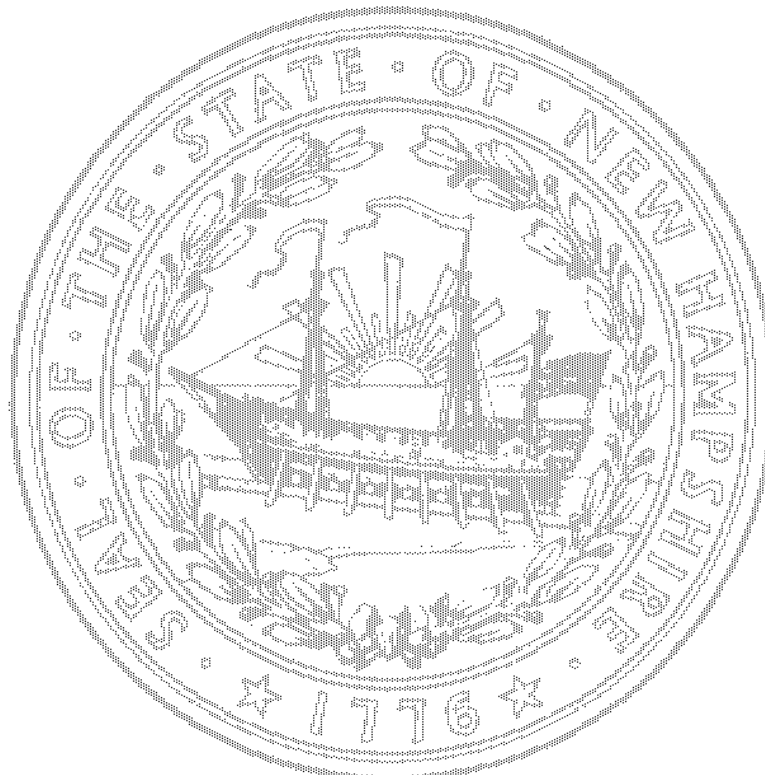


January 17, 2008

Nos. 1 - 2

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – JANUARY 2, 2008 SESSION
COMMENCEMENT – JANUARY 17, 2008 SESSION

SENATE

JOURNAL 1 (cont.)

January 2, 2008

Out of Recess.

HOUSE MESSAGE

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

SB 251, allowing the board of medicine to issue licenses for physicians to engage in a correctional institution medical practice.

HOUSE MESSAGE

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

SB 172-FN-L, allowing counties to share correctional facilities.

SB 179-FN-A, establishing an automated external defibrillator advisory commission.

SB 201, authorizing certain Keene state college campus safety officers to detain individuals pending arrest or protective custody.

HOUSE MESSAGE

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

HB 91-FN, relative to lobbyist registration and statements, repealing the restriction on simultaneous employment and public service, and relative to regulation of volunteer public service.

HB 159, establishing an interbranch criminal and juvenile justice council.

HB 211-FN, requiring that driver's license applicants be informed of and examined on laws relating to blind pedestrians.

HB 241, relative to permissible campaign contributions by business organizations and labor unions.

HB 285, relative to voting machines.

HB 291, relative to licensure of fireworks sellers.

HB 315, relative to criminal background checks of prospective municipal employees through the division of state police.

HB 330, establishing a task force to study the feasibility of supplying laptop computers to all 7th grade children in the state.

HB 331, relative to time limits on design review.

HB 563, relative to obtaining birth certificates for stillborn children.

HB 632-FN, relative to the penalty for death resulting from the trafficking of controlled drugs.

HB 730-FN, increasing the maximum fine for speeding in a highway construction or maintenance zone.

HOUSE MESSAGE

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

HB 359-FN, relative to recovery of medical assistance from an estate.

HB 373, relative to unlawful possession of alcohol by a minor.

HB 385-FN, relative to licensing and insurance fees.

HB 415-FN, establishing a geothermal assessment project.

HB 474, excluding septic and sewage treatment facilities from the tax exemption for water and air pollution control facilities.

HB 537, establishing a task force on homeless teenagers.

HB 581-FN, relative to the penalty for purposely mistreating service animals.

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

HB 595-FN, requiring the commissioner of the department of corrections to adopt rules establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

HB 682, relative to guardianship of a minor.

HOUSE MESSAGE

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

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

HB 358, relative to the procedure for listing candidates on election ballots.

HB 702, relative to continued jurisdiction in child protection cases.

HB 740-FN, relative to mental health services.

HB 765-FN, establishing a committee to study the financial liability for placement of a child with a disability.

HB 777-FN-A, relative to agricultural exemptions from alteration of terrain permitting requirements and penalties for site development.

HB 837, relative to easement interests under the land and community heritage investment program.

HB 858-FN, relative to discount medical plan organization.

HB 901, relative to nondriver's identification cards.

HOUSE MESSAGE

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

HB 692, relative to workers' compensation.

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 692, relative to workers' compensation.

Senator Gatsas moved adoption.

Adopted.

INTRODUCTION OF SENATE BILL(S)

Senator Foster offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered from **SB 306** to **SCR 9**, shall be by this resolution read a first and second time by the therein listed title(s) and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

SB 306-FN, relative to allowing video gaming in Coos county, building a casino in Berlin, and establishing a fund to assist with the payment of property taxes. (Gallus, Dist 1; Gionet, Graf 3; Ingram, Rock 4: Ways and Means)

08-2647

SB 312-FN, relative to insurance coverage for obesity and morbid obesity. (Clegg, Dist 14; Gottesman, Dist 12; Cilley, Dist 6; Fuller Clark, Dist 24; Gallus, Dist 1; Reynolds, Dist 2; Marshall Quandt, Rock 13: Commerce, Labor and Consumer Protection)

08-2655

SB 314-FN, relative to the use of certain prior service credit in the retirement system for purposes of eligibility for medical benefits. (Roberge, Dist 9; Barnes, Dist 17; Hawkins, Hills 18; Graham, Hills 18; Villeneuve, Hills 18; Spaulding, Hills 18; Ulery, Hills 27: Executive Departments and Administration)

08-2685

SB 323-FN, relative to terms of release and notice of hearings in the parole of prisoners. (Downing, Dist 22; D'Allesandro, Dist 20; Pearson, Rock 4; Winchell, Rock 6; Bettencourt, Rock 4: Judiciary)

08-2687

SB 324-FN, consolidating all substance abuse services in the office of alcohol and drug abuse prevention within the department of health and human services. (Sgambati, Dist 4; Janeway, Dist 7; Burling, Dist 5; MacKay, Merr 11; Reeve, Belk 4; Donovan, Sull 4; Arsenault, Belk 4; Nordgren, Graf 9: Health and Human Services)

08-2690

SB 325-FN-A, relative to child care provider reimbursement rates. (Sgambati, Dist 4; Reynolds, Dist 2; Gile, Merr 10: Finance)

08-2702

SB 326-FN, relative to salaries for certain unclassified positions. (Burling, Dist 5; Sgambati, Dist 4; Hawkins, Hills 18; Weyler, Rock 8: Executive Departments and Administration)

08-2711

SB 327-FN, relative to compensation for state employees injured in the line of duty. (Hassan, Dist 23; Barnes, Dist 17; Burling, Dist 5; Cilley, Dist 6; Clegg, Dist 14; D'Allesandro, Dist 20; Fuller Clark, Dist 24; Gallus, Dist 1; Janeway, Dist 7; Kelly, Dist 10; Kenney, Dist 3; Letourneau, Dist 19; Reynolds, Dist 2; Sgambati, Dist 4; Marshall Quandt, Rock 13; T. Russell, Rock 13; W. Knowles, Straf 6; Welch, Rock 8: Executive Departments and Administration)

08-2740

SB 330-FN, relative to video lottery machines at certain pari-mutuel facilities. (D'Allesandro, Dist 20: Ways and Means)

08-2741

SB 331-FN, establishing new positions and realigning functions at the department of corrections. (D'Allesandro, Dist 20; Janeway, Dist 7; Hassan, Dist 23; Odell, Dist 8; Gallus, Dist 1: Executive Departments and Administration)

08-2743

SB 332-FN, relative to resomation of human remains. (DeVries, Dist 18; Rochette, Hills 20: Executive Departments and Administration)

08-2786

SB 342-FN-LOCAL, establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing. (Fuller Clark, Dist 24; Larsen, Dist 15; Reynolds, Dist 2; Burling, Dist 5; DeVries, Dist 18; Foster, Dist 13; Hassan, Dist 23: Public and Municipal Affairs)

08-2799

SB 344-FN, relative to capital murder. (Kenney, Dist 3; Letourneau, Dist 19; Casey, Rock 11; C. Brown, Carr 1; Crane, Hills 21: Judiciary)

08-2807

SB 346-FN, relative to the regulation of fuel gas fitters by the state fire marshal. (D'Allesandro, Dist 20; Letourneau, Dist 19: Executive Departments and Administration)

08-2825

SB 348-FN, relative to the certification of forensic counselors by the board of forensic counselors. (Fuller Clark, Dist 24; Cilley, Dist 6: Executive Departments and Administration)

08-2858

SB 354-FN-A, establishing a spending cap on state budget requests. (Kenney, Dist 3; Crane, Hills 21; Ingbreton, Graf 5: Finance)

08-2861

SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty. (Kenney, Dist 3: Education)

08-2147

SB 411, relative to the confidentiality of health care records during the investigation of child abuse and neglect cases. (Sgambati, Dist 4; Odell, Dist 8; Burling, Dist 5; Estabrook, Dist 21; McLeod, Graf 2; B. Richardson, Ches 5; Julie Brown, Straf 1: Judiciary)

08-2313

SB 422, adding an energy section to zoning and planning master plans. (Fuller Clark, Dist 24; Borden, Rock 18: Public and Municipal Affairs)

08-2630

SB 436, enabling certain persons to vote in primaries prior to turning 18 years of age. (Foster, Dist 13; Burling, Dist 5; D'Allesandro, Dist 20; Odell, Dist 8; Reynolds, Dist 2; Clemons, Hills 24; Gargas, Hills 5; Drisko, Hills 5: Election Law and Internal Affairs)

08-2632

SB 437, relative to access to voter database information. (Burling, Dist 5; DeVries, Dist 18; Clemons, Hills 24: Election Law and Internal Affairs)

08-2635

SB 460, relative to the definition of surviving issue. (Foster, Dist 13: Judiciary)

08-2642

SB 461, relative to accessibility of genealogical records to the public. (D'Allesandro, Dist 20: Public and Municipal Affairs)

08-2650

SB 462, limiting liability for overseers of public welfare when acting in the course of their official duties. (Burling, Dist 5; Sgambati, Dist 4; Barnes, Dist 17; Hassan, Dist 23; Roberge, Dist 9: Public and Municipal Affairs)

08-2663

SB 463, establishing an investment committee in the New Hampshire retirement system. (Burling, Dist 5; Fuller Clark, Dist 24; Kelly, Dist 10; Cilley, Dist 6; Downing, Dist 22; Janeway, Dist 7: Executive Departments and Administration)

08-2669

SB 464, relative to the number of children in a licensed foster home. (Roberge, Dist 9; Kenney, Dist 3; Barnes, Dist 17; Letourneau, Dist 19; Gatsas, Dist 16; Clegg, Dist 14; Itse, Rock 9; Mooney, Hills 19; N. Elliott, Hills 19; Ulery, Hills 27: Health and Human Services)

08-2686

SB 465, relative to the laws regulating trusts and trust companies in New Hampshire. (D'Allesandro, Dist 20; Odell, Dist 8; Hassan, Dist 23; Clegg, Dist 14; Reardon, Merr 11; Moran, Hills 18; Hunt, Ches 7: Commerce, Labor and Consumer Protection)

08-2691

SB 466, relative to probate court jurisdiction over special needs trust. (Sgambati, Dist 4; Reynolds, Dist 2; Bleyler, Graf 9; MacKay, Merr 11: Health and Human Services)

08-2705

SB 467, relative to taking lobsters and crabs. (Hassan, Dist 23; Fuller Clark, Dist 24; Cilley, Dist 6; Abbott, Rock 12; Henson, Rock 13; Kennedy, Rock 13; M. Preston, Rock 14; Webber, Rock 14: Wildlife, Fish and Game and Agriculture)

08-2709

SB 468, relative to the reinsurance pool. (Hassan, Dist 23; Sgambati, Dist 4; Butler, Carr 1; Nord, Rock 1: Commerce, Labor and Consumer Protection)

08-2717

SB 469, allowing fish and game license agents to collect an additional convenience fee. (Gallus, Dist 1; Odell, Dist 8; Cilley, Dist 6; Abbott, Rock 12; L'Heureux, Hills 19; Remick, Coos 2; E. Merrick, Coos 2: Wildlife, Fish and Game and Agriculture)

08-2720

SB 470, allowing lobbyists and those connected with lobbyists to sit on committees established by the judicial branch. (Burling, Dist 5: Election Law and Internal Affairs)

08-2723

SB 471, allowing local building codes to add requirements for installation and inspection of heating and ventilation systems. (Barnes, Dist 17: Public and Municipal Affairs)

08-2724

SB 472, relative to consumer protection from certain practices of payday loan, small loan, and title loan lenders. (Gottesman, Dist 12; Barnes, Dist 17; Letourneau, Dist 19; Roberge, Dist 9; Gallus, Dist 1; Reynolds, Dist 2; Sgambati, Dist 4; Burling, Dist 5; Janeway, Dist 7;

Kelly, Dist 10; DeVries, Dist 18; Estabrook, Dist 21; Hassan, Dist 23; Fuller Clark, Dist 24; Spratt, Hills 3; Marsh, Rock 17: Commerce, Labor and Consumer Protection)

08-2747

SB 473, naming the Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith. (Reynolds, Dist 2; Letourneau, Dist 19; Barnes, Dist 17; Sgambati, Dist 4; Arsenault, Belk 4; Wood, Belk 4; F. Tilton, Belk 4: Public and Municipal Affairs)

08-2749

SB 474, relative to registers of deeds and reports of county officers. (Gallus, Dist 1; Letourneau, Dist 19; Odell, Dist 8; Theberge, Coos 4; Carolyn Brown, Carr 1; Sorg, Graf 3; Gionet, Graf 3: Public and Municipal Affairs)

08-2751

SB 475, relative to the definition of advance fees in the real estate practice act. (Gallus, Dist 1; Odell, Dist 8; Roberge, Dist 9; Gatsas, Dist 16; Carolyn Brown, Carr 1; Gionet, Graf 3; Kopka, Hills 26; Bucu, Carr 1: Executive Departments and Administration)

08-2752

SB 476, relative to operation of OHRVs on state highways in Coos county. (Gallus, Dist 1; Barnes, Dist 17; Ingersoll, Coos 4; D. Russell, Belk 6: Transportation and Interstate Cooperation)

08-2756

SB 477, requesting that the attorney general seek a ruling from the supreme court relative to whether New Hampshire may opt out of enforcing the provisions of the Master Settlement Agreement. (Clegg, Dist 14; Hassan, Dist 23; Baldasaro, Rock 3; Emerton, Hills 7; Marshall Quandt, Rock 13; Daniels, Hills 6; Chandler, Carr 1: Ways and Means)

08-2759

SB 478, relative to processing absentee ballots. (Kelly, Dist 10; Burling, Dist 5; Letourneau, Dist 19; Weed, Ches 3; Espieffs, Ches 3; Roberts, Ches 3: Election Law and Internal Affairs)

08-2764

SB 479, relative to the vote required for passage of school bonds. (Estabrook, Dist 21; Kelly, Dist 10; M. Smith, Straf 7: Public and Municipal Affairs)

08-2767

SB 480, repealing a requirement that the fish and game department publish certain hunting season information in newspapers in each county. (Gallus, Dist 1; Janeway, Dist 7; Gatsas, Dist 16; D'Allesandro, Dist 20; L'Heureux, Hills 19; Abbott, Rock 12; Theberge, Coos 4; Stohl, Coos 1: Wildlife, Fish and Game and Agriculture)

08-2768

SB 481, relative to the bond requirement for completion of local and state public works projects. (Gallus, Dist 1: Commerce, Labor and Consumer Protection)

08-2769

SB 482, relative to ethical standards for volunteer service in the executive branch. (Burling, Dist 5: Election Law and Internal Affairs)

08-2792

SB 483, establishing a committee to study in-home intervention and counseling services for families and children charged with a crime or designated in need of services by the juvenile court. (Hassan, Dist 23; Burling, Dist 5; Cilley, Dist 6; Clegg, Dist 14; Fuller Clark, Dist 24; Gallus, Dist 1; Janeway, Dist 7; Kelly, Dist 10; Kenney, Dist 3; Odell, Dist 8; Reynolds, Dist 2; Roberge, Dist 9; Sgambati, Dist 4; Gile, Merr 10; D. Cote, Hills 23; Welch, Rock 8; Rosenwald, Hills 22; W. Knowles, Straf 6: Judiciary)

08-2794

SB 484, establishing a commission to investigate alternatives to incarceration for nonviolent offenders and cost savings related to such alternatives. (Hassan, Dist 23; Burling, Dist 5; Sgambati, Dist 4; Janeway, Dist 7; D'Allesandro, Dist 20; Marshall Quandt, Rock 13; W. Knowles, Straf 6; D. Cote, Hills 23; Welch, Rock 8: Public and Municipal Affairs)

08-2814

SB 485, relative to party designations for voters. (Burling, Dist 5; Cilley, Dist 6; Clemons, Hills 24: Election Law and Internal Affairs)

08-2824

SB 486, relative to the duties and responsibilities of special deputy forest rangers. (Cilley, Dist 6; Gallus, Dist 1; Odell, Dist 8; Barnes, Dist 17; Hassan, Dist 23; Phinizy, Sull 5; Snow, Rock 1; Wheeler, Merr 6; Powers, Rock 16; Solomon, Graf 10: Wildlife, Fish and Game and Agriculture)

08-2829

SB 487, clarifying the law regarding bail pending appeal. (Foster, Dist 13: Judiciary)

08-2836

SB 488, relative to jurisdiction of the probate courts and superior courts. (Foster, Dist 13: Judiciary)

08-2840

SB 489, establishing a commission to study erecting a fire tower on Copple Crown mountain in Wolfeboro. (Kenney, Dist 3; Solomon, Graf 10; Knox, Carr 4: Public and Municipal Affairs)

08-2850

SB 490-FN, relative to fees for special number plates for veterans. (Sgambati, Dist 4; Barnes, Dist 17; Burling, Dist 5; Hassan, Dist 23; Janeway, Dist 7; Reynolds, Dist 2; Kjellman, Merr 5; Wood, Belk 4; Roberts, Ches 3; Baldasaro, Rock 3: Transportation and Interstate Cooperation)

08-2852

SB 491, excluding the value of a view from property tax assessment. (Kenney, Dist 3: Ways and Means)

08-2866

SB 492, relative to persons designated to fill vacancies on the ballot. (Cilley, Dist 6; Burling, Dist 5; DeVries, Dist 18; Perry, Straf 3: Election Law and Internal Affairs)

08-2867

SB 493, allowing certain tax exempt organizations to be defined as charitable organizations for purposes of games of chance operations. (Cilley, Dist 6; D'Allesandro, Dist 20; Downing,

Dist 22; Hunt, Ches 7; Butler, Carr 1; Marshall Quandt, Rock 13; McEachern, Rock 16: Ways and Means)

08-2135

SB 494-FN, relative to compulsory coverage requirements under workers' compensation. (Gallus, Dist 1; Gatsas, Dist 16; Kenney, Dist 3; Odell, Dist 8; Roberge, Dist 9; Bragdon, Dist 11; Clegg, Dist 14; Barnes, Dist 17; Letourneau, Dist 19; Downing, Dist 22; Bulis, Graf 1; Remick, Coos 2: Commerce, Labor and Consumer Protection)

08-2637

SB 495-FN, prohibiting Internet solicitation and exploitation of children. (Foster, Dist 13; Letourneau, Dist 19; DeVries, Dist 18; Welch, Rock 8; W. Knowles, Straf 6: Judiciary)

08-2695

SB 496, establishing a commission to study incentives for providers of home and community-based care. (Sgambati, Dist 4; Estabrook, Dist 21; Reynolds, Dist 2; Burling, Dist 5; Kenney, Dist 3; Fuller Clark, Dist 24; McLeod, Graf 2; Emerton, Hills 7; Donovan, Sull 4: Health and Human Services)

08-2698

SB 497-FN, relative to the security of bonds or notes issued to the New Hampshire Municipal Bond Bank. (Janeway, Dist 7; Kurk, Hills 7: Ways and Means)

08-2699

SB 498, relative to state guarantees of certain municipal debt issues. (Janeway, Dist 7: Finance)

08-2701

SB 499-FN, relative to penalties for unauthorized disclosure of confidential matters in legislative ethics proceedings. (Burling, Dist 5; Roberge, Dist 9; Wall, Straf 7: Election Law and Internal Affairs)

08-2706

SB 500-FN, relative to certain insurance fraud. (Hassan, Dist 23; Barnes, Dist 17; DeVries, Dist 18; Goley, Hills 8; Holden, Hills 7: Commerce, Labor and Consumer Protection)

08-2707

SB 501-FN, relative to a workers' compensation exclusion. (Hassan, Dist 23; Cilley, Dist 6; DeVries, Dist 18; Estabrook, Dist 21; Fuller Clark, Dist 24; Gottesman, Dist 12; Janeway, Dist 7; Kelly, Dist 10; Larsen, Dist 15; Vachon, Straf 3; Hunt, Ches 7; Hatch, Coos 3: Commerce, Labor and Consumer Protection)

08-2708

SB 502-FN, relative to unemployment compensation. (Hassan, Dist 23; Gottesman, Dist 12; DeVries, Dist 18; Fuller Clark, Dist 24; Reynolds, Dist 2; Burling, Dist 5: Commerce, Labor and Consumer Protection)

08-2716

SB 503-FN, relative to authorizing temporary registrations of off-highway recreational vehicles for nonresidents. (Gallus, Dist 1; Kenney, Dist 3; Letourneau, Dist 19; Downing, Dist 22; D'Allesandro, Dist 20; Ingersoll, Coos 4; Remick, Coos 2; Theberge, Coos 4: Transportation and Interstate Cooperation)

08-2732

SB 504-FN, restricting the number of puppies to be sold by commercial kennels. (Roberge, Dist 9; Cilley, Dist 6; Fuller Clark, Dist 24; Skinder, Sull 1; Reagan, Rock 1; Cooney, Graf 7: Public and Municipal Affairs)

08-2735

SB 505-FN, relative to the moratorium on certain nursing home beds. (Gallus, Dist 1; King, Coos 1; Theberge, Coos 4: Health and Human Services)

08-2766

SB 506, naming the Elm Street bridge in Newport after Specialist Justin A. Rollins. (Odell, Dist 8; Barnes, Dist 17; Kenney, Dist 3; Letourneau, Dist 19; Hassan, Dist 23; Burling, Dist 5; Rodeschin, Sull 2; Cloutier, Sull 4; Skinder, Sull 1: Public and Municipal Affairs)

08-2742

SB 507-FN, relative to extended terms of imprisonment for street gang members. (Gatsas, Dist 16; Barnes, Dist 17; Cilley, Dist 6; Clegg, Dist 14; D'Allesandro, Dist 20; Downing, Dist 22; Foster, Dist 13; Gallus, Dist 1; Kenney, Dist 3; Odell, Dist 8; Roberge, Dist 9: Judiciary)

08-2744

SB 508-FN-LOCAL, relative to municipal deposits. (Reynolds, Dist 2; Burling, Dist 5; Sgambati, Dist 4; Gallus, Dist 1; Kenney, Dist 3; Hassan, Dist 23; R. Williams, Merr 11; P. Preston, Graf 8; Friedrich, Graf 6; Aguiar, Graf 6: Public and Municipal Affairs)

08-2755

SB 509-FN, requiring tobacco cessation therapy under the state Medicaid program. (Clegg, Dist 14; Gatsas, Dist 16; Downing, Dist 22; Hassan, Dist 23; Sgambati, Dist 4; DeVries, Dist 18; Carson, Rock 3: Health and Human Services)

08-2762

SB 510-FN-A, relative to fees for terrain alteration permits. (Gallus, Dist 1; Gatsas, Dist 16; Roberge, Dist 9; Bulis, Graf 1; Chandler, Carr 1; Gionet, Graf 3: Energy, Environment and Economic Development)

08-2775

SB 511-FN, relative to requirements for school building aid grants. (Fuller Clark, Dist 24; Serlin, Rock 16; Harvey, Hills 21; Powers, Rock 16; Borden, Rock 18: Education)

08-2795

SB 512-FN, relative to emergency management powers. (Hassan, Dist 23; Sgambati, Dist 4; Downing, Dist 22; Gallus, Dist 1; MacKay, Merr 11; Irwin, Hills 3; Donovan, Sull 4; Batula, Hills 19: Health and Human Services)

08-2806

SB 513-FN, relative to fighting animals. (Kenney, Dist 3; Roberge, Dist 9; Crane, Hills 21; Schmidt, Straf 4; W. Knowles, Straf 6; Parkhurst, Ches 4; Matthew Quandt, Rock 13: Public and Municipal Affairs)

08-2818

SB 514-FN, relative to mercury exposure reduction and requiring insurance coverage for mercury-free fillings, vaccines, and injections for certain persons. (Kenney, Dist 3; Heard, Carr 3: Health and Human Services)

08-2823

SB 515-FN-A, relative to relief from business taxes for self-employed business owners returning from active duty deployment in the armed forces. (Cilley, Dist 6; Downing, Dist 22; Burling, Dist 5; Letourneau, Dist 19; Baldasaro, Rock 3: Ways and Means)

08-2841

SB 516-FN-LOCAL, relative to aid for county bridges. (Kenney, Dist 3; Pilliod, Belk 5; J. Thomas, Belk 5: Transportation and Interstate Cooperation)

08-2843

SB 517-FN, relative to commercial advertising on toll booths. (Kenney, Dist 3: Transportation and Interstate Cooperation)

08-2865

SB 518-FN, relative to agricultural restricted covenants. (Cilley, Dist 6; Fuller Clark, Dist 24; Essex, Hills 1; O'Connell, Hills 6; Snow, Rock 1; Phinizy, Sull 5: Wildlife, Fish and Game and Agriculture)

08-2678

SB 519-FN, imposing a per diem fine on dam owners and operators for failure to repair damage. (Cilley, Dist 6; DeVries, Dist 18; Fuller Clark, Dist 24; Nord, Rock 1: Energy, Environment and Economic Development)

08-2798

SB 520-FN-A, requiring the state veterans council to issue a state veterans handbook biennially. (Kenney, Dist 3; Roberts, Ches 3; Baldasaro, Rock 3: Election Law and Internal Affairs)

08-2839

SB 521-FN, increasing the maximum scholarship amount available from the national guard scholarship fund. (Kenney, Dist 3; Barnes, Dist 17; Letourneau, Dist 19; Hassan, Dist 23; J. Thomas, Belk 5; Roberts, Ches 3; D. Smith, Hills 22; Villeneuve, Hills 18: Election Law and Internal Affairs)

08-2884

SB 522-FN, relative to licensing requirements for small quantity biodiesel producers and distributors. (Janeway, Dist 7; Barnes, Dist 17; Borden, Rock 18: Executive Departments and Administration)

08-2778

SB 523, relative to requirements for the estuary alliance for sewage treatment to take and hold land. (Fuller Clark, Dist 24; Borden, Rock 18; Grote, Rock 18; Stiles, Rock 15: Energy, Environment and Economic Development)

08-2633

SB 524, relative to eligibility for persons to receive the elderly property tax exemption. (Foster, Dist 13; Barnes, Dist 17; Burling, Dist 5: Public and Municipal Affairs)

08-2636

SB 525, establishing the fourth Sunday in May as Emergency Medical Technician Memorial Day. (Cilley, Dist 6; Clegg, Dist 14; DeVries, Dist 18; Gallus, Dist 1; Hassan, Dist 23; Kelly, Dist 10; Kenney, Dist 3; Letourneau, Dist 19; Odell, Dist 8; Reynolds, Dist 2; Roberge, Dist 9; Sgambati, Dist 4; W. Knowles, Straf 6: Executive Departments and Administration)

08-2736

SB 526, relative to the death benefit for police officers and firefighters killed in the line of duty. (D'Allesandro, Dist 20; Barnes, Dist 17; Burling, Dist 5; Downing, Dist 22; DeVries, Dist 18; Clegg, Dist 14; D. Eaton, Ches 2; Welch, Rock 8: Executive Departments and Administration)

08-2896

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02. (Sen. Burling, Dist 5; Sen. Gottesman, Dist 12; Sen. DeVries, Dist 18; Sen. Fuller Clark, Dist 24; Rep. Patten, Carr 4; Rep. Pilotte, Hills 16; Rep. MacKay, Merr 11; Rep. Schmidt, Straf 4; Rep. Millham, Belk 5: Health and Human Services)

08-2859

SCR 6, urging the federal government to allow certain nursing homes to use a number of beds for respite care. (Kenney, Dist 3; Schulze, Hills 26; MacKay, Merr 11: Health and Human Services)

08-2411

SCR 7, urging the United States Department of Defense and Congress to restore full services to the Manchester Veterans Administration Hospital. (Barnes, Dist 17; Cilley, Dist 6; Clegg, Dist 14; D'Allesandro, Dist 20; DeVries, Dist 18; Downing, Dist 22; Estabrook, Dist 21; Foster, Dist 13; Fuller Clark, Dist 24; Gallus, Dist 1; Gatsas, Dist 16; Gottesman, Dist 12; Hassan, Dist 23; Kelly, Dist 10; Kenney, Dist 3; Letourneau, Dist 19; Odell, Dist 8; Reynolds, Dist 2; Roberge, Dist 9; Sgambati, Dist 4; Burling, Dist 5; Coughlin, Hills 4: Election Law and Internal Affairs)

08-2757

SCR 8, urging the United States Department of Defense to restore the designations of Prisoner of War and Missing in Action to those servicemen and servicewomen who are missing in operations in Afghanistan and Iraq. (Barnes, Dist 17; Burling, Dist 5; Cilley, Dist 6; Clegg, Dist 14; D'Allesandro, Dist 20; Downing, Dist 22; Estabrook, Dist 21; Fuller Clark, Dist 24; Gallus, Dist 1; Gatsas, Dist 16; Gottesman, Dist 12; Hassan, Dist 23; Janeway, Dist 7; Kelly, Dist 10; Kenney, Dist 3; Larsen, Dist 15; Letourneau, Dist 19; Reynolds, Dist 2; Roberge, Dist 9; Odell, Dist 8: Election Law and Internal Affairs)

08-2863

SCR 9, urging Congress to fund a community-based outpatient clinic for veterans in Keene. (Kenney, Dist 3; Roberts, Ches 3: Election Law and Internal Affairs)

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 2

January 17, 2008

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend Canon Timothy Rich, chaplain to the Senate, offered the prayer.

Let begin by saying that I'm honored that Senator Larsen has invited me...invited me to be your chaplain for this year, and as I stand before you for the first time, humbled not only by the task, but also by the historical significance of this day for around the globe many are celebrating "Thomas Crapper Day" in honor of the man who's associated with the development of the modern flush toilets. I hope that the gift of my prayers might in some small way, contribute to keeping fresh and clean and even holy, the work of this group. Next week, people in our state and around the country will celebrate the life of a truly remarkable and holy man, the Reverend Doctor, Martin Luther King, Jr. Doctor King once wrote, "Everybody can be great because anybody can serve. You don't have to know Einstein's theory of relativity to serve. You only need a heart full of grace, a soul generated by love." As so often the case with his writings these words both humble and inspire. Let us pray:

*O God of unimaginable heart and infinite love: So fill the hearts of these Your servant senators with grace, so ground their souls in Your love, so free them from the ambition to be great, that their deliberations and decisions might allow the lives of the least fortunate amongst those whom they serve to be just a bit greater tomorrow than in the days before.
Amen*

Senator Reynolds led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 304, relative to the criteria under which guardianship over a minor is granted. Education Committee. Inexpedient to Legislate, Vote 4-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Madam President. I move inexpedient to legislate on HB 304. This bill precludes granting guardianship over a minor...

SENATOR LARSEN (In the Chair): Senator Bragdon, the motion is inexpedient to legislate is there any discussion?

SENATOR BRAGDON: I knew that.

SENATOR LARSEN (In the Chair): Go ahead.

SENATOR BRAGDON: Thank you. I move inexpedient to legislate on HB 304. This bill precludes granting guardianship over a minor primarily to allow the minor to participate in athletic activities. The issue arose in a district where allegedly guardianship from out-of-district and even out-of-state students was assigned to district residents to allow the students to participate in sports. However, the Education Committee believes existing laws already handles this situation. Please join the committee in voting HB 304 inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Larsen moved without objection that we take up SB 415 which is in the Addendum Calendar.

SB 415, relative to the effective date of the compulsory school attendance law. Education Committee. Ought to Pass, Vote 6-0, Senator Estabrook for the committee.

SENATOR ESTABROOK: Thank you, Madam President. I move Senate Bill 415 ought to pass. This bill amends the effective date of House Bill 87 from the 2007 legislative session, which was relative to compulsory school attendance, by providing that on June 9, 2009, the age of compulsory school attendance shall be raised from "16 years" to "18 years of age." When Senate Bill 18 passed...was introduced, it had an effective date of July '09. When Senate Bill 18 passed the Senate, as amended by the Senate, it had an effective date of July '09, and this date was chosen purposely as a policy decision to allow time for the planning and development of alternative education programs. That planning and development is well underway but it has not reached fruition. So even at this time, it remains the wisest policy decision to again choose July '09 as the effective date for changing the date...the age of compulsory attendance. When HB 87 reached the senate floor, we were aware that they were amending the same statute and we were careful to bring forward a floor amendment that we thought dealt with any potential conflicts. No one anticipated the conflicting effective dates of HB 87 and SB 18 during the enrolled bills process. And no one knew that they would be merged. We recommend, the Education Committee unanimously recommends that we return to "7/09" as the effective date for raising the age of compulsory attendance and that is exactly what Senate Bill 415 would do. We urge your support.

Adopted.

Ordered to third reading.

SB 158, relative to review of activities affecting surface waters. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Hassan for the committee.

**Energy, Environment, and Economic Development
December 12, 2007
2008-0010s
06/10**

Amendment to SB 158

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

1 Purpose. This act provides for technical review and certification of proposed activities affecting surface waters to ensure that water quality standards appropriate to the legislative classification of the waters are attained during construction or operation of the proposed activity. The act makes New Hampshire statutes consistent with section 401 of the federal Clean Water Act for activities requiring federal permits or licenses, and extends the review to activities requiring registration under RSA 488:3.

2 New Paragraphs; Enforcement of Classification. Amend RSA 485-A:12 by inserting after paragraph II the following new paragraphs:

III. No activity that requires a license, permit, or registration with the federal government and that may result in a discharge to surface waters of the state may commence unless the department certifies that construction or operation of the proposed activity complies with the state surface water quality standards applicable to the classification for the receiving surface water body. The department shall provide its response to a request for certification to the federal agency or authority responsible for issuing the license, permit, or registration. Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide assurance that the proposed activity complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

IV. No activity that involves water withdrawal or diversion of surface water that requires registration under RSA 488:3 and which was not in operation as of July 1, 2008, may commence unless the department certifies that the withdrawal or diversion complies with state surface water quality standards applicable to the classification for the surface water body. The certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide reasonable assurance that the proposed activity complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

3 New Paragraph; Rulemaking. Amend RSA 485-A:6 by inserting after paragraph VI the following new paragraph:

VI-a. Procedures and criteria for requesting, reviewing, and granting certifications under RSA 485-A:12, III and IV.

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

SENATOR HASSAN: Thank you, Madam President. I move that Senate Bill 158 ought to pass with amendment. This bill requires the Department of Environmental Services to certify that certain activities that result in discharge to or withdrawal from surface waters comply with New Hampshire water quality standards. The new amendment further clarifies technical details and how DES will monitor such activities. The protection of our state's surface waters is very important and this amended legislation gives DES the proper authority to manage such a task. The Energy, Environment and Economic Development Committee requests your support for the motion of ought to pass with amendment on SB 158. Thank you.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 259, establishing state appliance and equipment energy efficiency standards. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24

December 10, 2007

2008-0006s

03/04

Amendment to SB 259

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

1 New Chapter; Minimum Energy Efficiency Standards for Certain Products. Amend RSA by inserting after chapter 339-F the following new chapter:

CHAPTER 339-G

MINIMUM ENERGY EFFICIENCY STANDARDS FOR CERTAIN PRODUCTS

339-G:1 Definitions. In this chapter:

I. "Ballast" means a device used with an electric discharge lamp to obtain the necessary voltage, current, and waveform for starting and operating the lamp.

II. "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

III. "Commission" means the public utilities commission.

IV. "Commercial hot food holding cabinet" means a heated, fully-enclosed compartment with one or more solid or glass doors that are designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandizing cabinets, drawer warmers, or cook-and-hold appliances.

V. "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

VI. "Electricity ratio" means the ratio of furnace electricity use to total furnace energy use. $\text{Electricity ratio} = (3.412 \cdot E_{AE}) / (1000 \cdot E_F + 3.412 \cdot E_{AE})$ where E_{AE} (average annual auxiliary electrical consumption) and E_F (average annual fuel energy consumption) are defined in Appendix N to subpart B of part 430 of title 10 of the Code of Federal Regulations and E_F is expressed in millions of BTUs per year.

VII. "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of 3 watts per square centimeter.

VIII. "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

IX. "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

X. "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps, which does not contain an igniter and which instead starts lamps by using a third starting electrode probe in the arc tube.

XI. "Residential boiler" means a self-contained low-pressure appliance for supplying steam or hot water primarily designed for space heating, which uses natural gas, propane, or home heating oil, and which has a heat input rate of less than 300,000 BTU per hour.

XII. "Residential furnace" means a self-contained space heater designed to supply heated air through ducts of more than 10 inches length and which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which:

(a) Is designed to be the principle heating source for the living space of one or more residences;

(b) Is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 BTU per hour; and

(c) Has a heat input rate of less than 225,000 BTU per hour.

XIII. "Single-voltage external AC to DC power supply" means a device that:

(a) Is designed to convert line voltage AC input into lower voltage DC output;

(b) Is able to convert to only one DC output voltage at a time;

(c) Is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(d) Is contained within a separate physical enclosure from the end-use product;

(e) Is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring;

(f) Does not have batteries or battery packs, including those that are removable, that physically attach directly to the power supply unit;

(g) Does not have a battery chemistry or type selector switch and indicator light; or does not have a battery chemistry or type selector switch and a state of charge meter; and

(h) Has a nameplate output power less than or equal to 250 watts.

XIV. "State-regulated incandescent reflector lamp" means a lamp, not colored or designed for rough or vibration service applications, with an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into either of the following categories: a blown PAR (BPAR), bulged reflector (BR), elliptical reflector (ER), or similar bulb shape with a diameter equal to or greater than 2.25 inches; or a reflector (R), parabolic aluminized reflector (PAR), or similar bulb shape with a diameter of 2.25 to 2.75 inches, inclusive.

XV. "Temperature reset" means an automatic means for adjusting the temperature of the water supplied by a residential boiler such that an incremental change in inferred heat load produces a corresponding incremental change in supply water temperature. When there is no inferred heat load, such automatic means adjusts the supply water temperature to no more than 140 degrees Fahrenheit.

XVI. "Walk-in refrigerator and freezer" means a refrigerated space that can be walked into and has a total chilled and frozen storage area of less than 3,000 square feet, operates at chilled (above 32 degrees Fahrenheit) or frozen (at or below 32 degrees Fahrenheit) temperature, and is connected to a self-contained or remote condensing unit. This term excludes products designed and marketed exclusively for medical, scientific, or research purposes. This term also excludes refrigerated warehouses.

XVII. "Water dispenser" means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

339-G:2 Applicability.

I. The provisions of this chapter apply to the testing, certification, and enforcement of efficiency standards for the following types of new products sold, offered for sale, or installed in the state:

(a) Bottle-type water dispensers;

(b) Commercial hot food holding cabinets;

(c) Metal halide lamp fixtures;

(d) Residential furnaces and residential boilers;

(e) Single-voltage external AC to DC power supplies;

(f) State-regulated incandescent reflector lamps;

(g) Walk-in refrigerators and freezers; and

II. The provisions of this chapter do not apply to:

(a) New products manufactured in the state and sold outside the state;

- (b) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state;
 - (c) Products installed in mobile manufactured homes at the time of construction;
 - (d) Products designed expressly for installation and use in recreational vehicles;
- or
- (e) Residential furnaces that use natural gas or propane and that are installed as replacements for previously installed furnaces.

339-G:3 Minimum Energy Efficiency Standards.

I. Bottle-type water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt hours per day, as measured in accordance with the test criteria contained in Version 1.1 of the United States Environmental Protection Agency's "ENERGY STAR Program Requirements for Bottled Water Coolers," except that units with an integral, automatic timer shall not be tested using Section D, "Timer Usage," of the test criteria.

II. Commercial hot food holding cabinets shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume, as determined by the "idle energy rate-dry test" in ASTM F2140-01, "Standard Test Method for Performance of Hot Food Holding Cabinets" published by ASTM International. Interior volume shall be measured in accordance with the method shown in the United States Environmental Protection Agency's "ENERGY STAR Program Requirements for Commercial Hot Food Holding Cabinets" as in effect on August 15, 2003.

III. Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide ballast.

IV.(a) Residential furnaces and residential boilers shall comply with the following Annual Fuel Utilization Efficiency (AFUE), electricity ratio, and design requirements:

Product Type	Minimum	Maximum electricity	
Design			
AFUE	Ratio	Requirements	
Natural gas- and propane-fired furnaces		90 percent	2.0 percent none
Oil-fired furnaces \geq 94,000 BTU/hour in capacity	none	2.0 percent	none
Oil-fired furnaces $<$ 94,000 BTU/hour in capacity	none	2.3 percent	none
Natural gas- and propane-pilot fired hot water residential boilers required	82 percent	Not applicable	No standing Temperature reset
Natural gas- and propane-pilot fired steam residential boilers	80 percent	Not applicable	No standing
Oil-fired hot water residential boilers 84 percent applicable	Not required	Temperature reset	
Oil-fired steam residential boilers 82 percent applicable	Not	none	

Residential boilers shall only be operable if the temperature reset is installed. AFUE shall be measured in accordance with the federal test method for measuring the energy consumption of furnaces and boilers contained in Appendix N to subpart B of part 430, title 10, Code of Federal Regulations.

- (b) The commission may adopt rules to exempt compliance with the residential furnace or residential boiler AFUE standards at any building, site or location where

complying with the standards would be in conflict with any local zoning ordinance, building or plumbing code, or other rule regarding installation and venting of residential furnaces or residential boilers.

V.(a) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements in the following table:

Nameplate Output Power Mode	Minimum Efficiency in Active
0 to < 1 watt	0.49 * Nameplate
Output ≥ 1 watt and ≤ 49 watts	0.09*Ln(Nameplate
Output Power) + 0.49	
> 49 watts	0.84
	Maximum Energy
Consumption in No-Load Mode	
0 to < 10 watts	0.5 watts
≥ 10 watts and ≤ 250 watts	0.75 watts

Where Ln (Nameplate Output) = Natural Logarithm of the nameplate output expressed in watts.

(b) This standard applies to single-voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(c) Single-voltage external AC to DC power supplies that require United States Food and Drug Administration listing and approval as a medical device are exempt from the requirements of this section.

(d) Single-voltage external AC to DC power supplies made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of the product requiring the power supply as a service part or spare part shall not be required to meet the standards of this section before January 1, 2013.

(e) For purposes of this paragraph, the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified in Appendix N to subpart B of part 430, title 10, Code of Federal Regulations.

VI. State-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally-regulated incandescent reflector lamps contained in 42 U.S.C. section 6295 (i)(1)(A). The following types of incandescent reflector lamps are exempt from these requirements:

(a) Lamps rated at 50 watts or less of the following types: BR30, ER30, BR40, and ER40;

(b) Lamps rated at 65 watts of the following types: BR30, BR40, and ER40; and

(c) R20 lamps of 45 watts or less.

VII. Walk-in refrigerators and freezers shall meet the following requirements:

(a) All walk-in refrigerators and freezers shall have:

(1) Automatic door closers that firmly close all reach-in doors and that firmly close walk-in doors no wider than 3 feet 9 inches and no higher than 6 feet 11 inches that have been closed to within one inch of full closure.

(2) Wall, ceiling and door insulation of at least R-28 for refrigerators. Door insulation requirements do not apply to glazed portions of doors, nor to structural members.

(3) Wall, ceiling, and door insulation of at least R-32 for freezers. Door insulation requirements do not apply to glazed portions of doors, or to structural members.

(4) Floor insulation of at least R-28 for freezers.

(5) For single-phase evaporator fan motors of under one horsepower and less than 460 volts, electronically commutated motors. The commission may delay implementation of this subparagraph upon a determination that such motors are only

available from one manufacturer or in insufficient quantities to serve the needs of the walk-in refrigerator and freezer industry for evaporator-fan applications.

(6) For condenser fan motors of under one horsepower, either: (a) electronically commutated motors, (b) permanent split capacitor-type motors, or (c) polyphase motors of 1/2 horsepower or more; and

(7) For all interior lights, light sources with an efficacy of 40 lumens per watt or more, including ballast losses, if any. Light sources with an efficacy of 40 lumens per watt or less, including ballast losses, if any, may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in is not occupied.

(b) In addition to the requirements in subparagraph (a), walk-in refrigerators and freezers with transparent reach-in doors shall meet the following requirements:

(1) Transparent reach-in doors and windows in walk-in doors for walk-in freezers shall be of triple-pane glass with either heat-reflective treated glass or gas fill;

(2) Transparent reach-in doors and windows in walk-in doors for walk-in refrigerators shall be either (a) double-pane glass with heat-reflective treated glass and gas fill or (b) triple pane glass with either heat-reflective treated glass or gas fill;

(3) If the appliance has an anti-sweat heater without anti-sweat heat controls, then: the appliance shall have a total door rail, glass, and frame heater power draw of no more than 7.1 watts per square foot of door opening for freezers and 3.0 watts per square foot of door opening for refrigerators; and

(4) If the appliance has an anti-sweat heater with anti-sweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening for freezers and 3.0 watts per square foot of door opening for refrigerators, then the anti-sweat heat controls shall reduce the energy use of the anti-sweat heater in an amount corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

339-G:4 Sale and Installation of Products.

I. After December 31, 2008, no new bottle-type water dispenser, commercial hot food holding cabinet, metal halide lamp fixture, state-regulated incandescent reflector lamp, or walk-in refrigerator or walk-in freezer shall be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards in RSA 339-G:3. After December 31, 2009 no new bottle-type water dispenser, commercial hot food holding cabinet, metal halide lamp fixture, state-regulated incandescent reflector lamp, or walk-in refrigerator or walk-in freezer shall be installed in the state unless the energy efficiency of the new product meets or exceeds the efficiency standards in RSA 339-G:3.

II. No single-voltage external AC to DC power supply manufactured after December 31, 2008 shall be sold or offered for sale in the state unless the efficiency of the single-voltage external AC to DC power supply meets or exceeds the efficiency standards in RSA 339-G:3. After December 31, 2009, no single-voltage external AC to DC power supply manufactured after December 31, 2008 shall be installed unless the energy efficiency of the new product meets or exceeds the efficiency standards in RSA 339-G:3.

III. Within 6 months after the effective date of this section, the commission, in consultation with the attorney general, shall determine if implementation of state standards for residential furnaces and residential boilers requires a waiver from federal preemption. The commission shall make separate determinations for each part of the state standards including minimum Annual Fuel Utilization Efficiency (AFUE), maximum electricity ratio, and any prescriptive requirements. If the commission determines that a waiver from federal preemption is not needed for any part, then after December 31, 2008, or the date which is one year after the date of said determination, if later, no new residential furnace or residential boiler may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the applicable non-preempted part of the efficiency standards in RSA 339-G:3. If the commission determines that a waiver from federal preemption is required for all or part of the state standards, then the commission shall apply for such

waiver within one year of such determination and upon approval of such waiver application, the applicable state standards shall go into effect at the earliest date permitted by federal law. The commission shall certify any determinations and approvals under this paragraph to the secretary of state and the director of the office of legislative services.

339-G:5 Modified and Additional Standards. The commission may establish more stringent efficiency standards for the products listed in RSA 339-G:2, I; provided no more stringent efficiency standards shall become effective within one year following the adoption of any rules providing for the more stringent efficiency standards. Not less than every 2 years, the commission shall propose to the general court new efficiency standards for products not listed in RSA 339-G:2, I. Standards proposed by the commission shall promote energy conservation in the state and be lifecycle cost-effective for consumers who purchase and use the products. The commission may apply for a waiver from preemption in accordance with federal procedures for those products regulated by the federal government. The commission may adopt rules, pursuant to RSA 541-A, necessary to implement the provisions of this section.

339-G:6 Testing. The manufacturers of products listed in RSA 339-G:2, I shall test samples of their products in accordance with the test procedures established in this chapter or those specified in the state building code as defined in RSA 155-A. The commission shall adopt by rule test procedures for determining the energy efficiency of the products listed in RSA 339-G:2, I if such procedures are not provided for in RSA 339-G:3 or in the state building code. The commission shall adopt United States Department of Energy approved test methods, or in the absence of such test methods, other appropriate nationally-recognized test methods. The commission may adopt updated test methods when new versions of test procedures become available.

339-G:7 Certification and Identification.

I. Manufacturers of new products listed in RSA 339-G:2, I, except for single-voltage external AC to DC power supplies, walk-in refrigerators, and walk-in freezers, shall certify to the commission that such products are in compliance with the provisions of this chapter. Such certifications shall be based on test results. The commission shall adopt rules, pursuant to RSA 541-A, governing the certification of such products and may coordinate with the certification programs of other states with similar standards.

II. Manufacturers of new products listed in RSA 339-G:2, I shall identify each product offered for sale or installation in the state as in compliance with the provisions of this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The commission shall adopt rules, pursuant to RSA 541-A, governing the identification of such products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. The commission shall allow the use of existing marks, labels, or tags which connote compliance with the efficiency requirements of this chapter.

339-G:8 Inspections. With prior notice and at reasonable and convenient hours, the commission may cause periodic inspections to be made of distributors or retailers of new products listed in RSA 339-G:2, I in order to determine compliance with the provisions of this chapter. The commission shall also coordinate with local enforcement agencies regarding inspections prior to occupancy of newly constructed buildings containing new products that are also covered by the state building code.

339-G:9 Enforcement; Penalties. The commission shall cause investigations to be made of complaints received concerning violations of this chapter and shall report the results of such investigations to the attorney general. The attorney general may institute proceedings to enforce the provisions of this chapter. Any manufacturer, distributor, or retailer who violates any provision of this chapter shall be issued a warning by the commission for any first violation. Repeat violations shall be subject to a civil penalty of not more than \$250. Each violation of this chapter shall constitute a separate offense, and each day that such violation continues shall constitute a separate offense.

2 Effective Date. This act shall take effect January 1, 2009.

SENATOR FULLER CLARK: Thank you very much, Madam Chairman. I move Senate Bill 259 be tabled.

MOTION TO TABLE

Senator Fuller Clark moved to have SB 259 laid on the table.

Adopted.

LAID ON THE TABLE

SB 259, establishing state appliance and equipment energy efficiency standards.

SB 205-FN, eliminating an exception to state reimbursement for drug testing for racing dogs and horses. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 3-2. Senator Burling for the committee.

SENATOR BURLING: Thank you, Madam President. I move the bill inexpedient to legislate. This bill has to do with waiving certain fees and items relative to the state drug testing lab. We did a lot of work yes...last year, which dramatically effected the labs and the whole business of doing these tests. Just to refresh the memory of the Senators, the issue before us last year was that there was a mandate that certain drug tests on racing dogs and horses be performed at the state lab. The complaint that we were hearing was that the state lab because of problems of efficiency and the number...a small number of tests that need to be performed was charging in excess of 200 percent of what private labs might charge for the same test. There was a great deal of back and forth in committee and on the floor of this senate, about whether we should allow private labs to perform these tests, and ultimately, we decided to allow that transition to take place. The testing is now being done by private labs. We understand it's being done for considerably less than the state lab was able to do them for. That being the case, the mandate which sends all of these tests to the state lab is gone, and therefore, passage of this bill would achieve nothing. That is why the majority of the committee 3 to 2 voted inexpedient to legislate. The testing that underlay this whole discussion is now in the hands of private labs around New England. Thank you, Madam President.

Committee report of inexpedient to legislate is adopted.

SB 210-FN, relative to transferring regulation of fuel gas fitters to the board of licensing and regulation of plumbers, and making certain changes to the regulation of plumbers. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration
November 29, 2007
2007-2669s
10/05

Amendment to SB 210-FN

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

AN ACT relative to making various changes to the regulation of plumbers and water treatment technicians by the board of licensing and regulation of plumbers.

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

1 Purpose. RSA 329-A:1 is repealed and reenacted to read as follows:

329-A:1 Purpose. The purpose of this chapter is to protect and improve the general health and welfare of the people of the state of New Hampshire in the fields of environmental sanitation and building safety by authorizing the licensing and regulation of plumbers and the voluntary certification of water treatment technicians.

2 Definitions. RSA 329-A:2, I – IV are repealed and reenacted to read as follows:

I. “Master plumber” means any individual licensed under this chapter, and any corporation, partnership or limited liability company licensed under this chapter that, as a business, employs one or more individuals to do plumbing work, or, without hiring anyone, does that work as a principal business or as an auxiliary to a principal business.

II. “Journeyman plumber” means any individual licensed under this chapter to perform plumbing work under the direction of a master plumber.

III. “Apprentice” means any individual who is engaged in learning and assisting in the practice of plumbing under the supervision of a licensed journeyman plumber or licensed master plumber as part of an apprenticeship program that meets the requirements of the Office of Apprenticeship of the United States Department of Labor.

IV. “Plumbing” means the work or practice of installation, removal, repair, replacement, extension, or alteration of a plumbing system, and the materials and fixtures used in the work or practice.

3 New Paragraph; Definition; Plumbing System. Amend RSA 329-A:2 by inserting after paragraph IV the following new paragraph:

IV-a. “Plumbing system” means all piping, fixtures, fixed appliances and appurtenances, and connections required for the following: sanitary drainage and storm drainage of a building to a minimum of 30 inches beyond the foundation wall or the building’s outside dimension; special wastes systems; venting systems; and water distribution systems including backflow prevention devices, and any necessary interconnections of piping between buildings or structures.

4 Definition; Water Treatment Technician. RSA 329-A:2, VII is repealed and reenacted to read as follows:

VII. “Water treatment technician” means any individual who installs, maintains, or repairs water treatment systems and any corporation, partnership, or limited liability company that, as a business, employs one or more individuals to install, maintain, or repair water treatment systems, or, without hiring anyone, does that work as a principal business or as an auxiliary to a principal business.

5 Board; Public Member; Duty. RSA 329-A:3, II is repealed and reenacted to read as follows:

II. A public member of the board shall be a person who is not, and never was, a member of the plumbing or water treatment trades or the spouse of such person; who does not have, and never has had, a material financial interest in the provision of plumbing or water treatment services; and does not have, and has not for 5 years preceding appointment had, a material financial interest in an activity directly related to plumbing or water treatment, including the representation for a fee of the board or the plumbing or water treatment trades.

II-a. The board shall be responsible for the regulation of plumbing and plumbers, and for the voluntary certification of water treatment technicians and their regulation.

6 Compensation of Board. Amend RSA 329-A:4 to read as follows:

329-A:4 Compensation and Expenses. Members of the board shall each be allowed the sum of [~~\$30~~] **\$50** per day and their necessary traveling expenses incurred in carrying out their official duties.

7 Meetings; Quorum. Amend RSA 329-A:5 to read as follows:

329-A:5 Organization and Meetings. The board shall hold at least 4 regular meetings each year, and special meetings may be held at such times as the business of the board may require. Notice of all meetings shall be given in such manner as ***RSA 91-A:2, II and*** the rules of the board may provide. The board shall annually elect a chairman and a vice-chairman from among its members. A quorum of the board shall consist of not [~~less~~] ***fewer*** than 3 members, at least one of whom shall be a public member.

8 Fees. Amend RSA 329-A:5-a to read as follows:

329-A:5-a Fees. The board shall establish fees for ***processing applications; for*** licensure, renewal of licensure, ***reinstatement of licensure***, and late renewal of licensure to practice under this chapter[~~;~~]; for certification, renewal of certification, ***reinstatement of certification***, and late renewal of certification under this chapter[~~;~~]; for initial apprentice identification cards and renewal of apprentice identification cards[~~;~~]; for inspections done pursuant to RSA 329-A:17[~~for copies of the state plumbing code;~~]; for letters of verification requested by other jurisdictions relating to licensure and certification[~~;~~]; for any courses, workshops, and seminars offered by the board[~~;~~]; and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. The fee for the annual renewal of certification issued to persons certified as water treatment technicians shall not be more than the fee for the annual renewal of licenses issued to journeyman plumbers.

9 Receipts. Amend RSA 329-A:6 to read as follows:

329-A:6 Receipts and Disbursements. The secretary of the board shall receive and account at least monthly for all moneys derived [~~under~~] ***from*** the provisions of this chapter, and shall pay the same to the state treasurer. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this chapter. Under no circumstances shall the total amount of payments made hereunder exceed the amount of the fees collected hereunder. Any balance in said account shall lapse at the end of each fiscal year.

10 Examinations. Amend RSA 329-A:7 to read as follows:

329-A:7 Examinations; Licenses and Certificates. The board shall establish through rulemaking, pursuant to RSA 541-A, the nature of proctored examinations required for ***the*** issuance ***to individuals*** of master plumber licenses, journeyman plumber licenses, and certifications as a water treatment technician[~~respectively~~]. The scope of such examinations and the methods of procedure shall be prescribed by the board, provided that the scope of examination of water treatment technicians shall be limited to the configuration and installation of water treatment systems [~~and~~], the provisions of this chapter, and the rules adopted by the board [~~that relate~~] ***relating*** to water treatment systems. ***Any individual refused a license or certificate on the basis of his or her examination score may be reexamined as often as the individual desires.***

11 Licenses; Master Plumbers; Business Entities. RSA 329-A:8 and 9 are repealed and reenacted to read as follows:

329-A:8 Licenses; Master Plumbers; Business Entities.

I. Any individual who, having held a journeyman plumber's license for at least 12 months, shall, upon the payment of the application processing fee established by the board, be entitled to an examination. If he or she passes the examination, pays the license fee and is found qualified by the board, he or she shall be licensed as a master plumber. The license issued shall be carried on the individual while working and displayed upon request.

II. Upon the payment of the required application processing and license fees the board may issue a master plumber license without examination to a corporation, partnership, or limited liability company engaged in the business of plumbing, provided one or more officers of the corporation, one or more members of the partnership, or one or more managing members of the limited liability company, as applicable, holds a master plumber license issued under this chapter. The business entity shall designate a corporate officer, partner or managing member who is a licensed master plumber to be responsible for its compliance with this chapter and the rules adopted by the board. Within 30 days after the death of the designated person or the withdrawal of the designated person as a principal of the business, the designated person or the business entity itself shall give notice thereof to the board and a new principal shall be designated to be responsible for the business entity's compliance with this chapter and the rules adopted by the board. If no such designation is made, the business entity shall not engage in plumbing until some other corporate officer, partner, or managing member licensed as a master plumber has been designated as responsible for the business entity's compliance. A license issued under this section shall be publicly displayed at the licensee's principal place of business.

329-A:9 Licenses; Journeyman Plumbers. Any individual who, having successfully completed his or her apprenticeship in plumbing, has received an official completion certificate from the organization conducting the program shall, upon payment of the application processing fee established by the board, be entitled to examination. If he or she passes the examination, pays the license fee and is found qualified by the board, he or she shall be licensed as a journeyman plumber. The license issued shall be carried on the individual while working and displayed upon request.

12 Voluntary Certification of Water Treatment Technicians. RSA 329-A:9-a is repealed and reenacted to read as follows:

329-A:9-a Voluntary Certification of Water Treatment Technicians.

I. Any individual who has acted as a water treatment trainee for a period of not less than one year shall, upon payment of the application processing fee established by the board, be entitled to examination and, upon achieving the passing score on the examination and paying the certification fee, be certified as a water treatment technician. A certificate issued under this section shall be carried on the person and displayed upon request.

II. The title "certified water treatment technician" shall be used only by individuals and business entities certified under this chapter. No individual shall continue to represent himself or herself and no business entity shall continue to represent itself as a certified water treatment technician after certification has been revoked or non-renewed under this chapter.

III. The board may issue, upon payment of the required application processing and certification fees, certification without examination to a corporation, partnership or limited liability company that installs, maintains, or repairs water treatment systems, provided that one or more officers of the corporation, one or more members of the partnership or one or more managing members of the limited liability company, as applicable, holds a water treatment certificate issued under this chapter. The business entity shall designate a corporate officer, partner or managing member who is a certified water treatment technician to be responsible for its compliance with this chapter and the rules adopted by the board. Within 30 days after the death of the designated person or the designated person's withdrawal as a principal of the business, the designated person or the business entity itself shall give notice thereof to the board and a new principal shall be designated to be responsible for the business entity's compliance with this chapter and the rules adopted by the board. If no such designation is made, the business entity shall not engage in water treatment until some other corporate officer, partner, or managing member certified as a water treatment technician has been designated as responsible for the business entity's compliance. A certification issued under this section shall be publicly displayed at the principal location of the business.

IV. The board may issue certification without examination to those water treatment technicians who provide adequate documentation of having operated in the capacity of a water treatment technician for a period of at least one year prior to January 1, 2006 and who pay the required fees.

13 Apprentice Plumbers. RSA 329-A:9-b is repealed and reenacted to read as follows:

329-A:9-b Apprentice Plumbers. Apprentice plumbers shall register with the board and, upon payment of the registration fee established by the board, be issued an identification card. Apprentice identification cards shall expire each year on the last day of the month of the apprentice's birth. The board shall renew the identification cards of apprentice plumbers if they pay the renewal fee and continue to be engaged in learning and assisting in the practice of plumbing under an apprenticeship program that meets the requirements of the state apprenticeship council.

14 Renewal. Amend RSA 329-A:11 to read as follows:

329-A:11 Expiration and Renewal.

I. Licenses and certificates issued by the board shall expire each year on the last day of the month of the holder's birth.

II. Licenses issued to corporations, partnerships, and limited liability companies shall expire on the last day of January of each year.

II-a. To be eligible for renewal, each individual licensee and certificate holder shall maintain his or her competence through continuing education offered or approved by the board.

III. The board shall renew the licenses and certificates of eligible applicants upon the payment of the required fee and documentation of having met continuing education requirements and any other eligibility requirements established by the board pursuant to RSA 541-A.

IV. The board is authorized to offer continuing education courses, workshops, and seminars, ***and to approve providers of continuing education pursuant to standards set forth in rules adopted by the board in accordance with RSA 541-A.***

15 New Section; Inactive Status; Military Service. Amend RSA 329-A by inserting after section 11 the following new section:

329-A:11-a Inactive Status During Active Military Service.

I. Upon the request of a person licensed or certified by the board who is called to active military service for the United States, the board shall place such person's license or certificate on inactive status. The inactive status shall continue until the person is discharged from active military duty.

II. If the holder of a license or certificate inactivated under this provision wishes reactivation of the license or certificate, she or he shall so notify the board. Upon such notification the board shall extend the period for renewal of the license or certificate, and for meeting the eligibility standards for renewal, by the length of time that the license or certificate was inactive.

16 Disciplinary Action. RSA 329-A:12 is repealed and reenacted to read as follows:

329-A:12 Disciplinary Action.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

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

II. Misconduct sufficient to support disciplinary proceedings shall include:

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

(b) Conviction during the period of licensure or certification of a felony or any criminal offense involving injury to a victim or the risk of such injury, or any criminal offense involving dishonesty;

(c) Suspension or revocation of a license or certification, similar to one issued under this chapter, issued by another jurisdiction, without reinstatement of such license or certification;

(d) Negligent or willful acts performed in a manner inconsistent with the health or safety of persons;

(e) Violation of ethical standards adopted by the board;

(f) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the licensee or certificate holder unfit to practice;

(g) Mental or physical incompetence to practice as a plumber or water treatment technician;

(h) Willful or repeated violation of the provisions of this chapter; or

(i) A violation of the state plumbing code.

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

(a) By private reprimand;

(b) By suspension, limitation or restriction of license or certification for a period of up to 5 years;

(c) By revocation of license or certification;

(d) By requiring the licensee or certificate holder to participate in a program of continuing education or personal training in the area or areas in which he or she has been found deficient;

(e) By the imposition of an administrative fine not to exceed \$1,000 for each instance of misconduct by a licensed plumber or certified water treatment technician;

(f) By the imposition of an administrative fine not to exceed \$1,000 for performing plumbing after the expiration date of the plumbing license;

(g) By the imposition of an administrative fine not to exceed \$1,000 for a violation of the terms of the board's suspension of a license or certificate, or for a violation of limitations or restrictions previously placed by the board upon a license or certificate;

(h) By the imposition of an administrative fine for continuation of any misconduct described in subparagraphs (d) through (i) in the amount of \$100 for each day the misconduct continues after notice from the board that the misconduct shall cease; and

(i) By denial of an application for renewal or reinstatement of a license or certificate.

IV. Upon the issuance of an administrative fine, the board may suspend the license or certificate until the fine has been paid.

17 Exceptions. Amend RSA 329-A:13, IV to read as follows:

IV. To persons ~~[engaged in the installation of any heating, cooling, air conditioning or domestic water heating systems, whether solar, oil, gas, or electric, and persons engaged in the installation and servicing of water treatment systems or swimming pools.]~~

performing only essential plumbing work necessary for the installation of any heating system, cooling system, water heater, air conditioning system, or essential plumbing work necessary for installation of swimming pools.

IV-a. To persons not certified under this chapter who are engaged in the installation and servicing of water treatment systems.

18 Rulemaking. RSA 329-A:14 is repealed and reenacted to read as follows:

329-A:14 Rulemaking Authority.

I. The board shall adopt rules pursuant to RSA 541-A relative to:

(a) Applications for licensure and certification, renewal licensure and certification, and reinstatement of licensure and certification.

(b) Any eligibility requirements in addition to those in this chapter for an initial license to practice plumbing, for plumbing license renewal and for plumbing license reinstatement.

(c) The application procedure and any eligibility requirements in addition to those in this chapter for certification as a certified water treatment technician, for renewal of certification and for reinstatement of certification.

(d) The establishment of all fees authorized by this chapter.

(e) The allocation of disciplinary sanctions in cases of misconduct by holders of licenses and certificates.

(f) Apprentice registration and renewed apprentice registration.

(g) Standards for continuing education required for license and certification renewal.

(h) Procedures for the conduct of hearings consistent with the requirements of due process.

II. The board may adopt rules pursuant to RSA 541-A relative to:

(a) Any continuing education requirements for reinstatement of licenses and certificates.

(b) Standards to be met by providers of continuing education.

(c) Ethical standards to be met by each holder of a license or certificate.

(d) Procedures for the voluntary surrender of licenses and certificates issued by the board.

(e) Procedures for placing the licenses and certificates of those on active military duty on inactive status and reactivating such licenses and certificates.

18 Enforcement. Amend RSA 329-A:16 to read as follows:

329-A:16 Enforcement.

I. The state plumbing code shall be enforced by the building inspection department or by any officer designated by the administrative authority of the city or town; provided, however, that a city or town may adopt and enforce rules more stringent than the state plumbing code. In the absence of a building inspection department or officer designated to enforce the state plumbing code, the board shall have the authority to enforce the state plumbing code.

II. The board shall refer all allegations of violations ~~[specified in RSA 329-A:18]~~ **of the state plumbing code** to the New Hampshire attorney general and to the county attorney in the appropriate county. The county attorney shall investigate such allegations and take appropriate action if the attorney general does not do so.

III. The board is authorized to sanction with a civil fine not to exceed \$1,000, and to issue a cease and desist order against, any individual or business entity violating the state plumbing code.

IV. The board is authorized to sanction with a civil fine not to exceed \$1,000, and to issue a cease and desist order against, any individual not an apprentice plumber who is engaged in plumbing without a currently valid license. The board is authorized to sanction with a civil fine not to exceed \$1,000, and to issue a cease and desist order against, any business entity engaged in plumbing without a currently valid license. Cease and desist orders issued by the board shall be enforceable in superior court.

19 Inspectors. Amend RSA 329-A:17 to read as follows:

329-A:17 Inspectors.

I. The board shall have the authority to appoint such inspectors as are necessary to insure compliance throughout the state with ~~[plumbing practices consistent with the public safety and welfare]~~ **the state plumbing code and this chapter.**

II. An inspector appointed under this section shall have the authority to enter any premises in which ~~[a] plumbing [installation subject to regulation under this chapter]~~ **or water treatment** is being ~~[installed, replaced or repaired]~~ **performed** for the purpose of making such inspection as is necessary to carry out his **or her** duties under this section.

III. Any inspector may order the removal or correction of any violation of **the plumbing code or** this chapter, and may order any public utility furnishing water to ~~[such~~

~~installation]~~ **the site of violation** to discontinue such service until the violations are corrected.

IV. Whenever an inspector orders the removal or correction of a violation under paragraph III, he or she shall immediately notify the local building inspection department or administrative authority of the town where the violation is located, and further order that ~~[all] the [work in]~~ violation be corrected prior to continuance **of the plumbing or water treatment work**. The local building authority shall approve the continuation of work ~~[on the installation]~~ upon being satisfied that violations have been corrected and shall notify the inspector of such approval. ***If there is no local building authority, the board's inspector shall approve the continuation of work after violations have been corrected.***

20 Penalties. RSA 329-A:18 is repealed and reenacted to read as follows:

329-A:18 Penalties.

I. Any business entity or individual who procures a plumbing license or water treatment certificate wrongfully or by fraud is guilty of a misdemeanor.

II. Any business entity which performs plumbing without a currently valid plumbing license, and any individual who is not an apprentice and performs plumbing without a currently valid license, is guilty of a misdemeanor, unless the business entity or individual has a license which has been expired for no more than 12 months, in which case such business entity or individual is guilty of a violation.

III. Any business entity or individual employing an individual to perform plumbing when the employee is not an apprentice and does not have a currently valid plumbing license is guilty of a misdemeanor, unless the employee has a license which has been expired for no more than 12 months, in which case the employer is guilty of a violation.

IV. Any business entity not licensed as a plumbing business or certified as a water treatment technician which represents itself as so licensed or certified, and any individual not licensed as a plumber or not certified as a water treatment technician who represents himself or herself as so licensed or certified, is guilty of a misdemeanor.

V. Any person who does any plumbing work in violation of the state plumbing code, or causes any violation of the state plumbing code, shall be guilty of a misdemeanor.

21 Repeal. RSA 329-A:10, relative to licenses without examination, is repealed.

22 Effective Date. This act shall take effect January 1, 2009.
2007-2669s

AMENDED ANALYSIS

The bill makes various changes to the regulation of plumbers and certified water treatment technicians by the state board for the licensing and regulation of plumbers.

SENATOR CILLEY: Thank you, Madam President. I move that SB 210-FN ought to pass with amendment. One of the key provisions of this bill was removed. The regulation of the gas fitters that's referenced in the title, they remain under the Marshals office. The Fire Marshall's office. The bill makes various changes to the regulation of plumbers and water treatment technicians by the Board of Licensing and Regulation of Plumbers. Many of us heard public testimony, read many e-mails and correspondence from those around the state of SB 210, the committee and public interests have come together as one to pass a hardworking piece of legislation. The purpose of SB 210 is to protect and improve the general health and welfare of the people of New Hampshire in the fields of environmental sanitation and building safety by authorizing the licensing and regulation of plumbers and the voluntary certification of water treatment technicians. These are highlighted with their definitions and responsibilities in the amendment 2669s. A board will be established, meeting four times a year being responsible for the regulation of plumbing and plumbers, and for the voluntary certification of water treatment technicians and their regulations. The

board will establish fees for processing applications for licensure, renewal of licensure and reinstatement of licensure. Examinations and licenses and certificate shall be established through rulemaking. Pursuant to RSA 541:A the nature of proctored examinations are required for the issuance to individuals to master plumbers, journeyman plumbers and water treatment licenses. Licenses and certifications issued by the board shall expire each year on the last day of the month of the holder's birth. To be eligible for renewal, each individual licensee and certificate holder shall maintain his or her competence through continuing education. In addition, a new section to this bill was upon request, of person licensed or certified by the board, who is called to active military service for the United States the board shall place such person's license or certificate on inactive status. There were many key players involved in this bill and we all reached an agreement to pass this bill. We ask your support of SB 210. Thank you.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Kenney is in opposition to SB 210-FN.

SB 212-FN, relative to the regulation of home inspectors. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration
November 30, 2007
2007-2670s
10/04

Amendment to SB 212-FN

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

1 New Subdivision; Home Inspectors. Amend RSA 310-A by inserting after section 181 the following new subdivision:

Home Inspectors

310-A:182 Purpose. The purpose of this subdivision is to assure that a home inspector performs professional services only when the home inspector is qualified by education and training in the specific technical areas involved.

310-A:183 Definitions. In this subdivision:

I. "Auxiliary services" means any fee paid services provided by the home inspector to the client in addition to a home inspection.

II. "Board" means the board of home inspectors.

III. "Client" means an individual who signs a home inspection agreement in order to have a home inspection performed.

IV. "Code of ethics" means the code of ethics followed by home inspectors who are licensed as home inspectors by the board.

V. "Home inspection" means the process by which an home inspector visually examines the readily accessible systems and components of a home and which describes

those systems and components in accordance with the board approved standards of practice and code of ethics.

VI. "Home inspector" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of home inspections as attested by licensing as a home inspector.

310-A:184 Standards Of Practice. The board shall adopt, under RSA 541-A, minimum and uniform standards of practice which shall apply to New Hampshire home inspectors and be enforced by the board.

310-A:185 Code of Ethics for New Hampshire Home Inspectors.

I. The code of ethics details the core guidelines of home inspection professionalism and home inspection ethics, covering crucial issues such as conflicts of interest, good faith and public perception. Integrity, honesty, and objectivity are fundamental principles embodied by this code, which sets forth obligations of ethical conduct for the home inspection profession.

II. Inspectors shall comply with this code, avoid association with any enterprise whose practices violate this code, and strive to uphold, maintain, and improve the integrity, reputation, and practice of the home inspection profession.

III. Inspectors shall avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity. Inspectors shall not:

(a) Inspect properties for compensation in which they have, or expect to have, a financial interest.

(b) Inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.

(c) Directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.

(d) Receive compensation for an inspection from more than one party unless agreed to by the client.

(e) Accept compensation, directly or indirectly, for recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties.

(f) Repair, replace, or upgrade, for compensation, systems or components covered by the standards of practice, for one year after the inspection.

IV. Inspectors shall act in good faith toward each client and other interested parties.

(a) Inspectors shall perform services and express opinions based on genuine conviction and only within their areas of education, training, or experience.

(b) Inspectors shall be objective in their reporting and not knowingly understate or overstate the significance of reported conditions.

(c) Inspectors shall not disclose inspection results or client information without client approval. Inspectors, at their discretion, may disclose observed immediate safety hazards to occupants exposed to such hazards, when feasible.

V. Inspectors shall avoid activities that may harm the public, discredit themselves, or reduce public confidence in the profession.

(a) Advertising, marketing, and promotion of inspectors' services or qualifications shall not be fraudulent, false, deceptive, or misleading.

(b) Inspectors shall report substantive and willful violations of this code to the board.

310-A:186 Board of Home Inspectors.

I. A board of home inspectors is established to administer the provisions of this subdivision. The board shall consist of 7 persons as follows:

(a) Five members shall be home inspectors, one from each executive council district, nominated by the respective executive councilors, and appointed by the governor and council.

(b) Two shall be public members, each to be appointed by the governor and council. Each public member of the board shall be a person who is not, and never was, a home inspector or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of home inspector services or an activity directly related to the home inspection trade, including the representation of the board or trade for a fee at any time during the 5 years preceding appointment.

II. Each member of the board shall be a citizen of the United States and a resident of this state. Each home inspector board member shall have actively practiced home inspections for his or her means of livelihood during or, if retired, prior to, his or her appointment.

III. Members shall be appointed for 2-year terms. Appointments for terms of less than 2 years may be made in order to stagger the appointments. No appointed member shall be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds $\frac{1}{2}$ of the 2-year term shall be deemed a full term. Upon expiration of a member's term, the member shall serve until a successor is qualified and appointed. Vacancies occurring prior to the expiration of a specific term shall be filled by appointment for the unexpired term. A board member may be removed for cause by the governor and council under RSA 4:1.

IV. Members of the board shall receive \$25 for each day actually engaged in the duties of their office and shall be reimbursed for all actual travel, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this subdivision.

V. The board shall hold at least 3 regular meetings each year and special meetings at such times as it may deem necessary. Notice of all meetings shall be given in such a manner as rules adopted by the board may provide. The board shall biennially elect or appoint a chairperson, vice-chairperson, and secretary. Four members shall constitute a quorum.

VI.(a) The board shall keep a record of its proceedings and a register of all applications for licensure, which shall show:

- (1) The name, age, and residence of each applicant.
- (2) The date of application.
- (3) The place of business of such applicant.
- (4) The applicant's educational and other qualifications.
- (5) Proof of passing home inspection exam.
- (6) Whether the applicant was rejected and the reasons for such rejection.
- (7) Whether a license was granted.
- (8) The date of the action of the board.
- (9) Such other information as may be deemed necessary by the board.

(b) The records of the board shall be prima facie evidence of the proceedings of the board, and a transcript of such records certified by the secretary of the board under seal shall be admissible in evidence with the same force and effect as if the original were produced. Biennially, as of December 31, the board shall submit to the governor a report of the transactions of the preceding biennium, and a complete statement of the receipts and expenditures of the board.

VII. The secretary of the board shall publish a roster listing the names and addresses of all home inspectors licensed under this subdivision by the board during February of each even-numbered year. Copies of this roster shall be sent to each person so licensed, placed on file with the secretary of state, and furnished to the public upon request at a fee to be established by the board. The board may include in such roster any other information it deems appropriate.

VIII. The board, its members, and its agents shall be immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.

310-A:187 Rulemaking Authority.

- I. The board shall adopt rules, pursuant to RSA 541-A, relative to:
 - (a) The application procedure for a license to practice under this subdivision.
 - (b) The qualifications of applicants in addition to requirements of this subdivision, and including the qualifications for satisfactory evidence of good professional character.
 - (c) Procedures for auditing applicants and licensees.
 - (d) How a license to practice under this subdivision shall be renewed or reinstated, including late fees and any requirements for continuing education.
 - (e) The establishment of all fees required under this subdivision.
 - (f) Disciplinary actions by the board that shall be implemented for violations of the standards of practice, code of ethics, and rules adopted by the board.
 - (g) Procedures for the conduct of hearings consistent with the requirements of due process.
 - (h) Procedures for approving education courses for eligibility for licensure and for a continuing education program
 - (i) Matters related to the proper administration of this subdivision.
- II. The board shall adopt one eligibility examination required for licensure that is compiled from examination materials submitted by the board members.
- III. At least 40 days prior to any hearing to be held pursuant to RSA 541-A:11, the board shall furnish a copy of any proposed rules of or amendments thereto, to all affected professionals licensed by the board.

310-A:188 Fees. The board shall adopt rules, under RSA 541-A, which shall establish fees required under this subdivision, which shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board, including the following:

- I. Application for licensure.
- II. Renewal for licensed home inspectors.
- III. Late fees for a late renewal of license.
- IV. Replacement of a lost or mutilated license.
- V. Transcribing and transferring records and other services.
- VI. Reinstatement fees.
- VII. Other fees or fines deemed necessary by the board.

310-A:189 License Required. Beginning January 1, 2010, no person shall practice as a home inspector or conduct home inspections in this state without a home inspector's license issued by the board under this subdivision.

310-A:190 Eligibility Requirements For Licensure As A Home Inspector.

- I. Each applicant for licensure as a home inspector shall meet the following minimum requirements:
 - (a) Completion of no less than 80 hours of board-approved education covering all of the following core components of a residential building of 4 units or less:
 - (1) Heating system.
 - (2) Cooling system.
 - (3) Plumbing system.
 - (4) Electrical system.
 - (5) Structural components.
 - (6) Foundation.
 - (7) Roof covering.
 - (8) Exterior and interior components.

- (9) Site aspects as they affect the building.
- (b) Proof of passing the board adopted examination required for licensure.
- (c) Have successfully completed high school or its equivalent.
- (d) Be at least 18 years of age.
- (e) Submit to the board a notarized criminal history records release form as provided by the New Hampshire state police, which authorizes the release of the applicant's criminal records, if any. The applicant shall bear the cost of the criminal records check.

II. The board shall approve all education programs under subparagraph (a) of organizations or education institutions providing acceptable education and training.

III. The board shall have the discretion to reject an applicant who is not of good professional character, as evidenced by:

- (a) Conviction for commission of a felony;
- (b) Misstatement of facts by the applicant in connection with the application;
- (c) Violation of any of the standards of practice or code of ethics as they are set forth in this subdivision or in rules adopted by the board; or
- (d) Practicing home inspections without being licensed in violation of laws of the jurisdiction in which the practice took place.

310-A:191 License Applications.

I. Applications for licensure shall be on forms prescribed and furnished by the board.

II. Applicants shall include the following:

- (a) Proof of required education.
- (b) Proof of passing the eligibility testing requirements.
- (d) Payment of applicable fees.
- (e) Any other attachments as required by board.

III. If the board denies the issuance of a license to any applicant, any fee paid shall be retained as an application fee.

310-A:192 Continuing Education. Evidence satisfactory to the board of the completion in each 2-year renewal period of a minimum of 20 hours of continuing education shall be required for license renewal, provided that one hour of the 20 required hours shall be from a board approved course on license regulation review. The board shall approve educational courses and activities that would further the professional competence of licensees. The continuing education credits shall be determined on the basis of one credit for each contact hour of course instruction or professional development activity actually attended by a licensee.

310-A:193 Issuance of Licenses. The board shall issue a license upon payment of the license fee established by the board, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this subdivision. Licenses shall show the full name of the licensee, have a serial number, and be signed by the chairperson or the secretary of the board. The issuance of a license by the board shall be prima facie evidence that the person named in the license is entitled to all the rights and privileges of a licensed home inspector while the license remains valid. It shall be a class B misdemeanor for the licensee to perform home inspections after the license of the licensee has expired or has been revoked, unless such license shall have been renewed, reinstated, or reissued.

310-A:194 Reciprocity. If, in the determination of the board, another state grants reciprocity to residents of this state and is deemed to have state licensure requirements equal to or exceeding those of this state, the board may enter into a reciprocity agreement allowing applicants who are licensed under the laws of such other state to obtain a license as a home inspector in this state upon such terms and conditions as may be determined by the board.

310-A:195 Expiration and Renewals.

I. The board shall send by mail or otherwise notification of the impending license expiration to each licensee at least 60 days prior to the expiration of the license, along with a request for payment of a renewal fee. Licensees in good standing may renew their licenses

by paying the renewal fee prior to the expiration date of the license, and by presenting evidence satisfactory to the board of completion of the continuing education requirements. If properly renewed, a license shall remain in effect continuously from the date of issuance, unless suspended or revoked by the board for just cause.

II. All licenses issued by the board shall expire after 2 years on the last day of the licensee's birth month. Such license may be renewed at any time during the following month but shall be effective on the first day of the month. The fee for renewal of all licenses issued under this chapter shall be established by the board. Upon failure to pay the renewal fee within the required period, a licensee may renew his or her license by submitting the required fee plus 20 percent of the customary license fee before the last day of the second month following his or her birth month. Any application received after this time shall be rejected unless accompanied by proof of successful completion of the examination required by the board. A licensed home inspector shall complete at least 20 hours of board-approved continuing education during each license period in order to maintain his or her license.

III. Licensees who have been activated by the military shall be exempt from any penalties or fees for renewal or reinstatement due to their absence, as approved by the board.

310-A:196 Disciplinary Action.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

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

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

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

(b) Conviction of a felony or any offense involving moral turpitude.

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

(d) Unfitness or incompetence by reason of negligence or other causes; or negligent or willful acts performed in a manner inconsistent with the interests of persons relying on the expertise of the licensee.

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

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

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

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

(i) Violations of the code of ethics for home inspectors, or any other rule adopted by the board.

(j) Providing false testimony before the board.

(k) Failure to provide, within 30 calendar days of receipt of notice by certified mail, return receipt requested, information requested by the board as a result of any formal complaint to the board alleging a violation of this subdivision.

(l) Knowingly making or signing any false statement, certificate, or affidavit in connection with the practice of home inspections.

310-A:197 Hearings.

I. The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by certified mail, return receipt requested, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and appropriately pursued by the board. Written complaints received by the board shall be acknowledged within 3 months of the date of notice to the board. Written notice of all

disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

II.(a) The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies, or in electronic or other form, and other materials, relevant to its investigation of any grievance, complaint, or disciplinary proceeding before the board.

(b) The board may issue subpoenas with the approval of the office of the attorney general.

(c) A minimum of 10 business days' notice shall be given for compliance with a subpoena under this subdivision.

III. At any hearing, the named person or licensee shall have the right to:

(a) Appear in person, by counsel, or both.

(b) Produce evidence and witnesses.

(c) Cross-examine witnesses.

IV. If the named person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

V. The board, upon making an affirmative finding under RSA 310-A:196, II, may take disciplinary action in any one or more of the following ways:

(a) By written reprimand.

(b) By suspension, refusal to renew, limitation or restriction of a license, or probation for a period of time determined to be reasonable by the board.

(c) By revocation of a license.

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

(e) By requiring the person to practice under the direct supervision of a licensed home inspector for a period of time specified by the board.

(f) By assessing civil penalties, after notification and due process, in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues, whichever is greater.

(g) By requiring the home inspector to obtain insurance against loss, expense and liability resulting from errors and omissions or neglect in the performance of services as a home inspector.

VI. Any person affected by a final decision of the board may appeal such final decision to the state building code review board, pursuant to RSA 155-A:11-a.

VII. In addition to any other action, the board may assess all reasonable costs incurred in connection with any disciplinary proceeding, including investigations, stenographers, and attorneys' fees, as a condition of probation or reinstatement.

VIII. Any disciplinary action by the board shall be published in the report of the board and shall be a public record in accordance with RSA 91-A.

310-A:198 Reissuance Of Licenses. The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been suspended or revoked, provided 3 or more members of the board vote in favor of such reissuance. A new license may be issued, subject to the rules of the board, and a fee shall be charged for such issuance.

310-A:199 Violations; Penalty. It shall be a class B misdemeanor for any natural person or a felony for any business organization to:

I. Present or attempt to use the license of another as one's own;

II. Give any false or forged evidence of any kind to the board or to any board member in obtaining a license;

III. Falsely impersonate any other licensee of like or different name;

IV. Attempt to use an expired or revoked license;

V. Beginning January 1, 2010, practice home inspections or to offer, advertise, or hold oneself out to the public as being in the practice of home inspection in this state without a license ; or

VI. Violate any of the provisions of this subdivision.

310-A:200 Restraint Of Violations. The superior court shall have jurisdiction in equity to restrain violations of RSA 310-A:199 on proceedings brought by the attorney general, the board, or any society of licensed home inspectors duly incorporated under the laws of this state.

310-A:201 Exemptions. Nothing in this subdivision shall be construed to prevent or affect:

I. A person who is employed by a governmental entity from inspecting residential buildings if the inspection is within official duties and responsibilities.

II. A person from performing a home inspection if the inspection will be used solely by a bank, savings and loan association or credit union to monitor progress on the construction of a residential structure.

III. A person who is employed as a property manager for a residential structure and whose official duties and responsibilities include inspecting the residential structure from performing an inspection on the structure if the person does not receive separate compensation for the inspection work.

IV. A person who is regulated in another profession from acting within the scope of that person's license, registration or certification.

2 Joint Board. Amend RSA 310-A:1 to read as follows:

310-A:1 Joint Board Established. There shall be a joint board of licensure and certification for professional engineers, architects, land surveyors, foresters, professional geologists, natural scientists, landscape architects, ~~and~~ court reporters, **and home inspectors** consisting of each of the members of the board of professional engineers, board of architects, state board of licensure for land surveyors, foresters' board, board of professional geologists, the board of natural scientists, the board of landscape architects, ~~and~~ the board of court reporters, **and the board of home inspectors**. The joint board shall meet at least quarterly to carry out its duties established under this chapter.

3 Appeal to State Building Code Review Board. Amend RSA 155-A:11-a, I to read as follows:

I. The board shall hear appeals of final decisions of the board established under RSA 319-C:4 ~~and~~, the board established under RSA 329-A:3, **and the board established under RSA 310-A:186**.

4 Approval of Continuing Education Program. Within 2 years of the adoption of the continuing education program by the board of home inspectors pursuant to RSA 310-A:192, the program shall be ratified by appropriate legislation.

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

SENATOR CILLEY: Thank you, Madam President. I move that SB 212 ought to pass with amendment. SB 212 took a lot of hard work and compromise to make this piece of legislation what it is today, and in fact, this bill in one form or another, started four to five years ago. The purpose of this subdivision is to ensure that a home inspector performs professional services only when the home inspector is qualified by education and training in the specific technical areas involved. SB 212 standardizes the practices of this industry and offers homeowners a greater degree of protection than they currently have now by home inspectors following the "code of ethics." The "code of ethics" gives us core guidelines of home inspection professionalism and home inspection ethics, covering crucial areas such as conflicts of interests, good faith and public perception. Integrity, honesty, objectivity and fundamental principals are embodied by this code. When we buy a home we rely on the standards and this defines what the education and standards are that we all need to know and follow. Each applicant for licensure as a home inspector shall meet the following requirements such as the

completion of no less than 80 hours of board approved education covering core components of a residential building. A board of home inspectors is established to administer the provisions of this subdivision holding its applications, places of business, applicant's education, proof of passing an exam and the proof of their license granted. The board established to oversee all this consists of five members being home inspectors, one from the Executive Council district nominated by the respective executive councilors and appointed by Governor and Council and two public members, each appointed by Governor and Council who is not or never was a home inspector to endure no conflict of interest. The board will hold three meetings a year. With various changes and a well built model of responsibility, I have great faith in the benefits of SB 212. Please join the ED & A Committee and vote ought to pass. Thank you.

Amendment adopted.

SENATOR BURLING: Thank you, Madam President. I have a word of "thanks" to offer. I know I shouldn't do this before we take the vote, but I have a sense that we have consensus. An exceptional job was done on this bill and the members of the ED & A Committee who didn't do the hard work would like to say thank you to the woman who did, and she's right here on my left. Hard to overstate how difficult the process of negotiation was on this. I would also like to say "thanks" to my colleague from down in the southern part of the state because I have a sense that without the support of Senator Clegg, we would not have reached an agreement on this. For that, I'm truly grateful. A superb piece of work by both senators.

SENATOR CILLEY: I can't let that pass without a response, and I appreciate the chairs very eloquent you know, compliment. This bill would not have passed without the entire help of the committee. They knew you know, the trial and tribulations of this, and I, too, want to add that Senator Clegg was incredibly instrumental in finally getting a bill that we all feel good about, so thank you.

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

Adopted.

Ordered to third reading.

Senator Kenney is in opposition to SB 212-FN.

SB 114-FN, relative to licensed acute care hospitals. Health and Human Services Committee. Inexpedient to Legislate, Vote 5-0. Senator Sgambati for the committee.

SENATOR SGAMBATI: Thank you, Madam President. I move Senate Bill 114 inexpedient to legislate. The original legislation called for a new class of specialty hospitals to be created, allowing overnight stays in ambulatory surgical centers. During the course of the meetings on the re-referred bill, it was evident that there was little support for this concept, but instead, we worked to reduce the costs and to simplify the certificate of need process. That work will be introduced in a new bill, which requires and deserves public input and a full hearing. So as such, I would request your support for an action of inexpedient to legislate on Senate Bill 114. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 163-FN, relative to housing assistance for families in the Temporary Assistance to Needy Families (TANF) program. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Fuller Clark for the committee.

Health and Human Services
January 3, 2008
2008-0054s
05/04

Amendment to SB 163-FN

Amend RSA 167:7, III-a as inserted by section 1 of the bill by replacing it with the following:

III-a. The department shall identify the neediest families who are receiving TANF and shall issue such families a monthly \$250 supplemental rent voucher. The voucher shall be issued directly to the parent or caretaker relative of the TANF assistance group and shall be made payable to their landlord. The department shall ensure that, whenever possible, receipt of the voucher shall not affect the assistance group's eligibility for any other supplemental benefit program. The department shall establish rules, pursuant to RSA 541-A, relative to program eligibility and the definition of need for purposes of the supplemental rent voucher.

2008-0054s

AMENDED ANALYSIS

This bill establishes a monthly \$250 supplemental rent voucher for the neediest families who are receiving TANF.

SENATOR D'ALLESANDRO: Thank you, Madam President. I move to table.

MOTION TO TABLE

Senator D'Allesandro moved to have SB 163-FN laid on the table.

Adopted.

LAI D ON THE TABLE

SB 163-FN, relative to housing assistance for families in the Temporary Assistance to Needy Families (TANF) program.

CACR 20, relating to funding of public education. Providing that the local political subdivision shall provide public education and determine curriculum and the amount of funding thereof, and the legislature shall have the authority to make reasonable determinations as to public education, provide supplemental funding, and determine the amount and allocation of such state funds. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Madam President. I move CACR 20 be laid upon the table.

MOTION TO TABLE

Senator Foster moved to have CACR 20 laid on the table.

Adopted.

LAID ON THE TABLE

CACR 20, relating to funding of public education. Providing that the local political subdivision shall provide public education and determine curriculum and the amount of funding thereof, and the legislature shall have the authority to make reasonable determinations as to public education, provide supplemental funding, and determine the amount and allocation of such state funds.

SB 165-FN, relative to informing physicians of results of the screening panels for medical injury claims. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Madam President. I move SB 165 as inexpedient to legislate. As of this date only very few hearings have been held. The way this bill is written, the duties are not easily performed. Neither is the committee sure that the procedure called for in the bill needs to be done. While the purpose of informing the public of problems with medications and treatment is well-intended, the committee is concerned that the screening panel process is not the place for something like this. Therefore, the Judiciary Committee asks your support for the motion of inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 240-FN, establishing contractual cohabitation and extending certain rights to parties to a contractual cohabitation. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Madam President. I move Senate Bill 240 inexpedient to legislate. I brought this legislation forward because there are clear reasons for providing legal protection to individuals who choose to live together without marriage. There could be seniors who could lose important benefits or siblings who are raising a niece or a nephew. The Civil Union legislation has just gone into effect. It's much too early to know what dynamics will come into play, what kind of litigations, the intended or unintended consequences. At this time, I've asked that Senate Bill 240 be found inexpedient to legislate so that we, as a legislature, can observe what happens over the next few months and make informed decisions on any further actions we may need to do to protect our citizens. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 250-FN, relative to damages awarded to a prisoner resulting from prison conditions litigation. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Madam President. I move Senate Bill 250 as inexpedient to legislate. The provisions of Senate Bill 250 sought to enable any department to be able ex post facto, which means "after the fact," to nullify decisions made, that gave awards to prisoners by the state. This doesn't make any sense. Therefore, the Judiciary

Committee asks that the legislation be found inexpedient to legislate and asks your support. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 264, relative to filing liens on personal and real property to recover uncollected small claims judgments. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary

January 9, 2008

2008-0079s

09/01

Amendment to SB 264

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

AN ACT relative to creating liens on personal and real property to recover uncollected small claims judgments.

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

1 New Section; Recording to Secure Small Claims Judgment. Amend RSA 503 by inserting after section 11 the following new section:

503:12 Small Claims Judgment.

I. Notwithstanding the attachment process available under RSA 503:3-c, the prevailing party in a small claims section may secure a judgment entered in accordance with this chapter by recording a certified copy of the judgment with the registry of deeds no later than 90 days from the date of entry of the judgment.

II. The duration of any certified small claims judgment so filed shall be as provided under RSA 511:55.

III. In all counties when a small claims judgment recorded upon real estate is satisfied, the small claims plaintiff or his or her attorney, upon request, shall give to the defendant or owner of the land a discharge thereof, and the defendant or owner of the land, within 30 days after such judgment is satisfied, shall cause the discharge to be recorded in the office of the register of deeds in which said judgment is recorded, and shall pay the register of deeds the fee established pursuant to RSA 478:17-g. The failure of the plaintiff to comply with the provisions of this section shall be a violation.

IV. If such plaintiff fails to make such discharge of the small claims judgment within 30 days from receipt of payment of the judgment or if other exigent circumstances require an immediate discharge, an attorney-at-law licensed to practice in the state of New Hampshire may, on behalf of the small claims defendant, execute and cause to be recorded in the registry of deeds in which the small claims judgment is recorded, an affidavit which states that:

(a) The affiant is an attorney-at-law in good standing and licensed to practice in the state of New Hampshire.

(b) The affidavit is made on behalf of, and at the request of, the small claims defendant or owner of the land.

(c) The small claims defendant has paid in full the small claims judgment, as evidenced either by a bank check, certified check, or attorney's clients' funds account check which bears no indication of a stop payment order or return for insufficient funds or by other equivalent documentary evidence of such receipt of payment.

(d) The affiant has given the small claims plaintiff at least 10 days' notice in writing by certified mail, sent to the plaintiffs last known address, of intention to execute and cause to be recorded an affidavits, in accordance with this section, together with a copy of the proposed affidavit, and the small claims plaintiff has not delivered a discharge in response to such notification.

V. The affidavit shall include the names and addresses of both the small claims plaintiff and the defendant, the date and amount of the small claims judgment, and the name of the underlying case.

VI. The affiant shall attach to the affidavit the following, certifying that each copy is a true copy of the original document: photostatic copies of the documentary evidence that payment has been received by the small claims plaintiff, including the plaintiffs endorsement of any bank check, certified check, attorney's clients' funds account check, or equivalent documentation.

VII. The affidavit, when recorded, shall constitute a discharge of the small claims judgment and a release of the lien created by the recording of the small claims judgment.

VIII. Any person who causes an affidavit to be recorded in accordance with this section, knowing the information and statements contained in the affidavit to be false, shall be guilty of a class B misdemeanor.

2 Attachable Property; Availability of Post-Judgment Attachment. Amend RSA 511:1 to read as follows:

511:1 Attachable Property. All property, real and personal, which is liable to be taken in execution, may be attached and held as security for the judgment the plaintiff may recover.

Such property may be attached following the entry of judgment for the plaintiff.

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

2008-0079s

AMENDED ANALYSIS

This bill establishes a process for a prevailing party in a small claims action to secure the judgment by creating a lien against the losing party's personal and real property by recording a certified copy of the judgment with the registry of deeds.

SENATOR REYNOLDS: Thank you, Madam President. I move ought to pass with amendment on SB 264. This legislation was filed because of problems many citizens in small businesses were having in enforcing and collecting small claims judgments. Too often, one can "win" in the district court and then find out that the prevailing party has no mechanism to recover the judgment. The Judiciary Committee was in complete agreement that the procedures observed in all of our district courts are not uniformly adhered to. This bill helps our citizens in New Hampshire, including many small businesses, to recoup the judgments in a cost effective way. The committee amended the legislation in order to clearly establish in statute, a mechanism whereby the judgment could be recorded at the registry of deeds.. The Judiciary Committee recommends that this legislation voted as ought to pass with amendment and asks for your support. Thank you.

Amendment adopted.

SENATOR FOSTER: Thank you, Madam President. I just want to thank Senator DeVries for bringing this issue forward as a member of the Bar, and there are some other lawyers in this body. This is something that really is going to help our constituents in the small claims matters and in other ways, and I am glad that it was brought forward so we could work on it and come up with a good product. Thank you, Madam President.

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

Adopted.

Ordered to third reading.

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

SENATOR REYNOLDS: Thank you, Madam President. I move inexpedient to legislate on HB 463. This legislation was filed in an attempt to clarify that the statutes provide that grandparents have recognition in parental rights and responsibility decisions in our courts. However, the committee recognizes that many grandparents are playing a major role in raising or helping to raise their children when the parents cannot. The committee had concerns that if we were to adopt the language and actually remove from statute the sentence regarding grandparents, that the jurisdiction would be removed from the Family Division. Recent New Hampshire Supreme Court decisions make it very clear that this language formed the basis for making parenting decisions to either stepparents or grandparents. The committee has no desire to weaken the rights of either grandparents or stepparents who wish to be involved in caretaking for children. The Judiciary Committee recommends that this bill be voted as inexpedient to legislate and asks for your support. Thank you.

Committee report of inexpedient to legislate is adopted.

HB 539-FN, relative to manslaughter. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Move to table.

MOTION TO TABLE

Senator Gottesman moved to have HB 539-FN laid on the table.

Adopted.

LAIID ON THE TABLE

HB 539-FN, relative to manslaughter.

SB 62-FN, relative to penalties for violations of the state building code. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 6-0. Senator DeVries for the committee.

SENATOR DEVRIES: Thank you, Madam President. I move Senate Bill 62-FN inexpedient to legislate. This bill makes a violation of state building code a misdemeanor. The committee supports the intent of this legislation, however, we believe that this authority exists elsewhere in statute. Moreover, we believe changes of this nature would be best addressed by the Judiciary Committee. Please join the members of the Public and Municipal Affairs Committee in voting Senate Bill 62-FN inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 199, relative to the assessment of property subject to a housing subsidy restriction. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator DeVries for the committee.

Sen. DeVries, Dist. 18
November 16, 2007
2007-2665s
10/04

Amendment to SB 199

Amend the bill by replacing section 2 with the following:

2 New Section; Residential Property Subject to Housing Subsidy Restriction. Amend RSA 75 by inserting after section 1 the following new section:

75:1-a Residential Property Subject to Housing Subsidy Restriction. The appraisal for property tax purposes on multifamily residential rental property which is entitled to federal low income housing tax credits under Section 42 of the Internal Revenue Code and which is subject to a recorded housing subsidy covenant or other legal restriction imposed by a governmental entity or instrumentality that restricts tenant eligibility and rents shall, upon the affirmative request of the taxpayer, be determined by an income approach. 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 entitlement. To make an annual election for an appraisal of property subject to a recorded housing subsidy restriction, the taxpayer shall, by March 31, provide relevant information described in this section and request that the municipal assessor use the income approach. The income approach factors shall be:

I. Potential gross income, determined as follows:

(a) For units receiving assistance under a project-based rental subsidy contract, using the rents specified in the contract.

(b) 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.

(c) 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.

II. Actual operating expenses, including deposits to reserve accounts required by the housing subsidy covenant or other legal restriction, but excluding mortgage debt service and depreciation, incurred with respect to the property, as provided by the taxpayer and certified by a third-party certified public accountant.

III. A vacancy loss rate that is equal to 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.

IV. A 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.

V. The assessed valuation of residential rental property with restricted rents shall not take into consideration the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, rental subsidy contracts, 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.

Amend the bill by replacing section 4 with the following:

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

SENATOR DEVRIES: Thank you again, Madam President. I move Senate Bill 199 ought to pass with amendment. This bill will provide a procedure for the assessment of property subject to rent restrictions if tax credits are used in the initial funding scenario. Tax credits for an influx of capital into a project at start up. Current procedures for the determination of property taxes on these properties are often skewed because of this initial investment. Without Senate Bill 199, assessments may outstrip actual income potential for properties. Senate Bill 199 would provide assessors the necessary statutory clarification as recommended by the Board of Land and Tax Appeal relative to property tax evaluation for tax credit properties. Without this legislation, it will be difficult to sustain current projects as well as attract new investors to affordable housing projects. It has long been the policy in New Hampshire to encourage public, private partnerships in developing affordable housing properties. Utilizing tax credits to allow private investment at the start of a project has successfully built 130 properties and 4,200 apartments since 1986. I would note that I will be offering a floor amendment that I will ask to have adopted. So at this time, I would ask that you vote down the committee amendment so that I can bring forward a replacement. Thank you.

PARLIAMENTARY INQUIRY

SENATOR BURLING: Just a brief parliamentary inquiry. I think I'm a little confused by the Senator's request. The motion before us is "ought to pass with amendment" is it not, and the amendment will be offered?

SENATOR LARSEN (In the Chair): Yes. The motion is "ought to pass with amendment and the amendment I believe, is in your Senate Calendar. That is the amendment that the...Senator DeVries has asked to be voted down in order to replace it with a floor amendment of similar...

SENATOR BURLING: So it is...if I may? It would be the subsequent amendment that the Senator would like us to adopt?

SENATOR LARSEN (In the Chair): That is my understanding.

SENATOR BURLING: Thank you.

SENATOR FOSTER: Just for clarification because maybe I started listening to the conversation halfway through. Does the floor amendment that's going to be offered, replace the committee amendment or does it fit together with the committee amendment?

SENATOR DEVRIES: Thank you, Madam President. Senator, certainly be...the floor amendment that I will bring forward does replace the committee amendment. So it would be

my request at this time that we vote against the committee amendment so that I can bring forward my floor amendment.

Recess.

Out of recess.

SENATOR LARSEN (In the Chair): Senate Bill 199 is now on second reading. The first order of business is the committee amendment. There was a parliamentary inquiry during the recess how we...which procedure keeps section one of the bill intact? If you vote for the committee amendment, you will be voting for section one and two. The floor amendment, we understand, will revise section two of the bill, keeping section one intact. So, the question before the body is the adoption of the committee amendment?

Amendment adopted.

Recess.

Out of recess.

Senator DeVries offered a floor amendment.

Sen. DeVries, Dist. 18
December 27, 2007
2008-0023s
10/01

Floor Amendment to SB 199

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

2 New Section; Residential Property Subject to Housing Subsidy Restriction. Amend RSA 75 by inserting after section 1 the following new section:

75:1-a Residential Property Subject to Housing Subsidy Restriction. The appraisal for property tax purposes on multifamily residential rental property which is entitled to 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 by an income approach. 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 entitlement. To make an annual election for an appraisal of property subject to a recorded housing subsidy restriction, the taxpayer shall, by March 31, provide relevant information described in this section and request that the municipal assessor use the income approach. The income approach factors shall be:

I. Potential gross income, determined as follows:

(a) For units receiving assistance under a project-based rental subsidy contract, using the rents specified in the contract.

(b) 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.

(c) 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.

II. Actual operating expenses, including deposits to reserve accounts required by the housing subsidy covenant or other legal restriction, but excluding mortgage debt service and depreciation, incurred with respect to the property, as provided by the taxpayer and certified by a third-party certified public accountant.

III. A vacancy loss rate that is equal to 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.

IV. A 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.

V. The assessed valuation of residential rental property with restricted rents shall not take into consideration the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, rental subsidy contracts, 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.

3 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.

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

SENATOR DEVRIES: Has that amendment been distributed?

SENATOR LARSEN (In the Chair): Not yet. You may speak as it's being distributed.

SENATOR DEVRIES: Thank you, Madam President. I would note that the floor amendment is substantially identical to the committee amendment. There are changes of language we have deleted in section two. Some language that related back to the original bill that said "imposed by other governmental entities." Since we have narrowed this legislation to only "tax credit properties," that language was no longer needed. So we are deleting that in section two. Also, at the very end of the bill, in section three, and let me make sure that it is reading, yes, in section three. Actually it would be in line 14. There was language which we thought might become problematic or confusing, which used to say "to determine fair market value of residential properties subject to housing subsidy restrictions." We have simplified that language and we have removed it and replaced it with "to appraise property." It is just simple English language that will leave no room for confusion. Those are the only two minor changes in the floor amendment. To clarify for the record on this legislation, Senate Bill 199, I would like to state that if there is any transfer of this property it is our...it is my understanding that there is still going to be an annual review done by the tax assessors office that every March 31 property owners have to prove that they still have the deeded rent restrictions in place so that there can be no exchange of properties in which would give other...would give full market rental support to the building without...while still having a reduced tax property tax. So every year there is a review to make sure that all these buildings are still eligible. Again, these are just tax credit properties. There are very few of them in this state. Manchester, we have been told there are approximately 14 properties that this would effect. So it's a very narrow group. Thank you very much.

SENATOR GATSAS: Thank you, Madam President. Senator DeVries, do you yield?

SENATOR DEVRIES: Absolutely, Senator.

SENATOR GATSAS: Question. Yes. Can you tell me how does this apply to the statewide property tax?

SENATOR DEVRIES: I cannot answer that question for you, Senator. This would...how would this...you're talking about the education funding which is a portion of each and...if there's a reduction in your full property taxation, I would imagine that reduces...I'm not familiar with that component though.

SENATOR GATSAS: Okay. Thank you.

SENATOR BURLING: Thank you. It's my understanding that the assessment used by local assessors to calculate local property tax assessment is the same assessment used by the statewide property tax, and that, that, therefore, adoption of this evaluation modality will affect that small number of properties which are in essence, tax subsidized low income housing units. There again, probably a good thing if we're interested in providing low income housing in our beautiful cities and towns, including yours.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

SB 257-FN, relative to penalties for life safety code violations under municipal housing standards. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 6-0. Senator DeVries for the committee.

SENATOR DEVRIES: Thank you, Madam President. I move that Senate Bill 257-FN is inexpedient to legislate. This bill would have permitted municipalities to provide that violations of the life safety code are misdemeanors. The committee supports the intent of this legislation but believes that current statutes already provide substantial authority to municipalities. Please join the Public and Municipal Affairs Committee in voting Senate Bill 257-FN inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

HB 379, relative to the adoption, revision, and amendment of municipal charters. Public and Municipal Affairs Committee. Interim Study, Vote 5-0. Senator Burling for the committee.

SENATOR BURLING: Thank you, Madam President. Madam President, I move to send House Bill 379 to interim study. May I speak to that motion?

SENATOR LARSEN (In the Chair): You may speak to that motion.

SENATOR BURLING: This bill revises the process for the adoption revision and amendment of municipal charters. The bill is an excellent attempt at modernizing the process of adopting municipal charters. However, the committee members after consultation with the attorney general, the secretary of state and many parties and interest and who are familiar with this charter adoption process, came to believe that the bill needs quite a bit, much more work. There is a provision in the bill or maybe it's an unintended consequence of the bill, that would dramatically affect state elections. We need to look at that. The long and short of all of our consideration was that we recommend 379 be sent to interim study. We ask for your support on doing that. Thank you, Madam President.

Committee report of interim study is adopted.

HB 380, relative to the forms of government under town charters. Public and Municipal Affairs Committee. Interim Study, Vote 5-0. Senator Burling for the committee.

SENATOR BURLING: Thank you, Madam President. Madam President, I move the bill be sent to interim study and ask to speak to that motion?

SENATOR LARSEN (In the Chair): You may speak.

SENATOR BURLING: Thank you, Madam President. This bill provides for five separate and distinct methods of local government which may be adopted by town charter. While all are interesting and important ideas, after hearing the proposal and after consultation with, again, the secretary of state and the attorney general, the committee came to believe that it is appropriate to send the bill to interim study along with 379 **TAPE CHANGE** Thank you, Madam President.

Committee report of interim study is adopted.

HB 754-FN, repealing the law relative to the Maine-New Hampshire Interstate Bridge Authority. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-1. Senator Burling for the committee.

SENATOR BURLING: Thank you, Madam President. Madam President, I move House Bill 754-FN ought to pass, and I'd like to speak to my motion if I may?

SENATOR LARSEN (In the Chair): You may proceed.

SENATOR BURLING: First, about bridges. Until 15 minutes ago even I had the placement of the Sarah Mildred Long Bridge wrong. It is one of three bridges that cross Portsmouth Harbor. It's the middle bridge. It is the bridge that rises between two vertical columns and comes down again. It carries a highway and a railroad track, and it was built in the mid 30's and entrusted to the Maine/New Hampshire Mildred Long Bridge Authority. It has served the state very well since its construction. It is essential to the transportation integrity of the city of Portsmouth and the adjoining communities. Until the early 70's when the bridge on Interstate 95 was completed, the Mildred Long Bridge carried a toll of ten cents. For pretty obvious reasons, when the toll-free I-95 bridge was opened, the ability of the Twin State Bridge Authority to maintain even a ten cent toll on the Mildred Long Bridge expired and it was a toll taken off. At the time, the members of the Authority frankly thought that they had enough capital in the corpus of the fund to maintain the bridge until the bridges expiration date, until such time as it was ready to come down. We have now reached, not the expiration date of the bridge, the bridge is still strong and an exceptional piece of our transportation assets, but the fund is gone. If it isn't gone this month, it will be pretty much by the end of April. That leaves us with a very valuable transportation asset which needs some attention, which is the joint responsibility of Maine and New Hampshire, and which needs to get into the hands of the states in order for repairs to be made to the internal structures of the bridge. Well the internal structure...this is a big solid steel bridge. It's very well engineered. It's very well built. But it relies on extensive electrical systems which drive the big electric motors that allow the bridge to be raised and lowered. There are redundant systems that need to be attended to. And we know over the last year we've seen a couple of instances in which the bridge either held up, it got a little out of level and jammed while utilization of the primary elevating system was in place. Long and short, as much as I love this bridge, we need to get it fixed. What happens if we do nothing? Well, the bridge may jam, in which case our ability to get heating oil up to the tanks from which many, many, many of our heating oil suppliers pick up their heating oil for distribution through the state. That access may be barred. If the bridge were to jam part way up, but lower than the appropriate elevation for a boat, a ship, an oil tanker, we'd be in trouble. It is in the interest of all of us to see that this bridge is repaired. That is the reason for this bill. Passage of this bill, which is matched by legislation in Maine, which then will require congressional action in congress. We'll place the bridge in the hands of the two states. The state of New Hampshire, by agreement has the repair authority. We will be able to get started. We need to get started right now because all of you who are fans of our transportation system. The number one bridge on the red list is the Memorial Bridge. That's not the 95 Bridge, it's the Memorial Bridge. That is the number one single most important repair of all the bridges in the state, red list. In order to get the Memorial Bridge started in its major reconstruction, we have to have the Sarah Mildred Long Bridge ready to take that traffic flow. So we need to address Sarah Mildred Long first, get started on the Memorial, and begin to address some of what we've been deferring for many, too many years. At the core of this in my view, Madam President, is the essential issue of addressing what's been deferred for many, too many years. We know now it doesn't take a genius to drive around the states {sic} of this wonderful state and see that we have an obligation to get started. I will offer an amendment and perhaps

I'll...if I get my process right, if this vote passes, then it's open to further amendment, then I'll offer my amendment at that time?

SENATOR LARSEN (In the Chair): That's correct.

SENATOR HASSAN: Senator Burling, it's my understanding that once the two states take possession of the bridge back, that we will be able to receive some federal funds towards the repairs, is that correct?

SENATOR BURLING: Yes, though as my son always says, "promises, promises, jingle-bells, ding-dong." That's what we've been promised by the feds. Yes. But the important point is unless the two states have actual authority over the bridge. We don't access to that money.

SENATOR HASSAN: Thank you.

SENATOR FULLER CLARK: Thank you, very much. I rise in support of this legislation. I thought it might interest you just to put into context since Senator Burling raised the question of the three big bridges. That the Memorial Bridge was opened in 1922. It was the very first bridge to connect that part of New Hampshire to Maine. Before that time, the only way you could travel to Maine was either over the foot bridge, which is where the Sarah Long Bridge is, or by the use of ferries. And for those of you who knew, and know Eileen Foley. Eileen Foley who was a Senator here in New Hampshire at the age of five in 1922 stood with her mother who was the mayor to cut the ribbons to open that bridge. So we have living history amongst us. But that was the very, very first bridge to cross the Piscataquog into Maine. Then you had the Sarah Long Bridge which was built over the foot bridge and railroad bridge in 1937. As a child we always referred to it as the ten cents bridge that we were going over. And then, in 1973 with the completion of I-95, the High Rise Bridge was built that also carries traffic from New Hampshire to Maine and back again. I'm here today to urge my fellow colleagues to vote in favor of this legislation. From my constituents who rely on this bridge, it is essential that we act quickly. And we can see what happened last year when the mechanism broke and had to be repaired for raising, it's the second raising bridge. The Memorial Bridge also has to be a lift bridge to allow significant cargo to pass up the Piscataquog River. Today we have the opportunity to take steps to correct problems such as the one that I just mentioned, that are the result of more than 20 years of deferred maintenance. Passage of this legislation at this time, recognizes that maintaining Portsmouth infrastructure is critical not only to the community of Portsmouth and the surrounding communities, but to the entire state's economic health and it is essential that we should move forward. Thank you.

SENATOR LETOURNEAU: Thank you, Madam Chairman, Madam President. Last year I rose and spoke on this particular piece of legislation because I felt as though it was a lot of money gonna be involved and the people who are responsible for the authority of the bridge didn't take care of their responsibility. Everything that's been said here about this bridge here today is true and I know that it's an important piece of the infrastructure. However, the way it's going to be paid for and what it's coming up on as far as expenses on this bridge, is dramatic. As you all know, the new transportation plan that has been offered from the Governor's office to the legislature this year, cuts out \$1.5 billion of transportation projects from all our districts, \$1.5 billion of hard fought projects. My district ends up with about \$.5 million in projects on a ten-year highway plan, not counting 93. The Portsmouth area has \$120 million of projects in it. This bridge is going to add another \$20 million that's not even included in that report. How this bridge is paid for, I think the feds should pick it up if it's that important. Why should the people in my district, your district, pick up the tab for a bridge over there that somebody back in 1972 Commissioner Wally Stickney said, "when they

stopped collecting the tolls, the die was cast. The point will be reached when the authority can't generate enough funds." And today we're seeing that affect. They've had 36 years to fix this problem. Thirty-six years this has been facing them. Suddenly, because the Memorial Bridge is the number one bridge on the "Red List" Bridge, this bridge is now very, very important. I might add that in my research on the bridge, the bridge goes up and down 3,062 times in 2006. That's how many times boats had to go underneath it, and marine traffic does have the right away and that bridge is so low that it has to be a lift bridge. Fourteen thousand cars a day pass over that bridge, so a lot of people are using it. I had offered an amendment along with Senator Clegg in committee, to put a toll on the bridge to help pay for the bridge. It seems only fair that those who are using it should pay for it. It doesn't do my district any good to have that \$20 million taken out of projects from my area and being spent over there on that bridge. A lot of people from Maine used that bridge. And I understand that Maine's going to pick up half the tab, because the cost of rebuilding the bridge is going to be \$40 million. So the \$20 million that I'm talking about is New Hampshire's share of the \$40 million rebuilt. So, when I vote against this particular bill, it's not because I don't want to fix the bridge. It's because I don't like the way it's being paid for. So that's my explanation on that. Thank you very much, Madam President.

SENATOR BARNES: Thank you, Madam President. Senator Burling, you mentioned a little bit about the feds. How important is that bridge to the shipyard?

SENATOR BURLING: The bridge is very important to the shipyard, but I would...I would think that's something we all take sort of senatorial cognizance of.

SENATOR BARNES: Follow up, Madam President?

SENATOR LARSEN (In the Chair): Follow up question.

SENATOR BARNES: Well seeing that it's so important to our "federal" shipyard, don't you think it would be wonderful if the federal government were more...I know what your boy says, I couldn't remember the words that you used, but the words I used, I think the federal government...as important as that bridge is, and I agree with you, I think it's a very important bridge to the defense of this country. I think the government, and I think our congressional delegation should perhaps get involved and the federal government should be paying for the cost of that bridge. And furthermore, would you believe, Senator, that I have a problem with the state of Maine perhaps coming up with half of the cost. We are still waiting for the state of Massachusetts to come up with flood money that's been owed us for years. So I don't trust the state of Maine to come up with half of the repair cost, would you believe that?

SENATOR BURLING: I would never question your beliefs, Senator.

SENATOR BARNES: Wow, we could go further but at a later time. Thank you, Senator.

SENATOR FULLER CLARK: Yes, I would like to speak a second time. I think it's important to clarify as was pointed out in the earlier statement by Senator Burling, but then the issue was raised again by Senator Letourneau saying that the Interstate Authority could have kept the tolls and continued to receive revenue. In actuality with the opening of the I-95 Bridge, there was no way that they could continue to collect those tolls and you would have driven an additional 14,000 cars onto I-95 if the tolls had remained in place, and I just wanted to clarify that and have it in the record because the implication was that the Interstate Authority didn't do their job. And I think it's important that we understand why it was no longer feasible for them to collect those tolls. They did the very best that they

could, and with the capital money that was left, they had maintained that bridge for...ever since 1972 in terms of annual maintenance, but what we're looking at here is the need now for capital improvements and the money is no longer there and there was no way for them to continue to collect that money. Thank you.

SENATOR BURLING: Would this be an appropriate time to offer my floor amendment?

SENATOR LARSEN (In the Chair): It is.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5
January 15, 2008
2008-0101s
06/05

Floor Amendment to HB 754-FN

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

3 New Section; Fund Established. Amend RSA 234 by inserting after section 65 the following new section:

234:66 Fund Established. Any and all funds received by the department of transportation relative to the Portsmouth Kittery Bridge, also known as the Sarah Mildred Long Bridge, shall be deposited with the state treasurer who shall keep such funds in a special nonlapsing account known as the Portsmouth-Kittery Bridge fund, to be continuously appropriated and expended by the department of transportation for the purpose of operations, maintenance, and repairs of the Portsmouth-Kittery Bridge.

4 New Subparagraph; Portsmouth-Kittery Bridge Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (252) the following new subparagraph:

(253) Moneys deposited in the Portsmouth-Kittery Bridge fund under RSA 234:66.

5 Betterment Fund Use. The department of transportation may expend betterment funds for repairs to the Sarah Mildred Long Bridge.

6 Dissolution of the Maine-New Hampshire Interstate Bridge Authority. The Maine-New Hampshire Interstate Bridge Authority shall dissolve 6 months after the United States Congress approves this act during which time it shall wind up all its affairs.

7 Assignment of Assets. The Maine-New Hampshire Interstate Bridge Authority shall assign all assets to the state of Maine and the state of New Hampshire in common. All funds assigned shall be deposited in accordance with RSA 234:66 after the United States Congress approves this act. Thereafter, the respective state transportation agencies shall assume all maintenance, operation, and repair responsibilities from the Maine-New Hampshire

Interstate Bridge Authority.

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

2008-0101s

AMENDED ANALYSIS

This bill:

I. Repeals the law relative to the Maine-New Hampshire Interstate Bridge Authority and the Portsmouth-Kittery Bridge also known as the Sarah Mildred Long Bridge.

II. Requires the department of transportation to deposit funds received relative to the bridge with the state treasurer.

III. Dissolves the Maine-New Hampshire Interstate Bridge Authority and requires the respective state transportation agencies to assume the responsibilities of the Authority.

This bill is a request of the department of transportation.

SENATOR BURLING: Thank you, Madam President.

SENATOR LARSEN (In the Chair): You may...

SENATOR BURLING: May I speak to it while it's being distributed?

SENATOR LARSEN (In the Chair): You may speak to floor amendment 101 as it's being distributed.

SENATOR BURLING: In the course of our discussion, the committee, under the able guidance of our chairman, took a vote on the bill as originally introduced. A subsequent telephone call from the Department of Transportation led me to ask myself the following question, does the bill as drafted, with its effective date in June, give us early enough access to the repair authority in order to meet the needs of this bridge? And my concern was accelerated by the fact that just before Christmas as the woman who runs the bridge was attempting to raise the bridge for a ship coming in, the bridge operating on its primary elevator system, jammed. And she was thank goodness, able to clear it using the secondary system anyway. What we had been worrying about happened. And the good part is the bridge wasn't that much out of alignment so that the jam wasn't a real threat. It was cleared. But, that caused me to contact the Department of Transportation and to ask them if they were confident the text of the bill gave them access quickly enough so they could start fixing it. When they actually looked at the text again, they said "no." I referred them to the Department of Justice, asked Bud Fitch the same question and unfortunately, after our committee had acted Bud came back with this language, which essentially addresses the problem is how do we get DOT most quickly, in power over this bridge? I'm assured by the Department of Justice that adoption of this amendment will allow the DOT to move immediately to repair as soon as the Governor signs this bill. So, I would as you please, to join me in supporting this amendment and we'll finally get to where we need to be with regard to this bridge.

SENATOR KENNEY: Thank you. Senator Burling, if I could. I am learning as I'm going here, Senator Burling. But this bill would repeal section 234:65. And as I understand that section, there are members of this or I should say "employees" of this Interstate Bridge Authority who are part of the New Hampshire Retirement System as of 1985, I believe.

Could you give us an update on those employees? How many might be in the system and what the effect of this repeal would have on them as far as that section of the law?

SENATOR BURLING: In all candor, no, I cannot definitively. I can't tell you what their retirement system situation is. I can't even tell you...I think there are but two or three employees left in the system, in addition to the three trustees. But I just am not in a position to respond.

SENATOR KENNEY: Thank you.

SENATOR BURLING: May I just clarify my answer? It has been pointed out to me by Senator Gatsas that in fact the bill methodology speaks to your question, Senator Kenney. They remain as state employees.

SENATOR KENNEY: Thank you.

SENATOR CLEGG: Thank you, Madam President. I rise in opposition not to just the floor amendment, but to the whole premise that we would take this bridge. I live in a section of the state that's been looking for a bridge across the Merrimack River for convenience so we don't put so many people through the center of Nashua for many years. And we're always told that "there's no money." "We can't have it." "Well maybe you can put a toll on it." In fact, it's been so difficult that there's actually a bill running through the legislature that looks at perhaps private financing. No matter how we do it, it comes with a toll. This bridge had a toll. It had the ability to continue to collect funds, and since we have the argument constantly that Hudson and Litchfield would pay the dollar simply for the convenience and the savings of gas, I'm going to use it on the Sarah Long Bridge. If that's the case for the southern tier, it should be the case for the seacoast. For the convenience of those 14,000 people that travel to the shipyard or wherever it is that they go, put a toll up so that they can pay for the bridge. What we've done is we've seen people neglect, if I don't share a responsibility in the authority, allow the bridge to deteriorate while they ran all the money out, and now they're handing it to us. We bonded \$20 million this year in capital budget to do some bridge repairs and other repairs across the state of New Hampshire, and suddenly we're going to take the responsibility of another \$20 million bond or another \$20 million expense and there's no reason for it. It shouldn't jump in line. I look at this and on section five, it appears to me that we're allowing this bridge to jump ahead of every other project that we have. It says they can take the Betterment Fund and use it to repair the Sarah Long Bridge. What about the repairs to all the other bridges and all the communities that have been waiting all this time? To take this bridge and to take on the responsibility at the expense of everywhere else, and all the people who have been waiting, is not the proper way to do things here. We have a ten-year highway plan which has been reduced and now we have one bridge nobody cared about, and now they want to stick it to us. And I advise my...or I ask my colleagues to vote "no," not only for the amendment, for the principal of what's happened, but also "no" on the entire bill. Thank you, Madam President.

SENATOR GATSAS: Thank you, Madam President. I guess I've just got to stand and be in opposition to this and try and remind everybody what we did last year in June. We passed the capital budget. Some of you passed the capital budget bill, some of us voted against it. It took a penny out of Betterment. It took Betterment from \$22 million to \$15 million. This piece of legislation which puts no cap on what can be taken out of Betterment, could possibly take the 15.6 that's left. And let me tell you the projects that this Betterment account is supposed to pay for. Loudon and Belmont, paving intersection and signal work \$4.5 million. Wakefield, intersection \$2 million. Enfield, shoulder work \$1 million. Bethlehem/Bartlett, guardrail \$800 thousand. Milford, signals \$300 thousand. Hopkinton, bridge rehabilitation

\$1.5 million. Dover, \$4.5 million. Lisbon, \$1.5 million. That's 15.6. That's the end of the Betterment account. I guess my question is, what projects in this chamber do we want to eliminate that these communities have been waiting for? There's no question the Sarah Long Bridge is important. But we shouldn't be obligated to take Betterment money out of projects that are in line and ready to go when we've already reduced it because if we had the \$7.5 million that we took out to pay for the bonding of the \$20 million in bridges that we did, that would make a difference. I don't think that DOT was aware of the amendment that came in that talked about the Betterment account being a possibility of paying for these bridge. I don't know if Mr. Brillhart's still here but he was here. Yes, he is. So I think when he heard about the amendment, he came running over. So, I think it's important that we understand that that \$15.6 million in projects is not going to go forward. So I ask you to remember what we did with the Betterment account in June or in May and where we are today? Thank you, Madam President.

SENATOR BARNES: Senator Gatsas, I couldn't agree with you more, and do you think that the idea of having the federal government taking care of this instead of the state of New Hampshire is a good idea?

SENATOR GATSAS: There's certainly no question that I believe the federal government should be paying for it, but I don't know if I want to depend on waiting to do this and take the transfer and wait for the federal government to come in and pay for it because that could be whenever. And I'm certainly no opposed to the idea of Senator Clegg, that a toll go back up and pay for that bridge.

SENATOR BARNES: Thank you, Senator.

Recess.

Out of recess.

SENATOR LARSEN (In the Chair): The question before the Senate is the adoption of floor amendment 101. I have Senator D'Allesandro to speak. I recognize Senator D'Allesandro.

SENATOR D'ALLESANDRO: Thank you, Madam President. I rise to speak in favor of the amendment. Let's first discuss the Betterment funds because I think that's an important issue in this discussion. The Betterment Fund will be tapped to the tune of \$500,000. Those Betterment funds will be used to repair the electric mechanism to raise and lower the bridge. The raising and lowering of the bridge is a vital component to the support of the Portsmouth Naval Shipyard. The Portsmouth Naval Shipyard employees thousands of New Hampshire residents. Those are the best paying, best benefited jobs that we have in this state. The federal government has tried on numerous occasions to eliminate the Portsmouth Naval Shipyard. Anything that's done that in any way enhances that argument on behalf of the federal government, is an economic disaster for New Hampshire and the state of Maine. The \$500,000 that's extended out of the Betterment Fund for the repair of the electrical system, \$200,000 will be replaced by the shipyard. There's a \$400,000 commitment that would be given \$200,000 to Maine and \$200,000 to New Hampshire. So the actual amount of money expended after this is done would be \$300,000. Now let's talk about cost benefit ratios. Cost benefit ratios. We spend \$500,000 to save the jobs of thousands of people working at the shipyard. We put out strong statement for the national security of our country because the shipyard is vital. It's vital to the international situation as it relates to the defense of America. And as I say, we're entering a period of economic decline. I don't think there's any question about that. It's nationwide. So anything that we can do to maintain this economic viability is in the best interest of the people of our state and really the people of our country. Are we moving some money? Yes. Are we making this decision because it's in the best

interest of our state? I believe so. Everyone of us is compelled at certain times to make tough decisions. And when we make those tough decisions we have to place the goodwill of the body before the benefit of our local communities. And all of us over the course of the Highway Plan have suffered some losses. But this commitment is for the benefit of the whole. And that's why we're here. I mean that's why we're public servants, because we do our best to support the whole. This is a good investment. I've talked with the commissioner, the acting commissioner. He's aware of this. He's aware of this. He knows the importance of this, and it's from him that I got the numbers. So, let's think about New Hampshire first. Let's think about our country first, and let's move forward. Thank you, Madam President.

SENATOR GATSAS:

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Estabrook.

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

Floor amendment adopted.

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

A roll call was requested by Senator Gottesman.

Seconded by Senator Barnes.

The following Senators voted Yes: 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 351, clarifying that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations, and redefining "business activity" for purposes of the business profits tax. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator Janeway for the committee.

Sen. Odell, Dist. 8
November 6, 2007
2007-2628s
09/01

Amendment to HB 351

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

AN ACT clarifying that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations.

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.
2007-2628s

AMENDED ANALYSIS

This bill clarifies that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations.

Amendment adopted.

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

Adopted.

Ordered to third reading.

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 a third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 158, relative to review of activities affecting surface waters.

SB 199, relative to the assessment of property subject to a housing subsidy restriction.

SB 210-FN, relative to making various changes to the regulation of plumbers and water treatment technicians by the board of licensing and regulation of plumbers.

SB 212-FN, relative to the regulation of home inspectors.

SB 264, relative to creating liens on personal and real property to recover uncollected small claims judgments.

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

HB 351, clarifying that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations, and redefining "business activity" for purposes of the business profits tax.

HB 754-FN, repealing the law relative to the Maine-New Hampshire Interstate Bridge Authority.

ANNOUNCEMENTS

RESOLUTION

Senator Foster moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, referring bills to committees, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments.

Adopted.

In recess to the Call of the Chair.