl formamide.
- (25) Nitroethane.
- (26) Pallodium.
- (27) Perchloric acid.
- (28) Phenylacetic acid.
- (29) Phosphorous pentachloride.
- (30) Platinum.
- (31) Raney nickel.
- (32) Sodium acetate.
- (33) Sodium hydroxide.
- (34) Sodium hypochlorite.
- (35) Sodium hypophosphite.
- (36) Sodium metal.
- (37) Sodium/potassium cyanide.
- (38) Sulfuric acid.
- (39) Thionyl chloride.
- (40) Tincture of iodine.

(c) Possesses one or more of the following organic solvents with the intent to manufacture methamphetamine:

- (1) Acetone.
- (2) Chloroform.
- (3) Cyclohexane.
- (4) Ethanol.
- (5) Ether.
- (6) Light petroleum distillates.
- (7) Methanol.
- (8) Methyl isobutyl ketone.
- (9) Phenyl-2 porpanone.
- (10) Tetrachloroethylene.
- (11) Toluene.

Amend RSA 318-D:2, III as inserted by section 1 of the bill by replacing it with the following:

III. A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.

Amend RSA 318-D:3, I as inserted by section 1 of the bill by replacing it with the following:

I. A person shall be guilty of an offense if that person recklessly causes serious bodily injury to a law enforcement officer, firefighter, emergency medical technician, ambulance operator, ambulance attendant, or social worker, civilian government employee, or hazardous material contractor acting in his or her official duties, as a result of the hazards posed by the person's conduct in manufacturing or attempting to manufacture methamphetamine. For purposes of this section, a person who takes any substantial step towards the manufacture of methamphetamine acts recklessly.

Amend RSA 318-D:4 as inserted by section 1 by replacing it with the following:

318-D:4 Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced. Any sale, transfer, lease, or rental of real property on which methamphetamine has been produced shall be subject to the provisions of RSA 477:4-g.

Amend RSA 318-D:5, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance or explosive device.

Amend RSA 318-D:5, III as inserted by section 1 of the bill by replacing it with the following:

III. The department of safety shall adopt rules, pursuant to RSA 541-A, in order to implement and enforce the provisions of this section.

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

4 New Section; Notification Prior to Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced. Amend RSA 477 by inserting after section 4-f the following new section:

477:4-g Notification Prior to Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced.

I. In any purchase and sale agreement, lease agreement, or rental agreement before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under RSA 318-D has occurred on such property and prior to the determination by the department of environmental services, pursuant to paragraph II, that the property meets remediation cleanup standards:

(a) The seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, methamphetamine production has occurred on the property.

(b) If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant.

II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1720-FN, relative to notice of parent liability in CHINS proceedings. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary

April 11, 2006

2006-1748s

05/03

Amendment to HB 1720-FN

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

1 Children in Need of Services; Petition; Notice of Liability. Amend RSA 169-D:5, I to read as follows:

I. A petition alleging a child is in need of services may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath. ***The following notice shall be printed on the front of the petition in red ink in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.***

2 New Paragraph; Children In Need of Services; Notice to Parents of Potential Liability. Amend RSA 169-D:5 by inserting after paragraph VI the following new paragraph:

VII. Using local law enforcement personnel, the court shall serve both parents, and any other individual chargeable by law for the child's support, with a copy of any petition filed under this section. The court shall request the appropriate contact information from the party filing the petition.

3 Children in Need of Services; Summons; Notice of Potential Liability. Amend RSA 169-D:6, III to read as follows:

III. The summons shall state as follows: "***Pursuant to RSA 169-D:29***, parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C regarding educationally disabled children grants children and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."

4 Effective Date. This act shall take effect 90 days after its passage.

2006-1748s

AMENDED ANALYSIS

This bill establishes additional notice requirements relative to potential liability in CHINS proceedings. The bill also requires the court to provide both parents, as well as any other person who may be liable for expenses incurred on behalf of the child, with a copy of the petition and notice of liability.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1733-FN, establishing a reporting system for court decisions relative to residential responsibility under parenting plans. Judiciary Committee. Inexpedient to Legislate, Vote 3-0. Senator Gottesman for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1745-FN, relative to methamphetamine-related crimes involving children and incapacitated adults. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Foster for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1749-FN, relative to access to motor vehicle records by certain defense contractors. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

HB 689-FN, relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-1. Senator Martel for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1174, requiring that voters who request a secret ballot be present at the town meeting. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HB 1320, relative to penalties for planning and zoning violations. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 1330, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HB 1394, relative to determination of value of property in current use. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Burling for the committee.

Adopted.

Ordered to third reading.

HJR 22, a resolution in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HJR 25, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of the committee report of ought to pass.

A roll call was requested by Senator Letourneau.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 347, relative to indicating citizenship on drivers' licenses and nondrivers' identification cards. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Estabrook for the committee.

MOTION TO TABLE

Senator Clegg moved to have HB 347 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 347, relative to indicating citizenship on drivers' licenses and nondrivers' identification cards.

HB 1155, creating a violation for failure to pay a highway toll. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 1215, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 1235-FN, establishing a criminal penalty for driving a commercial motor vehicle while violating an out-of-service order. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Morse for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1307, relative to application requirements for motor vehicle recycling yard licenses. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Boyce, having voted with the prevailing side, moved reconsideration of **HB 1155**, creating a violation for failure to pay a highway toll, whereby it was ordered to third reading.

Adopted.

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

MOTION TO TABLE

Senator Flanders moved to have **HB 1155** laid on the table.

Adopted.

LAIID ON THE TABLE

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

HB 1417-FN, establishing gold star number plates. Transportation and Interstate Cooperation Committee. Interim Study, Vote 3-1. Senator Flanders for the committee.

Motion failed.

Senator Letourneau moved ought to pass.

Senator Letourneau offered a floor amendment.

Sen. Gallus, Dist. 1

Sen. Johnson, Dist. 2

Sen. Kenney, Dist. 3

Sen. Boyce, Dist. 4

Sen. Green, Dist. 6

Sen. Flanders, Dist. 7

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Eaton, Dist. 10

Sen. Bragdon, Dist. 11

Sen. Clegg, Dist. 14

Sen. Gatsas, Dist. 16

Sen. Barnes, Dist. 17

Sen. Martel, Dist. 18

Sen. Letourneau, Dist. 19

Sen. Morse, Dist. 22

April 20, 2006

2006-1955s

03/01

Floor Amendment to HB 1417-FN

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

AN ACT establishing gold star number plates and relative to special number plates for veterans.

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

1 New Section; Gold Star Number Plates. Amend RSA 261 by inserting after section 87-b the following new section:

261:87-c Gold Star Number Plates.

I. The department shall furnish one set of special number plates, designed by the director with the approval of the commissioner, for one motor vehicle owned by a mother of a person killed while on duty in the United States armed forces. These gold star number plates shall be issued upon payment of the regular registration and number plate fees.

II. For purposes of this section, a motor vehicle is owned by a mother of a person killed while on duty in the United States armed forces if the mother of a person killed while on duty in the United States armed forces is the motor vehicle's owner under RSA 259:72, I, or if the legal ownership of the motor vehicle is held by a trust established by the mother of a person killed while on duty in the United States armed forces and the mother of a person killed while on duty in the United States armed forces has use of the motor vehicle or the motor vehicle is used for the transportation of the mother of a person killed while on duty in the United States armed forces. The director shall establish the documentation required for a motor vehicle held in trust to be eligible for plates under this section. The director shall not issue more than one set of plates under this section to any trust. A trustee of the trust or the administrator of the estate may be fined up to \$500 for failing to return within 60 days of the death of the mother of a person killed while on duty in the United States armed forces any plates issued under this section for a motor vehicle held in trust.

2 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only **to veterans as defined in RSA 21:50, I(a)** upon application, proof of ~~[honorably discharge from the armed services as deemed appropriate by the director]~~ **veteran status in a form authorized by RSA 21:50, I(b)**, and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II. Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

3 Effective Date. This act shall take effect 60 days after its passage.**2006-1955s****AMENDED ANALYSIS**

This bill establishes gold star number plates. This bill also clarifies the eligibility requirements for special number plates for veterans.

MOTION TO TABLE

Senator Morse moved to have HB 1417-FN laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1417-FN, establishing gold star number plates.

HB 1463-FN, relative to boating and water safety. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.

Sen. Letourneau, Dist. 19

April 10, 2006

2006-1713s

03/09

Amendment to HB 1463-FN

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-6 to read as 1-4, respectively.

Amend the bill by replacing all after section 3 with the following:

4 Failure to Disperse; Participation in a Water Event; Penalties. Amend RSA 270-D by inserting after section 4 the following new section:

270-D:4-a Participation in Water Event; Failure to Disperse; Penalties. Any person who participates in a water event for which a permit has not been issued as required by RSA 270-D:4, shall be guilty of a violation and fined not less than \$100. Any person who continues to participate in or refuses to disperse from the location of such an event after being ordered by a marine patrol officer or other local, county, or state law enforcement officer to cease participation and disperse shall be guilty of a misdemeanor.

5 Safe Boater Education; Temporary Certificate. Amend RSA 270-D:14 to read as follows:

270-D:14 Temporary Certificate. The commissioner, or designee, shall issue a temporary certificate of safe boating education to a person 16 years of age or older who passes a temporary safe boater examination administered by the department or its agents and approved by the commissioner. The temporary certificate of safe boater education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire. ***No person shall receive more than one temporary certificate of safe boating education in any calendar year.*** Any dealer or renter of boats or employee thereof, who has passed the boating safety education course as provided in RSA 270-D:13, I(a) and is approved by the commissioner, may administer the temporary safety examination and issue a temporary certificate. ***If the commissioner finds that a person administering a temporary safe boater examination has assisted the person taking the examination, the commissioner shall permanently revoke the authority of the administrator to issue certificates and administer examinations.***

6 Safe Boater Education; Fees; Temporary Certificate. Amend RSA 270-D:17, I(b) to read as follows:

(b) The fee for a temporary certificate shall [~~not exceed \$5~~] ***be \$10.***

7 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 2007.

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

2006-1713s

AMENDED ANALYSIS

This bill:

I. Prohibits the display of shore lights that resemble navigation lights.

II. Establishes examination requirements for safe boater education courses.

III. Prohibits participating in a prohibited water event.

IV. Prohibits receiving more than one temporary certificate of safe boating education in any calendar year and authorizes the commissioner of the department of safety to revoke the authority of a person administering a temporary safe boater examination found to have assisted the person taking the examination.

V. Increases the fee for a temporary certificate of safe boating education.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1536, relative to bonds required from persons excavating or disturbing certain highways. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Burling for the committee.

Adopted.

Ordered to third reading.

HB 1624-FN, relative to boat noise. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation

April 12, 2006

2006-1775s

03/04

Amendment to HB 1624-FN

Amend the bill by replacing section 2 with the following:

2 Decibel Limits on Noise. Amend RSA 270:37 to read as follows:

270:37 Decibel Limits on Noise.

~~I. [No person may operate any boat powered by a marine engine manufactured before January 1, 1977, in or upon the waters of this state which is capable of being operated in a manner which exceeds a noise level of 86 decibels on the "A" scale measured at a distance of 50 feet from the boat.~~

~~H.] No person may operate, sell, or offer for sale any marine engine [for use in or upon the waters of this state] which is capable of being operated in a manner which exceeds the following noise levels measured [at a distance of 50 feet from the boat with which the engine is tested] under **any testing procedure established pursuant to rules adopted under RSA 270:39:**~~

~~(a) For a marine engine manufactured in or before [1977] **1990**, a noise level of [86] **90** decibels [on the "A" scale] **when subjected to stationary testing.**~~

~~(b) [For a marine engine manufactured between January 1, 1978, and December 31, 1981, a noise level of 84 decibels on the "A" scale.~~

~~(c) For a marine engine manufactured after December 31, [1981] **1990**, a noise level of [82] **88** decibels [on the "A" scale] **when subjected to stationary testing.**~~

~~(c) For a marine engine manufactured in or before 1990, a noise level of 84 decibels on the "A" scale, measured at 50 feet.~~

~~(d) For a marine engine manufactured after December 31, 1990, a noise level of 82 decibels on the "A" scale, measured at 50 feet.~~

~~[H.] Noise levels in decibels shall be measured according to procedures established pursuant to rules adopted under RSA 270:39.~~

~~[V.] **II.** The director or [his] **the director's** agent may order the operator or owner of any boat which he [reasonably believes] **or she has articulable suspicion to believe** is capable of being operated in a manner which exceeds the decibel limits contained in this section to subject [his] **the** boat to **one or more** noise level testing procedures as provided in this subdivision **or to inspection of the engine and mechanical systems for violations of this section or RSA 270:25.**~~

~~[V.] **III.** A boat owner or operator shall submit a boat which is the subject of an order by the director or [his] **the director's** agent pursuant to RSA 270:37, [IV] **II** to noise level testing by the director or [his] **the director's** agent [within 7 days of such an order] **immediately or at the time and location designated by the director or the director's agent.** No person shall operate the boat after [this 7-day period has expired] **the time designated** until it is subjected to such noise level testing **or engine and mechanical system inspection.**~~

~~[VI.] **IV.** The director or [his] **the director's** agent may prohibit the operator or owner of any boat which fails a noise level testing procedure from operating the boat until the boat successfully passes the procedure. No person shall operate a boat contrary to such an order of the director.~~

~~[VII.] **V.** Pursuant to the penalties imposed under RSA 270:41-a, any person convicted of violating this section shall be fined not less than [\$100] **\$250**. No portion of any fine imposed under this section shall be suspended or reduced by the court.~~

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

4 Certification of Marine Engines; Reference Changed. Amend RSA 270:38 to read as follows:

270:38 Certification of Marine Engines. Any marine engine manufactured after December 31, 1976 and offered for sale in this state shall be certified to the director as having been tested and found not to exceed the noise levels prescribed in RSA 270:37, [H] **I.** An outboard motor shall be certified by the motor manufacturer. Any other marine engine shall be certified by the boat manufacturer if it is offered for sale in combination with a boat or by the engine manufacturer if it is not offered for sale in combination with a boat.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1738-FN, prohibiting the use of surveillance devices to identify motor vehicles. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 1612-FN, relative to the use of lottery revenue as purses for horse and dog racing. Ways and Means Committee. Inexpedient to Legislate, Vote 3-1. Senator D'Allesandro for the committee.

The question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Barnes.

Seconded by Senator Kenney.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Eaton, Bragdon, Martel, Letourneau, D'Allesandro, Morse, Hassan.

The following Senators voted No: Boyce, Flanders, Odell, Roberge, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Estabrook, Fuller Clark.

Yeas: 12 - Nays: 12

Motion failed.

Senator Roberge moved ought to pass.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

April 20, 2006

2006-1945s

08/01

Floor Amendment to HB 1612-FN

Amend the bill by replacing section 8 with the following:

8 Effective Date. This act shall take effect July 1, 2009.

The question is on adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Bragdon.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Eaton, Bragdon, Foster, Larsen, Letourneau, D'Allesandro, Estabrook, Morse, Hassan.

The following Senators voted No: Boyce, Odell, Roberge, Gottesman, Clegg, Gatsas, Barnes, Martel, Fuller Clark.

Yeas: 15 - Nays: 9

Floor amendment adopted.

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

A roll call was requested by Senator Bragdon.

Seconded by Senator Barnes.

The following Senators voted Yes: Johnson, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Gottesman, Foster, Clegg, Larsen, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Bragdon, Barnes, Martel.

Yeas: 18 - Nays: 5

Adopted.

Ordered to third reading.

Senator Gatsas (Rule #42) on HB 1612-FN.

MOTION TO REMOVE FROM THE TABLE

Senator Boyce moved to have HB 1155 removed from the table.

Adopted.

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

The question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 1744-FN-A, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value. Ways and Means Committee. Ought to pass with amendment, Vote 3-1. Senator D'Allesandro for the committee.

Senate Ways and Means

April 12, 2006

2006-1784s

05/09

Amendment to HB 1744-FN-A

Amend RSA 287-D:2-a, II(c) as inserted by section 8 of the bill by replacing it with the following:

(c) The name of the New Hampshire bank or credit union and the corresponding bank account number for the account in which money from the game of chance will be deposited and withdrawn.

Amend RSA 287-D:2-a, IV as inserted by section 8 of the bill by replacing it with the following:

IV. ***Initial*** applications shall be received by the ~~[chief of police and attorney general 15]~~ ***pari-mutuel commission*** 30 days ~~[prior to]~~ ***before*** the first game date of ~~[each month]~~ ***the year***. This requirement may be waived by the ~~[attorney general]~~ ***pari-mutuel commission*** for good cause shown.

Amend RSA 287-D:2-a as inserted by section 8 of the bill by deleting paragraph X.

Amend RSA 287-D:2-b, XI as inserted by section 10 of the bill by replacing it with the following:

XI. For games of chance where chips have no monetary face value, the charitable organization may offer any number of games per licensed event, in which each player may spend up to \$300 including buy-ins and re-buys per game.

Amend RSA 287-D:2-c, IV as inserted by section 11 of the bill by replacing it with the following:

IV. Initial applications shall be received by the pari-mutuel commission at least 30 days before the first game date of the year. The requirement may be waived by the pari-mutuel commission for good cause shown.

Amend RSA 287-D:3, VIII as inserted by section 12 of the bill by replacing it with the following:

VIII. In tournaments where chips have no monetary face value, the charitable organization shall retain no less than 30 percent of the gross revenues minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-c are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose.

Amend the bill by replacing section 17 with the following:

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Boyce is in opposition to the motion of ought to pass as amended on HB 1744-FN-A.

HB 1426, granting a right-of-way over state-owned land. Capital Budget Committee. Ought to Pass, Vote 5-0. Senator Morse for the committee.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14
April 20, 2006
2006-1953s
08/09

Floor Amendment to HB 1426

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

AN ACT granting a right-of-way over state-owned land and exempting certain plant species from the invasive species list.

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

4 Invasive Species; Exemptions. Amend RSA 430:53, III to read as follows:

III. The commissioner shall consult with the invasive species committee and prepare and publish by April 1 annually a list of invasive species deemed to present an immediate danger to the health of native species, to the environment, to commercial agricultural or forest crop production, or to human health. The commissioner shall have authority to prohibit collection possession, importation, transportation, sale, propagation, transplantation or cultivation by any person of any species so listed. Such list shall be known as the "New Hampshire prohibited invasive species list." *The following species shall not be included on this list:*

(a) Burning bush (Euonymus alatus)

(b) Japanese barberry (Berberis thunbergii)

(c) European barberry (Berberis vulgaris)

(d) Norway maple (Acer platanoides)

2006-1953s

AMENDED ANALYSIS

This bill grants a right-of-way over the former Boston and Maine railroad land in Concord, New Hampshire

This bill also exempts certain plant species from the New Hampshire invasive species list.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Foster (Rule #42) on HB 1426.

Senator Morse (Rule #42) on HB 1426.

MOTION TO REMOVE FROM THE TABLE

Senator Letourneau moved to have HB 1417 removed from the table.

Adopted.

HB 1417, establishing gold star number plates.

Senator Letourneau moved to withdraw his floor amendment (#1955).

Adopted.

Senator Letourneau offered a floor amendment.

Sen. Gallus, Dist. 1

Sen. Johnson, Dist. 2

Sen. Kenney, Dist. 3

Sen. Boyce, Dist. 4

Sen. Burling, Dist. 5

Sen. Green, Dist. 6

Sen. Flanders, Dist. 7

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9
 Sen. Eaton, Dist. 10
 Sen. Bragdon, Dist. 11
 Sen. Gottesman, Dist. 12
 Sen. Foster, Dist. 13
 Sen. Clegg, Dist. 14
 Sen. Larsen, Dist. 15
 Sen. Gatsas, Dist. 16
 Sen. Barnes, Dist. 17
 Sen. Martel, Dist. 18
 Sen. Letourneau, Dist. 19
 Sen. D'Allesandro, Dist. 20
 Sen. Estabrook, Dist. 21
 Sen. Morse, Dist. 22
 Sen. Hassan, Dist. 23
 Sen. Fuller Clark, Dist. 24
 April 20, 2006
 2006-1960s
 09/10

Floor Amendment to HB 1417-FN

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

AN ACT establishing gold star number plates and relative to special number plates for veterans.

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

1 New Section; Gold Star Number Plates. Amend RSA 261 by inserting after section 87-b the following new section:

261:87-c Gold Star Number Plates.

I. The department shall furnish one set of special number plates, designed by the director with the approval of the commissioner, for one motor vehicle owned by a mother of a person killed while on duty in the United States armed forces. These gold star number plates shall be issued upon payment of the regular registration and number plate fees.

II. For purposes of this section, a motor vehicle is owned by a mother of a person killed while on duty in the United States armed forces if the mother of a person killed while on duty in the United States armed forces is the motor vehicle's owner under RSA 259:72, I, or if the legal ownership of the motor vehicle is held by a trust established by the mother of a person killed while on duty in the United States armed forces and the mother of a person killed while on duty in the United States armed forces has use of the motor vehicle or the motor vehicle is used for the transportation of the mother of a person killed while on duty in the United States armed forces. The director shall establish the documentation required for a motor vehicle held in trust to be eligible for plates under this section. The director shall not issue more than one set of plates under this section to any trust. A trustee of the trust or the administrator of the estate may be fined up to \$500 for failing to return within 60 days of the death of the mother of a person killed while on duty in the United States armed forces any plates issued under this section for a motor vehicle held in trust.

2 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only **to veterans as defined in RSA 21:50, I(a)** upon application, proof of ~~[honorable discharge from the armed services as deemed appropriate by the director]~~ **veteran status in a form authorized by RSA 21:50, I(b)**, and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II. Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

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

2006-1960s**AMENDED ANALYSIS**

This bill establishes gold star number plates. This bill also clarifies the eligibility requirements for special number plates for veterans.

Floor amendment adopted.

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

A roll call was requested by Senator Barnes.

Seconded by Senator Letourneau.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1491 taken from the table.

Adopted.

HB 1491, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

The question is on the adoption of the committee amendment (#1636).

Amendment failed.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

April 20, 2006

2006-1959s

08/09

Floor Amendment to HB 1491

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

AN ACT extending certain deadlines relating to the Great Bay Estuary Commission.

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

1 Great Bay Estuary Commission; Reporting Date Extended. Amend 2003, 236:5 as amended by 2004, 20:11 and 2005, 104:4 to read as follows:

236:5 Report. The commission shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before ~~[November 1, 2006]~~ **December 31, 2007**.

2 EAST; First Meeting Deadline, Extended. Amend 2004, 258:2 to read as follows:

258:2 First Meeting. The chairperson of the Great Bay Estuary commission, established by 2003, 236, shall call the first meeting of EAST prior to ~~[November 1, 2005]~~ **December 31, 2007**.

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

2006-1959s

AMENDED ANALYSIS

This bill extends the reporting deadline of the Great Bay Estuary Commission and extends the first meeting deadline of the Estuary Alliance for Sewage Treatment.

Floor amendment adopted.

The 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**

HB 391, relative to election affidavits.

HB 656-FN, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

HB 688-FN, relative to the regulation of mental health practitioners and the procedures of the board of mental health.

HB 716-FN, relative to securities regulation.

HB 1111, designating the pumpkin as the New Hampshire state fruit.

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

HB 1172-FN, relative to registration of political committees.

HB 1174, requiring that voters who request a secret ballot be present at the town meeting.

HB 1182-FN, relative to the limited commercial lobster license fees.

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

HB 1223-FN, relative to the use of real estate brokers by the department of transportation.

HB 1265, establishing the council on the relationship between public health and the environment.

HB 1307, relative to application requirements for motor vehicle recycling yard licenses.

HB 1320, relative to penalties for planning and zoning violations.

HB 1330, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments.

HB 1335, relative to the authority of law enforcement officers during a state of emergency.

HB 1394, relative to determination of value of property in current use.

HB 1410-FN-L, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility.

HB 1417-FN, establishing gold star number plates.

HB 1419-FN, relative to mediation in divorce proceedings.

HB 1426, granting a right-of-way over state-owned land.

HB 1463-FN, relative to boating and water safety.

HB 1491, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

HB 1536, relative to bonds required from persons excavating or disturbing certain highways.

HB 1567, relative to removing names from the checklist.

HB 1612-FN, relative to the use of lottery revenue as purses for horse and dog racing.

HB 1613-FN, relative to polling place arrangement and accessibility.

HB 1630-L, relative to land use change taxes imposed for certain road construction on rights-of-way.

HB 1634-FN, making technical changes to the law governing the New Hampshire retirement system.

HB 1652-FN, relative to certain insurance claims.

HB 1667-FN, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine.

HB 1673-FN, relative to the reduction of mercury emissions.

HB 1681-FN, establishing the unused prescription drug program.

HB 1709-FN, establishing an autism registry in the department of health and human services.

HB 1711-FN, relative to the regulation of fuel gas fitters.

HB 1720-FN, relative to notice of parent liability in CHINS proceedings.

HB 1727-FN-L, relative to transfer or discharge of patients or residents in licensed facilities.

HB 1738-FN, prohibiting the use of surveillance devices to identify motor vehicles.

HB 1744-FN-A, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

HB 1749-FN, relative to access to motor vehicle records by certain defense contractors.

HCR 20, a resolution commending the New Hampshire committee for Employer Support of the Guard and Reserve.

HJR 22, a resolution in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research.

HJR 25, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain.

CACR 30, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use.

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, processing enrolled bill reports and amendments.

Adopted.

In recess to the Call of the Chair.