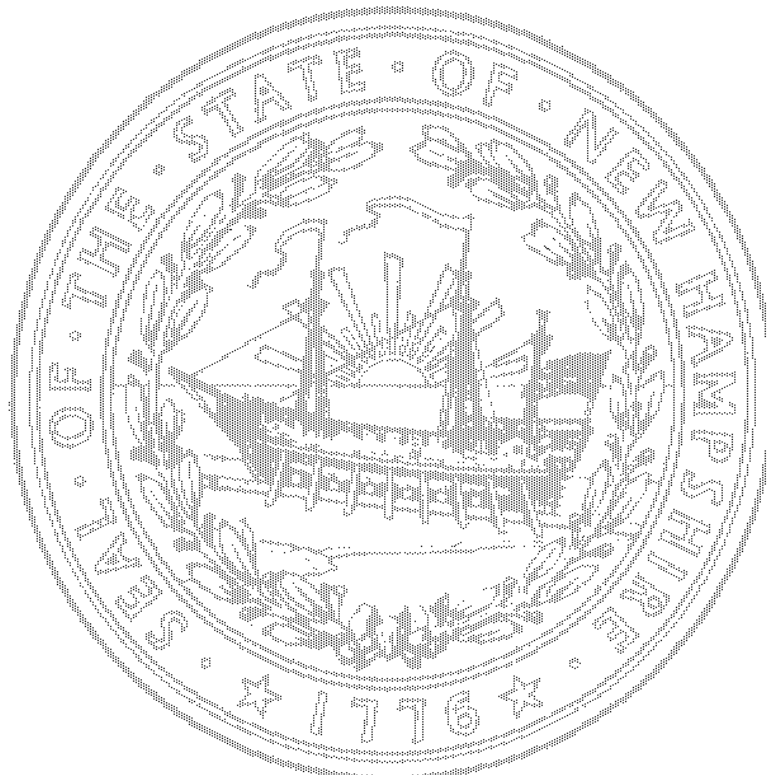


May 15, 2008
Nos. 17-18

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – MAY 14, 2008 SESSION
COMMENCEMENT – MAY 15, 2008 SESSION

SENATE

JOURNAL 17 (continued)

May 14, 2008

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 173-FN-L, relative to the promotion, acquisition, and retention of large animal veterinarians in those areas of the state where there is a need, and making an appropriation therefor.

HB 295, relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel and clarifying a definition of provider of electricity.

HB 589-FN, relative to the calculation of concurrent and consecutive terms of imprisonment.

HB 1276, establishing a committee to study revisions to the auctioneers' practice act and the regulation of third-party Internet sales.

HB 1313, relative to voting by the chairman of the retirement system board of trustees.

HB 1414-FN, increasing the fee for bail commissioners.

HB 1513-FN, relative to an evidence-based prescription drug education program.

HB 1533, relative to the office of the state treasurer.

SB 312-FN, relative to insurance coverage for obesity and morbid obesity.

SB 315, preventing the fraudulent use of the names of financial institutions.

SB 336-FN, relative to special number plates for veterans who are former prisoners of war.

SB 350-FN, extending the surcharge on probate court entry fees to judicial branch family division cases which would previously have been brought in probate court.

SB 378, authorizing the supreme court to establish a business and commercial dispute docket in the superior court.

SB 409, relative to conservation and preservation restrictions.

SB 415, relative to the effective date of the compulsory school attendance law.

SB 426, establishing a committee to study the current definition of the term "community benefit" applicable to nonprofit health care providers.

SB 445, changing the procedure for recommending persons for initial appointment as marital masters.

SB 450, requiring the New Hampshire Citizens Health Initiative to provide an annual summary to the general court.

SB 475, relative to the definition of advance fees in the real estate practice act.

SB 480, repealing a requirement that the fish and game department publish certain hunting season information in newspapers in each county.

SB 499-FN, relative to penalties for unauthorized disclosure of confidential matters in legislative ethics proceedings.

SB 538, relative to the community college system of New Hampshire board of trustees and repealing a motor vehicle regulation statute applicable to the community college system.

Senator D'Allesandro moved adoption.

Adopted.

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 18

May 15, 2008

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend Bruce Jacobson, St. Paul's Church, guest chaplain to the Senate, offered the prayer:

In the beginning, God, You created. You created this universe, this fragile earth, our island home. In the beginning You created. You created Orion's Belt and the Pleiades. In the beginning You created time and space to continue in which we live and move and have our beings. In the beginning You created the law of perfect freedom. Grant that these Your servants may so rule and govern this state that the people in this state might live free; and if it is necessary, that any one of them might be willing to die in order that freedom might be maintained. This we ask in the name of the One who was, and is, and is to come. Amen

Senator Letourneau led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senate Page: William Threthaway

Senate Page: Tucker Jadsack

Alicia Barney, Ashland Elementary School

Nick D'Ambruoso, Ashland Elementary School

New Hampshire Veterans' Home Volunteers

Plymouth Fire Chief, Brian "Buddy" Thibeault

Mr. and Mrs. Caldwell

COMMITTEE REPORTS

HB 1242, relative to the prohibition on employee consumption of beverage or liquor. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 4-2. Senator Reynolds for the committee.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23
May 15, 2008
2008-1905s
04/10

Floor Amendment to HB 1242

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

AN ACT relative to the prohibition on employee consumption of beverage or liquor
and relative to the minimum hourly rate of compensation.

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

2 Exceptions to Minimum Hourly Rate. Amend RSA 279:21, VIII(b) to read as follows:

(b) Any employee of employers covered under the provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. section 201, et seq.); ***provided***

however, employers that pay any delivery drivers or sales merchandisers an overtime rate of compensation for hours worked in excess of 40 hours in any one week shall not calculate such overtime rate of compensation by the fluctuating workweek method of overtime payment under 29 C.F.R. section 778:114.

3 Nullification. The provisions of HB 399 of the 2008 legislative session shall not take effect.

4 Effective Date.

I. Section 2 of this act shall take effect July 1, 2009.

II. Section 3 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect January 1, 2009.

2008-1905s

AMENDED ANALYSIS

This bill:

I. Defines liquor licensee employee for purposes of the prohibition on employee consumption of beverage or liquor.

II. Clarifies the overtime rate of compensation for certain employees.

III. Nullifies the provisions of HB 399 of the 2008 legislative session.

Floor amendment adopted.

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

A roll call was requested by Senator Gatsas.

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 1161, establishing a committee to study the truancy laws. Education Committee. Ought to pass with Amendment, Vote 3-0. Senator Bragdon for the committee.

**Senate Education
May 13, 2008
2008-1843s
04/09**

Amendment to HB 1161

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

I. The committee shall be comprised of 6 members of the house of representatives, appointed by the speaker of the house of representatives, three of whom shall be from the house education committee and one from each of the following committees: criminal justice and public safety, judiciary, and children and family law.

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. Four members of the committee shall constitute a quorum.

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 Hassan moved to have HB 690 removed from the table.

Adopted.

HB 690, establishing a pilot program for job skills training in volunteer work by unemployed individuals.

The question is on the adoption of the committee report of Inexpedient to Legislate.

Motion failed.

Senator Hassan moved Ought to Pass.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23
May 15, 2008
2008-1907s
08/10

Floor Amendment to HB 690

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

AN ACT establishing a pilot program for job skills training in volunteer work by unemployed individuals and authorizing the commissioner of the department of employment security to adjust the discount rate.

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

2 Unemployment Compensation; Minimum Rate; Version Effective July 1, 2008. Amend RSA 282-A:82 to read as follows:

282-A:82 Minimum Rate.

I. The commissioner shall compute the ~~[amount to be subtracted from every employer's contribution rate]~~ **discount rate** for the 4 calendar quarters during a calendar year by determining the available balance in the unemployment compensation fund on September 30 of the preceding calendar year. ~~[The amount to be subtracted from every employer's contribution rate]~~ **Except as provided in paragraph II of this section the discount rate** for the 4 calendar quarters during a calendar year shall be as follows:

(a) Whenever the unemployment compensation fund equals or exceeds \$225,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be .5 percent.

(b) Whenever the unemployment compensation fund equals or exceeds \$250,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be one percent.

(c) Whenever the unemployment compensation fund equals or exceeds \$275,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be 1.5 percent.

II. If the unemployment compensation trust fund balance is \$200,000,000 or more on September 30 of the preceding calendar year, and if the commissioner of the department of employment security determines that the health of the New Hampshire business environment and the security of existing jobs would be threatened by decreasing the discount rate from every employer's contribution rate in accordance with RSA 282-A:82, then the commissioner may adjust the discount

rate ½ percent more than otherwise applicable.

III. For the purposes of this section, “discount rate” means the amount to be subtracted from every employer’s contribution rate.

~~III~~ IV. The minimum contribution rate under this section shall be not less than .10 percent.

3 Unemployment Compensation; Minimum Rate; Version Effective July 1, 2009. RSA 282-A:82 is repealed and reenacted to read as follows:

282-A:82 Minimum Rate.

I. The commissioner shall compute the amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year by determining the available balance in the unemployment compensation fund on September 30 of the preceding calendar year. The amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year shall be as follows:

(a) Whenever the unemployment compensation fund equals or exceeds \$225,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be .5 percent.

(b) Whenever the unemployment compensation fund equals or exceeds \$250,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be one percent.

(c) Whenever the unemployment compensation fund equals or exceeds \$275,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be 1.5 percent.

II. The minimum contribution rate under this section shall be not less than .10 percent.

4 Effective Date.

I. Section 1 of this act shall take effect 90 days after its passage.

II. Section 2 of this act shall take effect July 1, 2008.

III. Section 3 of this act shall take effect July 1, 2009.

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

2008-1907s

AMENDED ANALYSIS

This bill establishes a pilot program to allow persons collecting unemployment benefits to do volunteer work providing job skills at organizations designated by the department of employment security.

This bill also defines “discount rate” and authorizes the commissioner of the department

of employment security to adjust the discount rate.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

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

Floor amendment adopted.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

May 15, 2008

2008-1917s

09/10

Floor Amendment to HB 690

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

AN ACT establishing a pilot program for job skills training in volunteer work by unemployed individuals and relative to auditable basis policies..

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

2 Insurance Premium Refunds. Amend RSA 402:81 to read as follows:

402:81 Insurance Premium Refunds.

I. Whenever an insurer owes a refund on an insurance premium paid, that insurer shall pay the refund within 30 days of the date when the refund becomes due.

(a) When an insurance policy is cancelled by a named insured, a refund shall be due from the company or its appointed producer ~~[receiving]~~ **upon receipt of:**

(1) The original policy to be cancelled; or

(2) A signed lost policy release; or

(3) A cancellation request from the insured which has been submitted in accordance with provisions of the policy or statute.

(b) When an insurance policy is cancelled by an insurer, a refund shall become

due upon the date of cancellation as stated in the notice of cancellation.

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

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

(1) Audits shall be conducted promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute; and

(2) If there is no bona fide dispute, the refund of gross unearned premium shall become due on the date of the completed audit.

(3) In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved and the audit is completed. The insurer shall notify the insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete the audit within the time remaining in the 120-day time period.

(4) A bona fide dispute includes the insured's failure to cooperate with the audit, provided the insurer has notified the insured of:

(A) The acts or omissions that constitute the insured's failure to cooperate; and

(B) The consequences of the insured's failure to cooperate, including delay in the completion of the audit and payment of any refund due.

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

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

II. Whenever the premium refunds described in paragraph I are refunded to an authorized third party, such as an insurance producer or a party with cancellation power of attorney from the insured, the authorized third party shall credit the premium refund for the account of the named insured. In the event that crediting of return premiums to the account of the named insured results in a surplus over the amount owed the authorized third party by the named insured, the surplus shall be paid to the named insured within 10 days of receipt of the return premium, being credited to the third party, provided that no such refund shall be required if it amounts to less than \$1.

III. For any refund that is not paid to the named insured within the specified period *set forth in paragraph I*, the party to whom the premium is owed shall be entitled to interest beginning on the first day after the expiration of the period, at the legal rate. Any interest developed because of late refunding shall ultimately benefit only the named insured. ~~[In cases where the amount of refund is in bona fide dispute, the refund shall not become due~~

~~until the dispute is resolved. In cases where the final premium amount is subject to audit, the refund shall become due upon audit. In any event, return of the unearned premium shall be made within 90 days from the date of expiration or cancellation of the policy.] This paragraph shall not apply to retrospectively rated policies.~~

3 Contingency. If HB 1244 of the 2008 legislative session becomes law, then section 2 of HB 1244 shall not take effect and section 2 of this act shall take effect on the effective date of HB 1244. If HB 1244 does not become law, section 2 of this act shall not take effect.

4 Effective Date.

I. Section 2 of this act shall take effect as provided in section 3 of this act.

II. Section 3 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 90 days after its passage.

2008-1917s

AMENDED ANALYSIS

This bill establishes a pilot program to allow persons collecting unemployment benefits to do volunteer work providing job skills at organizations designated by the department of employment security.

This bill also makes a technical correction to HB 1244 of the 2008 legislative session by inserting inadvertently omitted text.

MOTION TO TABLE

Senator Foster moved to have HB 690 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 690, establishing a pilot program for job skills training in volunteer work by unemployed individuals.

HB 1261, establishing a commission to investigate a program in which senior year of high school may be spent at a community college. Education Committee. Inexpedient to Legislate, Vote 3-0. Senator Estabrook for the committee.

Committee report of Inexpedient to Legislate is adopted.

HB 1282, amending the pre-engineering technology curriculum. Education Committee. Ought to Pass with Amendment, Vote 2-1. Senator Kelly for the committee.

Senate Education

May 13, 2008

2008-1841s

04/05

Amendment to HB 1282

Amend RSA 188-E:14, I as inserted by section 1 of the bill by replacing it with the following:

I. The department of education shall ~~[develop and implement]~~ ***facilitate the development and implementation of*** a pre-engineering technology curriculum ~~[in the public high schools to provide statewide opportunities for high school]~~ ***in the public schools for*** students ***in grades 6 through 12 who are*** interested in careers in engineering, or allied engineering fields~~[- to enroll in a high quality engineering technology curriculum]~~.

2008-1841s

AMENDED ANALYSIS

This bill requires the department of education to facilitate the development and implementation of a pre-engineering technology curriculum for public school students in grades 6-12.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1299, establishing a committee to study the feasibility of creating a preschool incentive fund program. Education Committee. Ought to Pass with Amendment, Vote 3-0. Senator Estabrook for the committee.

Senate Education

May 13, 2008

2008-1842s

04/09

Amendment to HB 1299

Amend subparagraph I(b) as inserted by section 3 of the bill by replacing it with the following:

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

Amend paragraph II as inserted by section 3 of the bill by replacing it with the following:

II. Legislative members of the committee shall receive mileage at the legislative rate

when attending to the duties of the committee.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1330, relative to the process for nonrenewal of teacher contracts. Education Committee. Ought to Pass with Amendment, Vote 3-0. Senator Kelly for the committee.

Senate Education

May 13, 2008

2008-1844s

04/01

Amendment to HB 1330

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

1 School Boards; Review by State Board. Amend RSA 189:14-b, I to read as follows:

I. A teacher aggrieved by such decision may ~~[request]~~ ***either petition*** the state board of education for review thereof ***or request arbitration under the terms of a collective bargaining agreement, if applicable, but may not do both.*** Such ~~[request]~~ ***petition*** must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such ~~[request]~~ ***petition***, the state board shall notify the school board of the ~~[request]~~ ***petition*** for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within ~~[30]~~ ***15*** days after the ~~[request]~~ ***petition*** for review is filed, and the decision of the state board shall be final and binding upon both parties. ~~[A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher.]~~

2 Public Employee Labor Relations; Grievance Procedures. Amend RSA 273-A:4 to read as follows:

273-A:4 Grievance Procedures. Every agreement negotiated under the terms of this chapter shall be reduced to writing and shall contain workable grievance procedures. ~~[No grievance resulting from the failure of a teacher to be renewed pursuant to RSA 189:14 a shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14 a and RSA 189:14 b. Any such provision in force as of the effective date of this section shall be null and void upon the expiration date of that collective bargaining agreement.]~~

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

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Letourneau is in opposition to HB 1330 as amended.

HB 241, relative to permissible campaign contributions by business organizations and labor unions. Election Law and Internal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Letourneau for the committee.

Committee report of Inexpedient to Legislate is adopted.

Senator Cilley is in opposition to the motion of Inexpedient to Legislate on HB 241.

Senator DeVries is in opposition to HB 241.

HB 358, relative to the procedure for listing candidates on election ballots. Election Law and Internal Affairs Committee. Ought to Pass with Amendment, Vote 3-2. Senator Burling for the committee.

Election Law and Internal Affairs
May 7, 2008
2008-1745s
03/09

Amendment to HB 358

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

1 Municipal Elections; City Charters; Preparation of Ballots. Amend RSA 49-C:6 to read as follows:

49-C:6 Preparation of Ballots. The city clerk shall prepare the ballots to be used at the municipal elections. Under charters providing for election by the Australian ballot system, the ballots shall be prepared in accordance with the procedure provided for in general election laws governing such system. Under charters providing for non-partisan elections, the ballot shall contain the names in alphabetical order by surname ***according to the alphabetization and rotation procedure established in RSA 656:5-a, with the city clerk acting in lieu of the secretary of state***, without party designation, of all who file with the city clerk as candidates for elective office. In the alternative, the charter may provide for a random selection of the order of names on the ballot. The charter shall specify a filing period, the filing fee to be paid for each office, and, as an alternative method of becoming a candidate on the ballot, the number of qualified voters which may be subscribed to a nominating petition in such form as the charter may set out.

2 Nominations for Special State Elections; Order of Names on Ballot. Amend RSA 655:81, IX to read as follows:

IX. The names of all candidates for a party nomination at a special election primary shall be printed in alphabetical order on the ballot [~~and the same ballot listing shall be used at all polling places where the special primary election is held~~] **according to the alphabetization and rotation procedure established in RSA 656:5-a**; and

3 Preparation of State General Election Voting Materials; Party Columns. Amend RSA 656:5 to read as follows:

656:5 Party Columns. The names of all candidates nominated in accordance with the election laws shall be arranged upon the state general election ballot in successive party columns. Each separate column shall contain the names of the candidates of one party; except that, if only a part of a full list of candidates is nominated by a political party, 2 or more such lists may be arranged whenever practicable in the same column. The party columns that list the names of candidates for offices that elect more than one person shall stagger the names of the candidates so that they do not line up evenly in a horizontal direction. The left-most column shall begin one line below the column to its right. The secretary of state shall determine the *vertical* location of any additional columns that may appear on the ballot. ***The position of party columns shall be rotated on the ballots used so that each party column shall appear thereon, to the extent practicable, an approximately equal number of times in the first, last, and each intermediate column position across the state, without requiring more than one unique column order or ballot format for each town and city ward, and provided that no party column shall be placed in the first column position, next to the column listing the offices to be elected, unless it includes candidates for more than half of the offices being elected on the ballot, unless there are no such party columns. The secretary of state shall develop a column rotation order plan for each general election starting with a reasonably balanced rotation across each state representative district consisting of more than one town or ward. Only after establishing a party column rotation order for all towns and wards shall the secretary of state publicly select by lot the actual party column to be positioned in the first column and each subsequent column in the first rotation order.***

4 New Section; Preparation of State General Election Voting Materials; Order of Candidate Names on Ballots. Amend RSA 656 by inserting after section 5 the following new section:

656:5-a Order of Candidate Names on Ballots. Whenever there are 2 or more candidates for the same office whose names will appear within the same column or list on a ballot, the names of such candidates shall be rotated on the ballots used so that each name shall appear thereon, to the extent practicable, an equal number of times at or near the top, at or near the bottom, and in each intermediate position, if any, of the list in which it belongs, without requiring more than one unique name order or ballot format for each town and city ward. The secretary of state shall randomly select one candidate's name, by lot or otherwise, to appear at the top of each such list for the first name order rotation. Other candidates' names shall be arranged to follow in alphabetical order of their surnames with the letter "a" following "z."

5 Primary Election Voting Materials; Order of Names. Amend RSA 656:24 to read as follows:

656:24 Order of Names. With the exception of the office of state representative, whenever there are 2 or more candidates for nomination to the same office, the names of such candidates shall be alternated on the state primary election ballots used so that each name shall appear thereon as nearly as may be an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list in which it belongs. Names of candidates for nomination to the office of state representative shall be arranged in the alphabetical order of their surnames ***according to the alphabetization and rotation procedure established in RSA 656:5-a.***

6 Presidential Primary Election Voting Materials; Order of Names. Amend RSA 656:32 to read as follows:

656:32 Other Provisions. The provisions of RSA 656:24-656:28 relating to state primary election ballots shall apply to presidential primary ballots, except that candidates on the presidential primary ballot shall be listed in the alphabetical order of their surnames ***according to the alphabetization and rotation procedure established in RSA 656:5-a.***

7 Constitutional Convention Ballots; Form. Amend RSA 667:12 to read as follows:

667:12 Form. Every ballot for the election shall contain the name and domicile of each candidate who has filed a declaration of candidacy for delegate. The names of candidates upon the ballot shall be arranged in perpendicular columns under the title "For Delegate to the Constitutional Convention." Below the title shall be printed in easily legible type the words "Vote for" followed by a spelled number designating the number of persons to be elected to such office. At the right of the name of each candidate and on the same line, there shall be a square. Following the names there shall be as many blank lines as there are persons to be elected. Whenever there are 2 or more candidates, the names shall be printed upon the ballot in alphabetical order of their surnames ***according to the alphabetization and rotation procedure established in RSA 656:5-a.***

8 Town Elections; Official Ballot; Voting Materials. Amend RSA 669:23 to read as follows:

669:23 Preparation of Voting Materials. The town clerk shall prepare the official ballots for the town and shall arrange the names of candidates upon said ballots in parallel columns. Immediately above the names of each block of candidates shall be printed the title of the office for which they are candidates, such as "For Selectman." Below the title of each office shall be printed in small but easily legible type the words "Vote for not more than (here insert a number designating how many persons are to be voted for)." Directly to the right of the name of each candidate there shall be a square. Whenever there are 2 or more candidates for the same office the names shall be printed upon the ballot in the alphabetical order of their surnames ***according to the alphabetization and rotation procedure established in RSA 656:5-a, with the town clerk acting in lieu of the secretary of state. In the alternative, the governing body may provide for a random selection of the order of names on the ballot.*** Following the names printed on the ballot under the title of each office, there shall be as many blank lines as there are persons to be elected to that office.

9 Form of Candidate's Name on Ballot; Nicknames. Amend RSA 655:14-b, I-II to read as follows:

I. Every candidate for state or federal office who intends to have his or her name printed upon the ballot of any party for a primary shall designate in the declaration of candidacy, or on the primary petitions and assents to candidacy, the form in which the candidate's name shall be printed on the ballot. ~~[The candidate may designate his or her given, first, and middle name, the initials of his or her given, first, and middle name, a nickname, or any combination thereof as the form in which the candidate's name shall be printed on the ballot, but the candidate shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with the candidate's given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his or her surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name, or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2 word~~

~~nicknames customarily related to the candidate's given name.]~~ ***The designated name may include the candidate's given name or a shortened form of the candidate's given name or a one-word nickname customarily related to the candidate, and by which the candidate is commonly recognized. The designated name may also include an initial for the first or middle name, or both.*** No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning. A candidate shall include his or her surname in the designation of the form in which the candidate's name shall be printed on the ballot.

II. Every candidate for state or federal office who intends to have his or her name placed on the ballot for the state general election by means other than nomination by party primary shall designate in the declaration of intent the form in which the candidate's name shall be printed on the ballot. ~~[The candidate may designate his or her given, first, and middle name, the initials of his or her given, first, and middle name, a nickname, or any combination thereof as the form in which the candidate's name shall be printed on the ballot, but the candidate shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with the candidate's given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his or her surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name, or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2 word nicknames customarily related to the candidate's given name.]~~ ***The designated name may include the candidate's given name or a shortened form of the candidate's given name or a one-word nickname customarily related to the candidate, and by which the candidate is commonly recognized. The designated name may also include an initial for the first or middle name, or both.*** No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning. A candidate shall include his or her surname in the designation of the form in which the candidate's name shall be printed on the ballot.

10 Effective Date.

I. Sections 1-8 of this act shall take effect 60 days after its passage.

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

2008-1745s

AMENDED ANALYSIS

This bill establishes a procedure for the random drawing of a candidate's name for the ordering of names on election ballots and requires the rotation of candidate names and party columns on the ballots. This bill also changes the limitations on a candidate designating a name to be placed on the ballot.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Gatsas is in opposition to HB 358.

Senator Letourneau is in opposition to HB 358 as amended.

HB 1219, relative to exempting fish and game department volunteers from financial disclosure requirements. Election Law and Internal Affairs Committee. Ought to Pass with Amendment, Vote 4-1. Senator Burling for the committee.

Sen. Burling, Dist. 5

May 5, 2008

2008-1692s

10/04

Amendment to HB 1219

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

AN ACT relative to exempting fish and game department volunteers from financial disclosure requirements, allowing lobbyists and those connected with lobbyists to sit on committees established by the judicial branch, and enabling certain persons to vote in primaries prior to turning 18 years of age.

Amend the bill by replacing section 2 with the following:

2 Restrictions on Simultaneous Employment and Public Service. Amend RSA 21-G:25, III(e) and (f) to read as follows:

(e) Ownership of publicly-traded stock; ~~or~~

(f) A public employee, appointee, or volunteer's personal application for any license, permit, or ruling from a state agency~~[-]; or~~

(g) Service on a multi-branch commission, committee, board, or similar governmental entity established by the judicial branch.

3 New Paragraph; Eligibility; Voter; 17 Years of Age. Amend RSA 654:1 by inserting after paragraph II the following new paragraph:

III. A person who is 17 years of age, who otherwise meets the eligibility requirements of paragraph I, may vote at a state primary election or a presidential primary election preceding a general election at which the person will be 18 years of age.

4 Voter Registration Form. Amend RSA 654:7 to read as follows:

654:7 Voter Registration Form. A standard registration application form shall be used throughout the state. The registration form shall be no larger than 8½ inches by 11 inches. The secretary of state shall prescribe the form of the voter registration form, which shall be in substantially the following form:

Date _____

VOTER REGISTRATION FORM

(Please print or type)

1. Name _____
Last (suffix) First Full Middle Name

2. Address _____
Street Ward Number

_____ Town or City Zip
Code

3. Mailing Address if _____
different than in 2 Street Ward Number

_____ Town or City Zip Code

4. Place and Date of Birth _____
Town or City State

Date _____

5. If a naturalized citizen, give name of court where and date when naturalized

_____ Town or City
6. Place last registered to vote _____

Street Ward Number

7. Name under which previously registered, if different from above

8. Party Affiliation (if any) _____

9. Driver's License Number _____ State _____

If you do not have a valid driver's license, provide the last four digits of your social security number ____ _

My name is _____. I am today registering to vote in the city/town of _____, New Hampshire.

I understand that to vote in this city/town, I must be at least 18 years of age, **or 17 years of age to vote in a state primary or presidential primary preceding a general election at which I will be 18 years of age, and that** I must be a United States citizen, and I must be domiciled in this city/town.

I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Date Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum

sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000.
Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

5 New Section; Registration by 17-Year-Old Voting at Primary Election. Amend RSA 654 by inserting after section 7-b the following new section:

654:7-c Registration by 17-Year-Old Voting at Primary Election.

I. A person who is 17 years of age, who otherwise meets the eligibility requirements of RSA 654:1, I, may register to vote at a state primary election or a presidential primary election preceding a general election at which the person will be 18 years of age. Such person may only register at the polling place on the applicable election day.

II. If the supervisors of the checklist determine that the person registering under this section is qualified to vote, the person shall be entitled to vote as if his or her name is on the checklist. The supervisors shall retain the person's voter registration form and shall add the person's name to the checklist at their meeting next following the person's eighteenth birthday.

6 Determining Qualifications of Applicant; Age. Amend RSA 654:12, I(b) to read as follows:

(b) AGE. Any reasonable documentation indicating the applicant is 18 years of age or older, ***or that the applicant is 17 years of age and will be 18 years of age on the date of the general election if the person is registering under RSA 654:7-c.***

7 Effective Date.

I. Sections 3-6 of this act shall take effect 60 days after its passage.

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

2008-1692s

AMENDED ANALYSIS

This bill exempts volunteers in the fish and game department from financial disclosure requirements.

This bill allows lobbyists and those connected with lobbyists to sit on committees established by the judicial branch.

This bill also enables 17-year-olds to vote in primaries if they will be 18 years of age on the date of the general election.

Amendment failed.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

May 14, 2008

2008-1896s

10/04

Floor Amendment to HB 1219

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

AN ACT	relative to exempting fish and game department volunteers from financial disclosure requirements and allowing lobbyists and those connected with lobbyists to sit on committees established by the judicial branch.
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Amend the bill by replacing section 2 with the following:

2 Restrictions on Simultaneous Employment and Public Service. Amend RSA 21-G:25, III(e) and (f) to read as follows:

(e) Ownership of publicly-traded stock; ~~or~~

(f) A public employee, appointee, or volunteer's personal application for any license, permit, or ruling from a state agency~~[-];~~ **or**

(g) Service on a multi-branch commission, committee, board, or similar governmental entity established by the judicial branch.

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

2008-1896s

AMENDED ANALYSIS

This bill exempts volunteers in the fish and game department from financial disclosure requirements.

This bill allows lobbyists and those connected with lobbyists to sit on committees established by the judicial branch.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

SPECIAL ORDER

Senator Larsen moved that, without objection, HB 1429 be Special-Ordered to the front of the Calendar.

HB 1429, relative to private landfills. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Environment, Energy and Economic Development

May 13, 2008

2008-1863s

08/09

Amendment to HB 1429

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

1 New Paragraphs; Host Community Agreement; Definitions. Amend RSA 149-M:4 by inserting after paragraph X-a the following new paragraphs:

X-b. “Host community agreement” means an agreement between the owner of a privately-owned landfill and the municipality in which the landfill is located.

X-c. “Host community fee” means a fee payable in one or more installments to a municipality in which a privately-owned landfill is located, in order to compensate the municipality for the impacts occasioned by that landfill.

2 New Section; Host Community Agreement. Amend RSA 149-M by inserting after section 12 the following new section:

149-M:12-a Host Community Agreement; Department Issuance of Permit.

I. The purpose of this section is to ensure that host municipalities are compensated for the unique economic and environmental impacts associated with the location of solid waste landfills within their boundaries. The potential economic and environmental impacts such as impacts to groundwater, air quality, and other natural resources are unique to solid waste landfills as opposed to transfer, processing, and recycling facilities for solid waste which do not involve the permanent disposal of solid waste. The general court has recognized the impacts of landfills by ranking landfills in the hierarchy established in RSA 149-M:3 as the least desirable of solid waste disposal methods. Because privately-owned landfills are operated for profit and are not deemed to be public entities, the general court finds that it is in the public interest to compensate host municipalities for these immediate and long-term economic and environmental impacts through the payment of a host community fee. The general court acknowledges that the amount of any such host community fee will be dependent upon the size of the landfill, the nature and degree of the impacts associated with its operation, and whether the private landfill accepts solid waste from any source or is intended only to serve a single or limited number of entities generating solid waste. For the reasons stated herein, the general court also finds that enhanced opportunity for public participation in the permitting process for privately-owned landfills is in the public interest.

II. The department may not issue a permit for a privately-owned landfill or a modification of such a permit unless:

- (a) A host community agreement is in place;
- (b) A host community fee has been determined in a writing signed by duly authorized representatives of the owner or operator of the privately-owned landfill and the governing body of the host municipality;
- (c) The dispute resolution process prescribed by paragraph VI of this section has been completed by the determination of a host community fee by the arbitrator; or
- (d) The municipality has elected not to participate in the dispute resolution process.

III. No later than 10 days after a determination by the department that the application for a permit or a permit modification for a privately-owned landfill is complete, the applicant shall request a meeting with the municipality for the negotiation of a host community agreement or the determination of a host community fee. If the municipality agrees to such a meeting, it shall take place within 30 days of the request. The parties may continue to meet thereafter as often as they deem necessary to reach agreement on a host community agreement or the amount of a host community fee, except as otherwise provided by this section.

IV. No later than September 1, 2008, the owner of every privately-owned landfill permitted under this chapter that is operating on that date shall request a meeting with the municipality in which the landfill is located for the negotiation of a host community agreement or the determination of a host community fee. If the municipality agrees to such a meeting, it shall take place within 30 days of the request. The parties may continue to meet thereafter as often as they deem necessary to reach agreement on a host community agreement or the amount of a host community fee, except as otherwise provided by this section.

V. Based upon the nature, size, and projected economic and environmental impacts of the landfill, a host community fee shall reimburse the municipality for projected expenditures for:

(a) Improvement, maintenance, and repair of:

(1) Local roads to the extent that they are directly affected by traffic to and from the landfill; and

(2) Other infrastructural elements to the extent they are directly affected by the landfill;

(b) Development and maintenance of adequate local emergency response capacity reasonably necessary to accommodate the landfill;

(c) Reasonable fees and expenses incurred by the municipality to monitor and interpret technical information about the landfill's operation; and

(d) Other expenses and impacts determined on a case-specific basis by the applicant and municipality to be appropriate given the nature of the landfill.

VI.(a) If the municipality and facility owner have not agreed on the amount of the host community fee, either party may seek to resolve a dispute about the amount of the host community fee in accordance with this paragraph, unless the municipality elects not to participate. The provisions of this section shall be the exclusive means by which the amount of the host community fee shall be determined, except as provided in subparagraph VI(b)(9).

(b) In the event that a host community fee has not been determined within 90 days of the department's determination that the application for a permit or a permit modification is complete, one or both of the parties shall inform the commissioner and commence the dispute resolution process by submitting the dispute to arbitration to the office of mediation and arbitration established in RSA 490-E.

(1) The arbitration shall be conducted in accordance with the rules of the office of mediation and arbitration and superior court rule 170-A. The substantive law of the state of New Hampshire shall govern any such arbitration.

(2) Subject to RSA 542:8, both the facility owner and the municipality shall be bound by the decision of the arbitrator.

(3) The arbitration shall be concluded within 90 days of the appointment of the arbitrator.

(4) Costs and fees associated with the arbitration shall be shared equally between the parties. Each party shall bear the costs of its own attorneys and experts associated with the arbitration.

(5) The arbitrator shall submit the decision to the parties and to the commissioner.

(6) Irrespective of when it is rendered, the decision of the arbitrator shall be effective as of the date of the department's issuance of the permit or permit modification, and the landfill's owner shall perform in accordance with the arbitrator's decision until and unless the decision is reversed or modified on appeal.

(7) Either party may appeal any alleged errors of law or findings of fact without support in the arbitration record to the superior court. Upon correction, vacation, or modification of the arbitrator's decision by a final ruling of the superior court or the supreme court, the parties shall make such payments or provide such refunds as are necessary to give effect to the court's decision as of the date of the department's issuance of the permit or permit modification or December 1, 2008, whichever is later.

(8) If the owner of the privately-owned landfill fails to make such payments or provide such funds as are necessary to give effect to the host community fee as determined by the parties, to the decision of the arbitrator, or to the court's final decision upon appeal and fails to comply with any such decision for more than 30 days, the commissioner shall revoke the permit or permit modification.

(9) Nothing in this section shall prevent the parties from voluntarily negotiating the amount of the host community fee during the pendency of an arbitration proceeding. Notwithstanding any other provision of law, any host community fee so negotiated before the issuance of an award by the arbitrator shall constitute the host

community fee under this section and the arbitration shall be terminated as of the date of the duly executed written agreement providing for the host community fee. Notice and a copy of any agreement for a host community fee completed during the pendency of an arbitration shall be submitted to the arbitrator and to the commissioner in order to terminate the arbitration.

3 Rulemaking. Amend RSA 149-M:7, XV to read as follows:

XV. Such other rules as are deemed necessary to implement the provisions of this chapter ***except relative to the use of a host community fee paid to a municipality***.

4 New Section; Municipal Notification. Amend RSA 149-M by inserting after section 9 the following new section:

149-M:9-a Municipal Notification.

I. No later than 30 days prior to the submission of an application for a permit to construct and operate, or modify an existing permit for, a privately-owned landfill, the owner or operator shall hold a public information meeting in the municipality in which the landfill is, or is proposed to be, located, to present to the governing body of the municipality, its residents, and other interested persons the nature and purpose of the application and address any questions concerning the application. Notice of the public information meeting shall be made by the owner or operator and shall be published at least 7 days prior to the information meeting in one newspaper of general circulation throughout the state and one newspaper of general circulation in the municipality. The director of waste management or designee shall attend the information meeting and be available to address the procedural and substantive provisions of the permitting process.

II. Copies of any application for a permit to construct, operate, or modify a privately-owned landfill and any subsequent communication and information submitted to the department shall be forwarded by first class mail, return receipt requested, by the applicant to the governing body of the municipality in which the landfill is, or is proposed to be, located. The department shall provide the governing body of the municipality with copies of any mailed communication sent to the applicant. The department shall provide the applicant with copies of any mailed communication sent to or received from the governing body of a municipality.

III. Following the submission of the application and a determination that it is complete, and upon 30 days prior notice, the department shall hold a public hearing on the application in the municipality in which the landfill is, or is proposed to be, located. Notice of the hearing shall be made by the applicant and shall be published twice in 2 different weeks, the last publication to be at least 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the

municipality. The notice shall also be posted in 2 public places in the municipality.

IV. The applicant and the governing body of each municipality and any other interested person may submit comments to the department relative to the application within 30 days after the public hearing in the municipality. If the comments relative to the application submitted by the municipality make recommendations to the department, the department shall consider such recommendations and shall issue written findings with respect to each issue raised that is contrary to the decision of the department.

V. The department shall issue a draft permit with respect to any application subject to the provisions of this section. Upon the request of the governing body of the municipality in which the privately-owned landfill is located, the department shall hold a public hearing, after issuance of the draft permit, and prior to the issuance of a final decision on the permit. The department shall provide the municipality with the draft permit when it is issued. The governing body of the municipality shall have 15 days from the date the draft permit is issued to request a public hearing on the draft permit. Notice and response to hearing requests shall be the same as that required under paragraph III.

VI. The department shall maintain an administrative record for each public hearing held under this section, including copies of all information and documents submitted and a written transcript of all testimony given.

VII. For the purposes of this section, the term “modify” shall mean any application that would result in the following:

- (a) A material increase in the approved design capacity of the landfill;
- (b) A material reduction or increase in the operating life expectancy of a landfill;
- (c) A change in the height or the footprint of the landfill; or
- (d) Change of ownership or control of a landfill where:

- (1) For a partnership, there is a change in the majority of general partners;

- (2) For a corporation, there is a transfer of all corporate assets or a majority of voting shares to a new individual or entity unaffiliated with the transferring corporation;

or

- (3) For any other organization or individual, there is a transfer to an organization or individual unaffiliated with the transferring organization or individual.

VIII. The department shall allow any municipality in which a privately-owned landfill is located or is proposed to be located to intervene as a party in the whole or in any portion of a proceeding for a permit or permit modification, and shall allow the municipality to participate by presentation of argument orally or in writing or for any other purpose, as the department may order. Any other municipality showing that it may be substantially and specifically affected by the issuance of such permit, shall be allowed to intervene as a party

in the proceeding. Any municipality that intervenes before the department shall retain its status through any administrative and judicial appeal of the department's decision.

5 Development of Legislative Proposals.

I. The department of environmental services is hereby directed to prepare a plan and proposal for legislative action in the 2009 session addressing the following items related to solid waste management:

(a) Proposals to achieve compliance with the integrated goal hierarchy established in RSA 149-M:3: source reduction; recycling and reuse; composting; waste-to-energy technologies; incineration without resource recovery; and landfilling.

(b) Proposals to ensure measurable progress toward the state's unmet waste diversion goal of 40 percent by the year 2000, established in RSA 149-M:2. The plan should include an alternative to the 2000 date and more aggressive work by the department to establish a new timetable along with a higher but achievable waste diversion goal.

(c) A plan that will ensure capacity for disposal of New Hampshire waste by reducing the amount of out-of-state waste transported to private landfills by reducing the amount of construction and demolition debris deposited in landfills and by requiring extraction of recyclable materials from such waste before it may be disposed of in New Hampshire landfills.

(d) Recommendations for strengthening and streamlining the procedures for the development and formation of regional solid waste districts and cooperative waste plans, to avoid duplication of effort, unnecessary expense, and the need to transport waste long distances.

(e) A proposal to incorporate into the solid waste management statutes the requirement to review a public benefit determination when there is a modification which materially increases or reduces the capacity of a privately-owned landfill and the standards under which the commissioner shall make a determination that such a proposed modification will not cause or contribute to a failure to attain or maintain any public benefits required by RSA 149-M:11.

(f) Other changes to RSA 149-M necessary to ensure safe, economical, and environmentally sound management of solid waste.

II. The department shall report its findings and 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 in the form of a report on or before December 1, 2008.

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

AMENDED ANALYSIS

This bill:

- I. Defines “host community agreement” and “host community fee.”
- II. Requires privately owned landfills to negotiate agreements with the municipality.
- III. Requires certain disputes between municipalities and privately-owned landfills to be resolved through arbitration.
- IV. Directs the department of environmental services to develop proposals for the 2009 legislative session.
- V. Prohibits the adoption of administrative rules necessary to implement provisions relative to the use of host community fees.
- VI. Requires the department of environmental services to issue draft permits and draft permit modifications for privately-owned landfills.

MOTION TO TABLE

Senator Hassan moved to have HB 1429 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1429, relative to private landfills.

Senators Cilley and Sgambati are in opposition to the motion to table HB 1429.

HB 1353, extending the commission to study issues relative to groundwater withdrawal. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Sgambati for the committee.

Adopted.

Ordered to Third Reading.

Senator Foster, Rule 42 on HB 1353.
Senator Gottesman, Rule 42 on HB 1353.
Senator Hassan, Rule 42 on HB 1353.

HB 1471, relative to time limits for excavating and dredging permits. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Sgambati for the committee.

Energy, Environment and Economic Development
May 7, 2008
2008-1748s
08/09

Amendment to HB 1471

Amend RSA 482-A:3, XIV (a)(2) as inserted by section 1 of the bill by replacing it with the following:

~~[(b)]~~ **(2)** Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. ***Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable.*** Any request for additional information ***under this subparagraph*** shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application.

2008-1748s

AMENDED ANALYSIS

This bill expands the time limits for excavating and dredging permit applications.

MOTION TO TABLE

Senator Sgambati moved to have HB 1471 laid on the table.

Adopted.

LAID ON THE TABLE

HB 1471, relative to time limits for excavating and dredging permits.

HB 1628, relative to renewable energy generation incentive programs. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Odell for the committee.

Energy, Environment, and Economic Development

May 7, 2008

2008-1737s

06/09

Amendment to HB 1628

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Renewable Energy Incentive Payments. Amend RSA 362-F:10 by inserting after paragraph IV the following new paragraphs:

V. The public utilities commission shall make and administer a one-time incentive payment of \$3 per watt of nominal generation capacity up to a maximum payment of \$6,000, or 50 percent of system costs, whichever is less, per facility to any residential owner of a small renewable generation facility, that would qualify as a Class I or Class II customer-sited

source of electricity, has a total peak generation capacity of less than 5 kilowatts, is built on or after July 1, 2008, and is located on or at the owner's residence.

VI. Such payments shall be allocated from the renewable energy fund established in paragraph I, up to a maximum aggregate payment of 10 percent of the fund per year.

VII. The commission shall, after notice and hearing, by order or rule establish an application process to allow small energy users that install a customer-sited source on their property after July 1, 2008, to be eligible to receive funding from the renewable energy fund established in paragraph I to the extent such funding is available. The application process shall include verification of costs for parts and labor, certification that the equipment used meets the applicable safety standards of the American National Standards Institute (ANSI) or Underwriters Laboratory (UL) or similar safety rating agency, and that the facility meets local zoning regulations, and receives any required inspections.

VIII. The commission may, after notice and hearing, by order or rule, establish additional incentive or rebate programs for customer-sited thermal and renewable energy projects, and after December 31, 2010, for good cause, modify the program created by RSA 362-F:10, V.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 6:

4 Definition. Amend RSA 362-F:2, V to read as follows:

V. "Customer-sited source" means a source that is interconnected on the end-use customer's [site] **side** of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer.

5 New Section; Renewable Energy Fund; Payment Rates. Notwithstanding any law or rule to the contrary, the payment rates established under RSA 362-F:10, II and III, for calendar year 2008 shall be as follows:

- (a) Class I--\$58.58.
- (b) Class II--\$153.84.
- (c) Class III--\$28.72.
- (d) Class IV--\$28.72.

2008-1737s

AMENDED ANALYSIS

I. Authorizes the public utilities commission to make a one-time payment from the renewable energy fund to certain owners of small renewable generation facilities.

II. Directs the public utilities commission to develop rules for creating an expedited process to allow certain energy users to be eligible to receive funding from the renewable energy fund.

III. Increases payment rates for the renewable energy fund for the calendar year 2008.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Bragdon is in favor of HB 1628.

HB 65, relative to the Pease development authority. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-1. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24

May 7, 2008

2008-1750s

06/09

Amendment to HB 65

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

AN ACT establishing a commission to study the relationship between the division of ports and harbors and the Pease development authority and relative to structure and administration of the Pease development authority.

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

1 Purpose. The state's ports, harbors, and associated lands are an invaluable, unique, and irreplaceable resource for all of the citizens of the state of New Hampshire. The purpose of this commission is to consider the current relationship between the division of ports and harbors and the Pease development authority.

2 Commission Established. There is established a commission to study the current relationship between the division of ports and harbors and the Pease development authority with regard to management and development that is in the best interest of the state of New Hampshire.

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

(a) Six members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be from the executive departments and administration committee, and 5 of whom shall be from each of the following districts: Rockingham district 13, 16, 15, and 18 and Strafford district 4.

(b) The 3 members of the senate from districts 21, 23, and 24, appointed by the president of the senate.

(c) One member from the New Hampshire Commercial Fishermen's Association, appointed by the association.

(d) One member from the division of ports and harbors advisory council, appointed by the council.

(e) One member from each of the towns of Hampton, New Castle, Newington, North Hampton, Portsmouth, Rye, Seabrook, and Dover, appointed by the respective municipality's governing body.

(f) One member from the Pease development authority board of directors, appointed by the executive director.

(g) Two members from the department of resources and economic development, one of whom shall be from the division of economic development and one of whom shall be from the division of tourism, appointed by the commissioner.

(h) One member from the Greater Portsmouth Chamber of Commerce, appointed by the president of the chamber of commerce.

(i) A representative of the Portsmouth police department experienced with security issues at the division, appointed by the chief of police.

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.

3 Duties.

I. The commission shall review the legislative history resulting in the current integration of the division of ports and harbors and the Pease development authority, including but not limited to:

- (a) Employment, including the appointment process for the director of the division of ports and harbors.
- (b) The division's revenues and expenditures, including aid in the development of salt water fisheries and associated industries.
- (c) Accounting and legal representation for the division.
- (d) Use of lands and regulations related to zoning, selling, and leasing of lands associated with the division.
- (e) Membership of the advisory council for the division.
- (f) Comparative value of lapsing and non-lapsing funds.
- (g) Other related issues of concern to the commission, including but not limited to the duties and functions relating to the administration, management, and operation of the division's property and projects.
- (h) The maintenance and development of the ports and state tidal waters for the head of navigation to the seaward limits within the jurisdiction of the state in order to maintain and foster commercial, economic, maritime, and security interests.

II. The commission shall study the current relationship of the division of ports and harbors and the Pease development authority relative to the specific categories of review identified in paragraph I and any related issues identified by the commission. The commission may solicit advice from any individual or organization with information or expertise relevant to the commission's study.

4 Chairperson; Quorum. The first-named senate member shall call the first meeting of the commission. The first meeting of the commission shall be held within 45 days of the effective date of this section. The members of the commission shall elect a chairperson from among the members. Fourteen members of the commission, 2 of whom shall be elected members of the legislature, shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation, including any recommendations for changes to the organizational structure of the division of ports and harbors, to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before October 1, 2008.

6 Status of Authority Employees; Entitlement to State Benefits. Amend RSA 12-G:11 to read as follows:

12-G:11 Status of Authority Employees; Entitlement to State Benefits; Reimbursement of Costs.

I. Except for any classified employee ***as provided in paragraph IV:***

(a) The authority may hire, fix, and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state [~~Except for any classified employee of the division, the employees of the authority shall not be classified employees of the state within the meaning of RSA 21 I:49. Except for any classified employee of the division,];~~

(b) Any individual employed by the authority shall be [deemed] an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding any other provision of law, any nonclassified employee's service with the authority, including employment with the authority prior to the effective date of this paragraph, shall be credited to such employee as continuous state service for all purposes, including without limitation rate of pay,

determination of seniority and years of state service, longevity pay, and annual, sick, or other forms of leave.

~~[H.]~~ **III.** Notwithstanding the provisions of paragraph I, any individual employed by the authority, except for any classified employee of the authority, whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority. This paragraph shall not apply to any classified employee of the division.

~~[H.]~~ **IV.** The state classified positions of the port authority shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority. Any person employed in such a position at the time of such transfer or at any time subsequent thereto shall be deemed a classified employee of the division. All classified employees of the division shall be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 and shall be subject to all requirements, and be entitled to all benefits and emoluments, of the state personnel system. Nothing herein shall preclude the general court from increasing or decreasing the number of classified positions within the division.

~~[IV.]~~ **V.** Notwithstanding any other provision of law, the authority or the executive director may assign as necessary any employee of the authority with appropriate skills and training to perform any responsibility, task, or duty assigned by statute to the authority or the division, including without limitation, on a temporary basis, any responsibility, task, or duty previously or otherwise assigned to any classified employee of the division. To the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or revenues of the authority other than division revenues, such fund or other source of revenue shall be reimbursed for the cost of such wages, salary, benefits, and other expenses, including without limitation reasonable overhead expenses, from funds drawn from the fund established under RSA 12-G:37 and, to the extent authorized, from the fund established under RSA 12-G:46. The executive director of the authority, subject to the approval of the board, is authorized to determine and fix, as necessary, rates of reimbursement.

7 Pease Development Authority; Ports and Harbors Fund Nonlapsing. Amend RSA 12-G:37 to read as follows:

12-G:37 Pease Development Authority Ports and Harbors Fund.

I. For the purpose of providing a fund to be known as the Pease Development Authority Ports and Harbors Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year relating to the division, division property, a division project, or any activity of the division, except any appropriation made to the harbor dredging and pier maintenance fund in accordance with RSA 12-G:46.

II. All sums so credited are appropriated to the authority ***for the benefit of the division:***

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with division property, a division project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all division property and division projects;

(c) To pay all costs as allocated by the authority for administering and operating the division, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board, the executive director, the division director, or other provision of law, including without limitation, reimbursement of the fund established under RSA 12-G:36 or any other source of revenue of the authority other than division revenues to the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or from revenues of the authority other than division revenues;

(d) To pay the principal of, and premium, if any, and the interest on any outstanding bonds of the state related to division property or division projects as the same become due and payable;

(e) ***To create and maintain reserves required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority related to division property or division projects;***

(f) To pay all payments in lieu of taxes owed by the authority, if any, related to division property or division projects; and

~~[(4)]~~ (g) In general for the payment of all expenses incident to the management and operation of the division, ***division property, or division projects*** as are consistent with its statutory purpose and as the board may from time to time determine.

III. This fund shall constitute a continuing ***nonlapsing*** appropriation for the benefit of the ***division*** ~~[authority. Except as provided in RSA 12-G:42, XIII, all division revenues associated with operations and responsibilities assigned by the authority to the division in excess of the operating expenditures required for the activities of the division shall be deposited in the general fund until such time as any bonds authorized and issued relating to division property or division projects have been retired. After such bonds have been retired, any amount remaining to the credit of the authority in this fund at the close of any fiscal year in excess of the amounts required under paragraph II shall lapse and shall be returned to the general fund of the state].~~

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. ***Division revenues or any other revenues, other than revenues from or associated with airport property or airport projects, received and due to the authority shall be retained by the authority and shall be used for division property or division projects in such manner as the board may determine consistent with the provisions of this chapter or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust, or security document.***

VI. Notwithstanding any other provision of law, no money in the fund shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of airport property or airport projects.

8 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Employment of Division Director. Amend RSA 12-G:43 to read as follows:

12-G:43 Division of Ports and Harbors.

I. There is established within the authority a division of ports and harbors ***that is subject to the direction and control of the board, the executive director, and the division director.*** The division of ports and harbors shall:

(a) Plan for the maintenance and development of the ports and state tidal waters from the head of navigation to the seaward limits within the jurisdiction of the state, in order to foster and stimulate commerce and the shipment of freight through the state's ports and,

as an agency of the state, to assist shipping, and commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries.

(b) Aid in the development of salt water fisheries and associated industries.

(c) Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports and state tidal waters.

(d) Plan, develop, maintain, use, and operate a heliport facility on property owned or controlled by the division. The division shall cooperate with departments, agencies, authorities, or commissions of the federal, state, or local governments and accept grants, aid, or services from such agencies in the carrying out of this purpose. Such authorization relating to heliport facilities shall include and be governed by all other provisions of this chapter.

(e) Maintain at all times a complete inventory of division property and port projects.

(f) Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to division by the authority.

II. The governor and council shall appoint a director of the division of ports and harbors who shall be qualified by education and experience and who shall hold office for a term of 5 years. Whenever an appointment of the director of the division is to be made, the board may make recommendations to the governor and submit such recommendations to the governor for the governor's consideration; however, the governor shall not be bound by such recommendations. The governor and council shall have authority to remove the director of the division as provided in RSA 4:1. The director of the division shall be the administrative officer of the division and shall have general and active supervision and direction over the day-to-day business and affairs of the division and its employees, subject, however, to the direction and control of the board and the executive director. The division director shall perform all such other duties as from time to time may be assigned by the board or the executive director. The division director shall also be the secretary of the division of ports and harbors advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of all books, documents, and papers filed with the division or the ports and harbors advisory council. The division director shall have the power to cause copies to be made of all minutes and other records and documents of the council and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the division or authority may rely upon such certificates. In addition to the classified employees of the division, the division director, with the concurrence of the executive director, may employ such assistants and clerical and administrative staff as are within the limits of funds available for that purpose. The salary of the division director shall be established by the board.

9 New Section; Report on the Division of Ports and Harbors. Amend RSA 12-G by inserting after section 43 the following new section:

12-G:43-a Report on the Division of Ports and Harbors.

I. The division director shall submit a biennial report on the status of development at the division to the governor and council, the board, the mayor and the city council in the city of Portsmouth, the selectmen in the towns of Rye, Newington, Hampton, Newcastle and Seabrook, the chairmen of the house and senate executive departments and administration committees, and the commissioner of the department of resources and economic development. Such report shall be submitted and made available to the public biennially beginning on June 30, 2010. The first report issued on June 30, 2010 shall be for the 2-year period ending on June 30, 2009.

II. The report shall include descriptions of:

(a) The financial status of the division, including a report on the activities of the Pease development authority ports and harbors fund and a recommendation on whether to continue the fund as a nonlapsing fund and an accounting of the activities of the division of ports and harbors revolving loan fund.

(b) Any contracts involving use of division property that have been executed in the previous 24-month period and the status and scope of all ongoing port development projects.

(c) Programs and informational meetings held to permit and encourage communication between the division and the communities it serves.

(d) Environmental reports, investigations, and permits received by, prepared by or on behalf of the division with respect to division property and activities on division property.

(e) Any proposals for the sale of division property.

10 Division of Ports and Harbors Advisory Council. Amend RSA 12-G:44, I to read as follows:

12-G:44 Division of Ports and Harbors Advisory Council.

I. There is hereby established a division of ports and harbors advisory council consisting of 8 members, 6 of whom shall be appointed by the governor, with the advice and consent of the council. ~~[At least 3]~~ **Two** of said appointive members shall be residents of the cities and towns of the seacoast region or state tidal waters ~~[and at least]~~ **that are not represented on the board**, one appointive member shall be a commercial fisherman engaged in that industry on the seacoast, and **2 appointive members shall be experienced in a maritime industry**. Each **appointive member** shall serve for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the governor and council for the unexpired term. In addition to the 6 appointive members, the commissioner of the department of resources and economic development, or designee, and the mayor of the city of Portsmouth, or designee, shall be, by virtue of their offices, members of the council.

11 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Dredge Management. Amend the introductory paragraph of RSA 12-G:45 to read as follows:

12 Pease Development Authority; Division of Ports and Harbors; Rules Relative to Pilot Qualifications. Amend RSA 12-G:47 to read as follows:

12-G:47 Pilots. The authority, in consultation with the **executive director**, the division director, and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

13 Pease Development Authority; Division of Ports and Harbors; Clarification of Agency Management Authority. Amend RSA 12-G:50 to read as follows:

12-G:50 Duties; Chief Harbor Master; Deputy Chief Harbor Master; Harbor Masters.

I. Subject to the supervision of the authority, **the executive director**, and the division director, the chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted by the authority pursuant to this chapter relating to the activities and operations of the division or division property.

(b) Issuing and overseeing mooring permits and management of the mooring wait list and of the assignment and placement of moorings.

(c) Designation of anchorage areas.

(d) Management of navigation aides outside of the federal channel.

(e) Management of the movement of traffic, as necessary.

(f) Direction of the removal or movement of vessels during emergencies.

- (g) Overseeing the dredge management program.
- (h) Overseeing the harbor management program.
- (i) Inquiring into and prosecuting all offenses occurring within the chief harbor master's jurisdiction.

- (j) Any other duties assigned by the authority or the division director.

II. Subject to the supervision of the authority, ***the executive director***, the division director, and the chief harbor master, the deputy chief harbor master's duties shall include but not be limited to the following:

- (a) Enforcement of authority directives and rules adopted pursuant to this chapter relating to the division or division property.

- (b) Performance of the duties of the chief harbor master during the absence or incapacity of the chief harbor master or when such duties are specifically delegated to the deputy chief harbor master by the authority, the division director, or the chief harbor master.

- (c) Performance of any other duties assigned by the authority, the division director, or the chief harbor master.

III. Subject to the supervision of the authority, ***the executive director***, the division director, the chief harbor master, and the deputy chief harbor master, the duties of a harbor master shall include but not be limited to the following:

- (a) Monitoring the placement and use of moorings in state tidal waters to which the harbor master has been specifically assigned by the chief harbor master or the deputy chief harbor master.

- (b) Notifying the chief harbor master or the deputy chief harbor master of any violations of any provision of RSA 12-G or any rules of the authority adopted under RSA 12-G relating to the division or division property.

- (c) Performance of any other duties assigned by the division director or the chief harbor master or the deputy chief harbor master.

IV. An assistant harbor master shall assist the chief harbor master, the deputy chief harbor master, or any harbor master as directed by the division director, the chief harbor master, or the deputy chief harbor master in the performance of the chief harbor master's, the deputy chief harbor master's, or harbor master's duties.

14 Impoundment and Forfeiture of Vessels and Moorings; Reference Change. Amend RSA 12-G:52-b, V to read as follows:

V. Upon the expiration of the 90-day period identified in paragraph III, the division director may dispose of any unredeemed vessel or mooring by destroying such vessel or mooring or by offering such vessel or mooring for sale at public auction or the division director may retain such vessel or mooring for use by the state; provided, however, if the vessel or mooring is sold or retained, the purchaser or the state, in the event of retention, shall pay the cost of impoundment, removal, and storage, and shall obtain release of the lien identified in paragraph I. Any money received by reason of sale of such vessel or mooring at public auction shall be deposited in the ~~[harbor management fund]~~ ***Pease development authority ports and harbors fund established in RSA 12-G:37.***

15 Review of Report on Economic Development; Reference Change. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under ~~[RSAs]~~ ***RSA 4-C:6-a, RSA 12-A:33, [12-G:30,]*** and ***RSA 162-A:23-a***, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

16 New Subparagraph; Special Accounts; Pease Development Authority Ports and Harbors Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the Pease development authority ports and harbors fund established in RSA 12-G:37.

17 Repeal. The following are repealed:

- I. RSA 12-G:42, XIII, relative to a special account within the ports and harbors fund.
- II. RSA 12-G:46-a, relative to the harbor management fund.
- III. RSA 6:12, I(b)(225), relative to the harbor management fund.

18 Effective Date.

- I. Sections 1-5 of this act shall take effect upon its passage.
- II. The remainder of this act shall take effect 60 days after its passage.

2008-1750s

AMENDED ANALYSIS

This bill:

- I. Establishes a commission to study the relationship between the Pease development authority and the division of ports and harbors.
- II. Provides that service of non-classified employees of the authority shall be credited as continuous state service for all purposes.
- III. Makes the Pease development authority fund a nonlapsing fund for the benefit of the division of ports and harbors.
- IV. Requires a biennial report on the division of ports and harbors.
- V. Repeals provisions relative to coordination with the harbor management fund.

Amendment adopted.

Senator Gottesman, Rule 42 on HB 65.

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

Adopted.

Senator Gottesman, Rule 42 on HB 65.

Ordered to Third Reading.

Senator Kenney is in favor of HB 65.

HB 563, relative to obtaining birth certificates for stillborn children. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Burling for the committee.

Senate Executive Departments and Administration

May 7, 2008

2008-1751s

01/10

Amendment to HB 563

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

AN ACT relative to obtaining certificates of stillbirth for stillborn children.

Amend RSA 5-C:74, V as inserted by section 2 of the bill by replacing it with the following:

V. Upon request of a parent, the division shall complete and issue to the parent or parents a certificate of stillbirth for a fetal death, as defined in RSA 5-C:1, XII, on the form established pursuant to RSA 5-C:75-a.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Kenney is in favor of HB 563.

HB 1262, relative to continuing medical education requirements for persons licensed by the board of medicine. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration

May 7, 2008

2008-1759s

05/03

Amendment to HB 1262

Amend RSA 329:16-g as inserted by section 1 of the bill by replacing it with the following:

329:16-g Continuing Medical Education Requirement. As a condition of renewal of license, the board shall require each licensee to show proof at least **at** every ~~[3 years]~~ **biennial license renewal** that the licensee has completed ~~[an]~~ **100 hours of** approved continuing medical education program within the preceding ~~[3]~~ **2** years. For the purposes of this section, an approved continuing medical education program is a program designed to continue the education of the licensee in current developments, skills, procedures, or treatment in the licensee's field of practice, which has been certified by a national, state, or county medical society or college or university approved by the board. There shall be a complete audit of all continuing education credits annually by the New Hampshire Medical Society ~~[until January 1, 2007, and by the board or their designee thereafter. The board shall accept verification of continuing medical education for licensees from the New Hampshire Medical Society until January 1, 2007].~~ **Each licensee shall submit a continuing medical education report with copies of continuing medical education course certificates earned by the licensee and other documents which establish that continuing medical education course requirements have been met, using a form approved by the board. The complete audit shall include the collection, review, verification, and preservation of the continuing medical education documentation**

of each licensed physician and a report which records the credits awarded to each licensee during the 2-year period applicable to each licensee. The fee charged to licensees for continuing medical education verification shall not exceed 125 percent of the actual cost of providing the service. The New Hampshire Medical Society is prohibited from using any information from this program for promotional purposes or any other purpose not necessary for continuing education verification.

2008-1759s

AMENDED ANALYSIS

This bill requires that continuing medical education requirements for physicians be completed every 2 years at the biennial license renewal, and continues the auditing of continuing education credits by the New Hampshire Medical Society.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

Sen. Gallus, Dist. 1

May 1, 2008

2008-1642s

10/05

Floor Amendment to HB 1262

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

AN ACT relative to continuing medical education requirements for persons licensed by the board of medicine, and requiring a report by the board on the audit of the board of medicine.

Amend the bill by replacing section 2 with the following:

2 Board of Medicine; Report Required. The board of medicine shall report not later than October 1, 2008 to the fiscal committee of the general court on the board's responses to and actions taken following the audit report by the office of legislative budget assistant evaluating the board of medicine.

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.

2008-1642s

AMENDED ANALYSIS

This bill requires that continuing medical education requirements for physicians be completed every 2 years at the biennial license renewal. The bill also requires the board to

report to the fiscal committee on the audit report on the board of medicine.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1288, allowing pharmacists to administer influenza vaccines. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration

May 7, 2008

2008-1772s

10/04

Amendment to HB 1288

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

AN ACT allowing pharmacists to administer influenza vaccines and requiring pharmacies to report a closure of a pharmacy during regular, posted hours of operation.

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

1 New Section; Pharmacists; Administration of Influenza Vaccines. Amend RSA 318 by inserting after section 16-a the following new section:

318:16-b Pharmacist Administration of Influenza Vaccines. A pharmacist may administer influenza vaccines to the general public within a licensed pharmacy setting where he or she practices, provided all of the criteria in this section have been met. The pharmacist shall:

I. Have earned a Pharm.D. degree and be licensed by the board to practice as a pharmacist in New Hampshire, or hold an unrestricted and current license to practice as a pharmacist in New Hampshire and have held the license for at least 3 years.

II. Possess at least \$1,000,000 of professional liability insurance coverage.

III. In order to administer influenza vaccines by injection, have completed training specific to the administering of influenza vaccines by injection that includes programs approved by the Accreditation Council for Pharmacy Education (ACPE) or curriculum-based programs from an ACPE-accredited college of pharmacy or state or local health department programs or programs recognized by the board.

IV. Provide to the board evidence of compliance with paragraphs I-III.

2 New Paragraphs; Rulemaking; Administration of Influenza Vaccine; Reports of Pharmacy Closure. Amend RSA 318:5-a by inserting after paragraph XVIII the following new paragraphs:

XIX. Procedures for the administration of influenza vaccine under RSA 318:16-b, including evidence of compliance with education, insurance, and training requirements.

XX. Procedures for the reporting of pharmacies under RSA 318:40-a.

3 New Section; Report of Pharmacy Closure. Amend RSA 318 by inserting after section 40 the following new section:

318:40-a Report of Pharmacy Closure.

I. The pharmacist in charge or a staff pharmacist of a pharmacy shall report to the pharmacy board within 48 hours of a closure of the pharmacy during the pharmacy's regular, posted hours of operation.

II. Such report shall include:

(a) The customary and regular, publicly posted hours of operation of the pharmacy;

(b) The date, time, and duration of the closure of the pharmacy during such regular, posted hours of operation; and

(c) Any attempts made to ensure the provision of necessary pharmaceuticals to pharmacy customers.

4 Effective Date. This act shall take effect 60 days after its passage.
2008-1772s

AMENDED ANALYSIS

This bill allows licensed pharmacists who meet certain criteria and complete training to administer influenza vaccines to the public.

This bill also requires a pharmacy to report to the pharmacy board on any closure during regular, posted hours of operation.

Amendment failed.

The question is on the motion of Ought to Pass.

Adopted.

Ordered to Third Reading.

HB 1374, establishing a division of homeland security and emergency management in the department of safety. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 3-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration

May 7, 2008

2008-1754s

05/09

Amendment to HB 1374

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

AN ACT relative to the homeland security and emergency management responsibilities of the department of safety and the use of interpreters in court-authorized wiretaps.

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

1 Homeland Security and Emergency Management. The subdivision heading preceding RSA 21-P:34 is repealed and reenacted to read as follows:

Homeland Security and Emergency Management

2 Purpose Statement. Amend RSA 21-P:34 to read as follows:

21-P:34 Purpose. Because of the possibility of the occurrence of natural and ~~man-made~~ **human-caused** disasters resulting from fire, flood, hurricane, earthquake, prolonged

power outages, disruption or contamination of the food or water supply, degradation of critical facilities and vital systems, disruption of communication systems, or other natural, technological or ~~[man-made]~~ **human** causes, **including acts of terrorism**, and in order that the state of New Hampshire will be adequately prepared to cope with such disasters; and, generally, in order to preserve the lives and the property of the people of the state, a state division of emergency services, communications, and management is hereby created under the direction of the director of the division of ~~[emergency services, communications, and management]~~ **homeland security and emergency management**. The emergency management powers provided in this subdivision are conferred upon the governor and upon other executive heads of governing bodies of the state; the creation of local organizations for emergency management in the political subdivisions of the state is authorized; and provision is made for the rendering of mutual aid among the political subdivisions of the state and between this and other states and to cooperate with the federal government with respect to the carrying out of emergency management functions. It is further declared to be the purpose of this subdivision and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster **or incident of terrorism** that may occur.

3 Definition of Director and Emergency Management. Amend RSA 21-P:35, IV and V to read as follows:

IV. "Director" means the director of the division of ~~[emergency services, communications, and management]~~ **homeland security and emergency management**.

V. "Emergency management" means the preparation for and the carrying out of all emergency functions, including but not limited to emergency response and training functions, to prevent, minimize, and repair injury or damage resulting from the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or ~~[man-made]~~ **human** cause, including but not limited to fire, flood, earthquake, windstorm, wave actions, technological incidents, oil or chemical spill, or water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, **terrorist act**, or riot.

4 Division of Homeland Security and Emergency Management. RSA 21-P:36 and 21-P:36-a are repealed and reenacted to read as follows:

21-P:36 Division of Homeland Security and Emergency Management.

I. There is hereby created a division of homeland security and emergency management within the department of safety under the supervision of the director of homeland security and emergency management nominated and appointed as provided in RSA 21-P:5-a.

II. The division shall consist of 2 bureaus, a bureau of homeland security and a bureau of emergency management. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of homeland security and emergency management. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner provided for personnel of other state agencies. The division and its personnel shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

III. The commissioner of safety shall nominate an assistant director of homeland security and emergency management, for appointment by the governor with consent of the council, to serve at the pleasure of the commissioner. The assistant director shall receive the salary provided in RSA 94:1-a for the position.

21-P:36-a Assistant Director of the Division of Homeland Security and Emergency Management; Retirement System. For purposes of classification under the provisions of RSA 100-A, the assistant director of the division of homeland security and emergency management shall be eligible to be a group II member if the assistant director was a member of group II for at least 10 years prior to his or her appointment.

5 New Section; Agreement Resulting from Disaster Declaration. Amend RSA 21-P by inserting after section 37-a the following new section:

21-P:37-b Agreement Resulting from Disaster Declaration. If, as the result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and the speaker of the house of representatives within 30 days after approval by the governor and council. Any obligation of the general fund as the result of such an agreement shall be transmitted to the president of the senate and the speaker of the house of representatives for prompt payment. Administrative costs of the state of New Hampshire incident to such obligation shall be included in the submission to the general court.

6 Advisory Council on Emergency Preparedness and Security. RSA 21-P:48 is repealed and reenacted to read as follows:

21-P:48 Advisory Council on Emergency Preparedness and Security.

I. There is hereby created an advisory council on emergency preparedness and security, consisting of the following members:

- (a) The director of the division of homeland security and emergency management.
- (b) The attorney general, or designee.
- (c) The chair of the public utilities commission, or designee.
- (d) The adjutant general, or designee.
- (e) The commissioner of the department of health and human services, or designee.
- (f) The director of the division of fire safety.
- (g) The commissioner of the department of safety, or designee.
- (h) The director of the office of energy and planning.
- (i) The commissioner of the department of transportation, or designee.
- (j) The commissioner of the department of resources and economic development, or designee.
- (k) The commissioner of the department of agriculture, markets, and food, or designee.
- (l) The commissioner of the department of environmental services, or designee.
- (m) The commissioner of the department of administrative services, or designee.
- (n) The director of the division of ports and harbors, Pease development authority.
- (o) The director of police standards and training.
- (p) The director of the division of fire standards and training.
- (q) A local police chief, appointed by the governor.
- (r) A local fire chief, appointed by the governor.
- (s) A county sheriff appointed by the governor.
- (t) A representative of the Professional Firefighters of New Hampshire, appointed by the governor.
- (u) The director of the division of state police.
- (v) The director of the division of public health services.
- (w) The commissioner of the department of corrections, or designee.
- (x) The executive director of the department of fish and game, or designee.
- (y) The executive director of the New Hampshire Hospital Association.

- (z) A representative of a regional emergency planning committee, appointed by the governor.
- (aa) One member of the state hazardous materials cooperative, appointed by the governor.
- (bb) A representative of the hazardous materials transporter industry, appointed by the governor.
- (cc) A representative of the hazardous materials industry, appointed by the governor.
- (dd) The director of the division of emergency communications and services.
- (ee) A representative of the Business and Industry Association, appointed by the governor.
- (ff) A representative from the United States Environmental Protection Agency, appointed by that agency.
- (gg) A representative from the Federal Bureau of Investigation, appointed by the Bureau.
- (hh) A representative from the United States Coast Guard, appointed by that agency.
- (ii) The director of the division of safety services.
- (jj) A representative of the nuclear power industry, appointed by the governor.
- (kk) A representative of the United States Department of Homeland Security, appointed by the department.
- (ll) The primary investigator for the Centers for Disease Control and Assistant Secretary for Preparedness and Response (ASPR) grant programs.
- (mm) A representative of the state citizens corps, appointed by the governor.
- (nn) A representative of the emergency medical services medical control board, appointed by the board.
- (oo) The United States Attorney for the District of New Hampshire, or designee.
- (pp) A representative from the department of health and human services radiological health program, designated by the commissioner of health and human services.
- (qq) A representative from the department of environmental services environmental health program, designated by the commissioner of environmental services.
- (rr) A representative from the department of environmental services waste management division, designated by the commissioner of environmental services.
- (ss) A judicial branch representative, chosen by the chief justice of the supreme court.
- (tt) A representative of a volunteer emergency response non-governmental organization, appointed by the governor.
- (uu) Such other representatives as the governor, from time to time, may deem necessary for the fulfillment of the council's mandates.

II. The council shall advise the governor on issues involving the state's ability to respond to natural and human-caused disasters, and the preparation and maintenance of a state disaster plan in conformance with any federal regulation or law. The director of homeland security and emergency management shall seek the advice of the council in matters pertaining to any of the state's emergency plans, including the allocation of state and federal resources to meet the objectives of such plan. The council shall serve the functions of the state emergency response commission (SERC) and the Centers for Disease Control's state public health emergency preparedness committee, and may form subcommittees as necessary to perform these functions. The council shall periodically and otherwise as necessary report to the governor, the senate president, and the speaker of the house of representatives on any recommendations of the council that pertain to the state's preparedness and ability to respond to natural and human-caused disasters and acts of terrorism. The commissioner of safety or the commissioner's designee shall serve as the chairperson of the council.

III. Not less than 20 members shall constitute a quorum at any meeting. For ex officio positions a designee from that organization may be appointed in writing by the member to represent him or her at any meeting which the member is unable to attend.

7 New Subdivision; Division of Emergency Services and Communications. Amend RSA 21-P by inserting after section 48 the following new subdivision:

Emergency Services and Communications

21-P:48-a Division of Emergency Services and Communications.

I. There is hereby created a division of emergency services and communications within the department of safety under the supervision of the director of emergency services and communications and reporting to the assistant commissioner. The commissioner shall nominate a director of the division of emergency services and communications for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor has been appointed. The director shall be responsible to carry out such duties as are specifically enumerated in this subdivision and as may be assigned by the office of the commissioner. The director shall be academically and technically qualified to hold the position and shall receive the salary specified in RSA 94:1-a for the director of emergency services and communications.

II. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of emergency services and communications. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With general oversight by the assistant commissioner, the director shall coordinate the activities of all organizations for emergency 911 telecommunications within the state, state and local, county, and private, and shall maintain liaison with and cooperate with police, fire, emergency medical, and sheriff's departments and emergency telecommunications organizations of other states and of the federal government. The director shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

8 Fire Standards and Training and Emergency Medical Services Fund. Amend RSA 21-P:12-d to read as follows:

21-P:12-d Fire Standards and Training and Emergency Medical Services Fund. There is established in the office of the state treasurer a separate, nonlapsing fund to be known as the fire standards and training and emergency medical services fund from which the state treasurer shall pay expenses incurred in the administration of the division of fire standards and training and emergency medical services, under RSA 21-P:12-a, the division of fire safety, under RSA 21-P:12, and ~~[the bureau of emergency management in]~~ the division of ~~[emergency services, communications, and management under RSA 21-P:36]~~ **homeland security and emergency management**. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the division of fire standards and training and emergency medical services, the division of fire safety, or the ~~[bureau of emergency management in the division of emergency services, communications, and management]~~ **division of homeland security and emergency management**, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the fire standards and training and emergency medical services funds to the department of safety for such purposes.

9 Special Assistance to Emergency Services Worker. Amend RSA 657:21-a, II to read as follows:

II. For the purposes of this section, "emergency services worker" shall include law enforcement, emergency medical services personnel, firefighters, members of the New Hampshire national guard, utility workers, employees or volunteers for the American Red Cross, and any other emergency worker declared such by the ~~[bureau of emergency~~

~~management in the division of emergency services, communications, and management,~~
department of safety.

10 Reference Change. Amend RSA 107-D:9 to read as follows:

107-D:9 Coordination With Other Agencies. The department is expressly authorized to coordinate with or to contract with the division of emergency services[;] **and** communications[~~, and management~~] established in RSA [21-P:36] **21-P:48-a** and with other state agencies or departments, including but not limited to the department of transportation and the department of health and human services, to perform any activities necessary to implement this chapter.

11 Reference Change. Amend RSA 570-A:2, II(h) to read as follows:

(h) Any municipal, county, or state fire or police department, the division of emergency services[;] **and** communications[~~, and management~~] as created by RSA [21-P:36] **21-P:48-a**, including the bureau of emergency communications as defined by RSA 106-H, or any independently owned emergency service, and their employees in the course of their employment, when receiving or responding to emergency calls, to intercept, record, disclose or use a telecommunication, while engaged in any activity which is a necessary incident to the rendition of service or the protection of life or property.

12 Reference Change; Director of Division of Emergency Services and Communications. Amend RSA 94:1-a, I(b) by:

I. Inserting:

FF Department of safety and emergency management	assistant director, homeland security
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II Department of safety services and communications	director of division of emergency
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II. Deleting:

FF Department of safety management	assistant director, bureau of emergency
---------------------------------------	---

II Department of safety services, communications, and management	director of division of emergency
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13 New Section; Use of Interpreters in Wiretaps. Amend RSA 570-A by inserting after section 9-a the following new section:

570-A:9-b Use of Interpreters. Notwithstanding any other provision of this chapter, an investigative or law enforcement officer supervising an interception under this chapter in which the intercepted communication is in a code or foreign language may utilize the assistance and participation of a qualified interpreter to translate the language being used into English. Such interpreter, before entering upon his or her duties, shall take an oath that he or she will make a true interpretation in an understandable manner to the best of his or her skill and judgment.

14 Reference Change. Amend the following RSA sections by replacing “division of emergency services, communications, and management” with “division of emergency services and communications”: RSA 21-J:3, XXVIII; 21-P:38; 82-A:11-a; 82-A:16-a; 106-H:3, I(b); and 106-H:6 (introductory paragraph).

15 Reference Change. Amend the following RSA sections by replacing “division of emergency services, communications, and management” with “division of homeland security and emergency management.” RSA 21-P:37 (introductory paragraph); 100-A:3, III-c; 107-D:9, 108:3; 154:30-c, I; 162-C:1, VII; and 485:40.

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

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1340 removed from the table.

Adopted.

HB 1340, relative to the special account of the judicial retirement system.

The question is on the adoption of the floor amendment (1888).

Sen. Hassan, Dist. 23

May 14, 2008

2008-1888s

10/03

Floor Amendment to HB 1340

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

AN ACT relative to the special account of the judicial retirement system, and
 requiring the board of trustees of the judicial retirement plan to study and
 report on the inclusion of service of certain district court judges.

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

2 Judicial Retirement Plan; Study Required; Report.

I. The board of trustees of the judicial retirement plan under RSA 100-C shall study
the inclusion of service of part-time district court judges who worked for the district court
system prior to and after unification of the state and district court systems and whether such
judges shall have their years of service prior to unification counted as years served for
purposes of calculations of their benefit.

II. The board of trustees shall report its findings and any recommendations for
proposed legislation to the president of the senate, the speaker of the house of
representatives, the senate clerk, the house clerk, the governor, and the state library on or
before November 1, 2008.

2008-1888s

AMENDED ANALYSIS

This bill transfers any remaining balance in the judicial retirement system special account upon termination of the special account by 2007, 313.

This bill also requires the board of trustees of the judicial retirement plan to study and report on the inclusion of service of part-time district court judges who worked for the district court system prior to and after unification of the state and district court systems.

Floor amendment adopted.

Senator Burling, Rule 42 on HB 1340.

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

Adopted.

Senator Burling, Rule 42 on HB 1340.

Ordered to Third Reading.

HB 1309-FN-A, relative to the definition of "cigarette". Finance Committee. Ought to Pass, Vote 5-2. Senator Odell for the committee.

The question is on the adoption of the committee report of Ought to Pass.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

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

Yeas: 13 - Nays: 11

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Gottesman moved to have HB 690 removed from the table.

Adopted.

HB 690, establishing a pilot program for job skills training in volunteer work by unemployed individuals.

The question is on the adoption of the floor amendment (1917).

Senator Gottesman withdrew floor amendment (1917).

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

May 15, 2008

2008-1921s

09/04

Floor Amendment to HB 690

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

AN ACT establishing a pilot program for job skills training in volunteer work by unemployed individuals, authorizing the commissioner of the department of employment security to adjust the discount rate, and relative to auditable basis policies.

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

4 Insurance Premium Refunds. Amend RSA 402:81 to read as follows:

402:81 Insurance Premium Refunds.

I. Whenever an insurer owes a refund on an insurance premium paid, that insurer shall pay the refund within 30 days of the date when the refund becomes due.

(a) When an insurance policy is cancelled by a named insured, a refund shall be due from the company or its appointed producer ~~[receiving]~~ **upon receipt of:**

(1) The original policy to be cancelled; or

(2) A signed lost policy release; or

(3) A cancellation request from the insured which has been submitted in accordance with provisions of the policy or statute.

(b) When an insurance policy is cancelled by an insurer, a refund shall become due upon the date of cancellation as stated in the notice of cancellation.

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

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

(1) Audits shall be conducted promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute; and

(2) If there is no bona fide dispute, the refund of gross unearned premium shall become due on the date of the completed audit.

(3) In cases where the amount of refund is in bona fide dispute, the

refund shall not become due until the dispute is resolved and the audit is completed. The insurer shall notify the insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete the audit within the time remaining in the 120-day time period.

(4) A bona fide dispute includes the insured's failure to cooperate with the audit, provided the insurer has notified the insured of:

(A) The acts or omissions that constitute the insured's failure to cooperate; and

(B) The consequences of the insured's failure to cooperate, including delay in the completion of the audit and payment of any refund due.

~~[(e)]~~ *(d) This paragraph shall not apply to retrospectively rated policies.*

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

II. Whenever the premium refunds described in paragraph I are refunded to an authorized third party, such as an insurance producer or a party with cancellation power of attorney from the insured, the authorized third party shall credit the premium refund for the account of the named insured. In the event that crediting of return premiums to the account of the named insured results in a surplus over the amount owed the authorized third party by the named insured, the surplus shall be paid to the named insured within 10 days of receipt of the return premium, being credited to the third party, provided that no such refund shall be required if it amounts to less than \$1.

III. For any refund that is not paid to the named insured within the specified period *set forth in paragraph I*, the party to whom the premium is owed shall be entitled to interest beginning on the first day after the expiration of the period, at the legal rate. Any interest developed because of late refunding shall ultimately benefit only the named insured. ~~[In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved. In cases where the final premium amount is subject to audit, the refund shall become due upon audit. In any event, return of the unearned premium shall be made within 90 days from the date of expiration or cancellation of the policy.]~~ This paragraph shall not apply to retrospectively rated policies.

5 Contingency. If HB 1244 of the 2008 legislative session becomes law, then section 2 of HB 1244 shall not take effect and section 4 of this act shall take effect on the effective date of HB 1244. If HB 1244 does not become law, section 4 of this act shall not take effect.

6 Effective Date.

I. Section 1 of this act shall take effect 90 days after its passage.

II. Section 2 of this act shall take effect July 1, 2008.

III. Section 3 of this act shall take effect July 1, 2009.

IV. Section 4 of this act shall take effect as provided in section 5 of this act.

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

2008-1921s

AMENDED ANALYSIS

This bill establishes a pilot program to allow persons collecting unemployment benefits to do volunteer work providing job skills at organizations designated by the department of employment security.

This bill defines "discount rate" and authorizes the commissioner of the department of employment security to adjust the discount rate.

This bill also makes a technical correction to HB 1244 of the 2008 legislative session by inserting inadvertently omitted text.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 679-FN-L, relative to delivery of special education services. Finance Committee. Ought to Pass, Vote 7-0. Senator Sgambati for the committee.

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Fuller Clark moved to have HB 1471 removed from the table.

HB 1471, relative to time limits for excavating and dredging permits.

Adopted.

The question is on the adoption of the Committee Amendment.

Energy, Environment and Economic Development

May 7, 2008

2008-1748s

08/09

Amendment to HB 1471

Amend RSA 482-A:3, XIV (a)(2) as inserted by section 1 of the bill by replacing it with the following:

~~[(b)]~~ **(2)** Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. ***Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable.*** Any request for additional information ***under this subparagraph*** shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application.

2008-1748s

AMENDED ANALYSIS

This bill expands the time limits for excavating and dredging permit applications.

Amendment adopted.

Senator Fuller Clark offered a floor amendment.

Sen. Fuller Clark, Dist. 24

May 15, 2008

2008-1923s

08/09

Floor Amendment to HB 1471

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

AN ACT relative to time limits for excavating and dredging permits and directing the department of environmental services to make legislative proposals regarding solid waste management.

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

4 Development of Legislative Proposals.

I. The department of environmental services is hereby directed to prepare a plan and proposal for legislative action in the 2009 session addressing the following items related to solid waste management:

(a) Proposals to achieve compliance with the integrated goal, hierarchy established in RSA 149-M:3: source reduction; recycling and reuse; composting; waste-to-energy technologies; incineration without resource recovery; and landfilling.

(b) Proposals to ensure measurable progress forward the state's unmet waste diversion goal of 40 percent by the year 2000, established in RSA 149-M:2. The plan should include an alternative to the 2000 date and more aggressive work by the department to establish a new timetable along with a higher but achievable waste diversion goal.

(c) A plan that will ensure capacity for disposal of New Hampshire waste by reducing the amount of out-of-state waste transported to private landfills by reducing the amount of construction and demolition debris deposited in landfills and by requiring extraction of recyclable materials from such waste before it may be disposed of in New Hampshire landfills.

(d) Recommendations for strengthening and streamlining the procedures for the development and formation of regional solid waste districts and cooperative waste plans, to avoid duplication of effort, unnecessary expense, and the need to transport waste long distances.

(e) A proposal to incorporate into the solid waste management statutes the requirement to review a public benefit determination when there is a modification which materially increases or reduces the capacity of a privately owned landfill and the standards under which the commissioner shall make a determination that such a proposed modification will not cause or contribute to a failure to attain or maintain any public benefits required by RSA 149-M:11.

(f) Other changes to RSA 149-M necessary to ensure safe, economical, and environmentally sound management of solid waste.

II. The department shall report its findings and 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 in the form of a report on or before December 1, 2008.

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

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

2008-1923s

AMENDED ANALYSIS

This bill expands the time limits for excavating and dredging permit applications.

This bill also directs the department of environmental services to prepare legislative proposals addressing issues in solid waste management.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 766-FN, making changes to the laws relating to special education. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Hassan for the committee.

Senate Finance

May 12, 2008

2008-1831s

04/05

Amendment to HB 766-FN

Amend RSA 186-C:25, III(d) as inserted by section 26 of the bill by replacing it with the following:

(d) Be provided only after obtaining informed parental consent.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 877-FN, relative to the state recycling program. Finance Committee. Ought to Pass with Amendment, Vote 6-0. Senator Janeway for the committee.

Senate Finance

May 12, 2008

2008-1815s

06/09

Amendment to HB 877-FN

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1 through 9 to read as 2 through 10:

1 Plan for State Recycling Program. This act is a plan for the state recycling program and shall not mandate the expenditure of funds during the 2008-2009 biennium.

2008-1815s

AMENDED ANALYSIS

This bill establishes a plan for state agencies to recycle certain materials.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1426-FN-A, relative to motor fuel import fees. Finance Committee. Ought to Pass, Vote 7-0. Senator Odell for the committee.

Adopted.

Ordered to Third Reading.

HB 1434, relative to the regional greenhouse gas initiative and authorizing cap-and-trade programs for controlling carbon dioxide emissions. Finance Committee. Ought to Pass with Amendment, Vote 6-1. Senator Janeway for the committee.

Senate Finance

May 13, 2008

2008-1839s

08/10

Amendment to HB 1434

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. RGGI is a modest first step in addressing greenhouse gas emissions consistent with the direction of the New England Governors/Eastern Canadian Premiers goals and provides leadership in promoting a federal or international plan. If a comparable federal CO₂ cap and trade program becomes law, the general court should consider the need to continue participation in RGGI in accordance with the provisions of the RGGI MOU.

Amend RSA 125-O:21, VI as inserted by section 2 of the bill by inserting after subparagraph (g) the following new paragraph:

(h) The status of any proposed or adopted federal CO₂ cap and trade program, the impact on New Hampshire's RGGI program, and recommendations for any proposed legislation necessary to accommodate the federal program.

Amend RSA 125-O:23, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Notwithstanding paragraphs I, II, and III, all amounts in excess of the threshold prices listed below for any allowance sale made prior to January 1, 2016 that is deposited in the fund shall be rebated to all electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner, to be determined by the commission. For the following years listed, the threshold price shall be:

- (a) 2009, \$6/ton.
- (b) 2010, \$8/ton.
- (c) 2011 and 2012, \$9/ton.
- (d) 2013 and 2014, \$12/ton.
- (e) 2015, \$15/ton.
- (f) After 2015, no threshold price.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

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

Yeas: 15 - Nays: 9

Amendment adopted.

Senator Downing offered a floor amendment.

Sen. Downing, Dist. 22

Sen. Clegg, Dist. 14

Sen. Barnes, Dist. 17

May 15, 2008

2008-1902s

08/10

Floor Amendment to HB 1434

Amend RSA 125-O:23, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Notwithstanding paragraphs I, II, and III, all amounts in excess of the threshold prices listed below for any allowance sale made prior to January 1, 2016 that is deposited in the fund shall be rebated to all electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner, to be determined by the commission. The threshold price shall be \$2/ton. Beginning in 2009, the commission shall adjust the threshold price by January 31 of each year using the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator D'Allesandro.

The following Senators voted Yes: Odell, Roberge, Bragdon, Clegg, Barnes, D'Allesandro, Downing.

The following Senators voted No: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Kelley, Gottesman, Foster, Larsen, Gatsas, DeVries, Letourneau, Estabrook, Hassan, Fuller Clark.

Yeas: 7- Nays: 17

Floor Amendment failed.

Senator D'Allesandro offered a floor amendment.

**Sen. D'Allesandro, Dist. 20
May 14, 2008
2008-1887s
08/09**

Floor Amendment to HB 1434

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. RGGI is a modest first step in addressing greenhouse gas emissions consistent with the direction of the New England Governors/Eastern Canadian Premiers goals and provides leadership in promoting a federal or international plan. If a comparable federal CO₂ cap and trade program becomes law, the general court should consider the need to continue participation in RGGI in accordance with the provisions of the RGGI MOU.

Amend RSA 125-O:21, VI as inserted by section 2 of the bill by inserting after subparagraph (g) the following new paragraph:

(h) The status of any proposed or adopted federal CO₂ cap and trade program, the impact on New Hampshire's RGGI program, and recommendations for any proposed legislation necessary to accommodate the federal program.

Amend RSA 125-O:23, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Notwithstanding paragraphs I, II, and III, all amounts in excess of the threshold prices listed below for any allowance sale made prior to January 1, 2018 that is deposited in the fund shall be rebated to all electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner, to be determined by the commission. For the following years listed, the threshold price shall be:

- (a) 2009, \$4/ton.
- (b) 2010, \$5/ton.
- (c) 2011, \$6/ton.
- (d) 2012, \$7/ton.
- (e) 2013, \$8/ton.
- (f) 2014, \$9/ton.
- (g) 2015, \$10/ton.
- (h) 2016, \$11/ton.
- (i) 2017, \$12/ton.
- (j) After 2017, no threshold price.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Odell, Bragdon, D'Allesandro.

The following Senators voted No: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Roberge, Kelly, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, Estabrook, Downing, Hassan, Fuller Clark.

Yeas: 3- Nays: 21

Floor Amendment failed.

Senator Gallus offered a floor amendment.

Sen. Gallus, Dist. 1
May 15, 2008
2008-1914s
08/10

Floor Amendment to HB 1434

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 14:

12 Renewable Energy Portfolio; Power Infrastructure Development. Amend RSA 362-F:10, I to read as follows:

I. There is hereby established a renewable energy fund. This nonlapsing, special fund shall be continually appropriated to the commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All payments to be made under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II of this section, excluding class II moneys, shall be used by the commission to support thermal and electrical renewable energy initiatives. Class II moneys shall only be used to support solar energy technologies in New Hampshire. ***Fund moneys shall be used for payment of principal and interest of bonds and notes under RSA 12-A:60.*** All initiatives supported out of these funds shall be subject to audit by the commission as deemed necessary. All fund moneys including those from class II may be used to administer this chapter, but all new employee positions shall be approved by the fiscal committee of the general court.

13 New Section; Power Infrastructure Development; Authorization to Build. Amend RSA 12-A: by inserting after section 59 the following new section:

12-A:60 Power Infrastructure Development; Authorization to Build.

I. The commissioner shall develop and construct an infrastructure to support the transmission and distribution of electricity from the north country to other parts of the state.

II. Up to the sum of \$250,000,000 is appropriated to the department of resources and environmental services, for the purpose of funding the development and construction of power infrastructure, including bringing new wind and biomass plants on line, to support the transmission and distribution of electricity from the north country.

III. To provide funds for the appropriation made in paragraph II, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$250,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest

on the bonds and notes shall be made from the renewable energy fund established in RSA 362-F:0.

IV. The public utilities commission may adopt fees, costs, and charges in an amount necessary and sufficient to provide for the full recovery of the department's cost to develop and construct an infrastructure to support the transmission and distribution of electricity from the north county to other parts of the state.

2008-1914s

AMENDED ANALYSIS

This bill authorizes a cap-and-trade program for CO₂ emissions pursuant to the regional greenhouse gas initiative.

This bill also establishes an energy conservation and efficiency board.

This bill also authorizes the department of resources and economic development to develop and construct power infrastructure to delivery electricity produced in the north country.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Gallus.

The following Senators voted Yes: Gallus, Kenney, Clegg, Gatsas.

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

Yeas: 4- Nays: 20

Floor Amendment failed.

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

A roll call was requested by Senator Foster.

Seconded by Senator Reynolds.

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

Adopted.

Ordered to Third Reading.

HB 1551-FN, relative to lobbyist registration fees. Finance Committee. Ought to Pass with Amendment, Vote 6-1. Senator Sgambati for the committee.

Senate Finance

May 12, 2008

2008-1826s

03/04

Amendment to HB 1551-FN

Amend the bill by replacing sections 1-2 with the following:

1 Reference Added. Amend RSA 6:12, I(b)(41) to read as follows:

(41) The fees collected by the secretary of state under RSA 660:1 and the designated portion of fees collected under RSA 5:10 **and RSA 15:4** which shall be credited to the recount administrative and fee account established under RSA 660:31.

2 Lobbyists; Registration Fee. Amend RSA 15:4 to read as follows:

15:4 Registration Fee.

I. The fee for registration as a lobbyist under RSA 15:1 for any one year shall be [~~\$50 for each person lobbying~~] **\$200** for each reported client or employer, ***except that a lobbyist registering solely as a lobbyist for nonprofit entities qualified for exemption from federal taxation under section 501(c)(3) of the Internal Revenue Code shall pay a \$100 fee for each such entity.*** A fee shall be paid for each individual who acts as a lobbyist for each client or employer regardless of his or her affiliation with any other registered lobbyist.

II. ***One-half of the fees collected under this section shall be deposited into the fund established by RSA 660:31 for the use of the secretary of state and the attorney general as provided by RSA 455:17. One-half of the fees collected under this section shall be deposited in the general fund.***

Amend the bill by replacing section 5 with the following:

5 Depositing Fees and Assessments; Lobbyist Registration Fees. Amend RSA 660:13 to read as follows:

660:31 Depositing Fees and Assessments. There is established in the state treasury a

separate nonlapsing account to be known as the recount administrative and fee account. The account shall be used by the secretary of state for the administration of recounts under RSA 660 and to fulfill the duties established by RSA 455:17. Notwithstanding any other provision of law, all fees which are paid to the secretary of state under RSA 660:1 ***and ½ of the fees paid to the secretary of state under RSA 15:4*** and the portion of application fees for commissions as a notary public or justice of the peace under RSA 5:10 shall be credited to this account. All fees which are credited to this account shall be continually appropriated to the secretary of state.

2008-1826s

AMENDED ANALYSIS

This bill modifies fees for lobbyist registration. This bill also requires that ½ of the lobbyist registration fees be deposited in the recount administrative and fee account, and authorizes funds in the account to be used for administration of the lobbyist laws.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Clegg.

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

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

May 14, 2008

2008-1875s

03/10

Floor Amendment to HB 1551-FN

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

AN ACT

relative to lobbyist registration fees, relative to the secretary of state handling charge for electronic fee collection, and eliminating the prohibition on political contributions by insurance companies.

Amend the bill by replacing all after section 5 with the following:

6 Secretary of State Handling Charge for Electronic Fee Collection; Prospective Repeal Removed. 2004, 248:67, relative to the repeal of the electronic fee handling charge, is repealed.

7 Insurance Companies; Prohibition on Political Contributions Repealed. The following are repealed:

I. RSA 402:43 through RSA 402:45, relative to the prohibition on political contributions by insurance companies.

II. RSA 417:4, XI, relative to inclusion of political contributions by an insurance company as an unfair insurance trade practice.

8 Effective Date.

I. Sections 1-5 of this act shall take effect January 1, 2009.

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

2008-1875s

AMENDED ANALYSIS

This bill:

I. Modifies fees for lobbyist registration.

II. Requires that $\frac{1}{2}$ of the lobbyist registration fees be deposited in the recount administrative and fee account, and authorizes funds in the account to be used for administration of the lobbyist laws.

III. Repeals the prospective repeal of the electronic fee handling charge of the secretary of state and the prohibition on political contributions by insurance companies.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Letourneau is in opposition to HB 1551-FN.

HB 1563-FN, authorizing public academies to receive public funds for renovation and expansion of regional vocational education programs. Finance Committee. Ought to Pass, Vote 6-1. Senator D'Allesandro for the committee.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16
May 15, 2008
2008-1915s
04/05

Floor Amendment to HB 1563-FN

Amend the bill by replacing section 2 with the following:

2 Regional Vocational Education; Construction or Renovation of Regional Vocational Centers. Amend RSA 188-E:3, II to read as follows:

II. Upon completion, the constructed or renovated facility shall become the property of the school district ***or public academy, as the case may be.*** ~~[Provisions]~~ ***Provision*** of the site, parking, and other related areas shall be the responsibility of the local community. ***Site work, including but not limited to cut and fill work, compaction, demolition, relocation of utilities, relocation of roadways and sidewalks, and similar work within an area extending to one foot beyond the outside edge of the exterior walls of the building, shall be eligible for grants under paragraph I.*** Nothing shall prohibit the inclusion of the site and related facilities which are not funded as part of construction cost by the state under this chapter from being included in a regular building aid application of the district as provided in RSA 198:15-b.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1594-FN, relative to hazardous materials. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Hassan for the committee.

Senate Finance
May 12, 2008
2008-1833s
08/05

Amendment to HB 1594-FN

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

AN ACT establishing a commission to study the current methods of funding the hazardous waste and hazardous materials programs in New Hampshire.

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

1 Commission Established. There is established a commission to study the current methods of funding the hazardous waste and hazardous materials programs in New Hampshire.

2 Membership and Compensation.

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

(a) Three members 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 the department of environmental services, or designee.

(d) The state fire marshal, or designee.

(e) Four members of the business community, appointed by the Business and Industry Association of New Hampshire.

(f) A member of the New Hampshire Motor Transport Association, appointed by that organization.

(g) A member of the Independent Oil Marketers Association of New England, appointed by that association.

(h) A member of a regional hazardous materials response team appointed by the New Hampshire Association of Fire Chiefs.

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

3 Duties. The commission shall study the sources of funding and expenditures related to programs for hazardous waste, as defined in RSA 147-B:2, VII, and hazardous materials, as defined by RSA 147-B:2, VIII, in New Hampshire. The commission's study shall include:

I. A compilation of the various different sources of income and the dedicated funds associated with hazardous waste and hazardous materials programs.

II. A compilation of the expenditures associated with hazardous waste and hazardous materials programs.

III. An examination of the relationship between the incomes and the expenditures of the funds used in hazardous waste and hazardous materials programs.

IV. An examination of the uniformity of the relationship between fund income and expenditures and recommendations on improving the uniformity of that relationship.

V. An examination of the possibility of improving program effectiveness through consolidation of the various funding sources or programs.

VI. An examination of hazardous material reporting and related fees for future

funding of hazardous materials emergency response programs.

4 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 house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

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

2008-1833s

AMENDED ANALYSIS

This bill establishes a commission to study the current methods of funding the hazardous waste and hazardous materials programs in New Hampshire.

Amendment adopted.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

May 15, 2008

2008-1924s

08/10

Floor Amendment to HB 1594-FN

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

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

(a) Three members 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 the department of environmental services, or designee.

(d) The state fire marshal, or designee.

(e) Four members of the business community, appointed by the Business and Industry Association of New Hampshire.

(f) A member of the New Hampshire Motor Transport Association, appointed by that organization.

(g) A member of the Independent Oil Marketers Association of New England, appointed by that association.

(h) A member of a regional hazardous materials response team appointed by the New Hampshire Association of Fire Chiefs.

(i) A member representing the New Hampshire Municipal Association, appointed by that association.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1618-FN-A, relative to motor vehicle fees and motor vehicle violation fines and relative to appropriations from the highway fund. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator D'Allesandro for the committee.

Sen. D'Allesandro, Dist. 20
May 12, 2008
2008-1834s
03/09

Amendment to HB 1618-FN-A

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

7 Tentative Budget. Amend RSA 9:6 to read as follows:

9:6 Tentative Budget. Upon the receipt of the estimates of expenditure requirements called for by RSA 9:4 and the preparation of the estimates of income called for by RSA 9:5, and not later than November 1 next succeeding, the commissioner of administrative services shall cause to be prepared a tentative budget conforming as to scope, contents, and character to the requirements of RSA 9:3 and containing the estimates of expenditure and revenue as called for by RSA 9:4 and [5] ***RSA 9:5***, which tentative budget shall be transmitted to the director of the budget for submittal to the governor. ***The tentative budget shall comply with the requirements of RSA 9:9-b.*** The budget shall be made available in printed format and in at least one electronic computer file format in common use at the time. ***The sections of the budget that state: gross appropriations from the highway fund, the highway block grant aid appropriation, the highway fund appropriation to the department of safety, and highway fund appropriations that are transferred to other agencies that comply with part II, article 6-a of the New Hampshire constitution relative to the use of highway funds, shall be reported to the president***

of the senate, the speaker of the house of representatives, and the chairmen of the house and senate standing committees on finance.

Amendment adopted.

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

A roll call was requested by Senator Bragdon.

Seconded by Senator Gatsas.

The following Senators voted Yes: Gallus, Reynolds, 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: Kenney.

Yeas: 23 - Nays: 1

Adopted.

Ordered to Third Reading.

MOTION OF RECONSIDERATION

Senator Bragdon, having voted with the prevailing side, moved reconsideration of **HB 1618-FN-A** whereby it was ordered to Third Reading.

Adopted.

HB 1618-FN-A, relative to motor vehicle fees and motor vehicle violation fines and relative to appropriations from the highway fund.

A roll call was requested and withdrawn.

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

A roll call was requested by Senator Barnes.

Seconded by Senator Bragdon.

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 1642-FN, providing additional funding for charter schools for the 2009 fiscal year. Finance Committee. Ought to Pass with Amendment, Vote 4-2. Senator Hassan for the committee.

Sen. Hassan, Dist. 23

May 13, 2008

2008-1852s

04/09

Amendment to HB 1642-FN

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

1 Charter School Funding; Fiscal Year Ending June 30, 2009.

I. In addition to any funds distributed to charter schools pursuant to RSA 198:42, IV and 2007; 263:92 for the fiscal year ending June 30, 2009, the Academy for Science and Design Charter School, Cocheco Arts and Technology Charter Academy, Franklin Career Charter Academy, New Hampshire Equestrian Academy Charter School, Seacoast Charter School, Strong Foundations Charter School and Surry Village Charter School shall each receive a grant of \$1 per pupil.

II. Prior to July 1, 2008, the commissioner of the department of education shall inform the state treasurer of the amount needed to comply with the provisions of paragraph I, and the state treasurer shall provide sufficient funds from the education trust fund established in RSA 198:39 to the commissioner who shall distribute such funds pursuant to RSA 194-B:11, I(c). The amount distributed shall be calculated on a per pupil basis based on charter school pupil enrollment.

2 Effective Date. This act shall take effect July 1, 2008.

2008-1852s

AMENDED ANALYSIS

This bill provides additional funding for certain charter schools for the fiscal year ending June 30, 2009.

MOTION TO TABLE

Senator Burling moved to have HB 1642-FN laid on the table.

The question is on the motion to table.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

The following Senators voted No: Gallus, Kenney, Cilley, Odell, Roberge, Kelly, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing, Hassan, Fuller Clark.

Yeas: 10 - Nays: 14

Motion failed.

Senator Gottesman moved the question.

Without objection, Senator Larsen moved to close debate.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Cilley, Roberge, Kelly, Bragdon, Foster, Clegg, Gatsas, Barnes, Letourneau, Downing, Hassan, Fuller Clark.

The following Senators voted No: Sgambati, Burling, Janeway, Odell, Gottesman, Larsen, DeVries, D'Allesandro, Estabrook.

Yeas: 15 - Nays: 9

Amendment 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: Gallus, Kenney, Cilley, Roberge, Kelly, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing, Hassan, Fuller Clark.

The following Senators voted No: Reynolds, Sgambati, Burling, Janeway, Odell, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook.

Yeas: 13 - Nays: 11

Adopted.

Ordered to Third Reading.

HB 1644-FN-A, establishing a Coos county job creation tax credit. Finance Committee. Ought to Pass, Vote 7-0. Senator Gallus for the committee.

Adopted.

Ordered to Third Reading.

HB 537, establishing a task force on homeless teenagers. Health and Human Services Committee. Ought to Pass with Amendment, Vote 4-0. Senator Sgambati for the committee.

Health and Human Services

May 1, 2008

2008-1665s

05/10

Amendment to HB 537

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

- (i) The commissioner of the department of education, or designee.
- (j) One member from a local homeless shelter, appointed by the governor.

Amend paragraph III as inserted by section 3 of the bill by replacing it with the following:

III. Study the transitional services available to young people who are moving from foster care or other service systems to adult care systems.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1136, relative to automated external defibrillators. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Janeway for the committee.

Adopted.

Ordered to Third Reading.

HB 1281, prohibiting public schools from requiring health insurance as a condition of enrollment except if health insurance is a requirement of the student's program of study. Health and Human Services Committee. Inexpedient to Legislate, Vote 4-0. Senator Fuller Clark for the committee.

Committee report of Inexpedient to Legislate is adopted.

Senator Letourneau is in opposition to the motion of Inexpedient to Legislate on HB 1281.

HB 1301, relative to the definition of service dogs. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Sgambati for the committee.

Adopted.

Ordered to Third Reading.

HB 1634, establishing the New Hampshire council on autism spectrum disorders. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Sgambati for the committee.

Adopted.

Ordered to Third Reading.

HB 1201, allowing communities to conduct point of dispensing exercises to test emergency management operations plans, allowing qualified health professionals to prescribe and administer flu vaccine during such exercises, and granting immunity to such qualified health professionals. Health and Human Services Committee. Interim Study, Vote 2-1. Senator Estabrook for the committee.

Committee report of Interim Study is adopted.

HB 1422, establishing a committee to study the prevention of childhood obesity. Health and Human Services Committee. Ought to Pass with Amendment, Vote 3-0. Senator Sgambati for the committee.

**Health and Human Services
May 13, 2008
2008-1850s
01/09**

Amendment to HB 1422

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

AN ACT establishing a commission on the prevention of childhood obesity.

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

- 1 Commission Established. There is established a commission to study the prevention of childhood obesity.
- 2 Membership and Compensation.

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

(a) Two members 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 the department of health and human services, or designee.

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

(e) A representative from the Citizen's Health Initiative, appointed by the board of such organization.

(f) A representative from the New Hampshire Pediatric Society, appointed by such organization.

(g) One representative from the New Hampshire Childhood Obesity Expert Panel, appointed by the Foundation for Healthy Communities.

(h) A representative from the New Hampshire Chapter of the American Heart Association, appointed by such organization.

(i) A school board member, appointed by the governor.

(j) A teacher, appointed by New Hampshire Association for Health, Physical Education, Recreation and Dance.

(k) A representative from the New Hampshire Recreation and Park Association, appointed by such association.

(l) A representative from the New Hampshire Public Health Association, appointed by such association.

(m) A nutritionist, appointed by the University of New Hampshire Cooperative Extension.

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

3 Duties. The commission shall identify and consider legislative and policy strategies that may be effective in the prevention of childhood obesity in New Hampshire. The commission shall seek input from individuals or entities that the commission deems relevant to its study. The commission's study shall include but not be limited to:

(a) The efficacy of current laws, regulations, education and certification standards, and clinical protocols in promoting physical activity and healthy eating.

(b) An examination of evidenced-based or promising practices from other states and jurisdictions relative to statewide policy, local ordinance, and educational programming strategies.

(c) The health consequences and economic impact of childhood obesity in the state and the economic impact of any prevention policies or strategies.

(d) Strategies to address the needs of particular regions of the state or certain populations within the state most impacted by childhood obesity.

(e) Developing recommendations to assist schools in adopting and implementing school nutrition standards.

4 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 house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 15, 2009.

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

2008-1850s

AMENDED ANALYSIS

This bill establishes a commission on the prevention of childhood obesity.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1435, requiring certain food programs to comply with Centers for Disease Control/Institute of Medicine standards. Health and Human Services Committee. Inexpedient to Legislate, Vote 3-0. Senator Gallus for the committee.

Committee report of Inexpedient to Legislate is adopted.

HB 1637, relative to reports to the cancer registry. Health and Human Services Committee. Ought to Pass, Vote 3-0. Senator Estabrook for the committee.

Senator Cilley offered a floor amendment.

Sen. Cilley, Dist. 6
May 15, 2008
2008-1916s

09/04

Floor Amendment to HB 1637

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

AN ACT relative to reports to the cancer registry and requiring pharmacies to report an inability to fill prescriptions.

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

2 New Paragraph; Rulemaking; Reports of Inadequately Staffed or Unstaffed Pharmacies. Amend RSA 318:5-a by inserting after paragraph XVIII the following new paragraph:

 XIX. Procedures for the reporting of pharmacies unable to fill prescriptions due to inadequate or unavailable pharmacists under RSA 318:40-a.

3 New Section; Report of Inadequate Staffing. Amend RSA 318 by inserting after section 40 the following new section:

 318:40-a Report of Inadequate Staffing.

 I. A pharmacy shall report to the pharmacy board within 15 days of:

 (a) A closure or inability to fill prescriptions during regular business hours due to the unavailability of a pharmacist.

 (b) An inability to fill all prescriptions requested in a single day such that customers are asked to return on a subsequent day for their prescription due to an inadequate number of pharmacists available to fill prescriptions.

 II. Such report shall include:

 (a) The customary hours of operation of the pharmacy;

 (b) The number of hours closed due to inability to fill prescriptions, if applicable;

 (c) The reason for the inability to fill prescriptions; and

 (d) Any attempts made to ensure the provision of necessary pharmaceuticals to pharmacy customers during the inability to fill prescriptions.

4 Repeal. The following are repealed:

 I. RSA 318:5-a, XIX, relative to rulemaking for reports of inadequately staffed or unstaffed pharmacies.

 II. RSA 318:40-a, relative to reports of inadequate staffing.

5 Effective Date.

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

 II. Section 4 of this act shall take effect July 1, 2010.

III. The remainder of this act shall take effect July 1, 2008.

2008-1916s

AMENDED ANALYSIS

This bill requires reports to the cancer registry to include items listed in rules adopted under RSA 541-A and certain other information.

This bill also requires a pharmacy to report to the pharmacy board when it is unable to fill prescriptions. This reporting requirement is repealed in 2010.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Barnes is in opposition to HB 1637.

MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1509-FN-A removed from the table.

Adopted.

HB 1509-FN-A, establishing certain fees for operators of games of chance for the purpose of funding the education trust fund.

The question is on the adoption of the Committee Amendment.

Senate Ways and Means

April 30, 2008

2008-1634s

08/10

Amendment to HB 1509-FN-A

Amend the bill by replacing the title with the following:

AN ACT	establishing certain fees for operators of games of chance for the purpose of funding the education trust fund and creating penalties for failure to collect accurate assessments.
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Amend the bill by replacing all after section 5 with the following:

6 Equipment; Wagering; Prizes. Amend RSA 287-D:3, VIII to read as follows:

VIII. ~~[The charitable organization shall retain no less than 35 percent of the gross revenues from any game of chance minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-e are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose.]~~ No charitable game of chance shall be played with government issued currency. Games of chance shall only be played with chips.

IX. Cash may be exchanged for chips only in one designated area. The primary game operator, or charity if there is no primary game operator, shall document the exchange of cash for chips in conformance with rules adopted by the pari-mutuel commission. A primary game operator may also exchange chips for cash received from a player at other fixed locations within the facility or through a licensed employee roaming within the facility if procedures for collecting the assessments required by this chapter and documenting the exchange of cash for chips are approved by the pari-mutuel commission.

X. At the time that any token is exchanged for cash received from a player, the primary game operator, or charity, if there is no primary game operator, shall collect an assessment of 10 percent of money exchanged to be paid to the pari-mutuel commission no later than 10 business days from the date on which the event was conducted. The payment shall be by check made payable to the state of New Hampshire and shall be accompanied by the forms specified by the pari-mutuel commission which shall be signed under penalties of perjury by the primary game operator, or if there is no primary game operator by 2 officers, directors, or duly authorized officials of the charitable organization. The assessments collected by the pari-mutuel commission shall be deposited into the general fund.

XI. At the time that any token is exchanged for cash received from a player, the primary game operator, or charity if there is no primary game operator, shall in addition to the assessment collected for the state, collect an assessment of 8 percent of money exchanged to be paid to the charity which holds the license for the charitable gaming event no later than 10 business days from the date on which the event was conducted.

XII. The pari-mutuel commission shall adopt administrative rules pursuant to RSA 541-A as are necessary to carry out this section.

7 New Section; Penalties for Failure to Collect Accurate Assessments. Amend RSA 287-D by inserting after section 3 the following new section:

287-D:3-a Penalties for Failure to Collect Accurate Assessments; Private Actions. In addition to any other penalties provided by law, and notwithstanding any civil remedy that may otherwise be available:

I. Any person who purposely or knowingly makes a false entry on any report

required by this chapter or by rules authorized by this chapter in a manner that would or does result in the assessment paid to either the state or the charity being reduced shall be guilty of a class A felony.

II. Any person who recklessly or negligently makes a false entry on any report required by this chapter or by rules authorized by this chapter in a manner that would or does result in the assessment paid to either the state or the charity being reduced shall be guilty of a class A misdemeanor.

III. Any owner or primary game operator who fails to pay the state or a charity the assessment required by this chapter is guilty of a class A felony.

IV. Any person who violates any provision of RSA 637 in a manner that deprives the state or a charity of the assessments required by this chapter, notwithstanding the penalties set forth in RSA 637:11, shall be guilty of a class B felony for any amount not exceeding \$500, and a class A felony for any amount equal to or greater than \$500.

V. Any charity injured by any act declared unlawful by this chapter may bring an action for damages. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act was a willful or knowing violation of this chapter, it shall award as much as 3 times, but no less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable.

8 Maximum Single Wager. Amend RSA 287-D:3, V to read as follows:

V. No single wager by a player, on any game of chance, shall exceed the amount of ~~[\$2]~~ \$5.

9 Pari-Mutuel Commission; Position Established. The classified position of internal auditor III, labor grade 23, to be funded from fees collected pursuant to RSA 287-D:2-d, III, is hereby established in the pari-mutuel commission.

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

2008-1634s

AMENDED ANALYSIS

This bill:

- I. Establishes the position of internal auditor III in the pari-mutuel commission.
- II. Requires game operator applicants to submit to a federal background check.
- III. Raises the amount of the bond posted by a game operator.

IV. Creates penalties for failure to collect accurate assessments.

Amendment failed.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23
May 15, 2008
2008-1929s
08/04

Floor Amendment to HB 1509-FN-A

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

AN ACT relative to games of chance.

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

1 Equipment; Wagering; Prizes. Amend RSA 287-D:3,V to read as follows:

V. No single wager by a player, on any game of chance, shall exceed the amount of
[~~\$2~~] \$5.

2 New Paragraphs; Percentage Paid to the General Fund. Amend RSA 287-D:3 by
inserting after paragraph VIII the following new paragraphs:

IX. In games where chips have no monetary value, 3 percent of all funds collected
from players, less moneys used by the pari-mutuel commission to fund authorized personnel
expenses and related costs, shall be paid to the state treasurer to be deposited into the
general fund. Such payments shall be made within 5 business days of the game date on
which the funds were collected.

X. In games where chips have monetary value, 10 percent of the rake or house
winnings and other moneys collected by the game operator that are not paid out as prizes to
players, less moneys used by the pari-mutuel commission to fund authorized personnel
expenses and related costs, shall be paid to the state treasurer for deposit into the general
fund. Such payments shall be made within 5 business days of the game date on which the
funds were collected.

3 New Paragraph; Operation of Games of Chance; Prize Payback. Amend RSA 287-D:2-
b by inserting after paragraph XIII the following new paragraph:

XIV. For games of chance where chips have no monetary face value, the payback in
prizes shall not exceed 80 percent of the total amount collected from players.

4 License Fees and Specifications. RSA 287-D:2-d, III is repealed and reenacted to read
as follows:

III. An applicant for a game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and if the applicant meets all other requirements of this chapter and pays the fee established by the pari-mutuel commission in rules adopted pursuant to RSA 541-A, a license shall be issued. A license issued under RSA 287-D:2-c shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved. RSA 7:28-c shall not apply to game operator licensees subject to this chapter.

5 New Paragraph; Rulemaking; Game Operator Fees. Amend RSA 287-D:1-b by inserting after paragraph XII the following new paragraph:

XII-a. Game operator fees pursuant to RSA 287-D:2-d, III.

6 Pari-Mutuel Commission; Positions Established. The following positions are hereby established in the pari-mutuel commission. These positions and costs associated with these positions, including current expenses, equipment, in-state travel, and out-of-state travel, shall be funded from fees collected pursuant to RSA 287-D:2-d, III and RSA 287-D:3, IX-X.

Three internal auditor III, labor grade 23.

One supervisor IV, labor grade 25.

7 Effective Date. This act shall take effect July 1, 2008.

2008-1929s

AMENDED ANALYSIS

This bill:

I. Raises the limit on a single wager by a player.

II. Directs moneys from certain games of chance to the general fund.

III. Limits the amount of payback in certain games of chance.

IV. Authorizes the pari-mutuel commission to adopt rules regarding game operator fees.

V. Establishes 3 internal auditor III positions and one supervisor IV position in the pari-mutuel commission.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Bragdon.

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

Floor amendment adopted.

Senator D'Allesandro offered a floor amendment.

**Sen. D'Allesandro, Dist. 20
May 14, 2008
2008-1889s
08/04**

Floor Amendment to HB 1509-FN-A

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

AN ACT relative to games of chance and relative to video lottery machines.

Amend the bill by replacing all after section 6 with the following:

7 New Chapter; Video Lottery Machines. Amend RSA by inserting after chapter 284 the following new chapter:

CHAPTER 284-A

VIDEO LOTTERY MACHINES

284-A:1 Definitions. In this chapter:

I. "Applicant" means any person, officer, director, or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under the provisions of this chapter. In cases in which the applicant is a corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or any other form of legal business entity, the lottery commission shall determine the associated persons whose qualifications must be provided and reviewed as a precondition to the licensing of the applicant.

II. "Key employee" means any individual who is employed in a director or department head capacity and who is authorized to make discretionary decisions that regulate video lottery machine operations, including the general manager and assistant manager of the operator licensee or technology provider, director of operations, director of cage and/or credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller, and any employee who supervises the operations of these departments or to whom these department directors or department heads report and such other positions which the lottery commission shall

determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee. All other gaming employees shall be considered as non-key employees.

III. "License winner" means a person or entity who has been selected by the lottery commission through the bidding process established in RSA 284-A:6, VII to receive a license for video lottery.

IV. "Lottery commission" means the New Hampshire lottery commission as established in RSA 284:21-a.

V. "Net machine income" means all cash or other consideration utilized to play a video lottery machine, less all cash or other consideration paid to players of video lottery machines as winnings. Non cashable promotional credits shall be excluded from the calculation.

VI. "Operator applicant" means the applicant applying for an operator's license to operate video lottery machines at the license winner or pari-mutuel licensee location.

VII. "Operator's license" means the license issued by the lottery commission to an operator licensee which allows the operator licensee to possess, conduct, and operate video lottery machines in accordance with this chapter.

VIII. "Operator licensee" means an operator applicant who is issued a license by the lottery commission to procure and operate video lottery machines pursuant to this chapter.

IX. "Pari-mutuel commission" means the New Hampshire pari-mutuel commission as established in RSA 284:6-a.

X. "Pari-mutuel licensee" means an entity licensed and authorized to conduct live horse racing as provided in RSA 284:16 or live dog racing as provided in RSA 284:16-a for at least the number of days as required in RSA 284:22-a, II(a)(3) at a pari-mutuel location.

XI. "Pari-mutuel licensee location" means the facility at which a pari-mutuel licensee is located and where a pari-mutuel licensee is authorized to conduct live horse racing or live dog racing as of January 1, 2007 for at least the number of days as required in RSA 284:22-a, II(a)(3), and any real estate in which a pari-mutuel licensee has an interest as of January 1, 2007 which is adjacent to the real estate on which a pari-mutuel licensee is authorized to conduct live horse racing or live dog racing.

XII. "Progressive jackpot" means a prize that increases over time or as video lottery machines that are linked to a progressive system are played. Upon conditions established by the lottery commission, a progressive jackpot may be paid by annuity.

XIII. "Progressive system" means one or more video lottery machines linked to one or more common progressive jackpots.

XIV. "Technology provider" means any person or entity which designs, manufactures, installs, distributes, or supplies video lottery machines for sale or lease to the

operator licensees, and which are for use by an operator licensee for conducting video lottery games in accordance with this chapter. The term shall also include the provider of the central computer system.

XV. "Technology provider licensee" means a technology provider that is licensed by the lottery commission.

XVI. "Token" means the coin, which is not legal tender, sold by a cashier in a face amount equal to the cash paid by a player for the sole purpose of playing a video lottery machine at a pari-mutuel licensee location or paid to a player of a video lottery machine, which can be exchanged for cash at the pari-mutuel licensee location.

XVII. "Video lottery machines" means an electronic, mechanical, or computerized machine licensed by the lottery commission, upon the insertion of bills, coins, tokens, or any representative of value is available to be played where, by chance or skill, or both, the player may receive cash, cash equivalents or tokens. Video lottery machines include, but are not limited to, slot machines, video poker machines, and other lottery machines. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary. Video lottery machines do not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

284-A:2 Video Lottery Oversight.

I. No license shall be issued to any person under this chapter without prior approval of the lottery commission consistent with this chapter and RSA 284:21-w. The lottery commission shall only issue licenses to persons who operate video lottery machines at a pari-mutuel licensee location or license winners selected via the bidding process in RSA 284-A:6, VII and only after completion of the background reviews set forth in this chapter, or in the case of an interim license, after meeting the requirements of RSA 284-A:6, I.

II. In addition to the responsibilities in paragraph I and RSA 284:21-w, the lottery commission shall have general responsibility for the implementation of this chapter and shall adopt rules under RSA 541-A relative to:

(a) Hearing and deciding all license applications or recommendations for the suspension or revocation of any license issued under this chapter.

(b) Conducting all investigations required under this chapter with regard to the application of any applicant for any license.

(c) Conducting hearings pertaining to civil violations of this chapter or rules under the provisions of this chapter and collecting all penalties under the provisions of this chapter.

(d) Establishing standards and a reasonable fee structure for the licensing and renewal of licenses for employees and operators, technology providers, and operator licensees consistent with RSA 284-A:5, I(e) and II(e).

(e) Establishing technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as deemed necessary to protect the public from fraud or deception and to insure the integrity of the operation.

(f) Establishing standards for licensing under RSA 284-A:6, including bid procedures for awarding licenses under RSA 284-A:6, VII.

(g) Establishing standards for reviewing any structure at a pari-mutuel licensee location.

(h) Establishing the hours of operation for video lottery machines.

(i) Ensuring that all licensees update the lottery commission with regard to any change in ownership or material change in information or data regarding the licensee that the commission determines is necessary and appropriate.

III. Pending the adoption of rules under RSA 541-A, and consistent with RSA 541-A:19, the lottery commission shall adopt interim rules after public hearing and within 90 days after enactment of RSA 284-A. Such interim rules shall implement the provisions of RSA 284-A including an approval process for selecting the provider of the central computer system. Such interim rules shall be deemed interim rules and shall expire upon the adoption of permanent rules.

IV. The lottery commission may issue subpoenas and compel the attendance of witnesses, to administer oaths, and require testimony of witnesses under oath.

V. No later than November 1 in each calendar year, the lottery commission shall submit a report to the fiscal committee of the general court, regarding the operation of video lottery machines. Such report may include recommendations for future legislation.

VI.(a) The lottery commission shall cause to be made and kept a record of all proceedings of public meetings of the commission.

(b) The lottery commission shall keep and maintain a list of all applicants for licenses it receives under this chapter together with a record of all actions taken with respect to such applicants. A file and record of the actions by lottery commission shall be open to public inspection provided, however, that the information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after 5 years from the date of such action.

(c) The lottery commission shall maintain such other files and records as the commission determines is necessary. All records maintained by the lottery commission may

be maintained in digital or other format provided that such information can be produced in written form upon the request of the commission.

(d) All information and data required by the lottery commission to be furnished to it, or which may otherwise be obtained, shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the attorney general, to a duly authorized law enforcement agency.

(e) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the lottery commission from any source shall be considered confidential and shall be withheld in whole or in part. Such information shall be released upon the lawful order of a court of competent jurisdiction or to a duly authorized law enforcement agency.

(f) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subparagraphs (d) or (e), shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules adopted by the lottery commission.

VII. The lottery commission and the attorney general shall from time to time contract for such financial, economic, or security consultants, and any other technical and professional services as the lottery commission deems necessary for the discharge of its duties.

284-A:3 Authorization for Video Lottery Machines.

I. A license winner or pari-mutuel licensee may install, operate, and conduct video lottery machines at its license winner or pari-mutuel licensee location as an operator licensee, in accordance with the provisions of this chapter.

II. A license winner or pari-mutuel licensee may enter into one or more agreements with an operator licensee to manage or participate in the operation of video lottery machines at its license winner or pari-mutuel licensee location in accordance with the provisions of this chapter.

284-A:4 Licenses; Number of Video Lottery Machines.

I. No person shall engage in the ownership, possession, transfer, maintenance, repair, or operation of a video lottery machine unless:

- (a) Such person is licensed in accordance with the provisions of this chapter; and
- (b) Local approval as provided in RSA 284-A:9 has been obtained.

II. Any operator or technology provider shall be licensed by the lottery commission prior to engaging in any activity authorized by this chapter.

III. Each operator licensee operating video lottery machines at a pari-mutuel licensee location at which live dog racing is conducted shall be limited to a maximum of 1,000 video lottery machines in operation at each such pari-mutuel licensee location.

IV. Each operator licensee operating video lottery machines at a pari-mutuel licensee location at which live horse racing is conducted shall be limited to a maximum of 3,000 video lottery machines in operation at each such pari-mutuel licensee location.

V. Each operator licensee operating video lottery machines at a license winner licensee location shall be limited to a maximum of 1,000 video lottery machines in operation at each such license winner licensee location.

284-A:5 Application and License Requirement for State License for Operators and Technology Vendors of Video Lottery Machines.

I. Licensing procedures for operators of video lottery machines shall include the following:

(a) A pari-mutuel licensee or other operator applicant shall obtain an operator's license from the lottery commission. In the event that a pari-mutuel licensee enters into an agreement with another person or entity to manage and operate video lottery machines at its pari-mutuel licensee location, that person or entity shall apply as the operator licensee applicant. An applicant must complete and sign an application on forms prescribed by the lottery commission, and include information regarding the applicant's criminal history background, civil judgments, and financial affairs. The application shall include the full name, address, date of birth, and other personal identifying information of the applicant and all key employees, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 10 percent of the legal or beneficial interests of such entity.

(b) If the applicant or any owner has held a gaming or video lottery machine license in a jurisdiction where video lottery machine activities are permitted, the applicant shall so state and may produce either a letter of reference from the gaming or lottery enforcement or control agency which sets forth the experience of that agency with the applicant, the applicant's associates and gaming operations, or a statement under oath that the applicant is or was during the period the activities were conducted in good standing with the agency.

(c) The attorney general shall conduct a background review of each operator applicant and any of its owners and key employees consistent with RSA 284:A-6. The background review may be conducted through any appropriate state or federal law enforcement system and the authorized reviewers may seek information as to the subject's

financial, criminal, or business background, or any other information which the attorney general, in his or her sole discretion, may find relevant to the subject's fitness to be associated with the ownership or management of the operation of video lottery machines in New Hampshire, including, but not limited to, the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. If the applicant is a pari-mutuel licensee and the attorney general has conducted a background investigation pursuant to RSA 284:15-b, IV within the 12 months prior to the application filing, the attorney general may rely on the results of the previous investigation to the extent the applicant's circumstances have not materially changed. The attorney general shall also take into consideration as evidence of fitness a letter of reference or sworn statement of good standing produced pursuant to RSA 284-A:5, I(b). The attorney general shall report the results of the background review to the lottery commission within 60 days. The results of any such review shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general, in the attorney general's sole discretion, shall determine the extent to which and the manner in which said results may be reported to the lottery commission or other state agency or official and, if reported, whether such results are to retain their confidential character; provided, however, that whenever the attorney general conducts such an review, the attorney general shall notify the lottery commission whether or not in his or her opinion such person is fit to be associated with participation in the ownership or management of the operation of video lottery machines in this state. The attorney general may conduct such review on the attorney general's motion into the background of the license applicant or holder, or any person or entity upon whom the license applicant or holder relies for financial support.

(d) In any review conducted pursuant to subparagraph (c), the attorney general or any duly authorized member of the attorney general's staff may require by subpoena or otherwise the attendance of witnesses and the production of such correspondence, documents, books, and papers as he or she deems advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses.

(e)(1) The lottery commission shall impose an application fee of \$100,000 which shall be used to defray the cost of processing the application. If the cost of processing the application exceeds \$100,000, the applicant shall pay the difference. In the event that a pari-mutuel licensee makes an agreement pursuant to RSA 284-A:3, II and the operator applicant applies for the operator's license, then the aggregate amount of the fee shall be the greater of \$100,000 or the actual costs incurred by the lottery commission.

(2) The attorney general shall impose an investigation fee of \$50,000 which shall be used to defray the cost of the background investigation. If the cost of the background

investigation exceeds \$50,000, the applicant shall pay the difference. In the event that a pari-mutuel licensee makes an agreement pursuant to RSA 284-A:3, II and that the operator applicant applies for the operator's license, then the aggregate amount of the fee shall be the greater of \$50,000 or the actual costs incurred by the attorney general.

(3) Upon approval of a pari-mutuel licensee or operator licensee, the lottery commission shall charge an initial license fee of \$50,000,000 for a pari-mutuel licensee or operator licensee where live horse racing takes place, \$20,000,000 for a pari-mutuel licensee or operator licensee where live dog racing takes place and \$20,000,000 for a license winner. The lottery commission shall charge a license fee of \$2,000,000 to renew a license to a pari-mutuel licensee or an operator's licensee where live horse racing takes place, \$1,000,000 where live dog racing takes place, and \$1,000,000 for a license winner provided, however, such person seeking renewal of its license shall pay all costs incurred by the attorney general to conduct an investigation with regard to such application to renew the operator's license.

II.(a) A technology provider licensee applicant shall secure a technology provider license from the lottery commission. An applicant must complete and sign an application on forms prescribed by the lottery commission, and include information regarding the applicant's criminal history background, civil judgments and financial affairs. The application shall include the full name, address, date of birth, and other personal identifying information of the applicant and all key employees, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 10 percent of the legal or beneficial interests of such entity.

(b) If the applicant or any owner has held a gaming or video lottery machine license in a jurisdiction where video lottery machine activities are permitted, the applicant shall so state and may produce either a letter of reference from the gaming or lottery enforcement or control agency which sets forth the experience of that agency with the applicant, the applicant's associates and gaming operation, or a statement under oath that the applicant is or was during the period the activities were conducted in good standing with the agency.

(c) The attorney general shall conduct a background review of each technology provider applicant and any of its owners and key employees. The review may be conducted through any appropriate state or federal law enforcement system and may seek information as to the subject's financial, criminal, or business background, or any other information which the attorney general, in his or her sole discretion, may find relevant the subject's fitness to be associated with the distribution of video lottery machines in New Hampshire, including, but not limited to, the subject's character, personal associations, and the extent to

which the subject is properly doing business in the manner in which it purports to operate. The attorney general shall take into consideration as evidence of fitness a letter of reference or sworn statement of good standing produced pursuant to RSA 284-A:5, II(b). The attorney general shall report the results of the review to the lottery commission within 60 days. The results of any such review shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general, in the attorney general's sole discretion, shall determine the extent to which and the manner in which said results may be reported to the lottery committee or other state agency or official and, if reported, whether such results are to retain their confidential character; provided, however, that whenever the attorney general conducts such a review, the attorney general shall notify the lottery commission whether or not in his or her opinion such person is fit to be associated with the distribution of video lottery machines in this state. The attorney general may conduct a background review on the attorney general's motion into the background of the license applicant or holder, or any person or entity upon whom the license applicant or holder relies for financial support.

(d) In any review conducted pursuant to subparagraph (b), the attorney general or any duly authorized member of the attorney general's staff may require by subpoena or otherwise the attendance of witnesses and the production of such correspondence, documents, books, and papers as he or she deems advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses.

(e)(1) The lottery commission shall charge the technology provider applicant an application fee of \$50,000 which shall be used to defray the cost of processing the application. If the cost of processing the application exceeds \$50,000, the applicant shall pay the difference.

(2) The attorney general shall charge the technology provider applicant an investigation fee of \$25,000 which shall be used to defray the cost of the background investigation. If the cost of the background investigation exceeds \$25,000, the applicant shall pay the difference.

(3) Upon approval of a technology provider licensee, the lottery commission shall charge an initial license fee of \$50,000. The lottery commission shall charge a fee of \$50,000 to renew a license to a technology provider licensee provided, however, such person seeking renewal of its license shall pay all costs incurred by the attorney general to conduct an investigation with regard to such application to renew the operator's license.

284-A:6 Licensure Requirements.

I. No license shall be issued by the lottery commission unless the applicant complies with the criteria set forth in this section. The lottery commission shall consider as evidence supporting these criteria any letter of reference or sworn statement of good standing submitted pursuant to RSA 284-A:5, I(b) or RSA 284-A:5, II(b):

(a) The applicant's financial stability, integrity, and responsibility, considering, without limitation, bank references, business and personal income and disbursement schedules, tax returns, and other reports filed with governmental agencies, business and personal accounting records, check records, and ledgers.

(b) The trustworthiness of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes, and other evidences of indebtedness of the applicant.

(c) The applicant's good character, honesty, and integrity, considering, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional, and personal associates, covering at least the 10-year period immediately preceding the filing of the application.

(d) The applicant's business ability and experience in the operation of video lottery machines, as appropriate, so as to establish the likelihood of a successful and efficient operation.

II. No license shall be issued by the lottery commission to any applicant unless the applicant proves that each director, officer, or key employee and each direct or indirect owner complies with the criteria for licensure contained in this section.

III. No license shall be issued by the lottery commission to any operator or technology provider applicant if the applicant, any key employee, or any individual who has an ownership or financial interest in or with the applicant is an elected official to the general court or executive branch of the state of New Hampshire. If any such applicant, key employee, or any individual who has an ownership or financial interest in the applicant becomes such an elected official, the applicant shall be subject to sanctions pursuant to RSA 284-A:14.

IV. No license shall be issued by the lottery commission to an operator applicant unless the operator applicant is a pari-mutuel licensee seeking to operate video lottery machines at a pari-mutuel licensee location, or, if not a pari-mutuel licensee, the operator applicant submits proof of an agreement to manage and operate video lottery machines at a pari-mutuel licensee location. Such agreement shall be with a pari-mutuel licensee authorized to conduct live horse racing or live dog racing at its pari-mutuel licensee location.

V. No licensee or any individual or entity that is an owner of, or has a financial interest in or with the licensee shall be permitted to make a political contribution as defined by RSA 664:2, VIII.

VI. The lottery commission shall grant or deny a license under this chapter within 180 days of receiving a completed application, notwithstanding the adoption of interim or final rules.

VII. The lottery commission may license 3 licensees for video lottery machines in addition to existing horse and dog racing facilities in the state. Such license winners shall be selected by the lottery commission after submitting bids for the licensees. Bids shall be no less than \$20,000,000. The lottery commission may award licenses to the highest responsive and responsible bidders.

284-A:7 Exclusion of Minors.

I. No person under 21 years of age shall play a video lottery machine authorized by this chapter. Each violation of this section shall be punishable by a fine of no more than \$20,000 and shall be payable by such person who violates this section.

II. No pari-mutuel licensee or its operator licensee shall knowingly permit any person under 21 years of age to play or participate in any aspect of the play of a video lottery machine. Each violation of this section shall be punishable by a fine of no more than \$20,000 and shall be payable by the pari-mutuel licensee or its operator licensee. In the event that a pari-mutuel licensee or its operator licensee has 3 or more violations of this section within a calendar year, the license held by the pari-mutuel licensee or its operator licensee shall be subject to suspension for a period to be determined by the lottery commission.

284-A:8 Distribution of Net Machine Income.

I. Forty-three percent of the net machine income generated by video lottery machines shall be paid to the state, from which the state shall pay for the costs of regulation and administration and the acquisition and operation of the central computer system. The balance shall be deposited in the general fund of the state.

II. Two percent of the net machine income from video lottery machines shall be paid to the municipality in which the operator licensee operates video lottery machines.

III. Four percent of the net machine income generated from video lottery machines shall be paid to the pari-mutuel commission for the live racing fund established herein and shall be disbursed as follows:

(a) A sum not to exceed 5 percent of the fund shall be distributed by the pari-mutuel commission to support a New Hampshire horse-breeding fund, as established in the office of the state treasurer. The pari-mutuel commission shall adopt rules under RSA 541-A to implement this subparagraph.

(b) A sum not to exceed 7 percent of the fund shall be allocated to the alcohol and drug abuse treatment program as established in RSA 172 to treat problem gambling.

(c) A sum not to exceed 3 percent of the fund shall be allocated to the county where the pari-mutuel licensee is located.

(d) The balance of the funds shall be used by the pari-mutuel commission for the purpose of enhancing live racing purses at the pari-mutuel licensee locations. The pari-mutuel commission shall adopt rules under RSA 541-A to implement this subparagraph.

IV. Two percent of the net machine income from video lottery machines generated shall be paid to the state treasurer to be used by the department of resources and economic development for purposes of promoting tourism in the state.

V. One percent of the net machine income from video lottery machines shall be paid to the state treasurer to be used by the department of transportation for the purposes of meeting transportation needs in the state.

VI. The balance of the funds from the net machine income from video lottery machines shall be retained by the operator licensee.

VII. The operator licensee shall deliver the amounts payable to the state or municipality as provided in paragraphs I through IV in immediately available funds of the United States on a weekly basis on the first business day of each week. At the time payment is delivered, the operator licensee shall provide a written accounting of net machine income generated from the video lottery machines by the operator licensee on an aggregate basis and the calculation of amounts due to the state separately for distribution pursuant to paragraphs I, III, and IV, the amount due the municipality pursuant to paragraph II, and the balance of net machine income retained by the operator licensee. The operator shall pay a penalty of \$1,000 for each day that payment or the accounting is not delivered in a timely basis to the state and a penalty of \$1,000 for each day that payment or the accounting is not delivered to the municipality.

284-A:9 Procedures for Adoption by Local Community.

I. Any town or city in which a license winner or pari-mutuel licensee location is situated may adopt the provisions of RSA 284-A, to allow the operation of video lottery machines, in the following manner:

(a) In a town, except a town that has adopted a charter pursuant to RSA 49-D, the questions shall be placed on the warrant of an annual or special town meeting, by the governing body or by petition pursuant to RSA 39:3.

(b) In a city or town that has adopted a charter pursuant to RSA 49-C or RSA 49-D, the legislative body may consider an act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of any such municipality may vote to place the question on the official ballot for any regular municipal election.

(c) If a majority of those voting on the question vote in the affirmative, RSA 284-A shall apply in such town or city and the operation of video lottery machines shall be permitted within such town or city in accordance with RSA 284-A. If a majority of those voting on the question vote "No" the question may be voted on at a subsequent time in accordance with RSA 284-A:9 I and II provided, however, the town may consider the question at no more than one special meeting and the annual town meeting in the same calendar year.

II. When a license winner or a pari-mutuel licensee requests a town or city to act under RSA 284-A:9, I, the license winner or pari-mutuel licensee shall pay all costs associated with carrying out the actions under this section.

284-A:10 Inspection of Video Lottery Machines; Penalty for Tampering or Manipulating.

I. The lottery commission shall, periodically test video lottery machines installed at a license winner or pari-mutuel licensee location. In conducting such tests, the lottery commission shall use the services of an independent laboratory, and the cost of such independent laboratory shall be paid by the technology provider.

II. Any person who purposely manipulates the outcome, payoff, or operation of any video lottery machine by physical, electronic, or mechanical means, shall be guilty of a felony.

284-A:11 Video Lottery Machines.

I. An operator licensee shall provide to the lottery commission and the pari-mutuel commission, by diagram, a description of:

(a) The location of each video lottery machine available for play by the public.

(b) The location of all areas for the storage, maintenance, or repair of video lottery machines.

(c) A description of all security measures to be taken for the safeguarding of video lottery machines.

(d) The location and security measures taken for the safeguarding of all moneys, tokens, or other items of value utilized in the use of video lottery machines.

(e) All procedures for the operation, maintenance, repair, and inserting or removing of moneys, tokens, or other items of value from video lottery machines.

(f) All of the above shall be approved by the lottery commission prior to commencing the operation of any video lottery machines.

II. No video lottery machine shall be possessed, maintained, exhibited, brought into or removed from a license winner or pari-mutuel licensee location, by any person unless such machine has permanently affixed to it an identification number or symbol authorized by the lottery commission and prior notice of any such movement has been given to the lottery commission.

III. Each operator licensee shall maintain secure facilities for the counting and storage of all moneys, tokens, or other items of value utilized in the conduct of video lottery machines.

IV. The drop boxes and other devices shall not be brought into the license winner or pari-mutuel licensee location or removed from an video lottery machine, locked or unlocked, except at such specific times and such places and according to such procedures as the lottery commission may require to safeguard such boxes and devices and their contents.

V. No video lottery machine shall be used to conduct gaming unless it is identical in all electrical, mechanical, and other aspects to a model which has been specifically tested by the lottery commission and licensed for use by the lottery commission.

VI. All video lottery machines in operation at a pari-mutuel licensee location shall provide a pay off of an average of at least 87 percent annually.

VII. All tickets given as prizes or winnings from video lottery machines shall be redeemed for cash within one year after the date of winning. After the expiration of that one year, all such unredeemed tickets shall become property of the state of New Hampshire.

VIII. An operator licensee who operates video lottery machines shall not be restricted in the days of operation of such machines, provided the pari-mutuel licensee has scheduled at least the number of days of racing as required by RSA 284:22-a, II(a)(3).

IX. Video lottery machines shall be operated only at times when the public is allowed access to the locations. They shall not be operated during private functions. No automatic teller machines shall be located within 150 feet of video lottery machines.

284-A:12 Term of License. Any operator's license or technology provider's license issued pursuant to this chapter and any renewal thereof shall be valid for 5 years unless earlier suspended or revoked by the lottery commission. The lottery commission shall adopt procedures for license renewal that take into consideration whether the applicant has been previously licensed in good standing under this chapter.

284-A:13 Presence of the Lottery Commission. The lottery commission may be present at any license winner or pari-mutuel licensee location at which video lottery machines are operated at all times when the facility is open to the public. The operator licensee may be required by the lottery commission or gaming enforcement division of the department of safety to provide such office space and equipment which the commission shall determine is reasonably necessary or proper.

284-A:14 Sanction Powers of the Lottery Commission.

I. The lottery commission, following appropriate hearings and factual determinations, may impose sanctions against any person for any violation of this chapter or any rule of the lottery commission adopted under the provisions of this chapter as follows:

- (a) Revocation or suspension of a license.
- (b) Civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$50,000 for each violation.
- (c) Order restitution of any moneys or property unlawfully obtained or retained by a person.
- (d) Issue a cease and desist order which specifies the conduct which is to be discontinued, altered, or implemented by the person.
- (e) Issue letters of reprimand or censure, which shall be made a permanent part of the file of each person so sanctioned.
- (f) Impose any or all of the foregoing sanctions in combination with each other.

II. In determining appropriate sanctions in a particular case, the lottery commission shall consider:

- (a) The risk to the public and to the integrity of video lottery machine operations created by the conduct of the person.
- (b) The seriousness of the conduct of the person and whether the conduct was purposeful or with knowledge that it was in contravention of the provisions of this chapter or the rules of the pari-mutuel commission or the lottery commission.
- (c) Any justification or excuse for such conduct.
- (d) The prior history of the person involved.
- (e) The corrective action taken by the person to prevent future misconduct of a like nature from occurring.
- (f) In the case of a monetary penalty, the amount of the penalty in relation to the misconduct and the financial means of the person.
- (g) In the event that a person receives 3 civil penalties during the term of such person's license, the lottery commission may revoke the license for the balance of the term of the license or suspend such license for a period of time, as determined by the lottery commission.

284-A:15 Declaration of Limited Exemption from Operation of Provisions of 15 U.S.C. section 1171-1172. Pursuant to section 2 of an act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being Chapter 1194, 64 Stat 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that section 2 of that act of Congress shall not apply to any gambling device in this state where the transportation of such a device is specifically authorized by and done in compliance with the

provisions of this chapter and any rules adopted pursuant to it, and that any such gambling device transported in compliance with state law and rules shall be exempt from the provisions of that act of Congress.

284-A:16 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce, approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

8 New Section; Lottery Commission; Administration of Video Lottery. Amend RSA 284 by inserting after section 21-v the following new section:

284:21-w Video Lottery; Duties of the Lottery Commission; Administration; Video Lottery Oversight.

I. The lottery commission shall:

(a) Collect all license fees imposed upon any applicant and all taxes imposed by RSA 284-A.

(b) Certify net machine income by inspecting records, conducting audits, having its agents on site, or by any other reasonable means.

(c) Establish a central computer system located at the office of the lottery commission linking all video lottery machines to insure control over video lottery machines. The lottery commission shall establish a bid procedure for such contracts and ensure that the central computer system uses a widely adopted communications protocol approved by the Gaming Standards Association.

(d) Require all holders of an operator's license issued by the lottery commission pursuant to RSA 284-A to submit its proposed system of internal control to the lottery commission for approval prior to the operation of video lottery machines at any pari-mutuel licensee location. At a minimum, the operator licensee's proposed system of internal controls shall:

(1) Safeguard its assets and revenues, including, but not limited to the recording of cash and evidences of indebtedness related to the video lottery machines.

(2) Provide for reliable records, accounts and reports of any financial event that occurs in the operation of a video lottery machine.

(3) Ensure that each video lottery machine directly provides or communicates all required activities and financial details to the central computer system.

(4) Provide for accurate and reliable financial records.

(5) Ensure any financial event that occurs in the operation of a video lottery machine is performed only in accordance with the management's general or specific authorization.

(6) Ensure that any financial event that occurs in the operation of a video lottery machine is recorded adequately to permit proper and timely reporting of net machine income and the calculation thereof and the related fees and taxes.

(7) Ensure that access to assets is permitted only in accordance with management's specific authorization.

(8) Ensure that recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.

(9) Ensure that all functions, duties and responsibilities are appropriately segregated and performed in accordance with sound financial practices by qualified personnel.

II. The lottery commission may employ certain assistants to carry out the provisions of this section and RSA 284-A, and may employ such additional assistants and employees as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the division of personnel, however, such compensation shall be funded by proceeds paid to or received by the lottery commission pursuant to RSA 284-A. No employee of the lottery commission shall have any pecuniary or other interest in any supplier or agent to the commission or in any licensee licensed under RSA 284-A.

9 New Sections; Department of Safety; Gaming Enforcement Division Established. Amend RSA 21-P by inserting after section 11-a the following new sections:

21-P:11-b Gaming Enforcement Division.

I. There is established within the department of safety, a gaming enforcement division under the state police of gaming enforcement under the supervision of the commissioner of safety. The division shall:

(a) Investigate violations of RSA 284 or RSA 284-A and the rules adopted under the provisions of RSA 284 or RSA 284-A and initiate proceedings before the lottery commission for such violations.

(b) Report the results of any investigation conducted to the lottery commission.

(c) Participate in any hearing conducted by the lottery commission.

II. The commissioner of the department of safety shall organize the division into such units as the commissioner deems necessary. The commissioner of safety may employ such state police personnel as the commissioner deems necessary to fulfill the responsibilities of the division.

21-P:11-c Enforcement Expenditures. The governor and council with the prior approval of the fiscal committee of the general court, upon request from the commissioner of the department of safety may authorize the transfer of general funds to the department of safety to implement and enforce RSA 21-P:11-b, RSA 284, and RSA 284-A.

10 New Section; Pari-Mutuel Commission; Duties. Amend RSA 284 by inserting after section 6-a the following new section:

284:6-b Duties of the Pari-mutuel Commission.

I. The pari-mutuel commission shall:

(a) Provide to the lottery commission all records pertaining to the licensing of a license winner or pari-mutuel licensee under RSA 284-A within 30 days after the pari-mutuel commission receives a request.

(b) Hear and make recommendations to the lottery commission in reasonable order on all license applications for a license under RSA 284-A:6.

II. The pari-mutuel commission shall make its recommendation to the lottery commission in writing.

III. With regard to minutes and records of the pari-mutuel commission:

(a) The pari-mutuel commission shall cause to be made and kept a record of all proceedings of public meetings of the pari-mutuel commission pursuant to this chapter. A verbatim transcript of those proceedings shall be prepared by the pari-mutuel commission upon the request of any commissioner or upon the request of any other person and the payment by that person of the costs of preparation. A copy of a transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

(b) The pari-mutuel commission shall keep and maintain a list of all notices it receives under RSA 284-A, together with a record of all actions taken with respect to such notices. A file and record of the pari-mutuel commission's actions shall be open to public inspection provided, however, that the information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after 5 years from the date of such action.

(c) The pari-mutuel commission shall maintain such other files and records as the pari-mutuel commission determines is necessary.

(d) All information and data required by the pari-mutuel commission to be furnished to it, or which may otherwise be obtained, shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this chapter, or upon the lawful order of a court of competent jurisdiction, or with the approval of the attorney general, to a duly authorized law enforcement agency.

(e) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the pari-mutuel commission from any source shall be considered confidential and shall be withheld in whole or in part. Such information shall be released upon the lawful order of a court of competent jurisdiction or to a duly authorized law enforcement agency.

(f) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subparagraphs (d) or (e), shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the pari-mutuel commission.

(g) All records, information or data maintained or kept by the pari-mutuel commission shall be maintained or kept at the office of the lottery commission.

11 License Restricted. RSA 284:16-c is repealed and reenacted to read as follows:

284:16-c License Restricted.

I. Notwithstanding any other provision of law, the pari-mutuel commission shall not issue a license to conduct live thoroughbred horse racing or live harness horse racing pursuant to RSA 284:16 to any applicant if the place where such races or race meets are to be held is within a radius of 40 miles of the place where live horse races or race meets for at least the number of days as required in RSA 284:22-a, II(a)(3) have already been licensed pursuant to RSA 284:16, provided however, that the pari-mutuel commission may issue a license to conduct live harness racing to the holder of a license to conduct live thoroughbred racing if the live harness racing is conducted at the same place where the live thoroughbred racing is being conducted.

II. Notwithstanding any other provision of law, the pari-mutuel commission shall not issue a license to conduct live dog racing pursuant to RSA 284:16-a to any applicant if the place where the races or race meets are to be held is within a radius of 40 miles of the place where such races or race meets have already been licensed pursuant to RSA 284:16-a.

12 Restriction on Gambling. RSA 284:17-c is repealed and reenacted to read as follows:

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

13 New Paragraph; Pari-Mutuel Licensee; Cocktail Lounge License. Amend RSA 178:20, by inserting after paragraph V the following new paragraph:

VI. The commission may issue a special license to a person holding a pari-mutuel license or an operator's license at a pari-mutuel licensee location under the provisions of RSA

284-A provided the pari-mutuel licensee location has an existing liquor license. Such special license shall allow the sale of liquor, wine, and beverages within the pari-mutuel licensee location, including dining room, function room, gaming room, lounge, or any other area designated by the commission, without regard to whether meals are served therein, but only during the time gaming is being conducted under RSA 284-A. A person licensed under this section shall comply with RSA 179:44.

14 New Subparagraph; Horse Breeding Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys received under RSA 284-A:8, III(a), which shall be credited to the New Hampshire thoroughbred and standard bred horse breeding program fund.

15 New Subparagraph; Authorized Video Lottery Machines. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) Video lottery machines authorized pursuant to RSA 284-A.

16 Rehabilitation of Gambling Addiction. Amend RSA 172:2-a to read as follows:

172:2-a Program Established. The commissioner shall provide for the scientific care, treatment, and rehabilitation of **gambling**, alcohol, and drug abusers, and work towards the prevention of, and assist in the control of, **gambling**, alcohol, and drug abuse within the state through education, treatment, community organization, and research.

17 Rehabilitation of Gambling Addiction. Amend RSA 172:8 to read as follows:

172:8 Duties of Commissioner. The commissioner shall:

I. Study the problems presented by **gambling**, alcohol, and drug abuse, including methods and facilities available for the care, treatment, custody, employment, and rehabilitation of persons who are inebriates, alcohol abusers, drug dependent, or drug abusers.

II. Promote meetings and programs for the discussion of **gambling**, alcohol, and drug dependency and abuse for the guidance and assistance of individuals, schools, courts, and other public and private agencies.

III. Conduct, promote and finance, in full or in part, studies, and other appropriate facilities dealing with the physical, psychological, and/or social aspects of **gambling**, alcohol, and drug abuse.

IV. Have the authority to accept or reject for examination, diagnosis, guidance, and treatment, insofar as funds and facilities permit, any resident of the state who comes to the commissioner voluntarily for advice and treatment.

V. [Repealed.]

VI. Render biennially to the governor and council a report of his activities including recommendations for improvements therein by legislation or otherwise.

VII. Coordinate community medical resources for the emergency medical care of persons suffering acute mental or physical reaction to **gambling**, alcohol, or drugs and of persons suffering from drug dependency.

VIII. Employ such assistants as may be necessary to carry out the purposes of this chapter, in accordance with state personnel regulations, and within available appropriations and funds.

IX. Disseminate information on the subjects of **gambling**, alcohol, and drug abuse for the guidance and assistance of individuals, schools, courts and other public and private agencies.

X. [Repealed.]

18 Rehabilitation of Gambling Addiction. Amend RSA 172:8-a to read as follows:

172:8-a Confidentiality of Client Records. No reports or records or the information contained therein on any client of the program or a certified **gambling**, alcohol, or drug abuse treatment facility or any client referred by the commissioner shall be discoverable by the state in any criminal prosecution. No such reports or records shall be used for other than rehabilitation, research, statistical or medical purpose, except upon the written consent of the person examined or treated. Confidentiality shall not be construed in such manner as to prevent recommendation by the commissioner to a referring court, nor shall it deny release of information through court order pursuant to appropriate federal regulations.

19 Rehabilitation of Gambling Addiction. Amend RSA 172:8-b to read as follows:

172:8-b Rulemaking. The commissioner shall adopt rules under RSA 541-A relative to the following:

I. The acceptance, care and treatment of **gambling**, alcohol, or drug dependent persons and alcohol or drug abusers who are clients of the program established under this chapter or a certified substance abuse treatment facility.

II. A fee schedule and collection of fees under RSA 172:14, IV.

III. Certification of substance abuse treatment facilities including, but not limited to:

- (a) Program content;
- (b) Qualifications of program staff; and
- (c) Type of substance abuse treatment offered.

IV. Certification and recertification of **gambling**, alcohol, and drug abuse counselors including, but not limited to:

- (a) Peer review of applicants.
- (b) Minimum qualifications and competency.
- (c) Education and continuing education.
- (d) Experience required.

(e) Required knowledge of **gambling**, alcohol, and drug abuse counseling.

(f) Such other matters as the commissioner may deem necessary to carry out the purposes of this chapter.

V. Voluntary admissions under RSA 172:13.

20 New Section; New Hampshire Thoroughbred and Standard Bred Horse Breeding Program Fund. Amend RSA 435 by inserting after section 5 the following new section:

435:5-a New Hampshire Thoroughbred and Standard Bred Horse Breeding Program Fund. There is hereby established in the office of the treasurer the New Hampshire Thoroughbred and Standard Bred Horse Breeding Program Fund which shall be kept distinct and separate from all other funds. All moneys in such fund shall be nonlapsing and shall be continually appropriated to the state veterinarian to promote the breeding of thoroughbred and standard bred horses.

21 Effective Date. This act shall take effect July 1, 2008.

2008-1889s

AMENDED ANALYSIS

This bill:

I. Raises the limit on a single wager by a player.

II. Directs moneys from certain games of chance to the general fund.

III. Limits the amount of pay back in certain games of chance.

IV. Authorizes the pari-mutuel commission to adopt rules regarding game operator fees.

V. Establishes 3 internal auditor III positions and one supervisor IV position in the pari-mutuel commission.

VI. Allows video lottery gaming at up to 3 licensees selected by the lottery commission and at racetracks.

VII. Establishes the gaming enforcement division in the department of safety.

VIII. Establishes the New Hampshire thoroughbred and standard bred horse breeding program fund.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Kenney.

Seconded by Senator Gatsas.

The following Senators voted Yes: Gallus, Sgambati, Burling, Cilley, Kelly, Gottesman, Clegg, DeVries, D'Allesandro, Downing, Hassan.

The following Senators voted No: Reynolds, Kenney, Janeway, Odell, Roberge, Bragdon, Foster, Larsen, Gatsas, Barnes, Letourneau, Estabrook, Fuller Clark.

Yeas: 11 - Nays: 13

Floor amendment failed.

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

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

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

Yeas: 16 - Nays: 8

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Cilley moved to have HB 1561 removed from the table.

Adopted.

HB 1561, establishing an energy conservation and efficiency board.

Energy, Environment, and Economic Development

April 29, 2008

2008-1571s

08/05

Amendment to HB 1561

Amend RSA 125-O:5-a, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Provide recommendations at least annually to the public utilities commission on the administration and allocation of energy efficiency funds under the commission's jurisdiction.

Amend RSA 125-O:5-a, II(m) as inserted by section 1 of the bill by replacing it with the

following:

(m) Three representatives from groups representing energy, environmental, consumer, or public health issues and knowledgeable in energy conservation policies and programs, appointed by the chairman of the public utilities commission.

Amend RSA 125-O:5-a, II(o) as inserted by section 1 of the bill by replacing it with the following:

(o) One representative from utility-administered electric energy efficiency programs, appointed by the chairman of the public utilities commission.

(p) One representative from utility-administered natural gas energy efficiency programs, appointed by the chairman of the public utilities commission.

Amend RSA 125-O:5-a, III-IV as inserted by section 1 of the bill by replacing it with the following:

III. The chairman of the public utilities commission shall call the first meeting of the board. The board shall elect a chairperson from among its members. Seven members of the board shall constitute a quorum. The board shall make an annual report on December 1 to the governor, the speaker of the house of representatives, the president of the senate, the house science, technology and energy committee, the senate energy, environment and economic development committee, and the public utilities commission, to provide an update on its activities and any recommendations for action.

IV. No member of the board shall vote on a matter in which the member, his or her spouse or dependent, or the organization or entity represented by or employing the member, has a private interest which may directly or indirectly affect or influence the performance of his or her duties.

Amendment failed.

Senator Cilley offered a floor amendment.

**Sen. Cilley, Dist. 6
May 7, 2008
2008-1738s
08/10**

Floor Amendment to HB 1561

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

AN ACT establishing an energy efficiency and sustainable energy board.

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

1 New Section; Energy Efficiency and Sustainable Energy Board. Amend RSA 125-O by inserting after section 5 the following new section:

125-O:5-a Energy Efficiency and Sustainable Energy Board.

I. An energy efficiency and sustainable energy board is hereby created to promote and coordinate energy efficiency, demand response, and sustainable energy programs in the state. The board's duties shall include but not be limited to:

(a) Review available energy efficiency, conservation, demand response, and sustainable energy programs and incentives and compile a report of such resources in New Hampshire.

(b) Develop a plan to achieve the state's energy efficiency potential for all fuels, including setting goals and targets for energy efficiency that are meaningful and achievable.

(c) Develop a plan for economic and environmental sustainability of the state's energy system including the development of high efficiency clean energy resources that are either renewable or have low net greenhouse gas emissions.

(d) Provide recommendations at least annually to the public utilities commission on the administration and allocation of energy efficiency and renewable energy funds under the commission's jurisdiction.

(e) Explore opportunities to coordinate programs targeted at saving more than one fuel resource, including conversion to renewable resources and coordination between natural gas and other programs which seek to reduce the overall use of nonrenewable fuels.

(f) Develop tools to enhance outreach and education programs to increase knowledge about energy efficiency and sustainable energy among New Hampshire residents and businesses.

(g) Expand upon the state government's efficiency programs to ensure that the state is providing leadership on energy efficiency and sustainable energy including reduction of its energy use and fuel costs.

(h) Encourage municipalities and counties to increase investments in energy efficiency and sustainable energy through financing tools, and to create local energy committees.

(i) Work with community action agencies and the office of energy and planning to

explore ways to ensure that all customers participating in programs for low-income customers and the Low Income Home Energy Assistance Program (LIHEAP) have access to energy efficiency improvements, and where appropriate, renewable energy resources, in order to reduce their energy bills.

(j) Investigate potential sources of funding for energy efficiency and sustainable energy development and delivery mechanisms for such programs, coordinate efforts between funding sources to reduce duplication and enhance collaboration, and review investment strategies to increase access to energy efficiency and renewable energy resources.

II. The members of the board shall be as follows:

(a) The chairman of the public utilities commission, or designee.
(b) The director of the office of energy and planning, or designee.
(c) The consumer advocate, or designee.
(d) The commissioner of the department of environmental services, or designee.
(e) The commissioner of the department of resources and economic development, or designee.

(f) The president of the Business and Industry Association of New Hampshire, or designee.

(g) The executive director of the New Hampshire Municipal Association, or designee.

(h) The executive director of New Hampshire Legal Assistance, or designee.

(i) The president of the Homebuilders and Remodelers Association of New Hampshire, or designee.

(j) Two members of the house science, technology and energy committee appointed by the speaker of the house of representatives.

(k) One member of the senate energy, environment and economic development committee, appointed by the president of the senate.

(l) Three representatives from not-for-profit groups representing energy, environmental, consumer, or public health issues and knowledgeable in energy conservation policies and programs, appointed by the chairman of the public utilities commission.

(m) The commissioner of the department of administrative services, or designee.

(n) The state fire marshal, or designee.

(o) The executive director of the New Hampshire housing finance authority, or designee.

III. The board shall include, as non-voting participants the following:

(a) One representative from each utility-administered electric and natural gas energy efficiency program appointed by the chairman of the public utilities commission.

(b) A representative of energy services companies delivery energy efficiency services to residential and business customers, appointed by the chairman of the public utilities commission.

(c) A representative of a business or association of businesses selling or installing sustainable or renewable energy systems, appointed by the chairman of the public utilities commission.

(d) A representative from the investment community with expertise in efficiency investments and financing, appointed by the chairman of the public utilities commission.

IV. The chairman of the public utilities commission shall call the first meeting of the board. The board shall elect a chairperson from among its members. Seven members of the board shall constitute a quorum. The board shall make an annual report on December 1 to the governor, the speaker of the house of representatives, the president of the senate, the house science, technology and energy committee, the senate energy, environment and economic development committee, and the public utilities commission, to provide an update on its activities and recommendations for action including possible legislation.

V. The board shall be administratively attached to the public utilities commission under RSA 21-G:10.

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

VII. No member of the board shall vote on a matter in which the member, his or her spouse or dependent, or the organization or entity represented by or employing the member, has a private interest which may directly or indirectly affect or influence the performance of their duties.

2 Effective Date. This act shall take effect October 1, 2008.

2008-1738s

AMENDED ANALYSIS

This bill creates the energy efficiency and sustainable energy board.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1270, relative to limiting certain future interests in real property. Judiciary Committee. Ought to Pass, Vote 2-1. Senator Gottesman for the committee.

Adopted.

Senator Foster, Rule 42 on HB 1270.

Ordered to Third Reading.

MOTION OF RECONSIDERATION

Senator Gottesman, having voted with the prevailing side, moved reconsideration of **HB 690** whereby it was ordered to Third Reading.

Adopted.

HB 690, establishing a pilot program for job skills training in volunteer work by unemployed individuals.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

May 15, 2008

2008-1934s

08/10

Floor Amendment to HB 690

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

AN ACT authorizing the commissioner of the department of employment security to adjust the discount rate and relative to auditable basis policies.

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

1 Unemployment Compensation; Minimum Rate; Version Effective July 1, 2008. Amend RSA 282-A:82 to read as follows:

282-A:82 Minimum Rate.

I. The commissioner shall compute the ~~[amount to be subtracted from every employer's contribution rate]~~ **discount rate** for the 4 calendar quarters during a calendar year by determining the available balance in the unemployment compensation fund on September 30 of the preceding calendar year. ~~[The amount to be subtracted from every employer's contribution rate]~~ **Except as provided in paragraph II of this section the discount rate** for the 4 calendar quarters during a calendar year shall be as follows:

(a) Whenever the unemployment compensation fund equals or exceeds \$225,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be .5 percent.

(b) Whenever the unemployment compensation fund equals or exceeds

\$250,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be one percent.

(c) Whenever the unemployment compensation fund equals or exceeds \$275,000,000 on September 30 of the preceding calendar year, the ~~[amount to be subtracted]~~ **discount rate** shall be 1.5 percent.

II. If the unemployment compensation trust fund balance is \$200,000,000 or more on September 30 of the preceding calendar year, and if the commissioner of the department of employment security determines that the health of the New Hampshire business environment and the security of existing jobs would be threatened by decreasing the discount rate from every employer's contribution rate in accordance with RSA 282-A:82, then the commissioner may adjust the discount rate $\frac{1}{2}$ percent more than otherwise applicable.

III. For the purposes of this section, "discount rate" means the amount to be subtracted from every employer's contribution rate.

~~[H.]~~ **IV.** The minimum contribution rate under this section shall be not less than .10 percent.

2 Unemployment Compensation; Minimum Rate; Version Effective July 1, 2009. RSA 282-A:82 is repealed and reenacted to read as follows:

282-A:82 Minimum Rate.

I. The commissioner shall compute the amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year by determining the available balance in the unemployment compensation fund on September 30 of the preceding calendar year. The amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year shall be as follows:

(a) Whenever the unemployment compensation fund equals or exceeds \$225,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be .5 percent.

(b) Whenever the unemployment compensation fund equals or exceeds \$250,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be one percent.

(c) Whenever the unemployment compensation fund equals or exceeds \$275,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be 1.5 percent.

II. The minimum contribution rate under this section shall be not less than .10 percent.

3 Insurance Premium Refunds. Amend RSA 402:81 to read as follows:

402:81 Insurance Premium Refunds.

I. Whenever an insurer owes a refund on an insurance premium paid, that insurer shall pay the refund within 30 days of the date when the refund becomes due.

(a) When an insurance policy is cancelled by a named insured, a refund shall be due from the company or its appointed producer ~~[receiving]~~ **upon receipt of:**

(1) The original policy to be cancelled; or

(2) A signed lost policy release; or

(3) A cancellation request from the insured which has been submitted in accordance with provisions of the policy or statute.

(b) When an insurance policy is cancelled by an insurer, a refund shall become due upon the date of cancellation as stated in the notice of cancellation.

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

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

(1) Audits shall be conducted promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute; and

(2) If there is no bona fide dispute, the refund of gross unearned premium shall become due on the date of the completed audit.

(3) In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved and the audit is completed. The insurer shall notify the insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete the audit within the time remaining in the 120-day time period.

(4) A bona fide dispute includes the insured's failure to cooperate with the audit, provided the insurer has notified the insured of:

(A) The acts or omissions that constitute the insured's failure to cooperate; and

(B) The consequences of the insured's failure to cooperate, including delay in the completion of the audit and payment of any refund due.

~~(e)]~~ **(d)** This paragraph shall not apply to retrospectively rated policies.

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

II. Whenever the premium refunds described in paragraph I are refunded to an authorized third party, such as an insurance producer or a party with cancellation power of attorney from the insured, the authorized third party shall credit the premium refund for the

account of the named insured. In the event that crediting of return premiums to the account of the named insured results in a surplus over the amount owed the authorized third party by the named insured, the surplus shall be paid to the named insured within 10 days of receipt of the return premium, being credited to the third party, provided that no such refund shall be required if it amounts to less than \$1.

III. For any refund that is not paid to the named insured within the specified period *set forth in paragraph I*, the party to whom the premium is owed shall be entitled to interest beginning on the first day after the expiration of the period, at the legal rate. Any interest developed because of late refunding shall ultimately benefit only the named insured. ~~[In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved. In cases where the final premium amount is subject to audit, the refund shall become due upon audit. In any event, return of the unearned premium shall be made within 90 days from the date of expiration or cancellation of the policy.]~~ This paragraph shall not apply to retrospectively rated policies.

4 Contingency. If HB 1244 of the 2008 legislative session becomes law, then section 2 of HB 1244 shall not take effect and section 3 of this act shall take effect on the effective date of HB 1244. If HB 1244 does not become law, section 3 of this act shall not take effect.

5 Effective Date.

- I. Section 1 of this act shall take effect July 1, 2008.
- II. Section 2 of this act shall take effect July 1, 2009.
- III. Section 3 of this act shall take effect as provided in section 4 of this act.
- IV. The remainder of this act shall take effect upon its passage.

2008-1934s

AMENDED ANALYSIS

This bill defines “discount rate” and authorizes the commissioner of the department of employment security to adjust the discount rate.

This bill also makes a technical correction to HB 1244 of the 2008 legislative session by inserting inadvertently omitted text.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1289, relative to court-ordered placements for a child in need of services and relative to permanency hearings in juvenile cases. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

Adopted.

Ordered to Third Reading.

HB 1333, relative to post-foreclosure eviction actions. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Gottesman for the committee.

Committee report of Inexpedient to Legislate failed.

Senator Gottesman moved Ought to Pass.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12
May 9, 2008
2008-1805s
05/10

Floor Amendment to HB 1333

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

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 373, relative to unlawful possession of alcohol by a minor. Judiciary Committee. Ought to Pass with Amendment, Vote 3-1. Senator Foster for the committee.

Senate Judiciary
May 13, 2008
2008-1867s
03/04

Amendment to HB 373

Amend RSA 179:10, I as inserted by section 1 of the bill by replacing it with the following:

I. Except as provided in RSA 179:23, any person under the age of 21 years who has in his or her possession any liquor or alcoholic beverage, or who has consumed any alcoholic

beverage, shall be guilty of a violation and shall be fined a minimum of \$300. Any second and subsequent offense shall be fined at least \$600. For purposes of this section, alcohol concentration as defined in RSA 259:3-b of .02 or more shall be prima facie evidence of consumption. In lieu of any or all portions of such fines, the court may impose community service for such period as the court deems appropriate under the circumstances.

MOTION TO TABLE

Senator Gatsas moved to have HB 373 laid on the table.

A division vote was requested.

Yeas: 11 – Nays: 13

Motion failed.

The question is on the adoption of the Committee Amendment.

Amendment adopted.

MOTION TO TABLE

Senator Kelly moved to have HB 373 laid on the table.

A division vote was requested.

Yeas: 17 – Nays: 7

Adopted.

LAID ON THE TABLE

HB 373, relative to unlawful possession of alcohol by a minor.

HB 1180, relative to the definitions of “law enforcement officer” and “judicial officer” under the capital murder law and establishing a commission to study the death penalty in New Hampshire. Judiciary Committee. Inexpedient to Legislate, Vote 3-1. Senator Letourneau for the committee.

Senator Gottesman moved the question.

Without objection, Senator Larsen moved to close debate.

Committee report of Inexpedient to Legislate is adopted.

HB 1319, relative to the reasonable cost of medical support for dependent children. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Gottesman for the committee.

Senate Judiciary
May 13, 2008
2008-1866s
03/10

Amendment to HB 1319

Amend the bill by replacing sections 1 and 2 with the following:

1 Definition of Reasonable Cost. Amend RSA 458-C:2, VI-a to read as follows:

VI-a. "Reasonable cost" means that the medical support obligation does not exceed ~~[5]~~ **4** percent of the ***individual*** parent's ~~[individual-net]~~ **gross** income ~~[as calculated under the formula set forth in RSA 458-C:2, VI].~~

2 Medical Support Obligation. Amend RSA 458-C:3, V to read as follows:

V. If the minor child is not currently enrolled in private health insurance, the court shall calculate a reasonable medical support obligation for each parent. A medical support obligation shall be reasonable if it does not exceed ~~[5]~~ **4** percent of the ***individual*** parent's ~~[individual-net]~~ **gross** income under RSA 458-C:2, VI-a. If the court determines that health insurance is available at a reasonable cost to either parent, or is available by combining the reasonable medical support obligation of both parents, the court shall order either or both parents to provide such support.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1321, relative to the inspection of juvenile detention facilities. Judiciary Committee. Ought to Pass, Vote 3-1. Senator Gottesman for the committee.

Adopted.

Ordered to Third Reading.

HB 1370, establishing a pilot program for an integrated juvenile justice information sharing system. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Reynolds for the committee.

Adopted.

Ordered to Third Reading.

HB 1386, relative to a grandparent's rights to access court and case records involving a grandchild. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Letourneau for the committee.

Sen. Foster, Dist. 13

May 7, 2008

2008-1743s

09/01

Amendment to HB 1386

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

AN ACT relative to a grandparent's rights to access court and case records involving a grandchild in child abuse and neglect cases.

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

1 Child Abuse and Neglect. Amend RSA 169-C:25, I to read as follows:

I.(a) The court records of proceedings under this chapter shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by the parties, child, parent, ***grandparent pursuant to subparagraph (b)***, guardian, custodian, attorney, or other authorized representative of the child.

(b) A grandparent seeking access to court records under subparagraph (a) shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, and for good cause shown, the grandparent's request may be granted by the court. If an objection is made, access may be granted only by court order.

2 Effective Date. This act shall take effect January 1, 2009.

2008-1743s

AMENDED ANALYSIS

This bill expands the rights of grandparents to have access to court and case records

involving grandchildren in child abuse and neglect cases.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1477, relative to cellular phone and satellite television records for child support enforcement. Judiciary Committee. Ought to Pass, Vote 3-1. Senator Reynolds for the committee.

MOTION TO TABLE

Senator Barnes moved to have HB 1477 laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1477, relative to cellular phone and satellite television records for child support enforcement.

HB 1536, relative to periodic payments of judgments. Judiciary Committee. Inexpedient to Legislate, Vote 3-1. Senator Reynolds for the committee.

Committee report of Inexpedient to Legislate is adopted.

HB 474, excluding septic and sewage treatment facilities from the tax exemption for water and air pollution control facilities. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator Hassan for the committee.

Committee report of Inexpedient to Legislate is adopted.

Senator Hassan, Rule 42 on HB 474.

HB 1143, relative to shelter for dogs and the authority of law enforcement officers to take abused and neglected dogs into custody. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Roberge for the committee.

Public and Municipal Affairs

May 8, 2008

2008-1788s

08/04

Amendment to HB 1143

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

1 Cruelty to Animals; Shelter for Dogs. Amend RSA 644:8, II-a to read as follows:

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight **and adequate air circulation** when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from ~~in element~~ **the** weather shall **allow the dog to remain clean and dry. Shelter shall be structurally sound and** have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

2 Cruelty to Animals; Law Enforcement Officers. Amend RSA 644:8, IV-a(a) to read as follows:

(a) Except as provided in subparagraph (b) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been **or is being** abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

3 Effective Date. This act shall take effect January 1, 2009.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1472, relative to workforce housing. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

MOTION TO TABLE

Senator Hassan moved to have HB 1472 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1472, relative to workforce housing.

HB 1651, allowing municipalities in Coos county to offer property tax exemptions to foster commercial and industrial construction. Public and Municipal Affairs Committee. Ought to Pass, Vote 6-0. Senator Barnes for the committee.

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1196 removed from the table.

Adopted.

HB 1196, relative to the procedure for amending municipal charters.

Public and Municipal Affairs

May 8, 2008

2008-1789s

08/04

Amendment to HB 1196

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

AN ACT relative to the procedure for amending municipal charters and relative to referendum procedures for public water supplies.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 9:

5 Referendum Procedure; Public Water Supplies. Amend RSA 485:14-a, I to read as follows:

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of ~~[the registered voters]~~ **those voting** in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to

the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

6 Referendum Procedure; Public Water Supplies. Amend RSA 31:17-a to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the ~~[registered voters of the town shall, by majority vote,]~~ **majority of those voting in the town** approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

7 Public Water Supplies. Amend RSA 44:16 to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of ~~[the registered voters]~~ **those voting** in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the ~~[registered voters of the city shall, by majority vote,]~~ **majority of those voting in the town** approve the use of such fluoride. After such popular referendum, the city clerk shall not

insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

8 Public Water. Amend RSA 52:23 to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district, presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of ~~[the registered voters]~~ **those voting** in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the ~~[registered voters of the district shall, by majority vote,]~~ **majority of those voting in the town** approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

2008-1789s

AMENDED ANALYSIS

This bill:

- I. Adds a procedure for revising or amending municipal charters.
- II. Moves review of charter amendments that are initiated by a petitioners' committee to before petitions are issued by the clerk, instead of after signatures are collected.
- III. Changes referendum procedures for voting on public water supplies.

Amendment adopted.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

May 12, 2008

2008-1820s

06/09

Floor Amendment to HB 1196

Amend the bill by replacing section 6 with the following:

6 Referendum Procedure; Public Water Supplies. Amend RSA 31:17-a to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of ~~[the registered voters]~~ **those voting** in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the ~~[registered voters of the town shall, by majority vote,]~~ **majority of those voting in the town** approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

MOTION OF RECONSIDERATION

Senator Hassan, having voted with the prevailing side, moved reconsideration of **HB 1260-L** whereby it was ordered to Third Reading.

Adopted.

HB 1260-L, relative to growth management ordinances.

Senator Hassan offered a floor amendment.

Sen. DeVries, Dist. 18

Sen. Hassan, Dist. 23

May 15, 2008

2008-1904s

10/04

Floor Amendment to HB 1260-LOCAL

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

AN ACT relative to growth management ordinances, and relative to the assessment of property subject to a housing covenant under the low-income housing tax credit program.

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

4 Appraisal of Property; Reference Added. Amend RSA 75:1 to read as follows:

75:1 How Appraised. The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, ***and residential rental property subject to a housing covenant under the low-income housing tax credit program pursuant to RSA 75:1-a***, and all other taxable property at its market value. Market value means the property's full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

5 New Section; Residential Property Subject to Housing Covenant. Amend RSA 75 by inserting after section 1 the following new section:

75:1-a Residential Property Subject to Housing Covenant Under the Low-income Housing Tax Credit Program. The appraisal for property tax purposes on multifamily residential rental property which has been allocated federal low-income housing tax credits under section 42 of the Internal Revenue Code and which is subject to a recorded housing subsidy covenant that restricts tenant eligibility and rents shall, upon the affirmative

request of the taxpayer, be determined under this section. A copy of the recorded land use restriction required by section 42 of the Internal Revenue Code or other low income rental use restriction covenant required by the New Hampshire housing finance authority, is sufficient proof of an allocation of federal low-income housing tax credits.

I. To make an election for an appraisal of property subject to a housing covenant under the low-income housing tax credit program, the taxpayer shall, by October 1 preceding the tax year for which the election is sought, provide written notice to the municipality of the taxpayer's election to be assessed under this section, using a form prepared by the department of revenue administration.

II. When an election is made, the property shall be assessed under this section for the next 5 tax years, provided the property remains subject to the housing covenant under the low-income housing tax credit program. The taxpayer may continue to elect to be assessed under this section for successive 5-year periods so long as the property remains subject to the low-income housing covenant. To renew such election, the taxpayer shall provide new written notice to the municipality by October 1 of the fifth tax year during which the property is being assessed under this section.

III. A taxpayer who makes an election under this section shall, by April 15 of each applicable tax year, provide the assessor with the relevant information described in this section, using a form prepared by the department of revenue administration.

IV. Financial information that is required from the taxpayer under this section shall be the audited financial statements from the prior calendar year as prepared by a third-party certified public accountant.

V. A taxpayer making an election under this section shall be liable for taxes on the property in an amount that is the greater of:

- (a) The taxes determined using the income approach under this section; or
- (b) The taxes in an amount equal to 10 percent of the actual rental income and other income.

VI. The assessed value shall be calculated using an income approach whereby the net operating income is divided by the overall capitalization rate and, except when the municipality has updated its assessment values to equate to market values, multiplying that value by the previous year's equalization ratio.

VII. The assessed valuation of residential rental property subject to a housing covenant under the low-income housing tax credit program shall not take into consideration the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, and tax credits where such subsidies are used to offset project development expenses in order to allow for restricted rents. The assessed

valuation shall not take into consideration the actual cost of acquisition or construction of the project.

VIII. In this section:

(a) "Capitalization rate" means an overall capitalization rate comprised of:

(1) A market capitalization rate that is typical for the geographic area in which the property is located, as determined annually by March 31 by the commissioner of revenue administration, and as published by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a; and

(2) The municipality's previous year's equalized tax rate.

(b) "Collection loss" means the amount of actual uncollectible rents.

(c) "Net operating income" shall be calculated by subtracting from the potential gross income:

(1) The vacancy loss;

(2) The collection loss; and

(3) The operating expenses.

(d) "Operating expenses" means the actual ordinary and typical yearly expenses that are necessary to keep the property functional, including deposits to restricted reserve accounts required by the housing subsidy covenant or other legal restriction but excluding property taxes, mortgage debt service, and depreciation, incurred with respect to the property. Expenses for capital improvements, meaning improvements with an expected life exceeding 5 years as compared to yearly maintenance or work performed for unit turnover, shall not be considered operating expenses.

(e) "Other income" means income that is attributable to the real estate and is ordinary and recurring, such as laundry or vending income. Interest on restricted reserve funds shall be considered other income. For properties with nonresidential space that is or can be rented as commercial space to third parties, market rent, considering any legal, market, or covenant restrictions, shall be attributed to such space and shall be considered as other income. Common area space within a property that are used primarily to benefit the property's residents or to provide services to the property's residents shall not be separately assessed and no income shall be imputed to such space.

(f) "Potential gross income" shall be calculated as follows:

(1) For units receiving assistance under a project-based rental subsidy contract, using the rents specified in the contract.

(2) For all other units subject to a legal restriction, using the maximum restricted rents allowed by the legal restrictions governing the rents of the units for the geographic area in which the property is located. Where multiple legal restrictions apply,

the most restrictive shall be used. Maximum restricted rents shall be adjusted as appropriate using utility allowances for the geographic area in which the property is located, and as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.

(3) For all non-restricted units in properties where only a portion of the units are subject to a legal restriction, using non-restricted rents as determined by the local market.

(4) Other income shall be included in potential gross income.

(g) "Restricted reserve funds" means funds that are required by the housing covenant under the low-income housing tax credit program and are restricted to specific uses, which shall be treated as follows:

(1) Actual payments into such funds shall be considered an operating expense; and

(2) Actual interest earned on such funds shall be considered other income.

(h) "Vacancy loss" means a deduction from the potential gross income that is calculated by multiplying the potential gross income for the rental units by the rental market vacancy rate for the geographic area in which the property is located, as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.

6 New Section; Housing Finance Authority; Publication Required. Amend RSA 204-C by inserting after section 8 the following new section:

204-C:8-a Publication Required. The authority shall publish annually such information on maximum restricted rents, utility allowances, vacancy rates, and capitalization rates as necessary to appraise property pursuant to RSA 75:1-a.

7 Effective Date.

I. Sections 1 -3 of this act shall take effect upon its passage.

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

2008-1904s

AMENDED ANALYSIS

This bill:

I. Permits municipalities to adopt growth management ordinances when time is needed to provide services.

II. Permits municipalities to place temporary moratoria on building permits and site plans when time is needed to provide services.

III. Provides a procedure for the assessment of property subject to a housing covenant under the low-income housing tax credit program.

Floor 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 Hassan moved to have HB 1442-FN-A-L removed from the table.

Adopted.

HB 1442-FN-A-L, relative to the taxation of farm buildings and land under farm buildings.

Public and Municipal Affairs

April 29, 2008

2008-1591s

09/04

Amendment to HB 1442-FN-A-LOCAL

Amend the bill by replacing section 1 with the following:

1 New Chapter; Taxation of Farm Structures and Land Under Farm Structures. Amend RSA by inserting after chapter 79-E the following new chapter:

CHAPTER 79-F

**TAXATION OF FARM STRUCTURES AND
LAND UNDER FARM STRUCTURES**

79-F:1 Declaration of Public Interest. The general court hereby finds it to be in the public interest to encourage the preservation of productive farms and associated structures. These structures are important in sustaining the economic viability of the state's farms, ensuring a reliable and safe local food supply, and providing an attractive environment for recreation, tourism, and wildlife. Farming in New Hampshire has a long and proud history which shaped our state's landscape. It is further declared to be in the public interest to prevent the loss of farms and their associated structures due to property taxation at values incompatible with their usage.

79-F:2 Local Adoption of This Chapter.

I. Any municipality may adopt the provisions of this chapter by vote of its legislative body. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D,

the question shall be placed on the warrant of annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote “yes,” the provisions of this chapter shall take effect on April 1 following the vote, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. A municipality that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies.

79-F:3 Definitions.

I. “Appurtenances” means the land necessary to support or service the qualifying structure.

II. “Assessing official” means the assessing authority of any town, city, or place.

III. “Board of tax and land appeals” means the board of tax and land appeals established pursuant to the provisions of RSA 71-B:1.

IV. “Commissioner” means the commissioner of the department of revenue administration.

V. “Land under the qualifying farm structure” means only the land immediately under the footprint of the qualifying farm structure and its appurtenances, if any.

VI. “Open space land” means any or all farm land, forest land, or unproductive land as defined as follows.

(a) “Farm land” means any cleared land devoted to or capable of agricultural or horticultural use.

(b) “Forest land” means any land growing trees.

(c) “Unproductive land” means land, including wetlands, which by its nature is incapable of producing agricultural or forest products due to poor soil or site characteristics, or the location of which renders it inaccessible or impractical to harvest agricultural or forest products.

VII. “Owner” means the person who is the owner of record of any land.

VIII. “Person” means any individual, firm, corporation, partnership, or other form of organization or group of individuals.

IX. "Qualifying farm structures" mean structures contiguous to a minimum of 10 acres of open space land used exclusively to:

- (a) House livestock;
- (b) Store feed grown or used on the farm;
- (c) Store livestock bedding;
- (d) Store crops or fertilizer for crops grown on the farm;
- (e) Store farm equipment which is actively used to maintain the farm; or
- (f) Boil sap from maple trees and store fuel-wood used to boil sap from maple

trees.

X. "Use change tax" means a tax that shall be levied when the land use changes from under farm buildings use to a non-qualifying use or when the use of a qualifying farm structure changes to a non-qualifying use.

79-F:4 Appraisal of Qualifying Farm Structures and Land Under Them.

I. The selectmen or assessing officials in any municipality adopting the provisions of this chapter shall appraise:

(a) Qualifying farm structures for no more than their replacement costs less depreciation; and

(b) The land under the qualifying farm structures at no more than 10 percent of its market value. The land under the qualifying farm structure shall be contiguous to a minimum of 10 acres of open space land.

II. No owner of a qualifying structure shall be entitled to have the qualifying structure or land under it classified for any tax year under the provisions of this chapter unless he or she applies to the assessing officials on or before April 15 of said year, on a form approved and provided by the commissioner, to have his or her parcel of land so classified. If any owner satisfies the assessing officials that he or she was prevented by accident, mistake, or misfortune from filing such application on or before April 15, the assessing officials may receive the application at a later date and classify the structure and parcel of land under this chapter; but no such application shall be received after the local tax rate has been approved by the commissioner for that year.

III. The assessing officials shall notify the applicant on a form provided by the commissioner no later than July 1, or within 15 days if the application is filed after July 1, of their decision to classify or refusal to classify the structure and parcel of land under the provisions of this chapter by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode.

IV. Prior to July 1 each year, the assessing officials shall determine if previously classified structures and lands have been reapplied or have undergone a change in use so

that the use change tax may be levied against the structures and lands changed in use, according to RSA 79-F:5. A list of all classified structures and lands and their owners in each town or city shall be filed by the respective assessing officials each year. Such list shall be part of the invoice and subject to inspection as provided in RSA 76:7.

V. The commissioner shall include on the inventory blank, required under RSA 74:4, a question concerning whether any changes have been made in the use of qualifying structures and land classified as land under qualifying farm structures. The question shall be written to enable the assessing officials to locate structures and parcels which may require a change in assessment and to fit the context of the blank.

VI. The assessing officials shall file with the register of deeds in the appropriate county, on or before August 1 in each year, a notice of contingent liens describing all structures and parcels of land classified under the provisions of this chapter. If a parcel of land is classified as land under qualifying farm structures after such date, the assessing officials shall file notice of contingent lien with the register of deeds in the appropriate county within 14 days of said classification. The notice filed pursuant to this paragraph shall be on a form approved by the board and provided by the commissioner, shall contain the name of each owner, the date of classification and a short description of each parcel of real estate together with such other information as the board may prescribe; provided, however, the assessing officials shall not file each year parcels of land classified under this chapter which have been previously filed, unless there has been some change in the acreage involved.

VII. A fee, in accordance with RSA 478:17-g, I, shall be paid by the owner for each parcel which is classified as land under qualifying farm structures to the local assessing officials, to be paid over to the register of deeds for recording the notice of contingent lien. The notice of contingent lien shall constitute notice to all interested parties that a lien on the parcel shall be created if and when the land is subsequently disqualified from taxation under this chapter, in the same manner as provided in RSA 80:85.

79-F:5 Consideration for Use Change. Land and qualifying farm structures which have been appraised pursuant to this chapter shall be subject to a use change tax, payable to the tax collector of the municipality, if the use thereof changes to such an extent that the structure no longer meets the definition of a qualifying farm structure as defined in RSA 79-F:3, IX. The consideration shall be at the rate of 10 percent of the full value assessment determined without regard to the current use of the land or qualifying farm structure. Notwithstanding the provisions of RSA 76:2, such assessed value shall be determined as of the actual date of the use change if such date is not April. This use change tax shall be in addition to the annual real estate tax imposed upon the property, and shall be due and payable upon the use change.

79-F:6 Appeal to Board of Tax and Land Appeals.

I. If the assessing officials deny in whole or in part any application for classification as land under qualifying farm structures, or grant a different classification than that applied for, the applicant, having complied with the requirements of RSA 79-F:4, II may, on or before 6 months after any such action by the assessing officials, in writing and upon a payment of a \$65 filing fee, apply to such board for a review of the action of the assessing officials.

II. The board of tax and land appeals shall investigate the matter and shall hold a hearing if requested as provided in this section. The board shall make such order thereon as justice requires, and such order shall be enforceable as provided hereafter.

III. Upon receipt of an application under the provisions of paragraph I, the board of tax and land appeals shall give notice in writing to the affected town or city of the receipt of the application by mailing such notice to the town or city clerk thereof by certified mail. Such town or city may request in writing a hearing on such application within 30 days after the mailing of such notice. If a hearing is requested by a town or city, the board shall, not less than 30 days prior to the date of hearing upon such application, give notice of the time and place of such hearing to the applicant and the town or city in writing. Nothing contained herein shall be construed to limit the rights of taxpayers to a hearing before the board of tax and land appeals.

IV. The applicant and the town or city shall be entitled to appear by counsel, may present evidence to the board of tax and land appeals and may subpoena witnesses. Either party may request that a stenographic record be kept of the hearing. Any investigative report filed by the staff of the board shall be made a part of such record.

V. In such hearing, the board of tax and land appeals shall not be bound by the technical rules of evidence.

VI. Either party aggrieved by the decision of the board of tax and land appeals may appeal pursuant to the provisions of RSA 71-B:12. For the purposes of such appeal, the findings of fact by said board shall be final. Any such appeal shall be limited to questions of law. An election by an applicant to appeal in accordance with this paragraph shall be deemed a waiver of any right to petition the superior court in accordance with RSA 79-F:7.

VII. A copy of an order of classification ordered by the board of tax and land appeals, attested as such by the chairman of the board, if no appeal is taken hereunder, may be filed in the superior court for the county or in the Merrimack county superior court at the option of said board; and, thereafter, such order may be enforced as a final judgment of the superior court.

79-F:7 Appeal to Superior Court. If the assessing officials deny in whole or in part any application for classification as land under qualifying farm structures, or grant a different

classification from that applied for, the applicant, having complied with the requirements of RSA 79-F:4, II may, within 6 months after notice of denial or classification, apply by petition to the superior court of the county, which shall make such order thereon as justice requires. Any appeal to the superior court under this section shall be in lieu of an appeal to the board of tax and land appeals pursuant to RSA 79-F:6.

79-F:8 Abatement of Use Change Tax.

I. Any person aggrieved by the assessment of the use change tax may, within 2 months of the notice of tax date and not afterwards, apply in writing to the selectmen or assessors for an abatement of the use change tax.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and shall grant or deny the application in writing within 6 months after the notice of tax date.

III.(a) If the selectmen or assessors neglect or refuse to abate the use change tax, any person aggrieved may either:

(1) Apply in writing to the board of tax and land appeals accompanied with a \$65 filing fee; or

(2) Petition the superior court in the county.

(b) The appeal to either the board of tax and land appeals or superior court shall be filed within 8 months of the notice of tax date and not afterwards.

IV. For purposes of this section, "notice of tax date" means the date the taxing jurisdiction mails the use change tax bill.

V. Each use change tax bill shall require a separate abatement request and appeal.

79-F:9 Lien for Unpaid Taxes. The real estate of every person shall be held liable for the taxes levied pursuant to RSA 79-F:5.

79-F:10 Enforcement. All taxes levied pursuant to RSA 79-F:5 which are not paid when due shall be collected in the same manner as provided in RSA 80.

79-F:11 Disposition of Revenues. All money received by the tax collector pursuant to the provisions of this chapter shall be for the use of the town or city.

79-F:12 Location of Contiguous Land in More Than One Taxing District. Where contiguous land which could be classified as land under qualifying farm structures is located in more than one town, compliance with any minimum area requirement pursuant to RSA 79-F:4 shall be determined on the basis of the total area of such land, and not the area which is located in any particular town.

2008-1591s

AMENDED ANALYSIS

This bill grants municipalities the option to allow:

I. The land under qualifying farm structures to be assessed at a lower rate than full market value.

II. Farm buildings used exclusively for farm purposes to be assessed for no more than their replacement costs less depreciation.

Amendment adopted.

Senator Hassan offered a floor amendment.

Sen. DeVries, Dist. 18

Sen. Hassan, Dist. 23

May 15, 2008

2008-1909s

10/09

Floor Amendment to HB 1442-FN-LOCAL

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

AN ACT relative to the taxation of farm buildings and land under farm buildings,
and relative to the assessment of property subject to a housing covenant
under the low-income housing tax credit program.

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

4 Appraisal of Property; Reference Added. Amend RSA 75:1 to read as follows:

75:1 How Appraised. The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, ***and residential rental property subject to a housing covenant under the low-income housing tax credit program pursuant to RSA 75:1-a***, and all other taxable property at its market value. Market value means the property's full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

5 New Section; Residential Property Subject to Housing Covenant. Amend RSA 75 by inserting after section 1 the following new section:

75:1-a Residential Property Subject to Housing Covenant Under the Low-income Housing Tax Credit Program. The appraisal for property tax purposes on multifamily

residential rental property which has been allocated federal low-income housing tax credits under section 42 of the Internal Revenue Code and which is subject to a recorded housing subsidy covenant that restricts tenant eligibility and rents shall, upon the affirmative request of the taxpayer, be determined under this section. A copy of the recorded land use restriction required by section 42 of the Internal Revenue Code or other low income rental use restriction covenant required by the New Hampshire housing finance authority, is sufficient proof of an allocation of federal low-income housing tax credits.

I. To make an election for an appraisal of property subject to a housing covenant under the low-income housing tax credit program, the taxpayer shall, by October 1 preceding the tax year for which the election is sought, provide written notice to the municipality of the taxpayer's election to be assessed under this section, using a form prepared by the department of revenue administration.

II. When an election is made, the property shall be assessed under this section for the next 5 tax years, provided the property remains subject to the housing covenant under the low-income housing tax credit program. The taxpayer may continue to elect to be assessed under this section for successive 5-year periods so long as the property remains subject to the low-income housing covenant. To renew such election, the taxpayer shall provide new written notice to the municipality by October 1 of the fifth tax year during which the property is being assessed under this section.

III. A taxpayer who makes an election under this section shall, by April 15 of each applicable tax year, provide the assessor with the relevant information described in this section, using a form prepared by the department of revenue administration.

IV. Financial information that is required from the taxpayer under this section shall be the audited financial statements from the prior calendar year as prepared by a third-party certified public accountant.

V. A taxpayer making an election under this section shall be liable for taxes on the property in an amount that is the greater of:

- (a) The taxes determined using the income approach under this section; or
- (b) The taxes in an amount equal to 10 percent of the actual rental income and other income.

VI. The assessed value shall be calculated using an income approach whereby the net operating income is divided by the overall capitalization rate and, except when the municipality has updated its assessment values to equate to market values, multiplying that value by the previous year's equalization ratio.

VII. The assessed valuation of residential rental property subject to a housing covenant under the low-income housing tax credit program shall not take into consideration

the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, and tax credits where such subsidies are used to offset project development expenses in order to allow for restricted rents. The assessed valuation shall not take into consideration the actual cost of acquisition or construction of the project.

VIII. In this section:

(a) "Capitalization rate" means an overall capitalization rate comprised of:

(1) A market capitalization rate that is typical for the geographic area in which the property is located, as determined annually by March 31 by the commissioner of revenue administration, and as published by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a; and

(2) The municipality's previous year's equalized tax rate.

(b) "Collection loss" means the amount of actual uncollectible rents.

(c) "Net operating income" shall be calculated by subtracting from the potential gross income:

(1) The vacancy loss;

(2) The collection loss; and

(3) The operating expenses.

(d) "Operating expenses" means the actual ordinary and typical yearly expenses that are necessary to keep the property functional, including deposits to restricted reserve accounts required by the housing subsidy covenant or other legal restriction but excluding property taxes, mortgage debt service, and depreciation, incurred with respect to the property. Expenses for capital improvements, meaning improvements with an expected life exceeding 5 years as compared to yearly maintenance or work performed for unit turnover, shall not be considered operating expenses.

(e) "Other income" means income that is attributable to the real estate and is ordinary and recurring, such as laundry or vending income. Interest on restricted reserve funds shall be considered other income. For properties with nonresidential space that is or can be rented as commercial space to third parties, market rent, considering any legal, market, or covenant restrictions, shall be attributed to such space and shall be considered as other income. Common area space within a property that are used primarily to benefit the property's residents or to provide services to the property's residents shall not be separately assessed and no income shall be imputed to such space.

(f) "Potential gross income" shall be calculated as follows:

(1) For units receiving assistance under a project-based rental subsidy contract, using the rents specified in the contract.

(2) For all other units subject to a legal restriction, using the maximum restricted rents allowed by the legal restrictions governing the rents of the units for the geographic area in which the property is located. Where multiple legal restrictions apply, the most restrictive shall be used. Maximum restricted rents shall be adjusted as appropriate using utility allowances for the geographic area in which the property is located, and as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.

(3) For all non-restricted units in properties where only a portion of the units are subject to a legal restriction, using non-restricted rents as determined by the local market.

(4) Other income shall be included in potential gross income.

(g) "Restricted reserve funds" means funds that are required by the housing covenant under the low-income housing tax credit program and are restricted to specific uses, which shall be treated as follows:

(1) Actual payments into such funds shall be considered an operating expense; and

(2) Actual interest earned on such funds shall be considered other income.

(h) "Vacancy loss" means a deduction from the potential gross income that is calculated by multiplying the potential gross income for the rental units by the rental market vacancy rate for the geographic area in which the property is located, as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.

6 New Section; Housing Finance Authority; Publication Required. Amend RSA 204-C by inserting after section 8 the following new section:

204-C:8-a Publication Required. The authority shall publish annually such information on maximum restricted rents, utility allowances, vacancy rates, and capitalization rates as necessary to appraise property pursuant to RSA 75:1-a.

7 Effective Date.

I. Sections 1 -3 of this act shall take effect upon its passage.

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

2008-1909s

AMENDED ANALYSIS

I. This bill grants municipalities the option to allow:

(a) The land under qualifying farm structures to be assessed at a lower rate than full market value.

(b) Farm buildings used exclusively for farm purposes to be assessed for no more than their replacement costs less depreciation.

II. This bill also provides a procedure for the assessment of property subject to a housing covenant under the low-income housing tax credit program.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 847, relative to general rules for vessels operating on water. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-2. Senator Burling for the committee.

MOTION TO TABLE

Senator Barnes moved to have HB 847 laid on the table.

The question is on the motion to table.

A roll call was requested by Senator Kenney.

Seconded by Senator Reynolds.

The following Senators voted Yes: Gallus, Kenney, Roberge, Bragdon, Gottesman, Clegg, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

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

Yeas: 11 - Nays: 13

Motion failed.

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, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Foster, Larsen, DeVries, Estabrook, Hassan, Fuller Clark.

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

Yeas: 14 - Nays: 10

Adopted.

Ordered to Third Reading.

HB 901, relative to nondriver's identification cards. Transportation and Interstate Cooperation 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 Barnes.

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.

Ordered to Third Reading.

HB 1203, relative to bicycles. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-1. Senator Kelly for the committee.

Adopted.

Ordered to Third Reading.

Senator Letourneau is in opposition to HB 1203.

SPECIAL ORDER

Senator Larsen moved that, without objection, HB 1222 be Special-Ordered to the end of the Calendar.

HB 1222, prohibiting writing a text message while driving. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-2. Senator Burling for the committee.

Senator Hassan in the Chair.

SPECIAL ORDER

Senator Hassan moved that, without objection, HB 1646 be taken out of order.

HB 1646, relative to the 10-year transportation improvement plan. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Letourneau for the committee.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15
Sen. Foster, Dist. 13
May 15, 2008
2008-1932s
06/04

Floor Amendment to HB 1646

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

AN ACT relative to the 10-year transportation improvement plan and relative to the operating budget and capital budget for the biennium ending June 30, 2009.

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

4 Operating Budget; Education. Amend the following Education PAU as set forth in 2007, 262:1 as follows:

06, 03, 02, 02, 02

	FISCAL YEAR 2008	FISCAL YEAR 2009
90 Building Aid F	[\$44,308,037] \$4,308,037	[\$44,068,069] \$4,068,069
Total	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925
Estimated Source of Funds		
For other State Aid		
General Fund	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925
Total	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925

5 Operating Budget; Education. Amend total Department of Education PAU as set forth in 2007, 262:1 as follows:

06, 03

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	[\$1237658449] \$1197,658,449	[\$1240931481] \$1200,931,481
Estimated Source of Funds		
For Department of Education		
Federal Funds	\$228,042,327	\$227,752,338
General Fund	[\$103,064,421] \$63,064,421	[\$106,185,085] \$66,185,085

Other Funds	\$906,551,701	\$906,994,058
Total	[\$1237,658,449] \$1197,658,449	[\$1240,931,481] \$1200,931,481

6 Operating Budget; Education. Amend total education as set forth in 2007, 262:1 as follows: 06, 06

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	[\$1458,949,429] \$1418,949,429	[\$1470,180,444] \$1430,180,444
Estimated Source of Funds		
For Education		
Federal Funds	\$247,118,324	\$246,840,903
General Fund	[\$237,302,514] \$197,302,514	[\$245,351,259] \$205,351,289
Sweepstakes Fund	\$8,180,935	\$8,160,766
Other Funds	\$966,347,656	\$969,827,486
Total	[\$1458,949,429] \$1418,949,429	[\$1470,180,444] \$1430,180,444

7 Operating Budget, Total. Amend total appropriation as set forth in 2007, 262:1 as follows:

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total appropriation as included in sections 1.01 thru and including 1.06		
	[\$5111,164,942] \$5071,164,942	[\$5236,012,880] \$5196,362,880
Estimated source of funds as included in section 1.01 thru and including 1.06		
Federal Funds	\$1,478,263,227	\$1,507,005,507
Other Funds	\$1,694,862,406	\$1,716,948,101
General Fund	[\$1563,832,988] \$1523,832,988	[\$1625,753,043] \$1586,103,043
Highway Funds	\$276,455,391	\$286,354,455
Fish and Game Funds	\$12,364,494	\$12,562,280
Sweepstakes Funds	\$8,811,202	\$8,810,152
Turnpikes Funds	\$76,575,234	\$78,579,342
Total	[\$5111,164,942] \$5071,164,942	[\$5236,012,880] \$5196,362,880

8 New Paragraph; Capital Budget. Amend 2007, 264:1 by inserting after paragraph XV the following new paragraph:

XVI. Department of Education

A. School Building Aid \$80,000,000

Total state appropriation paragraph XVI

\$80,000,000

9 Agency Appropriation; Total Increased. Amend 2007, 264:1, as amended by 2007, 382:4, total state appropriation section 1, to read as follows:

Total state appropriation section 1

~~[\$94,082,418]~~ **\$174,082,418**

10 Capital Budget; Bonds Authorized. Amend 2007, 264:6, as amended by 2007, 382:5, to read as follows:

264:6 Bond Authorized. To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, ***including the appropriation in fiscal year 2008 for school building aid***, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of ~~[\$167,385,678]~~ **\$247,385,678** and for said purposes may issue bonds and notes in the names and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

11 Operating Budget; General Government. Amend the following Treasury PAU as set forth in 2007, 262:1 as follows:

01, 08, 04

	FISCAL YEAR 2008	FISCAL YEAR 2009
43 Debt Service (Treasury) *F	\$72,545,006	[\$74,168,447] \$74,518,447
44 Debt Service (Other Agencies) *F	\$15,834,539	\$17,170,241
92 Meals & Rooms Tax Distribution G	\$55,903,053	\$60,903,053
96 State Revenue Sharing	\$25,216,057	\$25,216,057

*In the event that funds appropriated are insufficient, the governor is authorized to draw a warrant for such sums out of any money or funds not otherwise appropriated.

Total	\$169,498,655	[\$177,457,798] \$177,807,798
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Estimated Source of Funds for
Special General Fund Distribution

General Fund	\$169,498,655	[\$177,457,798] \$177,807,798
Total	\$169,498,655	[\$177,457,798] \$177,807,798

12 Operating Budget; General Government. Amend total Treasury Department PAU as set forth in 2007, 262:1 as follows:

01, 08

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	\$188,069,334	[\$197,196,383] \$197,546,383

Estimated Source of Funds For
Treasury Department

General Fund	\$176,560,174	[\$178,526,155] \$178,876,155
Other Funds	\$11,509,160	\$18,670,228
Total	\$188,069,334	[\$197,196,383] \$197,546,383

13 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.

2008-1932s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Makes certain statutory changes to the operating budget and capital budget for the biennium ending June 30, 2009.

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 Bragdon.

Seconded by Senator Kenney.

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

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

Yeas: 12 - Nays: 12

Floor amendment failed.

Senator Burling offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Foster, Dist. 13

May 15, 2008

2008-1938s

04/09

Floor Amendment to HB 1646

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

AN ACT relative to the 10-year transportation improvement plan and establishing
a statewide transportation policy.

Amend the bill by inserting after section 3 the following and renumbering the original

section 4 to read as 5:

4 New Chapter; Statewide Transportation Policy. Amend RSA by inserting after chapter 240 the following new chapter:

CHAPTER 241

STATEWIDE TRANSPORTATION POLICY

241:1 Findings and Public Purpose. The general court finds that:

I. It is essential to the well-being of New Hampshire's citizens and to the economic health of the state that New Hampshire have and maintain a sustainable, balanced, and effective transportation system that is capable of efficiently transporting people and goods, and that is well-integrated with the regional transportation system spanning New England.

II. The cost of maintaining New Hampshire's transportation system and infrastructure has increased substantially, greatly outpacing the state's transportation funding resources. The widening gap between transportation costs and available revenues impedes the ability of the state to meet the urgent need to maintain and repair existing infrastructure, including bridges and roads. Under these circumstances, it is essential that New Hampshire plan and develop a balanced transportation system that is sustainable for the long-term and that represents a wise investment of public funds.

241:2 Statewide Transportation Policy. The statewide transportation policy for all projects shall be as follows:

I. To maximize the value of its limited transportation funds, New Hampshire must invest in a transportation system that:

- (a) Is integrated with the land use goals and policies of the state.
- (b) Is balanced, including multiple means of travel.
- (c) Meets the diverse needs of the citizens of the state, including rural, urban, and low-income populations, the elderly population, and people with disabilities.
- (d) Minimizes the effects of unforeseeable natural or economic conditions that could cripple a predominantly single-mode transportation system.

II. To allocate its limited transportation resources wisely, the state must ensure that its transportation investments protect New Hampshire's quality of life by strengthening communities and the economy, protecting the natural environment, advancing the state's comprehensive development plan and smart growth policy, and reducing the greenhouse gases.

III. Relative to the planning, funding, and development of New Hampshire's transportation system, the department of transportation shall consider and advance proposals that, taken in the aggregate:

(a) Ensure the repair and maintenance of roads, bridges, rail, and other transportation infrastructure throughout the state to provide a safe, efficient, intermodal transportation network.

(b) Are integrated with and support an effective and balanced regional transportation system that strengthens New Hampshire's economic position within the New England region.

(c) Support the goal of achieving a balanced transportation system, including multiple transportation options, that serves the diverse needs of rural, urban, low-income, and elderly populations, and that is adaptable and resilient to meet New Hampshire's future needs.

(d) Consider the full range of reasonable transportation alternatives for all significant highway projects and all projects of substantial public interest, and prioritize the following alternatives before increasing highway capacity:

(1) Transportation system management.

(2) Transportation demand management.

(3) Public transit, including but not limited to buses and trains.

(e) Encourage corridor studies from which significant highway projects and projects of substantial public interest are developed to encourage integration and coordination of such projects with local and regional land use planning that is consistent with RSA 9-B, and to ensure the coordination of local land use plans that preserve the capacity of the transportation infrastructure at issue and maximize the value of transportation investments.

(f) Increase the energy efficiency of the transportation system.

(g) Reduce the global warming effects of the transportation sector and minimize the impacts of transportation on public health, air and water quality, open spaces, and other natural resources.

(h) Achieve effective intermodal connections with the state's major airports to enhance access for the citizens of the state, and to better integrate the state's major airports within the region's transportation system to enhance access to and from major population centers in New England.

(i) Promote context-sensitive solutions that are consistent with the unique character of communities.

(j) Coordinate with and advance the comprehensive state development plan, under RSA 9-A.

(k) Are consistent with and advance the state's smart growth policy as established in RSA 9-B.

(l) Incorporate a public participation process in which municipalities, regional planning commissions, metropolitan planning organizations, and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions, and project decisions. The department shall take the comments and concerns of local citizens into account and shall be responsive to them.

241:3 Compliance with Statewide Transportation Policy. To the extent of available funding, capital investment decisions, transportation planning decisions, and project decisions of the department of transportation shall be consistent with the statewide transportation policy under this chapter. The department of transportation shall report on its decision-making processes at least semi-annually by filing a written review thereof with the president of the senate, the speaker of the house of representatives, and the chairpersons of the senate transportation and interstate cooperation and capital budget committees and the house transportation and public works and highways committees.

2008-1938s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Establishes a statewide transportation policy.

Senator Burling withdrew floor amendment (1938).

MOTION OF RECONSIDERATION

Senator Cilley having voted with the prevailing side, moved reconsideration of **HB 1646** whereby Floor Amendment 1932 failed.

Adopted.

The question is on the adoption of floor amendment (1932).

Sen. Larsen, Dist. 15

Sen. Foster, Dist. 13

May 15, 2008

2008-1932s

06/04

Floor Amendment to HB 1646

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

AN ACT relative to the 10-year transportation improvement plan and relative to the operating budget and capital budget for the biennium ending June 30, 2009.

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

4 Operating Budget; Education. Amend the following Education PAU as set forth in 2007, 262:1 as follows:

06, 03, 02, 02, 02

	FISCAL YEAR 2008	FISCAL YEAR 2009
90 Building Aid F	[\$44,308,037] \$4,308,037	[\$44,068,069] \$4,068,069
Total	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925
Estimated Source of Funds		
For other State Aid		
General Fund	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925
Total	[\$87,267,432] \$47,267,432	[\$89,475,925] \$49,475,925

5 Operating Budget; Education. Amend total Department of Education PAU as set forth in 2007, 262:1 as follows:

06, 03

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	[\$1237658449] \$1197,658,449	[\$1240931481] \$1200,931,481
Estimated Source of Funds		
For Department of Education		
Federal Funds	\$228,042,327	\$227,752,338
General Fund	[\$103,064,421] \$63,064,421	[\$106,185,085] \$66,185,085
Other Funds	\$906,551,701	\$906,994,058
Total	[\$1237,658,449] \$1197,658,449	[\$1240,931,481] \$1200,931,481

6 Operating Budget; Education. Amend total education as set forth in 2007, 262:1 as follows: 06, 06

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	[\$1458,949,429] \$1418,949,429	[\$1470,180,444] \$1430,180,444
Estimated Source of Funds		
For Education		
Federal Funds	\$247,118,324	\$246,840,903
General Fund	[\$237,302,514] \$197,302,514	[\$245,351,259] \$205,351,289
Sweepstakes Fund	\$8,180,935	\$8,160,766
Other Funds	\$966,347,656	\$969,827,486

Total ~~[\$1458,949,429]~~ **\$1418,949,429** ~~[\$1470,180,444]~~ **\$1430,180,444**

7 Operating Budget, Total. Amend total appropriation as set forth in 2007, 262:1 as follows:

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total appropriation as included in sections 1.01 thru and including 1.06	[\$5111,164,942] \$5071,164,942	[\$5236,012,880] \$5196,362,880
Estimated source of funds as included in section 1.01 thru and including 1.06		
Federal Funds	\$1,478,263,227	\$1,507,005,507
Other Funds	\$1,694,862,406	\$1,716,948,101
General Fund	[\$1563,832,988] \$1523,832,988	[\$1625,753,043] \$1586,103,043
Highway Funds	\$276,455,391	\$286,354,455
Fish and Game Funds	\$12,364,494	\$12,562,280
Sweepstakes Funds	\$8,811,202	\$8,810,152
Turnpikes Funds	\$76,575,234	\$78,579,342
Total	[\$5111,164,942] \$5071,164,942	[\$5236,012,880] \$5196,362,880

8 New Paragraph; Capital Budget. Amend 2007, 264:1 by inserting after paragraph XV the following new paragraph:

XVI. Department of Education

A. School Building Aid \$80,000,000

Total state appropriation paragraph XVI

\$80,000,000

9 Agency Appropriation; Total Increased. Amend 2007, 264:1, as amended by 2007, 382:4, total state appropriation section 1, to read as follows:

Total state appropriation section 1

~~[\$94,082,418]~~ **\$174,082,418**

10 Capital Budget; Bonds Authorized. Amend 2007, 264:6, as amended by 2007, 382:5, to read as follows:

264:6 Bond Authorized. To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, ***including the appropriation in fiscal year 2008 for school building aid***, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of ~~[\$167,385,678]~~ **\$247,385,678** and for said purposes may issue bonds and notes in the names and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

11 Operating Budget; General Government. Amend the following Treasury PAU as set forth in 2007, 262:1 as follows:

01, 08, 04

	FISCAL YEAR 2008	FISCAL YEAR 2009
43 Debt Service (Treasury) *F	\$72,545,006	[\$74,168,447] \$74,518,447
44 Debt Service (Other Agencies) *F	\$15,834,539	\$17,170,241
92 Meals & Rooms Tax Distribution G	\$55,903,053	\$60,903,053
96 State Revenue Sharing	\$25,216,057	\$25,216,057

*In the event that funds appropriated are insufficient, the governor is authorized to draw a warrant for such sums out of any money or funds not otherwise appropriated.

Total	\$169,498,655	[\$177,457,798] \$177,807,798
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Estimated Source of Funds for
Special General Fund Distribution

General Fund	\$169,498,655	[\$177,457,798] \$177,807,798
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Total	\$169,498,655	[\$177,457,798] \$177,807,798
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12 Operating Budget; General Government. Amend total Treasury Department PAU as set forth in 2007, 262:1 as follows:

01, 08

	FISCAL YEAR 2008	FISCAL YEAR 2009
Total	\$188,069,334	[\$197,196,383] \$197,546,383
Estimated Source of Funds For Treasury Department		
General Fund	\$176,560,174	[\$178,526,155] \$178,876,155
Other Funds	\$11,509,160	\$18,670,228
Total	\$188,069,334	[\$197,196,383] \$197,546,383

13 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.

2008-1932s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Makes certain statutory changes to the operating budget and capital budget for the biennium ending June 30, 2009.

Senator Burling 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 Gatsas.

Seconded by Senator Larsen.

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

Floor amendment adopted.

Senator Burling offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Foster, Dist. 13

May 15, 2008

2008-1939s

04/09

Floor Amendment to HB 1646

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

AN ACT relative to the 10-year transportation improvement plan, relative to the operating budget and capital budget for the biennium ending June 30, 2009, and establishing a statewide transportation policy.

Amend the bill by inserting after section 12 the following and renumbering the original section 13 to read as 14:

13 New Chapter; Statewide Transportation Policy. Amend RSA by inserting after chapter 240 the following new chapter:

CHAPTER 241

STATEWIDE TRANSPORTATION POLICY

241:1 Findings and Public Purpose. The general court finds that:

I. It is essential to the well-being of New Hampshire's citizens and to the economic health of the state that New Hampshire have and maintain a sustainable, balanced, and effective transportation system that is capable of efficiently transporting people and goods,

and that is well-integrated with the regional transportation system spanning New England.

II. The cost of maintaining New Hampshire's transportation system and infrastructure has increased substantially, greatly outpacing the state's transportation funding resources. The widening gap between transportation costs and available revenues impedes the ability of the state to meet the urgent need to maintain and repair existing infrastructure, including bridges and roads. Under these circumstances, it is essential that New Hampshire plan and develop a balanced transportation system that is sustainable for the long-term and that represents a wise investment of public funds.

241:2 Statewide Transportation Policy. The statewide transportation policy for all projects shall be as follows:

I. To maximize the value of its limited transportation funds, New Hampshire must invest in a transportation system that:

- (a) Is integrated with the land use goals and policies of the state.
- (b) Is balanced, including multiple means of travel.
- (c) Meets the diverse needs of the citizens of the state, including rural, urban, and low-income populations, the elderly population, and people with disabilities.
- (d) Minimizes the effects of unforeseeable natural or economic conditions that could cripple a predominantly single-mode transportation system.

II. To allocate its limited transportation resources wisely, the state must ensure that its transportation investments protect New Hampshire's quality of life by strengthening communities and the economy, protecting the natural environment, advancing the state's comprehensive development plan and smart growth policy, and reducing the greenhouse gases.

III. Relative to the planning, funding, and development of New Hampshire's transportation system, the department of transportation shall consider and advance proposals that, taken in the aggregate:

- (a) Ensure the repair and maintenance of roads, bridges, rail, and other transportation infrastructure throughout the state to provide a safe, efficient, intermodal transportation network.
- (b) Are integrated with and support an effective and balanced regional transportation system that strengthens New Hampshire's economic position within the New England region.
- (c) Support the goal of achieving a balanced transportation system, including multiple transportation options, that serves the diverse needs of rural, urban, low-income, and elderly populations, and that is adaptable and resilient to meet New Hampshire's future needs.

(d) Consider the full range of reasonable transportation alternatives for all significant highway projects and all projects of substantial public interest, and prioritize the following alternatives before increasing highway capacity:

- (1) Transportation system management.
- (2) Transportation demand management.
- (3) Public transit, including but not limited to buses and trains.

(e) Encourage corridor studies from which significant highway projects and projects of substantial public interest are developed to encourage integration and coordination of such projects with local and regional land use planning that is consistent with RSA 9-B, and to ensure the coordination of local land use plans that preserve the capacity of the transportation infrastructure at issue and maximize the value of transportation investments.

(f) Increase the energy efficiency of the transportation system.

(g) Reduce the global warming effects of the transportation sector and minimize the impacts of transportation on public health, air and water quality, open spaces, and other natural resources.

(h) Achieve effective intermodal connections with the state's major airports to enhance access for the citizens of the state, and to better integrate the state's major airports within the region's transportation system to enhance access to and from major population centers in New England.

(i) Promote context-sensitive solutions that are consistent with the unique character of communities.

(j) Coordinate with and advance the comprehensive state development plan, under RSA 9-A.

(k) Are consistent with and advance the state's smart growth policy as established in RSA 9-B.

(l) Incorporate a public participation process in which municipalities, regional planning commissions, metropolitan planning organizations, and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions, and project decisions. The department shall take the comments and concerns of local citizens into account and shall be responsive to them.

241:3 Compliance with Statewide Transportation Policy. To the extent of available funding, capital investment decisions, transportation planning decisions, and project decisions of the department of transportation shall be consistent with the statewide transportation policy under this chapter. The department of transportation shall report on

its decision-making processes at least semi-annually by filing a written review thereof with the president of the senate, the speaker of the house of representatives, and the chairpersons of the senate transportation and interstate cooperation and capital budget committees and the house transportation and public works and highways committees.

2008-1939s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Makes certain statutory changes to the operating budget and capital budget for the biennium ending June 30, 2009.

III. Establishes a statewide transportation policy.

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 Gatsas.

Seconded by Senator Barnes.

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

Floor amendment adopted.

Senator Gatsas moved to divide the question.

The Chair ruled the question is divisible.

The question is on the adoption of sections 1 – 3 and 4.

A roll call was requested by Senator Gatsas.

Seconded by Senator Letourneau.

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.

The question is on the adoption of sections 4 - 13.

A roll call was requested by Senator Gatsas.

Seconded by Senator Letourneau.

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.

The question is on the adoption of sections 13 and 14.

A roll call was requested by Senator Gatsas.

Seconded by Senator Letourneau.

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.

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 359 removed from the table.

Adopted.

Senator Foster, Rule 42 on HB 359.

Senator Larsen in the Chair.

HB 359-FN, relative to recovery of medical assistance from an estate.

The question is on the adoption of the committee report of Inexpedient to Legislate.

Committee report of Inexpedient to Legislate failed.

Senator Foster, Rule 42 on HB 359.

Senator Sgambati moved Ought to Pass.

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4
May 15, 2008
2008-1943s
09/04

Floor Amendment to HB 359-FN

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

AN ACT relative to recovery of medical assistance from an estate, relative to the nursing facility quality assessment, and establishing an assessment on intermediate care facilities for the mentally retarded.

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

1 Recovery of Assistance. Amend RSA 167:14-a, VI to read as follows:

VI.(a) For purposes of recovering the costs of medical assistance, the estate of a recipient shall include all property, real or personal, which at the time of a recipient's death was held by the recipient in joint tenancy with rights of survivorship, tenancy in common, or life estate~~[, without regard to the date that such title or interest was established.]~~ ***for all such title or interest established on or after July 1, 2005. Recovery shall be limited to the value of the recipient's ownership interest and in no case shall such amount exceed the total amount of medical assistance provided to the deceased recipient, nor shall recovery extend to any interest in property, real or personal, for which a non-recipient owner paid fair market value at the time said ownership interest was acquired.***

(b) No sooner than 45 days from the death of the recipient, the department shall provide the other joint owner or owners notice of the department's claim. ***Written notice***

shall include a description of all categories of individuals exempt from recovery by reason of familial status as allowed under 42 U.S.C. section 1396p(b)(2) and RSA 167:16-a, IV, as well as the availability and method of requesting a hardship waiver.

Within 30 days of the receipt of notification of the department's claim, the joint owner or owners shall acknowledge receipt of the department's claim and, provided that there shall not be undue hardship imposed upon the surviving joint owner or owners, either tender an amount equal to the deceased recipient's interest in the identified property and/or financial instrument to the state of New Hampshire toward the deceased's medical assistance bill, but such amount shall not exceed the total amount of medical assistance provided to the deceased recipient, or enter into a binding agreement to make such payment as soon as is practicable. If the joint owner or owners refuse to acknowledge receipt of the department's claim or to tender payment or fail to fulfill the agreement to pay without good cause, as required by this paragraph, the commissioner may bring an action in superior court ***or probate court, as the case may be,*** to compel such payment. Nothing in this paragraph shall be interpreted or applied so as to violate RSA 167:16-a~~[-IV]~~ or 42 U.S.C. section 1396p(b)(2)(A) ***and (B)*** prohibiting recovery when the recipient is survived by a spouse, minor children, or disabled children ***or when the recipient is survived by either siblings or children under certain circumstances.***

2 Nursing Facility Quality Assessment; Definition of Nursing Facility. Amend RSA 84-C:1, V to read as follows:

V. "Nursing facility" means a nursing facility as defined in RSA 151-E:2, V, ***or a nursing facility licensed as a specialty hospital and certified to receive federal reimbursement as a nursing facility.***

3 Nursing Facility Quality Assessment; Collection and Deposit of Assessment. Amend RSA 84-C:5, I to read as follows:

I. ***Except as provided in RSA 84-C:5-a,*** the payments required by RSA 84-C:3 shall be made by electronic transfer of moneys to the state treasurer and deposited to the nursing facility trust fund established by RSA 151-E:14.

4 New Section: Deposit of Certain Assessments. Amend RSA 84-C by inserting after section 5 the following new section:

84-C:5-a Collection and Deposit of Assessment.

I. Notwithstanding the provisions of RSA 84-C:5, the payments required by RSA 84-C:3 for a nursing facility licensed as a specialty hospital and certified to receive federal reimbursement as a nursing facility shall be deposited to the state general fund.

II. The state treasurer is authorized to establish an account or accounts and to take all steps necessary to facilitate the deposit of moneys required in paragraph I.

5 Nursing Facility Quality Assessment; Contingency. Amend RSA 84-C:11, I(d) to read as follows:

(d) Any proceeds *collected from nursing facilities as defined in RSA 151-E:2, V*, from the nursing facility quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the nursing facility trust fund under RSA 151-E:14.

6 Nursing Facility Trust Fund Established. Amend RSA 151-E:14 to read as follows:

151-E:14 Nursing Facility Trust Fund Established. There is hereby established the nursing facility trust fund for the receipts from *nursing facilities as defined in RSA 151-E:2, V, from* the nursing facility quality assessment under RSA 84-C:3, any federal financial participation received by the state as a result of expenditures funded by these nursing facility quality assessments, and the interest thereon. All of these funds shall be credited to and for the purposes of the nursing facility trust fund and shall not be used for any other purposes.

7 PAU 05-01-08-04-01; Department of Health and Human Services Nursing Services. Amend 2007, 262:1, PAU 05-01-08-04-01 as follows:

	Fiscal Year 2008	Fiscal Year 2009
Strike out:		
86 Cedarcrest Rates *\$401,502	\$401,502	
Insert:		
86 Cedarcrest Rates *	\$401,502	\$761,502
Strike out:		
88 CMRH Reimb Restructuring **	\$1,000,000	\$1,000,000
Insert:		
88 CMRH Reimb Restructuring	\$1,781,000	\$1,781,000
Strike out:		
Total	\$375,348,115	\$385,556,099
Insert:		
Total	\$376,129,115	\$386,697,099
Estimated Source of Funds for Nursing Services		
Strike out:		
00 Federal Funds	\$182,415,696	\$185,850,995
Insert:		
00 Federal Funds	\$182,806,196	\$186,421,495
Strike out:		

07 Agency Income	\$36,015,294	\$37,196,815
Insert:		
07 Agency Income	\$35,756,544	\$36,938,065
Strike out:		
General Fund	\$76,601,890	\$52,373,097
Insert:		
General Fund	\$77,251,140	\$53,202,347
Strike out:		
Total	\$375,348,115	\$385,556,099
Insert:		
Total	\$376,129,115	\$386,697,099

8 New Chapter; ICF-MR Assessment. Amend RSA by inserting after chapter 84-C the following new chapter:

CHAPTER 84-D
ICF-MR QUALITY ASSESSMENT

84-D:1 Definitions. In this chapter:

I. "Assessment" means the ICF-MR quality assessment imposed pursuant to this chapter.

II. "Assessment period" means a 3-month period beginning July 1, October 1, January 1, and April 1, of each year.

III. "Commissioner" means the commissioner of the department of revenue administration.

IV. "Net patient services revenues" means revenues earned on an accrual basis of accounting, net of deducted amounts for bad debts, charity care, and payer discounts, by an ICF-MR for services provided to residents as provided for in 42 C.F.R. 433.68(d)(1)(iii).

V. "ICF-MR" means an intermediate care facility for the mentally retarded.

84-D:2 Imposition of Fee. An assessment of 5.5 percent of net patient services revenues is hereby imposed on all ICF-MRs on the basis of patient days in each ICF-MR. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

84-D:3 Assessment Due.

I. Each ICF-MR shall pay 100 percent of its ICF-MR quality assessment due and payable for the assessment period no later than the 15th day of the month following the assessment period. Notwithstanding any provision of law to the contrary, no penalty or interest shall be imposed for failure to make payment of the assessment when due if such payment is made on or before the last day of the month in which such payment is due.

II. If the return required by RSA 84-D:4 shows an additional amount of assessment

to be due, such additional amount is due and payable at the time the return is due.

84-D:4 Returns. Every ICF-MR shall on or before the 10th day of the month following the expiration of the assessment period make a return to the commissioner and to the commissioner of the department of health and human services. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the date which it must contain for the correct computation of facility net patient services revenues and the assessment upon such amount. All returns shall be signed by the authorized representative of the ICF-MR, subject to the pains and penalties of perjury. If such return shows an overpayment of the assessment due, the commissioner shall refund or credit the overpayment to the ICF-MR.

84-D:5 Collection and Deposit of Assessment.

I. The payments required by RSA 84-D:3 shall be deposited in the general fund.

II. The state treasurer is authorized to establish an account or accounts and to take all steps necessary to facilitate the deposit of moneys required in paragraph I.

84-D:6 Additional Returns. When the commissioner has reason to believe that an ICF-MR has failed to file a return or to include any part of its net patient services revenue in a filed return, the commissioner may require the ICF-MR to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the ICF-MR of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

84-D:7 Extension of Time for Returns. For good cause, the commissioner may extend the time within which an ICF-MR is required to file a return, and if such return is filed during the period of extension no penalty or late filing charge may be imposed for failure to file the return at the time required by this chapter, but the ICF-MR shall be liable for interest and late payment charges as prescribed in RSA 21-J:28 or RSA 21-J:33. Failure to file the return during the period of the extension shall void the extension.

84-D:8 Records.

I. Every ICF-MR shall:

(a) Keep such records as may be necessary to determine the amount of its liability under this chapter.

(b) Preserve such records for the period of 3 years or until any litigation or

prosecution hereunder is finally determined.

(c) Make such records available for inspection by the commissioner or his or her authorized agents, upon demand, at reasonable times during regular business hours.

II. Whoever violates the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

84-D:9 Administration.

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

(a) The administration of the ICF-MR quality assessment; and

(b) The recovery of any assessment, interest on assessment, or penalties imposed by this chapter or by RSA 21-J.

II. The commissioner may institute actions in the name of the state to recover any assessment, interest on assessment, additions to assessment, or penalties imposed by this chapter or by RSA 21-J.

III. In the collection of any overdue tax, penalties or interest imposed by this chapter or by RSA 21-J, the commissioner may use all of the powers granted to tax collectors under RSA 21-J and RSA 80 for the collection of taxes.

84-D:10 Confidentiality of Records. Notwithstanding the provisions of RSA 21-J:14, the commissioner shall not be prohibited from providing information to the commissioner of health and human services with respect to the assessment imposed by this chapter, provided that the commissioner of health and human services and his or her agents and employees shall be subject to the provisions of RSA 21-J:14 with respect to any information provided by the commissioner.

84-D:11 Contingencies.

I. The ICF-MR quality assessment imposed by this chapter shall not be assessed, and no return shall be required to be made, upon the occurrence of any of the following events:

(a) Federal approval of the ICF-MR quality assessment established under this chapter, or of any related state plan amendments or waivers is withdrawn.

(b) Collection of the assessment is rendered invalid by the decision of any court or administrative agency.

(c) Any proceeds from the ICF-MR quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding ICF-MR expenditures.

II. The commissioner of health and human services shall notify the commissioner of revenue administration of the occurrence of any of the contingencies in paragraph I.

III. The ICF-MR quality assessment under this chapter shall not be assessed or

collected and payments authorized shall not be made until after the commissioner of health and human services certifies to the commissioner that the department of health and human services has obtained all necessary federal approvals.

9 New Section; Expenditure of Funds From ICF-MR Quality Assessment. Amend RSA 151-E by inserting after section 15 the following new section:

151-E:15-a Expenditure of Funds From ICF-MR Quality Assessment. Notwithstanding any other provision of law, moneys from the ICF-MR quality assessment under RSA 84-D:3 and any federal financial participation received by the state as a result of expenditures funded by these ICF-MR quality assessments, and the interest thereon shall be paid out no less frequently than on a quarterly basis and shall be disbursed as follows:

I. The moneys shall be used to eliminate or reduce to the maximum extent possible the difference between the allowable medicaid costs, derived from the ICF-MR medicaid rate setting system, which ICF-MRs incur in providing care to medicaid residents, and the amount which the state has budgeted in order to fund that care.

II. If after the disbursement required in paragraph I there are still any moneys remaining from the ICF-MR quality assessment and any federal financial participation and the interest thereon, the ICF-MR rate setting system shall be adjusted to insure that all moneys are expended for ICF-MR care.

10 Applicability.

I. If the Centers for Medicare & Medicaid Services determines that the provisions of section 8 of this act do not comply with federal law governing Medicaid assessments pursuant to 42 C.F.R. part 433, then, notwithstanding any other provision of law to the contrary, the commissioner of the department of health and human services shall adopt emergency rules establishing a structure to accomplish the legislature's intent under section 8 of this act and by the appropriation made in 2007, 262, PAU 05-01-08-04-01, class line 86. Such emergency rules shall be subject to prior approval by the joint legislative fiscal committee and the joint legislative committee on administrative rules.

II. The provisions of sections 2-7 of this act shall apply for the fiscal year ending June 30, 2008 and each fiscal year thereafter.

11 Effective Date.

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

II. Sections 2-7 of this act shall take effect as provided in paragraph II of section 10 of this act.

III. Section 10 of this act shall take effect upon its passage.

IV. The remainder of this act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill:

I. Limits recovery of assistance to property interests created on or after July 1, 2005. It also limits recovery to the value of the interest held by the recipient of the assistance. The bill requires the department to provide written notice of the procedure for obtaining a hardship waiver and those persons who are exempt from recovery by state and federal law.

II. Expands the definition of nursing facility for purposes of collection of the nursing facility quality assessment and the assessment from certain nursing facilities.

III. Establishes the intermediate care facility for the mentally retarded (ICF-MR) quality assessment.

Floor amendment adopted.

Senator Foster, Rule 42 on HB 359.

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

Adopted.

Senator Foster, Rule 42 on HB 359.

Ordered to Third Reading.

HB 1236, relative to motor vehicle laws. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 4-0. Senator Letourneau for the committee.

Sen. Letourneau, Dist. 19

April 18, 2008

2008-1433s

09/10

Amendment to HB 1236

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 New Motor Vehicle Arbitration; Definitions. Amend RSA 357-D:2, X(a) and (b) to read as follows:

(a) A motor vehicle, as defined in RSA 259:60, of the private passenger or station wagon type with a gross weight not exceeding [9,000] **11,000** pounds that is purchased or leased by a consumer; or

(b) Any other 4-wheel motor vehicle with a gross weight not exceeding [9,000] **11,000** pounds, except tractors, and mopeds; or

Amendment adopted.

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19
May 14, 2008
2008-1895s
09/04

Floor Amendment to HB 1236

Amend the bill by replacing all after section 10 with the following:

11 Motorcycle Rider Education Program. Amend RSA 263:34-b, IV to read as follows:

IV. Rider training courses shall be open to all residents of the state who either hold a current valid driver's license for any classification or who are eligible for a motorcycle learner's permit. *The director may allow residents of other states who hold a current valid driver's license to take a rider training course only if an adequate number of rider training courses have been provided for New Hampshire residents.*

12 Effective Date.

I. Section 11 of this act shall take effect upon its passage.

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

Floor 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 Burling moved to have HB 1345 removed from the table.

Adopted.

HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

Committee report of Inexpedient to Legislate failed.

Senator Burling moved Ought to Pass.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5
May 14, 2008
2008-1869s
03/05

Floor Amendment to HB 1345

Amend paragraph I(b) of section 2 of the bill by deleting it and renumbering subparagraphs I(c)-(e) to read as I(b)-(d), respectively.

Amend the bill by replacing section 4 with the following:

4 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 house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

Senator Burling withdrew floor amendment (1869).

Senator Reynolds offered a floor amendment.

Sen. Reynolds, Dist. 2
May 15, 2008
2008-1940s
04/09

Floor Amendment to HB 1345

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

AN ACT establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates and relative to notification of the Lyme town and budget committee meetings.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Ratification of the Lyme Town and Budget Committee Meetings. All acts, notices, and proceedings at the Lyme annual town meeting, held on March 11, 2008, and the budget committee meeting held on February 12, 2008, are hereby legalized, ratified, and confirmed.

2008-1940s

AMENDED ANALYSIS

This bill establishes a commission to study vehicle dealer licenses, dealer plates, and temporary plates. The bill also ratifies the Lyme town and budget committee meetings held on March 11, 2008 and February 12, 2008, respectively.

Floor amendment adopted.

Senator Burling offered a floor amendment (1869).

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 2-2. Senator Letourneau for the committee.

MOTION TO TABLE

Senator Letourneau moved to have HB 1264 laid on the table.

A division vote was requested.

Yeas: 11 - Nays: 12

Motion failed.

MOTION TO TABLE

Senator Burling moved to have HB 1264 laid on the table.

Adopted.

LAID ON THE TABLE

HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds.

SPECIAL ORDER

Senator Burling moved to take HB 1404-FN out of order.

Senator Larsen moved that, without objection, HB 1404-FN be taken out of order.

HB 1404-FN, relative to liability insurance for passenger rail service. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 2-1. Senator Burling for the committee.

Sen. Burling, Dist. 5

May 1, 2008

2008-1654s

06/09

Amendment to HB 1404-FN

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

1 New Paragraphs; Definitions. Amend RSA 238-A:1 by inserting after paragraph V the following new paragraphs:

VI. "Passenger rail service" means all services performed by a person, railroad corporation, other private corporation, public agency, or other legal entity pursuant to a contract with the authority in connection with the transportation of rail passengers including, but not limited to:

- (a) The operation of trains, trackage, and equipment.
- (b) The construction, reconstruction, or maintenance of railroad equipment, tracks, and appurtenant facilities.
- (c) The provision of access or trackage rights over lines owned by any such railroad.

VII. "Railroad" means any person, railroad corporation, other private corporation, public agency, or other legal entity in the business of providing rail transportation which contracts with the authority for the provision of passenger rail services.

2 New Section; Liability Policy for Passenger Rail Services. Amend RSA 238-A by inserting after section 17 the following new section:

238-A:18 Liability Policy for Passenger Service.

I. Agreements between the authority and a railroad for the provision of passenger rail service shall provide that the authority shall secure and maintain a liability insurance policy covering the liability of the authority and the railroad for property damage, personal injury, bodily injury, and death arising out of such commuter rail service. Such policy shall:

(a) Name the authority as named insured, and the railroad as an additional insured.

(b) Have policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the aggregate annually.

(c) Be subject to self-insured retention in an amount of \$7,500,000. The share of the self-insured retention that is the responsibility of the authority and the share that is the responsibility of the railroad shall be specified in agreements with any person, railroad corporation, public agency, or other legal entity in the business of providing rail transportation which are necessary for the authority to provide passenger railroad service.

II. In no event shall the authority or the railroad be liable in excess of the coverage limits of such insurance policy for any claim for damage, whether compensatory or punitive, for property damage, personal injury, and death arising out of such passenger rail service.

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

Amendment failed.

The question is on the motion of Ought to Pass.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

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

Yeas: 15 - Nays: 8

Senator Estabrook is excused for the rest of the evening.

Adopted.

Ordered to Third Reading.

HB 1318, relative to temporary plates issued by motor vehicle dealers. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 4-0. Senator Letourneau for the committee.

Sen. Letourneau, Dist. 19

April 29, 2008

2008-1590s

03/09

Amendment to HB 1318

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

AN ACT relative to delivery of applications for certificates of title by dealers.

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

1 Application for Certificate of Title. Amend RSA 261:4, II to read as follows:

II. If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of ~~his~~ **the** security agreement and be signed by the dealer as well as the owner, and the dealer shall within 10 days of the date of sale mail or deliver to the department the application and other supporting documents as required by the director, except when the title is in the possession of a lienholder at the time of sale in which event the dealer shall have ~~[20]~~ **40** days from the date of sale to mail or deliver to the department the application and other supporting documents as required by the director. A dealer who makes a courtesy delivery shall prepare the title application and supporting documents, but said delivery shall not be construed as a sale by the New Hampshire dealer.

2 Effective Date. This act shall take effect October 1, 2008.

2008-1590s

AMENDED ANALYSIS

This bill increases the time period for a dealer to deliver an application for a certificate of title to the department of safety if the title is in the possession of a lienholder.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1343, prohibiting the placing on file or masking of convictions incurred by holders of commercial driver licenses or persons required to hold such licenses. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Burling for the committee.

MOTION TO TABLE

Senator Gatsas moved to have HB 1343 laid on the table.

A division vote was requested.

Yeas: 9 – Nays: 14

Motion failed.

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, Sgambati, Burling, Cilley, Janeway, Kelly, Gottesman, Foster, Larsen, DeVries, D’Allesandro, Hassan, Fuller Clark.

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

Yeas: 13 - Nays: 10

Adopted.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Janeway moved to have HB 1430 removed from the table.

The question is on the motion to remove from the table.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Kenney, Burling, Cilley, Janeway, Roberge, Kelly, Gottesman, Foster, Larsen, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Sgambati, Odell, Bragdon, Clegg, Gatsas, Barnes, DeVries, Letourneau, D’Allesandro.

Yeas: 13 - Nays: 10

Adopted.

Senator Gatsas, Rule 42 on HB 1430.

HB 1430, relative to the application of animal cruelty laws to horse and dog race tracks.

The question is on the adoption of the committee report of Inexpedient to Legislate.

Motion failed.

Senator Gatsas, Rule 42 on HB 1430.

Senator Janeway moved Ought to Pass.

Senator Janeway offered a floor amendment.

Sen. Janeway, Dist. 5

May 15, 2008

2008-1942s

04/09

Floor Amendment to HB 1430

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

1 Cruelty to Animals; Exemption for Pari-mutuel Facilities. Amend RSA 644:8, IV-a(a) to read as follows:

(a) Except as provided in ~~[subparagraph (b)]~~ **subparagraphs (b) and (c)** any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been **or is being** abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful

owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

2 Cruelty to Animals; Pari-mutuel Facilities. RSA 644:8, IV-a(c) is repealed and reenacted to read as follows:

(c)(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and

(C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission.

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

3 Contingency. If this act takes effect, then section 2 of HB 1143 of the 2008 legislative session shall not take effect.

4 Effective Date. This act shall take effect July 1, 2008.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Kenney, Burling, Cilley, Janeway, Roberge, Kelly, Gottesman, Foster, Larsen, Barnes, DeVries, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Reynolds, Sgambati, Odell, Bragdon, Clegg, Gatsas, Letourneau, D'Allesandro.

Yeas: 14 - Nays: 9

Floor amendment adopted.

Senator Gatsas, Rule 42 on HB 1430.

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

Adopted.

Senator Gatsas, Rule 42 on HB 1430.

Ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Gallus moved to have HB 1457 removed from the table.

The question is on the motion to remove from the table.

A roll call was requested by Senator Gottesman.

Seconded by Senator Barnes.

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

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

Yeas: 11 - Nays: 12

Motion failed.

MOTION OF RECONSIDERATION

Senator Fuller Clark, having voted with the prevailing side, moved reconsideration of SB 386, whereby the Senate nonconcurred and requested a Committee of Conference.

Senator Fuller Clark withdrew the motion for reconsideration.

HB 1638, establishing an oversight commission on motor vehicle fines. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-1. Senator Kelly for the committee.

Transportation and Interstate Cooperation

May 2, 2008

2008-1670s

03/01

Amendment to HB 1638

Amend RSA 262:45, II(a) as inserted by section 1 of the bill by deleting subparagraph (2) and renumbering the original subparagraphs (3)-(5) to read as (2)-(4), respectively.

Amend RSA 262:45, II(c) as inserted by section 1 of the bill by replacing it with the following:

(c) The terms of legislative members shall be coterminous with their terms of office. Legislative members may be reappointed consistent with the requirements of subparagraph II(a)(1).

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HCR 10, urging communities to conduct handicap parking awareness days. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator DeVries for the committee.

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19

Sen. Burling, Dist. 5

Sen. Clegg, Dist. 14

Sen. Kelly, Dist. 10

Sen. DeVries, Dist. 18

May 13, 2008

2008-1862s

06/09

Floor Amendment to HCR 10

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

A RESOLUTION urging communities to conduct handicap parking awareness days and
 urging the state of New Hampshire to declare October as Handicap
 Parking Awareness Month.

Amend the resolution by inserting after the first paragraph after the resolving clause the following new paragraph:

That the general court hereby urges the state of New Hampshire to declare the month of October as Handicap Parking Awareness Month; and

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AMENDED ANALYSIS

This house concurrent resolution urges:

I. Communities to conduct handicap parking awareness days.

II. The state to declare October as Handicap Parking Awareness Month.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

Senator Burling moved that the Senate adjourn.

Senator Burling withdrew the motion to adjourn.

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.

Senator Foster withdrew the motion to adjourn from the early session.

SPECIAL ORDER

HB 1222, prohibiting writing a text message while driving. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-2. Senator Burling for the committee.

Sen. Burling, Dist. 5
May 6, 2008
2008-1724s
03/09

Amendment to HB 1222

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

AN ACT prohibiting writing a text message while driving and relative to the establishment of a statewide transportation policy.

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

2 New Chapter; Statewide Transportation Policy. Amend RSA by inserting after chapter 240 the following new chapter:

CHAPTER 241

STATEWIDE TRANSPORTATION POLICY

241:1 Findings and Public Purpose. The general court finds that:

I. It is essential to the well-being of New Hampshire's citizens and to the economic health of the state that New Hampshire have and maintain a sustainable, balanced, and effective transportation system that is capable of efficiently transporting people and goods, and that is well-integrated with the regional transportation system spanning New England.

II. The cost of maintaining New Hampshire's transportation system and infrastructure has increased substantially, greatly outpacing the state's transportation funding resources. The widening gap between transportation costs and available revenues impedes the ability of the state to meet the urgent need to maintain and repair existing

infrastructure, including bridges and roads. Under these circumstances, it is essential that New Hampshire plan and develop a balanced transportation system that is sustainable for the long-term and that represents a wise investment of public funds.

241:2 Statewide Transportation Policy. The statewide transportation policy for all projects shall be as follows:

I. To maximize the value of its limited transportation funds, New Hampshire must invest in a transportation system that:

- (a) Is integrated with the land use goals and policies of the state.
- (b) Is balanced, including multiple means of travel.
- (c) Meets the diverse needs of the citizens of the state, including rural, urban, and low-income populations, the elderly population, and people with disabilities.
- (d) Minimizes the effects of unforeseeable natural or economic conditions that could cripple a predominantly single-mode transportation system.

II. To allocate its limited transportation resources wisely, the state must ensure that its transportation investments protect New Hampshire's quality of life by strengthening communities and the economy, protecting the natural environment, advancing the state's comprehensive development plan and smart growth policy, and reducing the greenhouse gases.

III. Relative to the planning, funding, and development of New Hampshire's transportation system, the department of transportation shall consider and advance proposals that, taken in the aggregate:

- (a) Ensure the repair and maintenance of roads, bridges, rail, and other transportation infrastructure throughout the state to provide a safe, efficient, intermodal transportation network.
- (b) Are integrated with and support an effective and balanced regional transportation system that strengthens New Hampshire's economic position within the New England region.
- (c) Support the goal of achieving a balanced transportation system, including multiple transportation options, that serves the diverse needs of rural, urban, low-income, and elderly populations, and that is adaptable and resilient to meet New Hampshire's future needs.
- (d) Consider the full range of reasonable transportation alternatives for all significant highway projects and all projects of substantial public interest, and prioritize the following alternatives before increasing highway capacity:
 - (1) Transportation system management.
 - (2) Transportation demand management.
 - (3) Public transit, including but not limited to buses and trains.
- (e) Encourage corridor studies from which significant highway projects and projects of substantial public interest are developed to encourage integration and coordination of such projects with local and regional land use planning that is consistent with RSA 9-B, and to ensure the coordination of local land use plans that preserve the capacity of the transportation infrastructure at issue and maximize the value of transportation investments.
- (f) Increase the energy efficiency of the transportation system.
- (g) Reduce the global warming effects of the transportation sector and minimize the impacts of transportation on public health, air and water quality, open spaces, and other natural resources.
- (h) Achieve effective intermodal connections with the state's major airports to enhance access for the citizens of the state, and to better integrate the state's major airports within the region's transportation system to enhance access to and from major population centers in New England.
- (i) Promote context-sensitive solutions that are consistent with the unique character of communities.

(j) Coordinate with and advance the comprehensive state development plan, under RSA 9-A.

(k) Are consistent with and advance the state's smart growth policy as established in RSA 9-B.

(l) Incorporate a public participation process in which municipalities, regional planning commissions, metropolitan planning organizations, and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions, and project decisions. The department shall take the comments and concerns of local citizens into account and shall be responsive to them.

241:3 Compliance with Statewide Transportation Policy. To meet the transportation needs of the state, the general court shall prepare a funding plan to accomplish the goals of this chapter. To the extent that funding is ultimately provided by the general court, capital investment decisions, transportation planning decisions, and project decisions of the department of transportation shall be consistent with the statewide transportation policy under this chapter. The department of transportation shall report on its decision-making processes at least semi-annually by filing a written review thereof with the president of the senate, the speaker of the house of representatives, and the chairpersons of the senate transportation and interstate cooperation and capital budget committees and the house transportation and public works and highways committees.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2009.

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

2008-1724s

AMENDED ANALYSIS

This prohibits writing a text message and using 2 hands to type on or operate an electronic or telecommunications device while driving except under circumstances specified in the bill. This bill also establishes a statewide transportation policy.

MOTION TO TABLE

Senator Clegg moved to have HB 1222 laid on the table.

The question is on the motion to table.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

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

The following Senators voted No: Kenney, Cilley, Odell, Roberge, Bragdon, Gatsas, Barnes, Letourneau.

Yeas: 15 - Nays: 8

Adopted.

LAID ON THE TABLE

HB 1222, prohibiting writing a text message while driving.

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 65, relative to the Pease development authority.

HB 358, relative to the procedure for listing candidates on election ballots.

HB 359-FN, relative to recovery of medical assistance from an estate.

HB 537, establishing a task force on homeless teenagers.

HB 563, relative to obtaining birth certificates for stillborn children.

HB 679-FN-L, relative to delivery of special education services.

HB 690, establishing a pilot program for job skills training in volunteer work by unemployed individuals.

HB 766-FN, making changes to the laws relating to special education.

HB 847, relative to general rules for vessels operating on water.

HB 877-FN, relative to the state recycling program.

HB 901, relative to nondriver's identification cards.

HB 1136, relative to automated external defibrillators.

HB 1143, relative to shelter for dogs and the authority of law enforcement officers to take abused and neglected dogs into custody.

HB 1161, establishing a committee to study the truancy laws.

HB 1196, relative to the procedure for amending municipal charters.

HB 1203, relative to bicycles.

HB 1219, relative to exempting fish and game department volunteers from financial disclosure requirements.

HB 1236, relative to motor vehicle laws.

HB 1242, relative to the prohibition on employee consumption of beverage or liquor.

HB 1260-L, relative to growth management ordinances.

HB 1262, relative to continuing medical education requirements for persons licensed by the board of medicine.

HB 1270, relative to limiting certain future interests in real property.

HB 1282, amending the pre-engineering technology curriculum.

HB 1288, allowing pharmacists to administer influenza vaccines.

HB 1289, relative to court-ordered placements for a child in need of services and relative to permanency hearings in juvenile cases.

HB 1299, establishing a committee to study the feasibility of creating a preschool incentive fund program.

HB 1301, relative to the definition of service dogs.

HB 1309-FN-A, relative to the definition of "cigarette".

HB 1318, relative to temporary plates issued by motor vehicle dealers.

HB 1319, relative to the reasonable cost of medical support for dependent children.

HB 1321, relative to the inspection of juvenile detention facilities.

HB 1330, relative to the process for nonrenewal of teacher contracts.

HB 1333, relative to post-foreclosure eviction actions.

HB 1340, relative to the special account of the judicial retirement system.

HB 1343, prohibiting the placing on file or masking of convictions incurred by holders of commercial driver licenses or persons required to hold such licenses.

HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

HB 1353, extending the commission to study issues relative to groundwater withdrawal.

HB 1370, establishing a pilot program for an integrated juvenile justice information sharing system.

HB 1374, establishing a division of homeland security and emergency management in the department of safety.

HB 1386, relative to a grandparent's rights to access court and case records involving a grandchild.

HB 1404-FN, relative to liability insurance for passenger rail service.

HB 1422, establishing a committee to study the prevention of childhood obesity.

HB 1426-FN-A, relative to motor fuel import fees.

HB 1430, relative to the application of animal cruelty laws to horse and dog race tracks.

HB 1434, relative to the regional greenhouse gas initiative and authorizing cap-and-trade programs for controlling carbon dioxide emissions.

HB 1442-FN-A-L, relative to the taxation of farm buildings and land under farm buildings.

HB 1471, relative to time limits for excavating and dredging permits.

HB 1509-FN-A, establishing certain fees for operators of games of chance for the purpose of funding the education trust fund.

HB 1551-FN, relative to lobbyist registration fees.

HB 1561, establishing an energy conservation and efficiency board.

HB 1563-FN, authorizing public academies to receive public funds for renovation and expansion of regional vocational education programs.

HB 1594-FN, **HB 1594-FN**, relative to hazardous materials.

HB 1618-FN-A, relative to motor vehicle fees and motor vehicle violation fines and relative to appropriations from the highway fund.

HB 1628, relative to renewable energy generation incentive programs.

HB 1634, establishing the New Hampshire council on autism spectrum disorders.

HB 1637, relative to reports to the cancer registry.

HB 1638, establishing an oversight commission on motor vehicle fines.

HB 1642-FN, providing additional funding for charter schools for the 2009 fiscal year.

HB 1644-FN-A, establishing a Coos county job creation tax credit.

HB 1646, relative to the 10-year transportation improvement plan.

HB 1651, allowing municipalities in Coos county to offer property tax exemptions to foster commercial and industrial construction.

HCR 10, urging communities to conduct handicap parking awareness days.

ANNOUNCEMENTS

Senator Sgambati (Rule 44).

Senator Larsen, moved without objection, all Rule 44's are entered into the permanent record.

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.