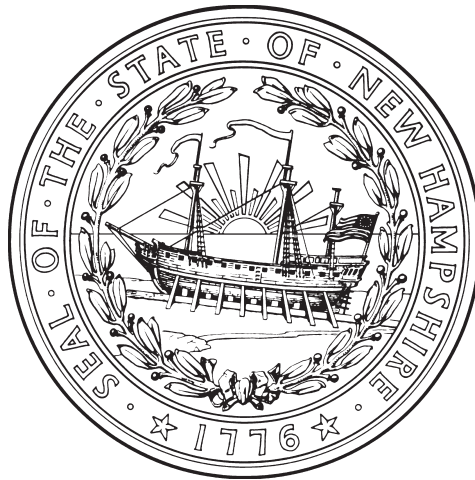


**March 11, 2009
Nos. 6-7**

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 – MARCH 4, 2009 SESSION

COMMENCEMENT – MARCH 11, 2009 SESSION

SENATE JOURNAL 6 *(continued)*

March 4, 2009

HOUSE MESSAGE

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

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

HB 85-FN-A, establishing the women, infants and children program fund.

HB 117, repealing the gas utility restructuring oversight committee.

HB 118, relative to periodic payments of judgments.

HB 157, relative to library patron records.

HB 183, relative to removal of town officers.

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

HB 226-FN, relative to the lead paint poisoning law.

HB 229, clarifying the eligibility requirements for class IV renewable energy generating facilities.

HB 256, relative to the New Hampshire accountancy act.

HB 316, relative to expenditures by boards and commissions for costs of examinations of applicants.

HB 335, relative to the state retiree health plan commission.

HB 339, ratifying changes to the state building code adopted by the state building code review board and revising the definition of the state building code.

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 450, relative to the state 10-year transportation improvement program.

HB 513, relative to the prohibition on voting in more than one state.

HB 526, changing certain references in fish and game laws to river herring.

HB 600-FN, relative to dedicated funds maintained by the state treasurer.

HB 612, relative to the suspension or revocation of fish and game licenses.

HB 622, amending the hearing dates of the ballot law commission.

HB 623, making various changes to the election laws.

HB 633-FN, relative to eligibility for medical benefits payment by the retirement system for certain group I teacher and political subdivision employee members.

HB 667-FN, relative to misrepresenting the origin of a campaign call

HB 671-FN, amending the motorist service signing program to allow the department of transportation to charge a fee for attraction signs.

HB 685-FN, relative to medical benefits payment by the retirement system for certain vested deferred group I members.

HOUSE MESSAGE

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

SB 76, naming a bridge in the town of Barrington the Sp. Jesse Scott Conger Memorial Bridge.

INTRODUCTION OF HOUSE BILL

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following House legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committee.

Resolution adopted.

First and Second Reading and Referral

HB 451, authorizing a transaction fee for license agents electronically issuing fish and game licenses. (Wild-life, Fish and Game and Agriculture)

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 76, naming a bridge in the town of Barrington the Sp. Jesse Scott Conger Memorial Bridge.

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

Report of Committee on Enrolled Bills adopted.

INTRODUCTION OF SENATE BILLS

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following Senate legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committee.

Resolution adopted.

First and Second Reading and Referral

09-1027

SB 195, relative to procedures for the trimming, cutting, or removal of trees by utilities. (Hassan, Dist 23; Barnes, Jr., Dist 17; Cilley, Dist 6; D'Allesandro, Dist 20; Lasky, Dist 13; Reynolds, Dist 2; Sgambati, Dist 4; Lyons, Rock 8; Casey, Rock 11: Public and Municipal Affairs)

09-1038

SB 196, relative to non-judicial punishment for offenses by military officers and personnel. (Barnes, Jr., Dist 17; Hassan, Dist 23: Election Law and Veterans' Affairs)

09-1039

SB 197, decreasing the quorum for the right-to-know oversight commission. (Barnes, Jr., Dist 17: Public and Municipal Affairs)

09-1044

SB 198, relative to the assessing standards board. (Reynolds, Dist 2: Executive Departments and Administration)

09-1046

SB 199, establishing a committee to study the training of public safety officials to respond to persons with mental illness recently discharged from treatment facilities. (Hassan, Dist 23; Barnes, Jr., Dist 17; Fuller Clark, Dist 24; Sgambati, Dist 4; Schlachman, Rock 13; Welch, Rock 8; D. Petterson, Rock 10: Health and Human Services)

09-1033

SB 200-FN, relative to retirement system death benefits for members who die while performing military service. (Janeway, Dist 7; Barnes, Jr., Dist 17: Executive Departments and Administration)

09-1040

SB 201-FN, relative to classification of misdemeanor offenses. (Reynolds, Dist 2; Shurtleff, Merr 10; Welch, Rock 8: Judiciary)

09-1043

SB 202-FN-LOCAL, relative to employee candidate background checks by municipalities. (Bragdon, Dist 11: Public and Municipal Affairs)

09-1035

SB 203, relative to liability protection for railroad operators operating alongside recreational trails. (Sgambati, Dist 4; Reynolds, Dist 2; Janeway, Dist 7; Gallus, Dist 1; Stuart, Belk 4; Merry, Belk 2; Arsenault, Belk 4; Reeve, Belk 4; Pilliod, Belk 5: Judiciary)

09-1037

SB 204, relative to postsecondary educational assistance for New Hampshire national guard members. (Barnes, Jr., Dist 17; Hassan, Dist 23: Election Law and Veterans' Affairs)

09-1042

SB 205-FN, making various changes to the criminal statutes. (Hassan, Dist 23; Reynolds, Dist 2; DeVries, Dist 18; Downing, Dist 22; Odell, Dist 8; Welch, Rock 8; Tilton, Merr 6: Judiciary)

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 7

March 11, 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:

There are some things by which I try to live my life, and most of them not necessarily particularly Christian. But one such awareness is my definition of spirituality. It's so often referred to me that when I left my last parish they gave me a plaque with my name on it and this quote. It's my definition of spirituality that disappoints people, 'cause it's not very "angels and incense" of me. My definition of spirituality is "a relentless attachment to truth." And I find that when I don't pay attention to that, I get lost. Let us pray:

God of all truth, be the archeologist of our souls; carefully, respectfully using the trowel and brush to scrape away layers of our lives to expose truth; to expose us to and engage us with truth, that land you call the "Kingdom of God." Without truth we are lost. Protect all who are lost: emotionally, spiritually, physically; bring us all home to safe embrace.

Amen

Sen. Odell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Resolution presented by Sen. Downing to the Pelham High School football team members, Coach Tom Babaian and Athletic Director Tim Powers for being 2008 Division V State Champions.

Anthony Adamsky, Nashua Community College American Government and Politics student .

Senate Page: Bjarna O'Brien, Pinkerton Academy.

Senate Page: Rebecca Abel, Pinkerton Academy.

Senate Page: Caitlin Jones, Pinkerton Academy.

FINANCE REPORT

Sen. D'Allesandro reported the following bills will come to Finance Committee:

SB 67, SB 82, SB 89, SB 144, SB 146, SB 167, SB 180, SB 182.

Sen. D'Allesandro reported the following bills will not come to Finance Committee:

SB 22, SB 28, SB 64, SB 65, SB 66, SB 68, SB 72, SB 73, SB 100, SB 102, SB 103, SB 107, SB 138, SB 141, SB 145, SB 147, SB 149, SB 163, SB 166, SB 168, SB 170, SB 179, SB 181, SB 192.

MOTION TO SUSPEND RULES

Sen. Hassan moved that the Rules of the Senate be suspended as to allow the Senate Policy Committees to act on the following Senate Bills after the Rule 48(e) Deadline:

SB 200-FN, Executive Departments and Administration Committee

SB 201-FN, Judiciary Committee

SB 202-FN-L, Public and Municipal Affairs Committee

SB 205-FN, Judiciary Committee

Rule 48(e): Thursday, March 5, 2009 - Deadline for Policy Committees to ACT on all Senate money bills, except bills exempted pursuant to Senate Rule 26(b).

The question is on the Motion to Suspend Senate Rule 48(e).

Division requested.

Yes: 14 - No: 9

Motion fails, 2/3 necessary vote not attained.

Recess/Out of Recess.

COMMITTEE REPORTS**SPECIAL ORDER**

President Larsen moved, without objection, that Commerce, Labor and Consumer Protection Committee legislation SB 89-FN, SB 144-FN and SB 170-FN which had been Special-Ordered from March 4th Session to the front of today's Calendar would be Special-Ordered to after lunch of today's session.

Commerce, Labor and Consumer Protection Committee

SB 89-FN, relative to unemployment overpayments.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business.

SB 80, requiring insurance coverage for services provided by athletic trainers. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-1.

Senator DeVries for the committee.

Commerce, Labor and Consumer Protection

March 5, 2009

2009-0662s

01/03

Amendment to SB 80

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

AN ACT establishing a committee to study requiring insurance coverage for services provided by athletic trainers.

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

1 Committee Established. There is established a committee to study requiring insurance coverage for services provided by athletic trainers.

2 Membership and Compensation.

I. The members of the committee 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.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study all issues relating to requiring insurance coverage for services provided by athletic trainers. The committee's study shall include, but not be limited to, the cost and health benefits associated with the services provided by an athletic trainer and the implementation of the benefit.

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

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

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

2009-0662s

AMENDED ANALYSIS

This bill establishes a committee to study requiring insurance coverage for services provided by athletic trainers.

The question is on the adoption of Committee Amendment 0662s.

Committee Amendment 0662s adopted.

The question is on the motion of Ought to Pass as Amended on SB 80.

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

Sen. Roberge is in opposition to the Motion of Ought to Pass as Amended on SB 80.

SB 99-FN-L, authorizing licensed new and used vehicle dealers to act as agents of the division of motor vehicles in the issuance of vehicle titles and registrations. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 5-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 99-FN-L.

Motion of Inexpedient to Legislate adopted.

SB 100-FN, relative to home improvement contracts. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 4-0. Senator Hassan for the committee.

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

Sen. Hassan offered Floor Amendment 0724s.

Sen. Hassan, Dist. 23

March 11, 2009

2009-0724s

05/01

Floor Amendment to SB 100-FN

Amend RSA 359-J:1, V as inserted by section 1 of the bill by replacing it with the following:

V. "Home improvement construction" means the construction, reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition of any residential structure or accessory building of a residential structure where the total value of the home improvement construction is equal to or in excess of \$8,000.

Amend RSA 359-J:2 through RSA 359-J:4 as inserted by section 1 of the bill by replacing them with the following:

359-J:2 Home Improvement Contracts.

I. Any contract between a contractor and homeowner to perform home improvement construction shall require a written agreement signed and dated by the parties, and a copy shall be given to the homeowner. The written agreement shall include the following minimum information.

(a) The homeowner's name, telephone number, mailing and street address, and the physical address of the structure that is the subject of the contract.

(b) The contractor's name, telephone number, mailing address, and street address.

(c) The date the home improvement contract was submitted to the consumer, which may be accepted and executed by the homeowner within 30 days unless a different time period is stated.

(d) A reasonably detailed description of the home improvement construction to be performed, including reference to any plans relating to the construction.

(e) Estimated dates of commencement and substantial completion of performance.

(f) The price to perform the home improvement construction, including:

(1) The total price for performance of the contract if based on a fixed price; or if the total price is based on time and materials, the terms by which payment for labor and/or materials will be charged;

(2) A schedule for making progress payments; and

(3) The amount of any initial advance down payment.

(g) A statement of notice and opportunity to repair remedies as described in RSA 359-G:7.

(h) A statement that any change to the scope of work stated in the contract shall result in a written change order to be executed by the parties, including a reasonably detailed description of the change in the scope of work or the contract price.

(i) If a warranty applies, a statement specifying the extent of the warranty and the person or entity providing the warranty coverage.

(j) Signature lines for the contractor and the homeowner with a legible printed or typed version of that person's name placed directly after or below the signature and the date of signature.

359-J:3 Penalty for Violation. A violation of this chapter shall constitute a misdemeanor.

359-J:4 Enforcement; Additional Penalties. The provisions of this chapter shall be administered and enforced by the consumer protection and antitrust bureau of the department of justice established by RSA 21-M:9. In addition to other appropriate penalties, any violation of the provisions of this chapter shall constitute a violation of RSA 358-A. Any right, remedy or power set forth in RSA 358-A may be used to enforce the provisions of this chapter.

2009-0724s

AMENDED ANALYSIS

This bill establishes certain minimum requirements for home improvement contracts over a specified amount and establishes that a violation of the requirements is a misdemeanor and a violation of the consumer protection act.

The question is on the adoption of Floor Amendment 0724s.

Floor Amendment 0724s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 100-FN.

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

SB 102-FN, relative to managed care and patient choice. Commerce, Labor and Consumer Protection Committee. 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 SB 102-FN.

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

SB 138-FN, relative to insurance coverage for telemedicine services. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Commerce, Labor and Consumer Protection

March 5, 2009

2009-0666s

01/05

Amendment to SB 138-FN

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

1 New Chapter; New Hampshire Telemedicine Act. Amend RSA by inserting after chapter 415-I the following new chapter:

CHAPTER 415-J
NEW HAMPSHIRE TELEMEDICINE ACT

415-J:1 New Hampshire Telemedicine Act. This chapter shall be known and may be cited as the New Hampshire telemedicine act.

415-J:2 Definitions. In this chapter:

I. "Health benefit policy" means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the state of New Hampshire on behalf of state employees under RSA 21-I, by an insurer.

II. "Insurer" means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

III. "Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Standard telephone, facsimile transmissions, or both, in the absence of other integrated information and data, do not constitute telemedicine services.

415-J:3 Coverage for Telemedicine Services.

I. It is the intent of the general court to recognize the application of telemedicine for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual shall receive medical services from a health care provider without face-to-face contact with the provider.

II. Beginning 60 days after the effective date of this section, no health benefit policy that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telemedicine in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the provider.

III. Nothing in this section shall preclude any health professional, within the scope of the health professional's practice, from employing the technology of telemedicine or participating in the application of telemedicine within the health professional's practice or under the direction of another health professional with such scope of practice. Such action shall not be interpreted as practicing medicine without a license.

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

2009-0666s

AMENDED ANALYSIS

This bill establishes the New Hampshire telemedicine act, which prohibits health insurance providers from requiring face-to-face contact between a health care provider and a patient as a condition of payment of services provided through telemedicine in accordance with professional health care standards.

MOTION TO TABLE

Sen. Cilley moved SB 138-FN be laid on the table.

The question is on the motion to table SB 138-FN.

Motion adopted.

LAI D ON THE TABLE

SB 138-FN, relative to insurance coverage for telemedicine services.

SB 141-FN, relative to a life settlements model act. Commerce, Labor and Consumer Protection Committee. Re-refer to committee, Vote 5-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on SB 141-FN.

Motion of Re-refer to Committee adopted.

SB 147-FN, relative to the data collection practices of health care providers and relative to the development of a comprehensive uninsured health care database. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-1. Senator Hassan for the committee.

Commerce, Labor and Consumer Protection

March 5, 2009

2009-0665s

01/09

Amendment to SB 147-FN

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

AN ACT relative to the data collection practices of health care providers and relative to the development of an uninsured health care database.

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

1 Statement of Purpose. The purpose of this act is to create a system to capture information on the provision of health care services to uninsured persons to obtain a better understanding of the impact of uninsured persons on public health, health care providers, and the commercial insurance market. With the increase in uninsured persons in New Hampshire and the escalating problem of the affordability of health insurance, the existing safety net, which relies on community health centers and hospitals, both with limited capacity, may not be sustainable. New Hampshire's health care safety net is an integral and essential part of its health care financing and delivery system. It is vitally important to monitor each part of the system through the collection of data that identifies and quantifies how safety net services are accessed and used in New Hampshire. To the extent allowed by HIPAA, this data shall be available as a resource for insurers, employers, providers, purchasers to health care, and policymakers to review health care utilization and expenditures.

2 Health Care Data Collection. RSA 126:25, II is repealed and reenacted to read as follows:

II. Licensed providers of health care, as defined in RSA 151-C:2, XXX, and licensed health care facilities, as defined in RSA 151-C:2, XV-a, that are not exempt from reporting pursuant to this section and that submit health care claims electronically for reimbursement shall submit health care data for any person who receives health care services and for whom a claim is not submitted to a third party payer. The health care data shall be submitted in a format that is similar to the commercial claims data collected under RSA 420-G:11-a and shall include information for each service that includes dates of service, patient demographics, provider information, charge information, and clinical diagnosis and procedure codes. Neither the state nor its agents shall collect or otherwise obtain direct personal identifiers in connection with any health care data relating to uninsured individuals. For purposes of this section, "direct personal identifiers" includes information relating to an individual that contains primary or obvious identifiers such as the individual's name, street address, e-mail address, telephone number, and social security number.

3 New Paragraphs; Health Care Data Collection. Amend RSA 126:25 by inserting after paragraph III the following new paragraphs:

IV. Health care providers that provide core safety net services shall be required to submit health care data for each service provided to an uninsured person. The health care data shall include the following: the date of service, patient demographics, provider information, charge information, clinical diagnosis, and procedure codes. Neither the state nor its agents shall collect or otherwise obtain direct personal identifiers in connection with any health care data relating to uninsured individuals. For purposes of this section, "direct personal identifiers" includes information relative to an individual that contains primary or obvious identifiers such as the individual's name, street address, e-mail address, telephone number, and social security number.

V. Health care providers required to submit data shall include the following:

(a) Licensed hospitals, as defined in RSA 151-C:2, XX;

(b) Licensed health care providers, as defined by RSA 151-C:2, XXX, who are employed or legally controlled by a hospital with the exception of long-term care facilities, including, but not limited to, all physician practices that are owned or controlled by a hospital or a financial intermediary of a hospital;

(c) Federally qualified community health centers as defined by section 330 of the Public Health Service Act, 42 U.S.C. section 201 et seq.; and

(d) Nonprofit community health centers that provide comprehensive primary and preventive health care services to the state's uninsured and Medicaid populations regardless of the patient's ability to pay and that are governed by boards of directors that are at least 51 percent composed of the health center's patients.

4 New Chapter; Uninsured Health Care Database. Amend RSA by inserting after chapter 126-R the following new chapter:

CHAPTER 126-S UNINSURED HEALTH CARE DATABASE

126-S:1 Database Development and Use.

I. The commissioner of the insurance department and the commissioner of the department of health and human services shall enter into a memorandum of understanding for collaboration in the development of an uninsured health care database. The memorandum of understanding shall include a description of the uninsured database, the criteria and procedures for the collection and the release of the uninsured data set, the requirements for reporting information on the uninsured, and the sharing of the hospital discharge data set as described in RSA 126:25, I(d) and RSA 126:25, IV.

II. To the extent allowed by the Health Information Portability and Accountability Act (HIPAA), the data shall be available as a resource tool for policy analysts, insurers, legislators, employers, health care providers, purchasers of health care, and state agencies to review the uninsured population's utilization of health care, the cost of services provided to the uninsured, and the effect of that utilization on the commercial insurance market.

III. The uninsured health care database shall not include any data that contains direct personal identifiers. "Direct personal identifiers" shall include information relating to an individual that contains primary identifiers, such as the individual's name, street address, e-mail address, telephone number, and social security number.

IV. No provider shall be required to submit data until such time as the collection rules adopted pursuant to RSA 126-S:2 become effective.

126-S:2 Rulemaking Authority.

I. The release of the health care data shall be subject to the same requirements as the release of the commercial claims data collected under RSA 420-G:11-a. The commissioner of the department of health and human services shall amend the existing rules adopted pursuant to RSA 541-A relative to the release of commercial claims data to include the release of uninsured data.

II. The commissioner of the insurance department, in consultation with the commissioner of the department of health and human services, shall adopt rules under RSA 541-A relative to the collection and submission of uninsured health care data that shall address:

(a) The description of the data to be submitted.

(b) The submission schedule for providing the data.

(c) The contents of the data, which shall reflect data elements typically submitted to a commercial carrier on a CMS-1500 or UB-04 claim forms or any successor forms.

(d) The filing format to be used.

(e) The specific data elements for submission.

(f) The description of the data codes and sources.

(g) Procedures for providing incomplete data.

(h) Procedures and criteria for encrypting the data and ensuring that the data do not contain direct personal identifiers.

III. The commissioner shall ensure that the data collection rules adopted pursuant to this section provide licensed health care providers the following options for the submission of health care data for the uninsured:

(a) The submission of hospital discharge data by licensed health care providers under RSA 126:25, I(d) shall satisfy the data submission requirements set forth in RSA 126:25, IV; or

(b) Electronic data sets submitted by licensed providers of health care and licensed health care providers not subject to submission pursuant to the hospital discharge data set in RSA 126:25, I(d) shall contain the same or similar data elements as are required under the hospital discharge data set in RSA 126:25, I(d), and RSA 126:25, IV. The actual electronic format required for such data shall minimize the burden and costs to licensed providers of health care and licensed health care providers.

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

2009-0665s

AMENDED ANALYSIS

This bill requires hospitals, community health centers, and hospital-owned providers to submit data to the department of health and human services for any person who is uninsured and whose care is not paid for by a governmental program.

This bill also requires the commissioner of the insurance department and the commissioner of the department of health and human services to enter into a memorandum of understanding for collaboration in the development of a comprehensive uninsured health care database. The bill grants rulemaking authority to the commissioners for the purposes of the collaborative effort.

The question is on the adoption of Committee Amendment 0665s.

Committee Amendment 0665s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 147-FN.

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

Sen. Letourneau is in opposition to the Motion of Ought to Pass as Amended on SB 147-FN.

SB 167-FN, relative to employee leasing companies. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 5-0. Senator Cilley for the committee.

MOTION TO TABLE

Sen. Cilley moved SB 167-FN be laid on the table.

The question is on the motion to table SB 167-FN.

Motion adopted.

Sen. Gatsas asserts Rule 42 on SB 167-FN.

LAI D ON THE TABLE

SB 167-FN, relative to employee leasing companies.

SB 149, relative to the transition of functions and amending the reporting requirements of the community college system of New Hampshire. Education. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

Senate Education

March 4, 2009

2009-0579s

04/05

Amendment to SB 149

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

AN ACT relative to the transition of functions and amending the reporting requirements of the community college system of New Hampshire and making an appropriation therefor.

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

3 Appropriation. There is hereby appropriated the sum of \$1 for the biennium ending June 30, 2011 to the community college system of New Hampshire to carry out the provisions of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date.

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

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

2009-0579s**AMENDED ANALYSIS**

This bill:

I. Changes the effective date for the transition of certain functions within the community college system of New Hampshire from July 1, 2009 to July 1, 2011.

II. Provides that the commissioner of the department of education and the chancellor of the community college system of New Hampshire shall annually issue a joint report on the proposed use and distribution of federal vocational funds.

III. Makes an appropriation for the purposes of this act.

The question is on the adoption of Committee Amendment 0579s.

Committee Amendment 0579s adopted.

Sen. Carson asserts Rule 42 on SB 149.

The question is on the adoption of Ought to Pass as Amended on SB 149.

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

Sen. Carson asserts Rule 42 on SB 149.

SB 180-FN, establishing an accountability system to ensure the opportunity for an adequate education. Education. Ought to Pass with Amendment, Vote 5-0. Senator Kelly for the committee.

Senate Education

March 5, 2009

2009-0658s

04/09

Amendment to SB 180-FN

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

AN ACT establishing an accountability system to ensure the opportunity for an adequate education and repealing the legislative committee on costing an adequate education.

Amend RSA 193-E:3-a through 193-E:3-c as inserted by section 1 of the bill by replacing them with the following:

193-E:3-a Definitions. In this section:

I. "Commissioner" means the commissioner of the department of education.

II. "Department" means the department of education.

III. "Input-based school accountability system" means the certified narrative explanation describing how a school has demonstrated compliance with the school approval standards included in the opportunity for an adequate education required under RSA 193-E:3-b.

IV. "Performance-based school accountability system" means the scoring system required under RSA 193-E:3-b and implemented by the department in rules adopted pursuant to RSA 541-A, following consultation with the legislative oversight committee established in RSA 193-C:7.

V. "State board" means the state board of education.

193-E:3-b Accountability for the Opportunity for an Adequate Education. Beginning with the 2009-2010 school year, a school shall demonstrate that it provides the opportunity for an adequate education under RSA 193-E:2-a by meeting the requirements of paragraph I of this section. Beginning with the 2011-2012 school year, a school shall demonstrate that it provides the opportunity for an adequate education by meeting the requirements of either paragraph I or II of this section. Following the adoption of the performance-based accountability system as provided in RSA 193-E:3-c and RSA 193-E:3-d, the department shall evaluate all schools using both the input-based school accountability system under paragraph I of this section and the performance-based accountability system under RSA 193-E:3-c and RSA 193-E:3-d. A school that satisfies the requirements of either system shall be providing the opportunity for an adequate education.

I. A school may demonstrate, through the input-based school accountability system, that it provides the opportunity for an adequate education as set forth in RSA 193-E:2-a by establishing that it met the following school standards in effect as of the effective date of this section:

- (a) English/language arts and reading as set forth in Ed 306.37.
- (b) Mathematics as set forth in Ed 306.43.
- (c) Science as set forth in Ed 306.45.
- (d) Social studies as set forth in Ed 306.46.
- (e) Arts education as set forth in Ed 306.31.
- (f) World languages as set forth in Ed 306.48.
- (g) Health education as set forth in Ed 306.40.
- (h) Physical education as set forth in Ed 306.41.
- (i) Technology education, and information and communication technologies as set forth in Ed 306.42 and Ed 306.47.
- (j) School year as set forth in Ed 306.18.
- (k) Minimum credits required for a high school diploma as set forth in Ed 306.27(f) and (m).

II. Beginning with the 2011-2012 school year, a school may demonstrate that it provides the opportunity for an adequate education through the performance-based school accountability system to be developed and implemented by the department, pursuant to RSA 193-E:3-c and RSA 193-E:3-d and designed to measure educational outcomes.

III. In order to demonstrate that a school provides the opportunity for an adequate education through the input-based school accountability system under paragraph I:

(a) The commissioner shall require school officials to submit a narrative explanation detailing how the school has complied with each of the standards included in the opportunity for an adequate education contained in paragraph I. The school principal and school district superintendent shall certify in writing that the responses submitted are accurate. The commissioner shall develop a form which conforms to the provisions of this paragraph.

(b) The commissioner shall review the responses to each school's self-assessment required under this section and shall verify that the responses comply with the standards included in the opportunity for an adequate education specified under paragraph I.

(c) Schools that successfully demonstrate that they provide the opportunity for an adequate education through the input-based school accountability system for any year beginning with the 2009-2010 school year shall be required by the commissioner to resubmit the narrative explanations at least once every 2 years.

(d) Schools that are unable to demonstrate that they provide the opportunity for an adequate education through the input-based school accountability system for the 2009-2010 school year, or for any year thereafter, shall be required by the commissioner to resubmit the narrative explanations annually until such demonstration has been made.

(e) The commissioner shall integrate, to the maximum extent practicable, the input-based school accountability system to demonstrate the opportunity for an adequate education with the school approval process pursuant to RSA 21-N:6, V.

(f) Beginning September 1, 2012, the department shall annually conduct site visits at 10 percent of schools statewide to assess the validity of the input-based school accountability system and to determine whether those schools demonstrate the opportunity for an adequate education by meeting the school standards identified in paragraph I. To the extent feasible, the commissioner shall conduct these site visits together with other site visits conducted by the department for other purposes and programs. The commissioner may require more frequent site visits at schools which have been unable to demonstrate that they provide the opportunity for an adequate education. To the extent that the department conducts school site visits for other state and/or federal programs after the commencement of the 2009-2010 school year, but prior to September 1, 2012, the department shall, to the maximum extent practicable, endeavor to audit the input-based school accountability self-reporting completed by the visited school.

193-E:3-c Development of the Performance-Based Accountability System.

I. There is hereby established a task force to develop a performance-based school accountability system that, beginning with the 2011-2012 school year, will serve as one method a school may use to demonstrate that it is providing the opportunity for an adequate education. The commissioner shall be the chairman of

the task force and shall appoint no fewer than 9 and no more than 13 members of the task force which shall consist of department personnel, one or more representatives of a school district, educational experts, parents or guardians of a current public school pupil, members of a public interest group concerned with education, members of the business community, and other individuals with information or expertise of benefit to the task force's duties.

II. The task force shall have the following duties:

(a) Define the performance-based accountability system to be used by schools that will ensure the opportunity for an adequate education is maintained.

(b) Identify performance criteria and measurements.

(c) Establish performance goals and the relative weights assigned to those goals.

(d) Establish the basis, taking into account the totality of the performance measurements, for determining whether the opportunity for an adequate education exists, which may include the assignment of a value for performance on each measurement.

(e) Ensure the integrity, accuracy, and validity of the performance methodology as a means of establishing that a school provided the opportunity for an adequate education as defined in RSA 193-E:2-a.

III. The task force shall develop a performance-based scoring system using only the best available data and indicators which are already provided to the department and/or performance measures that schools are already required to provide the department under other state or federal law. In establishing the performance-based system, the task force may consider one or more of the following data and indicators:

(a) Performance on state tests administered pursuant to RSA 193-C and, upon the prior approval of the department, other assessments administered at local option that are consistent with the state's curriculum standards.

(b) Number and percentage of pupils participating in an advanced placement course.

(c) Number and percentage of graduating pupils going onto post-secondary education and military service.

(d) Attendance rates.

(e) Annual cumulative drop-out rates of high school pupils.

(f) School environment indicators, such as safe schools data.

(g) Expulsion and suspension rates, including in-school and out-of-school suspensions, which shall be reported for each school year.

(h) Number and percentage of classes taught by highly qualified teachers.

(i) Teacher and administrative turnover rates at the school and district levels.

IV. No later than November 1, 2009, the task force shall present its findings and recommendations for the performance-based accountability system to the legislative oversight committee established in RSA 193-C:7. After consultation with the committee, the department shall verify the integrity, accuracy, and validity of the performance-based accountability system utilizing actual school data as provided in RSA 193-E:3-d.

V. During the department's verification process, the task force may further evaluate and review whether there are any new or emerging performance measures, or modifications to the performance-based accountability system based upon the verification process that should be considered by the department for implementation beginning with the 2011-2012 school year. No later than January 1, 2011, the task force shall present any further recommendations regarding the performance-based school accountability system to the legislative oversight committee established in RSA 193-C:7. After consultation with the committee, the department shall adopt, pursuant to RSA 541-A, a performance-based accountability system for implementation in all schools beginning in the 2011-2012 school year.

VI. The department shall annually prepare a detailed report documenting the results of each school on the performance-based school accountability system to be developed pursuant to RSA 193-E:3-c, and identifying all schools that can demonstrate the opportunity for an adequate education through the performance-based methodology. The report shall be submitted no later than October 1 to the legislative oversight committee established in RSA 193-C:7. The initial report shall be due October 1, 2012.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Repeal. RSA 193-E:2-d, relative to legislative committee on costing an adequate education, is repealed.

2009-0658s**AMENDED ANALYSIS**

This bill establishes an accountability system to ensure schools are providing the opportunity for an adequate education and repeals the joint legislative oversight committee on costing an adequate education.

This bill is a request of the joint legislative oversight committee on accountability for an adequate education established in 2008, 173:13.

The question is on the adoption of Committee Amendment 0658s.

Committee Amendment 0658s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 180-FN.

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

CACR 10, relating to: electoral districts. Providing that: representative districts be apportioned within senate districts and that senate districts be apportioned within executive council districts and giving county boundaries priority in senate district apportionment. Election Law and Veterans' Affairs Committee. 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 CACR 10.

Motion of Inexpedient to Legislate adopted.

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. Election Law and Veterans' Affairs Committee. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Election Law and Veterans' Affairs

March 3, 2009

2009-0539s

01/09

Amendment to SB 57

Amend the bill by replacing section 1 with the following:

1 New Subparagraphs; Members Added. Amend 2008, 257:2, I by inserting after subparagraph (l) the following new subparagraphs:

- (m) A representative of the national guard, appointed by the adjutant general.
- (n) The commissioner of labor, or designee.
- (o) A representative of Vietnam veterans, appointed by the governor.

2009-0539s**AMENDED ANALYSIS**

This bill extends 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. The bill also adds members to the commission.

The question is on the adoption of Committee Amendment 0539s.

Committee Amendment 0539s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 57.

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

SB 28-FN, relative to annual dam registration fees for non-menace dams. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Cilley for the committee.

Energy, Environment and Economic Development

March 5, 2009

2009-0640s

06/09

Amendment to SB 28-FN

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

AN ACT relative to annual dam registration fees for non-menace dams and notification to dam owners of downstream development.

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

2 Board's Procedure on Plats; Identification of Upstream Dams. Amend RSA 676:4, I (b) to read as follows:

(b) The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board, with notice as provided in subparagraph (d). The applicant shall file the application with the board or its agent at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 477:45, and all abutters as indicated in the town records for incorporated towns or county records for unincorporated towns or unorganized places not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board. ***Since construction of any structure near streams or rivers downstream of a dam can increase the hazard classification of the dam established by the department of environmental services, the application shall identify the nearest dam upstream and include the name and address of the dam owners.***

3 Board's Procedures on Plats; Notification of Upstream Dam Owners. Amend RSA 676:4, I (d) to read as follows:

(d) Notice to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, ***upstream dam owners, the department of environmental services dam bureau,*** and the public shall be given as follows: The planning board shall notify the abutters, the applicant, holders of conservation, preservation, or agricultural preservation restrictions, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by certified mail of the date upon which the application will be formally submitted to the board. ***For those proposals near rivers and streams and downstream of a dam, the planning board shall also notify the owners of the upstream dam and the department of environmental services dam bureau by certified mail.*** Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall also be given at the same time by posting or publication as required by the subdivision regulations. The notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the planning board to terminate further consideration and to disapprove the plat without a public hearing.

2009-0640s

AMENDED ANALYSIS

This bill:

I. Exempts dams classified by the department of environmental services as non-menace dams from the annual dam registration fee.

II. Requires notification to owners of dams and the department of environmental services dam bureau of downstream development.

The question is on the adoption of Committee Amendment 0640s.

Committee Amendment 0640s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 28-FN.

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

SB 65-FN, relative to the acceptance of in lieu payments for the restoration or creation of wetlands. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Energy, Environment and Economic Development
March 5, 2009
2009-0642s
06/09

Amendment to SB 65-FN

Amend the bill by deleting section 6 and renumbering the original sections 7 through 10 to read as 6 through 9, respectively.

Amend RSA 482-A:30-a as inserted by section 7 of the bill by replacing it with the following:

482-A:30-a Payment for Stream or Shoreline Losses. For stream or shoreline resource losses, the in lieu payment shall be the sum of:

I. The cost that would have been incurred if a stream of the same type was restored at the ratios adopted by the department, based on a price of \$200 per linear foot of channel or bank impacts or both, to be adjusted at the beginning of the calendar year according to the annual simple rate of interest on judgments established by RSA 336:1; and

II. An administrative assessment equal to 10 percent of the amount in paragraph I.

Amend RSA 482-A:31, II as inserted by section 8 of the bill by replacing it with the following:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 *and RSA 482-A:30-a* which shall approximate the total cost of wetlands construction, *stream construction*, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of [5] **10** percent of the total cost shall be added as part of the calculation method.

The question is on the adoption of Committee Amendment 0642s.

Committee Amendment 0642s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 65-FN.

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

SB 73-FN, requiring state departments to reduce energy consumption and to make an annual report on their energy consumption reduction efforts. Energy, Environment and Economic Development Committee. Re-refer to committee, Vote 4-0. Senator Fuller Clark for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on SB 73-FN.

Motion of Re-refer to Committee adopted.

("Happy Birthday" was sung by the body in observance of the birthdays of Sen. Fuller Clark and Sen. Lasky.)

Luncheon Recess/Out of Recess.

AFTERNOON SESSION

COMMITTEE REPORTS, RESUMED

SPECIAL ORDER

President Larsen moved, without objection, that Commerce, Labor and Consumer Protection Committee legislation SB 89-FN, SB 144-FN and SB 170-FN which had been Special-Ordered from March 4th Session would be heard at the present time.

Commerce, Labor and Consumer Protection Committee

SB 89-FN, relative to unemployment overpayments.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business.

SB 89-FN, relative to unemployment overpayments. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 5-0. Senator DeVries for the committee.

Commerce, Labor and Consumer Protection
February 18, 2009
2009-0389s
08/09

Amendment to SB 89-FN

Amend RSA 282-A:75, III as inserted by section 2 of the bill by replacing it with the following:

III. Benefits are paid to a claimant [~~solely through error or inadvertence of the commissioner or his authorized representative~~] as provided in RSA 282-A:165, *II*.

The question is on the adoption of Committee Amendment 0389s.

Committee Amendment 0389s adopted.

Sen. Bragdon offered Floor Amendment 0722s.

Sen. Bragdon, Dist. 11
March 11, 2009
2009-0722s
01/04

Floor Amendment to SB 89-FN

Amend the bill by replacing section 1 with the following:

1 Overpayments. Amend RSA 282-A:165 to read as follows:

282-A:165 Overpayments.

I. Any person who has received any benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled or while [he] *the person* was disqualified from receiving benefits shall be liable to repay to the commissioner such benefits all of which shall be considered to be overpayments unless such benefits were received by [him] *the person* solely through error or inadvertence of the commissioner or his *or her* authorized representative as defined by the rules of the commissioner.

II. No such overpayment shall exist unless a determination has been made by [a certifying officer] *the commissioner or an authorized representative* setting forth the facts causing the creation of the overpayment and notice of such determination has been sent to the claimant who may appeal in the manner set forth in RSA 282-A:42-68. Such determination shall be made within 2 years of the weeks affected thereby *and shall include notice of the compromise process under RSA 282-A:29.*

[H-] *III.* The commissioner shall collect any overpayment created under this chapter by civil action in any manner provided for the collection of contributions in RSA 282-A:141-156 and shall withhold, in whole or in part as determined by the commissioner, any future benefits payable to the individual and shall credit such amount withheld against the overpayment until it is repaid in full.

2009-0722s

AMENDED ANALYSIS

This bill clarifies the issue of overpayments for certain recipients of unemployment compensation.

Recess/Out of Recess.

Floor Amendment 0722s withdrawn by Sen. Bragdon.

The question is on the adoption of Ought to Pass as Amended on SB 89-FN.

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

Senators Gatsas, Barnes, Carson, Roberge and Letourneau are in opposition to the motion of Ought to Pass as Amended on SB 89-FN.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 5-0. Senator Hassan for the committee.

Commerce, Labor and Consumer Protection
February 17, 2009
2009-0384s
08/09

Amendment to SB 144-FN

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

1 Unemployment Benefit Eligibility. Amend RSA 282-A:32, I(a)(3) to read as follows:

(3) The leaving of employment was necessary to protect the individual from domestic abuse, as defined in RSA 173-B:1 and in accordance with rules adopted by the commissioner, and the individual made all reasonable efforts to preserve the employment, and in addition:

(A) The individual relocated to escape the abuse; or

(B) The individual, due to changed circumstances, is able to return to the individual's employment, but the employer is unable to return the individual to the individual's job, or to comparable work, due solely to:

(i) A reduction in work force; or

(ii) Other economic conditions, and the individual did all things that a reasonably prudent person would have done to continue the employer-employee relationship or the possibility of reemployment during the period the individual was unable to work due to the domestic abuse; **or**

(4) The individual terminates employment because he or she has become unable to perform some or all of his or her job duties due to an illness or injury that is not work-related or due to pregnancy. Nothing in this section shall relieve an employer of the duty to provide reasonable accommodation as that term is defined by state or federal law.

2 Unemployment Compensation Trust Fund. RSA 282-A:75 is repealed and reenacted to read as follows:

282-A:75 Fund Chargeable. In assigning the charges for benefits to the account of the most recent employer under this subdivision, no benefits shall be charged to the account of an individual employer but shall be charged by the commissioner against the fund where:

I. Benefits are paid and are not chargeable against any employer's account in accordance with the provisions of RSA 282-A:42 and RSA 282-A:44-52;

II. Benefits are paid to a claimant solely through error or inadvertence of the commissioner or his or her authorized representative as provided in RSA 282-A:165;

III. Benefits are paid to an individual by reason of RSA 282-A:31, III,

IV. Benefits are paid to an individual by reason of RSA 282-A:32, I(a)(3); or

Benefits are paid to an individual by reason of RSA 282-A:32, I(a)(4).

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

The question is on the adoption of Committee Amendment 0384s.

Committee Amendment 0384s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 144-FN.

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

Senators Gatsas, Barnes, Roberge, Carson and Letourneau are in opposition to Motion of Ought to Pass as Amended on SB 144-FN.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 5-0. Senator Hassan for the committee.

Commerce, Labor and Consumer Protection
February 18, 2009
2009-0383s
08/09

Amendment to SB 170-FN

Amend RSA 282-A:31-b, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be in the department of employment security, a self-employment assistance program. Participants in the self-employment assistance program shall receive *an allowance in lieu of regular* benefits so long as participants meet the conditions established by this subdivision.

The question is on the adoption of Committee Amendment 0383s.

Committee Amendment 0383s adopted.

Sen. Bragdon offered Floor Amendment 0723s.

Sen. Bragdon, Dist. 11

March 11, 2009

2009-0723s

01/04

Floor Amendment to SB 170-FN

Amend RSA 282-A:31-b, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be in the department of employment security, a self-employment assistance program. Participants in the self-employment assistance program shall receive an allowance in lieu of regular benefits so long as participants meet the conditions established by this subdivision, and the unemployment trust fund balance is \$200,000,000 or more on September 30 of the preceding calendar year.

The question is on the adoption of Floor Amendment 0723s.

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

The following Senators voted Yes: Gallus, 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: 9 - Nays: 14

Floor Amendment 0723s failed.

The question is on the adoption of Ought to Pass as Amended on SB 170-FN.

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, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, Downing.

Yeas: 14 - Nays: 9

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

Senators Gatsas, Barnes and Carson are in opposition to SB 170-FN.

SB 101-FN-A, relative to the Cannon Mountain ski area. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 5-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 101-FN-A.

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

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

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

Yeas: 15 - Nays: 8

Motion of Inexpedient to Legislate adopted.

SB 107-FN, relative to the leasing of state-owned real estate on public waters. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 5-0. Senator Merrill for the committee.

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

Sen. Merrill offered Floor Amendment 0712s.

Sen. Merrill, Dist. 21

March 10, 2009

2009-0712s

10/05

Floor Amendment to SB 107-FN

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

1 New Section; Leasing of State-Owned Real Estate on Public Waters. Amend RSA 4 by inserting after section 39-c the following new section:

4:39-d Leasing of State-Owned Real Estate on Public Waters. Beginning January 1, 2010 the following shall apply to new leases:

I. Portions of real estate owned by the state that are on the shores of public waters, as defined by RSA 271:20, and managed by a state agency, except for the lands managed by the bureau of rail and transit in the department of transportation according to RSA 228:57-a, may be leased for private, non-commercial use by owners of adjacent residentially developed properties that are either fully constructed or for which owners can demonstrate incurring substantial liabilities in a reasonable good faith reliance on the absence of controlling law or regulation, known as vested rights, prior to January 1, 2011. The following shall constitute sufficient evidence of vested rights:

(a) The activities are specifically identified in a building permit application that has been approved by the appropriate municipal board or official with authority over building permits prior to January 1, 2011; or

(b) At a minimum, a concrete foundation, or its equivalent, for the primary structure was installed prior to January 1, 2011.

II. Any property owner meeting the requirements of this section may request in writing to be allowed to lease such property from the state. However, when the adjacent property is owned by more than one individual, such as a condominium association, the association, only as a single entity, may request the lease. In no case shall more than one access point to the leased property be allowed.

III. In addition to paragraph I, portions of real estate owned by the state and managed by a state agency that are on the shores of public waters as defined by RSA 271:20, may be leased by persons who can demonstrate the intent to provide a public use or benefit by utilizing the state land, provided the proposed lease is reviewed and approved by the long range capital planning and utilization committee and the governor and council and the lease is compliant with all statutory requirements for the use of the land.

IV. Leases shall be for a period of not more than 5 years.

V. Leases may be renewed after the initial lease period has expired, provided that the use of the leased property remains noncommercial and private, payments have been made by the lessee according to the lease, all statutory conditions are met, and the lessee is compliant with all state and federal permit requirements. Such lease renewals shall not be for more than 5 years at a time, unless extended by authorization of the long range capital planning and utilization committee and the governor and council. This paragraph shall apply to all lease renewals regardless of their date of origin.

2 Leasing of State-Owned Railroad Properties on Public Waters. Amend RSA 228:57-a to read as follows:

228:57-a Leasing Certain Portions of Railroad Properties.

I. Notwithstanding RSA 228:57, portions of real estate owned by the state and managed by the bureau of rail and transit in the department of transportation that are on the shores of public waters, as defined by RSA 271:20, may be leased for private, noncommercial use by owners of adjacent ***residentially developed*** properties ***that are either fully constructed or for which owners can demonstrate incurring substantial liabilities in a reasonable good faith reliance on the absence of controlling law or regulation,***

known as vested rights, prior to January 1, 2011, and that are separated from the shore only by the railroad land, as long as such use does not interfere with railroad operations. ***The following shall constitute sufficient evidence of vested rights:***

(a) The activities are specifically identified in a building permit application that has been approved by the appropriate municipal board or official with authority over building permits prior to January 1, 2011; or

(b) At a minimum, a concrete foundation, or its equivalent, for the primary structure was installed prior to January 1, 2011.

I-a. Any property owner meeting the requirements of this section may request in writing to be allowed to lease such property from the state. However, when the adjacent property is owned by more than one individual, such as a condominium association, the association, only as a single entity, may request the lease. In no case shall more than one access point to the leased property be allowed.

II. The provisions of RSA 4:40, requiring first offering the land for lease to political subdivisions, shall not apply to this section. However, leases shall continue to be approved by the long range capital planning and utilization committee, with advice from the council on resources and development, before final approval by the governor and council.

II-a. A lease agreement under this section for the sole purpose of installing a dock or mooring shall only be made subject to the acquisition by the lessee of a dock permit from the department of environmental services or a mooring permit from the department of safety, respectively. Such a lease agreement shall state that if the dock or mooring permit is denied or revoked, the lease shall be terminated.

III. Leases shall be for a period of not more than 5 years.

IV. For new leases or renewals of existing leases on and after January 1, 2010, the cost of the lease shall be ~~[\$25]~~\$30 per running foot per year, paid annually; ***provided, however, that the cost per running foot for such leases shall be adjusted by the department every 5 years according to the Consumer Price Index as determined by the Bureau of Labor Statistics.***

V. Leases may be renewed after the initial lease period has expired, provided that the use of the leased property has and will remain noncommercial and private, payments have been made by the lessee according to the lease, and the activity of the railroad remains at approximately the same level or lower. The cost for the lease shall be reviewed. Such lease renewals shall not be for more than 5 years at a time.

VI. The annual income from such leases shall be deposited into the special railroad fund established by RSA 228:68, and shall be appropriated to be expended as set forth in RSA 228:69.

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

The question is on the adoption of Floor Amendment 0712s.

Floor Amendment 0712s adopted.

The question is on the motion of Ought to Pass as Amended on SB 107-FN.

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

SB 139-FN, establishing a moratorium on the shoreland protection act and establishing a commission to study revision of the shoreland protection act. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 5-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 139-FN.

Recess/Out of Recess.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 139-FN.

Recess/Out of Recess.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 139-FN.

MOTION TO TABLE

Sen. Gallus moved SB 139-FN be laid on the table.

The question is on the motion to table SB 139-FN.

Motion failed.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 139-FN.

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

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

Yeas: 21 - Nays: 2

Motion of Inexpedient to Legislate adopted.

SB 164-FN-A, relative to the expansion and funding of northern New Hampshire's electrical transmission system, and establishing the northern New Hampshire electrical transmission system improvement fund. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 5-0. Senator Fuller Clark for the committee.

MOTION TO TABLE

Sen. Hassan moved SB 164-FN-A be laid on the table.

The question is on the motion to table SB 164-FN-A.

Motion adopted.

LAID ON THE TABLE

SB 164, FN-A, relative to the expansion and funding of northern New Hampshire's electrical transmission system, and establishing the northern New Hampshire electrical transmission system improvement fund.

SB 166-FN, relative to mineral extraction, mining, and reclamation in New Hampshire. Energy, Environment and Economic Development Committee. Re-refer to committee, Vote 4-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on SB 166-FN.

Motion of Re-refer to Committee adopted.

SB 168-FN, establishing the Coastal Watershed Alliance. Energy, Environment and Economic Development Committee. 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 SB 168-FN.

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

SB 64-FN, establishing a board of dental hygienists. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Fuller Clark for the committee.

Senate Executive Departments and Administration

March 5, 2009

2009-0629s

10/01

Amendment to SB 64-FN

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

AN ACT relative to increasing dental hygienist membership on the board of dental examiners, and establishing a study of the regulation of dental hygienists.

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

1 Statement of Purpose. The general court finds that the number of licensed dental hygienists in New Hampshire has grown at a far higher rate than the number of licensed dentists. The state and federal emphasis on prevention as the most efficient and cost-effective model for health care further highlights the growth, value, and recognition of the dental hygiene profession. The purpose of this act is to examine New Hampshire's current licensure and regulation of dental hygienists and bring it up to date. In addition, the membership of the board of dental examiners is expanded to better represent dental hygienists licensed to practice in the state.

2 Membership; Board of Dental examiners. Amend RSA 317-A: 2, to read as follows:

I. There shall be a board of dental examiners consisting of [9] **11** members; including 6 dentists, [2] **4** dental hygienists, and one public member, each to be appointed by the governor, with the approval of the council, to a term of 5 years. No member of the board shall be appointed to more than 2 consecutive terms. Only board members provided for in this paragraph shall have the authority to vote in board determinations.

3 Study Committee Established. There is established a committee to study the regulation of dental hygienists.

4 Membership and Compensation.

I. The members of the study committee 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.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the study committee.

5 Duties. The committee shall study the licensure and regulation of dental hygienists, and shall determine whether licensure and regulation of hygienists would be more appropriately carried out by an independent board of dental hygienists or by some other regulatory entity.

6 Chairperson; First Meeting. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the senate member. The first meeting of the committee shall be held within 30 days of the effective date of this section.

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

8 Independent Reports. The board of dental examiners and the New Hampshire Dental Hygienists' Association shall issue on or before December 1, 2009 independent reports to the senate executive departments and administration committee and the house executive departments and administration committee with an assessment commenting on the effectiveness of increased representation on the board of dental examiners by dental hygienists.

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

2009-0629s

AMENDED ANALYSIS

This bill adds 2 dental hygienist members to the board of dental examiners. The bill also establishes a committee to study the regulation of dental hygienists, and requires independent reports by the board of dental examiners and the New Hampshire Dental Hygienists' Association.

The question is on the adoption of Committee Amendment 0629s.

Committee Amendment 0629s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 64-FN.

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

SB 66-FN, relative to repealing the joint health council and changing the title of ARNPs. Executive Departments and Administration Committee. 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 SB 66-FN.

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

SPECIAL ORDER

President Larsen, without objection, moved that SB 68-FN be Special-Ordered to the end of today's Calendar.

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

SB 72-FN-L, consolidating cemetery boards of trustees in Nashua. Executive Departments and Administration Committee. Re-refer to committee, Vote 3-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on SB 72-FN-L.

Motion of Re-refer to Committee adopted.

SB 140-FN, relative to the practice of animal chiropractic care. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 4-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 140-FN.

Motion of Inexpedient to Legislate adopted.

SB 145-FN, relative to service on the retirement system board of trustees for certain board members. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator DeVries for the committee.

Senate Executive Departments and Administration

March 4, 2009

2009-0616s

10/05

Amendment to SB 145-FN

Amend RSA 100-A:14, III-a as inserted by section 1 of the bill by replacing it with the following:

III-a. No board of trustee member nominated by the New Hampshire state employees' association, the New Hampshire education association, the New Hampshire police association, or the New Hampshire state permanent firemen's association, shall be denied leave or time from his or her employer in order to attend the official meetings and official training meetings of the board of trustees provided that at least 2 weeks notice of such meetings has been given to the employer.

2009-0616s

AMENDED ANALYSIS

This bill provides that members of the retirement system board of trustees who are nominated from employee member organizations shall not be denied leave to attend meetings of the board provided notice is given to the employer.

The question is on the adoption of Committee Amendment 0616s.

Committee Amendment 0616s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 145-FN.

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

SB 163-FN-L, relative to powers of justices of the peace. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 3-1. Senator Carson for the committee.

Senate Executive Departments and Administration

March 4, 2009

2009-0554s

09/03

Amendment to SB 163-FN-LOCAL

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

AN ACT establishing a committee to study the powers of justices of the peace.

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

1 Committee Established. There is established a committee to study the powers of justices of the peace.

2 Membership and Compensation.

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

(a) One member of the senate judiciary committee, appointed by the president of the senate.

(b) Three members of the house of representatives, at least one of whom shall be a member of the house judiciary committee, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the current powers of justices of the peace and whether the powers of justices of the peace should be limited to administering oaths, performing marriage ceremonies, and acknowledging instruments.

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

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

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

2009-0554s

AMENDED ANALYSIS

This bill establishes a committee to study the powers of justices of the peace.

The question is on the adoption of Committee Amendment 0554s.

Committee Amendment 0554s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 163-FN-L.

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

SB 18-FN-A, increasing the staff and information technology responsibilities of the department of justice, charitable trust unit and establishing the charitable trust protection fund. Finance Committee. Inexpedient to Legislate, Vote 5-1. Senator D'Allesandro for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 18-FN-A.

Motion of Inexpedient to Legislate adopted.

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

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

SB 106-FN, establishing a program for mediation of civil writs in the district court and funding the program with a surcharge on the filing fee for civil writs. Finance Committee. Ought to Pass, Vote 6-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 106-FN.

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

SB 67-FN-A, relative to funding certain AIDS services organizations. Health & Human Services Committee. Ought to Pass with Amendment, Vote 4-0. Senator Gilmour for the committee.

Health and Human Services
March 3, 2009
2009-0543s
01/10

Amendment to SB 67-FN-A

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

1 Human Immunodeficiency Virus Prevention Program; Grants to AIDS Services Organizations. Amend 2007, 367:1 and 367:2 to read as follows:

367:1 Department of Health and Human Services; Human Immunodeficiency Virus Prevention Program. The department shall expend ~~[the sums of \$500,000 in the fiscal year ending June 30, 2008 and \$500,000 in the fiscal year ending June 30, 2009]~~ **50 percent of available AIDS appropriations** for the human immunodeficiency virus prevention program in the department of health and human services for the purchase of antiretroviral drugs. The department shall fund the program from funds appropriated to the department ~~[in the state operating budget in fiscal years 2008 and 2009]~~.

367:2 Department of Health and Human Services; Grants to AIDS Services Organizations. The department shall distribute ~~[to the specified agencies the total sum of \$500,000 in the fiscal year ending June 30, 2008 and the total sum of \$500,000 in the fiscal year ending June 30, 2009 for grants]~~ **the remaining 50 percent of AIDS appropriations** to the following AIDS services organizations: a Community Resource Network (ACORN) in Lebanon; AIDS Response-Seacoast in Portsmouth; AIDS Services for Monadnock in Keene; the Greater Manchester AIDS Project; and Southern New Hampshire HIV/AIDS Task Force in Nashua. The department shall fund said grants from funds appropriated to the department in the state operating budget ~~[in fiscal years 2008 and 2009]~~. The awarding of such grants to the specified agencies by the department of health and human services shall be on a per capita basis. The administration of these grants by the department of health and human services shall follow the procedures established by the Boston Public Health Commission AIDS Program, ~~[both for]~~ **as relate to** eligibility and billing.

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

2009-0543s

AMENDED ANALYSIS

This bill clarifies the funding for the human immunodeficiency virus prevention program within the department of health and human services and certain AIDS services organizations.

The question is on the adoption of Committee Amendment 0543s.

Committee Amendment 0543s adopted.

The question is on the motion of Ought to Pass as Amended on SB 67-FN-A.

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

SB 115, relative to eligibility for the healthy kids program. Health & Human Services Committee. Ought to Pass, Vote 5-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 115.

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

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

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

Yeas: 19 - Nays: 4

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

MOTION TO SUSPEND RULES

Sen. Hassan moved that the Rules of the Senate be suspended as to allow the Senate Policy Committees to act on the following Senate Bills after the Rule 48(e) Deadline:

SB 200-FN, Executive Departments and Administration Committee

SB 201-FN, Judiciary Committee

SB 202-FN-L, Public and Municipal Affairs Committee

SB 205-FN, Judiciary Committee

Rule 48(e): Thursday, March 5, 2009 - Deadline for Policy Committees to ACT on all Senate money bills, except bills exempted pursuant to Senate Rule 26(b).

The question is on the motion to Suspend Senate Rule 48(e).

Motion adopted by the necessary 2/3 vote.

SB 11, relative to procedures in certain landlord tenant actions. Judiciary Committee. 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 SB 11.

Motion of Inexpedient to Legislate adopted.

SB 22-FN, relative to criminal mischief of property with geological value. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Senate Judiciary

March 4, 2009

2009-0550s

04/01

Amendment to SB 22-FN

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

AN ACT relative to criminal mischief committed against natural geological formations which have been designated as natural landmarks.

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

1 Destruction of Property; Criminal Mischief. Amend RSA 634:2, VI to read as follows:

VI. Any person who is found guilty of criminal mischief under paragraph III of this section because he *or she* has vandalized, defaced, or destroyed any part of the "Old Man of the Mountain" *or any natural geological formation, site, or rock surface located on public property that has been designated by the state or federal government as a natural area or landmark* shall, notwithstanding RSA 651:2, be fined *up to a maximum of* \$1,000 and shall also make restitution to the state for any damage he *or she* has caused.

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

2009-0550s

AMENDED ANALYSIS

This bill would impose a fine on any person convicted of criminal mischief against a natural geological formation, site, or rock formation which has been designated as a natural area or landmark.

The question is on the adoption of Committee Amendment 0550s.

Committee Amendment 0550s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 22-FN.

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

SB 52, making technical corrections to laws relative to courts and court procedures. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Houde for the committee.

Senate Judiciary

March 4, 2009

2009-0551s

09/03

Amendment to SB 52

Amend the bill by deleting section 3 and renumbering the original sections 4-12 to read as 3-11, respectively.

Amend the bill by replacing section 11 with the following:

11 Effective Date.

I. Sections 8 and 9 of this act shall take effect 60 days after its passage.

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

The question is on the adoption of Committee Amendment 0551s.

Committee Amendment 0551s adopted.

The question is on the motion of Ought to Pass as Amended on SB 52.

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

SB 53, establishing professional guardians and removing the oath requirement in annual reports of the guardian. Judiciary Committee. 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 SB 53.

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

SB 103-FN, relative to prohibited sales of alcoholic beverages. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary

March 4, 2009

2009-0547s

05/03

Amendment to SB 103-FN

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

1 Alcoholic Beverages; Prohibited Sales. Amend RSA 179:5, I to read as follows:

I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or to *serve* an [intoxicated] individual ***who is visibly intoxicated or who a reasonable and prudent person would know is visibly intoxicated***. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the addressee shall sign a delivery receipt. In no case shall any section of this title be so construed as to permit sale of liquor or beverages in any so-called saloon or speakeasy.

2 Repeal. RSA 175:1, XXXVIII, relative to the definition of intoxicated individual, is repealed.

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

2009-0547s

AMENDED ANALYSIS

This bill limits the prohibition on providing alcoholic beverages to an individual to serving alcohol to an individual who is visibly intoxicated or who a reasonable and prudent person would know is visibly intoxicated.

The question is on the adoption of Committee Amendment 0547s.

Committee Amendment 0547s failed.

Sen. Reynolds offered Floor Amendment 0705s.

Sen. Reynolds, Dist. 2

March 10, 2009

2009-0705s

05/01

Floor Amendment to SB 103-FN

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

1 Alcoholic Beverages; Prohibited Sales. Amend RSA 179:5, I to read as follows:

I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to

a person under the age of 21 or [to] *serve* an [intoxicated] individual *who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated*. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the addressee shall sign a delivery receipt. In no case shall any section of this title be so construed as to permit sale of liquor or beverages in any so-called saloon or speakeasy.

2 Repeal. RSA 175:1, XXXVIII, relative to the definition of intoxicated individual, is repealed.

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

The question is on the adoption of Floor Amendment 0705s.

Floor Amendment 0705s adopted.

The question is on the motion of Ought to Pass as Amended on SB 103-FN.

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

SB 175-FN, increasing the fee for investigating the annulment of a criminal record. Judiciary Committee. 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 SB 175-FN.

Motion of Inexpedient to Legislate adopted.

MOTION TO REMOVE FROM THE TABLE

Sen. DeVries moved SB 93 be removed from the table.

The question is on the motion to remove SB 93 from the table.

Motion adopted.

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

Public and Municipal Affairs

February 19, 2009

2009-0428s

10/04

Amendment to SB 93

Amend RSA 674:39 as inserted by section 1 of the bill by replacing it with the following:

674:39 [Four] **Six**-Year Exemption.

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of [4] **6** years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 12 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the [4] 6-year exemption described in paragraph I. The planning board may, for good cause, extend the 12-month period set forth in paragraph I(a).

2009-0428s

AMENDED ANALYSIS

This bill increases the time period for a property to be exempt from subsequent planning board regulation from 4 to 6 years from the date of approval of a subdivision plat or site plan.

The question is on the adoption of Committee Amendment 0428s.

Committee Amendment 0428s failed.

Sen. DeVries offered Floor Amendment 0496s.

Sen. DeVries, Dist. 18

February 26, 2009

2009-0496s

10/04

Floor Amendment to SB 93

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

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

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

1 New Paragraph; Local Land Use Planning; Recorded Plans; Four Year Exemption; Additional Exemption Added. Amend RSA 674:39 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding the time limits established in paragraph I, every subdivision plat and site plan approved by the planning board on or after January 1, 2007 and prior to July 1, 2009 shall be allowed 36 months after the date of approval to achieve active and substantial development or building as described in paragraph I(a) and every subdivision plat and site plan approved by the planning board on or after July 1, 2005 and prior to July 1, 2009 shall be allowed 6 years after the date of approval to achieve substantial completion of the improvements as described in paragraph II.

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

2009-0705s

AMENDED ANALYSIS

This bill prohibits serving alcohol to an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated.

Floor Amendment 0496s adopted.

The question is on the motion of Ought to Pass as Amended on SB 93.

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

Recess/Out of Recess.

SB 82-FN, eliminating fees for plates and registration for certain veterans. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 82-FN.

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

SB 105-FN-A, relative to permit fees for certain vehicles. Transportation and Interstate Cooperation Committee. 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 SB 105-FN-A.

Motion of Inexpedient to Legislate adopted.

SB 154, naming a certain portion of route 18 in the town of Franconia in honor of Corporal Bruce McKay. Transportation and Interstate Cooperation Committee. Re-refer to committee, Vote 5-0. Senator Letourneau for the committee.

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

Motion of Re-refer to Committee adopted.

Sen. Carson is in opposition to the adoption of Re-refer to Committee on SB 154.

SB 186, relative to the establishment of a statewide transportation policy and a transportation advisory commission. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-2. Senator Kelly for the committee.

Transportation and Interstate Cooperation

March 5, 2009

2009-0652s

06/09

Amendment to SB 186

Amend RSA 241:3 as inserted by section 1 of the bill by replacing all after paragraph III with the following:

IV. The transportation advisory commission shall make a quadrennial report to the speaker of the house of representatives, president of the senate, the senate clerk, the house clerk, the chairpersons of the house transportation committee and public works and highway committee, the chairpersons of the senate transportation and interstate cooperation committee and capital budget committee, the governor, and the state library. The commission's first report shall be available for use by the public by March 1, 2011, prior to the convening of the governor's advisory commission on intermodal transportation, and every 4 years thereafter.

The question is on the adoption of Committee Amendment 0652s.

Committee Amendment 0652s adopted.

The question is on the motion of Ought to Pass as Amended on SB 186.

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

Sen. Letourneau is in opposition to the Motion of Ought to Pass as Amended on SB 186.

SB 146-FN-A, relative to liquor profits deposited into the alcohol abuse prevention and treatment fund. Ways and Means Committee. 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 SB 146-FN-A.

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

SB 169-FN, relative to games of chance and establishing a gaming oversight authority and video lottery gaming. Ways and Means Committee. Inexpedient to Legislate, Vote 5-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 169-FN.

MOTION TO TABLE

Sen. Gallus moved SB 169-FN be laid on the table.

The question is on the motion to table SB 169-FN.

Motion adopted.

Sen. Gatsas asserts Rule 42 on SB 169-FN.

LAI D ON THE TABLE

SB 169-FN, relative to games of chance and establishing a gaming oversight authority and video lottery gaming.

SB 179-FN-A-L, providing for the recovery of horse racing, and expanding gaming operations in the north country and at pari-mutuel locations. Ways and Means Committee. Ought to Pass, Vote 3-2. Senator D'Allesandro for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 179-FN-A-L.

MOTION TO TABLE

Sen. Bragdon moved SB 179-FN-A-L be laid on the table.

The question is on the motion to table SB 179-FN-A-L.

Motion adopted.

Sen. Gatsas asserts Rule 42 on SB 179-FN-A-L.

LAI D ON THE TABLE

SB 179-FN-A-L, providing for the recovery of horse racing, and expanding gaming operations in the north country and at pari-mutuel locations.

Sen. Janeway is in opposition to the Motion to Table SB 179-FN-A-L.

Recess/Out of Recess.

SB 181-FN-A, relative to the liquor commission and alcoholic beverages. Ways and Means Committee. Re-refer to committee, Vote 5-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee on SB 181-FN-A.

Motion of Re-refer to Committee failed.

Sen. Odell moved to Recommit to Committee.

Motion to Recommit to Committee adopted, SB 181-FN-A recommitted to Ways and Means Committee.

SB 182-FN-A, establishing a job creation credit against the business profits tax and the business enterprise tax for businesses manufacturing energy efficient products. Ways and Means Committee. Ought to Pass, Vote 5-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 182-FN-A.

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

SPECIAL ORDER

President Larsen, without objection, moved that SB 68-FN, having been Special-Ordered from earlier in today's Calendar, would be heard at this time.

SB 68-FN, relative to the use of state vehicles. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Senate Executive Departments and Administration

March 4, 2009

2009-0561s

08/04

Amendment to SB 68-FN

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

1 Use of State-Owned Passenger Automobiles. Amend RSA 21-I by inserting after section 19-f the following new section:

21-I:19-g Use of State-Owned Passenger Automobiles.

I. The department of administrative services shall determine for each 2-year budget cycle the minimum number of miles required to justify retaining a state-owned vehicle referred to as the break-even mileage. The break-even miles shall take into account operational costs, depreciation, and mileage reimbursement rates for use of personal vehicles as follows:

(a) Break-even mileage shall be calculated by summing average fixed and annual operating costs then dividing by the Internal Revenue Service reimbursement rate.

(b) Fixed costs shall include the average purchase price minus the average resale price divided by the average useful life of the vehicle. Average annual operating costs shall include: oil changes, repairs, tires, gasoline, insurance, and other miscellaneous costs, if any.

II. The department of administrative services shall make this determination by September 1st of the first year of each biennium. The break-even mileage shall only apply to vehicles in service by an agency for an entire fiscal year.

III. If state-owned passenger vehicles are assigned to a state agency and such vehicles on average are not used for travel at or above the break-even mileage requirement during such year, the director of plant and property management shall transfer a vehicle or vehicles and declare them surplus until the agency's re-computed average passenger vehicle mileage is at or above the break-even mileage. Average vehicle mileage shall be calculated by the total miles driven by an agency's passenger vehicles divided by the total number of passenger vehicles. An agency may within 60 days after the end of the fiscal year apply to the fiscal committee of the general court to retain such vehicle or vehicles. If such agency presents a clear and convincing case for the continued assignment of a vehicle or vehicles to the agency, the fiscal committee may permit the agency to retain a vehicle or vehicles. The director of plant and property management shall either sell or transfer the vehicle or vehicles declared to be surplus pursuant to a centralized state vehicle pool or to this section to any state agency having employees who travel more than the break-even mileage requirement as set by the department of administrative services and who are being reimbursed for travel in privately-owned vehicles. The term "agency" as used in this section includes a department, institution, board, division, and commission.

2 Repeal. 1981, 568:11, relative to use of state-owned automobiles, is repealed.

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

The question is on the adoption of Committee Amendment 0561s.

Committee Amendment 0561s adopted.

Sen. Bragdon offered Floor Amendment 0743

Sen. Gallus, Dist. 1

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Carson, Dist. 14

Sen. Gatsas, Dist. 16

Sen. Barnes, Dist. 17

Sen. Letourneau, Dist. 19

Sen. Downing, Dist. 22

March 11, 2009

2009-0743s

10/04

Floor Amendment to SB 68-FN

Amend RSA 21-I:19-g as inserted by section 1 of the bill by inserting after paragraph III the following new paragraphs:

IV. All permanently assigned passenger vehicles shall be approved by the governor and council by September 30, 2009 or such vehicles shall be declared surplus and the director of plant and property management shall transfer the vehicle or vehicles to a centralized state vehicle pool.

V. The provisions of paragraph IV shall not apply to law enforcement vehicles with the exception of those vehicles assigned to staff personnel or to any vehicles acquired with 100 percent federal funds.

VI. The state website shall provide an Internet link allowing state employees and the general public to report abuse of a state vehicle.

The question is on the adoption of Floor Amendment 0743s.

Floor Amendment 0743s adopted.

The question is on the motion of Ought to Pass as Amended on SB 68-FN.

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

HOUSE MESSAGE

The Clerk read the following House Message:

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 96, naming a bridge in Webster in honor of William Tracy.

SENATE CONCURS WITH HOUSE AMENDMENT

Sen. DeVries recommends concurrence.

The question is on the concurrence with the adoption of House Amendment 0437h on SB 96.

Motion of concurrence adopted, SB 96 adopted.

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

SB 22-FN, relative to criminal mischief committed against natural geological formations which have been designated as natural landmarks.

SB 28-FN, relative to annual dam registration fees for non-menace dams and notification to dam owners of downstream development.

SB 52, making technical corrections to laws relative to courts and court procedures.

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

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 64-FN, relative to increasing dental hygienist membership on the board of dental examiners, and establishing a study of the regulation of dental hygienists.

SB 65-FN, relative to the acceptance of in lieu payments for the restoration or creation of wetlands.

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

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

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

SB 80, establishing a committee to study requiring insurance coverage for services provided by athletic trainers.

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

SB 100-FN, relative to home improvement contracts.

SB 102-FN, relative to managed care and patient choice.

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

SB 106-FN, establishing a program for mediation of civil writs in the district court and funding the program with a surcharge on the filing fee for civil writs.

SB 107-FN, relative to the leasing of state-owned real estate on public waters.

SB 115, relative to eligibility for the healthy kids program.

SB 145-FN, relative to service on the retirement system board of trustees for certain board members.

SB 147-FN, relative to the data collection practices of health care providers and relative to the development of an uninsured health care database.

SB 149, relative to the transition of functions and amending the reporting requirements of the community college system of New Hampshire and making an appropriation therefor.

SB 163-FN-L, establishing a committee to study the powers of justices of the peace.

SB 168-FN, establishing the Coastal Watershed Alliance.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business.

SB 186, relative to the establishment of a statewide transportation policy and a transportation advisory commission.

ANNOUNCEMENTS

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.