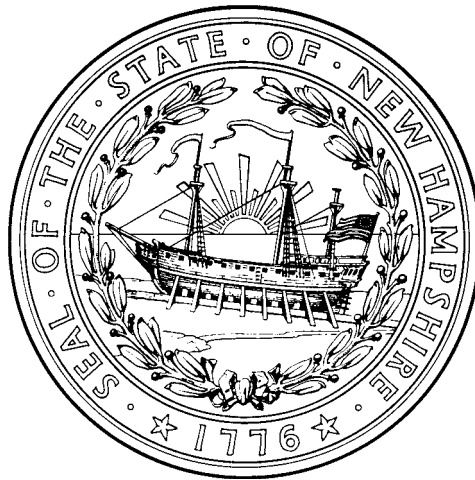


May 13, 2009
Nos. 14-15

STATE OF NEW HAMPSHIRE

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161st Session of the New Hampshire General Court

Legislative Proceedings

SENATE JOURNAL

ADJOURNMENT – MAY 6, 2009 SESSION

COMMENCEMENT – MAY 13, 2009 SESSION

SENATE JOURNAL 14 *(continued)*

May 6, 2009

HOUSE MESSAGE

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

SB 13, declaring the chinook the state dog of New Hampshire.

SB 15, relative to the membership of the state veterans' advisory committee.

SB 35, establishing a commission to study creating a veterans' legal aid advocacy project in New Hampshire.

SB 57, relative to the commission to study the effects of post-traumatic stress disorder and traumatic brain injury suffered by New Hampshire soldiers and veterans returning from Iraq and Afghanistan.

SB 97, establishing a committee to study the standards and procedures by which certain information should be provided to electrical service customers.

SB 103-FN, relative to prohibited sales of alcoholic beverages.

SB 116, repealing the prohibition on political contributions by insurance companies.

SB 117, establishing a committee to study the feasibility of establishing a program to provide low-cost firewood from state lands to low-income individuals.

SB 137-FN-A, relative to animal population control.

SB 148, establishing that the state of New Hampshire recognizes the designations of Prisoner of War (POW) and Missing in Action (MIA) as valid descriptions of casualty status and category classification for military personnel.

SB 202-FN-L, relative to employee candidate background checks by municipalities.

HOUSE MESSAGE

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

HB 52-FN, relative to the regulation of massage therapists.

HB 80, adding a pharmacy board member and requiring at least one member of the pharmacy board to be a hospital pharmacist, and relative to the consecutive years of service of pharmacy board members.

HB 129, establishing a committee to study the incorporation of electronic filing procedures under the administrative procedures act.

HB 234, establishing a committee to study the certificate of need process.

HB 310-FN, relative to reimbursement of mileage for judges and marital masters and relative to civil marriage and civil unions.

HB 436-FN-L, relative to civil marriage and civil unions.

HB 527, repealing the coordinated school health committee and relative to health education in kindergarten through grade 12.

HOUSE MESSAGE

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

SB 121, establishing a commission to study potential revenue enhancements for municipalities.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

SB 35, establishing a commission to study creating a veterans' legal aid advocacy project in New Hampshire.

SB 37, relative to release of a defendant pending trial.

SB 45, extending the commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control.

SB 66, relative to repealing the joint health council and changing the title of ARNPs.

SB 93, relative to the exemption from subsequent local land use regulation where substantial development has begun on an approved plan.

SB 97, establishing a committee to study the standards and procedures by which certain information should be provided to electrical service customers.

SB 111, authorizing the governor to appoint a public member to the rail transit authority.

SB 127, making renewable energy facilities eligible for certain bonds issued by municipalities and business and industrial development authorities.

SB 153, relative to business practices between motor vehicle manufacturers, distributors, and dealers.

SB 165, relative to fire equipment service certification.

SB 199, establishing a committee to study the training of public safety officials to respond to persons with mental illness.

SB 204, relative to postsecondary educational assistance for New Hampshire national guard members and excluding certain entities that license software from the definition of private postsecondary career school.

HB 58, designating segments of the Cocheco River as protected under the rivers management and protection program.

HB 120, relative to the installation of carbon monoxide detectors in single and multi-family dwellings.

HB 132, relative to access to case records of the department of health and human services.

HB 178, naming a bridge on U.S. route 4 in Lebanon the Terri Dudley Bridge.

HB 210, relative to public access to minutes of local land use boards.

HB 267, relative to the definition of "election."

HB 282, relative to meetings of the medical/vision advisory board.

HB 301, establishing a task force to study access to dental care.

HB 403, clarifying the intent of a transfer of general funds to the highway fund.

HB 414, establishing a commission to study preventing dental disease among New Hampshire's children.

HB 436, relative to civil marriage and civil unions.

HB 483, establishing the developmental services quality council.

HB 545, relative to the wildlife damage control program in the fish and game department.

HB 599, relative to reclassification of the position of forensic toxicologist in the department of safety.

HB 674, relative to eliminating the water resources council, relative to dams, and authorizing the Connecticut lakes headwaters citizens committee to advise the department of environmental services on the management of Lake Francis and associated property.

HJR 3, recognizing the historic milestone represented by the New Hampshire senate being the first legislative body in the United States with women as the majority of its members.

Sen. D'Allesandro moved adoption of the Report of the Committee on Enrolled Bills.

Report of Committee on Enrolled Bills adopted.

May 6, 2009

2009-1541-EBA

03/01

Enrolled Bill Amendment to SB 153

The Committee on Enrolled Bills to which was referred SB 153

AN ACT relative to business practices between motor vehicle manufacturers, distributors, and dealers.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 153

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to SB 153

Amend the bill by replacing section 11 with the following:

11 Limitations on Cancellations. Amend RSA 357-C:7, III(c)-(d) to read as follows:

(c) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a license for the sale of another make or line of new motor vehicle, or that the new motor vehicle dealer has established another make or line of new motor vehicle in the same dealership facilities as those of the manufacturer, distributor, or branch or division thereof; provided that the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, and that the new motor vehicle dealer remains in substantial compliance with any reasonable facilities' requirements of the manufacturer, distributor, or branch or division thereof; ~~and~~

(d) The fact that the new motor vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new motor vehicle dealer's spouse, son, or daughter. The manufacturer, distributor, or branch or division thereof shall give effect to such change in ownership unless the transfer of the new motor vehicle dealer's license is denied or the new owner is unable to license as the case may be; *and*

(e) The fact that the new motor vehicle dealer's dealership does not substantially meet the reasonable capitalization requirements of the manufacturer, distributor, branch, or division.

Amend RSA 357-C:7, VI as inserted by section 13 of the bill by replacing lines 50-51 with the following:

This paragraph shall not apply to a termination, cancellation, or nonrenewal due to a sale of the assets or stock of the motor vehicle dealership

Adopted.

May 8, 2009
2009-1579-EBA
05/10

Enrolled Bill Amendment to HB 310-FN

The Committee on Enrolled Bills to which was referred HB 310-FN

AN ACT relative to reimbursement of mileage for judges and marital masters and relative to civil marriage and civil unions.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 310-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 310-FN

Amend section 2 of the bill by replacing line 1 with the following:

2 Judicial Branch Family Division; Marital Masters' Expenses. Amend RSA 490-D:15 to read as

Adopted.

Out of Recess.

MOTION TO ADJOURN FROM LATE SESSION

Sen. Hassan moved that the Senate adjourn from the Late Session.

Motion adopted.

Adjournment from the Late Session.

SENATE JOURNAL 15

May 13, 2009

The Senate reconvened at 10 a.m., a quorum being present.

The Reverend Canon Charles Lafond, chaplain to the Senate, offered the following meditative thoughts and prayer:

Do you remember “Show and Tell,” when you were kids? This is “Show and Tell.” I brought this from my pottery studio up in Webster. It’s one of the vases I’ve recently made. When I was a kid, at about the age of seven, my mother and father took me for a series of tests and I was told I was healthy but I would have bad hand-eye coordination and I would never be able to coordinate my hands and my eyes together, I would never catch a ball. It’s true, I still can’t catch a ball – (laughter) – but that’s a different reason. The truth is, though, that in a few weeks, you know, there will be a new Museum of Fine Arts in Portsmouth and a collection of 12 of my pieces will be installed in that museum. (Applause) I don’t say that to brag, I – well, I do say that to brag, but – (laughter) – but I say that to say that things that seem impossible are possible, and things that seem like they’ll never be, can be. And part of the work that you do, as a Senate, as legislators, is make possible what seems impossible. So, congratulations. For you, those are called laws; for me, they’re called sacraments. Let us pray:

God of all creation, we live and work with You in co-creativity, taking the things of this world that you give us as clay, and being the potters which make into existence that which wasn’t. We thank you for the things which were called “broken,” being renamed “well”; we thank you for the work You’ve given us to do, and we ask You to be present amongst us as we do it.

Amen

Sen. Barnes led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

RESOLUTION presented by Sen. Gilmour to Gina Bergskaug in recognition of being named by the Siemens Foundation as New Hampshire’s 2009 “National Advanced Placement Teacher of the Year.” Ms. Bergskaug teaches an AP chemistry class at Hollis-Brookline High School.

Sen. Gilmour introduced Stephen Prescott and Vincent Bennett, students at Hollis-Brookline High School, serving as Senate Pages for today’s session.

Chris Callaghan, former legislative aide, was recognized as a visitor today.

COMMITTEE REPORTS

FINANCE REPORT

Sen. D’Allesandro reported the following House bills on today’s Calendar will come before Finance Committee: 174, 378, 420, 429, 433, 529, 532, 587, 590, 601, 610, 641, 655 and 690. HB 216, currently in Commerce, is waived. HB 291 and 532 are recommended to be Inexpedient to Legislate, but if passed will come before Finance. HB 651 is to be re-referred.

(Note: Legislation containing a financial note in today’s Calendar shall be heard by the Senate in first order.)

HB 391, (2nd New Title) authorizing the department of transportation to convey a portion of interstate highways to the bureau of turnpikes, redefining the eastern New Hampshire turnpike, providing for the maintenance and funding of a portion of the eastern New Hampshire turnpike, increasing the aggregate amount of bonds the state may issue, and authorizing the department of transportation to install open road tolling. Capital Budget. Ought to Pass with Amendment, Vote 5-1. Senator Janeway for the committee.

Capital Budget

May 7, 2009

2009-1554s

06/09

Amendment to HB 391

Amend RSA 237:2, X as inserted by section 4 of the bill by replacing it with the following:

X. Acquire, expand, and make improvements to the eastern New Hampshire turnpike from the northerly expansion joint of the I-95 bridge over the Spaulding Turnpike, U.S. 4 and N.H. 16 (bridge No. 197/122) north

to point on the New Hampshire-Maine boundary in the city of Portsmouth, such improvements to include the installation of open road tolling for the toll on I-95 in the town of Hampton, NH.

Amend RSA 237:2-a, I as inserted by section 5 of the bill by replacing it with the following:

I. The bureau of turnpikes shall operate and maintain the eastern New Hampshire turnpike from the northerly expansion joint of the I-95 bridge over the Spaulding Turnpike, U.S. 4 and N.H. 16 (bridge No. 197/122) north to point on the New Hampshire-Maine boundary in the city of Portsmouth, which shall become part of the eastern New Hampshire turnpike under RSA 237:17 and the Blue Star turnpike under RSA 237:18.

The question is on the adoption of Committee Amendment 1554s.

Committee Amendment 1554s adopted.

Sen. Sgambati moved the question; without objection the Chair closed debate.

The question is on the motion of Ought to Pass as Amended on HB 391.

A roll call was requested by Sen. Gatsas, seconded by Sen. Bragdon.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Houde, Cilley, Janeway, Odell, Kelly, Gilmour, Lasky, Larsen, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: Bradley, Roberge, Bragdon, Carson, Gatsas, Barnes.

Yeas: 18 - Nays: 6

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 90-FN, relative to the employment of veterans on Veterans' Day. Commerce, Labor and Consumer Protection. Ought to Pass with Amendment, Vote 5-1. Senator DeVries for the committee.

Commerce, Labor and Consumer Protection

May 7, 2009

2009-1570s

08/09

Amendment to HB 90-FN

Amend RSA 115-A:29 as inserted by section 1 of the bill by replacing it with the following:

115-A:29 Veteran Holidays.

I. Any veteran who has received an honorable discharge from the armed forces shall have a preference not to work during the 24 hours comprising Veterans Day or within 24 hours of the aforementioned holiday without penalty provided that the employee gives advanced notice in accordance with company policies and procedures. Nothing in this subdivision shall be construed to require the employer to pay the veteran for wages on Veterans Day if the veteran chooses not to work in accordance with this subdivision.

II. Emergency responders such as police, firefighters, emergency medical technicians, and 911 operators and medical personnel whose offices or supervisors require minimal staffing shall have the holiday preference described in paragraph I so long as there is another qualified emergency responder available.

2009-1570s

AMENDED ANALYSIS

This bill allows honorably discharged veterans no longer active in the armed forces to have a preference not to work on Veterans Day.

This bill also allows emergency responders and certain medical personnel who are honorably discharged veterans no longer in the armed forces to have a preference not to work on Veterans Day so long as another emergency responder is available.

The question is on the adoption of Committee Amendment 1570s.

Committee Amendment 1570s adopted.

Sen. Hassan offered a floor amendment.

Sen. Hassan, Dist. 23
May 12, 2009
2009-1619s
08/04

Floor Amendment to HB 90-FN

Amend RSA 115-A:29 as inserted by section 1 of the bill by replacing it with the following:

115-A:29 Veteran Holidays.

I. Any veteran who has received an honorable discharge from the United States armed forces shall have a preference not to work during the 24 hours comprising Veterans Day without penalty provided that the employee gives advance notice in accordance with the employer's policies and procedures. Nothing in this subdivision shall be construed to require the employer to pay the veteran for wages on Veterans Day if the veteran chooses not to work in accordance with this subdivision.

II. Any emergency responder such as a police officer, firefighter, emergency medical technician, 911 operator, and medical personnel who is a veteran and has received an honorable discharge from the United States armed forces and whose offices or supervisors require minimal staffing shall have the holiday preference described in paragraph I so long as there is another qualified emergency responder available.

2009-1619s

AMENDED ANALYSIS

This bill allows honorably discharged veterans no longer active in the United States armed forces to have a preference not to work on Veterans Day.

This bill also allows emergency responders and certain medical personnel who are honorably discharged veterans no longer in the United States armed forces to have a preference not to work on Veterans Day so long as another emergency responder is available.

The question is on the adoption of Floor Amendment 1619s.

Floor Amendment 1619s adopted.

The question is on the motion of Ought to Pass as Amended on HB 90-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 187-FN, (New Title) relative to the state building code and establishing a committee to study the sale and installation of manufactured and modular homes and related consumer protections. Commerce, Labor and Consumer Protection. Ought to Pass with Amendment, Vote 6-0. Senator Reynolds for the committee.

Commerce, Labor and Consumer Protection

May 7, 2009

2009-1547s

05/09

Amendment to HB 187-FN

Amend the bill by replacing section 1 with the following:

1 State Building Code; Permits and Fees. Amend RSA 155-A:2, IV to read as follows:

IV. To the extent that it does not conflict with any other provision of law, ***and except as otherwise provided in this paragraph***, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts. ***Pursuant to the state fire marshal's authority to enforce the state building code under RSA 155-A:7, I, the fire marshal may establish for municipalities that do not have a building inspector, with approval of the commissioner of safety and by rules adopted under RSA 541-A, fees to defray the cost of issuing building permits in accordance with the state building code. Such fees shall be deposited in the fire standards and training and emergency medical services fund established in RSA 21-P:12-d.***

Amend the bill by deleting section 2 and renumbering the original sections 2-8 to read as 2-7, respectively.

2009-1547s

AMENDED ANALYSIS

This bill:

I. Permits the state fire marshal to establish, by rule, fees associated with administration and enforcement of the state building code.

II. Establishes a committee to study the sale and installation of manufactured and modular homes and related consumer protections.

The question is on the adoption of Committee Amendment 1547s.

Committee Amendment 1547s adopted.

The question is on the motion of Ought to Pass as Amended on HB 187-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 240-FN, relative to workers' compensation for death. Commerce, Labor and Consumer Protection. Ought to Pass, Vote 6-0. Senator Bragdon for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 240-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 334-FN, relative to consumer credit. Commerce, Labor and Consumer Protection. Ought to Pass with Amendment, Vote 5-0. Senator Roberge for the committee.

Commerce, Labor and Consumer Protection

May 7, 2009

2009-1566s

08/04

Amendment to HB 334-FN

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

AN ACT relative to consumer credit and amending the St. Mary's Bank Charter.

Amend the bill by replacing all after section 25 with the following:

26 Definitions; Control. RSA 361-A:1, III-b-III-c are repealed and reenacted to read as follows:

III-b. "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company if such person:

(a) Is a director, general partner or executive officer;

(b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a class of voting securities or membership interest;

(c) In the case of a limited liability company, is a managing member; or

(d) In the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital.

III-c. "Department" means the banking department.

III-d. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

27 Definitions; Control. RSA 397-B:1, I-a and I-b are repealed and reenacted to read as follows:

I-a. "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company if such person:

(a) Is a director, general partner or executive officer;

(b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a class of voting securities or membership interest;

(c) In the case of a limited liability company, is a managing member; or

(d) In the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital.

I-b. "Department" means the banking department.

I-c. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

28 New Paragraph; Definitions; Control. Amend RSA 399-D:2 by inserting after paragraph II the following new paragraph:

II-a. "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company if such person:

(a) Is a director, general partner or executive officer;

(b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a class of voting securities or membership interest;

(c) In the case of a limited liability company, is a managing member; or

(d) In the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital.

29 New Paragraph; Definitions; Control. Amend RSA 399-G:1 by inserting after paragraph II the following new paragraph:

II-a. "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company if such person:

(a) Is a director, general partner or executive officer;

(b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a class of voting securities or membership interest;

(c) In the case of a limited liability company, is a managing member; or

(d) In the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital.

30 New Paragraph; Definitions; Financial Advisor. Amend RSA 361-A:1 by inserting after paragraph V the following new paragraph:

V-a. "Financial services" or "financial services-related" means securities, commodities, banking, insurance, consumer lending, money transmission, debt adjustment, or real estate, including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, mortgage servicer, real estate salesperson or agent, closing agent, title company, or escrow agent.

31 New Paragraph; Definitions; Financial Services. Amend RSA 397-B:1 by inserting after paragraph I-c the following new paragraph:

I-d. "Financial services" or "financial services-related" means securities, commodities, banking, insurance, consumer lending, money transmission, debt adjustment, or real estate, including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, mortgage servicer, real estate salesperson or agent, closing agent, title company, or escrow agent.

32 Definitions; Financial Services. RSA 399-D:2, V-c is repealed and reenacted to read as follows:

V-c. "Financial services" or "financial services-related" means securities, commodities, banking, insurance, consumer lending, money transmission, debt adjustment, or real estate, including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, mortgage servicer, real estate salesperson or agent, closing agent, title company, or escrow agent.

V-d. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trust, each trustee, and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a limited liability company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

33 New Paragraph; Definitions; Financial Services. Amend RSA 399-G:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Financial services" or "financial services-related" means securities, commodities, banking, insurance, consumer lending, money transmission, debt adjustment, or real estate, including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, mortgage servicer, real estate salesperson or agent, closing agent, title company, or escrow agent.

34 Licensing of Sales Finance Companies and Retail Sellers Required. Amend the introductory paragraph of RSA 361-A:2, II(a) to read as follows:

(a) The application for such license shall be in writing and verified on a form prescribed by the commissioner. The application shall contain the name of the applicant; the tax applicant's identification number; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the trade name, if any, under which the applicant proposes to conduct such business; and such other pertinent information as the commissioner may require. The application shall include a list of the names and resident addresses of principals and the name of any person occupying a similar status or performing similar functions. Each principal shall provide his or her social security numbers and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and those persons listed in the application, and in the case of sales finance companies, the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals listed in the application and whether the applicant or any of its principals have been convicted of a misdemeanor involving ~~[the lending industry or any aspect of the lending business]~~ **financial services or a financial services-related business, or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses**, or convicted of any felony, prior to the commissioner's approval of such change.

35 Licensing of Sales Finance Companies and Retail Sellers Required. Amend RSA 361-A:2, XII to read as follows:

XII. Retail sellers and sales finance companies licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the retail seller and sales finance company licensee shall promptly submit an amendment to its application records to correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment. Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days. A licensee shall submit written notification to the department of the addition or deletion of a person required to be listed in the application, and shall provide the name and address of each new person required to be listed no later than 30 days after such change. Each new person required to be listed shall provide his or her social security number and authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, the qualifications and business history of each person required to be listed. The licensee shall investigate and disclose any injunction or administrative order that has been issued against the person required to be listed and whether the person required to be listed has been convicted of a misdemeanor

involving ~~[the lending industry or any aspect of the lending business]~~ ***financial services or a financial services-related business, or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses***, or convicted of any felony, prior to the commissioner's approval of such change.

36 Registration; Fees; Term; Renewal. Amend RSA 397-B:4, I(b) to read as follows:

(b) The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's tax identification number, and the applicant's proposed method of doing business. The applicant shall disclose whether the applicant or any of its principals has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving ~~[the lending industry or any aspect of the lending business]~~ ***financial services or a financial services-related business, or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses***, or has ever been convicted of any felony. Each principal shall provide his or her social security number and authorize the commissioner to conduct a background check.

37 License Application; Requirements; Investigation. Amend the introductory paragraph RSA 399-D:5,II to read as follows:

II. To be considered for licensing, each person, firm, or corporation shall file with the department one verified application on a form prescribed by the commissioner. At a minimum, the application shall be in writing, setting forth the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices located or to be located within the state, and a list of the principals and the name of any person occupying a similar status or performing similar functions. Each principal shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, qualifications, and business history of the applicant and those persons listed in the application, and the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals and whether the applicant or any of its principals have been convicted of a misdemeanor involving ~~[the lending industry or any aspect of the lending business]~~ ***financial services or a financial services-related business, or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses***, or convicted of any felony. Each application shall designate the name and address of the manager or person in charge at each licensed location and shall contain other information required by rules adopted under this chapter. The applicant shall submit any other information that the commissioner may require. In addition:

38 Change in Name; Ownership; Location. Amend RSA 399-G:10, II to read as follows:

II. A licensee shall submit written notification to the department of the addition or deletion of a principal and shall provide the name and address of each new principal no later than 30 days after such change. Each new principal shall authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, each principal's qualifications and business history. The licensee shall disclose any injunction or administrative order that has been issued against the principal and whether the principal has been convicted of a misdemeanor involving ~~[the money transmission industry or any aspect of the money transmission business]~~ ***financial services or a financial services-related business, or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses***, or convicted of any felony, prior to the commissioner's approval of such change.

39 New Paragraph; St. Mary's Bank Charter. Amend paragraph V of section 8 of 1909, 303 as amended by 1933, 305:2, 1943, 261:1, 1945, 261:3, 1961, 342:5, and 1967, 524:7 to read as follows:

V. Compensation. ~~[Members of the board of directors or of either the credit or supervisory committee shall not receive any compensation for their services as a member of said board or of such committee, but may receive a reasonable per diem allowance for attendance at meetings thereof.]~~ ***The union may pay members of the board of directors, credit committee, and supervisory committee, a reasonable fee for attendance at their respective meetings. Any fee increase shall be submitted in writing to the commissioner for his or her approval at least 30 days prior to its implementation.*** The officers elected by the board of directors may receive such compensation as the board shall authorize. However, if at any

time the union shall have enlarged its business to such extent that this section may create an impediment to its proper functioning, the commissioner, upon petition of the board of directors, may permit said board of directors to pay such credit committee such compensation as he shall consider proper.

40 Effective Date.

I. Section 39 of this act shall take effect upon its passage.

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

2009-1566s

AMENDED ANALYSIS

This bill:

I. Allows the bank commissioner to bar certain persons from registering as being licensed as certain retail sellers, mortgage loan servicers, debt adjustment services personnel, and money transmitters.

II. Allows the bank commissioner to expand criminal record checks for certain retail sellers, mortgage loan servicers, debt adjustment services personnel, and money transmitters.

III. Allows for the collection of certain examination expenses, fines, and other penalties.

IV. Allows the bank department to examine business records in certain situations.

V. Amends the St. Mary's Bank Charter to allow the union to pay certain committee members a reasonable fee.

The question is on the adoption of Committee Amendment 1566s.

Committee Amendment 1566s adopted.

Sen. D'Allesandro asserts Rule 42 on HB 334-FN.

Sen. D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

May 12, 2009

2009-1602s

08/03

Floor Amendment to HB 334-FN

Amend the bill by inserting after section 39 the following and renumbering the original section 40 to read as 41:

40 Credit Unions; Compensation. RSA 394-B:45 is repealed and reenacted to read as follows:

394-B:45 Compensation

I. Members of the board of directors, the supervisory committee, or established committees of the board of directors, may receive up to a \$75 stipend per meeting of the board of directors and \$50 for committee meetings. Compensation shall be limited to no more than 15 meetings per fiscal year for each committee member.

II. The officers elected by the board of directors may receive such compensation as the board shall authorize with the approval of the banking commissioner.

III. The board of directors may review the amount of compensation of board members in even-numbered years to determine if such compensation is appropriate.

IV. If it is determined that an increase or decrease in compensation of board members is warranted, board is authorized to adjust such levels of compensation of board members subject to the approval of the banking commissioner.

2009-1602s

AMENDED ANALYSIS

This bill:

I. Allows the bank commissioner to bar certain persons from registering as being licensed as certain retail sellers, mortgage loan servicers, debt adjustment services personnel, and money transmitters.

II. Allows the bank commissioner to expand criminal record checks for certain retail sellers, mortgage loan servicers, debt adjustment services personnel, and money transmitters.

III. Allows for the collection of certain examination expenses, fines, and other penalties.

IV. Allows the banking department to examine business records in certain situations.

V. Amends the St. Mary's Bank Charter to allow the union to pay certain committee members a reasonable fee.

VI. Authorizes compensation for certain credit union committee members and credit union board of directors and requires bank commissioner approval of credit union officers elected by the board of directors.

The question is on the adoption of Floor Amendment 1602s.

Floor Amendment 1602s adopted.

Sen. D'Allesandro asserts Rule 42 on HB 334-FN.

The question is on the motion Ought to Pass as Amended on HB 334-FN.

A roll call was requested by Sen. Barnes, seconded by Sen. Bragdon.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gatsas.

Yeas: 23 - Nays: 1

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading

Sen. D'Allesandro asserts Rule 42 on HB 334-FN.

HB 392-FN, (New Title) establishing an on-premises cigar, beverage, and liquor license. Commerce, Labor and Consumer Protection. Inexpedient to Legislate, Vote 3-3. Senator Reynolds for the committee.

The question is on the committee recommendation of Inexpedient to Legislate on HB 392-FN.

A roll call was requested by Sen. Gatsas, seconded by Sen. Bragdon.

The following Senators voted Yes: Reynolds, Janeway, Odell, Roberge, Kelly, Lasky, Larsen, DeVries, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Sgambati, Houde, Cilley, Bragdon, Gilmour, Carson, Gatsas, Barnes, Letourneau, D'Allesandro, Merrill, Downing, Hassan.

Yeas: 9 - Nays: 15

Motion of Inexpedient to Legislate failed.

Sen. Cilley moved Ought to Pass.

Sen. Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

May 13, 2009

2009-1629s

03/10

Floor Amendment to HB 392-FN

Amend the bill by replacing section 1 with the following:

1 New Section; On-Premises Cigar, Beverage, and Liquor Licenses. Amend RSA 178 by inserting after section 20 the following new section:

178:20-a On-Premises Cigar, Beverage, and Liquor Licenses.

I. The commission may issue a license to a person who operates a cigar bar as defined in this section and who holds a tobacco retailers license under RSA 178:19-a in any town which has voted to accept the provisions of RSA 663:5, I(b), (c), and (d). The license shall entitle the licensee to serve beverages containing at least 1/2 percent and not more than 6 percent alcohol by volume at 60 degrees Fahrenheit by the glass or other suit-

able container and by the bottle with the cork or cap removed; specialty beer in any suitable container; liquor containing more than 6 percent alcohol by volume at 60 degrees Fahrenheit, by the glass or other suitable container; and wines, by the glass, by the bottle with the cork or cap removed; or other suitable container, under rules adopted by the commission.

II. In this section, "cigar bar" means a business that:

(a) Generates 60 percent or more of its quarterly gross revenue from the sale of cigar-related products, which is limited to cigars, humidors, cigar cutters, cigar cases, lighters, and ashtrays. Mail order and Internet sales, as well as revenue generated from other tobacco sales in store, including cigarettes and loose tobacco sales, shall not be used to determine whether an establishment satisfies the definition of a cigar bar.

(b) Has a humidor on the premises.

(c) Does not allow minors to enter the premises.

(d) Does not allow cigarette smoking or service of food on the premises.

III. No beverage or liquor shall be consumed on the premises except that which is sold by the licensee.

IV. All applicants for employment at a cigar bar shall be presented with a written notice that states that working in a cigar bar has serious and permanent negative health effects, including, but not limited to, an increased risk of cancer and heart disease, and that no level of exposure to second-hand smoke is safe.

The question is on the adoption of Floor Amendment 1629s.

A roll call was requested by Sen. Gatsas, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Roberge, Barnes.

Yeas: 21 - Nays: 3

Floor Amendment 1629s adopted.

The question is on the motion of Ought to Pass as Amended on HB 392-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 530-FN, relative to inspection of public buildings for compliance with access standards. Commerce, Labor and Consumer Protection. Ought to Pass with Amendment, Vote 4-2. Senator Hassan for the committee.

Commerce, Labor and Consumer Protection

May 7, 2009

2009-1550s

05/04

Amendment to HB 530-FN

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

AN ACT relative to inspection of public buildings for compliance with accessibility standards.

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

1 State Building Code; Accessibility Standards for Public Buildings. RSA 155-A:5 is repealed and reenacted to read as follows:

155-A:5 Accessibility Standards for Public Buildings.

I. All public buildings shall comply with the accessibility standards in the state building code. For purposes of this section, public buildings are those defined and regulated by the accessibility standards contained in the state building code. This provision is not intended to enlarge upon or expand any substantive standard under the provisions of the state building code. It is intended to provide a system of certification and enforcement of the existing accessibility standards in the state building code.

II. Except in municipalities specified in paragraph III, upon completion of the building design plans for any new construction, addition, or alteration that are regulated by and described in the accessibility standards of the state building code, the contractor shall be responsible for acquiring certification from any person listed

in RSA 155-A:5-a, I that the building design plans meet the accessibility standards of the state building code. Upon the completion of new construction, additions, or alterations regulated by and described in the accessibility standards contained in the state building code, the contractor shall be responsible for acquiring an inspection and certification from any person listed under RSA 155-A:5-a, I, other than the municipality that conducted the permit plans examination, that the new construction, addition, or alteration meets the accessibility standards of the state building code.

III. Public buildings are exempt from the requirements of paragraph II, provided that the municipality in which the building is located is a local enforcement agency under RSA 674:51 that satisfies the qualifications required by RSA 155-A:5-a and examines building design plans and inspects buildings upon completion for compliance with the accessibility standards in the state building code. Nothing in this section shall be construed as requiring municipalities to assume this inspection and certification role. Public buildings in municipalities that have chosen to assume this certification and inspection role remain subject to paragraphs IV and V.

IV. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, currently the Disabilities Rights Center, Inc., shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility, certification, or inspection requirements of paragraph I, II, or III, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, does not bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code. If it is determined by the superior court that the building is not in compliance with the accessibility standard in the state building code, the court shall order that the owner bring the building into compliance. If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner. For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.

V. Any individual with a physical impairment who is adversely affected by the failure to adhere to the requirements of paragraph I shall have a private right of action against the owner pursuant to the procedure established in paragraph IV, including the right to court costs and reasonable attorney's fees as the prevailing party.

VI. Any owner of a public building or contractor who is found by a preponderance of the evidence in a proceeding under paragraph IV or V to have knowingly violated the accessibility standards of the state building code shall be subject to a civil penalty. The penalties shall be the same as those established by RSA 155-A:8. All civil penalties shall be paid into the general fund. The party bringing the action shall be entitled to reasonable attorneys fees and costs if it prevails as defined in paragraph IV.

2 New Section; Certification of Building Inspectors and Penalty. Amend RSA 155-A by inserting after section 5 the following new section:

155-A:5-a Accessibility Certifiers and Inspectors and Penalty.

I. New Hampshire licensed architects, professional engineers, certified building officials, and master code officials may certify building plans and/or inspecting public buildings for compliance with the accessibility standards in RSA 155-A:5 without further examination. Any other person engaged in the business of certifying building plans and/or inspecting public buildings for compliance with accessibility standards required by RSA 155-A:5 shall successfully pass an International Code Council examination that covers the accessibility standards contained in the state building code prior to certifying that a building complies with RSA 155-A:5. All accessibility certifiers and inspectors shall complete 2 hours of continuing education related to accessibility codes every 3 years and be able to produce proof of continuing education upon demand.

II. Whoever falsely claims to be certified under this section through advertising, signage, or verbal representation shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

3 Applicability. Nothing in RSA 155-A:5 as inserted by section 1 of this act shall require the owner of a public building to obtain a certification for the new construction, addition, or alteration of a public building completed before the effective date of this act.

4 Effective Date. This act shall take effect July 1, 2010.

2009-1550s

AMENDED ANALYSIS

This bill requires public buildings to comply with the accessibility standards in the state building code and establishes a system of certification and enforcement of the accessibility standards in the state building code.

The question is on the adoption of Committee Amendment 1550s.

Committee Amendment 1550s adopted.

Sen. Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

May 13, 2009

2009-1631s

05/10

Floor Amendment to HB 530-FN

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

AN ACT relative to inspection of public buildings for compliance with accessibility standards.

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

1 State Building Code; Accessibility Standards for Public Buildings; Purpose and Intent. RSA 155-A:5 is repealed and reenacted to read as follows:

155-A:5 Accessibility Standards for Public Buildings; Purpose and Intent. The requirements of this section and RSA 155-A:5-a and RSA 155-A:5-b are intended to establish a system of certification and enforcement for the accessibility standards in the state building code for public buildings. For purposes of this section, public building means any building that is regulated by the accessibility standards contained in the state building code. This section is not intended to enlarge upon or expand any substantive standard of the state building code. This section is intended to apply solely to the new construction, addition, or alteration of a public building that is commenced on or after July 1, 2010 and only to the extent that the new construction, addition, or alteration is regulated by the accessibility standards in the state building code.

2 New Sections; Inspection and Certification of Public Buildings. Amend RSA 155-A by inserting after section 5 the following new sections:

155-A:5-a Accessibility Standards for Public Buildings.

I. The new construction, addition, or alteration of a public building as described in RSA 155-A:5 and as governed under RSA 155-A:2, I shall be subject to the requirements of this section and RSA 155-A:5-b.

II. Except as provided in paragraph III, the contractor shall obtain and submit to the owner of the public building a written certification from a person qualified under RSA 155-A:5-b that:

(a) The design drawings or construction drawings for the proposed new construction, addition, or alteration meets the accessibility standards of the state building code; and

(b) Upon the completion and after inspection, the new construction, addition, or alteration meets the accessibility standards of the state building code.

III. The requirements of paragraph II shall not apply to a public building for which the review of design drawings or construction drawings and inspection of completed work is performed by a municipal building inspector who:

(a) Satisfies the qualifications under RSA 155-A:5-b;

(b) Examines the design drawings or construction drawings prior to the commencement of work and inspects the building upon completion of work for compliance with the accessibility standards in the state building code; and

(c) Provides the governing body of the municipality with a written certification that the design and construction of the building upon completion of work comply with the accessibility standards of the state building code.

IV. Nothing in this section shall be construed as requiring municipalities to inspect and certify public buildings for compliance with accessibility standards. Public buildings located in a municipality that has chosen to authorize its municipal building inspector to inspect and certify shall remain subject to all other provisions of this section.

V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, does not bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the owner bring the building into compliance. If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner. For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.

VI. Any individual with a physical impairment who is adversely affected by the failure to adhere to the requirements of this section shall have a private right of action against the owner pursuant to the procedure established in paragraph V, including the right to court costs and reasonable attorney's fees as the prevailing party.

VII. Any owner of a public building or contractor who is found by a preponderance of the evidence in a proceeding under this section to have knowingly violated the accessibility standards of the state building code shall be subject to a civil penalty. The penalties shall be the same as those established by RSA 155-A:8. All civil penalties shall be deposited into the general fund. The party bringing the action shall be entitled to reasonable attorney's fees and costs if it determined by the court to be the prevailing party.

155-A:5-b Accessibility Certifiers and Inspectors; Penalty.

I. New Hampshire licensed architects, professional engineers, certified building officials, and master code officials may certify building plans and/or inspect public buildings for compliance with the accessibility standards in RSA 155-A:5 and RSA 155-A:5-a without further examination. Any other person engaged in the business of certifying building plans and/or inspecting public buildings for compliance with accessibility standards required by RSA 155-A:5 and RSA 155-A:5-a shall successfully pass an International Code Council examination that covers the accessibility standards contained in the state building code prior to certifying that a building complies with RSA 155-A:5 and RSA 155-A:5-a. All accessibility certifiers and inspectors shall complete 2 hours of continuing education related to accessibility codes every 3 years and be able to produce proof of continuing education upon request.

II. Whoever falsely claims to be certified under this section through advertising, signage, or other written or oral representation shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

3 Applicability. Nothing in RSA 155-A:5, 155-A:5-a, or 155-A:5-b as inserted by sections 1 and 2 of this act shall require the owner of a public building to obtain an inspection or certification for the new construction, addition, or alteration of a public building commenced before the effective date of this act.

4 Effective Date. This act shall take effect January 1, 2010.

2009-1631s

AMENDED ANALYSIS

This bill establishes a system of certification and enforcement for the accessibility standards in the state building code for the construction, addition, or alternation of a public building commenced or after July 1, 2010.

The question is on the adoption of Floor Amendment 1631s.

Floor Amendment 1631s adopted.

The question is on the motion of Ought to Pass as Amended on HB 530-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 602-FN-A, relative to costs associated with cashing payroll checks. Commerce, Labor and Consumer Protection. Re-refer to Committee, Vote 5-1. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 602-FN-A.

Motion of Re-refer to Committee adopted.

HB 610-FN, relative to consumer protection from certain practices of mortgage bankers, mortgage brokers, and mortgage loan originators and implementing the S.A.F.E. mortgage licensing act. Commerce, Labor and Consumer Protection. Ought to Pass with Amendment, Vote 6-0. Senator Hassan for the committee.

Commerce, Labor and Consumer Protection

May 7, 2009

2009-1551s

08/09

Amendment to HB 610-FN

Amend RSA 397-A:1, XXI-a (b) as inserted by section 12 of the bill by replacing it with the following:

(b) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry as required by the federal banking agencies.

Amend RSA 397-A:4, I-II as inserted by section 19 of the bill by replacing it with the following:

I. Depository institutions or an institution regulated by the Farm Credit Administration.

II. Registered mortgage loan originators, when acting for an entity described in paragraph I or for a subsidiary that is owned and controlled by an entity described in paragraph I.

Amend RSA 397-A:5, I as inserted by section 20 of the bill by replacing it with the following:

I. To be considered for mortgage banker or mortgage broker licensing, each person shall complete and file with the department, ***through the Nationwide Mortgage Licensing System and Registry***, one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices [~~located or to be located within the state~~], and a list of the principals of the applicant. Each principal shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving [~~the lending industry or any aspect of the lending business~~] ***financial services or a financial services-related business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses*** or has ever been convicted of any felony.

Amend RSA 397-B:4, V as inserted by section 49 of the bill by replacing it with the following:

V. A mortgage servicing company shall:

(a) File its initial and renewal application through the Nationwide Mortgage Licensing System and Registry and shall post a surety bond in the amount and terms for mortgage brokers under RSA 397-A:5, III and the rules adopted thereunder; and

(b) Supervise mortgage loan originators that it employs or retains: and

(c) License its mortgage loan originators on or before July 31, 2010 through the Nationwide Mortgage Licensing System and Registry in accordance with all of the licensing provisions of RSA 397-A; and

(d) Follow the provisions of RSA 397-A as they pertain to originators and to the reporting requirements of the National Mortgage Licensing System and Registry.

(e) File under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

Amend the bill by replacing all after section 49 with the following:

50 Change in Name; Ownership; Location. Amend RSA 397-A:10, II-III to read as follows:

II. A ***mortgage banker or mortgage broker*** licensee shall submit written notification to the department of the addition or deletion of a principal and shall provide the name and address of each new principal no later than 30 days after such change. Each new principal shall authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, each principal's qualifications and business history. The licensee shall disclose any injunction or administrative order that has been issued against the principal and whether the principal has been convicted of a misdemeanor involving ~~[the lending industry or any aspect of the lending business]~~ ***financial services or a financial services-related business or any fraud, false statements, or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses*** or convicted of any felony, prior to the commissioner's approval of such change.

III. ***Mortgage banker or mortgage broker*** licensees shall provide written notice to the banking department of any proposed change in location or proposed closing of any licensed office no later than 10 business days prior to the effective date of such change of location or closing, ***unless such change of location or closing occurs under circumstances beyond the control of the licensee whereby such written notice shall be provided within 10 business days from the date the licensee becomes aware of the closing or relocation***. Failure to comply with the provisions of this paragraph ~~[shall]~~ ***may*** be deemed sufficient cause for license revocation or denial of license renewal applications.

51 Banking Department; Positions Established. The following classified positions are hereby established in the banking department:

- I. Two bank examiner III, labor grade 27.
- II. One hearings examiner, labor grade 31.
- III. One paralegal II, labor grade 19.

52 Banking Department; Supplemental Appropriation; Positions. The sum of \$220,603 for the fiscal year ending June 30, 2010 and the sum of \$346,530 for the fiscal year ending June 30, 2011 is hereby appropriated to the banking department to fund the 4 positions established in section 50 of this act and other costs associated with the 4 new positions. This appropriation shall be a charge against the consumer credit administration license fund under RSA 399-A:5 and shall be in addition to any other funds appropriated to the banking department.

53 Effective Date. This act shall take effect July 31, 2009.

2009-1551s

AMENDED ANALYSIS

This bill:

- I. Modifies certain definitions as required to match S.A.F.E. (the Secure and Fair Enforcement for Mortgage Licensing Act).
- II. Includes mobile homes and trailers under first mortgage law if the intended purpose is to be used as a dwelling.
- III. Requires licensing of out-of-state branches of mortgage bankers and brokers.
- IV. Modifies exemptions to include financial institutions as defined by S.A.F.E.
- V. Requires the use of the Nationwide Mortgage Licensing System and Registry for all mortgage licensees.
- VI. Modifies the bond and financial requirements.
- VII. Requires criminal records checks, credit checks, education, and testing for originators prior to licensing and requires ongoing continuing education for originators once the Nationwide Mortgage Licensing System and Registry provides the facilities for such procedures.

VIII. Authorizes the bank commissioner to issue orders and rules and interpretations for implementation of the S.A.F.E. Act requirements.

IX. Requires home state license or registration before a New Hampshire license is issued.

X. Requires non-federally insured credit unions to register their loan originators through the Nationwide Mortgage Licensing System and Registry.

XI. Amends examination requirements to comply with S.A.F.E. and prohibits destruction of certain documents.

XII. Expands information sharing to include the Nationwide Mortgage Licensing System and Registry and law enforcement.

XIII. Requires the bank commissioner to report violations to the Nationwide Mortgage Licensing System and Registry.

XIV. Establishes annual reporting requirements through the Nationwide Mortgage Licensing System and Registry.

XV. Establishes requirements for reverse mortgage transactions.

XVI. Authorizes the bank commissioner to bar individuals from the mortgage lending industry.

XVII. Authorizes the bank commissioner to order disgorgement of profits and restitution.

XVIII. Authorizes the bank commissioner to assess a penalty of \$25,000 for violation of the S.A.F.E. Act.

XIX. Creates new positions in the banking department.

XX. Makes an appropriation for new positions in the banking department.

This bill was requested by the banking department.

The question is on the adoption of Committee Amendment 1551s.

Committee Amendment 1551s adopted.

Sen. Bragdon offered a floor amendment.

Sen. Gatsas, Dist. 16

Sen. Bragdon, Dist. 11

Sen. Gallus, Dist. 1

Sen. Bradley, Dist. 3

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Carson, Dist. 14

Sen. Barnes, Dist. 17

Sen. Letourneau, Dist. 19

Sen. Downing, Dist. 22

May 12, 2009

2009-1603s

08/01

Floor Amendment to HB 610-FN

Amend the bill by replacing the title with the following:

AN ACT relative to consumer protection from certain practices of mortgage bankers, mortgage brokers, and mortgage loan originators and implementing the S.A.F.E. mortgage licensing act and relative to the negotiation of payroll checks.

Amend the bill by replacing all after section 52 with the following:

53 New Subdivision; Payroll Checks. Amend RSA 384 by inserting after section 69 the following new subdivision:

Negotiation of Payroll Checks

384:70 Negotiation of Payroll Checks. Each bank, as defined in RSA 384:57, II, doing business in the state shall cash, without a fee and for its face value, properly endorsed payroll checks drawn on that bank and presented by the payee, upon sufficient identification, notwithstanding the fact that the payee does not maintain an account with the institution. For purposes of this section, "sufficient identification" shall mean a photo identification card issued to the payee by the department of safety or the bank where the check is presented for payment.

54 Effective Date.

I. Section 53 of this act shall take effect January 1, 2010.

II. The remainder of this act shall take effect July 31, 2009.

2009-1603s

AMENDED ANALYSIS

This bill:

I. Modifies certain definitions as required to match S.A.F.E. (the Secure and Fair Enforcement for Mortgage Licensing Act).

II. Includes mobile homes and trailers under first mortgage law if the intended purpose is to be used as a dwelling.

III. Requires licensing of out-of-state branches of mortgage bankers and brokers.

IV. Modifies exemptions to include financial institutions as defined by S.A.F.E.

V. Requires the use of the Nationwide Mortgage Licensing System and Registry for all mortgage licensees.

VI. Modifies the bond and financial requirements.

VII. Requires criminal records checks, credit checks, education, and testing for originators prior to licensing and requires ongoing continuing education for originators once the Nationwide Mortgage Licensing System and Registry provides the facilities for such procedures.

VIII. Authorizes the bank commissioner to issue orders and rules and interpretations for implementation of the S.A.F.E. Act requirements.

IX. Requires home state license or registration before a New Hampshire license is issued.

X. Requires non-federally insured credit unions to register their loan originators through the Nationwide Mortgage Licensing System and Registry.

XI. Amends examination requirements to comply with S.A.F.E. and prohibits destruction of certain documents.

XII. Expands information sharing to include the Nationwide Mortgage Licensing System and Registry and law enforcement.

XIII. Requires the bank commissioner to report violations to the Nationwide Mortgage Licensing System and Registry.

XIV. Establishes annual reporting requirements through the Nationwide Mortgage Licensing System and Registry.

XV. Establishes requirements for reverse mortgage transactions.

XVI. Authorizes the bank commissioner to bar individuals from the mortgage lending industry.

XVII. Authorizes the bank commissioner to order disgorgement of profits and restitution.

XVIII. Authorizes the bank commissioner to assess a penalty of \$25,000 for violation of the S.A.F.E. Act.

XIX. Creates new positions in the banking department.

XX. Makes an appropriation for new positions in the banking department.

XXI. Requires a bank to cash payroll checks upon presentation of sufficient identification without requiring the payee to maintain an account at that institution.

The question is on the adoption of Floor Amendment 1603s.

A roll call was requested by Sen. Gatsas, seconded by Sen. Bragdon.

The following Senators voted Yes: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, Downing.

The following Senators voted No: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, D'Allesandro, Merrill, Hassan, Fuller Clark.

Yeas: 10 - Nays: 14

Floor Amendment 1603s fails.

The question is on the motion of Ought to Pass as Amended on HB 610-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 441-FN, relative to CART providers and sign language interpreters. Education. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

Senate Education

May 5, 2009

2009-1506s

08/01

Amendment to HB 441-FN

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

1 New Chapter; CART Provider and Sign Language Interpreter Net Tuition Repayment Program. Amend RSA by inserting after chapter 200-L the following new chapter:

CHAPTER 200-M
CART PROVIDER AND SIGN LANGUAGE INTERPRETER
NET TUITION REPAYMENT PROGRAM

200-M:1 Definitions. In this chapter:

I. "CART provider" means a person who provides computer aided realtime translation of spoken language into English text by using a stenotype machine, notebook computer and real time software to display the spoken text on a computer monitor, or other display device for a student who is deaf or hard of hearing.

II. "Net tuition" means tuition costs for post-secondary school education that was directed towards the completion of a degree or certificate in judicial reporting, broadcast captioning, realtime transcription, or sign language interpretation, or any other degree or certificate that the postsecondary education commission deems acceptable for purposes of CART provider and sign language interpreter net tuition repayment.

III. "Sign language interpreter" means a person who provides American Sign-Language based interpreting, which is the process of conveying information between American Sign Language and English.

200-M:2 CART Provider and Sign Language Interpreter Net Tuition Repayment Program Established. The postsecondary education commission shall administer a program for the promotion, acquisition, and retention of CART providers and sign language interpreters in the state.

200-M:3 Application; Repayment. An individual who has completed his or her CART certification, including internships and residencies, and agrees to work as a CART provider or a sign language interpreter in this state, may apply to the postsecondary education commission for repayment under the CART provider and sign language interpreter net tuition repayment program and become eligible to be reimbursed up to 100 percent of his or her qualifying tuition not to exceed the cost of 4 years of instate tuition at the university of New Hampshire, after a 5-full-year period of working as a CART provider or sign language interpreter. A 10 percent net tuition repayment shall be made upon starting a job in this state, with an additional 10 percent made after the second full year of work, an additional 20 percent after the third full year of work, an additional 30 percent after the fourth full year of work, and an additional 30 percent after the fifth full year of work.

200-M:4 Fund Established.

I. There is hereby established in the office of the state treasurer a fund to be known as the CART provider and sign language interpreter net tuition repayment fund. The fund shall include any sums appropriated for such purpose. In addition, the postsecondary education commission is authorized to accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this chapter. The moneys in this fund shall be nonlapsing and shall be continually appropriated to the postsecondary education commission. The fund may be expended by the postsecondary education commission to accomplish the purposes of this chapter. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund.

II. A minimum balance of \$100,000 shall be in the CART provider and sign language interpreter net tuition repayment fund prior to the selection of the first participant.

200-M:5 Administration; Rulemaking. The postsecondary education commission shall adopt rules, pursuant to RSA 541-A, relative to procedures, eligibility, and qualifications for applicants, qualifying educational costs, criteria for terms of service by a CART provider and/or sign language interpreter, procedures for repayment of net tuition costs, and the administration of the program by the postsecondary education commission. The commissioner of the postsecondary education commission shall annually report to the general court on the effectiveness of this program.

2 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 2009 to the postsecondary education commission for deposit in the CART provider and sign language interpreter net tuition repayment fund established in RSA 200-M:4. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 New Subparagraph; State Treasurer; Accounts Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the CART provider and sign language interpreter net tuition repayment fund established in RSA 200-M:4.

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

The question is on the adoption of Committee Amendment 1506s.

Committee Amendment 1506s adopted.

The question is on the motion of Ought to Pass as Amended on HB 441-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 276-FN, relative to challenges of voters. Election Law and Veterans' Affairs. Re-refer to Committee, Vote 4-1. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 276-FN.

Motion of Re-refer to Committee adopted.

HB 432-FN, relative to penalties for telephone harassment involving a number used to facilitate transportation of voters or otherwise to support voting or registering to vote. Election Law and Veterans' Affairs. Inexpedient to Legislate, Vote 5-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 432-FN.

Motion of Inexpedient to Legislate adopted.

HB 667-FN, relative to misrepresenting the origin of a campaign call. Election Law and Veterans' Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

Election Law and Veterans' Affairs

May 5, 2009

2009-1496s

03/04

Amendment to HB 667-FN

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

AN ACT relative to misrepresenting the origin of a campaign call and relative to penalties for telephone harassment involving a number used to facilitate transportation of voters or otherwise to support voting or registering to vote.

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

1 New Paragraph; Telephone Harassment; Voter Transportation. Amend RSA 644:4 by inserting after paragraph III the following new paragraph:

IV. A person shall be guilty of a class B felony if the person violates RSA 644:4, I(a) under circumstances involving making telephone calls to a telephone number that he or she knows is being used, at the time of the calls, to facilitate the transportation of voters to polling places or otherwise to support voting or registering to vote.

2 New Section; Misrepresenting Origin of Campaign Call. Amend RSA 664 by inserting after section 14-a the following new section:

664:14-b Misrepresenting Origin of Campaign Call.

I. No person shall knowingly misrepresent the origin of a telephone call which expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains any information about any candidate or party. Such knowing misrepresentation shall include, but shall not be limited to, causing the displayed caller identification information, as defined in RSA 359-E:1, I-a, to indicate that a telephone call originates from a number, person, or organization other than the number, person, or organization originating the call, or making a call knowing that some other person has caused said misrepresentation, except if the displayed caller identification number is a number at which the person or organization responsible for sponsoring or making the call may directly receive a return call.

II.(a) A violation of this section shall result in a civil penalty of \$5,000 per violation.

(b) Any person injured by another's violation of this section may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this section, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this section without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2010.

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

2009-1496s

AMENDED ANALYSIS

This bill prohibits misrepresenting the origin of a campaign call. This bill also makes it a class B felony for a person to commit telephone harassment by making calls to a telephone number used to facilitate transportation of voters or otherwise to support voting or registering to vote.

The question is on the adoption of Committee Amendment 1496s.

Committee Amendment 1496s adopted.

Sen. Bragdon offered a floor amendment.

Gallus, Dist. 1

Sen. Bradley, Dist. 3

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Bragdon, Dist. 11

Sen. Carson, Dist. 14

Sen. Gatsas, Dist. 16

Sen. Barnes, Dist. 17

Sen. Letourneau, Dist. 19

Sen. Downing, Dist. 22

May 13, 2009

2009-1628s

03/10

Floor Amendment to HB 667-FN

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

AN ACT relative to misrepresenting the origin of a campaign call, relative to penalties for telephone harassment involving a number used to facilitate transportation of voters or otherwise to support voting or registering to vote, and requiring photo identification to obtain a ballot.

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

3 Obtaining a Ballot; Identification Required. Amend RSA 659:13 to read as follows:

659:13 Obtaining a Ballot.

I. A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the paper checklist and the supervisors of the checklist shall cause the centralized voter registration database to reflect the correction. ***The ballot clerk shall then require the person desiring to vote to furnish a state or federal government-issued photo identification to verify the person's identity or, if the person states that he or she has not been issued a valid form of such identification, or has lost possession of, or misplaced such an identification within the preceding period of 14 days, a voter identification affidavit pursuant to paragraph II.*** The voter, if still qualified to vote in the town or ward and unless challenged as provided for in RSA 659:27-33, ***or unless failing to present the required identification,*** shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

II. In any instance where a voter states to a ballot clerk that he or she has not been issued a valid state or federal government-issued photo identification, or has lost possession of, or misplaced such an identification within the preceding period of 14 days, then as a substitute for such identification the voter shall be permitted to submit an affidavit, certified by the ballot clerk, in the following form:

Voter Identification Affidavit

1. My name is _____ . I reside at _____ .

2. I have not been issued an identification card by a state or federal government that sets forth my name, birth date, sex, identification number, digital photograph, and address and is in effect as of the date of this affidavit or I have lost possession of, or misplaced such an identification within the past 14 days.

3. This affidavit is dated _____ .

I acknowledge that I have read and understand the above and do hereby swear, under the penalties for voting fraud, that all of the above is complete and accurate.

Signature

III. Notwithstanding the requirement for an identification, if a person desiring to vote states that he or she does not have a sufficient identification, but such person is personally known to any of the city or town clerk, moderator, supervisors of the checklist, or ballot clerks as a person qualified to vote at such location, such person shall not be refused a ballot for lack of identification if the city or town clerk, moderator, supervisor of the checklist, or ballot clerk records the name of the voter and the name of the city or town clerk, moderator, supervisor of the checklist, or ballot clerk who knows the voter in the same manner as affidavits are recorded pursuant to RSA 659:32.

4 Effective Date.

I. Section 2 of this act shall take effect January 1, 2010.

II. Section 3 of this act shall take effect November 1, 2009.

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

2009-1628s

AMENDED ANALYSIS

This bill prohibits misrepresenting the origin of a campaign call. This bill also makes it a class B felony for a person to commit telephone harassment by making calls to a telephone number used to facilitate transportation of voters or otherwise to support voting or registering to vote.

This bill requires a voter to present photographic identification or a voter identification affidavit to obtain a ballot. The bill establishes an exception to the identification requirement for persons personally known to certain election officials.

The question is on the adoption of Floor Amendment 1628s.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, Downing.

The following Senators voted No: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, D'Allesandro, Merrill, Hassan, Fuller Clark.

Yeas: 10 - Nays: 14

Floor Amendment 1628s fails.

Recess/Out of Recess.

The question is on the motion of Ought to Pass as Amended on HB 667-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 39-FN, relative to the authority of the state board for the licensing and regulation of plumbers. Executive Departments and Administration. Ought to Pass with Amendment, Vote 4-0. Senator Downing for the committee.

Senate Executive Departments and Administration

May 7, 2009

2009-1576s

10/04

Amendment to HB 39-FN

Amend the bill by replacing section 1 with the following:

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

329-A:11-a Inactive Status During Active Military Service. Upon the request of a person licensed or certified by the board who is a member of any reserve component of the armed forces of the United States or the national guard and is called to active duty, the board shall place such person's license or certificate on inactive status. The license or certificate may be reactivated, after notification to the board, within one year of the person's release from active status by payment of the renewal fee and with proof of completion of the most current continuing education requirement unless still within the renewal period.

The question is on the adoption of Committee Amendment 1576s.

Committee Amendment 1576s adopted.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 174-FN, establishing a performance measurement system for state agencies. Executive Departments and Administration. Ought to Pass, Vote 4-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 174-FN.

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26).

HB 345-FN, allowing physical therapists to practice on animals. Executive Departments and Administration. Ought to Pass, Vote 3-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 345-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 408-FN, relative to the regulation of physicians and physician assistants by the board of medicine. Executive Departments and Administration. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration
May 7, 2009
2009-1574s
04/10

Amendment to HB 408-FN

Amend section 2 of the bill by replacing the bill section heading with the following:

2 Board of Medicine; Duties; Executive Director. Amend RSA 329:2, II-IV to read as follows:

Amend RSA 329:7, III as inserted by section 5 of the bill by replacing it with the following:

III. The president of the board may call an emergency meeting when required by an imminent peril to the public health or safety[, and] ***or when the physical presence of a quorum is not reasonably practical for immediate board action, such as an issue related to medical services in rural or underserved communities. Emergency meetings*** may ~~[conduct such meeting]~~ ***be conducted*** telephonically, with a quorum of board members eligible to vote with respect to the subject matter of the emergency. Any vote resulting from such meetings shall have the same effect as votes resulting from other meetings of the board, if such vote is ratified at the next regularly scheduled board meeting. ***The minutes and the procedures for emergency meetings shall comply with RSA 91-A:2.***

Amend RSA 329:17, XIII as inserted by section 14 of the bill by replacing it with the following:

XIII. ***When an investigation of a complaint against a licensee is determined to be unfounded, the board shall dismiss the complaint and explain in writing to the complainant its reason for dismissing the complaint. The board may destroy all information collected during the course of the investigation after 3 years. The board shall retain a record only noting that an investigation was conducted and that the board determined the complaint to be unfounded. For the purpose of this paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of the board, does not relate to the actions of the licensee, or is determined by the board to be frivolous.***

The question is on the adoption of Committee Amendment 1574s.

Committee Amendment 1574s adopted.

Sen. Carson offered a floor amendment.

Sen. Cilley, Dist. 6
Sen. Carson, Dist. 14
May 13, 2009
2009-1635s
10/09

Floor Amendment to HB 408-FN

Amend RSA 329:13-b, II as inserted by section 10 of the bill by replacing it with the following:

II. Any committee of a professional society comprised primarily of physicians, its staff, or any district or local intervenor participating in a program established to aid physicians impaired or potentially impaired by mental or physical illness including substance abuse ***or disruptive behavior*** may report in writing to the board the name of a physician whose ability to practice medicine safely is impaired or could reasonably be expected to become impaired if the condition is allowed to progress together with the pertinent information relating to the physician's impairment. The board may report to any committee of such professional society or the society's designated staff information which it may receive with regard to any physician who may be impaired by a mental or physical illness including substance abuse ***or disruptive behavior. In this chapter, "disruptive behavior" means any abusive conduct, including sexual or other forms of harassment, or other forms of verbal or non-verbal conduct that harms or intimidates others to the extent that quality of care of patient safety could be compromised.***

The question is on the adoption of Floor Amendment 1635s.

Floor Amendment 1635s adopted.

The question is on the motion of Ought to Pass as Amended on HB 408-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 420-FN, relative to the determination of gainful occupation for a group II member receiving an accidental disability retirement allowance from the retirement system. Executive Departments and Administration. Ought to Pass, Vote 2-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 420-FN.

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26.)

Senators DeVries and Downing assert Rule 42 on HB 420-FN.

HB 464-FN, relative to certain duties of the department of administrative services and relative to credit card contracts for state agencies. Executive Departments and Administration. Ought to Pass, Vote 4-0. Senator Downing for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 464-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 476-FN, (New Title) relative to modifying the quorum requirement and relative to filing fees for eminent domain proceedings before the board of tax and land appeals. Executive Departments and Administration. Ought to Pass, Vote 4-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 476-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

Recess/Out of Recess.

HB 532-FN, excluding extra or special duty pay from earnable compensation in the retirement system. Executive Departments and Administration. Inexpedient to Legislate, Vote 4-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 532-FN.

Motion of Inexpedient to Legislate adopted.

Senators Barnes and Roberge are in opposition to motion of Inexpedient to Legislate on HB 532-FN.

HB 587-FN, establishing an information and analysis center within the department of safety. Executive Departments and Administration. Ought to Pass with Amendment, Vote 3-1. Senator Cilley for the committee.

Senate Executive Departments and Administration

May 7, 2009

2009-1571s

04/05

Amendment to HB 587-FN

Amend RSA 651-F:3, II as inserted by section 2 of the bill by replacing it with the following:

II. The attorney general or designee, and a representative of a civil liberties organization, appointed by the governor and council, shall meet with the intelligence subcommittee of ACEPS at least annually to receive reports regarding the operation of the center and provide added input to best insure the protection of civil rights and personal privacy.

Amend RSA 651-F:5, X as inserted by section 2 of the bill by replacing it with the following:

X. Criminal intelligence information including personally identifiable data retained in the criminal intelligence system shall be reviewed and validated for continuing compliance with system submission criteria before the expiration of the information's retention period, which in no event shall be longer than 5 years. After the initial 5 years, the retention period may be extended in one-year increments subject to annual review, if the state police commander of the center believes that there is a reasonable possibility of ongoing criminal activity sufficient to retain the information for the additional time. The commander shall annually submit to the assistant commissioner of the department of safety a listing of files that are being retained beyond the 5-year period.

Amend RSA 651-F:8 as inserted by section 2 of the bill by replacing it with the following:

651-F:8 Audit Requirement and Disclosure. The department of safety shall maintain and conduct periodic audits of data access performed by personnel assigned to the center at least annually. The audit shall consist

of a review of authorized credentials of persons accessing the data, a random sampling of data input quality and the type and reason for data access, and a review of the policy and procedures that govern data entry, access, and purging. The department shall report its findings in an annual report to the speaker of the house of representatives, the president of the senate, the governor, the intelligence subcommittee of the advisory council on emergency preparedness and security established under RSA 21-P:48, the attorney general, and the representative of the civil liberties organization designated under RSA 651-F:3, II.

The question is on the adoption of Committee Amendment 1571s.

Committee Amendment 1571s adopted.

The question is on the motion of Ought to Pass as Amended on HB 587-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 590-FN, relative to the retirement age for group II members. Executive Departments and Administration. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration

May 7, 2009

2009-1575s

10/04

Amendment to HB 590-FN

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

1 State Employees; Group Insurance Benefits; Group II. Amend RSA 21-I:30, III to read as follows:

III. Any vested deferred state retiree may receive medical and surgical benefits under this section if the vested deferred state retiree is eligible. To be eligible, a vested deferred state retiree shall have at least 10 years of creditable service with the state if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003. In addition, if the vested deferred state retiree is a member of group I, such retiree shall be at least 60 years of age to be eligible. If the vested deferred state retiree is a member of group II *who commenced service before July 1, 2009*, such retiree shall not be eligible until 20 years from the date of becoming a member of group II and shall be at least 45 years of age, *and any group II member who commenced service on or after July 1, 2009 shall not be eligible until 25 years from the date of becoming a member of group II.*

2 Service Retirement; Group II. Amend RSA 100-A:5, II to read as follows:

II. Group II Members.

(a) Any group II member in service, *who commenced service before July 1, 2009*, who has attained age 45 and completed 20 years of creditable service, or who has attained age 60 regardless of the number of years of creditable service, *and a group II member who commenced service on or after July 1, 2009, who has completed 25 years of creditable service, or who has attained age 60 regardless of the number of years of creditable service*, may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time not less than 30 days nor more than 90 days subsequent to the filing thereof the member desires to be retired, notwithstanding that during such period of notification the member may have separated from service.

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his *or her* accumulated contributions at the time of retirement; and

(2) A state annuity which, together with his *or her* member annuity, shall be equal to 2-1/2 percent of his *or her* average final compensation multiplied by the number of years of his *or her* creditable service not in excess of 40 years.

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who *commenced service before July 1, 2009 and* has retired on or after the effective date of this subparagraph after attaining the age of 45 with at least 20 years of creditable service, *and any group II member who commenced service on or after July 1, 2009 and has retired on or after the effective date of this subparagraph and has completed at least 25 years of creditable service*, shall receive a minimum

annual service retirement allowance of \$10,000. If such group II member has elected to convert the retirement allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving spouse shall be entitled to a proportional share of the \$10,000.

(2) [Repealed.]

(3) [Repealed.]

3 Ordinary Disability Retirement; Group II; Gender Neutral. Amend RSA 100-A:6, II(b) to read as follows:

(b) Upon ordinary disability retirement, the group II member shall receive an ordinary disability retirement allowance which shall consist of: a member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his **or her** ordinary disability retirement; and a state annuity which, together with his **or her** member annuity, shall be equal to 2-1/2 percent of his **or her** average final compensation at the time of [his] ordinary disability retirement multiplied by the number of years of his **or her** creditable service not in excess of 40 at the time of [his] ordinary disability retirement, provided, however, that such allowance shall not be less than 25 percent of the member's final compensation at the time of his **or her** disability retirement.

4 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

(d) Upon accidental disability retirement, the group II member shall receive an accidental disability retirement allowance equal to 2/3 of his **or her** average final compensation at the time of [his] disability retirement.

(1) For any group II member who has more than 26-2/3 years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2-1/2 percent of his **or her** average final compensation multiplied by the number of years of his **or her** creditable service in excess of 26-2/3 but not in excess of 40 years.

(2) For members who commenced service on or after July 1, 2009, any group II member who has more than 33-1/3 years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2-1/2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of 33-1/3 but not in excess of 40 years.

5 Vested Deferred Retirement; Group II. Amend RSA 100-A:10, II(b) to read as follows:

(b) **For members who commenced service before July 1, 2009**, upon the member's attainment of age 45, provided the member would then have completed 20 years of creditable service, otherwise the subsequent date on which such 20 years would have been completed, **or for members who commenced service on or after July 1, 2009, provided the member would then have completed 25 years of creditable service**, or at any time after age 60, a group II member who meets the requirement of subparagraph (a) may make application on a form prescribed by the board of trustees and receive a vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of accumulated contributions on the date the member's retirement allowance commences; and (2) A state annuity which, together with the member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time the member's service is terminated.

6 Split Benefits; Minimum Age. Amend RSA 100-A:19-b, II to read as follows:

II. For a member **who commenced service before July 1, 2009 and**, who has completed 20 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service, provided that the age shall not be less than 45 years. **For a member who commenced service on or after July 1, 2009 and, who has completed 25 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service.**

7 Effective Date. This act shall take effect July 1, 2009.

The question is on the adoption of Committee Amendment 1575s.

Committee Amendment 1575s adopted.

Sen. DeVries asserts Rule 42 on HB 590-FN.

The question is on the motion of Ought to Pass as Amended on HB 590-FN.

A roll call was requested by Sen. Gatsas, seconded by Sen. Barnes.

Recess/Out of Recess.

The request for roll call was withdrawn.

Sen. Cilley offered a floor amendment.

Sen. Cilley, Dist. 6

May 12, 2009

2009-1616s

10/05

Floor Amendment to HB 590-FN

Amend the bill by replacing section 4 with the following:

4 Accidental Disability Retirement; Group II; Gender Neutral. Amend RSA 100-A:6, II(d) to read as follows:

(d) Upon accidental disability retirement, the group II member shall receive an accidental disability retirement allowance equal to $\frac{2}{3}$ of his *or her* average final compensation at the time of [his] disability retirement. For any group II member who has more than $26\frac{2}{3}$ years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to $2\frac{1}{2}$ percent of his *or her* average final compensation multiplied by the number of years of his *or her* creditable service in excess of $26\frac{2}{3}$ but not in excess of 40 years.

The question is on the adoption of Floor Amendment 1616s.

Floor Amendment 1616s adopted.

Sen. DeVries asserts Rule 42 on HB 590-FN.

The question is on the motion of Ought to Pass as Amended on HB 590-FN.

A roll call was requested by Sen. Barnes, seconded by Sen. Gatsas.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

Sen. DeVries asserts Rule 42 on HB 590-FN.

HB 598-FN, relative to the regulation of auctioneers by the state board of auctioneers. Executive Departments and Administration. Re-refer to Committee, Vote 4-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 598-FN.

Motion of Re-refer to Committee adopted.

HB 641-FN-L, relative to the determination of employer assessments for excess benefits paid by employers in the retirement system. Executive Departments and Administration. Ought to Pass with Amendment, Vote 4-0. Senator Downing for the committee.

Senate Executive Departments and Administration

May 7, 2009

2009-1577s

10/04

Amendment to HB 641-FN-LOCAL

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

1 New Hampshire Retirement System; Methodology for Determining Employer Assessments for Excess Benefits; Report. The New Hampshire retirement system shall develop a specific methodology for individuals retiring after July 1, 2010 that determines the amount of the employer assessment for excess

benefits charged pursuant to 2008, 300:33, but which accounts for the portion of the present value of the member's retirement benefit attributable to the compensation above base pay, as determined by the retirement system, that has been funded through the normal employer contributions, including the state share of such contributions, and the employee contributions. The retirement system shall submit a report regarding this methodology to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate executive departments and administration committees no later than December 1, 2009.

2 New Paragraph; Employer Duty to Report. Amend RSA 100-A:16 by inserting after paragraph III-a the following new paragraph:

III-b. Every employer shall annually report to the retirement system the annual base pay paid to each member.

3 Excess Benefit Assessment; Application. Amend 2008, 300:34 to read as follows:

300:34 Application. The provisions of RSA 100-A:16, III-a as inserted by section 33 of this act shall not apply to a binding contract or a binding collective bargaining agreement in effect on the effective date of this section, to the extent required by the contract or agreement, before the termination of such contract or the date on which the collective bargaining agreement terminates, or while the terms of the existing contract remain in force as a result of *either the operation of law or the status quo doctrine*, or a provision in the existing contract because the parties have failed to agree to a new contract or a contract extension, on or after the effective date of this section.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2010 at 12:01 a.m.

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

2009-1577s

AMENDED ANALYSIS

This bill requires the New Hampshire retirement system to develop a methodology for determining the excess benefit charge adopted in 2008, 300:33.

The question is on the adoption of Committee Amendment 1577s.

Committee Amendment 1577s adopted.

The question is on the motion of Ought to Pass as Amended on HB 641-FN-L.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 651-FN, relative to regulation of private investigative agencies and security services. Executive Departments and Administration. Re-refer to Committee, Vote 4-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 651-FN.

Motion of Re-refer to Committee adopted.

HB 467-FN, relative to the review and adjustment of child support orders. Finance. Ought to Pass, Vote 6-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 467-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 570-FN-A, requiring the department of transportation to convey ownership of Skyhaven airport to the Pease development authority. Finance. Ought to Pass, Vote 6-0. Senator D'Allesandro for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 570-FN-A.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 378-FN-A, (New Title) relative to fees for methadone detoxification and maintenance programs. Health & Human Services. Ought to Pass with Amendment, Vote 2-0. Senator Sgambati for the committee.

Health and Human Services
May 7, 2009
2009-1559s
10/04

Amendment to HB 378-FN-A

Amend RSA 318-B:10, VII(b)(9) as inserted by section 1 of the bill by replacing it with the following:

(9) Fees to be paid by providers for application, licensing, and administration of such programs by the department. All moneys collected by the department from fees authorized under this subparagraph shall be deposited into the general fund, and such fees shall not exceed \$500 per year for application, certification, and other fees.

2009-1559s

AMENDED ANALYSIS

This bill allows the department of health and human services to adopt and collect fees for providers of methadone detoxification and maintenance programs.

The question is on the adoption of Committee Amendment 1559s.

Committee Amendment 1559s adopted.

The question is on the motion of Ought to Pass as Amended on HB 378-FN-A.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 433-FN-A, (New Title) relative to funding the law requiring reporting of hospital infections. Health & Human Services. Ought to Pass, Vote 2-0. Senator Gallus for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 433-FN-A.

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26).

HB 529-FN, relative to the healthy kids program. Health & Human Services. Ought to Pass, Vote 3-0. Senator Gilmour for the committee.

Recess/Out of Recess.

The question is on the adoption of committee recommendation of Ought to Pass on HB 529-FN.

A roll call was requested by Sen. D'Allesandro, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26).

HB 580-FN, relative to health information and patient rights. Health & Human Services. Inexpedient to Legislate, Vote 4-1. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 580-FN.

Motion of Inexpedient to Legislate adopted.

HB 592-FN, (New Title) relative to "adverse events" in hospitals and ambulatory surgical centers. Health & Human Services. Ought to Pass with Amendment, Vote 4-0. Senator Downing for the committee.

Health and Human Services
May 5, 2009
2009-1498s
01/03

Amendment to HB 592-FN

Amend the bill by replacing section 1 with the following:

1 Statement of Purpose. The general court finds that 95,000 people die as a result of "adverse events" in hospitals and ambulatory surgical centers nationally every year. The general court further finds that 4

in 10 physicians state that they have personally experienced adverse events. The general court recognizes that New Hampshire is the only New England state which does not have laws addressing adverse events. Therefore, the general court hereby establishes a reporting system to facilitate quality improvement in the health care system.

The question is on the adoption of Committee Amendment 1498s.

Committee Amendment 1498s adopted.

The question is on the motion of Ought to Pass as Amended on HB 592-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM TABLE

Sen. Fuller Clark moved to remove HB 658-FN from the table.

The question is on the motion to remove HB 658-FN from the table.

Motion adopted.

OFF THE TABLE

HB 658-FN, relative to housing assistance for recipients of Temporary Assistance to Needy Families (TANF).

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

Motion of Ought to Pass Failed.

Sen. Fuller Clark moved to Re-Refer to Committee.

The question is on the motion of Re-refer to Committee on HB 658-FN.

Motion to Re-refer to Committee adopted.

HB 279-FN, relative to certain missing persons. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Senate Judiciary

May 6, 2009

2009-1537s

01/10

Amendment to HB 279-FN

Amend RSA 106-J:3, III(c) as inserted by section 3 of the bill by replacing it with the following:

(c) Whose age at the time he or she is first reported missing is 55 years of age or older and who has a verified impaired mental condition; and

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect July 1, 2010.

The question is on the adoption of Committee Amendment 1537s.

Committee Amendment 1537s adopted.

The question is on the motion of Ought to Pass as Amended on HB 279-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 281-FN, increasing the maximum amount of debt or damages for small claims actions and requiring mediation for small claims actions exceeding \$5,000 and establishing a fee for the cost of such mediation. Judiciary. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 281-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 291-FN, relative to a one day/one trial jury duty pilot program. Judiciary. Inexpedient to Legislate, Vote 5-0. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 291-FN.

Motion of Inexpedient to Legislate adopted.

HB 313-FN, relative to the assignment of right of child support enforcement. Judiciary. Ought to Pass, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 313-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 430-FN, removing the statute of limitations on certain crimes committed in furtherance of murder. Judiciary. Ought to Pass, Vote 3-2. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 430-FN.

A roll call was requested by Sen. Barnes, seconded by Sen. Bragdon.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 449-FN, increasing the penalty for unlawful possession or release of criminal records. Judiciary. Inexpedient to Legislate, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 449-FN.

Motion of Inexpedient to Legislate adopted.

HB 471-FN, (New Title) relative to willful concealment and fraudulent retail transactions. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Senate Judiciary

May 6, 2009

2009-1530s

04/05

Amendment to HB 471-FN

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

AN ACT relative to willful concealment and fraudulent retail transactions and relative to trafficking in counterfeit goods or services.

Amend the bill by inserting after section 8 the following and renumbering the original sections 9-10 to read as 10-11, respectively:

9 New Section; Forgery and Fraudulent Practices Generally; Trafficking in Counterfeit Goods or Services. Amend RSA 638 by inserting after section 6-a the following new section:

638:6-b Trafficking in Counterfeit Goods or Services.

I. No person shall intentionally traffic or attempt to traffic in goods or services and knowingly use a counterfeit mark on or in connection with such goods or services, or intentionally traffic or attempt to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive.

II. Possession of 5 or more goods shall create a rebuttable presumption that such goods are intended for sale or distribution in violation of this section.

III. The following property shall be subject to forfeiture to the state and no property right shall exist in such property:

(a) Any article bearing or consisting of a counterfeit mark used in committing a violation of paragraph I.

(b) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of paragraph I.

(c) At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by the state, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

IV. The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the state:

(a) Any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

(b) Any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

(c) Any article that bears or consists of a counterfeit mark used in committing the offense.

(d) The forfeiture of property under this paragraph, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth by the attorney general and, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

(e) Persons permitted to submit victim impact statements shall include:

(1) Producers and sellers of legitimate goods or services affected by conduct involved in the offense;

(2) Holders of intellectual property rights in such goods or services; and

(3) The legal representatives of such producers, sellers, and holders.

V. For the purposes of this section the term "counterfeit mark" means:

(a) A spurious mark:

(1) That is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

(2) That is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so, registered;

(3) That is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

(4) The use of which is likely to cause confusion, to cause mistake, or to deceive; or

(5) A spurious designation that is identical with, or substantially indistinguishable from a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered.

(b) "Counterfeit mark" shall not include any mark or designation used in connection with goods or services, or a mark or designation applied to, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.

(c) The term "traffic" means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of.

(d) The term “financial gain” includes the receipt, or expected receipt, of anything of value.

(e) Nothing in this section shall entitle the state to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.

VI. No person shall knowingly allow his or her property or property under his or her control to be used, rented, leased, or otherwise conveyed for the purposes of trafficking in counterfeit goods or for temporary storage of any counterfeit goods.

VII. Any person who violates the provisions of paragraph I shall be guilty of a class A misdemeanor for the first offense if a natural person, or guilty of a class B felony if any other person, and shall be guilty of a class B felony for any subsequent offense by a natural person.

VIII. Any person who violates paragraph VI of this section shall be guilty of a class A misdemeanor for the first offense if a natural person, or guilty of a class B felony if any other person. Any person who violates paragraph VI shall be guilty of a class B felony for a second offense if a natural person, or guilty of a class A felony if any other person. Any person who violates paragraph VI shall be guilty of a class A felony for a third or subsequent offense.

2009-1530s

AMENDED ANALYSIS

This bill:

I. Makes changes to the theft statute including moving the offense of willful concealment into RSA 637, and deleting references to “shoplifting.”

II. Imposes criminal penalties for fraudulent retail transactions and for trafficking in counterfeit goods or services.

III. Imposes an enhanced penalty for persons knowingly activating an audible alarm system to avoid detection or apprehension, or cause a distraction during the commission of the offense.

The question is on the adoption of Committee Amendment 1530s.

Committee Amendment 1530s failed.

Sen. Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19

May 13, 2009

2009-1630s

04/05

Floor Amendment to HB 471-FN

Amend the bill by inserting after section 8 the following and renumbering the original sections 9-10 to read as 10-11, respectively:

9 New Section; Forgery and Fraudulent Practices Generally; Dealing in Counterfeit Goods. Amend RSA 638 by inserting after section 6-a the following new section:

638:6-b Dealing in Counterfeit Goods.

I. As used in this section, “counterfeit mark” means any unauthorized reproduction or copy of intellectual property, or intellectual property affixed to any goods sold, offered for sale, manufactured, or distributed without the authority of the owner of the intellectual property. “Intellectual property” means any trademark, service mark, trade name, label, term, device, design, or word that is adopted or used by a person to identify such person’s goods and registered, filed, or recorded under RSA 350-A, or the laws of any other state, or registered in the principal register of the United States Patent and Trademark Office.

II. Any person who purposely or knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell, or distributes any goods bearing or identified by a counterfeit mark shall be guilty of a class A misdemeanor for a first offense and a class B felony for any subsequent offense. Each individual good bearing or identified by a counterfeit mark shall constitute a separate offense.

III. Any person having possession, custody, or control of more than 25 items bearing a counterfeit mark shall be presumed to possess said items with the intent to sell or distribute. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

2009-1630s**AMENDED ANALYSIS**

This bill:

I. Makes changes to the theft statute including moving the offense of willful concealment into RSA 637, and deleting references to “shoplifting.”

II. Imposes criminal penalties for fraudulent retail transactions.

III. Imposes an enhanced penalty for persons knowingly activating an audible alarm system to avoid detection or apprehension, or cause a distraction during the commission of the offense.

IV. Imposes criminal penalties for dealing in counterfeit goods.

The question is on the adoption of Floor Amendment 1630s.

Floor Amendment 1630s adopted.

The question is on the motion of Ought to Pass as Amended on HB 471-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 473-FN, relative to water treatment plants and penalties for safe drinking water violations. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Senate Judiciary

May 7, 2009

2009-1563s

06/09

Amendment to HB 473-FN

Amend RSA 485:17 as inserted by section 5 of the bill by replacing it with the following:

485:17 [Pollution] **Penalty.**

*I. If a person shall **recklessly** place, leave, or cause to be placed or left, in or near a lake, pond, reservoir or stream tributary thereto, from which the domestic water supply of a city, town, or village is taken, in whole or in part, any **material**, substance, or fluid that may cause such water to become impure or unfit for such purposes [he] **such person** shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.*

*II. If a person shall **purposely or knowingly** place, leave, or cause to be placed or left, in or near a lake, pond, reservoir, or stream tributary thereto, from which the domestic water supply of a city, town, or village is taken, in whole or in part, any **material**, substance, or fluid that may cause such water to become impure or unfit for such purposes **such person** shall be guilty of a class B felony.*

Amend RSA 485:58, III as inserted by section 8 of the bill by replacing it with the following:

III. Unless otherwise provided, any purposeful or knowing violation of any provision of this chapter, any rule adopted under this chapter, any term or condition of an approval, exemption, variance, or order issued under this chapter, or any misstatement of a material fact required to be disclosed under this chapter shall constitute a class B felony.

The question is on the adoption of Committee Amendment 1563s.

Committee Amendment 1563s adopted.

The question is on the motion of Ought to Pass as Amended on HB 473-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 474-FN, prohibiting the trafficking in persons for the purposes of sexual or labor exploitation. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary

May 6, 2009

2009-1534s

04/09

Amendment to HB 474-FN

Amend RSA 633:6, V as inserted by section 1 of the bill by replacing it with the following:

V. "Involuntary servitude" means a condition of compulsory service or labor, including commercial sex acts or sexually explicit performance, performed by one person, against his or her will, for the benefit of another. If a person willingly begins to perform the labor or service but later attempts to withdraw and is forced to remain and perform against his or her will, the service becomes involuntary. The payment of a wage or salary is not determinative of the question as to whether that person has been held in involuntary servitude.

Amend RSA 633:7 as inserted by section 1 of the bill by replacing it with the following:

633:7 Trafficking in Persons.

I.(a) It is a class A felony to knowingly subject a person to involuntary servitude, where the compulsion is accomplished by any of the following means:

- (1) Causing or threatening to cause serious harm to any person.
- (2) Confining the person unlawfully as defined in RSA 633:2, II, or threatening to so confine the person.
- (3) Abusing legal process or threatening to bring legal action against the person relating to the person's legal status or potential criminal liability.
- (4) Destroying, concealing, removing, confiscating, or otherwise making unavailable to that person any actual or purported passport or other immigration document, or any other actual or purported government identification document.
- (5) Threatening to commit a crime against the person.
- (6) Deception or fraud.
- (7) Threatening to reveal any information sought to be kept concealed by the person which relates to the person's legal status or which would expose the person to criminal liability.
- (8) Causing or threatening to cause financial harm to any person.
- (9) Facilitating or controlling the person's access to an addictive controlled substance.
- (10) Engaging in any scheme, plan, or pattern, whether overt or subtle, intended to cause the person to believe that, if he or she did not perform such labor, services, commercial sex acts, or sexually explicit performances, that such person or any person would suffer serious harm or physical restraint.
- (11) Withholding or threatening to withhold food, medication, or financial support that the actor has an obligation to provide to the person.
- (12) Coercing a person to engage in any of the foregoing acts by requiring such in satisfaction of a debt owed to the actor.

(b) The means listed in subparagraphs (b)(4), (b)(11), and (b)(12) are not intended to criminalize the actions of a parent or guardian who requires his or her child to perform common household chores under threat of typical parental discipline.

(c) Notwithstanding RSA 651:2, a person convicted of an offense under subparagraph I(a) involving a commercial sex act or sexually explicit performance by a victim under the age of 18 shall be subject to a minimum term of not more than 10 years and a maximum term of not more than 30 years.

II. It is a class A felony to recruit, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking as defined in paragraph I. Notwithstanding RSA 651:2, a person convicted of an offense under this paragraph involving a victim under the age of 18 shall be subject to a minimum term of not more than 10 years and a maximum to be fixed by the court, if the offender knew or believed it likely that the victim would be coerced into engaging in a commercial sex act or sexually explicit performance.

III. Evidence of a trafficking victim's personal sexual history or history of commercial sexual activity shall not be admissible at trial.

IV. None of the following shall constitute a defense to any offense or enhanced sentencing provision under this section:

- (a) Consent.

(b) Mistake as to the victim's age, even if the mistake is reasonable.

(c) The victim's relationship, by blood or marriage, to the actor or any person involved in the trafficking.

Amend RSA 633:8, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Any moneys, coin, currency, negotiable instruments, securities, or other investments knowingly used or intended for use in violation of this section.

Amend RSA 633:8, III(b)-(c) as inserted by section 1 of the bill by replacing them with the following:

(b) Physically, without process on probable cause to believe that the property is subject to forfeiture under this section; or

(c) Constructively, without process on probable cause to believe that the property is subject to forfeiture under this section, by recording a notice of pending forfeiture in the registry of deeds in the county where the real property is located or at the town clerk's office where the personal property is located stating that the state intends to seek forfeiture of the identified property pursuant to this section.

Amend RSA 633:8, XI as inserted by section 1 of the bill by replacing it with the following:

XI. The court may order forfeiture of all items or property interests under this section, except no item or property interest shall be subject to forfeiture unless the owner or owners thereof were consenting parties to a felonious violation of this section and had knowledge thereof.

Amend RSA 633:8, XIV as inserted by section 1 of the bill by replacing it with the following:

XIV. At the request of any party to the forfeiture proceeding, the court shall grant a continuance until the final resolution of any criminal proceedings which were brought against a party under this section and which arose from the transaction which gave rise to the forfeiture proceeding. No party's interest in property shall be forfeited unless a party has been found guilty of the underlying felonious charge.

The question is on the adoption of Committee Amendment 1534s.

Committee Amendment 1534s failed.

Sen. Reynolds offered a floor amendment.

Sen. Reynolds, Dist. 2

May 12, 2009

2009-1592s

04/10

Floor Amendment to HB 474-FN

Amend RSA 633:6, V as inserted by section 1 of the bill by replacing it with the following:

V. "Involuntary servitude" means a condition of compulsory service or labor, including commercial sex acts or sexually explicit performance, performed by one person, against his or her will, for the benefit of another. If a person willingly begins to perform the labor or service but later attempts to withdraw and is forced to remain and perform against his or her will, the service becomes involuntary. The payment of a wage or salary is not determinative of the question as to whether that person has been held in involuntary servitude.

Amend RSA 633:7 as inserted by section 1 of the bill by replacing it with the following:

633:7 Trafficking in Persons.

I.(a) It is a class A felony to knowingly subject a person to involuntary servitude, where the compulsion is accomplished by any of the following means:

(1) Causing or threatening to cause serious harm to any person.

(2) Confining the person unlawfully as defined in RSA 633:2, II, or threatening to so confine the person.

(3) Abusing legal process or threatening to bring legal action against the person relating to the person's legal status or potential criminal liability.

(4) Destroying, concealing, removing, confiscating, or otherwise making unavailable to that person any actual or purported passport or other immigration document, or any other actual or purported government identification document.

(5) Threatening to commit a crime against the person.

(6) False promise relating to the terms and conditions of employment, education, marriage, or financial support.

(7) Threatening to reveal any information sought to be kept concealed by the person which relates to the person's legal status or which would expose the person to criminal liability.

(8) Facilitating or controlling the person's access to an addictive controlled substance.

(9) Engaging in any scheme, plan, or pattern, whether overt or subtle, intended to cause the person to believe that, if he or she did not perform such labor, services, commercial sex acts, or sexually explicit performances, that such person or any person would suffer serious harm or physical restraint.

(10) Withholding or threatening to withhold food or medication that the actor has an obligation or has promised to provide to the person.

(11) Coercing a person to engage in any of the foregoing acts by requiring such in satisfaction of a debt owed to the actor.

(b) The means listed in subparagraphs (b)(4), (b)(10), and (b)(11) are not intended to criminalize the actions of a parent or guardian who requires his or her child to perform common household chores under threat of typical parental discipline.

(c) Notwithstanding RSA 651:2, a person convicted of an offense under subparagraph I(a) involving a commercial sex act or sexually explicit performance by a victim under the age of 18 shall be subject to a minimum term of not more than 10 years and a maximum term of not more than 30 years.

II. It is a class A felony to recruit, harbor, transport, provide, obtain, or otherwise make available a person, knowing or believing it likely that the person will be subjected to trafficking as defined in paragraph I. Notwithstanding RSA 651:2, a person convicted of an offense under this paragraph involving a victim under the age of 18 shall be subject to a minimum term of not more than 10 years and a maximum to be fixed by the court, if the offender knew or believed it likely that the victim would be coerced into engaging in a commercial sex act or sexually explicit performance.

III. Evidence of a trafficking victim's personal sexual history or history of commercial sexual activity shall not be admissible at trial.

Amend RSA 633:8, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Any moneys, coin, currency, negotiable instruments, securities, or other investments knowingly used or intended for use in violation of this section.

Amend RSA 633:8, III(b)-(c) as inserted by section 1 of the bill by replacing them with the following:

(b) Physically, without process on probable cause to believe that the property is subject to forfeiture under this section; or

(c) Constructively, without process on probable cause to believe that the property is subject to forfeiture under this section, by recording a notice of pending forfeiture in the registry of deeds in the county where the real property is located or at the town clerk's office where the personal property is located stating that the state intends to seek forfeiture of the identified property pursuant to this section.

Amend RSA 633:8, XI as inserted by section 1 of the bill by replacing it with the following:

XI. The court may order forfeiture of all items or property interests under this section, except no item or property interest shall be subject to forfeiture unless the owner or owners thereof were consenting parties to a felonious violation of this section and had knowledge thereof.

Amend RSA 633:8, XIV as inserted by section 1 of the bill by replacing it with the following:

XIV. At the request of any party to the forfeiture proceeding, the court shall grant a continuance until the final resolution of any criminal proceedings which were brought against a party under this section and which arose from the transaction which gave rise to the forfeiture proceeding. No party's interest in property shall be forfeited unless a party has been found guilty of the underlying felonious charge.

Amend RSA 633:8, XVIII as inserted by section 1 of the bill by replacing it with the following:

XVIII. After payment of costs outlined in paragraph XVI, any forfeited money and the proceeds of any sale or public auction of forfeited items shall first be used to satisfy any order of restitution or compensation imposed by the court. Any remaining funds shall go to the victims' assistance fund as defined in RSA 21-M:8-i.

Amend RSA 633:10 as inserted by section 1 of the bill by replacing it with the following:

633:10 Restitution and Compensation.

I. A person convicted under this section shall be ordered by the court to pay restitution to the victim. Such restitution may include but not be limited to:

(a) Any economic loss compensable under RSA 651:62, in accordance with the provisions of RSA 651:61-a through RSA 651:67; and

(b) The value of the victim's labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act or the state minimum wage law, whichever is greater.

II. To the extent not included in economic loss that is compensable under paragraph I, the court may also order a person convicted under this section to pay compensation, as follows:

(a) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion;

(b) Costs of necessary transportation, temporary housing, and child care, at the court's discretion;

(c) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;

(d) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and

(e) Any and all other losses suffered by the victim as a result of an offense under this section.

III. The return of the victim to her or his home country or other absence of the victim from the jurisdiction shall not relieve the defendant of his or her restitution obligation.

IV. Except as otherwise provided in this section, the provisions of RSA 651:61-a through RSA 651:67 shall govern all restitution and compensation orders.

Recess/Out of Recess.

The question is on the adoption of Floor Amendment 1592s to HB 474-FN.

Floor Amendment 1592s adopted.

The question is on the motion of Ought to Pass as Amended on HB 474-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

("Happy Birthday" was sung by the Senate body to Senators Roberge and Merrill.)

HB 537-FN, relative to penalties for oil spills. Judiciary. Ought to Pass, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 537-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 538-FN, relative to penalties for water pollution. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Senate Judiciary

May 6, 2009

2009-1533s

06/09

Amendment to HB 538-FN

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Pollution; Prohibited Acts. Amend RSA 485-A:14 by inserting after paragraph V the following new paragraph:

VI. Unless otherwise provided in this chapter, any person who knowingly fails to remove a submerged or partially submerged vehicle or container, as required by paragraph I, shall be guilty of a class B felony if the surface water is the source, or a tributary to a source, from which the domestic water supply of a city, town, or village is taken, in whole or in part.

Amend the bill by replacing section 3 with the following:

3 Penalties. RSA 485-A:15, IV is repealed and reenacted to read as follows:

IV. Any person who recklessly violates paragraph I shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

V. Any person who purposely or knowingly violates paragraph I shall be guilty of a class B felony.

The question is on the adoption of Committee Amendment 1533s.

Committee Amendment 1533s adopted.

The question is on the motion of Ought to Pass as Amended on HB 538-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

Recess/Out of Recess.

HB 572-FN, (New Title) relative to proceedings of medical injury claims screening panels. Judiciary. Ought to Pass, Vote 4-1. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 572-FN.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Lasky, DeVries, Letourneau, D'Allesandro, Downing, Hassan.

The following Senators voted No: Gallus, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Carson, Larsen, Gatsas, Barnes, Merrill, Fuller Clark.

Yeas: 7 - Nays: 17

Motion of Ought to Pass Failed.

Sen. Houde moved Inexpedient to Legislate.

The question is on the motion of Inexpedient to Legislate on HB 572-FN.

A roll call was requested by Sen. Carson, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Larsen, Gatsas, Barnes, DeVries, Merrill, Downing, Fuller Clark.

The following Senators voted No: Reynolds, Lasky, Carson, Letourneau, D'Allesandro, Hassan.

Yeas: 18 - Nays: 6

Motion of Inexpedient to Legislate adopted.

HB 574-FN-L, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property. Judiciary. Re-refer to Committee, Vote 3-2. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 574-FN-L.

A roll call was requested by Sen. Gatsas, seconded by Sen. Barnes.

Recess/Out of Recess.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 574-FN-L.

A roll call had been requested.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Letourneau, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Larsen, Gatsas, Barnes, DeVries, D'Allesandro, Downing.

Yeas: 12 - Nays: 12

Motion to Re-refer to Committee failed.

Sen. Gatsas moved Ought to Pass.

MOTION TO TABLE

Sen. Hassan moved HB 574-FN-L be laid on the table.

The question is on the motion to table HB 574-FN-L.

A roll call was requested by Sen. Gatsas, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Roberge, Kelly, Gilmour, Lasky, Larsen, Letourneau, D'Allesandro, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Bragdon, Carson, Gatsas, Barnes, DeVries, Downing.

Yeas: 15 - Nays: 9

Motion adopted.

LAI D ON THE TABLE

HB 574-FN-L, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

HB 578-FN, relative to testimony by video teleconference. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Senate Judiciary

May 7, 2009

2009-1569s

03/04

Amendment to HB 578-FN-LOCAL

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

1 New Paragraph; Bureau of Hearings; Testimony by Video Teleconference. Amend RSA 21-P:13 by inserting after paragraph II the following new paragraph:

III. In an administrative hearing in a motor vehicle case, the bureau of hearings shall require all parties and witnesses to appear and testify in person, except that the bureau may take testimony by video teleconference if requested by a party to the hearing who gives adequate notice to the bureau and the other parties to the hearing and all parties consent in advance in writing, provided that such testimony provided by video teleconference is limited to the matters relating to a motor vehicle hearing that is open to the public in accordance with RSA 541-A.

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

2009-1569s

AMENDED ANALYSIS

This bill authorizes testimony by video teleconference at department of safety motor vehicle administrative hearings.

The question is on the adoption of Committee Amendment 1569s.

Committee Amendment 1569s adopted.

The question is on the motion of Ought to Pass as Amended on HB 578-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 586-FN, relative to the presence of a law enforcement officer at an administrative license suspension hearing. Judiciary. Inexpedient to Legislate, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 586-FN.

Motion of Inexpedient to Legislate adopted.

HB 601-FN, relative to claims for compensation from the victims' assistance fund. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Roberge for the committee.

Senate Judiciary

May 6, 2009

2009-1531s

04/05

Amendment to HB 601-FN

Amend RSA 21-M:8-h, II as inserted by section 1 of the bill by replacing it with the following:

II. The claimant, guardian ad litem or child advocate, or parent [~~shall~~] **may** file a claim for compensation within [~~one year~~] **2 years** of the crime, unless good cause is shown.

Amend RSA 21-M:8-h, V as inserted by section 2 of the bill by replacing it with the following:

V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses, **rehabilitative expenses, expenses associated with the victim's participation in post-conviction proceedings and victim-offender dialogue programs or other restorative justice programs**, and lost wages directly resulting from the crime. No reimbursement shall be paid unless the claimant has incurred reimbursable expenses of at least \$100. There shall be a [~~\$10,000 ceiling on~~] **\$20,000 maximum** recovery per claimant per incident. If expenses paid through the victims' assistance program fund are later covered by insurance settlements, civil suit settlements, or restitution, or through any other source, the claimant shall reimburse the fund for the amount of expenses recovered.

Amend the bill by deleting section 4 and renumbering the original section 5 to read as 4.

2009-1531s

AMENDED ANALYSIS

This bill raises the limit of recovery from the victim's assistance fund, increases the time limit on filing claims for compensation, and allows victims to be compensated for expenses associated with participation in post-conviction proceedings and victim-dialogue programs or other restorative justice programs.

The question is on the adoption of Committee Amendment 1531s.

Committee Amendment 1531s adopted.

The question is on the motion of Ought to Pass as Amended on HB 601-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 655-FN, extending senior active status to judges over 70 years of age. Judiciary. Ought to Pass with Amendment, Vote 4-1. Senator Reynolds for the committee.

Senate Judiciary

May 6, 2009

2009-1535s

09/10

Amendment to HB 655-FN

Amend the bill by replacing section 3 with the following:

3 Reference to Judicial Referees; Compensation. Amend RSA 493-A:1-b to read as follows:

493-A:1-b Compensation. Any retired full-time justice of the supreme, superior, district, or probate court who serves after retirement as a senior active status justice or **any retired part-time justice who serves as** a judicial referee shall be allowed his or her expenses and a per diem compensation determined by the supreme court upon recommendation by the judicial branch administrative council and based on the daily equivalent of the annual salary the retired justice would then be earning pursuant to RSA 491-A:1; provided however, that in any calendar year the total of the [~~service~~] retirement benefits that the retired justice receives pursuant to RSA [~~100-C:5~~] **100-C** plus the compensation provided by this section shall not exceed the annual salary the retired justice would then be earning pursuant to RSA 491-A:1.

Amend the bill by replacing sections 6 and 7 with the following:

6 Judicial Referees. Amend RSA 493-A:1-a, I to read as follows:

I. Any ~~[full-time justice of the supreme, superior, district, or probate court who is mandatorily retired from either regular active service or senior active service upon reaching age 70, and any]~~ part-time district or probate court justice who is mandatorily retired upon reaching age 70, shall thereafter be eligible to serve as a judicial referee on the court from which he or she retired or on any other court in which his or her service as a referee is authorized by law.

7 Repeal. RSA 493-A:3, relative to findings and rulings of judicial referees, is repealed.

2009-1535s

AMENDED ANALYSIS

This bill allows judges over 70 years of age to serve as senior active status justices.

This bill was requested by the supreme court.

The question is on the adoption of Committee Amendment 1535s.

Committee Amendment 1535s adopted.

The question is on the motion of Ought to Pass as Amended on HB 655-FN.

A division vote was requested by Sen. Letourneau.

Division: Yeas: 15 - Nays: 9

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

Sen. Carson is in opposition to Committee Amendment 1535s on HB 655-FN.

HB 690-FN, establishing a cold case homicide unit. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Houde for the committee.

Senate Judiciary

May 6, 2009

2009-1532s

04/05

Amendment to HB 690-FN

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

1 Cold Case Homicide Unit.

I. The attorney general and the commissioner of the department of safety shall collaborate to establish a cold case homicide unit to work exclusively on unsolved murders in the state. The unit shall consist of such personnel from the division of state police and the department of justice as the commissioner of the department of safety and the attorney general shall determine. The commissioner and the attorney general, or their designees, shall develop procedures for the operation of the unit.

II. The departments of justice and safety shall jointly provide administrative support as may be necessary to the cold case unit.

III. The commissioner of the department of safety and the attorney general, or their designees, shall jointly issue a report on the activities and results of the cold case unit by December 1, 2010 to the governor, the speaker of the house of representative, the president of the senate, and the state librarian.

2 Funding. Funding for the state police and department of justice personnel for the cold case unit established in section 1 of this act shall be contingent upon the receipt of grants or federal funds for such purpose, including but not limited to, funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 111th Cong. (2009), or other such funds as may be specifically appropriated by the general court.

3 Repeal. Section 1 of this act, relative to the establishment of a cold case homicide unit, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2013.

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

The question is on the adoption of Committee Amendment 1532s.

MOTION TO TABLE

Sen. Reynolds moved HB 690-FN be laid on the table.

Recess/Out of Recess.

Motion to table HB 690-FN withdrawn.

The question is on the adoption of Committee Amendment 1532s.

Committee Amendment 1532s adopted.

The question is on the motion of Ought to Pass as Amended on HB 690-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 608-FN, establishing a committee to oversee the design and construction of a public works employee memorial for public works employees who died in the course of performing public duties. Transportation and Interstate Cooperation. Ought to Pass, Vote 4-0. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 608-FN.

A roll call was requested by Sen. Barnes, seconded by Sen. DeVries.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 193-FN, establishing a fee for certification of reduced ignition propensity cigarettes. Ways and Means. Ought to Pass with Amendment, Vote 6-1. Senator Janeway for the committee.

Senate Ways and Means

May 6, 2009

2009-1520s

05/10

Amendment to HB 193-FN

Amend RSA 339-F:6 as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. The state fire marshal shall submit an annual report by December 31 relative to certification of reduced ignition propensity cigarettes to the standing committees in the house of representatives and the senate with jurisdiction over matters pertaining to health and human services and ways and means.

The question is on the adoption of Committee Amendment 1520s.

Committee Amendment 1520s adopted.

The question is on the motion of Ought to Pass as Amended on HB 193-FN.

A roll call was requested by Sen. Bragdon.

Recess/Out of Recess.

Roll Call request withdrawn.

The question is on the motion of Ought to Pass as Amended on HB 193-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 429-FN, relative to cider. Ways and Means. Ought to Pass with Amendment, Vote 6-1. Senator Odell for the committee.

Senate Ways and Means
May 7, 2009
2009-1567s
03/01

Amendment to HB 429-FN

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

AN ACT relative to the liquor commission and alcoholic beverages.

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

2 New Subparagraph; General Revenue Exceptions. Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the liquor commission fund established in RSA 176:16.

3 Purchase of Supplies; Exemptions; Liquor Commission. RSA 21-I:18, I(b) is repealed and reenacted to read as follows:

(b) The liquor commission is completely exempted from the provisions of this chapter, provided that the liquor commission uses competitive bidding when acquiring consumable supplies, materials, goods, and services that are necessary for, incidental to, or related to the operation of the liquor commission.

4 Divisions and Directors. RSA 176:8 is repealed and reenacted to read as follows:

176:8 Divisions and Directors. The commission shall have 3 divisions under the direction of unclassified division directors. The directors shall be appointed by the commission and serve at the pleasure of the commission based on good behavior and competence. There shall be a division of marketing, merchandising, and warehousing, a division of administration, and a division of enforcement and licensing.

5 Liquor Commission Funds. Amend RSA 176:16 to read as follows:

176:16 Funds.

I. Except as provided in paragraph II, ***the state treasurer shall credit*** all gross revenue derived by the commission from the sale of liquor, or from license fees, ~~[shall be deposited into the general funds of the state. The expenses of administration and all other expenditures provided for in this title shall be paid by the state treasurer on warrants of the governor with the advice and consent of council.]~~ ***and interest received on such moneys, to a special fund, to be known as the liquor commission fund, from which the treasurer shall pay all expenses of the commission incident to the administration of this title. Any balance left in such fund after such expenses are paid shall be deposited in the general fund on a daily basis.***

II. Fifty percent of the amount by which the current year gross profits exceed fiscal year 2001 actual gross profit, but not more than 5 percent of the current year gross profits derived by the commission from the sale of liquor and other revenues, shall be deposited into the alcohol abuse prevention and treatment fund established by RSA 176-A:1.

III. Notwithstanding any other provision of law, if the expenditure of additional funds over budget estimates is necessary for the proper functioning of the commission, the commission may request, with prior approval of the fiscal committee of the general court, that the governor and council authorize the transfer of funds from the liquor commission fund for expenses related to retirement and health benefits.

IV. The commission may transfer funds totaling up to 5 percent of the operating budget in any fiscal year for any specific purposes to funds for other purposes within and among the appropriations for the operation of the commission. The commission shall report on a semi-annual basis to the fiscal committee of the general court all transfers accomplished under the provisions of this section. The provisions of this section shall not be subject to RSA 9:16-a, RSA 9:17-a, and RSA 9:17-c.

6 Liquor Commission; State Stores. RSA 177:1 is repealed and reenacted to read as follows:

177:1 State Stores. The commission may lease, purchase, and equip, in the name of the state, such stores, warehouses, supplies, materials, equipment, products, and other marketing and merchandising requirements for the sale or promotion of liquor and related products as are necessary to carry out the provisions of this chapter. The commission may lease, in the name of the state, space in state stores for the purpose of installing automated teller machines. No newly established state store shall be operated within 200 feet of any public or private school, church, chapel, or parish house.

7 Closing of State Liquor Stores. RSA 177:2, I is repealed and reenacted to read as follows:

I. The commission may close any state liquor store to improve profitability and efficiency. In determining net operating profit or loss, the commission shall adhere to generally accepted accounting principles for both revenues and expenses and shall include an allocation for indirect costs. All information regarding a decision to close any state liquor store shall be made available, by the commission, to the public upon request. The commission shall provide public notice 30 days prior to closing any state liquor store.

8 References Changed. Amend RSA 178:11, V to read as follows:

V. Liquor/wine/beverage warehouseurs shall submit a monthly report both to the liquor commission enforcement **and licensing** division and the ~~[warehouse and transportation]~~ **marketing, merchandising, and warehousing** division of the commission by the tenth day of the following month indicating the quantity, type, size, and brands of all product received, stored, or shipped on their premises.

9 New Section; Combination Conditional License. Amend RSA 178 by inserting after section 17 the following new section:

178:17-a Combination Conditional License.

I. At its discretion, the commission may combine license types and issue a combination conditional license to a licensee that holds or is seeking more than one license for a single establishment. In issuing a combination conditional license, the commission may suspend or modify any existing licensing requirement established under title XIII and may impose additional conditions. The commission may deny, in its discretion, any license under this section that constitutes a risk to public health, safety, or welfare of any community.

II. The commission shall issue a combination conditional license in accordance with RSA 541-A:39.

III. This section shall not be interpreted to create a license category that does not exist in statute.

10 Effective Date.

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

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

2009-1567s

AMENDED ANALYSIS

This bill modifies the definition of beverage for purposes of the alcoholic beverage laws. This bill also changes the distribution of liquor commission revenue and makes organizational changes to the liquor commission.

The question is on the adoption of Committee Amendment 1567s.

Committee Amendment 1567s adopted.

The question is on the motion of Ought to Pass as Amended on HB 429-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

HB 654-FN, (New Title) relative to the dam maintenance revolving fund. Ways and Means. Ought to Pass, Vote 7-0. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 654-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 696-FN-L, relative to fees for registration of criminal offenders. Ways and Means. Inexpedient to Legislate, Vote 7-0. Senator Downing for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 696-FN-L.

Motion of Inexpedient to Legislate adopted.

HB 407-FN, establishing a lobster and crab landing license, and increasing the fee for the nonresident commercial salt water license. Wildlife, Fish and Game and Agriculture. Ought to Pass, Vote 5-0. Senator Janeway for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 407-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 481-FN-A, establishing a recreational saltwater license for taking finfish in coastal and estuarine waters. Wildlife, Fish and Game and Agriculture. Ought to Pass, Vote 5-0. Senator Merrill for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 481-FN-A.

A roll call was requested by Sen. D'Allesandro, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Houde, Cilley, Janeway, Odell, Kelly, Gilmour, Lasky, Larsen, Gatsas, Barnes, DeVries, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: Bradley, Roberge, Bragdon, Carson, Letourneau.

Yeas: 19 - Nays: 5

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 199, (New Title) relative to the warning accompanying a document tendered to settle bodily injury claims subject to certain automobile insurance coverage. Commerce, Labor and Consumer Protection. Ought to Pass, Vote 4-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 199.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 225, relative to room and board scholarships for children of firefighters and police officers. Education. Ought to Pass, Vote 5-0. Senator Bragdon for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 225.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HCR 7, in support of teen dating violence education. Education. Ought to Pass, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HCR 7.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 349, relative to legislator email records. Election Law and Veterans' Affairs. Inexpedient to Legislate, Vote 5-0. Senator Barnes for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 349.

Motion of Inexpedient to Legislate adopted.

HB 623, making various changes to the election laws. Election Law and Veterans' Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Houde for the committee.

Election Law and Veterans' Affairs

May 7, 2009

2009-1549s

03/10

Amendment to HB 623

Amend the bill by replacing section 2 with the following:

2 Overseas Absentee Registration Affidavit. Amend RSA 654:20 to read as follows:

654:20 **Overseas Absentee Registration** Affidavit. Any person qualified to vote as an overseas voter in a city or town as provided in RSA 654:3, because he or she is domiciled outside the United States, may apply to the city or town clerk or to the secretary of state for an overseas citizens federal election absentee registration affidavit. Such affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Overseas Absentee Registration Affidavit

I, _____, do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That I am a United States citizen; **Place of Birth:** *City:* _____ *State:* _____
Country: _____;

2) That I have been domiciled in [~~Canada or Mexico or any other~~] **a** country outside the [~~continental~~]
boundaries of the United States since _____;
(month) (year)

3) That I hold a valid passport or card of identity with Registration No. _____ issued by the United States Secretary of State;

4) That, immediately prior to my departure from the United States, I was legally domiciled in the state of New Hampshire at the following address:

Street and Number or Rural Route, etc.

City or Town

5) That I will be of the age of 18 years or older on election day, have complied with all applicable qualifications and requirements of the state of New Hampshire, and am entitled to vote in the next subsequent federal election to be held in said state; **Date of Birth:** _____(mm)/_____(dd)/_____(yyyy);

6) That I do NOT maintain a domicile, am NOT registered to vote, and am NOT voting in any other state, territory, or possession of the United States, or election district thereof;

7) That my party affiliation (if any) is _____

8) That my permanent address outside the continental United States is:

Street or Route Number

City, Province, County

9) That I hereby make application for the addition of my name to the checklist of _____, New Hampshire, as an overseas citizen living outside the continental United States entitled to vote in any federal election held therein.

Signature of Applicant

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

The question is on the adoption of Committee Amendment 1549s.

Committee Amendment 1549s adopted.

The question is on the motion of Ought to Pass as Amended on HB 623.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 55, (New Title) relative to energy facility siting construction and operation. Energy, Environment and Economic Development. Ought to Pass, Vote 2-0. Senator Merrill for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 55.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 117, repealing the gas utility restructuring oversight committee. Energy, Environment and Economic Development. Ought to Pass, Vote 2-0. Senator Bradley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 117.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 293, amending the Hampton Beach area commission. Energy, Environment and Economic Development. Ought to Pass with Amendment, Vote 2-0. Senator Merrill for the committee.

Energy, Environment and Economic Development

May 7, 2009

2009-1556s

04/10

Amendment to HB 293

Amend the bill by replacing section 1 with the following:

1 Hampton Beach Area Commission; Commission Members. Amend RSA 216-J:2, I-II to read as follows:

I. The [9] members of the commission shall be as follows:

- (a) Two members representing the town of Hampton, appointed by the selectmen.
- (b) Two members representing the Hampton Beach village district, appointed by the precinct commissioners.
- (c) One member representing the Hampton Area Chamber of Commerce, appointed by its board of directors.
- (d) One member representing the Rockingham regional planning commission, appointed by its board of directors.
- (e) The commissioner of the department of resources and economic development, or designee.
- (f) The commissioner of the department of transportation, or designee.
- (g) ~~[The director of the office of energy and planning, or designee.]~~ ***One member to be appointed by a majority vote of the commission.***

II. ~~(a) [The appointed members shall serve for 3-year terms commencing with the effective date of this chapter.]~~ ***Effective November 1, 2009, members of the commission shall serve staggered terms as follows:***

(1) One of the members appointed under subparagraph I(a) shall serve a 3-year term and the other member shall serve a 2-year term.

(2) One of the members appointed under subparagraph I(b) shall serve a 3-year term and the other member shall serve a one-year term.

(3) The member appointed under subparagraph I(c) shall serve a 2-year term.

(4) The members appointed under subparagraphs I(d) and I(g) shall serve one-year terms.

(b) Following the staggering of terms, subsequent terms of commission members appointed under subparagraphs I(a)-(d) shall be for 3 years. The term of members designated to serve under subparagraphs I(e)-(f) shall be coterminous with his or her term in office. Vacancies shall be filled for an unexpired term in the same manner and by the same body as the original appointment was made.

The question is on the adoption of Committee Amendment 1556s.

Committee Amendment 1556s adopted.

The question is on the motion of Ought to Pass as Amended on HB 293.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 384, (New Title) relative to forest management permitting in and near prime wetlands, waivers for work near prime wetlands, and utility maintenance work in any wetland. Energy, Environment and Economic Development. Ought to Pass with Amendment, Vote 4-0. Senator Odell for the committee.

Energy, Environment and Economic Development
May 7, 2009
2009-1557s
06/04

Amendment to HB 384

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

2 Wetlands; Administrative Provisions. Amend RSA 482-A:11, IV to read as follows:

IV.(a) The department shall not grant a permit with respect to any ~~[activity proposed]~~ **project** to be undertaken in or within 100 feet of an area mapped, designated, and filed as a prime wetland pursuant to RSA 482-A:15 unless the department first notifies the local governing body, the planning board, if any, and the conservation commission, if any, in the municipality within which the wetlands lie, either in whole or in part, of its decision. Any such permit shall not be issued unless the department is able, specifically, to find clear and convincing evidence on the basis of all information considered by the department, and after **a** public hearing, **if a public hearing is deemed necessary under RSA 482-A:8**, that the proposed ~~[activity]~~ **project**, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1. This paragraph shall not be construed so as to relieve the department of its statutory obligations under this chapter to protect wetlands not so mapped and designated.

(b)(1) A property owner may request from the department a waiver from subparagraph (a), under rules adopted by the department, to perform forest management work and related activities in the forested portion of a prime wetland or its 100-foot buffer. The request for the waiver shall include, but not be limited to:

(A) A sketch of the property depicting the best approximate location of each prime wetland and its 100-foot buffer in which work is proposed and the location of proposed work, including access roads;

(B) A written description of the work to be performed and a copy of the notice of intent to cut, if applicable; and

(C) A list of the prime wetland values as identified by the municipality in designating each prime wetland under RSA 482-A:15.

(2) A waiver shall be issued only when the department is able to determine there will be no significant net loss of wetland values as identified in subparagraph (b)(1)(C) and RSA 482-A:1. If the department determines that the proposed work may cause a significant net loss of wetland values, the department may require the submittal of additional information. The department may place conditions on the waiver that it deems necessary to protect the prime wetland resource and shall set the term of the permit.

(3) At the time that the waiver request is submitted to the department, the applicant shall also submit a copy of the waiver request and all supporting documentation, via certified mail, to the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which any prime wetlands associated with the application are located. Where a prime wetland associated with the application extends into an abutting property, the property owner requesting the waiver shall provide notice to the owner of that abutting property. A waiver shall not be issued by the department prior to 14 days from its receipt of the waiver request. A municipal conservation commission may request an extension on such waiver issuance, not to exceed 14 days.

(4) The department shall adopt rules under RSA 541-A relative to:

(A) The process and criteria for considering and granting waiver requests made pursuant to RSA 482-A:11, IV(b)(1), including:

(i) Methods for determining whether a proposed forest management project may result in a significant net loss of wetland values.

(ii) Conditions that may be placed on a waiver when deemed necessary to protect the prime wetland resource.

(iii) Criteria for granting extensions of waiver issuances pursuant to RSA 482-A:11, IV(b)(3).

(iv) Specified criteria for identifying abutters and subsequent notification.

(B) Filing fees for waiver applications.

(c) A property owner may request a waiver from the department, under rules adopted by the department under RSA 541-A, from the provisions of this chapter to perform work not addressed under subparagraph (b) within a portion of the 100-foot buffer of a prime wetland on his or her property. At the time of the waiver request, the property owner shall notify, by certified mail, the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which the waiver is being sought that a waiver is being sought from the department. Where a buffer associated with the application extends into an abutting property, the property owner requesting the waiver shall provide notice to the owner of that abutting property.

3 Local Option; Prime Wetlands. Amend RSA 482-A:15, I to read as follows:

I. Any municipality, by its conservation commission, or, in the absence of a conservation commission, the planning board, or, in the absence of a planning board, the local governing body, may undertake to designate, map, and document prime wetlands lying within its boundaries, or if such areas lie only partly within its boundaries, then that portion lying within its boundaries. For the purposes of this chapter, "prime wetlands" shall mean any areas falling within the jurisdictional definitions of RSA 482-A:3 and RSA 482-A:4 that possess one or more of the values set forth in RSA 482-A:1 and that, because of their size, unspoiled character, fragile condition, or other relevant factors, make them of substantial significance. ~~[Such maps or designations, or both, shall be in such form and to such scale, and shall be based upon such criteria, as are established by the commissioner through rules adopted pursuant to RSA 541-A.]~~ **The commissioner shall adopt rules under RSA 541-A relative to the form, criteria, and methods that shall be used to designate, map, and document prime wetlands, determine boundaries in the field, and amend maps and designations once filed and accepted by the department under paragraph II.**

The question is on the adoption of Committee Amendment 1557s.

Committee Amendment 1557s adopted.

The question is on the motion of Ought to Pass as Amended on HB 384.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 395, (New Title) requiring electric utilities to offer renewable energy source options. Energy, Environment and Economic Development. Ought to Pass with Amendment, Vote 3-0. Senator Bradley for the committee.

Energy, Environment and Economic Development

May 7, 2009

2009-1558s

09/01

Amendment to HB 395

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

AN ACT requiring electric utilities to offer renewable energy source options, allowing the public utilities commission to make contingent grants and loans from the greenhouse gas emissions reduction fund, and repealing a provision relative to the electric utility distribution charge.

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

2 New Paragraph; Greenhouse Gas Emissions Reduction Fund. Amend RSA 125-O:23 by inserting after paragraph VII the following new paragraph:

VIII. The commission may make grants and loans of moneys from the fund that are contingent upon proceeds from future auctions within a subsequent 12-month period being deposited into the fund.

3 Repeal. RSA 374-F:4, VIII(e), relative to inclusion of distribution costs in the electric utility distribution charge and not the systems benefit charge, is repealed.

4 Effective Date.

I. Section 1 of this act shall take effect 120 days after its passage.

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

2009-1558s**AMENDED ANALYSIS**

This bill:

- I. Requires electric utilities to offer one or more renewable energy source options.
- II. Allows the public utilities commission to make grants and loans from the greenhouse gas emissions reduction fund that are contingent upon proceeds from future auctions within a subsequent 12-month period.
- III. Repeals a provision relative to inclusion of distribution costs in the electric utility distribution charge and not the systems benefit charge.

MOTION TO TABLE

Sen. Bradley moved HB 395 be laid on the table.

The question is on the motion to table HB 395.

Motion adopted.

LAID ON THE TABLE

HB 395, (New Title) requiring electric utilities to offer renewable energy source options.

SPECIAL ORDER

Without objection, President Larsen moved to Special-Order the remainder of today's Calendar to next week's Calendar (May 20, 2009).

Executive Departments and Administration

HB 98, relative to reinstatement of lapsed licenses of speech-language pathologists. .

HB 172, (New Title) allowing naturopathic doctors to dispense prescription drugs which are within their scope of practice.

HB 233, relative to the membership of the board of medicine.

HB 245, extending study committees and commissions.

HB 256, relative to the New Hampshire accountancy act.

HB 302, (New Title) relative to the New Hampshire real estate practice act.

HB 460, relative to the system of visitor centers.

Health & Human Services

HB 250, relative to access to information in the abuse and neglect of adults registry and relative to persons providing child care or child placing services who are charged with a crime.

Public and Municipal Affairs

HB 107, making technical corrections to the law on taxation of farm structures and land under farm structures.

HB 115, relative to licenses for the operation of motor vehicle recycling yards and junk yards.

HB 142, relative to extending municipal leases.

HB 189, enabling municipalities to establish energy commissions.

HB 290, (New Title) authorizing fluvial erosion hazard ordinances.

HB 315, clarifying a law relative to junkyards within industrial areas.

Transportation and Interstate Cooperation

HB 112, relative to addresses on motor vehicle registrations.

HB 186, (New Title) relative to rulemaking concerning rafts on public waters and prohibiting the rental of a motorized watercraft to a person who does not have a certificate of boating safety education.

HB 372, (New Title) relative to drivers' licenses for persons with certain seizure disorders.

HB 485, establishing a committee to study enforcement of walking disability placard violations.

HB 613, establishing a committee to study the advantages and disadvantages of state acquisition of the remaining rail corridors.

Ways and Means

HB 97, relative to the lottery commission's ability to make rules concerning the Multi-State Lottery Association.

HB 437, relative to the operation of the Chesterfield welcome and information center.

Wildlife, Fish and Game and Agriculture

HB 48, establishing a committee on agriculture in the classroom.

HB 63, relative to the use of the term "farmers' markets" in corporation names.

HB 148, relative to the sale and vaccination of animals.

HB 635, relative to raw milk yogurt.

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Hassan moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Motion adopted.

Adjournment from the Early Session.

LATE SESSION

Third Reading and Final Passage

HB 39-FN, relative to the authority of the state board for the licensing and regulation of plumbers.

HB 55, relative to energy facility siting construction and operation.

HB 90-FN, relative to the employment of veterans on Veterans' Day.

HB 117, repealing the gas utility restructuring oversight committee.

HB 187-FN, relative to the state building code and establishing a committee to study the sale and installation of manufactured and modular homes and related consumer protections.

HB-193-FN, establishing a fee for certification of reduced ignition propensity cigarettes.

HB 199, (New Title) relative to the warning accompanying a document tendered to settle bodily injury claims subject to certain automobile insurance coverage.

HB 225, relative to room and board scholarships for children of firefighters and police officers.

HB 240-FN, relative to workers' compensation for death.

HB 279-FN, relative to certain missing persons.

HB 281-FN, increasing the maximum amount of debt or damages for small claims actions and requiring mediation for small claims actions exceeding \$5,000 and establishing a fee for the cost of such mediation.

HB 293, amending the Hampton Beach area commission.

HB 313-FN, relative to the assignment of right of child support enforcement.

HB 334-FN, relative to consumer credit and amending the St. Mary's Bank Charter.

HB 345-FN, allowing physical therapists to practice on animals.

HB 384, relative to forest management permitting in and near prime wetlands, waivers for work near prime wetlands, and utility maintenance work in any wetland.

HB 391, authorizing the department of transportation to convey a portion of interstate highways to the bureau of turnpikes, redefining the eastern New Hampshire turnpike, providing for the maintenance and funding of a portion of the eastern New Hampshire turnpike, increasing the aggregate amount of bonds the state may issue, and authorizing the department of transportation to install open road tolling.

HB 392-FN, establishing an on-premises cigar, beverage, and liquor license.

HB 407-FN, establishing a lobster and crab landing license, and increasing the fee for the nonresident commercial salt water license.

HB 408-FN, relative to the regulation of physicians and physician assistants by the board of medicine.

HB 430-FN, removing the statute of limitations on certain crimes committed in furtherance of murder.

HB 441-FN, relative to CART providers and sign language interpreters.

HB 464-FN, relative to certain duties of the department of administrative services and relative to credit card contracts for state agencies.

HB 467-FN, relative to the review and adjustment of child support orders.

HB 471-FN, relative to willful concealment and fraudulent retail transactions.

HB 473-FN, prohibiting the trafficking in persons for the purposes of sexual or labor exploitation.

HB 474-FN, prohibiting the trafficking in persons for the purposes of sexual or labor exploitation.

HB 476-FN, relative to modifying the quorum requirement and relative to filing fees for eminent domain proceedings before the board of tax and land appeals.

HB 481-FN-A, establishing a recreational saltwater license for taking finfish in coastal and estuarine waters.

HB 530-FN, relative to inspection of public buildings for compliance with accessibility standards.

HB 537-FN, relative to penalties for oil spills.

HB 538-FN, relative to penalties for water pollution.

HB 570-FN-A, requiring the department of transportation to convey ownership of Skyhaven airport to the Pease development authority.

HB 578-FN, relative to testimony by video teleconference.

HB 592-FN, relative to "adverse events" in hospitals and ambulatory surgical centers.

HB 608-FN, establishing a committee to oversee the design and construction of a public works employee memorial for public works employees who died in the course of performing public duties.

HB 623, making various changes to the election laws.

HB 654-FN, relative to the dam maintenance revolving fund.

HB 667-FN, relative to misrepresenting the origin of a campaign call and relative to penalties for telephone harassment involving a number used to facilitate transportation of voters or otherwise to support voting or registering to vote.

HCR 7, in support of teen dating violence education.

ANNOUNCEMENTS

SENATOR D'ALLESANDRO (Rule 44): Thank you, Madam President. I'd take a Rule 44. Whenever we meet and whenever we have discussions, we do it in a collegial manner, and I think that's very important. We must retain respect for the body, respect for ourselves, and respect for those who serve in public office. They're all making a sacrifice, and regardless of whether you support them or not, we're all in the business together to do good things for the people that we represent. And I think when we deviate from that course of action, what we create is a gap that can't be filled, and once you create that gap that can't be filled we create problems that, unfortunately, never go away. So we have always been very courteous to one another and particularly courteous in our remarks about other individuals who serve the public. I've been around this legislative body since 1972. That policy has been maintained ever since I've been here, and I would hope that we would continue to maintain that: respect for public service, respect for one another, and respect for

the jobs that we do as elected public officials. Let's never, never forget that, because if we do, we just forget one of the most fundamental tenets of this business, and that's our desire to serve people, our desire to be a part of a problem-solving exercise, again, regardless of what political party, regardless of what your stand is on any particular issue; the fact of the matter is we gotta respect one another, believe in one another, and be mindful of that fact. Thank you, Madam President.

SENATOR HASSAN (Rule 44): Thank you, Madam President. As a Rule 44, we just wanted to make sure that you knew, Madam President, that the entire Senate body and all of the staff offer you our condolences for the loss of your brother Jon this week. We are deeply appreciative of the many times you've made it possible for us to honor family commitments and other emergency commitments while doing the work of this body; we are deeply respectful and admiring of your ability to return this week and continue your leadership and professionalism with all of us, and we wish you Godspeed this weekend. Thank you.

Without objection, President Larsen moved that all Rule 44's shall be entered into the permanent *Journal of the Senate*.

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Hassan moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments.

Motion adopted.

The Senate is in recess to the Call of the Chair.