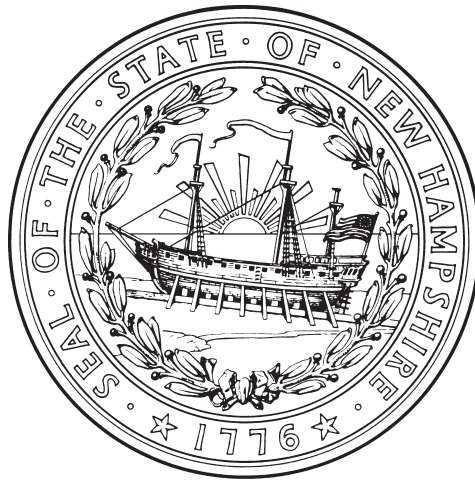


May 31, 2007
Nos. 18 - 19

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – MAY 24, 2007 SESSION
COMMENCEMENT – MAY 31, 2007 SESSION

SENATE JOURNAL 18 (*Cont.*)

May 24, 2007

HOUSE MESSAGE

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

SB 72-L, relative to standards for public school approval.

SB 126-N-A, relative to motor vehicle fines.

SB 148-FN, relative to retirement system status for members of the university system police force.

SB 155, relative to insurance coverage for chiropractic services.

SB 167-FN, relative to the licensure of medical assistants by the board of nursing.

SB 175-FN-A, establishing an apprentice hunting license.

SB 180, relative to local regulation of persons soliciting contributions on streets.

SB 186-FN, establishing a committee to study a state elderly homeowner property tax credit.

SB 232-FN, relative to profits from the prison industries program.

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 428, prohibiting the combustion of the wood component of construction and demolition debris and defining construction and demolition debris and transfer station.

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 41, relative to human immunodeficiency virus education, prevention, and control.

HB 99, relative to the youth employment law.

HB 101, relative to annual training for members of the workers' compensation appeals board.

HB 117, creating an exception for the storage of black gunpowder by historical reenactors and certain non-profit entities.

HB 158, requiring insurance companies to allow covered persons to purchase an up-to-90-day supply of covered prescription drugs on the covered person's health plan formulary under certain circumstances.

HB 189, relative to swim lines in public waters.

HB 243, relative to a rabies immunization exemption.

HB 311, establishing a committee to review liability issues for commuter rail operations.

HB 394-FN, relative to notice to defendants in small claims actions.

HB 428, prohibiting the combustion of the wood component of construction and demolition debris and defining construction and demolition debris and transfer station.

HB 566-FN-L, relative to the housing of inmates in county correctional facilities.

HB 571-FN, relative to full-time seasonal state employees.

HB 588-FN-L, relative to Cates Hill Road and Jericho Lake Road in the city of Berlin.

HB 608-FN, relative to the number of ballots furnished by the secretary of state for a state general election.

HB 629-FN, relative to authorizing continued membership in the Manchester employees' contributory retirement system, and relative to the Nashua public works retirement system.

HB 701, relative to the definition of a school district in the case of unincorporated towns or unorganized places.

HB 714-FN, relative to motorized watercraft rental agencies.

HB 753-FN-A, relative to the electronic toll collection transponder inventory fund.

HJR 1, urging that more veterans' mental health counseling centers be established in New Hampshire and urging that funding be continued for the Manchester Veterans' Center.

Senator D'Allesandro moved adoption.

Adopted.

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 19

May 31, 2007

The Senate met at 10:00 a.m.

A quorum was present.

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

Good Lord, in the midst of the swift and varied changes of life, when we need to choose, enlighten us and when we need amending, amend us. *Amen*

Senator D'Allesandro led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SPECIAL ORDER

HB 38, relative to terms of appointment for certain state officers. Executive Departments and Administration Committee. Ought to Pass, Vote 3-1. Senator Burling for the committee.

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

A roll call was requested by Senator Gatsas.

Seconded by Senator Clegg.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Kelly, Gottesman, Foster, Larsen, DeVries, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Odell, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

Yeas: 13 - Nays: 11

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Janeway moved to have HB 903-FN removed from the table.

Adopted.

HB 903-FN, prohibiting delivery of oil to non-compliant underground storage facilities.

The question is on the adoption of the floor amendment (#1795).

A roll call was requested by Senator Foster.

Seconded by Senator Gottesman.

The following Senators voted Yes: Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Larsen, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Clegg, Gatsas.

Yeas: 21 - Nays: 3

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Clegg is in opposition to HB 903-FN.

COMMITTEE REPORTS

HB 281, relative to the cancellation of buying club memberships. Commerce, Labor and Consumer Protection Committee. Re-refer to committee, Vote 6-0. Senator Barnes for the committee.

Adopted.

HB 281 is re-referred to the Commerce, Labor and Consumer Protection Committee.

HB 365, establishing a commission to study foreclosures of home mortgages and the foreclosure rescue scam industry. Commerce, Labor and Consumer Protection Committee. Ought to pass with amendment, Vote 6-0. Senator Gottesman for the committee.

Commerce, Labor and Consumer Protection

May 23, 2007

2007-1782s

08/09

Amendment to HB 365

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

AN ACT regulating the practice of foreclosure consultants and pre-foreclosure conveyances.

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

1 New Chapter; Foreclosure Consultation. Amend RSA by inserting after chapter 479-A the following new chapter:

CHAPTER 479-B

FORECLOSURE CONSULTANTS AND PRE-FORECLOSURE CONVEYANCES

479-B:1 Definitions. In this chapter:

I. "Foreclosure consultant" means any person or any agent or employee of such person who provides a foreclosure consulting service:

II. "Foreclosure consulting contract" means a written, oral, or constructive agreement between a foreclosure consultant and a homeowner for the provision of any foreclosure consulting service or pre-foreclosure conveyance.

III. "Foreclosure consulting service" means:

(a) An effort undertaken on behalf of or for the benefit of a homeowner to delay or prevent the loss of a home because of a mortgage default, delinquency, foreclosure, or execution of a tax deed.

(b) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure;

(c) Contacting mortgagees or other creditors secured by a homeowner's primary residence on behalf of the homeowner;

(d) Arranging or attempting to arrange for an extension of the period within which a homeowner may cure the homeowner's default and reinstate the homeowner's obligation;

(e) Arranging or attempting to arrange for any delay or postponement of the sale of a residence in foreclosure;

(f) Arranging or facilitating the purchase of a homeowner's legal or equitable title or any property interest in a homeowner's residence within 30 days of:

(1) The publication or letter of notice of a foreclosure sale; or

(2) The letter notice of a municipality's intent to execute a tax deed.

(g) Arranging or facilitating any transaction through which a homeowner will become a lessee, optionee, life tenant, partial homeowner, or vested or contingent remainderman of the homeowner's residence;

(h) Arranging or facilitating the sale of a homeowner's residence or transfer of legal title and any property interest in a homeowner's residence, in any form, to another party as an alternative to foreclosure;

(i) Arranging for a homeowner to have an option to repurchase the homeowner's residence after a sale or transfer; or

(j) Arranging for or facilitating a homeowner remaining in the homeowner's residence as a tenant, renter, or lessee.

IV. "Pre-foreclosure purchaser" means any person or any person acting in concert with such person, who acquires title or possession of a deed or other interest in a residence in foreclosure as a result of a pre-foreclosure conveyance, or any person who participates in joint venture or joint enterprise involving a pre-foreclosure conveyance.

V. "Pre-foreclosure conveyance" means a transaction involving:

(a) The transfer of title to real property by a homeowner during or incident to a proposed foreclosure or execution of a tax deed, either by transfer of any interest from the homeowner to another party or by creation of a mortgage, trust, or other lien or encumbrance during the foreclosure process, that allows the acquirer to obtain legal or equitable title to all or part of the property; and

(b)(1) The transaction includes the subsequent conveyance, the promise of a subsequent conveyance, or a right to a subsequent conveyance of an interest back to the homeowner from the acquirer or a person acting in participation with the acquirer, including an interest in a contract for deed, purchase agreement, land installment sale, contract for sale, option to purchase, sale/leaseback, trust, or other contractual arrangement; or

(2) The transaction does not pay or otherwise fully satisfy the debt which is being foreclosed.

VI. "Homeowner" means any owner or co-owner of a residence who is facing the loss of a home due to default, acceleration, or foreclosure of a deed of trust, mortgage, lien, or similar instrument or due to the notice, auction, or execution of a tax deed.

VII. "Person" means an individual, corporation, governmental subdivision or agency, business trust, estate, trustee for a trust, partnership, association, limited liability company, joint venture, government, or any other legal or commercial entity or agent.

VIII. "Residence in foreclosure" means residential real property consisting of not more than 4 dwelling units, one of which the owner occupies as his or her principal place of residence, where a loan secured by the home is in default, or where real property taxes are delinquent.

IX. "Settlement" means an in-person meeting with the homeowner to complete final documents incident to the sale or transfer of real property, or the creation of a mortgage or equitable interest in real property, conducted by a settlement agent who is not employed by or an affiliate of the pre-foreclosure purchaser.

X. "Execution of tax deed" means the procedures by which residential property is executed to a tax lienholder under RSA 80:76 or executed to a tax sale purchaser under RSA 80:38.

479-B:2 Foreclosure Consulting Contracts.

I. A foreclosure consultant shall not enter into any agreement or provide any services on behalf of a homeowner until the homeowner has executed a foreclosure consulting contract. A foreclosure consulting contract shall:

(a) Be provided to the homeowner for review before signing;

(b) Be written in the same language that is spoken by the homeowner if the homeowner is unable to adequately understand or to express himself or herself in the spoken or written English language;

(c) Fully disclose the exact nature of the foreclosure consulting services to be provided, including any pre-foreclosure conveyance that may be involved, and the total amount and terms of any compensation to be received by the foreclosure consultant or any other person involved in the transaction; and

(d) Be dated and personally signed by the homeowner and the foreclosure consultant and be witnessed and acknowledged by a notary public or justice of the peace appointed and commissioned by the State of New Hampshire.

II. The contract shall contain on the first page:

(a) The name, mailing address, physical address, electronic address, and facsimile number of the foreclosure consultant to which the notice of cancellation is to be mailed; and

(b) The date the homeowner signed the contract.

III. The contract shall be accompanied by a "notice of cancellation," which must be attached to the contract, be easily detachable, and explain the homeowner's right to cancel the contract and how to exercise that right. Each homeowner shall be given 2 copies of the completed notice of cancellation.

IV. The foreclosure consultant shall provide the homeowner with a signed and dated copy of the contract and the attached notice of cancellation immediately upon execution of the contract.

V. Any provision in a foreclosure consulting contract that attempts or purports to waive any of the rights specified in this chapter are void.

479-B:3 Pre-foreclosure Conveyances.

I. No pre-foreclosure conveyance shall transfer any interest in real property unless the homeowner has received, at least 72 hours prior to his or her execution of conveyance documents, a document entitled "notice of loss of ownership."

II. The document entitled "notice of loss of ownership" shall:

(a) Contain the entire agreement of the parties;

(b) Be written in the same language that is spoken by the homeowner if the homeowner is unable to adequately understand or to express himself or herself in the spoken or written English language;

(c) Be dated and personally signed by the homeowner and the pre-foreclosure purchaser and witnessed and acknowledged by a notary public or justice of the peace appointed and commissioned by the state of New Hampshire;

(d) Describe in detail the terms of the pre-foreclosure conveyance including:

(1) The name, mailing address, physical address, electronic address, telephone number, and facsimile number of the person to whom the deed or title will be transferred;

(2) The address of the residence in foreclosure;

(3) The total consideration to be paid by the pre-foreclosure purchaser, the foreclosure consultant, and any other party as a result of the transfer, and the total consideration paid to the homeowner, with a specific dollar amount stated for each figure;

(4) The date on which title is to be transferred to the pre-foreclosure purchaser and the terms of any conveyance;

(5) Any financial or legal obligations that the homeowner may remain subject to, such as any mortgages, liens, or other obligations that will remain or be assumed pursuant to the transaction, and an affirmation by the pre-foreclosure purchaser that:

(A) The terms of the remaining or assumed obligations are not violated by the pre-foreclosure conveyance; and

(B) The pre-foreclosure conveyance will not cause a default in the remaining or assumed obligations;

(6) A description of any services of any nature that the pre-foreclosure purchaser will perform for the homeowner before or after the sale or transfer;

(7) A complete description of the terms of any related agreement designed to allow the homeowner to remain in the home, including the terms of any rental agreement, repurchase agreement, contract for deed, land installment contract, or option to buy, and any provisions for eviction or removal of the homeowner with an affirmation by the pre-foreclosure purchaser that he or she has verified and can demonstrate that the homeowner has the ability to perform the transaction in a timely manner; and

(8) The amount of any repurchase price or fee associated with any transfer of title or deed back to the homeowner and how that fee will be calculated; and

(e) Contain a statement, located in immediate proximity to the space reserved for the homeowner's signature, stating: "You have a right to cancel this transaction within 5 business days. If you cancel, you must pay within 60 days \$____, which is the amount paid to your lender to stop the foreclosure sale or to the municipality, county, or state to prevent execution of a tax deed."

III. The pre-foreclosure purchaser shall also provide each homeowner with two copies of a notice of right to cancel transfer of deed or title immediately on execution of any document that includes a pre-foreclosure conveyance. The notice must be attached to the contract, be easily detachable, and explain the homeowner's right to cancel the contract and how to exercise that right. Each homeowner must be given two copies of the completed notice of right to cancel transfer of deed or title.

IV. Any provision in a foreclosure consulting contract or other agreement concerning a pre-foreclosure conveyance that attempts to waive the homeowner's rights under this section is void.

V. A pre-foreclosure conveyance may not be carried out using a power of attorney from the homeowner to the pre-foreclosure purchaser or any agent or employee of or person acting in concert with the pre-foreclosure purchaser.

479-B:4 Right of Cancellation.

I. In addition to any other right under law to cancel or rescind a contract, a homeowner has the unconditional right to:

(a) Cancel a foreclosure consulting contract at any time; and

(b) Cancel a pre-foreclosure conveyance at any time before midnight of the fifth business day after the latter of:

(1) Any conveyance, or transfer in any manner, of a legal or equitable property interest in a residence in foreclosure; or

(2) Delivery of the notices required for pre-foreclosure conveyance.

II. Notwithstanding any other provision of the chapter, the homeowner's right of cancellation shall expire upon the sale of the residence to a third party.

III. Subject to the limitation of paragraph II, during the pre-foreclosure conveyance cancellation period, no deed or other document affecting title to the homeowner's residence may be recorded, and no interest in the property may be encumbered, transferred, or assigned in any manner.

IV. Cancellation occurs when the homeowner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract or through any facsimile or electronic mail address identified in the contract or other materials provided to the homeowner by the foreclosure consultant.

V. Notice of cancellation, if given by mail, is effective when deposited in the United States mail, properly addressed, with postage prepaid. If notice is given by facsimile or electronic mail, it is effective when successfully transmitted.

VI. Notice of cancellation need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the homeowner to cancel the foreclosure consulting contract or pre-foreclosure conveyance.

VII. As part of the cancellation of a foreclosure consulting contract or pre-foreclosure conveyance, the homeowner shall repay, within 60 days from the date of cancellation or such longer period of time as may be deemed equitable by the court, any funds paid by a foreclosure consultant under the terms of the foreclosure consulting contract or pre-foreclosure conveyance, to a lender to stop or delay the foreclosure, or to stop the execution of a tax deed.

VIII. The right to cancel and the return of any property interest to the homeowner may not be conditioned on the repayment of any funds.

IX. The period during which a homeowner may cancel a pre-foreclosure conveyance does not commence until each homeowner has received clear, conspicuous and accurate copies of all notices and documents required by this chapter.

X. Within 5 days after receipt of a notice of cancellation given in accordance with this chapter, the pre-foreclosure purchaser shall return, without condition, any original deed, title, contract, and any other document signed by the homeowner.

479-B:5 Unlawful Practices.

I. A foreclosure consultant shall have a fiduciary duty to the homeowner who retains his or her services and shall not act contrary to the interest of the homeowner.

II. A foreclosure consultant may not:

(a) Enter any agreement or provide any services on behalf of a homeowner until the homeowner has executed a foreclosure consulting contract;

(b) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform;

(c) Claim, demand, charge, collect, or receive any interest or any other compensation for any loan without being licensed to lend money in New Hampshire;

(d) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security is null and void;

(e) Receive any consideration from any third party in connection with foreclosure consulting services provided to a homeowner unless the consideration is first fully disclosed in writing to the homeowner and the third party's interest do not conflict with the homeowner's or create a conflict between the consultant and the homeowner;

(f) Acquire any interest, directly or indirectly, or by means of a subsidiary, affiliate, or corporation in which the foreclosure consultant or a member of the foreclosure consultant's immediate family is a primary stockholder, in a residence in foreclosure from a homeowner with whom the foreclosure consultant has contracted;

(g) Take any power of attorney from a homeowner for any purpose, except to inspect documents as provided by law;

(h) Induce or attempt to induce any homeowner to enter into a foreclosure consulting contract that does not comply in all respects with this chapter; or

(i) Create or facilitate a transaction which would violate a homeowner's current deed of trust or other security interest, or which would constitute a default or cause a foreclosure or an acceleration of the debt secured by those agreements.

III. A pre-foreclosure purchaser may not:

(a) Enter into, or attempt to enter into, a pre-foreclosure conveyance with a homeowner unless:

(1) The pre-foreclosure purchaser verifies and can demonstrate that the homeowner has or will have a reasonable ability to pay for the subsequent reconveyance of the property back to the homeowner on completion of the terms of a pre-foreclosure conveyance, and if the pre-foreclosure conveyance provides for a lease with an option to repurchase the property, the homeowner has or will have a reasonable ability to make the lease payments and to repurchase the property within the term of the option to repurchase; and

(2) The pre-foreclosure purchaser and the homeowner complete a formal settlement before any transfer of an interest in the property is effected;

(b) Assign or transfer or facilitate the assignment or transfer of any interest in the homeowner's property until the requirements of this chapter have been met. Any such transfer or assignment shall be null and void;

(c) Obtain any interest in the homeowner's property on terms which would violate a homeowner's current deed of trust or other security interest, or which would constitute a default or cause a foreclosure or acceleration of the debt secured by those agreements.

(d) Fail to:

(1) Ensure that title to the property has been reconveyed to the homeowner in a timely manner if this chapter or the terms of a pre-foreclosure conveyance agreement require a reconveyance; or

(2) Sell the property, if allowed under the terms of the conveyance, at a bona fide market sale to an unaffiliated third party;

(3) Make payment to the homeowner within 90 days of any resale of the property so that the homeowner receives cash payments or consideration in an amount equal to at least 90 percent of the net proceeds from any resale of the property should a property subject to a pre-foreclosure conveyance be sold within 36 months after entering into a pre-foreclosure conveyance agreement;

(e) Represent, directly or indirectly, that:

(1) The pre-foreclosure purchaser is acting as an advisor or a consultant, or in any other manner represent that the pre-foreclosure purchaser is acting on behalf of the homeowner;

(2) The pre-foreclosure purchaser has certification licensure or affiliations that the pre-foreclosure purchaser does not have;

(3) The foreclosure purchaser is assisting the homeowner avoid the loss of ownership, to "save the house," or a substantially similar phrase;

(f) Until the homeowner's right to cancel the transaction has expired:

(1) Record any document transferring or encumbering any interest in the home; or

(2) Transfer or encumber or purport to transfer or encumber any interest in the residence to any third party.

IV.(a) The pre-foreclosure purchaser shall make a detailed accounting of the basis for the amount of a payment made to the homeowner of a property resold within 36 months after entering into a pre-foreclosure conveyance agreement.

(b) The accounting shall include detailed documentation of expenses and other consideration paid by the pre-foreclosure purchaser and deducted from the resale price.

479-B:6 Waiver of Rights Prohibited.

I. A person may not induce or attempt to induce a homeowner to waive the homeowner's rights under this chapter.

II. Any waiver by a homeowner of the provisions of this chapter is void and unenforceable as contrary to public policy.

479-B:7 Maintenance of Rights Against Transferee. Any agreement, encumbrance, assignment or transfer of any interest in violation of this chapter shall be voidable at the option of the homeowner, until the time of a completed conveyance to a third party.

479-B:8 Violation of the Consumer Protection Act. A violation of this chapter is considered to be a violation of the New Hampshire consumer protection act, RSA 358-A, and all remedies of the consumer protection act are available for such violations.

479-B:9 Criminal Penalties. A person who violates any provision of this chapter is guilty of a class A misdemeanor.

479-B:10 Contracts and Notices.

I. All disclosures, contracts, and notices required by this chapter shall be made clearly and conspicuously in language comprehensible by persons without training or knowledge in the area of real property and finance.

II. All notices required by this chapter, other than the homeowner's notice that he or she is canceling a contract, shall be printed in at least 14-point type.

III. Notices of cancellation that are required by this chapter to accompany certain contracts shall be their own separate documents, not printed on the back of any other document.

479-B:11 Exemptions.

I. The provisions of this chapter shall not apply to:

(a) An individual admitted to practice law in New Hampshire, who has been retained by the homeowner to represent the homeowner's interest;

(b) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure while the person performs services in connection with the obligation or lien, if the obligation or lien did not arise as a result of a pre-foreclosure conveyance;

(c) Any bank, trust company, savings and loan association, credit union, or insurance company chartered under the laws of any state or the United States or any subsidiary, affiliate or agency thereof;

(d) A judgment creditor of the homeowner;

(e) A person licensed as a mortgage banker or mortgage broker while engaged in any activity for which the person is licensed under RSA 397-A;

(f) A person licensed as a real estate broker, associate real estate broker, or real estate salesperson, while engaged in any activity for which the person is licensed under RSA 331-A; or

(g) A nonprofit organization that offers counseling or advice to homeowners in foreclosure or loan default, if the organization is not directly or indirectly related to and does not contract for services with for-profit lenders, foreclosure consultants, or pre-foreclosure purchasers.

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

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AMENDED ANALYSIS

This bill establishes the regulation of foreclosure consultants and regulates pre-foreclosure conveyancing. The bill establishes criminal and civil penalties for violations.

Senator Foster Rule #42 on HB 365.

Amendment adopted.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

May 31, 2007

2007-1993s

08/09

Floor Amendment to HB 365

Amend RSA 479-B:1, I as inserted by section 1 of the bill by replacing it with the following:

I. "Foreclosure consultant" means any person, or any person acting in concert with such person, or any agent or employee of such person who provides a foreclosure consulting service:

Amend RSA 479-B:1, V as inserted by section 1 of the bill by replacing it with the following:

V. "Pre-foreclosure conveyance" means a transaction involving:

(a) The transfer of title to real property or a beneficial interest in the property by a homeowner to delay or prevent a mortgage default or delinquency, foreclosure, or execution of a tax deed, either by transfer of any interest from the homeowner to another party or by creation of a mortgage, trust, or other lien or encumbrance during the foreclosure process, that allows the acquirer to obtain legal or equitable title to all or part of the property; and

(b)(1) The transaction includes the subsequent conveyance, the promise of a subsequent conveyance, or a right to a subsequent conveyance of an interest back to the homeowner from the acquirer or a person acting in participation with the acquirer, including an interest in a contract for deed, purchase agreement, land installment sale, contract for sale, option to purchase, sale/leaseback, trust, or other contractual arrangement; or

(2) The transaction does not pay or otherwise fully satisfy the homeowner's obligations under any existing note and mortgage securing such note.

Amend RSA 479-B:11 as inserted by section 1 of the bill by replacing it with the following:

479-B:11 Exemptions.

I. The provisions of this chapter shall not apply to:

- (a) A duly licensed attorney at law acting on behalf of a client;
- (b) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure while the person performs services in connection with the obligation or lien, if the obligation or lien did not arise as a result of a pre-foreclosure conveyance;
- (c) Any bank, trust company, savings and loan association, credit union, or insurance company chartered under the laws of any state or the United States or any subsidiary, affiliate or agency thereof;
- (d) A prejudgment or post-judgment lien creditor of the homeowner;
- (e) A person licensed as a mortgage banker or mortgage broker while engaged in any activity for which the person is licensed under RSA 397-A;
- (f) A person licensed as a real estate broker, associate real estate broker, or real estate salesperson, while engaged in any activity for which the person is licensed under RSA 331-A;
- (g) A nonprofit organization or government entity that offers counseling or advice to homeowners in foreclosure or loan default, if the organization is not directly or indirectly related to and does not contract for services with for-profit lenders, foreclosure consultants, or pre-foreclosure purchasers; or
- (h) A creditors' committee or trustee participating in a place of reorganization or repayment through a proceeding under the jurisdiction of the United States Bankruptcy Court.

Senator Foster Rule #42 on HB 365.

Floor amendment adopted.

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

A roll call was requested by Senator Hassan.

Seconded by Senator Fuller Clark.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 23 - Nays: 0

Senator Foster Rule #42 on HB 365.

Adopted.

Ordered to third reading.

SPECIAL ORDER

Senator Larsen moved that without objection HB 533 be Special Ordered to the end of Transportation.

HB 533, relative to Occupational Safety and Health Administration certification requirements for state contracts. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Cilley for the committee.

HB 536, relative to the regulation of martial arts schools. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Cilley for the committee.

Adopted.

Ordered to third reading.

HB 272, relative to presidential primary elections. Election Law and Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Burling for the committee.

Election Law and Internal Affairs

May 23, 2007

2007-1790s

03/01

Amendment to HB 272

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

AN ACT relative to presidential primary elections and relative to election affidavits.

Amend the bill by replacing section 2 with the following:

2 Absentee Voting; Application; Forms. Amend RSA 657:4, I to read as follows:

I. Absence (Excluding Absence Due to Residence Outside the Continental United States), Religious Observance, and Disability:

New Hampshire law requires that you vote in person at the polling place for your town or ward unless you:

a. Plan to be absent on the day of the election from the city, town, or unincorporated place in which you are registered to vote.

b. Cannot appear in public on election day because of observance of a religious commitment.

c. Are unable to vote in person due to a disability.

d. Cannot appear at any time during polling hours at your polling place because an employment obligation requires you to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close.

RSA 657:1. Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an absentee ballot for the following election:

_____ State Primary. I am member of the:

_____ Republican Party

_____ Democratic Party

or I am now declaring my affiliation with that party and am requesting a ballot for that party's primary.

_____ General Election

Applicant's Name _____
(Last) (First) (Middle) (DOB)

Applicant's Voting Domicile (home address):

(Street) (City/Town) (zip)

Mail the ballot to me at this address: _____

I hereby declare that:

_____ I am a duly qualified voter who is currently registered to vote in this town/ward.

_____ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

I will be entitled to vote by absentee ballot at the election designated above because:

_____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

_____ ***I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.***

_____ I cannot appear in public on election day because of observance of a religious commitment.

_____ I am unable to vote in person due to a disability.

_____ I cannot appear at any time during polling hours at my polling place because an employment obligation requires me to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close.

This application form must be signed by the applicant. The absentee ballot forms you receive will require you to sign an affidavit confirming that you are entitled to vote by absentee ballot due to one of the reasons stated above. The moderator is required to compare the signature on the affidavit to your signature on this form. The absentee ballot will not be counted if the affidavit and this form do not appear to have been signed by the same person. RSA 659:50.

Signature of the Applicant

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

4 Election Dates; Presidential Primary Election. Amend RSA 653:9 to read as follows:

653:9 Presidential Primary Election. The presidential primary election shall be held on the second Tuesday in March or on a ~~Tuesday~~ **date** selected by the secretary of state which is 7 days or more immediately preceding the date on which any other state shall hold a similar election, whichever is earlier, of each year when a president of the United States is to be elected or the year previous. Said primary shall be held in connection with the regular March town meeting or election or, if held on any other day, at a special election called by the secretary of state for that purpose.

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

5 Challenges; Swearing of Affidavit. Amend RSA 659:30 to read as follows:

659:30 Affidavit. The affidavit of a challenged voter, a voter citizenship affidavit, a voter domicile affidavit, or any other affidavit required by the election statutes may be sworn before ***any person authorized by law to administer oaths or before*** any election officer.

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

2007-1790s

AMENDED ANALYSIS

This bill:

I. Modifies dates for the filing names of addresses of presidential delegates and for mailing special overseas and armed services election write-in ballots.

II. Permits a person to request an absentee ballot for a presidential primary election before the date of the election has been announced.

III. Permits the secretary of state to schedule the presidential primary on a day other than Tuesday.

IV. Eliminates the requirement that election affidavits be sworn before an election officer.

Senator Bragdon moved to divide the question.

The Chair ruled that the question is divisible.

Senator Larsen moved that without objection we vote on adoption of sections 2, 4 & 6.

Adopted.

The question is on the adoption of section 5.

A roll call was requested by Senator Clegg.

Seconded by Senator Bragdon.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Odell, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 14 - Nays: 10

Adopted.

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

A roll call was requested by Senator Foster.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 15 - Nays: 9

Adopted.

Ordered to third reading.

HB 367, relative to incompatible offices. Election Law and Internal Affairs Committee. Re-refer to committee, Vote 4-0. Senator Letourneau for the committee.

Adopted.

HB 367 is re-referred to the Election Law and Internal Affairs Committee.

HCR 5, endorsing the National Health Insurance Act. Election Law and Internal Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator Cilley for the committee.

Committee report of inexpedient to legislate is adopted.

HB 119, relative to the sunset provision of the system benefits charge. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Sgambati for the committee.

Sen. Burling, Dist. 5

May 11, 2007

2007-1600s

06/09

Amendment to HB 119

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

AN ACT relative to the sunset provision of the system benefits charge and the use of funds to pay administrative costs.

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

2 Administrative Costs. 2005, 298:6, II is repealed and reenacted to read as follows:

II. No funds made available in section 2 of this act shall be used by any community action agency to pay administrative costs except those administrative costs associated with providing electric assistance to more than 30,000 households, and those costs directly associated with implementing software changes necessary to effectuate this emergency assistance program.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

2007-1600s**AMENDED ANALYSIS**

This bill:

I. Repeals the sunset provision of the system benefits charge.

II. Limits the administrative costs that may be paid with system benefits charge funds.

Amendment adopted.

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

A roll call was requested by Senator Hassan.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 318, relative to large groundwater withdrawals. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Cilley for the committee.

Adopted.

Ordered to third reading.

Senator Hassan Rule #42 on HB 318.

HB 319, relative to emergency permits for projects funded through the Emergency Watershed Protection Program. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Energy, Environment, and Economic Development

May 23, 2007

2007-1787s

06/01

Amendment to HB 319

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

AN ACT relative to permits for projects funded through the Emergency Watershed Protection Program.

Amend RSA 482-A:11, X as inserted by section 1 of the bill by replacing it with the following:

X. The department shall have the authority to grant permits, in accordance with the rules adopted under RSA 482-A:11, VI for expedited application and permitting, for any projects funded through the Emergency Watershed Protection Program of the Natural Resources Conservation Service, United States Department of Agriculture, when such projects are necessary to safeguard lives and property from floods and the products of erosion when a natural disaster is causing or has caused a sudden impairment of the watershed.

2007-1787s

AMENDED ANALYSIS

This bill allows the department of environmental service to issue permits for certain necessary projects.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 447, relative to net energy metering. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

HB 549, relative to accepting a purchase and sale agreement on developed waterfront property. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 689, establishing a commission to study production and distribution of biodiesel fuel in New Hampshire. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 2-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

HB 694, establishing a commission to study the feasibility of tidal power generation under the Little Bay and General Sullivan Bridges, in Dover. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Fuller Clark for the committee.

Energy Environment, and Economic Development

May 21, 2007

2007-1740s

08/05

Amendment to HB 694

Amend paragraph I as inserted in section 2 of the bill by inserting after subparagraph (p) the following new subparagraph:

(q) One member from the office of the consumer advocate, appointed by that office.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 710, establishing a commission to study issues relative to the practice of leasing state-owned real estate on the shores of public waters. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 2-0. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24

May 7, 2007

2007-1478s

03/09

Amendment to HB 710

Amend subparagraph I(b) of section 2 of the bill by replacing it with the following:

(b) One member of the senate, appointed by the president of the senate.

Amend paragraph I of section 2 of the bill by inserting after subparagraph (o) the following new subparagraph:

(p) One representative of current lessees under RSA 228:57-a, appointed by the commissioner of transportation.

Amend the bill by replacing section 5 with the following:

5 Report. The commission shall report its findings and any recommendations for proposed legislation in an interim report to the chairman of the long range capital planning and utilization committee, the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the commissioner of transportation, the commissioner of environmental services, the director of the office

of energy and planning, and the state library on or before November 1, 2007. The commission shall report its findings and any recommendations for proposed legislation in a final report to the chairman of the long range capital planning and utilization committee, the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the commissioner of transportation, the commissioner of environmental services, the director of the office of energy and planning, and the state library on or before November 1, 2008.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 722, relative to the rivers management protection program. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Fuller Clark for the committee.

Energy, Environment and Economic Development

May 22, 2007

2007-1774s

06/01

Amendment to HB 722

Amend RSA 483:10-a as inserted by section 7 of the bill by replacing it with the following:

483:10-a Long-Range River Management Plans. The department shall prepare and adopt a long-range comprehensive plan for each designated river or segment which shall address the management and protection of instream values and *the management of* state-owned lands within the corridor *and tributary drainage areas thereof. Such* state-owned land within the designated river corridor *and tributary drainage areas* shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall be consistent with the plan. In developing this plan, the department shall cooperate with the department of resources and economic development, the department of fish and game, the office of energy and planning, the department of agriculture, markets, and food, *the department of transportation*, and the local rivers management advisory committee.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 768, relative to voluntary registration with the Eastern Climate Registry. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Energy, Environment, and Economic Development

May 21, 2007

2007-1731s

08/04

Amendment to HB 768

Amend RSA 125-L:3 as inserted by section 2 of the bill by replacing it with the following:

125-L:3 Rulemaking. The commissioner shall adopt rules *consistent with the Eastern Climate Registry or a broader multi-state registry* under RSA 541-A, relative to:

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 917, relative to the duties of the oversight committee on telecommunications. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Hassan for the committee.

Energy, Environment, and Economic Development
May 21, 2007
2007-1733s
09/01

Amendment to HB 917

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

2 Report. The oversight committee on telecommunications shall submit a report on its findings and recommendations for proposed legislation relative to a reverse 911-system and other means of statewide emergency notification to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

2007-1733s

AMENDED ANALYSIS

This bill requires the oversight committee on telecommunications to study and report on implementing a statewide emergency notification system.

Amendment adopted.

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

A roll call was requested by Senator Fuller Clark.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, 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 Reynolds moved to have HB 407-FN-A removed from the table.

Adopted.

HB 407-FN-A, relative to assistance for milk producers.

The question is on the adoption of the committee amendment (#1674).

Amendment adopted.

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

A roll call was requested by Senator Kenney.

Seconded by Senator Barnes.

Senator Kenney withdrew his request for a roll call.

Senator Barnes withdrew his second for a roll call.

A roll call was requested by Senator Hassan.

Seconded by Senator Fuller Clark.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, Barnes, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Kenney, Roberge, Bragdon, Clegg, Gatsas, Letourneau.

Yeas: 18 - Nays: 6

Adopted.

Ordered to third reading.

HB 206, relative to the disclosure of certain livestock health information and relative to voluntary registration of livestock and agricultural premises. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 6-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration
May 23, 2007
2007-1810s
08/09

Amendment to HB 206

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

AN ACT relative to the disclosure of certain livestock health information.

Amend RSA 436:6-a as inserted by section 1 of the bill by replacing it with the following:

436:6-a Records Disclosure. Information submitted by an individual or business for the purpose of participating in a state or national animal health or disease control system is exempt from disclosure. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under this chapter.

2007-1810s

AMENDED ANALYSIS

This bill exempts certain livestock health information from disclosure.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 519, requiring children 12 years of age or under to wear personal flotation devices. Executive Departments and Administration Committee. Ought to Pass, Vote 6-0. Senator Kelly for the committee.

Adopted.

Ordered to third reading.

Senator Clegg is in opposition to HB 519.

HB 833, establishing a committee to study the outsourcing of jobs involving state contracts. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 6-0. Senator Burling for the committee.

May 23, 2007

2007-1817s

06/09

Amendment to HB 833

Amend the bill by replacing section 2 with the following:

2 Membership and Compensation.

I. The committee shall consist of three members of the house of representatives, appointed by the speaker of the house of representatives.

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

Amend the bill by replacing section 4 with the following:

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Sgambati moved to have HB 721 removed from the table.

Adopted.

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services.

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

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4

May 31, 2007

2007-2010s

01/09

Floor Amendment to HB 721

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

AN ACT relative to reimbursement for home and community-based care providers.

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

1 Reimbursement for Home and Community-Based Care Providers. The commissioner of the department of health and human services shall continue to reimburse home and community-based care providers for all expenses incurred in fiscal year 2007 and shall transfer funds from administrative accounts or other accounts which do not affect the quality or availability of services. No transfers shall be made from PAU 05-01-08-04-01, class 90, but may be made from expected lapses from PAU 05-01-08-04-01, class 95, if services are not affected.

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

2007-2010s

AMENDED ANALYSIS

This bill requires the commissioner of the department of health and human services to continue to reimburse home and community-based care providers for expenses incurred in fiscal year 2007.

Floor amendment adopted.

MOTION TO TABLE

Senator Foster moved to have HB 721 laid on the table.

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

A roll call was requested by Senator Gatsas.

Seconded by Senator Kenney.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 16 - Nays: 8

Adopted.

LAIID ON THE TABLE

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services.

HB 345, relative to certification of death certificates. Health and Human Services Committee. Ought to pass with amendment, Vote 3-0. Senator Sgambati for the committee.

Health and Human Services

May 23, 2007

2007-1814s

01/09

Amendment to HB 345

Amend the bill by replacing section 17 with the following:

17 Effective Date.

I. Section 15 of this act shall take effect January 1, 2008.

II. The remainder of 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.

HB 491, establishing a public health improvement services council. Health and Human Services Committee. Ought to pass with amendment, Vote 3-0. Senator Sgambati for the committee.

Health and Human Services

May 23, 2007

2007-1808s

01/04

Amendment to HB 491

Amend paragraph I of section 3 of the bill by replacing it with the following:

I. The council shall consist of the following members and, to the extent possible, ensure geographic distribution:

- (a) One member of the house of representatives, appointed by the speaker of the house of representatives.
- (b) One member of the senate, appointed by the president of the senate.
- (c) The commissioner of health and human services, or designee.
- (d) The commissioner of the department of education, or designee.
- (e) The commissioner of the department of environmental services, or designee.
- (f) The director of the division of public health services, department of health and human services, or designee.
- (g) Two members with public health experience, one each from the Nashua and Manchester health departments, appointed by the commissioner of health and human services.
- (h) Two representatives from the New Hampshire Public Health Network, appointed by the commissioner of health and human services.
- (i) A representative from the New Hampshire Public Health Association, appointed by the association.
- (j) A New Hampshire health insurer, appointed by the governor.
- (k) A physician licensed under RSA 329, appointed by the governor.
- (l) A representative from a community health center, appointed by the commissioner of health and human services.
- (m) A representative from the Endowment for Health, appointed by the president.
- (n) A nurse licensed under RSA 326-B who is a public health nurse, appointed by the commissioner of health and human services.
- (o) A representative of the Community Health Institute, appointed by the institute.
- (p) A representative of the New Hampshire Local Government Center, appointed by the center.
- (q) A representative of the New Hampshire Hospital Association, appointed by the association.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 673, allowing advanced registered nurse practitioners to certify walking disabilities. Health and Human Services Committee. Ought to Pass, Vote 3-0. Senator Janeway for the committee.

Adopted.

Ordered to third reading.

HB 688, establishing the council on the relationship between public health and the environment. Health and Human Services Committee. Ought to Pass, Vote 3-0. Senator Kenney for the committee.

Adopted.

Ordered to third reading.

HB 143, relative to the apportionment of damages in civil actions. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Clegg for the committee.

MOTION TO TABLE

Senator Gottesman moved to have HB 143 laid on the table.

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

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Kelly, Gottesman, Clegg, Larsen, DeVries, Letourneau, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Odell, Roberge, Bragdon, Gatsas, Barnes, Downing.

Yeas: 15 - Nays: 8

Senator Foster Rule #42 on HB 143.

Adopted.

LAIID ON THE TABLE

HB 143, relative to the apportionment of damages in civil actions.

HB 44, relative to the authority of authorized persons to take custody of nuisance dogs. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HB 316, relative to the 5-year assessment review by the department of revenue administration. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-0. Senator Barnes for the committee.

Senator Odell offered a floor amendment.

Sen. Odell, Dist. 8

May 31, 2007

2007-2018s

10/04

Floor Amendment to HB 316

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

AN ACT relative to the 5-year assessment review by the department of revenue administration, and ratifying certain actions of the 2007 Kearsarge regional school district meeting.

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

2 Ratification of Kearsarge Regional School District Meeting. All acts, votes, notices, and proceedings held on January 20, 2007 and March 13, 2007 to raise and appropriate \$881,145 under warrant article 2, relating to collective bargaining cost items for teachers, are hereby legalized, ratified, and confirmed.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

2007-2018s

AMENDED ANALYSIS

This bill establishes a new 5-year municipal assessment review schedule beginning April 1, 2007 to be done by the department of revenue administration.

This bill also ratifies certain actions of the 2007 Kearsarge regional school district meeting relative to collective bargaining cost items for teachers.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 380, relative to the forms of government under town charters. Public and Municipal Affairs Committee. Re-refer to committee, Vote 3-0. Senator Roberge for the committee.

Adopted.

HB 380 is re-referred to the Public and Municipal Affairs Committee.

HB 649, relative to the disposition of real estate given, devised, or bequeathed to a town for charitable or community purposes. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Burling for the committee.

Public and Municipal Affairs

May 22, 2007

2007-1775s

06/04

Amendment to HB 649

Amend RSA 498:4-a, II as inserted by section 1 of the bill by replacing it with the following:

II. Prior to any court proceeding under this chapter on the intent to offer for sale or change the use of any land, buildings, or both, given, devised, or bequeathed to the town for charitable purposes, the municipality shall hold at least one public hearing with no less than 14 days notice.

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

2 Change in Use of Bequeathed Land. Amend RSA 41:14-a, II(c) to read as follows:

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes ***except as provided in RSA 498:4-a.***

2007-1775s

AMENDED ANALYSIS

This bill requires a municipality to hold a public hearing prior to any court proceeding concerning the disposition of land given to the town for charitable purposes.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 709, making various changes to department of revenue administration authority concerning property tax administration. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 803, relative to the sale of tax-deeded property. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 802, relative to passenger restraints. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 3-2. Senator Clegg for the committee.

Senator Barnes moved the question.

Without objection Senator Larsen moved to close debate.

The question is on the adoption of 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, Reynolds, Kenney, Cilley, Odell, Roberge, Bragdon, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Downing.

The following Senators voted No: Sgambati, Burling, Janeway, Kelly, Gottesman, Estabrook, Hassan, Fuller Clark.

Yeas: 16 - Nays: 8

Committee report of inexpedient to legislate is adopted.

Senator Hassan in the Chair.

SPECIAL ORDER

HB 533, relative to Occupational Safety and Health Administration certification requirements for state contracts. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Cilley for the committee.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Foster, Dist. 13

May 31, 2007

2007-2015s

01/03

Floor Amendment to HB 533

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

AN ACT relative to Occupational Safety and Health Administration certification requirements for state contracts and establishing a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire.

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

3 Applicability. Sections 1 and 2 of this act shall apply to all contracts entered into on or after July 1, 2008.

4 Commission Established. There is established a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire in order to reduce motor vehicle fatalities and serious injuries and the resulting costs.

5 Membership and Compensation.

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

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of safety, or designee.
- (d) The commissioner of transportation, or designee.
- (e) The insurance commissioner, or designee.
- (f) One member from the New Hampshire Medical Society, appointed by the society.
- (g) One member from the New Hampshire Paramedic Association, appointed by such association.

(h) One member from the New Hampshire Emergency Nurses Association, appointed by such association.

(i) One member from the New Hampshire Association of Emergency Medical Technicians, appointed by such association.

(j) One representative from a New Hampshire acute care hospital appointed by the New Hampshire Hospital Association.

(k) One representative of the Professional Firefighters of New Hampshire, appointed by such association.

(l) One representative of the New Hampshire Association of Chiefs of Police, appointed by such association.

(m) One member of the Brain Injury Association of New Hampshire, appointed by such association.

(n) One member of the New Hampshire Civil Liberties Union, appointed by such organization.

(o) One member of Safe Kids New Hampshire, appointed by such organization.

(p) One member from the American Automobile Association, appointed by such association.

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

(r) Three members of the public, appointed by the speaker of the house of representatives.

(s) One member of the public, appointed by the governor.

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

6 Duties.

I. The commission shall:

(a) Study the most effective strategies to increase the use of passenger restraints.

(b) Analyze the insurance costs and economic benefits of increasing the use of passenger restraints.

(c) Review the fatality and injury data regarding the health benefits of increased use of passenger restraints.

(d) Identify public education strategies that would encourage voluntary use of passenger restraints.

(e) Make recommendations for legislation to advance the goal of increasing the use of passenger restraints.

II. The commission may accept grants, donations, and other moneys from any source and may expend such moneys for the purposes of the commission.

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

8 Report. The commission 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 July 31, 2008.

9 Effective Date.

I. Sections 1-3 of this act shall take effect 60 days after its passage.

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

2007-2015s

AMENDED ANALYSIS

This bill requires bidders on state and local building and public works contracts over \$100,000 to certify that the employees have completed an Occupational Safety and Health Administration construction safety program.

This bill also establishes a commission to recommend a comprehensive program for increasing the use of passenger restraints in New Hampshire.

Senator Gottesman moved the question.

Without objection Senator Hassan moved to close debate.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Foster.

Seconded by Senator Clegg.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Roberge, Clegg, Gatsas, Barnes, Letourneau.

Yeas: 17 - Nays: 7

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Clegg is in opposition to HB 533.

Senator Larsen in the Chair.

HB 323, establishing a committee to study liquor commission revenues, enforcement, and training. Ways and Means Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Sgambati moved to have HB 721 removed from the table.

Adopted.

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services.

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4

May 31, 2007

2007-2026s

10/05

Floor Amendment to HB 721

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

AN ACT relative to the appropriation to the department of health and human services for rates paid for nursing services, and relative to reimbursement for home and community-based care providers.

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

2 Reimbursement for Home and Community-Based Care Providers. The commissioner of the department of health and human services shall continue to reimburse home and community-based care providers for all expenses incurred in fiscal year 2007 and shall transfer funds from administrative accounts or other accounts which do not affect the quality or availability of services. No transfers shall be made from PAU 05-01-08-04-01, class 90, but may be made from expected lapses from PAU 05-01-08-04-01, class 95, if services are not affected.

2007-2026s

AMENDED ANALYSIS

This bill adds a footnote to the operating budget for the appropriation to the department of health and human services for rates paid for nursing services.

This bill also requires the commissioner of the department of health and human services to continue to reimburse home and community-based care providers for expenses incurred in fiscal year 2007.

MOTION OF RECONSIDERATION

Senator Burling having voted with the prevailing side, moved reconsideration of HB 721, whereby the floor amendment was adopted (#2010).

Adopted.

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services.

Senator Sgambati withdrew floor amendment (#2010).

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4

May 31, 2007

2007-2026s

10/05

Floor Amendment to HB 721

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

AN ACT relative to the appropriation to the department of health and human services for rates paid for nursing services, and relative to reimbursement for home and community-based care providers.

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

2 Reimbursement for Home and Community-Based Care Providers. The commissioner of the department of health and human services shall continue to reimburse home and community-based care providers for all expenses incurred in fiscal year 2007 and shall transfer funds from administrative accounts or other accounts which do not affect the quality or availability of services. No transfers shall be made from PAU 05-01-08-04-01, class 90, but may be made from expected lapses from PAU 05-01-08-04-01, class 95, if services are not affected.

2007-2026s

AMENDED ANALYSIS

This bill adds a footnote to the operating budget for the appropriation to the department of health and human services for rates paid for nursing services.

This bill also requires the commissioner of the department of health and human services to continue to reimburse home and community-based care providers for expenses incurred in fiscal year 2007.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Kenney.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Roberge, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 16 - Nays: 8

Floor amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Clegg, Dist. 14

Sen. Gatsas, Dist. 16

May 31, 2007

2007-2027s

09/10

Floor Amendment to HB 721

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

2 Transfer. The commissioner of the department of administrative services shall transfer the sum of \$2,900,000 in federal, county, and state funds from the appropriation for the fiscal year ending June 30, 2007, from PAU 05-01-08-04-01 class 90, nursing services, to PAU 05-01-08-04-01 class 91, home nursing services for the fiscal year ending June 30, 2007.

2007-2027s

AMENDED ANALYSIS

This bill adds a footnote to the operating budget for the appropriation to the department of health and human services for rates paid for nursing services.

This bill also transfers money from the appropriation to the department of health and human services in the 2006-2007 operating budget from nursing services to home nursing services.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Kenney.

Seconded by Senator Letourneau.

The following Senators voted Yes: Gallus, Kenney, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau.

The following Senators voted No: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

Yeas: 8 - Nays: 16

Floor amendment failed.

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

Adopted.

Ordered to third reading.

HB 95-L, relative to the treatment of charter school pupils in the definition of average daily membership in residence. Education Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

Senator Burling offered a floor amendment.

Sen. Barnes, Dist. 17

Sen. Burling, Dist. 5

May 31, 2007

2007-2001s

03/01

Floor Amendment to HB 95-LOCAL

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

AN ACT relative to the treatment of charter school pupils in the definition of average daily membership in residence and establishing a tuition voucher program for New Hampshire national guard members and making an appropriation therefor.

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

3 National Guard Members; Postsecondary Education Assistance. Amend RSA 110-B:63-c - 110B:63-g to read as follows:

110-B:63-c Educational Assistance [~~Authorized~~]; **Tuition Vouchers**; Minimum Requirements.

I. There is established a tuition voucher program to encourage recruitment and retention of national guard members. The program shall be administered by the adjutant general. National guard members may apply to the adjutant general for a tuition voucher to pay costs of tuition for a degree or certificate producing program at a state postsecondary institution. The amount of the voucher each year shall not exceed the tuition costs of a full-time student for a normal academic year. The tuition voucher applicant shall be enrolled or accepted for enrollment at the postsecondary institution at the time of application. The New Hampshire national guard shall issue the voucher to the student, the student shall submit the voucher to the postsecondary institution, and the postsecondary institution shall submit the voucher to the adjutant general for payment.

II. Members of the New Hampshire national guard may **also** take courses tuition-free on a space available basis in state-supported postsecondary institutions.

III. In order to be eligible to receive educational assistance under this subdivision, a member of the New Hampshire national guard shall:

[F.] (a) Be an active member of the New Hampshire national guard residing either in-state or out-of-state [~~who has completed advanced individual training or commissioning~~].

[H.] (b) Be enrolled **or accepted for enrollment** in a degree-enhancing curriculum in any vocational or technical school that is under the authority of the commissioner of regional community-technical colleges, or enrolled **or accepted for enrollment** in any degree-enhancing curriculum in any public college or university within the state.

[HH.] (c) Have first utilized any federal educational entitlements, not including Montgomery GI Bill benefits, and national guard scholarship grants.

110-B:63-d Eligibility and Space Availability Determinations.

I. Eligibility for educational assistance provided by this subdivision shall be determined and monitored by the adjutant general, who shall adopt rules~~[, pursuant to RSA 541-A,]~~ and procedures deemed by the adjutant general to be necessary to carry out and monitor the educational assistance provided by this subdivision.

II. The chancellor of the university system for the university system and the commissioner of regional community-technical colleges for the regional community-technical institute and colleges shall establish policies for determining when a course has space available **for attendance of courses on a tuition-free basis**.

110-B:63-e Termination of Educational Assistance.

I. Educational assistance may be terminated for the following reasons:

- (a) Failure to complete the New Hampshire national guard military obligation.
- (b) Failure to maintain a 90 percent rate of attendance at annual training and drill assemblies as required by the New Hampshire national guard.
- (c) Nine unsatisfactory drill period performances in a calendar year while enrolled in the educational assistance program.

II. In the event the individual's service in the New Hampshire national guard is terminated or service becomes unsatisfactory while receiving educational assistance, the individual shall be required to pay for the remainder of the tuition for the course on a pro rata basis. Once terminated for the above causes, an individual shall be ineligible for any further educational assistance under this subdivision **unless and until his or her eligibility has been reinstated by the adjutant general**.

III. If for any reason an individual is dismissed from any school for academic or disciplinary reasons, the individual shall be ineligible for further educational assistance under this subdivision **unless and until his or her eligibility has been reinstated by the adjutant general**.

110-B:63-f In-State Tuition for New Hampshire National Guard Nonresidents. Any member of the New Hampshire national guard who is an otherwise eligible out-of-state resident who cannot qualify for educational assistance under this subdivision, due to unavailability of space for members attending tuition free, may take such course at the in-state tuition rate.

110-B:63-g Report. The chancellor of the university system on behalf of the university system and the commissioner of the regional community-technical colleges on behalf of the regional community-technical institute and colleges shall, no later than November 1 of each year, submit a report to the speaker of the house, the senate president, and the governor detailing the number of national guard members enrolled at postsecondary institutions for the prior fiscal year under this subdivision, **the number of members receiving tuition vouchers**, and the specific courses or curriculum in which [~~such~~] members are enrolled.

4 Appropriation; Adjutant General. The sum of \$1 is appropriated to the adjutant general for the biennium ending June 30, 2009 for the purpose of funding the national guard tuition voucher program established in section 3 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

2007-2001s**AMENDED ANALYSIS**

This bill:

I. Requires that pupils electing to attend an approved charter school shall be included in the average daily membership in residence of the district in which they legally reside. The bill also excludes charter school pupils for whom the state pays tuition directly to the charter school from the definition of average daily membership in residence.

II. Establishes a tuition voucher program for New Hampshire national guard members to attend degree or certificate programs at state postsecondary institutions and makes an appropriation for purposes of this program.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Downing.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 304, relative to the criteria under which guardianship over a minor is granted. Education Committee. Re-refer to committee, Vote 5-0. Senator Kelly for the committee.

Adopted.

HB 304 is re-referred to the Education Committee.

HB 298, relative to the healthy kids corporation. Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Estabrook for the committee.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

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

A roll call was requested by Senator Clegg.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Roberge, Kelly, Gottesman, Foster, Larsen, Barnes, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Odell, Bragdon, Clegg, Gatsas, Letourneau, Downing.

Yeas: 17 - Nays: 7

Adopted.

Ordered to third reading.

HB 327, allowing collaborative pharmacy practice agreements to include pharmacy locations during declared emergencies. Health and Human Services Committee. Inexpedient to Legislate, Vote 2-0. Senator Fuller Clark for the committee.

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

A division vote was requested.

Yeas: 14 - Nays: 10

Committee report of inexpedient to legislate is adopted.

HB 396, establishing a commission to study autism spectrum disorders in New Hampshire. Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 583-FN, relative to funding for HIV/AIDS services. Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

Senator Hassan in the Chair.

HB 862-FN, establishing an incapacitated adult fatality review committee. Health and Human Services Committee. Ought to Pass, Vote 2-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

HB 867-FN-L, relative to parent liability for court-ordered services in juvenile proceedings. Health and Human Services Committee. Re-refer to committee, Vote 2-0. Senator Estabrook for the committee.

Adopted.

HB 867-FN-L is re-referred to the Health and Human Services Committee.

HB 37, relative to notification requirements for criminal offenders. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

Sen. Foster, Dist. 13

May 29, 2007

2007-1909s

04/01

Amendment to HB 37

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

2007-1909s

AMENDED ANALYSIS

This bill requires a school administrative unit, school district, or charter school to adopt a policy designating certain categories of volunteers as "designated volunteers" who may be required to undergo a background investigation and a criminal history records check and allows local law enforcement agencies to notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address of a registered criminal offender.

Amendment adopted.

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

A roll call was requested by Senator Gottesman.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 261, prohibiting the Carroll county attorney from engaging in the private practice of law. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary
May 29, 2007
2007-1942s
10/04

Amendment to HB 261

Amend RSA 7:34-f as inserted by section 1 of the bill by replacing it with the following:

7:34-f Private Practice [~~Restricted~~] ***Prohibited***; Carroll County. The Carroll county ***full-time county*** attorney shall not directly or indirectly engage in the private practice of [~~criminal~~] law or accept any fees or compensation other than his ***or her*** official salary ***and benefits*** for any legal services [~~in the field of criminal law. He may engage in the private practice of civil law~~]. ***Private practice of law does not include the provision of legal services without charge to the members of the county attorney's family, when the provision of these services does not conflict with his or her official duties.***

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 406, relative to access to state child support enforcement records. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

Adopted.

Ordered to third reading.

HB 410, establishing a commission on child support issues. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Sen. Foster, Dist. 13
May 17, 2007
2007-1703s
05/04

Amendment to HB 410

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

1 New Section; Commission on Child Support. Amend RSA 458-C by inserting after section 7 the following new section:

458-C:8 Commission on Child Support. There is established a commission on child support issues.

I. The commission shall consist of the following members:

- (a) The governor, or a designee.
- (b) One members of the senate, appointed by the president of the senate.
- (c) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (d) The administrator of the department of health and human services office of child support enforcement services, or a designee.
- (e) Six public members involved in different custodial arrangements, 2 appointed by the governor, 2 appointed by the senate president, and 2 appointed by the speaker of the house of representatives.
- (f) The chairperson of the guardian ad litem (GAL) board, or a designee from GAL board members.
- (g) The chair of the family law section of the New Hampshire Bar Association, or a designee from their membership.
- (h) The administrative judge of the judicial branch family division, or a designee from the judges and marital matters in the family division.

II. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission. Elected members of the commission shall serve a term coterminous with their service in public office. Any vacancy shall be filled in the same manner as the original appointment.

III. Upon completion of the economic analysis of the child support guidelines resulting from RFP #07-DCSS-ED-02, issued July 24, 2006, the commission shall study the report, review the child support guidelines, and make recommendations for any needed changes. Specifically, the commission shall consider the self-support reserve amount and determine appropriate minimum and maximum levels for both self-support and support. The commission also shall make recommendations for any proposed legislation that the commission deems necessary.

IV. The members of commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate appointee. The first meeting of the commission shall be held within 45 days of the effective date of this section. A simple majority of commission members shall constitute a quorum.

V. On November 1, 2008 and each November 1 thereafter, the commission shall submit an annual report of 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, the chief justice of the supreme court, and the state library.

2 Repeal. RSA 458-C:8, relative to the commission on child support, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2011.

II. The remainder of this act shall take effect January 1, 2008.

Amendment adopted.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

May 31, 2007

2007-2023s

05/03

Floor Amendment to HB 410

Amend RSA 458-C:8, I(f) as inserted by section 1 of the bill by replacing it with the following:

(f) The chairperson of the guardian ad litem (GAL) board, or his or her designee.

Amend RSA 458-C:8, III as inserted by section 1 of the bill by replacing it with the following:

III. Upon completion of the economic analysis of the child support guidelines resulting from RFP #07-DCSS-EC-02, issued July 24, 2006, the commission shall study the report, review the child support guidelines, and make recommendations for any needed changes. Specifically, the commission shall consider the self-support reserve amount and determine appropriate minimum and maximum levels for both self-support and support. The commission also shall make recommendations for any proposed legislation that the commission deems necessary.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 444, relative to parental rights in abuse and neglect cases. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

HB 463, relative to the awarding parental rights and responsibilities to a stepparent or grandparent. Judiciary Committee. Re-refer to committee, Vote 5-0. Senator Reynolds for the committee.

Adopted.

HB 463 is re-referred to the Judiciary Committee.

HB 470, relative to the determination of parental rights and responsibilities. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Clegg for the committee.

Committee report of inexpedient to legislate is adopted.

HB 791-FN, establishing a commission to study the legal and social effects of permitting same gender marriage. Judiciary Committee. Inexpedient to Legislate, Vote 4-1. Senator Clegg for the committee.

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

A roll call was requested by Senator Barnes.

Seconded by Senator Gottesman.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Committee report of inexpedient to legislate is adopted.

HB 796, relative to civil liability for damaging highway protective barriers. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary

May 29, 2007

2007-1945s

06/09

Amendment to HB 796

Amend RSA 236:39 as inserted by section 1 of the bill by replacing it with the following:

236:39 Civil Liability. If any person, without authority, shall place any obstruction in a highway, or cause any defect, insufficiency, or want of repair of a highway which renders it unsuitable for public travel, he or she shall be liable to the state for all damages to the highway, including replacement costs of protective barriers, when maintained by the state, or to the municipality for all damages to a highway, including replacement costs of protective barriers, when maintained by the municipality, and for all damages and costs which the state or municipality shall be compelled to pay to any person injured by such obstruction, defect, insufficiency or want of repair.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 115, relative to the procedure for counties to apply for, accept, and expend federal, state, or other grants. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator DeVries for the committee.

Motion failed.

Senator DeVries moved re-refer.

Adopted.

HB 115 is re-referred to the Public and Municipal Affairs Committee.

HB 456, limiting liability for town health officers and overseers of public welfare when acting in the course of their official duties. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator DeVries for the committee.

Public and Municipal Affairs

May 29, 2007

2007-1914s

08/09

Amendment to HB 456

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

AN ACT limiting liability for town health officers when acting in the course of their official duties.

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

1 Health Officers and Overseers of Public Welfare; Liability. Amend RSA 31:104 to read as follows:

31:104 Liability of Municipal Executives. Notwithstanding any provisions of law to the contrary, no member of the governing board of any municipal corporation or political subdivision[;], no member of any other board, commission, or bureau of any municipal corporation or political subdivision created or existing pursuant to a statute or charter, and no chief executive officer of such municipal corporation or political subdivision, including but not limited to city councilors and aldermen, selectmen, county convention members, members of boards of adjustment, members of planning boards, school board members, mayors, city managers, town managers, county commissioners, regional planning commissioners, ***town health officers***, and school superintendents shall be held liable for civil damages for any vote, resolution, or decision made by said person acting in his ***or her*** official capacity in good faith and within the scope of his ***or her*** authority.

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

2007-1914s

AMENDED ANALYSIS

This bill limits liability for town health officers when acting in the course of their official duties.

Amendment failed.

The question is on the adoption of the motion of ought to pass.

Motion failed.

Senator DeVries moved re-refer.

Adopted.

HB 456 is re-referred to the Public and Municipal Affairs Committee.

HB 457, allowing local governing bodies to restrict lawn watering during declared droughts. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-1. Senator Roberge for the committee.

Senator Estabrook moved the question.

Without objection Senator Larsen moved to close debate.

A roll call was requested by Senator Clegg.

Seconded by Senator Kenney.

Senator Clegg withdrew his request for a roll call.

Senator Kenney withdrew his second.

MOTION TO TABLE

Senator D'Allesandro moved to have HB 457 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 457, allowing local governing bodies to restrict lawn watering during declared droughts.

HB 692, allowing certain municipalities in economically depressed counties to adopt a property tax exemption for industrial construction. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Public and Municipal Affairs

May 29, 2007

2007-1912s

10/04

Amendment to HB 692

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

AN ACT allowing certain municipalities to adopt a property tax exemption for industrial construction, and excluding private septic and sewage treatment facilities from the tax exemption for water and air pollution control facilities.

Amend the bill by replacing section 1 with the following:

1 Statement of Intent. It is the purpose of section 2 of this act to foster the economic development of economically depressed municipalities by enabling them to encourage new construction, rehabilitation, and improvement of property for industrial use through the adoption of tax exemptions. It is the further purpose of section 2 of this act to ensure that, once adopted, such exemptions shall be administered uniformly within the taxing districts so as to avoid the risk of unconstitutional ad hoc or discriminatory tax benefits.

Amend RSA 72:75 as inserted by section 2 of the bill by replacing it with the following:

72:75 Definitions. In this subdivision:

I. "Eligible municipality" shall mean any city or town which meets 2 of the following 3 criteria as established by the director of the office of energy and planning:

(a) Is within the lowest 30 percent of municipalities based on equalized taxable valuation per person for the most recent year available prior to the vote taken to adopt the provisions of this subdivision;

(b) Is within the highest 30 percent of municipalities based on unemployment rate for the average of the 3 most recent years available prior to the vote taken to adopt the provisions of this subdivision; and

(c) Is within the lowest 30 percent of municipalities based on population growth for the most recent 5-year period available prior to the vote taken to adopt the provisions of this subdivision.

II. "Industrial uses" shall include all manufacturing, production, assembling, warehousing or processing of goods or materials for sale or distribution, research and development activities, or processing of waste materials. A town or city adopting a tax exemption under this subdivision may adopt by reference an alternative or additional definition of industrial uses as may be contained in that town or city's zoning ordinance.

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

3 Property Taxation; Water and Air Pollution Control Facilities. Amend RSA 72:12-a, I to read as follows:

I. Any person, firm or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility and any real estate necessary therefor, or a percentage thereof determined in accordance with this section, exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section. This paragraph shall not apply to privately-owned landfills or ancillary facilities located at such landfills, *or to private septic and sewage treatment systems that have as their primary purpose treatment or disposal of human waste.*

4 Effective Date.

I. Section 3 of this act shall effect April 1, 2008.

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

2007-1912s

AMENDED ANALYSIS

This bill allows certain economically depressed municipalities to adopt a new construction property tax exemption for industrial uses. This bill also adds an exclusion for private septic and sewage treatment facilities in the property tax exemption for the value of water and air pollution treatment facilities.

Amendment failed.

The question is on the motion of ought to pass.

Motion failed.

Senator Barnes moved re-refer.

Adopted.

HB 692 is re-referred to the Public and Municipal Affairs Committee.

RESOLUTION

Senator Foster moved that the Senate 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 37, relative to notification requirements for criminal offenders.

HB 38, relative to terms of appointment for certain state officers.

HB 44, relative to the authority of authorized persons to take custody of nuisance dogs.

HB 95-L, relative to the treatment of charter school pupils in the definition of average daily membership in residence.

HB 119, relative to the sunset provision of the system benefits charge.

HB 206, relative to the disclosure of certain livestock health information and relative to voluntary registration of livestock and agricultural premises.

HB 261, prohibiting the Carroll county attorney from engaging in the private practice of law.

HB 272, relative to presidential primary elections.

HB 298, relative to the healthy kids corporation.

HB 316, relative to the 5-year assessment review by the department of revenue administration.

HB 318, relative to large groundwater withdrawals.

HB 319, relative to emergency permits for projects funded through the Emergency Watershed Protection Program.

HB 323, establishing a committee to study liquor commission revenues, enforcement, and training.

HB 345, relative to certification of death certificates.

HB 365, establishing a commission to study foreclosures of home mortgages and the foreclosure rescue scam industry.

HB 396, establishing a commission to study autism spectrum disorders in New Hampshire.

HB 406, relative to access to state child support enforcement records.

HB 407-FN-A, relative to assistance for milk producers.

HB 410, establishing a commission on child support issues.

HB 444, relative to parental rights in abuse and neglect cases.

HB 447, relative to net energy metering.

HB 491, establishing a public health improvement services council.

HB 519, requiring children 12 years of age or under to wear personal flotation devices.

HB 533, relative to Occupational Safety and Health Administration certification requirements for state contracts.

HB 536, relative to the regulation of martial arts schools.

HB 549, relative to accepting a purchase and sale agreement on developed waterfront property.

HB 583-FN, relative to funding for HIV/AIDS services.

HB 649, relative to the disposition of real estate given, devised, or bequeathed to a town for charitable or community purposes.

HB 673, allowing advanced registered nurse practitioners to certify walking disabilities.

HB 688, establishing the council on the relationship between public health and the environment.

HB 689, establishing a commission to study production and distribution of biodiesel fuel in New Hampshire.

HB 694, establishing a commission to study the feasibility of tidal power generation under the Little Bay and General Sullivan Bridges, in Dover.

HB 709, making various changes to department of revenue administration authority concerning property tax administration.

HB 710, establishing a commission to study issues relative to the practice of leasing state-owned real estate on the shores of public waters.

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services.

HB 722, relative to the rivers management protection program.

HB 768, relative to voluntary registration with the Eastern Climate Registry.

HB 796, relative to civil liability for damaging highway protective barriers.

HB 803, relative to the sale of tax-deeded property.

HB 833, establishing a committee to study the outsourcing of jobs involving state contracts.

HB 862-FN, establishing an incapacitated adult fatality review committee.

HB 903-FN, prohibiting delivery of oil to non-compliant underground storage facilities.

HB 917, relative to the duties of the oversight committee on telecommunications.

ANNOUNCEMENTS

RESOLUTION

Senator Foster moved that the Senate recess to the Call of the Chair for the sole purpose of sending and receiving messages, processing enrolled bill reports and amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.