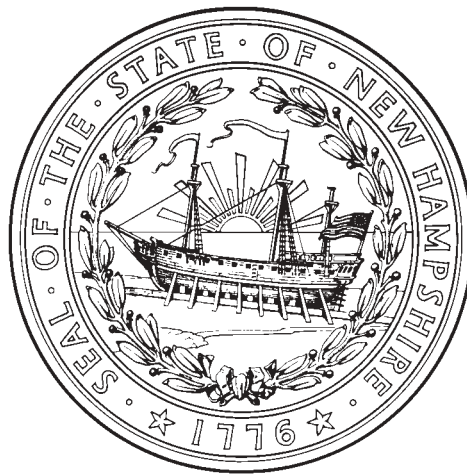


February 2, 2006
Nos. 2 - 3

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – JANUARY 18, 2006 SESSION
COMMENCEMENT – FEBRUARY 2, 2006 SESSION

SENATE JOURNAL 2 *(Cont.)*

January 18, 2006

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 175, requiring insurance coverage for certified midwives.

HB 505, relative to recording mailing addresses on property deeds.

Senator D'Allesandro moved adoption.

Adopted.

INTRODUCTION OF SENATE BILL(S)

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered from SB 397-398, shall be by this resolution read a first and second time by the therein listed title(s) and referred to the designated committee(s).

Adopted.

First and Second Reading and Referral

06-3030

SB 397-FN-A, establishing a temporary energy tax credit against the business enterprise tax. (Morse, Dist 22; Clegg, Dist 14; Letourneau, Dist 19; Barnes, Dist 17; Green, Dist 6: Finance)

06-3052

SB 398-FN, relative to political contributions and expenditures. (Barnes, Dist 17; Green, Dist 6; Clegg, Dist 14; Gallus, Dist 1; Roberge, Dist 9; Estabrook, Dist 21; Fuller Clark, Dist 24; Hassan, Dist 23; Johnson, Dist 2; Kenney, Dist 3; Letourneau, Dist 19; Martel, Dist 18: Public and Municipal Affairs)

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 203-FN, relative to the regulation of tracking devices and establishing a commission on the use of tracking devices.

HB 397, relative to authority to file an abuse or neglect petition under the Child Protection Act.

HB 459, relative to access to criminal records and enhanced 911 system records.

HB 506, including employees of charitable organizations under the protection of the state law against discrimination.

HB 590, excluding stepchildren from the definition of "child" in the context of support orders.

HB 638-FN, relative to county and state financing of nursing home services.

HB 645-FN, relative to fire-safer cigarettes.

HB 653-FN-L, relative to bonds for construction, development, improvement, and acquisition of broadband facilities.

HB 1184, relative to the majority vote required for the use of bond proceeds in certain school districts or municipalities.

HB 1248-FN, relative to the alteration of a portion of the town line between Milford and Amherst.

HB 1262, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield.

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land.

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 203 to HB 1402, 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 203-FN, relative to the regulation of tracking devices and establishing a commission on the use of tracking devices. (Public and Municipal Affairs)

HB 397, relative to authority to file an abuse or neglect petition under the Child Protection Act. (Judiciary)

HB 459, relative to access to criminal records and enhanced 911 system records. (Judiciary)

HB 506, including employees of charitable organizations under the protection of the state law against discrimination. (Internal Affairs)

HB 590, excluding stepchildren from the definition of "child" in the context of support orders. (Health and Human Services)

HB 638-FN, relative to county and state financing of nursing home services. (Finance)

HB 645-FN, relative to fire-safer cigarettes. (Public and Municipal Affairs)

HB 653-FN-L, relative to bonds for construction, development, improvement, and acquisition of broadband facilities. (Energy and Economic Development)

HB 1184, relative to the majority vote required for the use of bond proceeds in certain school districts or municipalities. (Public and Municipal Affairs)

HB 1248-FN, relative to the alteration of a portion of the town line between Milford and Amherst. (Public and Municipal Affairs)

HB 1262, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield. (Public and Municipal Affairs)

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land. (Environment and Wildlife)

Out of recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 3

February 2, 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.

Gracious God of groundhogs, shine the bright brilliance of Your care upon our hibernating spirits this day and let the forms and shapes we cast upon the landscape around us bring hope, like a candle shining in a dark place.
Amen

Senator Burling led the Pledge of Allegiance.

Senator Kenney is excused for the day.

INTRODUCTION OF GUESTS
COMMITTEE REPORTS
SPECIAL ORDER

HB 177, relative to home improvement contracts. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-2. Senator Burling for the committee.

Public and Municipal Affairs
October 18, 2005
2006-0051s
05/10

Amendment to HB 177

Amend RSA 359-G:3 as inserted by section 1 of the bill by replacing it with the following:

359-G:3 Contract Requirements. No home improvement contractor shall perform a home improvement without a home improvement contract that meets the requirements of this chapter. The home improvement contractor and the consumer shall sign the home improvement contract prior to the commencement of any work under the contract. The contract shall contain, at a minimum, the following:

I. The consumer's name, telephone number, and the address of the residential property that is the subject of the home improvement.

II. The name and street address of the home improvement contractor and the number of any license or permit issued to the home improvement contractor by the electrician's board pursuant to RSA 319-C, the plumbers' licensing and regulation board pursuant to RSA 329-A, the water well board pursuant to RSA 482-B, or the department of environmental services pursuant to RSA 485-A, and any other applicable license or permit.

III. The name and telephone number of any agent to whom consumer problems and inquiries can be directed.

IV. The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract.

V. A reasonably detailed description of the proposed home improvements.

VI. The estimated date of commencement of work and the estimated date when the work will be substantially completed. The estimated date of commencement of work and the completion date may be changed if work cannot begin or end due to circumstances beyond the control of the contractor, including, but not limited to, the lack of readiness of the job site, the unavailability of building materials, or weather conditions.

VII. Any contingencies that would materially change the approximate completion date.

VIII. The home improvement contract price.

IX. The amount of the initial down payment, which shall be limited to no more than 1/3 of the total contract price.

X. The schedule of payments, which may stipulate additional deposits required to initiate the ordering of materials.

XI. A change order statement which reads: "Any alteration or deviation from the contractual specifications that results in a revision of the contract price or date of commencement or completion of the work will be executed only upon the parties entering into a written change order."

XII. A statement disclosing whether or not the home improvement contractor has liability insurance.

XIII. A statement specifying whether, and to what extent, any warranty applies to the work performed or a statement that no warranty is provided.

XIV. A statement specifying who shall be responsible for obtaining and paying for all applicable permits.

XV. Signature lines for the home improvement contractor or the contractor's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.

Amend RSA 359-G:8 as inserted by section 1 of the bill by replacing it with the following:

359-G:8 Violations.

I. A violation of this chapter shall constitute prima facie evidence of a violation of the consumer protection act under RSA 358A:2. Except as otherwise provided in this section, any right or remedy available under RSA 358-A, including the civil penalties under RSA 358-A:4 and the criminal penalties under RSA 358-A:6, shall apply to this chapter. The state shall have the sole authority to bring an action under RSA 358-A for violations of this chapter. No person may bring a private action under RSA 358-A:10 for a violation of this chapter.

II. If the home improvement contractor has committed more than one violation of this chapter within one year, factors the court may consider in assessing a civil penalty include, but are not limited to, the following:

- (a) The volume of business which the home improvement contractor performs on an annual basis.
- (b) The number of contracts in violation.
- (c) The actual financial loss or exposure to financial loss suffered by any consumer as a result of the violations.
- (d) Whether the home improvement contractor acted in good faith or knowingly with respect to such violations.

III. Except as otherwise provided in paragraph I, nothing in this section shall impair, limit, or reduce the statutory, common law, or contractual duties or liability of any home improvement contractor.

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

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

2006-0051s

AMENDED ANALYSIS

This bill establishes certain requirements for home improvement contracts, including that they be in writing and that they address the contract price, the work to be completed, and estimated completion date. The bill provides that a violation of the chapter regulating home improvement contracts is prima facie evidence of a violation of the consumer protection act.

Amendment failed.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

January 17, 2006

2006-0463s

10/04

Floor Amendment to HB 177

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

1 New Chapter; Home Improvement Contracts. Amend RSA by inserting after chapter 359-H the following new chapter:

CHAPTER 359-I

HOME IMPROVEMENT CONTRACTS

359-I:1 Definitions. In this chapter:

I. "Contract" means an oral or written agreement for the performance of home improvement construction, including all labor, goods, and services under such agreement.

II. "Contractor" means any person who owns or operates a business who, personally or through others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for home improvement construction.

III. "Home improvement construction" means the construction, reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition of any residential improvement.

IV. "Knowingly" means knowingly as defined in RSA 626:2.

V. "Person" shall include natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.

359-I:2 Home Improvement Contracts.

I. A contractor shall not make, permit, or cause any practice that:

(a) Fails to perform the services promised under a contract in a timely, competent, or workmanlike manner; or

(b) Has the effect of creating or maintaining a fraud.

II. No contract covering property located in this state shall provide that:

(a) The consumer is not a party to the contract;

(b) The contractor has no liability to the consumer;

(c) The consumer does not have the right to bring an action to enforce the terms of the contract or otherwise challenge the denial of a claim which the consumer believes is wrongful, subject to the provisions of any alternative dispute resolution procedure specified in the contract; or

(d) Any civil action or alternative dispute resolution procedure brought in connection with the contract shall be brought in the courts of a jurisdiction other than New Hampshire.

III. Any contract for home improvement construction which requires an initial down payment or advance of funds in excess of 10 percent of the contract price shall require a written agreement. The written agreement shall include the following minimum information:

(a) Contact information for the contractor and consumer.

(b) A reasonably detailed description of the home improvement construction.

(c) Estimated dates of commencement and substantial completion of the home improvement construction.

(d) The home improvement construction contract price, including the estimated or fixed price for performance of the contract, a schedule for payments, and the amount and terms of the initial down payment.

(e) A statement describing any liability insurance maintained by the contractor.

(f) A statement describing any warranty extended by the contractor.

IV. No civil action, judicial action, or arbitration proceeding asserting a claim shall be maintained under this chapter unless the homeowner complies with RSA 359-G concerning residential construction defects.

V. Nothing in this chapter shall affect any right or action under RSA 447 concerning liens for labor and materials.

359-I:3 Home Contractor Fraud.

I. A home contractor is guilty of fraud, if, such person knowingly and with intent to injure, defraud, or deceive any consumer, conceals or causes to be concealed from any other person a material statement, or presents or causes to be presented to any person, or prepares with knowledge or belief that it will be so presented, any written or oral statement including computer-generated documents, knowing that such statement contains false, incomplete, or misleading information which is material to an application for the issuance of any building permit, or payments made in accordance with the terms of any home improvement construction contract.

II. A person is guilty as an accomplice to fraud, if, with a purpose to injure, defraud, or deceive, the person assists, abets, solicits, or conspires with another to commit fraud described in paragraph I:

(a) By a knowingly false statement or misrepresentation or by impersonation or other knowingly fraudulent act or device attempts to obtain or obtains funds to which he or she is not entitled.

(b) Knowingly aids or abets any person, by a knowingly false statement or misrepresentation or by impersonation or other knowingly fraudulent act or device, to attempt to obtain or obtain funds to which the person is not entitled.

III. A fraud in violation of this section shall be:

- (a) A class B felony if the value of the fraudulent portion of the claim for payment is more than \$500.
- (b) A misdemeanor in all other cases.

359-I:4 Consumer Fraud on Contractors. A person who is a consumer of home improvement contractor services is guilty of a misdemeanor if:

I. The person destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or

II. Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of contractor, the person destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any contractor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors.

359-I:5 False Claims Against Homeowner.

I. A contractor shall be guilty of a misdemeanor if such contractor:

(a) Knowingly presents, or causes to be presented, to a homeowner a false or fraudulent claim for payment or approval.

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim.

(c) Conspires to defraud by getting a false or fraudulent claim allowed or paid.

(d) Has possession, custody, or control of property or money used, or to be used with the intent to defraud a homeowner and delivers, or causes to be delivered, less property than the amount for which a homeowner receives a certificate or receipt.

(e) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the homeowner.

(f) Is a beneficiary of an inadvertent submission of a false claim for payment, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the homeowner within a reasonable time after discovery of the false claim.

II. A court may impose no civil penalty, if the court finds that a contractor who has violated paragraph I:

(a) Furnished officials of the state responsible for investigating violations with all information known to the contractor about the violation within 30 days after the date on which the contractor first obtained the information;

(b) Fully cooperated with any state investigation of such violation; and

(c) At the time the contractor furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this chapter with respect to such violation, and the contractor did not have actual knowledge of the existence of an investigation into such violation.

III. A person violating paragraph I shall also be liable for the costs and attorneys' fees arising from any civil action brought to recover the penalty or damages.

IV. Liability under this section shall be joint and several for any act committed by 2 or more contractors.

359-I:6 False Claims against Contractor.

I. A person shall be guilty of a misdemeanor if a person:

(a) Knowingly presents, or causes to be presented, to a contractor a false or fraudulent claim for payment or approval.

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid.

(c) Conspires to defraud by getting a false or fraudulent claim allowed or paid.

(d) Has possession, custody, or control of property or money used, or to be used intending to defraud a contractor and delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt.

(e) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the contractor.

(f) Is a beneficiary of an inadvertent submission of a false claim for payment, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the contractor within a reasonable time after discovery of the false claim.

II. Notwithstanding the damages provision of paragraph I, the court may reduce the penalty or impose no civil penalty, if the court finds that a person who has violated paragraph I:

(a) Furnished officials of the state responsible for investigating violations with all information known to the person about the violation within 30 days after the date on which the person first obtained the information;

(b) Fully cooperated with any state investigation of such violation; and

(c) At the time the person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

III. A person violating paragraph I shall also be liable for the costs and attorneys' fees arising from any civil action brought to recover the penalty or damages.

IV. Liability under this section shall be joint and several for any act committed by 2 or more persons.

359-I:7 Enforcement; Additional Penalties. The provisions of this chapter shall be administered and enforced by the consumer protection and antitrust bureau, department of justice established by RSA 21-M:9. In addition to other appropriate penalties, any violation of the provisions of this chapter shall constitute an unfair or deceptive act or practice within the meaning of RSA 358-A. Any right, remedy or power set forth in RSA 358-A may be used to enforce the provisions of this chapter.

2 New Subparagraph; Enforcement. Amend RSA 21-M:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Administering and enforcing the provisions of RSA 358-I, relative to home improvement contracts.

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

2006-0463s

AMENDED ANALYSIS

This bill establishes requirements for home improvement contractors and consumers of home improvement contractor services, and establishes criminal and civil penalties for violations of a home improvement contract.

The question is on adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

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

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

YEAS: 15 - NAYS: 8

Floor amendment adopted.

MOTION TO TABLE

Senator Bragdon moved to have HB 177 laid on the table.

A roll call was requested by Senator Foster.

Seconded by Senator Green.

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

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

Yeas: 15 - Nays: 8

Adopted.

LAI D ON THE TABLE

HB 177, relative to home improvement contracts.

WITHOUT OBJECTION MOTION TO TAKE BILLS OUT OF ORDER

Senator Clegg moved that the following bills be taken out of order. HB 1402 Environment and Wildlife and HB 1184, HB 1248-FN, HB 1262 Public and Municipal Affairs and hear the following four House Bills at the present time.

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Hassan for the committee.

Environment and Wildlife

January 25, 2006

2006-0581s

04/05

Amendment to HB 1402

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

AN ACT establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use.

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

1 Limitation of Actions; Duty of Care. Amend RSA 508:14, II to read as follows:

II. *Any individual, corporation, or other nonprofit legal entity, or any individual who performs services for a nonprofit entity, that constructs, maintains, or improves trails for public recreational use shall not be liable for personal injury or property damage in the absence of gross negligence or willful or wanton misconduct.*

III. An owner of land who permits another person to gather the produce of the land under pick-your-own or cut-your-own arrangements, provided said person is not an employee of the landowner and notwithstanding that the person picking or cutting the produce may make remuneration for the produce to the landowner, shall not be liable for personal injury or property damage to any person in the absence of willful, wanton, or reckless conduct by such owner.

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

2006-0581s

AMENDED ANALYSIS

This bill provides that any individual, corporation, or other nonprofit legal entity, or any individual who performs services for a nonprofit entity, that constructs, maintains, or improves trails for public recreational use shall not be liable for personal injury or property damage in the absence of gross negligence or willful or wanton misconduct.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 1184, relative to the majority vote required for the use of bond proceeds in certain school districts or municipalities. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 1248-FN, relative to the alteration of a portion of the town line between Milford and Amherst. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

HB 1262, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Clegg moved that the rules of the Senate be so far suspended as to permit HB 1184, HB 1248-FN, HB 1262, HB 1402 to be ordered to third reading final passage in the early session.

Adopted by the necessary 2/3 vote.

RESOLUTION

Senator Clegg moved that HB 1184, HB 1248-FN, HB 1262, and HB 1402 be ordered to third reading final passage, 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.

Third Reading and Final Passage

HB 1184, relative to the majority vote required for the use of bond proceeds in certain school districts or municipalities.

HB 1248-FN, relative to the alteration of a portion of the town line between Milford and Amherst.

HB 1262, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield.

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land.

COMMITTEE REPORTS

SB 283-FN, relative to stop loss insurance. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Flanders for the committee.

Banks and Insurance

January 17, 2006

2006-0459s

01/10

Amendment to SB 283-FN

Amend the introductory paragraph of RSA 415-H:3, I as inserted by section 1 of the bill by replacing it with the following:

I. An insurer shall not issue or renew a stop loss insurance policy or certificate that:

Amendment adopted.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

January 31, 2006

2006-0703s

01/03

Floor Amendment to SB 283-FN

Amend RSA 415-H:5 as inserted by section 1 of the bill by replacing it with the following:

415-H:5 Rulemaking. The commissioner shall adopt rules in accordance with RSA 541-A that carry out the requirements of this chapter and prescribe additional standards for stop loss insurance policies.

Floor amendment adopted.

Referred to the Finance Committee (Rule #26).

SB 326, relative to a temporary moratorium on large groundwater permits and withdrawals. Energy and Economic Development Committee. Inexpedient to Legislate, Vote 4-1. Senator Boyce for the committee.

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

A division vote was requested.

Yeas: 13 – Nays: 10

Committee report of inexpedient to legislate is adopted.

Senators Barnes, Estabrook and Green are in opposition to the committee report of inexpedient to legislate on SB 326.

SB 330, relative to outdoor advertising. Energy and Economic Development Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

MOTION TO TABLE

Senator Letourneau moved to have SB 330 laid on the table.

Adopted.

LAID ON THE TABLE

SB 330, relative to outdoor advertising.

SB 251, relative to the enforcement authority of the division of safety services. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

SB 255, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Eaton for the committee.

Environment and Wildlife

January 11, 2006

2006-0377s

09/05

Amendment to SB 255

Amend paragraph I(a) of section 2 of the bill by replacing it with the following:

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 328, relative to the regulation of snowmobiles and off highway recreational vehicles. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Johnson for the committee.

Adopted.

Ordered to third reading.

SB 335, relative to funds of the department of resources and economic development used for snowmobile trail grooming equipment. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Gallus for the committee.

Adopted.

Ordered to third reading.

SB 351-FN, declaring drowning as cruelty to animals. Environment and Wildlife Committee. Ought to pass with amendment, Vote 4-1. Senator Barnes for the committee.

Environment and Wildlife
January 17, 2006
2006-0470s
01/09

Amendment to SB 351-FN

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

3 Applicability. This act shall not apply to trappers licensed under RSA 214.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 388, relative to farm composting. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

Environment and Wildlife
January 25, 2006
2006-0577s
08/09

Amendment to SB 388

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

AN ACT relative to farm composting and pesticides.

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

2 Pesticides. Amend RSA 430:31 to read as follows:

(x) Development and administration of state management plans to protect groundwater from pesticide contamination, for pesticides that are classified as *general use*, restricted-use, *or both* under the federal Insecticide, Fungicide, and Rodenticide Act section 3(d)(1)(C)(ii) subject to restrictions under United States Environmental Protection Agency approved management plans funded through the fund established in RSA 430:34, V.

2006-0577s

AMENDED ANALYSIS

This bill adds composting to the list of defined farm activities and designates compost as a farm product.

This bill also specifies pesticides for inclusion in state management plans to protect groundwater from pesticide contamination.

This bill was requested by the department of agriculture, markets, and food.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 249, allowing a master electrician to have 2 apprentice electricians under his or her supervision. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Senate Executive Departments and Administration
January 17, 2006
2006-0435s
10/03

Amendment to SB 249

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

AN ACT allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 5:

2 Rulemaking; Examination. Amend RSA 319-C:6-a, III to read as follows:

III. How an applicant shall be examined, including the time and place of the examination, ***and procedures for computerized examinations;***

3 Fees. Amend RSA 319-C:6-b to read as follows:

319-C:6-b Fees. The board shall establish ***application*** fees for examination of applicants, ***fees*** for licensure, for renewal, and for late renewal of licenses to practice under this chapter, and for transcribing and transferring records and other services. ***The fee for computerized examination shall not include fees charged by and paid to a computerized examination company approved by the board.*** The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

4 Examinations. Amend RSA 319-C:8 to read as follows:

319-C:8 Examinations for License. Each applicant for licensure shall present to the board, on forms furnished by the board, a written application for examination and license, containing such information as the board may require, accompanied by the required ***application*** fee established by the board. Examinations shall be written~~[or]~~, written and oral, ***or computerized as approved by the board***, and shall be of a thorough and practical character. They shall include such provisions of the National Electrical Code as the board may deem appropriate. Any person failing to pass his or her first examination may be reexamined at any subsequent examination meeting of the board ***or by computerized examination***, and thereafter may be examined as often as he or she may desire upon the payment of the required ***application*** fee as set forth in this chapter.

2006-0435s

AMENDED ANALYSIS

This bill allows a master electrician licensed by the electricians' board to have 2 apprentice electricians under his or her personal supervision.

This bill also allows for computerized testing for licensure of electricians by the electricians' board.

Amendment adopted.

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

A division vote was requested.

Yeas: 14 - Nays: 9

Adopted.

Ordered to third reading.

SB 252, relative to defining "speech-language assistant" for purposes of speech language pathology practice. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-0. Senator Flanders for the committee.

Senate Executive Departments and Administration

January 18, 2006

2006-0477s

08/09

Amendment to SB 252

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

AN ACT relative to certification of speech-language assistants for purposes of speech language pathology practice.

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

1 New Paragraph; Definitions. Amend RSA 326-F:1 by inserting after paragraph II the following new paragraph:

II-a. "Speech-language assistant" mean any person certified by the board and who meets minimum qualifications established by the board which are less than those established by this chapter as necessary for licensing as a speech-language pathologist, and who does not act independently but works under the direction and supervision of a speech-language pathologist licensed under this chapter.

2 Rulemaking; Speech Language Assistants. Amend RSA 326-F:5, V to read as follows:

V. The ~~[use of assistive personnel]~~ ***minimum qualifications of, requirements for direction and supervision of, and scope of tasks that may be performed by speech-language assistants. Such qualifications shall include a minimum of a 2-year associate's degree granted by a state accredited speech language pathology program.***

VI. The application and qualification for certification of speech-language assistants.

3 New Subparagraph; Office of Allied Health Professionals; Board of Directors. Amend RSA 328-F:15 by inserting after subparagraph I(g) the following new subparagraph:

(h) Certification of speech-language assistants, as defined in RSA 326-F:1, II-a.

4 Exemption. Notwithstanding section 2 of this act, persons employed as speech-language assistants on the effective date of this act shall not be required to hold or acquire a 2-year associate's degree granted by a state accredited speech language pathology program.

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

2006-0477s

AMENDED ANALYSIS

This bill defines "speech-language assistant" for purposes of speech language pathology practice and requires speech-language assistants to be certified by the speech language pathology governing board. This bill also requires the office of allied health professionals to establish fees for certification of speech-language assistants.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 257, requiring the joint legislative committee on administrative rules to study procedures for agency responses to complaints from the public. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 3-0. Senator Fuller Clark for the committee.

Committee report of inexpedient to legislate is adopted.

SB 258, requiring the joint legislative committee on administrative rules to study methods for improving notice to the public of proposed administrative rules. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 4-0. Senator Fuller Clark for the committee.

Committee report of inexpedient to legislate is adopted.

SB 200-FN, establishing the uniform athlete agents act. Finance Committee. Ought to Pass, Vote 7-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 322, establishing the business loan enhancement program. Finance Committee. Ought to Pass, Vote 7-0. Senator Odell for the committee.

SPECIAL ORDER

Senator Odell moved that **SB 322**, establishing the business loan enhancement program, be made a special order for February 9, 2006 at 10 a.m.

Adopted.

SB 371-FN, relative to the continuation of certain wetlands fees. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Green for the committee.

**Senate Finance
January 25, 2006**

**2006-0612s
09/01**

Amendment to SB 371-FN

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

1 Extension of Fee for Excavating and Dredging Permits. Amend 2003, 224:8, I to read as follows:

I. Section 3 of this act shall take effect July 1, [2006] **2010**.

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

2006-0612s

AMENDED ANALYSIS

This bill extends the current fee for an excavating and dredging permit until July 1, 2010.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 387, relative to energy efficiency loans and guarantees by the business finance authority. Finance Committee. Ought to Pass, Vote 7-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

HB 153-FN, relative to the collection of debts owed to the state. Finance Committee. Ought to pass with amendment, Vote 4-1. Senator Morse for the committee.

Senate Finance

January 25, 2006

2006-0613s

05/10

Amendment to HB 153-FN

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

AN ACT relative to the collection of debts owed to the state and relative to frivolous court actions involving state construction projects.

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

2 New Section; Frivolous Actions Relative to State Construction Projects. Amend RSA 507 by inserting after section 15 the following new section:

507:15-a Frivolous Actions Relative to State Construction Projects.

I. If, upon the hearing of any action against the state pertaining to a state construction project, which has commenced after the necessary state and federal approvals for construction have been issued, it appears to the court that the action is frivolous or intended to otherwise harass or intimidate the prevailing party, then the court, upon motion of a prevailing party or on its own motion, may order summary judgment or other relief against the party who brought such action, and award the amount of costs and attorneys' fees incurred by the prevailing party. Costs shall include, but not be limited to, increased construction costs incurred by the state.

II. For purposes of this section, "state construction project" shall mean a capital budget project.

2006-0613s

AMENDED ANALYSIS

This bill:

I. Authorizes the department of administrative services to oversee, on behalf of state agencies, debt collection conducted by collection agencies and law firms. Recovered funds, less collection costs, shall be returned to the appropriate agency.

II. Requires the department of administrative services to submit an annual report on the collection activity to the legislature.

III. Permits the prevailing party in a case involving a state construction project to recover attorneys' fees and costs if the court finds the case was frivolous or otherwise intended to harass or intimidate the prevailing party.

The question is on the adoption of the committee amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Burling.

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

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

Yeas: 14 - Nays: 9

Amendment adopted.

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

SENATOR BURLING: Thank you Mr. President. The question is, can this question be divided, and is it appropriate for me to request that of you, Mr. President, or to make it in the form of a motion?

SENATOR GATSAS (In the Chair): If you'd make a motion please?

SENATOR BURLING: I move that the question be divided.

SENATOR GATSAS (In the Chair): The motion is non-debatable. All in favor of dividing the question?

The voice vote of the body took place.

SENATOR GATSAS (In the Chair): The No's have it.

Adopted.

Ordered to third reading.

HB 582, relative to the policy for records management. Finance Committee. Ought to Pass, Vote 7-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

HB 599-FN, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles. Finance Committee. Ought to Pass, Vote 7-0. Senator Morse for the committee.

Senator Morse moved to recommit.

Adopted.

HB 599-FN is recommitted.

Without objection the bill was referred to Ways and Means.

SB 107-FN, relative to the sale of tobacco products. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator D'Allesandro for the committee.

Senate Ways and Means

January 19, 2006

2006-0496s

09/01

Amendment to SB 107-FN

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

1 Definition; Wholesaler. Amend RSA 78:1, V to read as follows:

V. "Wholesaler" means any person doing business in this state, ***whether located in this state or not***, who shall purchase all of his ***or her*** unstamped tobacco products directly from a licensed manufacturer, and who shall sell all of his ***or her*** products to licensed [wholesalers,] sub-jobbers, vending machine operators, retailers, and those persons exempted from the tobacco tax under RSA 78:7-b.

2 Definition; Retailer. Amend RSA 78:1, XI to read as follows:

XI. "Retailer" means any person, *whether located in this state or not*, who sells tobacco products to consumers *in New Hampshire*, and any vending machine in which tobacco products are sold.

3 Reference Correction. Amend RSA 78:2, I-a to read as follows:

I-a. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section and information regarding enforcement actions taken pursuant to this chapter and RSA ~~[126-F]~~ **126-K** shall be public records.

4 Reference Correction. Amend RSA 78:4 to read as follows:

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

5 Reference Correction. Amend RSA 78:6 to read as follows:

78:6 Suspension and Revocation of License by Commissioner. The commissioner may adopt rules pursuant to RSA 541-A relative to accomplishing the purpose of RSA 78. The commissioner may suspend or revoke any license issued under RSA 78:2 for failure to comply with the provisions of this chapter and with any rules which the commissioner may adopt. The commissioner shall suspend or revoke any license issued under RSA 78:2 if ordered to do so pursuant to RSA ~~[126-F]~~ **126-K**.

6 New Section; Taxation of Unstamped Tobacco Products. Amend RSA 78 by inserting after section 9-a the following new section:

78:9-b Taxation of Unstamped Tobacco Products; Receipt Issued in Lieu of Stamps.

I. Whoever purchases tobacco products for personal consumption without New Hampshire tax stamps shall pay the tax imposed under RSA 78:7 or RSA 78:7-c, as applicable.

II. The commissioner is authorized to issue tax notices to persons for tax due on unstamped tobacco products whenever the commissioner discovers such unstamped tobacco products. Lists of purchasers of mail-order tobacco products that are provided to the commissioner by mail-order retailers under 15 U.S.C. section 376, shall be a lawful method of discovery.

III. The tax shall be remitted to the department in such manner and accompanied by such form or forms as the commissioner shall determine. Upon satisfactory payment, the commissioner shall issue a receipt to the person with sufficient detail to record the specific transaction.

IV. Any person who fails to pay any amount due within 30 days of the date of the tax notice issued under paragraph II shall pay, in addition to the amount, interest as prescribed in RSA 21-J:28. Any person who fails to pay any amount due within 90 days of the date of the tax notice issued under paragraph II shall pay, in addition to the amount and interest, penalties as prescribed in RSA 21-J:33.

V. Nothing in this section shall be construed to allow possession of tobacco products that are otherwise unlawful under RSA 541-D.

VI. The commissioner shall adopt rules under RSA 541-A to implement this section.

7 Affixing Stamps. Amend RSA 78:12, II to read as follows:

II. The commissioner is authorized to exempt such tobacco products ~~[other than cigarettes]~~ from the requirement of affixing stamps to their packages under paragraph I, as to which he finds that the affixing of stamps is physically impractical due to the size or nature of the package or that the cost of affixing the stamps is unreasonably disproportionate to the tax revenue to be collected. In lieu of stamps, the commissioner may, by rules adopted under RSA 541-A, require the submission of periodic reports to the commissioner by wholesalers thereof exempted under this paragraph, setting forth the total amount of such unstamped tobacco products distributed and transmitting payment of the tax due under this chapter.

8 Unauthorized Sales. RSA 78:12-a is repealed and reenacted to read as follows:

78:12-a Authorized Sales.

I. Manufacturers shall not sell tobacco products to any person who does not possess a valid wholesaler license issued by the commissioner.

II. Wholesalers shall not sell tobacco products to any person who does not possess a valid retailer license, sub-jobber license, vending machine license, or a sampler license issued by the commissioner.

III. Sub-jobbers shall not sell tobacco products to any person who does not possess a valid retailer license, sub-jobber license, vending machine license, or a sampler license issued by the commissioner.

IV. Retail licensees, vending machine licensees, and sampler licensees shall sell or distribute tobacco products only to consumers.

V. A person may possess multiple licenses.

VI. Any person who violates the provisions of this section shall be subject to the penalty provisions of RSA 21-J:39.

9 Unstamped Tobacco Products; Exception. Amend RSA 78:14 to read as follows:

78:14 Unstamped Tobacco Products. No sub-jobber, vending machine operator or retailer, and no other person who is not licensed under the provisions of this chapter, shall sell, offer for sale, display for sale, ship, store, import, transport, carry or possess with or without intent to sell, any tobacco products not properly stamped under RSA 78:12 or 78:13, except as provided in ***RSA 78:9-b or*** RSA 78:12, II. This section shall not prevent any unlicensed person able to purchase unstamped tobacco products [by statute] ***under RSA 78:9-b or RSA 78:12, II*** from possessing such products for his ***or her*** own use or consumption. The provisions of this section shall not apply to common carriers transporting unstamped tobacco products. Any person who violates the provisions of this section shall be guilty of a felony.

10 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products. RSA 78:16 is repealed and reenacted to read as follows:

78:16 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products.

I. Tobacco products found at any place in this state without the necessary stamps affixed to them shall be seized and subject to destruction. The commissioner or designee shall have the power to immediately seize unstamped tobacco products.

II. Upon seizure, an administrative proceeding before the department shall be scheduled to afford the owner of the seized tobacco product a hearing regarding the seizure. If the seized tobacco product is determined to be contraband, then it shall be destroyed no sooner than 45 days after the expiration of any right of appeal.

III. Upon the determination that the unstamped tobacco product is contraband under paragraph II and if the contraband tobacco product bears identification of a particular manufacturer, the commissioner shall notify that manufacturer and that manufacturer shall be allowed to inspect such contraband tobacco within 30 days to determine the authenticity of such product. If the contraband is authentic, it shall be destroyed. If the contraband is determined to be counterfeit, then it shall be given to the manufacturer as evidence of infringement of their product.

IV. Paragraph I shall not apply to the possession of tobacco products:

- (a) That are exempt under RSA 78:12, II;
- (b) By anyone who has been issued a receipt under RSA 78:9-b, III;
- (c) By a licensed manufacturer or wholesaler; or

(d) By a common carrier from a bonded warehouse and consigned to a licensed manufacturer, a licensed wholesaler, or anyone exempted by statute.

V. The commissioner shall adopt rules, under RSA 541-A, relative to the seizure, hearing, notice to manufacturers, and destruction of contraband tobacco products.

VI. Nothing in this section shall preclude the seizure of any unstamped tobacco product by law enforcement officers under RSA 617.

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

2006-0496s

AMENDED ANALYSIS

This bill makes a variety of changes to the laws governing sale of tobacco products in this state.

MOTION TO TABLE

Senator Johnson moved to have SB 107-FN laid on the table.

Adopted.

LAID ON THE TABLE

SB 107-FN, relative to the sale of tobacco products.

SB 225-FN-A, establishing video lottery. Ways and Means Committee. Ought to pass with amendment, Vote 3-1. Senator D'Allesandro for the committee.

Senate Ways and Means

January 19, 2006

2006-0494s

04/01

Amendment to SB 225-FN-A

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

AN ACT relative to horse and dog racing.

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

1 Horse and Dog Racing; Restriction on Gambling. Amend RSA 284:17-c to read as follows:

284:17-c Restriction on Gambling. Notwithstanding any other provision of law, except as provided in RSA 284:22-a and in the introductory paragraph of RSA 284:22, no licensee who holds running horse races shall at the same facility hold any other kinds of races or permit any other type of gambling except harness horse races and activities licensed by the lottery commission *or the pari-mutuel commission*.

2 Horse and Dog Racing; Pari-Mutuel Pools on Simulcast Racing. Amend RSA 284:22-a, II(a)(3) to read as follows:

(3) The licensee has scheduled at least ~~[100]~~ **50 calendar** days of live racing in the calendar year in which the licensee simulcasts, or if the licensee does not have scheduled at least ~~[100]~~ **50 calendar** days of live racing in such calendar year, the licensee conducts live racing on the day on which the licensee simulcasts; and

3 Horse and Dog Racing; Pari-Mutuel Pools on Simulcast Racing. Amend RSA 284:22-a, IV to read as follows:

IV. A licensee which has scheduled less than ~~[100]~~ **50 calendar** days of live racing in a calendar year may simulcast on a day on which live racing is scheduled at the licensee's race track, without conducting live racing, provided that the live racing program is cancelled due to weather or other conditions which produce unsafe conditions at the racetrack of the licensee. The determination to cancel a live program based upon weather or the condition of the racetrack shall be made by the licensee, and notice shall be provided to the commission. Notwithstanding the foregoing, a licensee which has scheduled less than ~~[100]~~ **50 calendar** days of live racing shall be limited to no more than 10 such cancellations in a calendar year.

4 Repeal. RSA 284:22-a, II(b), relative to the aggregate number of days of simulcast and live racing, is repealed.

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

2006-0494s

AMENDED ANALYSIS

This bill revises certain provisions pertaining to horse and dog racing.

Senator Johnson in the Chair.

Senator Bragdon moved the question.

The question is on the adoption of the committee amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Green.

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

The following Senators voted No: Boyce, Green, Roberge, Gatsas, Barnes.

Yeas: 18 - Nays: 5

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

Senator Gatsas Rule #42 on SB 225-FN.

Senator Letourneau is in opposition to the title of “establishing video lottery” and in favor of the title of “relative to horse and dog racing” in SB 225-FN-A.

SB 376-FN-A, relative to revenues dedicated to the education trust fund. Ways and Means Committee. Ought to Pass, Vote 3-0. Senator D’Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 296-FN, relative to recovery of public assistance. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 311-FN, relative to disclosure of the results of clinical trials. Health and Human Services Committee. Inexpedient to Legislate, Vote 4-0. Senator Fuller Clark for the committee.

Committee report of inexpedient to legislate is adopted.

SB 349, relative to the HIV/AIDS service delivery system. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

SB 358-FN, relative to an advanced registered nurse practitioner’s duty to warn of violent acts of patients. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 370-FN, relative to multidisciplinary child protection teams. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Fuller Clark for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 238, relative to assistance to members of the general court provided by the legislative budget assistant. Internal Affairs Committee. Ought to Pass, Vote 6-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

SB 295-FN, relative to registration of business entities. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

SB 332, making technical corrections to the uniform trust code and related statutes. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

Senate Judiciary
January 26, 2006
2006-0635s
08/01

Amendment to SB 332

Amend RSA 547:3, I (c) as inserted by section 2 of the bill by replacing it with the following:

(c) The interpretation and construction of wills and the interpretation, construction, modification, and termination of *those* trusts [~~as that term is defined~~] **described** in RSA 564-A:1, I.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 334, relative to the type of notice provided in court proceedings. Judiciary Committee. Ought to pass with amendment, Vote 6-0. Senator Clegg for the committee.

Senate Judiciary
January 25, 2006
2006-0590s
06/09

Amendment to HB 334

Amend RSA 514:14 as inserted by section 1 of the bill by replacing it with the following:

514:14 Notices. The court shall order notice to be given, in such manner as [~~they think fit~~] **due process of law requires**, of any petition, complaint, libel, application, or motion in writing filed therein, and no judgment [~~or~~], decree, **or ruling** shall be rendered thereon [~~without~~] **absent** compliance with such order.

2006-0590s

AMENDED ANALYSIS

This bill requires the court to give notice about certain proceedings in such manner as due process of law requires.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 413, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

Senate Judiciary
January 25, 2006
2006-0591s
09/01

Amendment to HB 413

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

1 Superior Court. Contingency Appointment of Chief Justice; Contingency. Amend 2004, 74:1-2 to read as follows:

74:1 Superior Court; Appointment of Chief Justice. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 28 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. ***The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.***

74:2 Contingency. Section 1 of this act shall take effect upon the date the next vacancy occurs in the position of superior court chief justice, ***provided that 2004, 240:4 has not taken effect.***

2 Superior Court Justices; Applicability; Contingency. Amend 2004, 240:4-5 to read as follows:

240:4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice~~[-appointed by the governor and council to a 5-year term,]~~ and 21 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

240:5 Applicability; Contingency. Any superior court justice appointed prior to July 1, 2004 shall retain his or her position until resignation, retirement, or removal pursuant to the New Hampshire constitution. As vacancies occur in superior court justice positions, the vacancies shall remain unfilled until the number of superior court justices is reduced to 22. Section 4 of this act shall take effect on the date on which the number of superior court justices is reduced from 23 to 22, ***provided that 2004, 74:1 has not taken effect.***

3 Superior Court Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 21 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.

4 Contingency. Section 3 of this act shall take effect upon the date the next vacancy occurs in the position of superior court chief justice or the date on which the number of superior court justices is reduced from 23 to 22, whichever occurs later.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4 of this act.

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

2006-0591s

AMENDED ANALYSIS

This bill establishes that the chief justice shall be appointed from among the associate justices of the superior court and may return to the position of associate justice upon resignation or the expiration of his or her term.

The bill also clarifies that the number of superior court associate justices is to be reduced to 21.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Burling Rule #42 on HB 413.

SB 269, ratifying certain actions at the 1996 Seabrook annual town meeting. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

SB 277-L, permitting seasonal camps to qualify as open space land for current use assessment. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Roberge for the committee.

Committee report of inexpedient to legislate is adopted.

SB 319, establishing a statutory county government commission. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Burling for the committee.

Public and Municipal Affairs
January 12, 2006
2006-0405s
10/05

Amendment to SB 319

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

AN ACT establishing a task force to study county government.

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

1 Task Force Established. There is established a task force to study county government.

2 Membership and Compensation.

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

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

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

(c) Two county commissioners, appointed by the New Hampshire Association of Counties.

(d) One mayor of a city and one selectmen of a town, appointed by the New Hampshire Municipal Association.

(e) One sheriff, appointed by the New Hampshire Sheriff's Association.

(f) The commissioner of the department of revenue administration, or designee.

(g) The commissioner of the department of health and human services, or designee.

(h) The commissioner of the department of corrections, or designee.

(i) Two public members, appointed by the governor.

II. Members of the task force shall serve without compensation, except that legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

3 Duties. The task force shall:

I. Undertake a broad study of the current functions of county government in New Hampshire, including but not limited to a determination of the total cost of operating county government functions, and shall also examine possible new functions of county government.

II. Investigate and determine whether any county government functions can be more efficiently accomplished by the state, or vice versa.

III. Analyze whether there is any duplication of services at the county and state levels that might be handled in a more efficient manner, and analyze whether there are efficiencies that might be accomplished through consolidation or restructuring of county and/or state functions.

IV. Propose changes to New Hampshire law concerning government functions performed at the county or state level.

V. Propose changes in the form of county government, including without limitation the constitution of county delegations, the method of selecting county delegates, the standardization of reporting the budgeting procedures, and other issues relating to uniformity in reporting county operations.

4 Scope of Study. It is the intention that this study authorizes the broadest possible review of county government functions, the ways in which those functions are paid for, and cost savings that might be recognized.

5 Chairperson; Meetings. The members of the study task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named senate member. The first meeting of the task force shall be held within 45 days of the effective date of this section.

6 Report. The task force shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2007.

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

2006-0405s**AMENDED ANALYSIS**

This bill establishes a task force to study county government.

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

SB 348, prohibiting the taking of arms and ammunition in a declared state of emergency. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Barnes for the committee.

Public and Municipal Affairs**January 11, 2006****2006-0385s****09/04****Amendment to SB 348**

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

1 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~~].

2 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.

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

2006-0385s**AMENDED ANALYSIS**

This bill clarifies that the state may not take possession of firearms, ammunition, and ammunition components in a declared state of emergency.

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

SB 248, establishing a committee to study the issuance of dealer plates to bonded motor vehicle dealers. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-1. Senator Flanders for the committee.

MOTION TO TABLE

Senator Letourneau moved to have SB 248 laid on the table.

Adopted.**LAID ON THE TABLE**

SB 248, establishing a committee to study the issuance of dealer plates to bonded motor vehicle dealers.

SB 270, relative to a certain motor vehicle plate. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 5-0. Senator Letourneau for the committee.

Committee report of inexpedient to legislate is adopted.

SB 357-FN, relative to eligibility for motorcycle licenses. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation
January 25, 2006
2006-0597s
03/01

Amendment to SB 357-FN

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

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 1248-FN, relative to the alteration of a portion of the town line between Milford and Amherst.

HB 1262, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield.

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use.

Senator D'Allesandro moved adoption.

Adopted.

RESOLUTION

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

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 200-FN, establishing the uniform athlete agents act.

SB 238, relative to assistance to members of the general court provided by the legislative budget assistant.

SB 249, allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.

SB 251, relative to the enforcement authority of the division of safety services.

SB 252, relative to certification of speech-language assistants for purposes of speech language pathology practice.

SB 255, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire.

SB 269, ratifying certain actions at the 1996 Seabrook annual town meeting.

SB 295-FN, relative to registration of business entities.

SB 319, establishing a task force to study county government.

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 335, relative to funds of the department of resources and economic development used for snowmobile trail grooming equipment.

SB 348, prohibiting the taking of arms and ammunition in a declared state of emergency.

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

SB 351-FN, declaring drowning as cruelty to animals.

SB 371-FN, relative to the continuation of certain wetlands fees.

SB 376-FN-A, relative to revenues dedicated to the education trust fund.

SB 387, relative to energy efficiency loans and guarantees by the business finance authority.

SB 388, relative to farm composting and pesticides.

HB 153-FN, relative to the collection of debts owed to the state.

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 582, relative to the policy for records management.

ANNOUNCEMENTS

Senator D'Allesandro (Rule #44).

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.