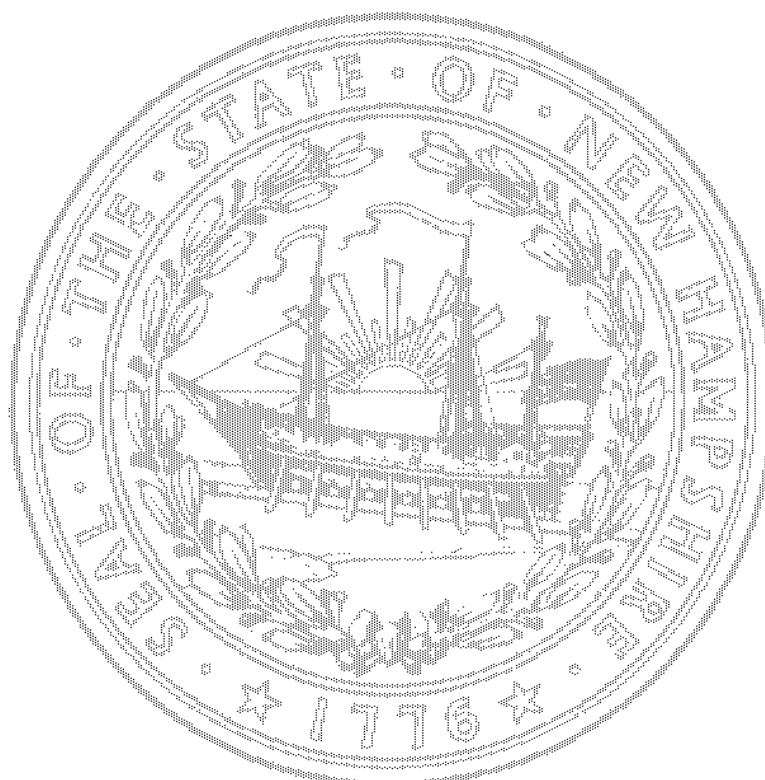


February 14, 2008
Nos. 5-6

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – FEBRUARY 7, 2008 SESSION
COMMENCEMENT – FEBRUARY 14, 2008 SESSION

SENATE JOURNAL 5 (cont.)

February 7, 2008

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 **CACR 34**, 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

CACR 34, relating to funding of public education. Providing that the general court shall define an adequate education and distribute state funds for public education in a manner that alleviates local disparities.

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 6

February 14, 2008

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend Edward J. Arsenault of the Diocese of Manchester, guest chaplain to the Senate, offered the prayer.

Gracious God, we gather in a spirit of Thanksgiving for the many gifts that You bestow upon us, most especially the gift of human freedom, which is celebrated each day in this chamber when these women and men gather. Inspire the Senate in the state of New Hampshire today with the gifts of the holy spirit. May all that they do be begun by You, and by You be happily brought to fulfillment this day. Amen

Senator Burling led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

Senator Larsen moved without objection to move the Commerce section of our calendar and the addendum to immediately after the Election Law.

SB 340-FN-A-L, requiring a transportation stipend for charter school pupils. Education Committee. Inexpedient to Legislate, Vote 5-0. Senator Estabrook for the committee.

Committee report of inexpedient to legislate is adopted.

SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty. Education Committee. Ought to Pass, Vote 4-1. Senator Foster for the committee.

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

A roll call was requested by Senator Kenney.

Seconded by Senator Barnes.

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

The following Senators voted No: Bragdon.

Yeas: 23 - Nays: 1

Adopted.

Ordered to third reading.

SB 418, changing the name of charter schools to "innovative public schools." Education Committee. Ought to pass with amendment, Vote 5-0. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24
February 7, 2008
2008-0442s
04/01

Amendment to SB 418

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

AN ACT replacing references to “charter school” with “chartered public school”.

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

1 Reference Changes. Amend the following RSA provisions by deleting “charter school” or “charter schools” and replacing them with “chartered public school” or “chartered public schools” as appropriate: RSA 5-B:2, III; RSA 31:105; RSA 31:106; RSA 91-A:1-a, I(d); RSA 186:13, XI(c); RSA 189:1-d, IV; RSA 189:13-a; RSA 189:28, I-II; RSA 189:28, V; RSA 194:23, II; RSA 194:60, III; the chapter heading in RSA 194-B; RSA 194-B:1, II-V; the section heading in RSA 194-B:2; RSA 194-B:2, II-III; RSA 194-B:2, VI-IX; the section heading in RSA 194-B:3; I-X; RSA 194-B:3, XII-XIII; the section heading in RSA 194-B:3-a; RSA 194-B:3-a, I-II; RSA 194-B:3-a, IV-V; the section heading in RSA 194-B:4; RSA 194-B:4, II-III; RSA 194-B:4, V; the section heading in RSA 194-B:5; RSA 194-B:5; the section heading in RSA 194-B:6; RSA 194-B:6, the section heading in RSA 194-B:7; RSA 194-B:7; the section heading in RSA 194-B:8; RSA 194-B:8; RSA 194-B:9, I-IV; the section heading in RSA 194-B:10; RSA 194-B:10; RSA 194-B:11; the section heading in RSA 194-B:13; RSA 194-B:13, I-III; the section heading in RSA 194-B:14; RSA 194-B:14; the section heading in RSA 194-B:15; RSA 194-B:15, I; RSA 194-B:15, III; RSA 194-B:16, I; RSA 194-B:16, IV; RSA 194-B:16, VI-VII; RSA 194-B:17, I-III; RSA 194-B:17, VII-VIII; RSA 195:31; RSA 195-A:16; RSA 198:42, IV; RSA 198:45; RSA 507:17, I; RSA 507-B:1, I; and RSA 507-B:4, IV.

2 Special Education; Advisory Committee. Amend RSA 186-C:3-b, II(n) to read as follows:

(n) One representative of a [~~public charter~~] **chartered public** school, appointed by the governor.

3 Charter and Open Enrollment Schools; Pupil Selection. Amend the section heading in RSA 194-B:9 to read as follows:

194-B:9 [~~Charter~~] **Chartered Public Schools** and Open Enrollment Schools; Pupil Selection; Enrollment; Separation.

4 Charter and Open Enrollment Schools; Funding. Amend the section heading in RSA 194-B:11 to read as follows:

194-B:11 [~~Charter~~] **Chartered Public Schools** and Open Enrollment Schools; Funding.

5 Applicability. A charter school which was approved prior to the effective date of this act may, by a majority vote of its board of trustees, implement a name change in accordance with this act. Written notice of the name change shall be submitted to the state board of education and the department of education within 10 days of its approval.

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

2008-0442s

AMENDED ANALYSIS

This bill replaces all references in statute to “charter school” with “chartered public school.”

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 459, establishing an advanced manufacturing education advisory council. Education Committee. Ought to pass with amendment, Vote 5-0. Senator Kelly for the committee.

Senate Education
February 7, 2008
2008-0459s
04/10

Amendment to SB 459

Amend the bill by replacing section 2 with the following:

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 437, relative to access to voter database information. Election Law and Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Burling for the committee.

Sen. Burling, Dist. 5
January 29, 2008
2008-0295s
03/01

Amendment to SB 437

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

1 Access to Voter Information. Amend RSA 654:46 to read as follows:
654:46 ~~[Party]~~ Access to Voter Information.

I. Notwithstanding any other provision of law, the secretary of state shall, upon request, provide to a **political** party, as defined in RSA ~~[652:11]~~ **664:2, IV, or to a political committee, as defined in RSA 664:2, III**, a list of the name, street address, mailing address, town or city, ~~[gender, year of birth,]~~ voter history, and party affiliation, if any, of every registered voter in the state. ***The secretary of state shall, upon request, provide to a candidate for state office a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the candidate's district.*** In this section, "voter history" means ~~[the elections at which the voter voted]~~ ***whether the person voted in the most recent election.*** The secretary of state may charge a fee of up to \$25 plus \$0.50 per thousand names or portion thereof in excess of

2,500 plus shipping charges for each copy of the list provided under this section. The secretary of state may provide lists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form. Fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d.

II. No *political* party, *political committee*, or *candidate* shall use or permit the use of voter information provided by the secretary of state under paragraph I for commercial purposes as defined in RSA 654:31, I(b). Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

2 Effective Date. This act shall take effect upon its passage.
2008-0295s

AMENDED ANALYSIS

This bill:

I. Permits political committees and political organizations which nominate candidates to receive voter information lists from the secretary of state.

II. Permits candidates for state office to receive voter information from the secretary of state for their districts.

III. Eliminates the requirement that the secretary of state provide the gender and year of birth of voters to information recipients and limits the required voter history to the most recent election.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Bragdon is in opposition to SB 437.

SB 478, relative to processing absentee ballots. Election Law and Internal Affairs Committee. Ought to Pass, Vote 3-0. Senator Gallus for the committee.

Adopted.

Ordered to third reading.

SB 319-FN, relative to third party liability and state recovery of public assistance. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator DeVries for the committee.

Adopted.

Ordered to third reading.

SB 345, prohibiting hospitals from requiring insurance coverage for organ donations and organ transplants. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator Cilley for the committee.

Committee report of inexpedient to legislate is adopted.

SB 397, relative to mail-in rebates for merchandise purchased within the state. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator Reynolds for the committee.

Committee report of inexpedient to legislate is adopted.

SB 432, relative to workers' compensation for employee leasing companies. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator Barnes for the committee.

Committee report of inexpedient to legislate is adopted.

SB 481, relative to the bond requirement for completion of local and state public works projects. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator DeVries for the committee.

Committee report of inexpedient to legislate is adopted.

Senator Letourneau is in opposition to the motion of inexpedient to legislate on SB 481.

HB 267, relative to certain small loans. Commerce, Labor and Consumer Protection Committee. Ought to pass with amendment, Vote 4-2. Senator Gottesman for the committee.

Sen. Gottesman, Dist. 12
February 4, 2008
2008-0390s
08/09

Amendment to HB 267

Amend the bill by replacing section 4 with the following:

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

Amendment adopted.

Senator Foster Rule #42 on HB 267.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

February 14, 2008
2008-0601s
08/04

Floor Amendment to HB 267

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

AN ACT relative to payday and title loans and establishing a commission to study
 access to consumer credit for people in New Hampshire.

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

1 Findings. The general court recognizes that:

I. Access to consumer credit can provide people with a means by which to navigate gaps in income, establish long-term financial stability, and build household wealth.

II. Certain irresponsible or abusive lending practices and loan products can increase consumers' financial distress, rather than decrease it.

III. Some people may lack access to responsible consumer credit.

IV. Access to responsible consumer credit for people benefits not only individual households, but also local and state economic health.

2 Lender; Definition. Amend RSA 399-A:1, VIII to read as follows:

VIII. "Lender" means individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies or other forms of organizations that lend money or give credit temporarily on condition that the amount borrowed be returned, usually with an interest fee. "Lender" shall not include a financial institution. ***"Lender" shall include a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:***

(a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.

(b) Offers to serve as agent for any person in an attempt to obtain a loan.

(c) Offers to serve as agent for any person who has money to lend for a loan.

(d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.

3 Payday Loan; Definition. Amend RSA 399-A:1, X to read as follows:

X. "Payday loan" means a ~~[small-dollar]~~ short-maturity, secured or unsecured loan, other than a title loan~~[- where the lender contracts for, exacts or receives, directly or~~

~~indirectly, or where the borrower pays for, directly or indirectly, in connection with any such loan, any charges which in the aggregate are greater than 50 percent per annum].~~

4 Small Loan; Definition. Amend RSA 399-A:1, XIV to read as follows:

XIV. "Small loan" means a closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for, exacts or receives, directly or indirectly, ***or where the borrower pays for, directly or indirectly*** in connection with any such loan any charges, whether for interest, ***examination, commission,*** compensation, ***service,*** brokerage, endorsement fees, ***other fees,*** consideration, expense or otherwise, which in the aggregate are greater than 10 percent per annum ***except for the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan and except for the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security.***

5 License Required. Amend RSA 399-A:2, IV to read as follows:

IV. Any person not exempt under paragraph III, and the several members, officers, directors, agents and employees thereof, who shall willfully violate or participate in the violation of any provisions of paragraph I shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. If in the making or collection of a loan the ~~[licensee]~~ ***person*** violates paragraph I of this section, the loan contract shall be void and the lender shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever.

6 New Paragraph; License Required. Amend RSA 399-A:2 by inserting after paragraph IV the following new paragraph:

V. The provisions of this chapter shall apply to any person who seeks to evade its application by any device, subterfuge, or pretense, including, without limitation:

- (a) Calling a loan by any other name;
- (b) Using any agents, affiliates, or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or
- (c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan, while purporting to be the agent of such an exempt entity where the purported agent holds, acquires, or maintains a preponderant economic interest in the revenues generated by the loan.

7 No Refinancing of Payday Loans. Amend RSA 399-A:11, X to read as follows:

X. If a borrower desires to renew an existing closed-end loan~~[- payday loan,]~~ or title

loan for the purpose of obtaining additional cash a new contract shall be drawn up in its entirety and such prior loan shall be paid in full from such proceeds of the new loan. ***Payday loans shall not be rolled over, renewed, or refinanced.*** All legal papers in connection with such prior loan shall be stamped "PAID IN FULL" and returned to such borrower.

8 New Section; Provisions Applicable to Payday Loan Lenders and Title Loan Lenders; Extended Payment Plans. Amend RSA 399-A by inserting after section 12 the following new section:

399-A:12-a Provisions Applicable to Payday Loan Lenders and Title Loan Lenders. The following provisions shall be applicable to payday loan lenders and title loan lenders licensed under this chapter:

I.(a) The department shall establish a consumer credit counseling education fund, to be funded through assessments on payday loan lenders and title loan lenders, for the purposes of providing consumer finance education. Moneys in the fund shall be nonlapsing and continually appropriated to the department. Funding shall be used for educational purposes only by the department and may be made available to New Hampshire based consumer credit counseling agencies in the form of grants. Payday loan lenders and title loan lenders shall be prohibited from including such assessments in the charges allowed under this chapter. The department shall adopt rules, in accordance with RSA 541-A, for the establishment, funding, and administration of the consumer credit counseling education fund.

(b) Payday loan lenders and title loan lenders shall provide information to borrowers about the consumer credit counseling education fund established in this section in the lenders written loan agreements.

II. Payday loan lenders and title loan lenders shall offer an extended payment plan to borrowers as follows:

(a) If a borrower, on the business day immediately preceding the date a payday loan or title loan is due, returns to the lender's place of business where the loan was consummated, requests an extended payment plan (EPP), and signs an amendment to the parties' written agreement, then the lender shall enter into an EPP with the borrower. The EPP shall allow the borrower, for no additional finance charge, to pay the remaining balance of the payday loan or title loan within 60 days past the due date in 4 substantially equal installments.

(b) The borrower may request an EPP in connection with any payday loan or title loan, provided that the borrower may request only one EPP from any single lender during any 12-month period. During the period that a borrower has an EPP outstanding and

for 15 days following the date the borrower fully pays an EPP, a lender shall not make a new payday loan or title loan to the borrower.

(c) A lender making a payday loan or title loan shall provide the borrower, in the parties' written agreement, the following written notice in at least 8-point bold type immediately above the borrower's signature: "EXTENDED PAYMENT PLAN NOTICE. State law gives you the right to an extended payment plan (EPP), as described in this notice. If you -- on the business day immediately preceding the date this payday loan or title loan is due -- return to the lender's place of business where this loan was consummated, request an EPP, and sign an amendment to this agreement, then the lender must enter into an EPP with you. The EPP must allow you, for no additional finance charge, to pay the remaining balance of this loan in 4 substantially equal installments within the next 60 days, following the amendment execution date. You may request an EPP in connection with any payday loan or title loan, provided that you may request only one EPP from any single lender during any 12-month period. During the period that you have an EPP outstanding and for 15 days following the date that you fully pay an EPP, a lender may not make a new payday loan or title loan to you."

9 Provisions Applicable to Payday Loan Lenders. RSA 399-A:13 is repealed and reenacted to read as follows:

399-A:13 Provisions Applicable to Payday Loan Lenders. -

I. Each lender shall conspicuously post in its licensed location a schedule of interest charges, with examples using a \$300 loan payable in 14 days and 30 days. Payday loans shall incur interest only. No other charges or fees shall apply to or be collected on payday loans.

II. Each payday loan shall be evidenced by a written loan agreement, which shall be signed by the borrower and a person authorized by the lender to sign such agreements and dated the same day the loan is made and disbursed. The loan agreement shall set forth, at a minimum:

(a) The principal amount of the loan.

(b) The interest charged.

(c) The annual percentage rate, which shall be stated using that term, applicable to the transaction calculated in accordance with Federal Reserve Board Regulation Z.

(d) Evidence of receipt from the borrower of a check or other account debit authorization, dated the same date, as security for the loan, stating the amount of the check, if a check or other account debit authorization was given by the borrower.

(e) An agreement by the lender not to present the check or other account debit authorization for payment or deposit until a specified maturity date, which date shall be at

least 7 days and not more than 30 days after the date the loan is made and after which date interest shall not accrue at a greater rate than 6 percent per year, if a check or other account debit authorization was given by the borrower.

(f) Evidence of receipt from the borrower of a check, or other account debit authorization, dated the same date, as security for the loan, stating the amount of the check, if a check or other account debit authorization was given by the borrower.

(g) An agreement by the lender not to present the check or other account debit authorization for payment or deposit until a specified maturity date, which date shall be at least 7 days and not more than 30 days after the date the loan is made, if a check or other account debit authorization was given by the borrower.

(h) An agreement by the lender that the borrower shall have the right to cancel the loan transaction at any time before the close of business of the next business day following the date of the transaction by paying to the lender, in the form of cash or other funds instrument, the amount advanced to the borrower.

(i) An agreement that the borrower shall have the right to prepay the loan in full or in part prior to maturity by paying the lender the principal amount advanced and any accrued and unpaid interest.

III. The lender shall give a duplicate original of the loan agreement to the borrower at the time of the transaction.

IV. A lender shall not obtain any agreement from the borrower:

(a) Giving the lender or any third person power of attorney or authority to confess judgment for the borrower;

(b) Authorizing the lender or any third party to bring suit against the borrower in a court outside the state or to require a borrower to accept an arbitration forum outside the state; or

(c) Waiving any right the borrower has under this chapter.

V. A lender shall not require, or accept, more than one check from the borrower as security for any loan at any one time.

VI. A lender shall not cause any person to be obligated to the lender and any affiliate of the lender in any capacity at any time in the principal amount of more than \$500.

VII. A lender shall not refinance, renew, rollover, or extend any loan. A payday loan shall not be refinanced and shall not be paid off with the proceeds of another payday loan pursuant to RSA 399-A:11, X.

VIII. A lender shall not cause a borrower to be obligated to the lender or an affiliate of the lender upon more than one loan at any time for the purpose of increasing charges payable by the borrower.

IX. A lender shall not require or accept a post-dated check as security for, or in payment of, a loan.

X. A lender shall not threaten, or cause to be instigated, criminal proceedings against a borrower if a check given as security for a loan is dishonored.

XI. A lender shall not take an interest in any property other than a check payable to the lender or an authorization to debit a borrower's account as security for a loan.

XII. A lender shall not make a loan to a borrower to enable the borrower to pay for any other product or service sold at the lender's business location.

XIII. Loan proceeds shall be disbursed in cash or by the lender's business check. No fee shall be charged by the lender or an affiliated check cashier for cashing a loan proceeds check.

XIV. A check given as security for a loan shall not be endorsed to a third party.

XV. Upon receipt of a check given as security for a loan, the lender shall stamp the check with an endorsement stating "This check is being negotiated as part of a payday loan pursuant to RSA 399-A, and any holder of this check takes it subject to all claims and defenses of the maker."

XVI. Before entering into a payday loan, the lender shall provide each borrower with a pamphlet, in form consistent with regulations promulgated by the commissioner, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number in the banking department for assistance with complaints.

XVII. Before disbursing funds pursuant to a payday loan, a lender shall provide a clear and conspicuous printed notice to the borrower indicating that a payday loan is not intended to meet long-term financial needs and that the borrower should use a payday loan only to meet short-term cash needs.

XVIII. A borrower shall be permitted to make partial payments, in increments of not less than \$50 on the loan at any time prior to maturity without charge. The lender shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.

XIX. A lender shall not prosecute a borrower or cause a borrower to be prosecuted if a check or Automated Clearing House (ACH) authorization given as security for a loan is dishonored.

XX. A lender and any affiliate of the lender shall not make a payday loan to a person who has previously borrowed from the lender or affiliate until the next business day after the prior loan has been paid off and in no case less than 12 hours from the time of payoff. The lender is responsible to document both the payoff date and the new loan date, if any, in a manner that compliance with this section can be verified by the commissioner. If the time

between the payoff and the new loan is less than one full business day, the lender shall record the date and hour of the payoff and the date and hour of the new loan in a manner that compliance with this section can be verified by the commissioner. This cooling-off period shall be calculated from the date and time of the payoff by the borrower of a payday loan to the date and time that the borrower executes a new loan contract or is obligated under another payday loan, whichever is earlier.

XXI. A new loan contract form shall be completed by the borrower and a new loan contract shall be entered into and executed by the borrower and the lender for each loan; no pre-authorization or master loan agreement shall be used by the lender.

XXII. The interest rate for a payday loan shall not exceed the rate that results from the calculation of \$12.50 per \$100 borrowed.

XXIII. A lender shall not make a payday loan to a borrower if the total principal amount of the loan and interest rate exceeds 25 percent of the consumer's gross monthly income.

XXIV. For the purpose of this section, a "consecutive payday loan" means a payday loan that a lender makes to a borrower within 14 calendar days following the date that the borrower fully paid a previous payday loan made by the same lender to the same borrower. If a borrower obtains 5 consecutive payday loans from a lender then the lender shall not make a new payday loan to the borrower until at least 30 calendar days have elapsed following the date that the borrower fully paid the fifth consecutive payday loan.

XXV. A lender shall not execute a new payday loan agreement if a borrower currently has a payday loan outstanding with another lender. The lender shall verify, in accordance with RSA 399-A:13-a, that a new payday loan agreement complies with this section.

XXVI. Upon the execution of a new payday loan agreement, the lender may impose an additional administrative fee of not more than \$.50 per agreement as necessary to cover the cost to the lender of verification pursuant to RSA 399-A:13-a.

XXVII. No payday lender shall present the check or other account debit authorization for payment or deposit at the specified maturity date if a borrower has requested an extended payment plan pursuant to RSA 399-A:12-a, II.

10 New Section; Payday Loan Verification. Amend RSA 399-A by inserting after section 13 the following new section:

399-A:13-a Payday Loan Verification.

I. Before entering into a payday loan agreement with a borrower, a licensee shall use a commercially reasonable method of verification to verify that the proposed loan agreement is permissible under this chapter.

II. No later than January 1, 2009, the department shall certify that one or more consumer reporting service databases are commercially reasonable methods of verification. The list of consumer reporting services that the department has certified as providing commercially reasonable methods of verification shall be posted on the department's web site and shall be mailed to each licensee by first class mail at the address of record in the department's licensing files.

III. Each licensee who provides payday loans shall comply with this section no later than January 30, 2009.

IV. A borrower seeking a payday loan may make a direct inquiry to the consumer reporting service to request a more detailed explanation of the basis for a consumer reporting service's determination that the consumer is ineligible for a new payday loan, and the consumer reporting service shall provide a reasonable response to the consumer.

V. The department shall, in cooperation and consultation with licensed payday lenders, adopt rules in accordance with RSA 541-A, to develop and implement a certification process for a commercially reasonable method of verification.

11 New Paragraphs; Provisions Applicable to Title Loan Lenders. Amend RSA 399-A:14 by inserting after paragraph IV the following new paragraphs:

V. Charge any interest or fees other than a daily interest rate not to exceed the equivalent of \$22 per \$100 per 30-day period. A title loan lender may charge reimbursement of the fee paid by the lender to record its lien on the borrower's certificate of title.

VI. Lend more than 50 percent of the value of the motor vehicle.

VII. Make a title loan without receiving from the consumer an executed affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment, and ownership of the vehicle; and

(b) The customer has the ability to pay the loan.

VIII. Make a loan to a borrower without providing the following notice in a contract, placed conspicuously above the borrower's signature in at least 14 point type, as follows:

“(a) THIS LOAN IS NOT INTENDED TO MEET LONG TERM FINANCIAL NEEDS.

(b) YOU SHOULD USE THIS LOAN ONLY TO MEET SHORT TERM CASH NEEDS.

(c) THIS IS A HIGH INTEREST LOAN. YOU SHOULD GO TO ANOTHER SOURCE IF YOU HAVE THE ABILITY TO BORROW AT A LOWER RATE OF INTEREST.

(d) YOU ARE PLACING YOUR VEHICLE AT RISK IF YOU DEFAULT ON THIS LOAN.

(e) YOU WILL BE REQUIRED TO PAY ADDITIONAL INTEREST IF YOU RENEW THIS LOAN RATHER THAN PAY THE DEBT IN FULL WHEN DUE.

(f) IF YOU BELIEVE THAT THE TITLE LENDER HAS VIOLATED THE PROVISIONS OF RSA 399-A, YOU HAVE THE RIGHT TO FILE A WRITTEN COMPLAINT WITH THE NEW HAMPSHIRE BANKING DEPARTMENT.

(g) WRITTEN COMPLAINTS SHOULD BE SENT TO THE NEW HAMPSHIRE BANKING DEPARTMENT AT 64B OLD SUNCOOK ROAD, CONCORD, NH 03301. YOU MAY ALSO CALL THE NEW HAMPSHIRE BANKING DEPARTMENT AT 1-800-437-5991.”

12 Title Loan Renewals. RSA 399-A:15 is repealed and reenacted to read as follows:

I. A title loan shall be for an original term of no more than one month. A title loan lender may allow such loan to be renewed no more than 6 additional periods each equal to the original term, provided however, that at each such renewal the borrower must pay at least 10 percent of the loan’s original principal balance, in addition to any finance charge owed, to reduce the principal balance outstanding. If the borrower cannot pay this principal reduction at any renewal, the title loan lender may either: (i) declare the borrower in default, or (ii) allow the loan to be renewed, provided that the lender shall reduce the current principal amount of the loan by 10 percent of the original principal amount for the purposes of calculating interest thereafter. This reduction in principal shall continue to be owed by the borrower, but such amount shall not be entitled to accrue interest thereafter. For the purpose of this section, a renewal is any extension of a title loan entered into within 14 days from the original contract due date or within 14 days from a subsequent contract renewal due date continuing the loan, for an additional period without any change in the terms of the title loan other than a reduction in principal. Evidence of such renewal shall be by a separate written renewal contract signed and dated by the borrower. No accrued interest shall be capitalized or added to the principal of the loan at the time of any renewal. A lender shall not require a borrower to renew a loan, and renewals may not be written into the loan contract so that they occur automatically.

II. A title loan may not be paid off with the proceeds of another title loan.

III. A lender and any affiliate of the lender shall not make a title loan to a person who has previously borrowed from the lender or affiliate until the next business day after the prior loan has been paid off and in no case less than 12 hours from the time of payoff. The lender is responsible to document both the payoff date and the new loan date, if any, in a manner that compliance with this section can be verified by the commissioner. If the time

between the payoff and the new loan is less than one full business day, the lender shall record the date and hour of the payoff and the date and hour of the new loan in a manner that compliance with this section can be verified by the commissioner. This cooling-off period shall be calculated from the date and time of the payoff by the borrower of a title loan to the date and time that the borrower executes a new loan contract or is obligated under another title loan, whichever is earlier.

13 Commission Established. There is established a commission to study access to consumer credit for people in New Hampshire.

14 Membership and Compensation.

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

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The governor, or designee.
- (d) The bank commissioner, or designee.
- (e) The attorney general, or designee.
- (f) A representative of Consumer Credit Counseling of New Hampshire and Vermont, appointed by that organization.
- (g) Two representatives of the New Hampshire Bankers Association, appointed by that organization.
- (h) A representative of the New Hampshire Community Loan Fund, appointed by that organization.
- (i) Two representatives of the New Hampshire Credit Union League, appointed by that organization.
- (j) A representative of the New England Financial Services Association, appointed by that organization.
- (k) A representative of New Hampshire Legal Assistance, appointed by that organization.
- (l) A representative of the New Hampshire Local Welfare Administrators Association, appointed by that organization.

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

15 Duties. The commission shall examine the following:

- I. The varieties of consumer credit currently available to people in New Hampshire;
- II. The varieties of non-credit emergency assistance currently available to people in New Hampshire;

III. The impact of irresponsible or abusive lending practices and loan products on people in New Hampshire;

IV. The potential for market-based development of new varieties of responsible consumer credit for people in New Hampshire; and

V. Possible legislation to improve access to responsible consumer credit for people in New Hampshire.

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

17 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 14, 2008.

18 New Subparagraph; Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the consumer credit counseling education fund established in RSA 399-A:12-a, I.

19 Effective Date. This act shall take effect upon its passage.
2008-0601s

AMENDED ANALYSIS

This bill:

I. Establishes an extended payment plan for payday loan and title loan borrowers.

II. Establishes a consumer credit counseling education fund.

III. Prohibits the refinancing of payday loans.

IV. Requires payday loan verification.

V. Redefines “payday loan” “small loan,” and “lender.”

VI. Establishes a commission to study access to consumer credit for people in New Hampshire.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gatsas.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Kenney, Cilley, Odell, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

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

Yeas: 10 - Nays: 13

Floor amendment failed.

Senator Foster Rule #42 on HB 267.

Senator Estabrook moved the question.

Without objection Senator Larsen moved to close debate.

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

A roll call was requested by Senator Barnes.

Seconded by Senator Bragdon.

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

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

Yeas: 14 - Nays: 9

Adopted.

Ordered to third reading.

Senator Foster Rule #42 on HB 267.

SB 472, relative to consumer protection from certain practices of payday loan, small loan, and title loan lenders. Commerce, Labor and Consumer Protection Committee. Ought to pass with amendment, Vote 6-0. Senator Gottesman for the committee.

Commerce, Labor and Consumer Protection
February 12, 2008
2008-0555s
08/04

Amendment to SB 472

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

AN ACT relative to consumer protection from certain practices of payday loan, small loan, and title loan lenders and establishing a commission to study access to consumer credit for people in New Hampshire.

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

1 Findings. The general court recognizes that:

- I. Access to consumer credit can provide people with a means by which to navigate gaps in income, establish long-term financial stability, and build household wealth.
- II. Certain irresponsible or abusive lending practices and loan products can increase consumers' financial distress, rather than decrease it.
- III. Some people may lack access to responsible consumer credit.
- IV. Access to responsible consumer credit for people benefits not only individual households, but also local and state economic health.

2 Payday Loan; Definition. Amend RSA 399-A:1, X to read as follows:

X. "Payday loan" means a ~~[small-dollar,]~~ short-maturity, secured or unsecured loan, other than a title loan~~[- where the lender contracts for, exacts or receives, directly or indirectly, or where the borrower pays for, directly or indirectly, in connection with any such loan, any charges which in the aggregate are greater than 50 percent per annum].~~

3 Small Loan; Definition. Amend RSA 399-A:1, XIV to read as follows:

XIV. "Small loan" means a closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for, exacts or receives, directly or indirectly, ***or where the borrower pays for, directly or indirectly*** in connection with any such loan any charges, whether for interest, ***examination, commission, compensation, service, brokerage, endorsement fees, other fees, consideration, expense or otherwise, which in the aggregate are greater than 10 percent per annum except for the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan and except for the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security.***

4 Lender; Definition. Amend RSA 399-A:1, VIII to read as follows:

VIII. "Lender" means individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies or other forms of organizations that lend money or give credit temporarily on condition that the amount borrowed be returned, usually with an interest fee. "Lender" shall not include a financial institution. ***"Lender" shall include a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:***

(a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.

(b) Offers to serve as agent for any person in an attempt to obtain a loan.

(c) Offers to serve as agent for any person who has money to lend for a loan.

(d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.

5 License Required. Amend RSA 399-A:2, IV to read as follows:

IV. Any person not exempt under paragraph III, and the several members, officers, directors, agents and employees thereof, who shall willfully violate or participate in the violation of any provisions of paragraph I shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. If in the making or collection of a loan the ~~[licensee]~~ ***person*** violates paragraph I of this section, the loan contract shall be void and the

lender shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever.

6 New Paragraph; License Required. Amend RSA 399-A:2 by inserting after paragraph IV the following new paragraph:

V. The provisions of this chapter shall apply to any person who seeks to evade its application by any device, subterfuge, or pretense, including, without limitation:

- (a) Calling a loan by any other name;
- (b) Using any agents, affiliates, or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or
- (c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan, while purporting to be the agent of such an exempt entity where the purported agent holds, acquires, or maintains a preponderant economic interest in the revenues generated by the loan.

7 No Refinancing of Payday Loans. Amend RSA 399-A:11, X to read as follows:

X. If a borrower desires to renew an existing closed-end loan~~[-, payday loan,]~~ or title loan for the purpose of obtaining additional cash a new contract shall be drawn up in its entirety and such prior loan shall be paid in full from such proceeds of the new loan.

Payday loans shall not be rolled over, renewed, or refinanced. All legal papers in connection with such prior loan shall be stamped "PAID IN FULL" and returned to such borrower.

8 Debit Authorization. Amend RSA 399-A:13, II(d)-(e) to read as follows:

(d) Evidence of receipt from the borrower of a check[~~;~~] ***or other account debit authorization***, dated the same date, as security for the loan, stating the amount of the check, ***if a check or other account debit authorization was given by the borrower.***

(e) An agreement by the lender not to present the check ***or other account debit authorization*** for payment or deposit until a specified maturity date, which date shall be at least 7 days and not more than 30 days after the date the loan is made and after which date interest shall not accrue at a greater rate than 6 percent per year, ***if a check or other account debit authorization was given by the borrower.***

9 Commission Established. There is established a commission to study access to consumer credit for people in New Hampshire.

10 Membership and Compensation.

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

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The governor, or designee.
- (d) The bank commissioner, or designee.
- (e) The attorney general, or designee.
- (f) A representative of Consumer Credit Counseling of New Hampshire and Vermont, appointed by that organization.
- (g) Two representatives of the New Hampshire Bankers Association, appointed by that organization.
- (h) A representative of the New Hampshire Community Loan Fund, appointed by that organization.
- (i) Two representatives of the New Hampshire Credit Union League, appointed by that organization.
- (j) A representative of the New England Financial Services Association, appointed by that organization.
- (k) A representative of New Hampshire Legal Assistance, appointed by that organization.

(l) A representative of the New Hampshire Local Welfare Administrators Association, appointed by that organization.

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

11 Duties. The commission shall examine the following:

I. The varieties of consumer credit currently available to people in New Hampshire;

II. The varieties of non-credit emergency assistance currently available to people in New Hampshire;

III. The impact of irresponsible or abusive lending practices and loan products on people in New Hampshire;

IV. The potential for market-based development of new varieties of responsible consumer credit for people in New Hampshire; and

V. Possible legislation to improve access to responsible consumer credit for people in New Hampshire.

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

13 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 14, 2008.

14 Effective Date.

I. Sections 1, and 9-14 of this act shall take effect upon its passage.

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

2008-0555s

AMENDED ANALYSIS

This bill redefines payday loan, small loan, and title loan.

This bill establishes a commission to study access to consumer credit for people in New Hampshire.

The question is on the adoption of the committee amendment.

A roll call was requested by Senator Gottesman.

Seconded by Senator Barnes.

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

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

Yeas: 17 - Nays: 6

Amendment adopted.

Senator Foster Rule #42 on SB 472.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

February 14, 2008

2008-0614s

08/09

Floor Amendment to SB 472

Amend paragraph I of section 10 of the bill by inserting after subparagraph (l) the following:

(m) A representative of the payday lending industry, appointed by the governor.

Floor amendment adopted.

Senator Foster Rule #42 on SB 472.

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, Odell, Roberge, Kelly, Bragdon, Gottesman, Larsen, Barnes, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

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

Yeas: 17 - Nays: 6

Adopted.

Ordered to third reading.

Senator Foster Rule #42 on SB 472.

SB 439, relative to money transmitters and mortgage servicing companies. Commerce, Labor and Consumer Protection Committee. Ought to pass with amendment, Vote 6-0. Senator DeVries for the committee.

Commerce, Labor and Consumer Protection

February 12, 2008

2008-0561s

08/10

Amendment to SB 439

Amend the bill by replacing sections 2-3 with the following:

2 New Paragraph; Definition. Amend RSA 399-G:1 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Net worth" means assets minus liabilities calculated in accordance with generally accepted accounting principles.

3 License Application; Requirements; Investigation. Amend RSA 399-G:5, II(b)-(c) to read as follows:

(b) Each license application shall be accompanied by a nonrefundable application fee of \$500 for each principal office and \$25 for each authorized delegate registration, up to a maximum annual fee of [~~\$4,000~~] **\$5,000**. Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

(c) Each applicant shall submit detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a money transmitter with financial integrity. The application shall include a statement of net worth in all cases and an applicant shall demonstrate and maintain a positive net worth computed in accordance with generally accepted accounting principles. ***A licensee shall at all times maintain a net worth of the lesser of its average daily outstanding money transmissions for the prior calendar year or \$1,000,000.*** Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under the authority of RSA 399-G:13. Each money transmitter applicant shall post a continuous surety bond in the amount of \$100,000. The surety bond shall be payable to the state of New Hampshire and the bank commissioner of the state of New Hampshire for the benefit of any person who is damaged by any violation of this chapter and shall be conditioned upon the licensee's compliance with each provision of this chapter. Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 20 days in advance of the cancellation or termination of the bond. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the principal within 6 years after the act upon which the recovery or suit is based. The obligations of the surety shall survive the bankruptcy, insolvency, liquidation, or reorganization of the licensee, including, without limitation, any bankruptcy, insolvency, liquidation, or reorganization commenced by or against the licensee under any applicable state or federal law, including the United States Bankruptcy Code.

Amend RSA 399-G:13, II-a as inserted by section 5 of the bill by replacing it with the following:

II-a. Licensees shall implement a system of education, training, monitoring, and periodic inspection designed to reasonably supervise their authorized delegates' filings with the Department of the Treasury, Financial Crimes Enforcement Network (FINCEN).

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 352-FN, relative to shoreland protection. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 6-0. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24
February 7, 2008

2008-0455s
06/09

Amendment to SB 352-FN

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

6 Fill and Dredge in Wetlands; Appeals. Amend RSA 482-A:10, I through VIII to read as follows:

I. Any person aggrieved by a decision made by the department under RSA 482-A:3 ~~[or subject to an order of the department under RSA 482-A:6]~~ may apply for reconsideration by the department, and then may appeal to the wetlands council and to the ~~[superior]~~ **supreme** court as provided in this section. A person aggrieved under this section shall ~~[include without limitation,]~~ **mean** the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

I-a. Any person subject to an order of the department under RSA 482-A:6 may appeal to the wetlands council and to the supreme court as provided in this section. The appellant shall not first request reconsideration, but shall file the appeal directly with the council as provided in paragraph IV, within 30 days of the date of the order.

II. A request for reconsideration ***of a department decision under RSA 482-A:3*** shall be filed with the department within ~~[20]~~ **30** days of issuance of the department's decision ~~[or order]~~. The request for reconsideration shall describe in detail each ground for ~~[complaint. No ground not set forth in the request for reconsideration shall be considered by the council, or by the superior court except as provided in paragraph VIII of this section]~~ ***the request for reconsideration.***

III. On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with ***rules adopted by the department, which notice shall also be sent to all persons entitled to notice of applications under*** RSA 482-A:8 and RSA 482-A:9, and the department shall make a record of the proceedings. The department shall grant or deny the ~~[application]~~ ***request*** for reconsideration within 30 days of the ~~[service]~~ ***department's receipt*** of the ~~[application]~~ ***request*** or explain in writing to the applicant why the ~~[application]~~ ***request*** cannot be acted on and a statement of the time reasonably necessary to act on the ~~[application]~~ ***request***. ***When the basis for denial was failure by the applicant to submit all requested information and the applicant submits all of the requested information with the request for reconsideration, the department shall act on the request within 75 days from the date of the department's receipt of the request for projects where the applicant proposes less than one acre of jurisdictional impact, and within 105 days for all other projects.***

IV. An appeal from a decision of the department ***under RSA 482-A:3*** after reconsideration, ***or an appeal from an order issued by the department under RSA 482-A:6,*** shall be filed with the wetlands council within 30 days of the department's decision ***or order.*** An appeal shall be considered timely filed and received by the wetlands council if postmarked or hand delivered to the wetlands council on or before the thirtieth day from the date of the department's decision. Filing of the appeal shall be made by certified mail or hand delivery to the wetlands council, with a copy sent to the department. An appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. ***Only those grounds set forth in the appeal shall be considered by the council.***

V. The council on appeal shall hold ~~[a non-evidentiary]~~ **an adjudicative** hearing as provided in ~~[its]~~ **RSA 541-A and the council's** rules. The hearing shall be noticed in accordance with **RSA 541-A:31, III. For appeals of department decisions under RSA 482-A:3, the notice shall also be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9.** ~~[The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below.]~~ The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design. All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

V-a. Any person whose rights will be directly affected by the outcome of the appeal may appear and become a party to the appeal. Any person whose rights may be directly affected by the outcome of the appeal may file a request to intervene as provided in RSA 541-A:32.

VI. On appeal, the council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record **created before the council** that supports its decision.

VII. Any party aggrieved by a decision of the council may apply to the council for reconsideration ~~[within 20 days of the council's order. The council shall grant or deny the application for reconsideration at its first regularly scheduled meeting after service of the application. The council may grant such application if in its opinion good reason therefor is stated]~~ **as specified in RSA 541.**

VIII. Any ~~[person]~~ **party** aggrieved by a decision of the council after reconsideration may appeal to the ~~[superior]~~ **supreme** court ~~[for the county where the land in question is located by petition within 30 days of issuance of such decision. The petition shall set forth each ground upon which the decision is claimed to be unlawful or unreasonable, in whole or in part. No ground not set forth in the application for reconsideration shall be given any consideration by the court unless the court for good cause shown shall allow the appellant to specify additional grounds]~~ **as specified in RSA 541.**

7 Appeals. Amend RSA 482-A, XVIII to read as follows:

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may **request reconsideration by the department and, if aggrieved by the decision or reconsideration,** appeal said decision to the ~~[superior]~~ **wetlands council and the supreme** court in the manner prescribed in this section. The filing of a request for reconsideration shall automatically stay the effectiveness of the department's decision relating to said prime wetland. Said stay shall remain in force until the department has issued its decision after reconsideration.

8 Repeal. RSA 482-A, X through XVII relative to appeals, is repealed.

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

2008-0455s

AMENDED ANALYSIS

This bill gives the wetlands council jurisdiction over appeals of department of environmental services decisions relating to protected shorelands.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 403, relative to large withdrawals of water from aquifers within municipal boundaries. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 3-2, Senator Fuller Clark for the committee.

MOTION TO TABLE

Senator Fuller Clark moved to have SB 403 laid on the table.

Adopted.

Senator Hassan Rule #42 on SB 403.

LAID ON THE TABLE

SB 403, relative to large withdrawals of water from aquifers within municipal boundaries.

SB 510-FN-A, relative to fees for terrain alteration permits. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 6-0. Senator Hassan for the committee.

Committee report of inexpedient to legislate is adopted.

SB 528-FN, relative to a mercury-added thermostat collection program. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 6-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

SB 309-FN, relative to the regulation of amateur and professional fighting sports by the boxing and wrestling commission. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration
February 7, 2008
2008-0438s
10/03

Amendment to SB 309-FN

Amend the bill by replacing section 12 with the following:

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 317-FN, relative to the retail sale of tobacco products. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 6-0. Senator Kelly for the committee.

**Senate Executive Departments and Administration
February 8, 2008
2008-0468s
03/04**

Amendment to SB 317-FN

Amend RSA 178:29, V-a(a) as inserted by section 16 of the bill by replacing it with the following:

(a) Retail tobacco license, \$6.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 318-FN, relative to licensed veterinary assistant practitioners. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Cilley for the committee.

**Senate Executive Departments and Administration
February 8, 2008
2008-0467s
01/05**

Amendment to SB 318-FN

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

AN ACT establishing a commission to study the creation of a large animal care worker classification.

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

1 Commission Established. There is established a commission to study the creation of a large animal care worker classification.

2 Membership and Compensation.

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

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

(b) Two members of the house of representatives, one of whom shall be from the house environment and agriculture committee, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of agriculture, or designee.

(d) The director of the Thompson School of Applied Science, university of New Hampshire, or designee.

(e) A representative of the New Hampshire Veterinary Medical Association, appointed by the association.

(f) Two representatives of the board of veterinary medicine, one of whom shall be the board's legal counsel, appointed by the board.

(g) A representative of the New Hampshire Veterinary Technician Association, appointed by the association.

(h) Six representatives of the New Hampshire Farm Bureau Federation, appointed by the association.

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

3 Duties. The commission shall study the creation of a large animal care worker classification to perform the basic care of large animals independently in the field under the supervision of a veterinarian. The commission's study shall include, but not be limited to, defining the necessary accreditation for this position and the scope of the allowable practices for such position.

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

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

6 Effective Date. This act shall take effect upon its passage.
2008-0467s

AMENDED ANALYSIS

This bill establishes a commission to study the creation of a large animal care worker classification.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 331-FN, establishing new positions and realigning functions at the department of corrections. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator Downing for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 332-FN, relative to resomation of human remains. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration
February 7, 2008
2008-0434s
01/04

Amendment to SB 332-FN

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

1 New Chapter; Resomation of Human Remains. Amend RSA by inserting after chapter 325-A the following new chapter:

CHAPTER 325-B

RESOMATION OF HUMAN REMAINS

325-B:1 Definitions. In this chapter:

I. "Alkaline hydrolysis" means the technical process that uses a high-temperature water-based alkali solution under a high pressure system to reduce human remains to bone shadows.

II. "Alternative container" means a container in which human remains are placed for transport and temporary holding prior to resomation.

III. "Authorizing agent" means a person vested with the right to control the disposition of human remains pursuant to RSA 290, including but limited to, family members or funeral directors in charge of the final disposition arrangements.

IV. "Bio-ash" means the reduction of bone shadows to small particles following powdering.

V. "Board" means state board of registration of funeral directors and embalmers, as defined in RSA 325:2.

VI. "Bone shadows" means the remaining bone fragments following the resomation process and prior to powdering.

VII. "Casket" means a rigid container made of wood, metal, or other similar material, ornamented and lined with fabric, which is designed for the encasement of human remains.

VIII. "Change of ownership" means the change in the controlling interest of an established resomation facility.

IX. "Communicable disease" means communicable disease, as defined by RSA 141-C:2, VI.

X. "Delivery receipt form" means a form provided by a funeral establishment to a resomation facility authority to document the receipt of human remains by such authority for the purpose of resomation.

XI. "Dissolvable coffin" means a re-useable coffin cover that houses the rigid stainless steel basket which encases the human remains for placement within a resomator.

XII. "Funeral director" means funeral director as defined in RSA 325:1, VIII and licensed in accordance with RSA 325:14.

XIII. "Holding facility" means an area within a resomation facility, separate from public areas, designated for the retention of human remains prior to resomation.

XIV. "Human remains" means the body of a deceased person or a human body part, in any stage of decomposition and includes limbs or other portions of human anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research.

XV. "Leak proof pouch" means a plastic, vinyl, or similar material bag that is made specifically for the containment of human remains.

XVI. "Next-of-kin" means next-of-kin as defined in RSA 290:16, IV.

XVII. "Operator" means the individual responsible for the day-to-day operation of the resomation facility.

XVIII. "Owner" means the individual, partnership, or corporation with a controlling interest in the resomation facility.

XIX. "Permanent container" means a receptacle made of durable material for the long-term placement of resomated remains.

XX. "Powdering" means the process used to reduce bone shadows to unidentifiable particles/bio-ash.

XXI. "Resomated remains" means the residue of human remains recovered after resomation and the processing of such remains by powdering.

XXII. "Resomated remains container" means any container in which resomated remains can be placed in and sealed to avoid leakage or prevent entrance of foreign materials.

XXIII. "Resomated remains receipt form" means a form provided by a resomation facility authority to an authorizing agent or his or her representative that identifies resomated remains and the person authorized to receive such remains.

XXIV. "Resomation" means the technical process that uses high-temperature water-based alkali solution under a high pressure system to reduce human remains to bone shadows.

XXV. "Resomation facility" means a building or structure which contains a resomator and holding facility.

XXVI. "Resomation facility authority" means the legal entity subject to licensing by the board to maintain and operate a resomation facility and perform resomation.

XXVII. "Resomator" means the stainless steel pressure vessel within which a resomation takes place.

XXVIII. "Resomator operator" means a person who is responsible for the operation of the resomator and the resomation facility.

XXIX. "Stainless steel basket" means a rigid stainless steel basket lined with silk and a liquid proof starch based bio-plastic lining used to encase human remains for placement within a resomator for resomation.

XXX. "Suitable solid container" means a rigid container, which is designed for the encasement and disposition of human remains before resomation.

XXXI. "Temporary container" means a receptacle made of cardboard, plastic, or other similar material in which resomated remains are placed prior to the placement of such remains in an urn or other permanent container.

XXXII. "Urn" means a container used for placement of resomated remains.

XXXIII. "Violations against a decedent" means actions that desecrate or tamper with human remains or personal effects, lead to the misidentification of a decedent, or allow the commingling of resomated remains of more than one decedent.

325-B:2 Resomation Facility, License Required. A resomation facility shall not be established, operated, or maintained in this state except by a resomation facility authority licensed by the board under this chapter. The board shall issue a license to a resomation

facility authority that satisfies the requirements for licensure under this chapter. Human remains shall not be processed via resomation in this state except at a resomation facility operated by a resomation facility authority licensed under this chapter.

325-B:3 Building and Location Requirements.

I. A resomation facility shall conform to all building codes as defined by the city or town in which the resomation facility is to be constructed in addition to all environmental regulations.

II. A resomation facility may be constructed at any location consistent with applicable zoning and environmental regulations.

325-B:4 License; Application; Requirements; Fee. An applicant for an initial or renewal license as a resomation facility authority shall file a written application with the board. The application shall be accompanied by the license fee required under RSA 325-B:7 and a certificate confirming that the resomator operator has attended, prior to issuance of the license, a training course provided by the manufacturer of the resomator maintained and operated by the resomation facility authority and shall set forth the full name and address of the applicant, the address and location of the resomation facility, the name of the resomation facility operator, the name and address of the owner of the resomation facility, and additional information as required by the board, including evidence of the applicant's ability to comply with rules adopted under this chapter. The application shall include the applicant's social security number if the applicant is an individual. The social security number shall not be a public record and shall only be used for administrative purposes.

325-B:5 License; Expiration. Except as otherwise provided in this chapter, licenses issued pursuant to this chapter shall expire 3 years after the date of issuance. Licenses shall be issued only for the resomation facility authority named in the application and shall not be transferable or assignable.

325-B:6 Change in Location, Ownership, or Name.

I. A resomation facility authority desiring to relocate a resomator shall file a written application with the board at least 30 days prior to the designated date of such relocation. The application shall be accompanied by a fee as determined by the board in rules adopted under RSA 541-A.

II. A resomation facility authority desiring to change ownership of a resomation facility shall file a written application with the board at least 30 days prior to the designated date of such change. The application shall be accompanied by a fee as determined by the board in rules adopted under RSA 541-A.

III. A resomation facility authority desiring to change its name shall file a written application with the board at least 30 days prior to such change. The application shall be accompanied by a fee as determined in rules adopted under RSA 541-A.

325-B:7 Licensure; Fees.

I. The application for an initial or renewal license as a resomation facility authority shall include a fee determined in rules adopted under RSA 541-A.

II. If the license application is denied, the license fee shall be returned to the applicant, except that the board may retain an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

III. The board shall collect a fee for reinstatement of a license that has lapsed or has been suspended. The board shall collect a fee for a duplicate original license.

IV. The board shall collect a fee for a certified statement that a resomation facility authority is licensed in this state and a fee for verification that a resomation facility authority is licensed in this state.

V. All fees collected by the board under this chapter shall be remitted to the state treasurer for deposit in the general fund.

325-B:8 Inspection; Board; Duties; Authority for Appointments.

I. The board shall, at least once every 3 years, inspect or provide for the inspection of any resomation facility and operated by a resomation facility authority licensed under this chapter in such manner and at such times as provided in rules adopted by the board.

II. The board shall issue an inspection report and provide a copy of the report to the resomation authority within 10 working days after the completion of an inspection. The board shall review any findings of noncompliance contained in such report within 20 working days after such inspection.

III. If the board determines, after such review, that the evidence supports a finding of noncompliance by a resomation facility authority with any applicable provisions of this chapter or rules adopted under this chapter, the board may send a letter to the resomation facility authority requesting a statement of compliance. The letter shall include a description of each alleged violation, a request that the resomation facility authority submit a statement of compliance within 10 working days, and a notice that the board may take further action if the statement of compliance is not submitted. The statement of compliance shall indicate any actions by the resomation facility authority which have been or will be taken and the period of time estimated to be necessary to correct each alleged violation. If the resomation facility authority fails to submit such statement of compliance or fails to make a good faith effort to correct the alleged violations, the board may take further action as provided in this chapter.

IV.(a) The board may appoint technical advisors or other investigators to assist with any investigation or adjudication, and may, with the approval of the attorney general, appoint legal counsel for such purposes.

(b) To the extent the board lacks budgeted funds to conduct a significant investigation or adjudication, it may, with the approval of the attorney general, petition governor and council to receive funds not otherwise appropriated in order to retain professional advisors in the proceeding.

(c) If the governor and council approve the use of funds not otherwise appropriated, the governor is authorized to issue a warrant for the approved amount out of any moneys in the treasury not otherwise appropriated. The board shall then promptly increase its licensing fees to the extent necessary to repay the amount advanced to the general fund during the next fiscal year by means of a fee surcharge.

325-B:9 Complaints.

I. Any person may submit a complaint to the board and request investigation of an alleged violation of this chapter or rules adopted under this chapter. The board shall review all complaints and determine whether to conduct an investigation relating to such complaints.

II. A complaint submitted to the board under this section shall be confidential. A person submitting such complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for submitting the complaint or for disclosure of documents, records, or other information to the board relating to such complaint.

325-B:10 Imminent Danger; Board Powers.

I. If the board determines that a resomation facility authority is operating a resomation facility so as to create an imminent danger of death or serious physical harm to persons employed at or in proximity to such resomation facility, the board may order the temporary suspension or temporary limitation of the license of the resomation facility authority and may order the temporary closure of the resomation facility pending further action by the board. A hearing shall be held by the board no later than 10 days after the date of such order. The board shall also simultaneously institute proceedings for revocation, suspension, or limitation of the license of the resomation facility authority.

II. A continuance of the hearing under paragraph I shall be granted by the board upon written request from the resomation facility authority. Such continuance shall not exceed 30 days.

III. A temporary suspension or temporary limitation order by the board under this section shall take effect when served upon the resomation facility authority and shall not exceed 90 days. If further action is not taken by the board within such period, the temporary suspension or temporary limitation shall expire.

325-B:11 Deny or Refuse to Renew License; Grounds. The board may deny or refuse to renew a license under this chapter or take disciplinary action against a resomation facility authority licensed under this chapter as provided in RSA 325-B:12 on any of the following grounds:

- I. Violation of this chapter or rules adopted and pursuant to this chapter;
- II. Conviction of any crime involving moral turpitude;
- III. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony and which has a rational connection with the fitness or capacity of the resomation facility authority to operate a resomation facility;
- IV. Conviction of a violation pursuant to RSA 325-B:15;
- V. Obtaining a license as a resomation facility authority by false representation or fraud;
- VI. Misrepresentation or fraud in the operation of a resomation facility; or
- VII. Failure to allow access by an agent or employee of the board to a resomation facility operated by the resomation facility authority for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the board.

325-B:12 Disciplinary Actions.

I. The board may impose any one or more of the following types of disciplinary action against a resomation facility authority licensed under this chapter:

- (a) A fine not to exceed \$20,000 per violation;
- (b) A limitation on the license and upon the right of the resomation facility authority to operate a resomation facility to the extent, scope, or type of operation, for such time, and under such conditions as the board finds necessary and proper;
- (c) Placement of the licensee on probation for a period not to exceed 2 years during which the resomation facility may continue to operate under terms and conditions fixed by the order of probation;
- (d) Suspension of the license for a period not to exceed 2 years during which the resomation facility may not operate; and
- (e) Revocation and permanent termination of the license.

II. Any fine imposed and unpaid under this chapter shall constitute a debt to the state of New Hampshire which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the state in the superior court of the county in which the resomation facility is located. The board shall, within 30 days after receipt, remit any such fines to the state treasurer for deposit in the general fund.

325-B:13 Appeal. Any party to a decision of the board under this chapter may appeal such decision in accordance with RSA 541.

325-B:14 License Reinstatement or Relicensure.

I. If the license of a resomation facility authority has lapsed for nonpayment of fees, such license shall be eligible for reinstatement at any time upon application to the board and payment of the applicable fee as provided in RSA 325-B:7.

II. If the license of a resomation facility authority has been placed on probation, such license shall be eligible for reinstatement at the end of the period of probation upon successful completion of an inspection if the board determines an inspection is warranted.

III. If the license of a resomation facility authority has been suspended, such license shall be eligible for reinstatement at the end of the period of suspension upon successful completion of an inspection and payment of the applicable fee as provided in RSA 325-B:7.

IV. If the license of a resomation facility authority has been suspended, such license may be reinstated by the board prior to the completion of the term of suspension upon petition by the licensee. After reviewing such petition and any material submitted by the licensee with such petition, the board may order an inspection or investigation of the licensee. Based on such review and such inspection or investigation, if any, the board shall grant full reinstatement of the license, modify the suspension, or deny the petition for reinstatement. The board's decision shall become final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within such period. Any requested hearing shall be held according to rules of the board.

V. If the license of a resomation facility authority has been revoked, such resomation facility authority shall not be eligible for relicensure until 5 years after the date of such revocation. A reapplication for an initial license may be made by the resomation facility authority at the end of such 5-year period.

325-B:15 Acts Prohibited; Penalty.

I. Maintaining or operating a resomation facility in violation of this chapter or any rules of the board is a public nuisance and may be abated as a nuisance as provided by law.

II. It shall be a felony to establish, operate, or maintain a resomation facility subject to this chapter without being licensed as a resomation facility authority under this chapter, to hold oneself out to the public as a resomation facility authority without being licensed, or to perform a resomation without a resomation authorization form signed by the authorizing agent and a completed burial transit permit for resomation, and a medical examiner's certificate of resomation.

III. Signing a resomation authorization form with actual knowledge that the form contains false, incorrect, or misleading information is a felony.

IV. A violation of any other provision of this chapter is a misdemeanor.

325-B:16 Injunctions. The board may maintain an action in the name of the state for an injunction against any person for establishing, operating, or maintaining a resomation facility without first obtaining a license as a resomation facility authority under this chapter. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, operate, or maintain a resomation facility without obtaining a license as a resomation facility authority under this chapter, without alleging any further or more particular facts concerning the same.

325-B:17 Right to Authorize Resomation. The right to authorize the resomation of human remains and the final disposition of the resomated remains, except in the case of a minor and unless other directions have been given by the decedent in the form of a testamentary disposition or a pre-need contract, vests pursuant to RSA 290.

325-B:18 Medical Examiner's Certificate.

I. The body of a deceased person shall not be resomated within 48 hours after his or her death unless he or she died of a contagious or infectious disease. If the death occurred within the state, the body shall not be resomated by the resomation facility authority until the resomation facility authority has received the burial transit permit for resomation required by law, and a certificate from a medical examiner or deputy medical examiner that he or she has viewed the body and made personal inquiry into the cause and manner of death, and is of the opinion that no further examination or judicial inquiry concerning the same is necessary. If the death occurred within the state but the body is being transferred out of state for resomation, the transfer shall not occur until the medical examiner has conducted such a view and inquiry and has issued a certificate. If the death occurs outside the state, the reception and resomation of the body of a deceased person shall be governed by rules adopted by the board after consultation with the chief medical examiner.

II. The resomation facility authority shall forward a copy of the resomation certificate to the office of the chief medical examiner, accompanied by a \$60 fee. The fee shall be deposited in the medico-legal investigative fund established pursuant to RSA 611-B:28.

325-B:19 Resomation Facility Authority.

I. A resomation facility authority, upon receiving human remains, shall sign a delivery receipt form and shall hold the human remains, prior to resomation, as provided in this section. The form shall include the name of the deceased, the time and date of delivery of such remains, and the signatures of the owner of the resomation facility or his or her representative and the funeral director or his or her representative, or the next-of-kin or designated agent as provided in RSA 290.

II. If a resomation facility authority is unable to resomate the human remains immediately upon taking receipt thereof, the resomation facility authority shall place the human remains in a holding facility. A holding facility shall be designed and constructed to comply with all applicable public health laws, provide for the health and safety of persons employed at such facility, and prevent any unauthorized access to such facility.

III. A resomation facility authority may refuse to accept for holding an alternative container or casket from which there is any evidence of leakage of the body fluids from the human remains in the container.

IV. If human remains received by the resomation facility authority are not embalmed, such remains shall be held no longer than 24 hours from the time of death at the resomation facility unless the human remains are placed within a refrigerated facility in accordance with the laws of this state.

325-B:20 Resomation Facility Operation; Limitations.

I. No person shall be permitted in a resomation facility, unless authorized by the resomation facility authority, while any human remains are in the resomation facility awaiting resomation, being resomated, or being removed from the resomator.

II. The human remains of more than one person shall not be simultaneously resomated within the same resomator unless the resomation facility authority has received specific written authorization from the authorizing agent for the human remains to be so resomated.

325-B:21 Resomation Facility Authority; Requirements.

I. A resomation facility authority shall not accept human remains for resomation without a proper label placed on the exterior of the alternative container or casket indicating the name of the deceased and the name and location of the funeral establishment, or the name of the next-of-kin or designated agent as provided in RSA 290.

II. No resomation facility authority shall make or enforce any rules requiring that human remains be placed in a casket before resomation. No resomation facility authority shall refuse to accept human remains for resomation if the human remains are received in a casket.

III. No resomation facility authority shall accept human remains for resomation unless the human remains are delivered to the resomation facility authority in an alternative container or casket or delivered to the resomation facility authority's holding facility to be placed in an alternative container or casket. Human remains delivered to a resomation facility in an alternative container or casket, shall not be removed from the temporary container or casket while being held awaiting resomation. Human remains shall not be removed from the alternative container or casket for resomation without the expressed written consent of the authorizing agent as stipulated on the authorization for resomation form required. A resomation facility authority may refuse an alternative container or a casket or container that is not labeled as required under paragraph I.

IV. An alternative container shall:

- (a) Be able to be closed to provide for complete encasement of the human remains;
- (b) Be resistant to leakage or spillage;
- (c) Be rigid enough for easy handling; and
- (d) Provide protection for the health and safety of persons handling such container.

V. No resomation facility authority shall accept unembalmed human remains for resomation unless the human remains are delivered to the resomation facility authority in a leak proof pouch. If the unembalmed human remains are noted to have died from an infectious, contagious, or communicable disease, the human remains must be received by the resomation facility authority within 2 leak proof pouches.

325-B:22 Resomation Authorization Form.

I. A resomation facility authority shall not resomate human remains until it has received a resomation authorization form as provided in paragraph II, a completed and executed burial transit permit for resomation as required by law or the appropriate resomation permit from the state from which the human remains were delivered, indicating that the human remains are to be resomated, and a delivery receipt form.

II. A resomation authorization form shall be signed by the authorizing agent and shall include, but not be limited to, the following information:

- (a) The name of the deceased;
- (b) Date and place of death;
- (c) The identity of the funeral home, funeral director, next of kin or agent responsible for the delivery of the human remains to the resomation facility for resomation;
- (d) Notification that the death did or did not occur from a disease declared by the board to be infectious, contagious, communicable, or dangerous to the public health;
- (e) The name of the authorizing agent and the relationship between the authorizing agent and the deceased;
- (f) Authorization by the authorizing agent for the resomation facility authority to resomate the human remains;
- (g) A representation that the authorizing agent is aware of no objection to the human remains being resomated by any person who has a right to control the disposition of the human remains;
- (h) A representation that the human remains do not contain any material, implants, or conditions that may be potentially hazardous to equipment or persons performing the resomation;
- (i) Acknowledgement by way of initials of the authorizing agent to the resomation facility authority beside the specific statements outlining the requirements and authorization to remove the human remains from the temporary container, casket or same, in addition to the leak-proof pouch, prior to placement of human remains within the dissolvable casket for resomation.
- (j) Acknowledgement by way of initials of the authorizing agent to the resomation facility authority beside the specific statement acknowledging the fact, as a requirement of the resomation process, all personal effects including all clothing must be removed from the human remains, unless clothed in acceptable clothing for resomation, prior to placing the human remains within the stainless steel basket for the completion of the resomation process.
- (k) Acknowledgement from the authorizing agent to resomation facility authority of the disposition of the temporary container, casket or same, from which the human remains were removed from prior to resomation.
- (l) The name of the person authorized to claim the resomated remains from the resomation facility authority; and
- (m) The intended disposition of the resomated remains.

III. A resomation facility authority shall retain, for at least 7 years after the resomation, in printed or electronic format with suitable backup, copies of the resomation authorization form, the burial transit permit for resomation, the resomated remains receipt form, delivery receipt form, and any other records required under this chapter.

325-B:23 Signature.

I. Any person signing a resomation authorization form shall be deemed to warrant the truthfulness of any facts set forth on such form, including the identity of the deceased

whose remains are sought to be resomated and the authority of the person to authorize such resomation. Any person signing a resomation authorization form is personally liable for all damages resulting from false, incorrect, or misleading information contained on such form.

II. A resomation facility authority may resomate human remains upon the receipt of a resomation authorization form signed by an authorizing agent, a completed and executed burial transit permit for resomation as required by law and the required medical examiner certificate of resomation.

325-B:24 Potentially Hazardous Conditions.

I. No human remains shall be resomated with the knowledge that the human remains contain a pacemaker or defibrillator or other potentially hazardous implant or condition. The authorizing agent shall take all necessary steps to ensure that any such hazardous implant or condition is removed or corrected prior to resomation. If an authorizing agent informs the funeral director and the resomation facility authority on the resomation authorization form of the presence of such potentially hazardous implant or condition in the human remains, the funeral director shall ensure that all necessary steps have been taken to remove or correct the implant or condition before delivering the human remains to the resomation facility. A funeral director who knowingly fails to ensure the removal or correction of the hazardous implant or condition prior to delivery and who knowingly delivers such human remains shall be liable for any damages resulting from such failure. If human remains with hazardous implants or conditions are in the custody of a resomation facility authority, such authority shall have the hazardous implants or conditions removed or corrected by a licensed funeral director and embalmer or a licensed embalmer at a funeral establishment within an embalming preparation room, or at a medical facility by appropriate medical personnel, or at the resomation facility by an assistant deputy medical examiner of the department of justice.

II. No human remains shall be resomated with the knowledge that the human remains contain jewelry or other valuables unless authorized by the authorizing agent. The authorizing agent shall take all necessary steps to ensure that any jewelry or other valuables are removed prior to resomation. If the authorizing agent informs the funeral director and the resomation facility authority on the resomation authorization form of the presence of jewelry or other valuables on the human remains, the funeral director shall ensure that all necessary steps have been taken to remove the jewelry or other valuables before delivering the human remains to the resomation facility. A funeral director who knowingly fails to ensure the removal of the jewelry or other valuables prior to delivery and who knowingly delivers such human remains shall be liable for any damages resulting from such failure. If human remains with jewelry or other valuables are in the custody of a resomation facility authority, such authority shall provide for the removal of such jewelry or other valuables by a licensed funeral director and embalmer or his or her agent.

325-B:25 Disputes.

I. If a resomation facility authority or funeral establishment is aware of any dispute concerning the resomation of human remains, or has a reasonable basis to believe that such a dispute exists or to question any of the representations made by the authorizing agent with respect to such remains, until the resomation facility authority receives a court order that a dispute with respect to such remains has been settled, the resomation facility authority or funeral establishment may refuse to accept such human remains for resomation or to perform a resomation of such remains.

II. If a resomation facility authority or funeral establishment is aware of any dispute concerning the release or disposition of resomated remains, the resomation facility authority or funeral establishment may refuse to release resomated remains until the dispute has been resolved or the resomation facility authority or funeral establishment has been provided with a court order authorizing the release or disposition of the resomated remains.

325-B:26 Resomated Remains; How Treated.

I. To the extent possible, upon completion of the resomation, all of the recoverable residue of the resomation shall be removed from the resomator and any foreign matter or anything other than bone shadow shall be removed from such residue and shall be disposed of by the resomation facility authority. The remaining bone shadow shall be powdered to reduce the shadows to unidentifiable particles/bio-ash. This paragraph shall not apply when the commingling of human remains during resomation is otherwise authorized by law.

II. The resomated remains with proper identification shall be placed in a temporary container or permanent container selected or provided by the authorizing agent. The resomated remains shall not be contaminated with any other object unless specific written authorization to the contrary has been received from the authorizing agent.

III. If the entirety of the resomated remains will not fit within a temporary container or permanent container, the remainder of such remains shall be returned to the authorizing agent or his or her representative in a separate container with proper identification.

IV. If the resomated remains are to be shipped, the temporary container or permanent container shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Unless otherwise directed in writing by the authorizing agent, resomated remains shall be shipped only by a method which includes an internal tracking system and which provides a receipt signed by the person accepting delivery of such remains.

325-B:27 Resomated Remains; Final Disposition.

I. The delivery of the resomated remains to the authorizing agent or his or her representative shall constitute final disposition. If, after a period of 60 days after the date of resomation, the authorizing agent or his or her representative has not directed or otherwise arranged for the final disposition of the resomated remains or claimed the resomated remains for final disposition as provided in this section, the resomation facility authority or the funeral establishment in possession of the resomated remains may dispose of the resomated remains after making a reasonable attempt to contact the authorizing agent or his or her representative. This method of disposition may be used by any resomation facility authority or funeral establishment to dispose of all resomated remains in the possession of a resomation facility authority or funeral establishment on or after the effective date of this chapter.

II. Resomated remains shall be delivered or released by the resomation facility authority to the representative specified by the authorizing agent on the resomation authorization form. The owner of the resomation facility authority or his or her representative and the party receiving the resomated remains shall sign a resomated remains receipt form. The form shall include the name of the deceased, the date, time, and place of receipt of the resomated remains, and the signatures of the owner of the resomation facility or his or her representative and the authorizing agent or his or her representative. If the resomated remains are shipped, a form used by the shipper may be used in lieu of a completed resomated remains receipt form if the shipper's form contains the information required for a resomated remains receipt form. Both the party delivering such remains and the party receiving such remains shall retain a copy of the resomated remains receipt form or shipper's form. Upon delivery, the resomated remains may be further transported within this state in any manner without a permit.

325-B:28 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A relative to:

I. Procedures for licensure of resomation facility authorities.

II. Establishing all required fees.

III. The content of all forms.

IV. Conditions under which human remains of persons whose death was caused by a disease declared by the board to be infectious, contagious, communicable, or dangerous to the public health may be transported in this state to a resomation facility for the purpose of resomation. The board shall consult with the chief medical examiner on rules adopted under this paragraph.

V. Minimum sanitation standards for all resomation facilities.

VI. Inspection procedures for resomation facilities as required under RSA 325-B:8.

325-B:29 Resomation Facility Authority; Bylaws. A resomation facility authority may enact reasonable bylaws not inconsistent with this chapter for the management and operation of a resomation facility operated by such authority. Nothing in this section shall prevent a resomation facility authority from enacting bylaws which contain more stringent requirements than those provided in this chapter.

2 Assistant Deputy Medical Examiner Accounts. Amend RSA 611-B:27, I to read as follows:

I. Assistant deputy medical examiners shall be paid at the following rates: telephone consultations--\$25; death investigations involving an external examination of the body—~~[\$125]~~ **\$140**, plus mileage at the state rate; pre-cremation examinations conducted pursuant to RSA 325-A:18--\$50; ***pre-resomation examinations conducted pursuant to RSA 325-B:18--\$50.***

3 Repeal. RSA 325-A:30, II, relative to disposal of human remains through a reductive process utilizing alkaline hydrolysis.

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

MOTION TO TABLE

Senator Fuller Clark moved to have SB 332-FN laid on the table.

Adopted.

LAID ON THE TABLE

SB 332-FN, relative to resomation of human remains.

SB 334-FN, relative to undue influence on real estate appraisals and relative to the quorum of the real estate appraiser's board. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 2-0. Senator Downing for the committee.

Senate Executive Departments and Administration
February 8, 2008
2008-0466s
10/05

Amendment to SB 334-FN

Amend the bill by replacing section 4 with the following:

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

MOTION TO TABLE

Senator Burling moved to have SB 334-FN laid on the table.

Adopted.

LAID ON THE TABLE

SB 334-FN, relative to undue influence on real estate appraisals and relative to the quorum of the real estate appraiser's board.

SB 393, allowing dental hygienists to engage in independent practice. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 3-2. Senator Burling for the committee.

MOTION TO TABLE

Senator Fuller Clark moved to have SB 393 laid on the table.

Adopted.

LAID ON THE TABLE

SB 393, allowing dental hygienists to engage in independent practice.

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. Finance Committee. Ought to Pass, Vote 4-0. Senator Sgambati for the committee.

Adopted.

Ordered to third reading.

SB 442-FN, requiring that the proceeds of fees for motions to appear in court pro hac vice be paid into the law library revolving fund. Finance Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

SB 320-FN, relative to unauthorized payment of public assistance. Health and Human Services Committee. Inexpedient to Legislate, Vote 5-0. Senator Sgambati for the committee.

Committee report of inexpedient to legislate is adopted.

SB 390, establishing a suicide prevention council. Health and Human Services Committee. Ought to pass with amendment, Vote 5-0. Senator Sgambati for the committee.

Sen. Sgambati, Dist. 4
February 5, 2008
2008-0405s
01/04

Amendment to SB 390

Amend RSA 126-R:3, I as inserted by section 2 of the bill by inserting after subparagraph (u) the following new subparagraph:

(v) A physician, appointed by the New Hampshire Medical Society.

Amend RSA 126-R:3, II(a) as inserted by section 2 of the bill by replacing it with the following:

II.(a) The term of office for each member appointed under subparagraphs I(h)-(v) shall be 2 years, or until a successor is appointed and qualified in the case of a vacancy. The term of office for all other members shall be coterminous with the term of office for the position that qualifies that member to serve on the advisory council. A vacancy shall be filled in the same manner, but only for the unexpired term.

Amendment adopted.

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4
February 12, 2008
2008-0557s
01/04

Floor Amendment to SB 390

Amend RSA 126-R:3, I(c) as inserted by section 2 of the bill by replacing it with the following:

(c) The commissioner of the department of health and human services, or designee, and one additional representative of the department, appointed by the commissioner.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Estabrook for the committee.

Sen. Sgambati, Dist. 4
February 5, 2008
2008-0404s
01/04

Amendment to SB 395

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

- I. The members of the commission shall be as follows:
- (a) One member of the senate, appointed by the president of the senate.
 - (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
 - (c) The commissioner of the department of health and human services, or designee.
 - (d) The commissioner of the department of education, or designee.
 - (e) The director of the division of public health services, department of health and human services, or designee.
 - (f) One representative of the New Hampshire Hospital Association, appointed by such association.
 - (g) One representative of the New Hampshire Medical Society, appointed by such society.
 - (h) A representative of an AIDS service organization, appointed by the governor.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 427, requiring hospitals to report on their standards and criteria for organ donations and transplants. Health and Human Services Committee. Inexpedient to Legislate, Vote 5-1. Senator Sgambati for the committee.

MOTION TO TABLE

Senator Sgambati moved to have SB 427 laid on the table.

The question is on the motion to table.

A roll call was requested by Senator Kenney.

Seconded by Senator Burling.

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

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

Yeas: 16 - Nays: 8

Adopted.

LAIID ON THE TABLE

SB 427, requiring hospitals to report on their standards and criteria for organ donations and transplants.

SB 454, relative to certain changes to the controlled drug act. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Sen. Kenney, Dist. 3

February 7, 2008

2008-0453s

01/09

Amendment to SB 454

Amend the bill by replacing section 1 with the following:

1 Controlled Drug Act; Sale by Pharmacists . Amend RSA 318-B:9, IV to read as follows:

IV. No prescription shall be filled for more than a 34-day supply ~~[or 100 dosage units, whichever is less,]~~ upon any single filling for controlled drugs of schedules II or III; provided, however, that with regard to amphetamines and methylphenidate hydrochloride, a prescription may be filled for up to a 60-day supply if either such prescription specifies it is being used for the treatment of attention deficit disorder, attention deficit disorder with hyperactivity, or narcolepsy.

2008-0453s

AMENDED ANALYSIS

This bill deletes the prohibition that prescriptions shall not be filled for more than 100 dosage units under the controlled drug act.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 464, relative to the number of children in a licensed foster home. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Fuller Clark for the committee.

Sen. Sgambati, Dist. 4

February 8, 2008

2008-0484s

05/04

Amendment to SB 464

Amend the bill by replacing section 1 with the following:

1 Foster Family Home. Amend RSA 170-E:25, II(a)(2) to read as follows:

(2) If the limit of 6 children under subparagraph (a)(1) is reached, the foster family is willing and able **to take another child or** to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the foster family is able to provide for the safety, permanency, and well-being of the child or children, the department

may, notwithstanding the limitations of subparagraph (a)(1), *provide a waiver to* place the *child*, sibling, or group of siblings in the foster family home.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

SB 323-FN, relative to terms of release and notice of hearings in the parole of prisoners. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

MOTION TO TABLE

Senator Clegg moved to have SB 323-FN laid on the table.

Adopted.

LAIID ON THE TABLE

SB 323-FN, relative to terms of release and notice of hearings in the parole of prisoners.

SB 399, permitting annulment of certain criminal records in the supreme court. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

SB 444, relative to settlements on behalf of minors and judgments and decrees in favor of minors. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

Senate Judiciary
February 7, 2008
2008-0452s
09/04

Amendment to SB 444

Amend RSA 463:2, VI as inserted by section 1 of the bill by replacing it with the following:

VI. “Net amount” means the amount of settlement, judgment and related interest and taxable costs, or decree received after the deduction of attorney’s fees, court costs, and other expenses related to the claim.

Amend RSA 464-A:2, XIV-a as inserted by section 3 of the bill by replacing it with the following:

XIV-a. “Net amount” means the amount of settlement, judgment and related interest and taxable costs, or decree received after the deduction of attorney’s fees, court costs, and other expenses related to the claim.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 360, relative to local enforcement of the state building code. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

SB 357, relative to the examination of acts and resolves before printing. Rules and Enrolled Bills Committee. Inexpedient to Legislate, Vote 3-2. Senator Gottesman for the committee.

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

A roll call was requested by Senator Clegg.

Seconded by Senator Barnes.

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

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

Yeas: 14 - Nays: 10

Committee report of inexpedient to legislate is adopted.

SB 363, requiring youth operators and passengers of OHRVs and snowmobiles to wear approved protective headgear. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Kelly for the committee.

Transportation and Interstate Cooperation

February 8, 2008

2008-0471s

06/09

Amendment to SB 363

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

1 New Section; OHRVs; Protective Headgear. Amend RSA 215-A by inserting after section 13 the following new section:

215-A:13-a Protective Headgear. No person under the age of 18 shall operate any OHRV within this state without wearing eye protection and protective headgear which meets or exceeds the specifications of FMVSS 218.

2 Off Highway Recreational Vehicles: Operation; Requirement Added. Amend RSA 215-A:29, XV and XVI to read as follows:

XV. No person under the age of 18 shall operate any OHRV within this state without wearing ~~[a protective helmet and]~~ eye protection **and protective headgear which meets or exceeds the specifications of FMVSS 218.**

XVI. No person shall operate any OHRV within this state carrying passengers under the age of 18 unless each **such** passenger is wearing ~~[a protective helmet]~~ **eye protection and protective headgear which meets or exceeds the specifications of FMVSS 218.**

3 New Section; Snowmobiles; Protective Headgear. Amend RSA 215-C by inserting after section 29 the following new section:

215-C:29-a Protective Headgear. No person under the age of 18 shall operate any snowmobile within this state without wearing eye protection and protective headgear which meets or exceeds the specifications of FMVSS 218.

4 Snowmobiles; Operation; Requirement Added. Amend RSA 215-C:49, XIX and XX to read as follows:

XIX. No person under the age of 18 shall operate any snowmobile within this state without wearing ~~[a protective helmet and]~~ eye protection **and protective headgear which meets or exceeds the specifications of FMVSS 218.**

XX. No person shall operate any snowmobile within this state carrying passengers under the age of 18 unless each **such** passenger is wearing ~~[a]~~ **eye protection and protective [helmet] headgear which meets or exceeds the specifications of FMVSS 218.**

5 Effective Date. This act shall take effect January 1, 2009.
2008-0471s

AMENDED ANALYSIS

This bill requires operators and passengers of OHRVs and snowmobiles under the age of 18 to wear eye protection and protective headgear which meets the specifications of FMVSS 218.

Amendment adopted.

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

Adopted.

Ordered to third reading.

SB 517-FN, relative to commercial advertising on toll booths. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Burling for the committee.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

Committee report of inexpedient to legislate is adopted.

MOTION TO REMOVE FROM THE TABLE

Senator Letourneau moved to have SB 303-FN removed from the table.

Adopted.

SB 303-FN, relative to special number plates.

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19

Sen. Burling, Dist. 5

Sen. Kelly, Dist. 10

Sen. DeVries, Dist. 18

Sen. Clegg, Dist. 14

February 14, 2008

2008-0475s

03/09

Floor Amendment to SB 303-FN

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

2 Gold Star Number Plates; Fees. Amend RSA 261:87-c, I to read as follows:

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

There shall be no number plate fees for gold star number plates.

3 Effective Date.

I. Section 2 of this act shall take effect upon its passage.

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

2008-0475s

AMENDED ANALYSIS

This bill makes the issuance of certain special number plates by the director of the division of motor vehicles mandatory and adds active duty members of the armed forces to those eligible for special number plates. This bill also exempts gold star number plates from the number plate fee.

MOTION TO TABLE

Senator Foster moved to have SB 303-FN laid on the table.

Adopted.

LAI D ON THE TABLE

SB 303-FN, relative to special number plates.

SB 456, establishing a committee to study the impact of the research and development tax credit and the current cap on the credit on high technology industries and New Hampshire businesses in general. Ways and Means Committee. Ought to pass with amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Ways and Means

February 7, 2008

2008-0461s

09/10

Amendment to SB 456

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

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

Amend the bill by replacing section 4 with the following:

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

MOTION TO TABLE

Senator Reynolds moved to have SB 456 laid on the table.

Adopted.

LAI D ON THE TABLE

SB 456, establishing a committee to study the impact of the research and development tax credit and the current cap on the credit on high technology industries and New Hampshire businesses in general.

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. Ways and Means Committee. Inexpedient to Legislate, Vote 5-0. Senator Reynolds for the committee.

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

A roll call was requested by Senator Clegg.

Seconded by Senator Barnes.

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

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

Yeas: 16 - Nays: 7

Committee report of inexpedient to legislate is adopted.

MOTION TO REMOVE FROM THE TABLE

Senator D'Allesandro moved to have SB 303-FN removed from the table.

Adopted.

SB 303-FN, relative to special number plates.

The question is on the adoption of the floor amendment (0475s).

Floor amendment adopted.

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

A roll call was requested by Senator Letourneau.

Seconded by Senator Barnes.

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

The following Senators voted No: None.

Yeas: 23 - Nays: 0

Adopted.

Ordered to third reading.

SB 491, excluding the value of a view from property tax assessment. Ways and Means Committee. Inexpedient to Legislate, Vote 4-1. Senator Janeway for the committee.

MOTION TO TABLE

Senator Janeway moved to have SB 491 laid on the table.

The question is on the motion to table.

A roll call was requested by **Senator Kenney**.

Seconded by **Senator Barnes**.

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

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

Yeas: 15 - Nays: 8

Adopted.

LAIID ON THE TABLE

SB 491, excluding the value of a view from property tax assessment.

SB 486, relative to the duties and responsibilities of special deputy forest rangers. Wildlife, Fish and Game and Agriculture. Ought to pass with amendment, Vote 4-0. Senator Janeway for the committee.

Sen. Cilley, Dist. 6
January 31, 2008
2008-0354s
04/09

Amendment to SB 486

Amend RSA 227-J:3 as inserted by section 1 of the bill by replacing it with the following:

227-J:3 Special Deputy Forest Rangers. The director may appoint, as special deputy forest rangers, persons ~~[in the employ of the department and, upon the recommendation of the district forest ranger, such other persons as may be able]~~ to assist the director in the enforcement of ~~[all state laws and rules applicable to the harvest of timber for which the division has enforcement authority.]~~ *the provisions of this title and any other laws for which the division has enforcement authority, the protection and improvement of forestlands throughout the state, and the protection of persons and property on property owned, leased, or under the control of the department.* Such individuals

shall be employees of the division and shall have powers and duties exercised only at the discretion of the ~~[district forest ranger]~~ **director**. Such appointees shall be allowed, for their services, such compensation as may be fixed by the commissioner and the director, and such compensation shall be deemed an expense of enforcing state ~~[timber harvest]~~ **forest protection** laws and paid by the state.

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

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 303-FN, relative to special number plates.

SB 309-FN, relative to the regulation of amateur and professional fighting sports by the boxing and wrestling commission.

SB 317-FN, relative to the retail sale of tobacco products.

SB 318-FN, establishing a commission to study the creation of a large animal care worker classification.

SB 319-FN, relative to third party liability and state recovery of public assistance.

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.

SB 352-FN, relative to shoreland protection.

SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty.

SB 360, relative to local enforcement of the state building code.

SB 363, requiring youth operators and passengers of OHRVs and snowmobiles to wear approved protective headgear.

SB 390, establishing a suicide prevention council.

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control.

SB 399, permitting annulment of certain criminal records in the supreme court.

SB 418, replacing references to “charter school” with “chartered public school”.

SB 437, relative to access to voter database information.

SB 439, relative to money transmitters and mortgage servicing companies.

SB 442-FN, requiring that the proceeds of fees for motions to appear in court pro hac vice be paid into the law library revolving fund.

SB 444, relative to settlements on behalf of minors and judgments and decrees in favor of minors.

SB 454, relative to certain changes to the controlled drug act.

SB 459, establishing an advanced manufacturing education advisory council.

SB 464, relative to the number of children in a licensed foster home.

SB 472, relative to consumer protection from certain practices of payday loan, small loan, and title loan lenders and establishing a commission to study access to consumer credit for people in New Hampshire.

SB 478, relative to processing absentee ballots.

SB 486, relative to the duties and responsibilities of special deputy forest rangers.

SB 528-FN, relative to a mercury-added thermostat collection program.

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02.

HB 267, relative to certain small loans.

ANNOUNCEMENTS

Senator Kenney (Rule #44).

RESOLUTION

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

Adopted.

In recess to the Call of the Chair.