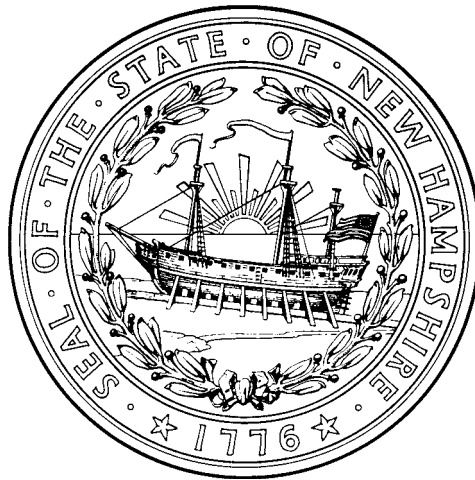


May 27, 2009
Nos. 16-17

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



161st Session of the New Hampshire General Court

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MAY 20, 2009 SESSION
COMMENCEMENT – MAY 27, 2009 SESSION**

SENATE JOURNAL 16 *(continued)*

May 20, 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 53, establishing professional guardians and removing the oath requirement in annual reports of the guardian.

SB 54, eliminating the reference to per diem compensation of probate judges presiding over involuntary admissions hearings.

SB 68-FN, relative to the use of state vehicles.

SB 69-FN, relative to design build contracting for transportation projects.

SB 70-FN, authorizing the office of mediation and arbitration within the judicial branch to provide pre-suit alternative dispute resolution services.

SB 87-L, changing the timing of payment of fine revenue from district court clerks to municipalities.

SB 88, relative to recommendations of marital masters.

SB 92, relative to the commission to study access to consumer credit for people in New Hampshire.

SB 130, prohibiting the advertising and conducting of certain live musical performances or productions.

SB 173, authorizing the commissioner of corrections to accept certain gifts.

SB 174-FN, relative to state recoveries of public assistance caused by fraud.

SB 201-FN, relative to classification of misdemeanor offenses.

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 44, relative to the use of alternates by local land use boards.

HB 193-FN, establishing a fee for certification of reduced ignition propensity cigarettes.

HB 338, relative to definitions of electronic waste.

HB 387, relative to observation of voter registration.

HB 423-FN-A-L, requiring the department of environmental services to develop an outreach campaign to disseminate information on recycling materials, including electronic waste.

HB 585-FN, relative to outdoor lighting efficiency.

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.

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 17, relative to Selective Service registration upon driver's license application or renewal.

SB 19, relative to government immunity from lawsuits for municipal dog parks.

SB 63-FN, relative to ensuring consumer access to care upon the termination of a participating provider.

SB 132, establishing a commission to develop implementation plans for merging state agencies and programs to enhance efficiency and lower costs.

SB 197, decreasing the quorum for the right-to-know oversight commission.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 55, relative to energy facility siting construction and operation.

HB 117, repealing the gas utility restructuring oversight committee.

HB 199, 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, relative to workers' compensation for death.

HB 281, 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 313, relative to the assignment of right of child support enforcement.

HB 407, establishing a lobster and crab landing license, and increasing the fee for the nonresident commercial salt water license.

HB 430, removing the statute of limitations on certain crimes committed in furtherance of murder.

HB 467, relative to the review and adjustment of child support orders.

HB 476, 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, establishing a recreational saltwater license for taking finfish in coastal and estuarine waters.

HB 537, relative to penalties for oil spills.

HB 608, 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 654, relative to the dam maintenance revolving fund.

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

Report of Committee on Enrolled Bills 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 17

May 27, 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:

I'm reading a lot right now about "discretion." I understand "discernment," which is the decision-making about what we're supposed to do from day to day and what we're supposed to say from day to day. So I understand "discernment," but "discretion" is a hard one for me. Usually people think that "discretion" is just about keep-

ing secrets, and that's a little tiny bit of it. But in fact, discretion is the art of keeping silent when it would be easy to speak. Discretion is the deep listening which welcomes the mystery of the human being in front of us and allows their words to hang in us as a gift, when we disagree especially. I'm not good at discretion. I can keep a secret, that's part of my job. But I talk too much, and I often fall to the temptation of rehearsing my reaction to the words of others rather than just letting silence hang in the air like a cloud, so that my response ultimately is more like gentle feeding rain and less like a thunderbolt. Let us pray:

God of all silence, You speak in silence, and silence is Your language. Give us the gift of discretion so that in silence and careful thought we may respond to each other, our families and our co-workers, with love and thoughtfulness. Let there be peace on earth, and let it begin within our speech. Amen

Sen. Letourneau led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Resolution presented by Sen. Downing to the Timberlane Regional High School Wrestling Team members and coach in recognition of winning 2009 Div. I State Championship.

Resolution presented by Sen. Downing to the Timberlane Regional High School Hockey Team members, coach and athletic director in recognition of winning 2009 Div. II State Championship.

Resolutions presented to the following NH Boys and Girls Clubs' 2009 "Youth of the Year" award nominees for state title:

Ethan Lucier, Concord Club (Sen. Larsen); Danelis Alejo, Nashua Club (Sen. Lasky); Jonathan Slowe, Greater Derry Club (Sen. Letourneau); Kaitlynn Hammes, Souhegan Valley Club (Sen. Bragdon); Laura Alonso, Manchester Club (Sen. DeVries); Tim Sullivan, Salem Club (Sen. Downing); and Jaimey Alexander, Lakes Region Club (Sen. Sgambati).

Sen. Bragdon introduced Elizabeth Dangelantonio and Julie Baulder, students from Conant High School in Jaffrey, serving as Senate Pages for today's session.

Sen. D'Allesandro recognized the 90th birthday of Former First Lady Gale Thomson.

COMMITTEE REPORTS

HB 103, (New Title) relative to paying discharged and laid off employees. Commerce, Labor and Consumer Protection. Inexpedient to Legislate, Vote 6-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 103.

Motion of Inexpedient to Legislate adopted.

HB 161, repealing protection of uncopyrighted compositions in state law. Commerce, Labor and Consumer Protection. Inexpedient to Legislate, Vote 6-0. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 161.

Motion of Inexpedient to Legislate adopted.

HB 411, relative to the safety of retirement accounts. Commerce, Labor and Consumer Protection. Inexpedient to Legislate, Vote 4-2. Senator DeVries for the committee.

MOTION TO TABLE

Sen. DeVries moved HB 411 be laid on the table.

The question is on the motion to table HB 411.

Motion adopted.

Sen. Kelly asserts Rule 42 on HB 411.

LAID ON THE TABLE

HB 411, relative to the safety of retirement accounts.

HCR 10, (New Title) urging modification of the North American Free Trade Agreement. Commerce, Labor and Consumer Protection. Inexpedient to Legislate, Vote 5-1. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HCR 10.

Motion of Inexpedient to Legislate adopted.

HB 143, relative to procedures for requesting a change of school for a child. Education. Re-refer to Committee, Vote 5-1. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 143.

Motion of Re-refer to Committee adopted.

HB 154, relative to truancy. Education. Re-refer to Committee, Vote 5-0. Senator Merrill for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 154.

Motion of Re-refer to Committee adopted.

HB 169, relative to the counting of charter school pupils in the definition of average daily membership in residence. Education. 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 169.

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

HB 317, relative to conditional approval of nonpublic schools, residency requirements for grants under the New Hampshire incentive program, and scholarships for orphans of veterans. Education. Ought to Pass with Amendment, Vote 5-0. Senator Bragdon for the committee.

Senate Education

May 12, 2009

2009-1606s

04/10

Amendment to HB 317

Amend RSA 188-D:13, I as inserted by section 2 of the bill by replacing it with the following:

I. The postsecondary education commission shall make all grants in a fair and equitable manner and at such times as the postsecondary education commission shall determine, to ~~[residents of this state]~~ ***any person who has established that his or her residence in New Hampshire is for some purpose other than the temporary or primary one of obtaining an education and*** who ~~[have]~~ ***has*** satisfactorily met the requirements established by the postsecondary education commission. Application requirements established by the postsecondary education commission shall include, but not be limited to the requirement that the applicant:

AMENDED ANALYSIS

This bill:

I. Provides that the state board of education may specify criteria for conditional approval of nonpublic schools.

II. Clarifies residency requirements for the New Hampshire incentive grant program.

III. Expands the number of institutions of higher education at which scholarship funds for natural and adopted children of veterans may be used.

The question is on the adoption of Committee Amendment 1606s.

Committee Amendment 1606s adopted.

The question is on the motion of Ought to Pass as Amended on HB 317.

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

HB 332, establishing a commission to study school discipline. Education. Ought to Pass with Amendment, Vote 5-1. Senator Kelly for the committee.

May 12, 2009

2009-1605s

04/10

Amendment to HB 332

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

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

Amend the bill by replacing section 5 with the following:

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2009.

The question is on the adoption of Committee Amendment 1605s.

Committee Amendment 1605s adopted.

The question is on the motion of Ought to Pass as Amended on HB 332.

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

HB 509, requiring parental consent for psychological evaluations by school districts. Education. Re-refer to Committee, Vote 4-1. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on HB 509.

Motion of Re-refer to Committee adopted.

HB 688, relative to the chartered public school approval process and relative to open enrollment schools. Education. Ought to Pass with Amendment, Vote 6-0. Senator Bragdon for the committee.

May 19, 2009

2009-1718s

04/01

Amendment to HB 688

Amend RSA 194-B:2 as inserted by section 4 of the bill by inserting after paragraph V the following new paragraphs:

VI. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or more school districts may consolidate otherwise eligible resident pupils into one applicant pool for the purposes of an admissions lottery for designated chartered public schools.

VII. A chartered public school may be physically located outside the district establishing it, but shall be deemed within the school district for purposes of RSA 194-B.

Amend RSA 194-D:2 as inserted by section 14 of the bill by inserting after paragraph IX the following new paragraph:

X. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or more school districts may consolidate otherwise eligible resident pupils into one applicant pool for the purposes of an admissions lottery for designated open enrollment schools.

The question is on the adoption of Committee Amendment 1718s.

Committee Amendment 1718s adopted.

The question is on the motion of Ought to Pass as Amended on HB 688.

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

HB 265, relative to proving qualifications to vote. Election Law and Veterans' Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

Election Law and Veterans' Affairs

May 19, 2009

2009-1706s

03/04

Amendment to HB 265

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

1 Determining Qualifications of Applicant. Amend RSA 654:12, I-III to read as follows:

I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a [citizenship] **qualified voter** affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The [citizenship] **qualified voter** affidavit shall be in the following form:

Date: _____

[CITIZENSHIP] **QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)**

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, ***that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward),*** that I am a United States citizen, ***that I am at least 18 years of age as of this date or will be at the next election,*** and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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.

On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/
Official Authorized by RSA 659:30

(b) AGE. Any reasonable documentation indicating the applicant is 18 years of age or older[.], ***or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, a qualified voter affidavit.***

(c) DOMICILE. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form:

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____

Street Ward Number

Town or City Zip Code

Date when current domicile was established: Month: _____ Year: _____

Place and date of birth: _____

Address of last previous domicile: _____

Street Ward Number

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that my established domicile is at the current domicile address I have entered above. ***I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town,*** and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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.

On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

(a) Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:

(1) New Hampshire driver's license.

(2) New Hampshire vehicle registration.

(3) Armed services identification, or other photo identification issued by the United States government.

(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a [citizenship] ***qualified voter***, domicile, or election day affidavit:

(1) Photo driver's license issued by any state or the federal government.

(2) United States passport, armed services identification, or other photo identification issued by the United States government.

(3) Photo identification issued by local or state government.

(c) The presumptions established in this paragraph may be defeated by evidence establishing that it is more likely than not that the applicant is not qualified as a voter.

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or completion of the ***qualified voter*** affidavit [~~to be completed by a challenged voter~~]. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

2 Reference Changed. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, [citizenship] **qualified voter** and domicile affidavits, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, [citizenship] **qualified voter** and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any [citizenship] **qualified voter** or domicile affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, [citizenship] **qualified voter** and domicile affidavits, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

3 Challenge of Voter; Affidavit. Amend RSA 659:27 to read as follows:

659:27 Challenge of Voter; Affidavit. Any voter at any state election may challenge any other voter offering to vote at such election, and the moderator shall not receive the vote of the person so challenged until he **or she** shall sign and give to the moderator an affidavit in the following form: I, _____, do solemnly swear (or affirm) that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward) and have a legal domicile therein. ***In the alternative, a challenged voter may fill out and sign a qualified voter affidavit.***

4 Reference Changed. Amend RSA 659:30 to read as follows:

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

5 Reference Changed. Amend RSA 659:34, I(a) to read as follows:

(a) When registering to vote; when obtaining an official ballot; or when casting a vote by official ballot, makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, a [citizenship] **qualified voter** affidavit, a domicile affidavit, or an absentee registration affidavit containing false material information regarding his or her qualifications as a voter;

6 Reference Changed. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials, Election Day Affidavits, and Domicile Affidavits. The affidavit envelopes and application forms processed by the moderator as provided in RSA 659:50, and the [citizenship] **qualified voter** affidavits and domicile affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official may be preserved in the same manner that ballots are preserved. [Citizenship] **Qualified voter**, voter registration, and domicile affidavits shall be retained for 3 years after the election in which they are used, and other materials may be destroyed one year after the first state general election at which the individual may vote.

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

2009-1706s

AMENDED ANALYSIS

This bill modifies and renames the voter citizenship affidavit.

The question is on the adoption of Committee Amendment 1706s.

Committee Amendment 1706s adopted.

The question is on the motion of Ought to Pass as Amended on HB 265.

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

HB 292, (New Title) relative to financial disclosures, lobbyist registrations and statements, prohibited gifts, and executive branch volunteers. Election Law and Veterans' Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

Election Law and Veterans' Affairs

May 19, 2009

2009-1699s

03/09

Amendment to HB 292

Amend the bill by deleting section 1 and renumbering the original sections 2-10 to read as 1-9, respectively.

Amend RSA 15:1, V(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Communication made to the governor or to any member of the executive council, member of the general court, or public official as defined in RSA 15-B:2, X by an employee on behalf of his or her employer that would otherwise require registration under RSA 15:1, II, provided that the person making the communication:

(1) Is not required to register and report as a lobbyist for any person, including the employer on whose behalf the communication exempted under this subparagraph is made;

(2) Is not specifically compensated by the employer or any other person for making the communication;

(3) Has not been required to make the communication by the employer or any other person required to register and report under this chapter; and

(4) The purpose of the communication is to allow the employee to communicate the employer's views or his or her personal views on any matter within the scope of RSA 15:1, II that may affect the employer and/or the employee in his or her capacity as an employee.

Amend RSA 15-A:3, II as inserted by section 5 of the bill by replacing it with the following:

II. Any person who is otherwise subject to the filing requirements of subparagraph I(h) shall be exempt from filing a statement of financial interests provided the individual volunteering:

(a) Does not directly or indirectly influence the setting of public policy;

(b) Does not directly or indirectly influence decisions on how state funds will be expended;
and

(c) Does not directly or indirectly influence the selection of vendors for the state.

Amend the bill by replacing sections 7-8 with the following:

7 New Section; Filing Officer. Amend RSA 21-G by inserting after section 28 the following new section:

21-G:28-a Filing Officer; Appointment; Duties and Responsibilities.

I. The secretary of state shall designate an employee of the department of state as the state filing officer, who shall be responsible for the administration of this subdivision.

II. The filing officer shall:

(a) Review the administrative requirements of this subdivision and the submission of forms pursuant to RSA 15-A and RSA 15-B.

(b) Communicate with all candidates for public office and all executive branch officials on the administrative requirements of this subdivision and the submission of forms pursuant to RSA 15-A and RSA 15-B.

(c) Respond to any inquiries from candidates for public office and executive branch officials on the administrative requirements of this subdivision and the submission of forms pursuant to RSA 15-A and RSA 15-B.

(d) Forward complaints alleging violations of the provisions of the state ethics code to the attorney general or the executive branch ethics committee, established under RSA 21-G:29.

III. The state filing officer shall not be authorized to render legal advice.

IV. Any state agency, commission, or committee authorized by statute to issue opinions interpreting a state ethics law shall submit a copy of any written decision or opinion to the state filing officer and to the secretary of state. Such written decisions or opinions may be redacted prior to submission in order to protect confidential or nonpublic information.

8 Examination of Disclosures. Amend RSA 15-A:8 to read as follows:

15-A:8 Examination of Disclosures. ~~[It shall be the duty of]~~ The attorney general ~~[to]~~ **may** examine the statements of financial interests which are made under this chapter to the secretary of state and ~~[to]~~ compel such disclosures to be made to comply with the law.

2009-1699s

AMENDED ANALYSIS

This bill:

- I. Modifies financial disclosure requirements for legislators.
- II. Modifies the applicability of lobbyist regulation statutes and reporting requirements for lobbyists.
- III. Exempts certain executive branch volunteers from the financial disclosure requirements.
- IV. Modifies exemptions from the definition of "gift" for purposes of prohibitions on certain gifts to public officials.
- V. Requires executive branch entities to submit lists of volunteers to the secretary of state.
- VI. Requires the secretary of state to designate an employee as the state filing officer.
- VII. Makes discretionary the attorney general's duty to examine statements of financial interest and compel their compliance with the law.

The question is on the adoption of Committee Amendment 1699s.

Committee Amendment 1699s adopted.

The question is on the motion of Ought to Pass as Amended on HB 292.

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

HB 513, relative to the prohibition on voting in more than one state. Election Law and Veterans' Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Election Law and Veterans' Affairs

May 19, 2009

2009-1698s

03/04

Amendment to HB 513

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

AN ACT establishing a citizen-funded election task force.

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

1 Citizen-Funded Election Task Force.

I. There is established a citizen-funded election task force. The members of the task force shall be as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) Two members representing organizations supporting public financing of campaigns, appointed jointly by the president of the senate and the speaker of the house of representatives.
- (d) One member who served on the commission to study the feasibility of public funding of state election campaigns established by 2008, 55, appointed jointly by the president of the senate and the speaker of the house of representatives.

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

III. The task force shall:

(a) Review the report of the commission to study the feasibility of public funding of state election campaigns established by 2008, 55, and develop a detailed plan, including proposals for specific legislation, to implement the recommendations of the report.

(b) Solicit input from senators, representatives, the governor, executive councilors, the attorney general, the secretary of state, and any other persons deemed appropriate by the task force.

(c) Hold public hearings at times and at locations around the state that are likely to elicit substantive input from the general public.

(d) Make the schedule and minutes of meetings of the task force, and all testimony and materials presented to the task force, available to the public on a website.

IV. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named senate member. The first meeting of the task force shall be held within 60 days of the effective date of this section. Four members of the task force shall constitute a quorum.

V. The task force shall submit an initial report on or before November 16, 2009 and a final report on or before November 15, 2010 of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the chairmen of the senate election law and veterans' affairs committee, the chairmen of the house election law committee, the governor, and the state library.

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

2009-1698s

AMENDED ANALYSIS

This bill establishes a citizen-funded election task force.

The question is on the adoption of Committee Amendment 1698s.

Committee Amendment 1698s adopted.

Sen. Bragdon offered a floor amendment.

Sen. 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 Jr., Dist. 17

Sen. Letourneau, Dist. 19

Sen. Downing, Dist. 22

May 27, 2009

2009-1895s

03/09

Floor Amendment to HB 513

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

AN ACT establishing a citizen-funded election task force and relative to civil marriages and civil unions.

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

2 Findings and Purpose. The general court finds that:

I. Many New Hampshire citizens believe that the institution of marriage, which has been a bedrock foundation of civilization for thousands of years, has traditionally been a union between one man and one woman.

II. Many New Hampshire citizens believe that bringing change to this historical institution that has served our civilization well for thousands of years is inexpedient.

III. Many New Hampshire citizens believe that denying equal access to the institution of marriage to same sex couples deprives those couples of equal treatment under the law.

IV. Many New Hampshire citizens believe that depriving same sex couples of equal access to marriage under the law is inexpedient.

V. It is the opinion of the general court that, before it attempts to resolve the inherent conflict between views of the role of the vitally important institution of marriage in our society, it should first give the people of New Hampshire a full opportunity to be heard.

3 New Subdivision; Question to Voters; Definition of Marriage. Amend RSA 663 by inserting after section 8 the following new subdivision:

Definition of Marriage

663:9 Question.

I. The legislature may, by general law, submit a question regarding the definition of marriage to the vote of the people by ballot. The question shall be printed on the ballot to be used at the state general election next following enactment by the legislature.

II. The question on the ballot shall be: "Should the legislature amend New Hampshire law to permit 2 people of the same sex to be married to each other?"

663:10 Results. The secretary of state shall certify the results of the non-binding referendum to the legislature. Thereafter, the legislature may take any such action that it deems prudent relative to the definition of marriage.

663:11 Recount. Upon receipt of petitions of 500 voters made no later than the second Friday following the date of the election, the secretary of state shall recount the ballots cast on the question regarding the question of same sex marriage. The recount shall take place at any suitable state facility in the city of Concord as may be designated by the secretary of state and under such rules of procedure as the secretary of state shall determine and at such time as the secretary of state may appoint.

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

2009-1895s

AMENDED ANALYSIS

This bill:

I. Establishes a citizen-funded election task force.

II. Allows a non-binding referendum question to be submitted to the voters regarding the definition of marriage.

The question is on the adoption of Floor Amendment 1895s.

(Sen. Kelly welcomed visiting 6th grade students from Mountain Shadows School, Dublin.

(Sen. Bradley welcomed Madison Elementary School students.)

Sen. Sgambati moved the question; the Chair closed debate with one remaining speaker.

The question is on the adoption of Floor Amendment 1895s.

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 1895s failed.

The question is on the motion of Ought to Pass as Amended on HB 513.

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

(The Chair recognized Sen. Lasky for a Rule 44.)

SENATOR LASKY (Rule 44): “Granny D” was unable to be here today, she’s out campaigning in Illinois for her “Free and Fair Elections,” but she does have family and friends here today to bear witness to the passage of this bill, which I hope you haven’t forgotten, is to establish a citizen-funded task force. As I said earlier, “Granny D” has devoted her life and walked this entire country towards the goal of public funding and the advancement of free and fair elections. I’m pleased this bill is passed as she envisioned it, and we thank her for her tireless efforts. Thank you, Madam President.

HB 614, relative to domicile of students for voting purposes. Election Law and Veterans’ Affairs. Ought to Pass with Amendment, Vote 3-2. Senator Houde for the committee.

Election Law and Veterans’ Affairs

May 12, 2009

2009-1613s

09/03

Amendment to HB 614

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

AN ACT relative to domicile of students for voting purposes and relative to absentee ballot application forms.

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

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

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

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

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

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

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

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

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

I am requesting an absentee ballot for the following election:

___ State Primary. I am member of the:

___ Republican Party

___ Democratic Party

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

___ General Election

Applicant’s Name _____
(Last) (First) (Middle) [(DOB)]

Applicant’s Voting Domicile (home address):

(Street) (City/Town) (zip)

Mail the ballot to me at this address: _____

I hereby declare that:

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

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

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

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

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

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

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

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

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

Signature of the Applicant

2009-1613s

AMENDED ANALYSIS

This bill authorizes a student at an institution of learning to claim domicile for voting purposes in the town or city in which he or she lives while attending the institution of learning. This bill also deletes the date of birth reference on absentee ballot application forms.

The question is on the adoption of Committee Amendment 1613s.

Committee Amendment 1613s adopted.

Senators Gatsas, Barnes and Letourneau are in opposition to Committee Amendment 1613s on HB 614.

The question is on the motion of Ought to Pass as Amended on HB 614.

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

Senators Roberge, Gatsas, Barnes and Letourneau are in opposition to the adoption of Motion of Ought to Pass as Amended on HB 614.

HB 130, relative to enforceability of publicly-owned land restrictions. Energy, Environment and Economic Development. Ought to Pass, Vote 6-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 130.

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

HB 350, prohibiting the sale and distribution of household cleaning products containing phosphorus. Energy, Environment and Economic Development. 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 350.

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

HB 443, relative to underground storage facility operator training. Energy, Environment and Economic Development. Ought to Pass with Amendment, Vote 5-0. Senator Odell for the committee.

Energy, Environment, and Economic Development

May 21, 2009

2009-1766s

08/09

Amendment to HB 443

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

AN ACT relative to underground storage facility operator training and relative to requirements for guaranteed price plans and prepaid contracts for petroleum.

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

3 Requirements for Guaranteed Price Plans and Prepaid Contracts for Petroleum. Amend RSA 339:79, III(a) to read as follows:

(a) Shall not require consumers to commit for a term of more than one heating oil season. Such contracts shall be offered no earlier than ~~[January]~~ **May** 1 of the year in which the heating oil season begins.

4 Requirements for Guaranteed Price Plans and Prepaid Contracts for Petroleum. Amend RSA 339:79, IV(a) to read as follows:

(a) A firm commitment in the form of a futures contract or other commitment that guarantees that the dealer ~~[may]~~ **shall** purchase, at a fixed price, heating oil, kerosene, or liquefied petroleum gas in an amount not less than 75 percent of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer. The amount of such futures contract may be reduced to reflect any amount of home heating oil, kerosene, or liquefied petroleum gas already delivered to and paid for by the consumer;

5 Effective Date.

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

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

2009-1766s

AMENDED ANALYSIS

This bill establishes requirements for training operators of underground petroleum storage facilities.

This bill also changes requirements for guaranteed price plans and prepaid contracts for petroleum.

The question is on the adoption of Committee Amendment 1766s.

Committee Amendment 1766s adopted.

The question is on the motion of Ought to Pass as Amended on HB 443.

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

HB 36, relative to the purchase of information technology by state agencies. Executive Departments and Administration. Ought to Pass, Vote 3-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 36.

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

HB 78, (New Title) relative to the interbranch criminal and juvenile justice council and appointing an additional member to the interagency coordinating council for women offenders. Executive Departments and Administration. Ought to Pass with Amendment, Vote 5-0. Senator DeVries for the committee.

Senate Executive Departments and Administration

May 14, 2009

2009-1660s

04/01

Amendment to HB 78

Amend RSA 651-E:2, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Three members of the house of representatives, one of whom shall be from the criminal justice and public safety committee, and one of whom shall be from the children and family law committee, appointed by the speaker of the house of representatives.

The question is on the adoption of Committee Amendment 1660s.

Committee Amendment 1660s adopted.

The question is on the motion of Ought to Pass as Amended on HB 78.

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

HB 149, relative to benefit eligibility of certain members of the city of Manchester employees' contributory retirement system. Executive Departments and Administration. Ought to Pass, Vote 3-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 149.

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

HB 167, (New Title) relative to the guidelines for revaluations used by the assessing standards board, and the adoption of rules for disciplinary standards for assessing officials. Executive Departments and Administration. Ought to Pass, Vote 3-0. Senator Downing for the committee.

Sen. Odell offered a floor amendment.

Sen. Odell, Dist. 8

May 27, 2009

2009-1911s

10/05

Floor Amendment to HB 167

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

AN ACT relative to the guidelines for revaluations used by the assessing standards board and the adoption of rules for disciplinary standards for assessing officials, and relative to bingo games.

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

3 Repeal. The following are repealed:

I. 2007, 280:2, relative to prospectively reducing the maximum value of prizes for certain bingo games.

II. 2007, 280:5, I, relative to the effective date of 2007, 280:2.

III. RSA 287-A:9, relative to the hall capacity requirements for raffles to be held in conjunction with bingo games.

4 Effective Date.

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

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

2009-1911s

AMENDED ANALYSIS

This bill updates the authority for the assessing standards board in establishing guidelines for revaluations used in the assessment review process. The bill allows the board to adopt rules for disciplinary standards and sanctions relating to assessing officials. The bill also repeals a prospective amendment on total value of bingo game prizes and the limit on bingo hall capacity for raffles to be held in conjunction with bingo games.

The question is on the adoption of Floor Amendment 1911s.

Floor Amendment 1911s adopted.

The question on the motion of Ought to Pass as Amended on HB 167.

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

HB 252, relative to state agency rulemaking concerning expiring administrative rules. Executive Departments and Administration. Ought to Pass, Vote 5-0. Senator Carson for the committee.

Sen. DeVries offered a floor amendment.

Sen. DeVries, Dist. 18
May 13, 2009
2009-1634s
10/01

Amendment to HB 252

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

AN ACT relative to state agency rulemaking concerning expiring administrative rules and relative to electronic filing.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Administrative Procedures Act; Definition of File; Electronic Filing Added. Amend RSA 541-A:1, VI to read as follows:

VI. "File" means the actual receipt, by the director of legislative services, of a ***paper or electronic*** document required to be submitted during a rulemaking process established by this chapter.

3 New Subparagraph; Joint Legislative Committee on Administrative Rules; Electronic Filing by Agencies. Amend RSA 541-A:2, IV by inserting after subparagraph (f) the following new subparagraph:

(g) Establish procedures for electronic filing of notices and rules by agencies.

2009-1634s

AMENDED ANALYSIS

This bill establishes a procedure for review of agency rulemaking prior to expiration of the rules. The bill also allows for electronic filing by rulemaking agencies under the administrative procedures act, RSA 541-A.

The question is on the adoption of Floor Amendment 1634s.

Floor Amendment 1634s adopted.

The question is on the motion of Ought to Pass as Amended on HB 252.

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

HB 255, relative to the filing of statements of financial interest. Executive Departments and Administration. Ought to Pass, Vote 5-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 255.

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

HB 113, (New Title) extending the moratorium on nursing home beds and rehabilitation beds. Health and Human Services. Ought to Pass with Amendment, Vote 4-0. Senator Downing for the committee.

Health and Human Services

May 19, 2009

2009-1692s

01/05

Amendment to HB 113

Amend RSA 151-C:4, III(a) as inserted by section 1 of the bill by replacing it with the following:

III.(a) No ***new*** certificate of need shall be granted by the board for any nursing home, skilled nursing facility, intermediate care facility, or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending June 30, [2009,] **2012**. ***This moratorium shall also apply to new certificates of need regarding any rehabilitation bed in any type of facility, including rehabilitation hospitals and facilities offering comprehensive rehabilitation services. However,*** [except that] a certificate of need shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act. ***In addition, a certificate of need may be issued for construction or renovation as necessary to repair or refurbish an existing facility, or to accommodate additional beds obtained by transfer to an existing facility. In the case of repair, refurbishment, or transferred beds, the resulting costs in excess of the current capital expenditure threshold as adjusted for inflation***

pursuant to RSA 151-C:5, II(f)(1) shall not be reflected in any state Medicaid rate. Any application for a certificate of need under this subparagraph shall indicate whether it is for a life safety code requirement or to remedy deficiencies noted in a licensing inspection or whether it is for repair or refurbishment of an existing facility or for transferred beds. If the application is approved, it shall be deemed that the board has agreed with the indicated reason for such application.

The question is on the adoption of Committee Amendment 1692s.

Committee Amendment 1692s adopted.

The question is on the motion of Ought to Pass as Amended on HB 113.

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

HB 226-FN, relative to the lead paint poisoning law. Health and Human Services. Ought to Pass with Amendment, Vote 3-1. Senator Gilmour for the committee.

Health and Human Services

May 19, 2009

2009-1693s

01/05

Amendment to HB 226-FN

Amend RSA 130-A:6, II as inserted by section 3 of the bill by replacing it with the following:

II. The commissioner may, as part of an investigation conducted under RSA 130-A:5, if the lead-poisoned child spends 10 hours or more a week at the facility, and after making reasonable efforts to notify the owner of a child care facility and the license holder, conduct an inspection of a child care facility constructed prior to 1978, during business hours or at a time mutually agreed to, for the purposes of identifying the presence of lead base substances. The findings of the inspection shall be provided to the owner, to the license holder, and to the health authority. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(a), (b), or (c), the commissioner shall issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and to the license holder. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(d), the commissioner may issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and to the license holder. The commissioner shall provide a copy of the order to the owner and to the license holder and a notice of findings, to the state child care licensing unit, and to the health authority. The owner or license holder shall provide notice of the findings of lead hazard exposure, provided by the commissioner, to the parents or guardians of children who use the child care facility.

Amend RSA 130-A:17 as inserted by section 8 of the bill by replacing it with the following:

8 Lead Paint Poisoning; Injunctive Relief. Amend RSA 130-A:17 to read as follows:

130-A:17 Injunctive Relief.

I. Either the attorney general or the commissioner may bring a civil action in superior court for appropriate relief, including a temporary or permanent injunction or both, to enforce any provision of this chapter, rules adopted under this chapter, or orders issued pursuant to this chapter, including but not limited to, orders of lead hazard abatement and orders imposing administrative fines.

II. *The court hearing shall be held on an expedited basis and as soon as the court's docket permits.*

III. *Either party may request that the court hold a consolidated hearing for both temporary and permanent injunctive relief.*

Amend the bill by replacing section 9 with the following:

9 Effective Date.

I. RSA 130-A:7, V as inserted by section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2010.

The question is on the adoption of Committee Amendment 1693s.

Committee Amendment 1693s adopted.

Sen. Gatsas offered a floor amendment.

Sen. Barnes, Jr., Dist. 17
Sen. Gatsas, Dist. 16
Sen. Gallus, Dist. 1
Sen. Odell, Dist. 8
Sen. Roberge, Dist. 9
Sen. Bragdon, Dist. 11
Sen. Bradley, Dist. 3
Sen. Letourneau, Dist. 19
Sen. Downing, Dist. 22
Sen. Carson, Dist. 14
May 27, 2009
2009-1898s
01/10

Floor Amendment to HB 226-FN

Amend the bill by inserting after section 8 the following and renumbering the original section 9 to read as 10:

9 New Section; Testing for Lead Toxicity. Amend RSA 132 by inserting after section 13 the following new section:

132:13-a Testing for Lead Toxicity. All health care providers conducting annual medical assessments of children 4 years of age or younger shall include in such assessment testing for lead toxicity in accordance with the blood lead levels under RSA 130-A.

2009-1898s

AMENDED ANALYSIS

This bill makes certain changes to the lead paint law which include:

I. Allowing the commissioner of the department of health and human services to obtain an administrative inspection warrant under RSA 595-B for inspection purposes if the owner of the property denies consent.

II. Clarifying the persons who are to receive a copy of the order for lead hazard reduction.

III. Removing the 2-year limitation on interim controls used as an acceptable alternative to lead hazard abatement.

IV. Requiring all health care providers conducting annual medical assessments of children 4 years of age or younger to include testing for lead toxicity.

The question is on the adoption of Floor Amendment 1898s.

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 1898s failed.

The question is on the motion of Ought to Pass as Amended on HB 226-FN.

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

HB 251, relative to the state registry of founded reports of abuse, neglect, or exploitation of adults. Health and Human Services. Ought to Pass, Vote 4-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 251.

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

HB 542, relative to a health information exchange. Health and Human Services. Ought to Pass, Vote 3-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 542.

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

HB 619, relative to medical records and patient information. Health and Human Services. Ought to Pass, Vote 4-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 619.

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

HCR 2, (New Title) endorsing the National Health Care Act. Health and Human Services. Inexpedient to Legislate, Vote 4-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HCR 2.

Motion of Inexpedient to Legislate adopted.

HJR 2, urging Congress to modify Medicare payments to enhance the compensation of primary care providers. Health and Human Services. Inexpedient to Legislate, Vote 3-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HJR 2.

Motion of Inexpedient to Legislate adopted.

MOTION TO REMOVE FROM TABLE

Sen. Gilmour moved HB 501 be removed from the table.

The question is on the motion to remove HB 501 from the table.

Motion adopted.

REMOVED FROM TABLE

HB 501, relative to recovery of assistance by the department of health and human services.

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

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

(President Larsen recognized visiting students from St. Elizabeth Seton School, Rochester.)

HB 70, relative to taking stones from stone walls. Judiciary. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 70.

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

Luncheon Recess/Out of Recess.

AFTERNOON SESSION

COMMITTEE REPORTS, RESUMED

HB 171, establishing a commission to evaluate mental health courts and establish standards for the operation of mental health courts. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary

May 20, 2009

2009-1752s

01/03

Amendment to HB 171

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

(j) A psychiatrist, appointed by the New Hampshire Psychiatric Society.

The question is on the adoption of Committee Amendment 1752s.

Committee Amendment 1752s adopted.

The question is on the motion of Ought to Pass as Amended on HB 171.

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

HB 173, relative to the basis for awarding custody to a stepparent or grandparent. 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 173.

Motion of Inexpedient to Legislate adopted.

HB 204, relative to discovery in driving while intoxicated cases. Judiciary. Inexpedient to Legislate, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 204.

Recess/Out of Recess.

(Sen. Sgambati welcomed students from Holy Trinity School, Laconia.)

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 204.

Motion of Inexpedient to Legislate adopted.

HB 206, relative to retention of governmental records under the right-to-know law. Judiciary. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 206.

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

HB 214, (New Title) establishing a committee to study health care services in correctional facilities and the issue of access to inmates by medical care, mental health care, and substance abuse treatment providers. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Senate Judiciary

May 20, 2009

2009-1756s

04/01

Amendment to HB 214

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

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives as follows:

- (1) One member from the children and family law committee.
- (2) One member from the finance committee.
- (3) One member from the health, human services and elderly affairs committee.
- (4) One member from the criminal justice and public safety committee.
- (5) One member from the house judiciary committee who is an attorney.

Amend the bill by replacing all after section 4 with the following:

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

6 Repeal. Sections 1-5 of this act, establishing a committee to study health care services in correctional facilities and the issue of access to inmates by medical care, mental health care, and substance abuse treatment providers, are repealed.

7 Effective Date.

I. Section 6 of this act shall take effect November 2, 2012.

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

The question is on the adoption of Committee Amendment 1756s.

Committee Amendment 1756s adopted.

The question is on the motion of Ought to Pass as Amended on HB 214.

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

HB 260, relative to quieting title in certain trust circumstances. Judiciary. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 260.

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

HB 270, relative to sale of human remains. Judiciary. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 270.

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

HB 342, establishing a commission to study the juvenile court diversion law. Judiciary. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Senate Judiciary

May 20, 2009

2009-1753s

05/04

Amendment to HB 342

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

(d) Two county attorneys, or their designees, appointed by the county attorneys affiliate of the New Hampshire Association of Counties.

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

(g) One member of the New Hampshire Public Defender, appointed by the executive director of that organization.

(h) One member of the New Hampshire Association of Criminal Defense Lawyers, appointed by the executive director of the association.

The question is on the adoption of Committee Amendment 1753s.

Committee Amendment 1753s adopted.

The question is on the motion of Ought to Pass as Amended on HB 342.

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

HB 363, eliminating requirements for additional breath tests for blood alcohol content. Judiciary. Inexpedient to Legislate, Vote 5-0. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 363.

Recess/Out of Recess.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 363.

Motion of Inexpedient to Legislate adopted.

HB 43, relative to subdivision and site plan regulation waivers. Public and Municipal Affairs, Ought to Pass, Vote 5-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 43.

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

HB 253, relative to the Gunstock area commission. Public and Municipal Affairs. Ought to Pass with Amendment, Vote 5-0. Senator Sgambati for the committee.

Public and Municipal Affairs

May 14, 2009

2009-1657s

04/01

Amendment to HB 253

Amend the bill by replacing section 2 with the following:

2 Gunstock Area; Powers Amended. Amend 1959, 399:10(f) to read as follows:

(f) ***Notwithstanding RSA 28:8-c***, to acquire in the name of the county of Belknap by purchase, lease or otherwise, real property and rights or easements therein, deemed by it necessary for the purpose hereof, and to use such property[-] ***and, to convey, lease in accordance with RSA 72:23, I, or dispose of real property or the rights or easements therein under terms and conditions as shall be negotiated by the commission, provided that no conveyance or disposal shall occur unless authorized by the county convention by a 2/3 vote of those members present and voting after a duly noticed public hearing, and upon a vote of the commission with at least 4 members of the commission voting in favor, and upon approval of the Belknap county commissioners with at least 2 commissioners voting in favor.***

The question is on the adoption of Committee Amendment 1657s.

Committee Amendment 1657s adopted.

The question is on the motion of Ought to Pass as Amended on HB 253.

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

HB 76, establishing a permanent commission to study recommendations of the National Transportation Safety Board. Transportation and Interstate Cooperation. Ought to Pass with Amendment, Vote 3-2. Senator Kelly for the committee.

Transportation and Interstate Cooperation

May 21, 2009

2009-1773s

06/09

Amendment to HB 76

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

AN ACT establishing a permanent commission to study recommendations of the National Transportation Safety Board and relative to the New Hampshire rail transit authority.

Amend RSA 21-P:15-b, II(b) as inserted by section 1 of the bill by replacing it with the following:

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

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 12:

2 Authority Established; Administrative Attachment. Amend RSA 238-A:2 to read as follows:

238-A:2 Authority Established. There is hereby established the New Hampshire rail transit authority ~~[which shall be a body both corporate and politic in the state established]~~ for the general purpose of developing and providing commuter rail or other similar forms of passenger rail service. ~~[It is declared that the purposes of this chapter are public and that the authority shall be regarded as performing an essential governmental function in carrying out this chapter.]~~ ***The authority shall be an administratively attached agency, pursuant to RSA 21-G:10, to the department of transportation.***

3 Duties of the Rail Transit Authority. The rail transit authority and the department of transportation shall, no later than 120 days after the effective date of this act, allocate their respective responsibilities in a memorandum of understanding.

4 Powers of Rail Transit Authority. Amend the introductory paragraph of RSA 238-A:3 to read as follows:

238-A:3 Duties. ***The authority and the department of transportation shall allocate their respective responsibilities for passenger rail service in a memorandum of understanding.*** The authority shall take all actions that are reasonably necessary to establish regularly scheduled commuter rail or other similar forms of passenger rail service between points within the state of New Hampshire and points within and adjacent to the state of New Hampshire. These actions may include, but are not limited to:

5 Powers of Rail Transit Authority. Amend RSA 238-A:8, I to read as follows:

I. Sue and be sued [~~to the same extent as a town or city under New Hampshire law~~], ***subject to all privileges and immunities of the state of New Hampshire.***

6 Powers of Rail Transit Authority. Amend RSA 238-A:8, IV to read as follows:

IV. Employ such assistants, attorneys, experts, inspectors, and such other employees and consultants as the board of directors considers necessary for its purposes. ***The authority shall not be required to hire such personnel in accordance with state personnel rules, so long as the state general funds have not been appropriated to fund positions for any such personnel.***

7 Open Meetings and Records. Amend RSA 238-A:17 to read as follows:

238-A:17 Open Meetings and Records. The authority shall be subject to all requirements of RSA 91-A[:2].

8 Liability Policy for Passenger Service. Amend RSA 238-A:18 to read as follows:

238-A:18 Liability Policy for Passenger Service.

I. Agreements [~~between the authority and a railroad~~] for the provision of passenger rail service shall provide [~~that the authority shall secure and maintain~~] ***for securing and maintaining*** a liability insurance policy covering the liability of the [~~authority and the~~] railroad for property damage, personal injury, bodily injury, and death arising out of such [~~commuter~~] rail service. Such policy shall:

(a) [~~Name the authority as named insured, and the railroad as an additional insured.~~]

(~~b~~) Have policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the aggregate annually.

(c) (***b***) Be subject to self-insured retention in an amount not less than \$7,500,000, [~~1/2 applicable to the operating railroad, whether public or private, and 1/2 applicable to the authority~~] ***to be allocated in accordance with the agreement between the railroad and the state.***

II. In no event shall the [~~authority or the~~] railroad be liable in excess of the coverage limits of such insurance policy for any claim for damage, whether compensatory or punitive, for property damage, personal injury, and death arising out of such passenger rail service.

9 New Paragraph; Liability Policy for Passenger Service. Amend RSA 238-A:18 by inserting after paragraph II the following new paragraph:

III. Nothing in this section shall constitute a waiver of the sovereign immunity of the state.

10 New Section; Severability. Amend RSA 238-A by inserting after section 18 the following new section:

238-A:19 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

11 New Paragraph; Classified Service and Exemptions. Amend RSA 21-I:49 by inserting after paragraph VIII the following new paragraph:

IX. Personnel of the New Hampshire rail transit authority.

2009-1773s

AMENDED ANALYSIS

This bill:

- I. Establishes a commission to study recommendations of the National Transportation Safety Board.
- II. Administratively attaches the New Hampshire rail transit authority to the department of transportation.
- III. Subjects the New Hampshire rail transit authority to all requirements of the right-to-know law.

The question is on the adoption of Committee Amendment 1773s.

Committee Amendment 1773s adopted.

Senators Gatsas and Letourneau are in opposition to Committee Amendment 1773s on HB 76.

The question is on the motion of Ought to Pass as Amended on HB 76.

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

Sen. Letourneau is in opposition to the adoption of the motion of Ought to Pass as Amended on HB 76.

HB 215, making technical corrections to certain OHRV and snowmobile laws. 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 215.

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

HB 450, relative to the state 10-year transportation improvement program. Transportation and Interstate Cooperation. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

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

Motion of Ought to Pass failed.

Sen. Kelly moved Re-refer to Committee.

The question is on the motion of Re-refer to Committee on HB 450.

Motion of Re-refer to Committee adopted.

MOTION TO REMOVE FROM TABLE

Sen. Letourneau moved HB 186 be removed from the table.

The question is on the motion to remove HB 186 from the table.

Motion adopted.

REMOVED FROM TABLE

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.

The question is on the motion of Ought to Pass.

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

MOTION TO REMOVE FROM TABLE

Sen. Letourneau moved HB 613 be removed from the table.

The question is on the motion to remove HB 613 from the table.

Motion adopted.

REMOVED FROM TABLE

HB 613, establishing a committee to study the advantages and disadvantages of state acquisition of the remaining rail corridors.

The question is on the committee recommendation of Inexpedient to Legislate on HB 613.

Motion of Inexpedient to Legislate adopted.

Recess/Out of Recess.

HOUSE MESSAGE

The Clerk read the following Message from the House:

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 73, relative to the solemnization of marriage.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Gary Richardson, Thompson, Lucy Weber and DiFruscia.

SENATE ACCEDES TO HOUSE REQUEST FOR COMMITTEE OF CONFERENCE

HB 73, relative to the solemnization of marriage.

Sen. Reynolds recommends the Senate accede to the House request for Committee of Conference.

The question is on the Senate acceding to the House request for Committee of Conference on HB 73.

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

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

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

Yeas: 14 - Nays: 10

Motion adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Reynolds, Lasky, Roberge.

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 36, relative to the purchase of information technology by state agencies.

HB 43, relative to subdivision and site plan regulation waivers.

HB 70, relative to taking stones from stone walls.

HB 76, establishing a permanent commission to study recommendations of the National Transportation Safety Board and relative to the New Hampshire rail transit authority.

HB 78, relative to the interbranch criminal and juvenile justice council and appointing an additional member to the interagency coordinating council for women offenders.

HB 113, extending the moratorium on nursing home beds and rehabilitation beds.

HB 130, relative to enforceability of publicly-owned land restrictions.

HB 149, relative to benefit eligibility of certain members of the city of Manchester employees' contributory retirement system.

HB 167, relative to the guidelines for revaluations used by the assessing standards board and the adoption of rules for disciplinary standards for assessing officials, and relative to bingo games.

HB 169, relative to the counting of charter school pupils in the definition of average daily membership in residence.

HB 171, establishing a commission to evaluate mental health courts and establish standards for the operation of mental health courts.

HB 186, 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 206, relative to retention of governmental records under the right-to-know law.

HB 214, establishing a committee to study health care services in correctional facilities and the issue of access to inmates by medical care, mental health care, and substance abuse treatment providers.

HB 215, making technical corrections to certain OHRV and snowmobile laws.

HB 226, relative to the lead paint poisoning law.

HB 251, relative to the state registry of founded reports of abuse, neglect, or exploitation of adults.

HB 252, relative to state agency rulemaking concerning expiring administrative rules and relative to electronic filing.

HB 253, relative to the Gunstock area commission.

HB 255, relative to the filing of statements of financial interest.

HB 260, relative to quieting title in certain trust circumstances.

HB 265, relative to proving qualifications to vote.

HB 270, relative to sale of human remains.

HB 292, relative to financial disclosures, lobbyist registrations and statements, prohibited gifts, and executive branch volunteers.

HB 317, relative to conditional approval of nonpublic schools, residency requirements for grants under the New Hampshire incentive program, and scholarships for orphans of veterans.

HB 332, establishing a commission to study school discipline.

HB 342, establishing a commission to study the juvenile court diversion law.

HB 350, prohibiting the sale and distribution of household cleaning products containing phosphorus.

HB 443, relative to underground storage facility operator training and relative to requirements for guaranteed price plans and prepaid contracts for petroleum.

HB 501, relative to recovery of assistance by the department of health and human services.

HB 513, establishing a citizen-funded election task force.

HB 542, relative to a health information exchange.

HB 614, relative to domicile of students for voting purposes and relative to absentee ballot application forms.

HB 619, relative to medical records and patient information.

HB 688, relative to the chartered public school approval process and relative to open enrollment schools.

ANNOUNCEMENTS

("Happy Birthday" was sung by the Senate body to Sen. Gatsas.)

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, processing enrolled bill reports and amendments.

Motion adopted.

The Senate is in recess to the Call of the Chair.