

March 24, 2010  
Nos. 10-11

# STATE OF NEW HAMPSHIRE

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**Second Year of the 161<sup>st</sup> Session of the  
New Hampshire General Court**

**Legislative Proceedings**

## SENATE JOURNAL

**ADJOURNMENT – MARCH 17, 2010 SESSION  
COMMENCEMENT – MARCH 24, 2010 SESSION**

# SENATE JOURNAL 10 *(continued)*

*March 17, 2010*

## 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 1206**, adopting apple cider as the New Hampshire state beverage.

**HB 1216**, relative to the amount of the self-support reserve in child support cases.

**HB 1252**, relative to the duration of medical payments coverage under motor vehicle liability policies.

**HB 1291-FN**, relative to the fuel oil importation fee.

**HB 1335**, establishing a local option to authorize the governing body to set the interest rate on late and delinquent property tax payments, subsequent payments, and other unpaid taxes.

**HB 1366**, making certain technical corrections in the insurance laws.

**HB 1420**, relative to the calculation of child support.

**HB 1429**, establishing a committee to study the inclusion of universal design requirements in the state building code.

**HB 1461**, relative to the municipal regulation of the sale of martial arts weapons.

**HB 1554**, allowing municipalities to establish energy efficiency and clean energy districts.

**HB 1561-FN**, relative to off highway recreational vehicle registrations.

**HB 1620-FN-A**, establishing state park number plates.

**HB 1667-FN**, relative to possession of controlled substances obtained by valid prescription.

**HCR 28**, rescinding all requests by the New Hampshire legislature for a federal constitutional convention.

**HCR 29**, requiring the Congress of the United States of America to reaffirm its adherence to the Constitution of the United States regarding international agreements and treaties.

## INTRODUCTION OF HOUSE BILLS

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.*

**Motion adopted.**

## First and Second Reading and Referral

**HB 286-FN**, relative to life insurance form disapproval. (Commerce, Labor and Consumer Protection)

**HB 660-FN**, relative to the life settlements act. (Commerce, Labor and Consumer Protection)

**HB 681-FN**, relative to assessments for aquatic resource compensatory mitigation. (Energy, Environment and Economic Development)

**HB 1276-FN-L**, relative to investment of capital reserve funds. (Public and Municipal Affairs)

**HB 1279-FN-A**, relative to the licenses of mortgage bankers and mortgage brokers. (Commerce, Labor and Consumer Protection)

**HB 1291-FN**, relative to the fuel oil importation fee. (Ways and Means)

**HB 1315-FN**, relative to the employer's lien on damages and benefits recovered from third persons by employees who have received workers' compensation. (Commerce, Labor and Consumer Protection)

**HB 1355-FN**, relative to certain Medicaid appropriations. (Finance)

**HB 1380-FN**, relative to assessing fees by zoning boards of adjustment. (Public and Municipal Affairs)

**HB 1445-FN-A-L**, eliminating the meals and rooms tax on campsites. (Ways and Means)

**HB 1452-FN**, relative to commercial motor vehicle operation. (Transportation and Interstate Cooperation)

**HB 1472-FN-L**, relative to testimony by video teleconference. (Judiciary)

**HB 1488-FN**, relative to New Hampshire HealthFirst. (Commerce, Labor and Consumer Protection)

**HB 1508-FN**, relative to communications between offenders convicted of certain sexual assaults and the victims of the crime. (Judiciary)

**HB 1515-FN**, relative to the crime of official oppression. (Judiciary)

**HB 1516-FN-A**, relative to funding the Claremont, Colebrook, Milford, and Keene District Courts in fiscal year 2011. (Finance)

**HB 1517-FN**, establishing a DWI victim fatality sign program. (Transportation and Interstate Cooperation)

**HB 1518-FN**, increasing certain OHRV registration fees and fee for transfer of registration of an OHRV or snowmobile. (Ways and Means)

**HB 1535-FN**, relative to absentee voting, special elections, election returns, preservation of ballots, recounts, and the ballot law commission. (Election Law and Veterans' Affairs)

**HB 1541-FN**, prohibiting the sale of e-cigarettes to minors. (Commerce, Labor and Consumer Protection)

**HB 1548-FN**, relative to ambulatory surgical facilities under the law requiring reporting of hospital infections. (Health and Human Services)

**HB 1561-FN**, relative to off highway recreational vehicle registrations. (Transportation and Interstate Cooperation)

**HB 1568-FN-L**, relative to the definition of wars and conflicts for the purpose of determining eligibility for public assistance payments for burial expenses of veterans. (Election Law and Veterans' Affairs)

**HB 1569-FN**, relative to the salaries of certain unclassified positions. (Executive Departments and Administration)

**HB 1572-FN**, relative to the certification of integrated residential communities. (Health and Human Services)

**HB 1574-FN**, relative to retention of election records. (Election Law and Veterans' Affairs)

**HB 1586-FN**, relative to mandated benefits review. (Commerce, Labor and Consumer Protection)

**HB 1606-FN**, relative to state aid for wastewater and public water supply projects. (Finance)

**HB 1607-FN-A**, relative to the reasonable compensation deduction under the business profits tax. (Ways and Means)

**HB 1609-FN**, relative to current use and the land use change tax. (Energy, Environment and Economic Development)

**HB 1610-FN**, establishing a New Hampshire commission on Native American affairs and recognizing Native American residents of the state as a minority population in New Hampshire. (Executive Departments and Administration)

**HB 1620-FN-A**, establishing state park number plates. (Transportation and Interstate Cooperation)

**HB 1634-FN**, relative to assault by strangulation. (Judiciary)

**HB 1649-FN**, relative to health information and patient rights. (Health and Human Services)

**HB 1653-FN**, decriminalizing possession of one quarter of an ounce or less of marijuana. (Judiciary)

**HB 1655-FN**, relative to persons with mental illness and the corrections system. (Judiciary)

**HB 1667-FN**, relative to possession of controlled substances obtained by valid prescription. (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 11

*March 24, 2010*

The Senate reconvened at 10:00 a.m., a quorum being present.

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

In almost every religious tradition that I know of, breath plays an important role. In Christianity the *breath* of God, the Holy Spirit *breathes*, God *breathed* the Spirit into man; God *breathes* over the earth when the earth is being created in Genesis. In the Jewish tradition the *breath* of wisdom is the emanation from God. And in the Early Church people were ordained and consecrated by breath; a bishop would breathe into a leather bag and send it down a river and other people would get that bag and breathe onto the people who were being consecrated for some function. So breath is really important. And medically we know that with deep breath the heart slows and calms down, because it doesn't panic, thinking it's not got what it needs. And with shallow breath the heart speeds up and the brain slips away and it finds it hard to concentrate. So I would say, as I heard this morning about the day you're about to have – and it hasn't even begun yet, which stuns me; probably stuns you, too – but as you consider this day, I would encourage you, as your chaplain, to find your breath, to breathe deeply, to take moments away and breathe deeply; calm your heart, calm your mind, center your soul on the work you have to do; otherwise, you'll find a diminishing return, and we don't need that, there's too much at stake. Let us pray:

*God of our understanding, You breathe life into us as we are born into this world. You give us our breath and you take it away. While we have it, help us to breathe deeply, to center strongly, to think clearly as to lead well.*

*Amen*

Sen. Bragdon led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS AND PRESENTATIONS**

Sen. Hassan introduced Armand Blanchard from Seabrook, a student at Winnacunnet High School, serving as Senate Page for today's session.

Sen. DeVries introduced Brittany Paquette from Auburn, a student at Memorial High School in Manchester, serving as Senate Page for today's session.

Sen. Gilmour welcomed Jim Belanger, Hollis Town Moderator, a guest in the gallery.

Sen. Boutin introduced constituent guests from Dunbarton, Heather Radl and daughter Lindsay, visitors to the Senate.

Pres. Larsen introduced Chris Rynders, visiting representative of Granicus, an electronic media company in Georgia currently studying the software needs of state legislatures.

**PROPOSED AMENDMENT TO SENATE RULE 48**

**Sen. Reynolds moved adoption of Proposed Amendment to Senate Rule 48(g) as provided in today's calendar.**

**Proposed Amendment to Senate Rule 48**

Amend Senate Rule 48 by replacing (g) with the following:

48. Deadlines:

(g) Thursday, April 15, 2010 - Deadline for Policy Committees to ACT on all House money bills, except bills exempted pursuant to Senate Rule 26(b).

**Motion adopted by the necessary 2/3 vote.**

**COMMITTEE REPORTS  
SPECIAL ORDER**

**Without objection President Larsen moved to Special-Order SB 392-FN and SB 505-FN-A to the end of today's Session Calendar.**

**Commerce, Labor and Consumer Protection**

**SB 392-FN**, requiring public hearings when insurance companies set base rate increases.

**SB 505-FN-A**, establishing the New Hampshire health services cost review commission and continually appropriating a special fund.

**SPECIAL ORDER**

**SB 354-FN**, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-1. Senator DeVries for the committee.

**Sen. DeVries offered a floor amendment.**

**Sen. DeVries, Dist. 18**

**March 23, 2010**

**2010-1164s**

**05/10**

**Floor Amendment to SB 354-FN**

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

1 New Section; Housing Standards. Amend RSA 48-A by inserting after section 6 the following new section:

48-A:6-a Lien for Unpaid Fines.

I. Whenever a court of competent jurisdiction enters a fine against a property owner for violation of a housing code enacted pursuant to this chapter or for violation of the minimum standards set forth in RSA 48-A:14, the amount of said fine shall be a lien against the real property, and such lien, including as part thereof costs and necessary attorneys fees may be foreclosed upon order of the superior court pursuant to a petition for that purpose filed in said court. Such lien may be filed after 45 days following the entry of the fine.

II. Notice of said lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded by the registrar.

III. Such lien shall be subordinate to any mortgage, tax lien, or encumbrance of record filed prior to the municipality's lien.

IV. If the lien authorized by paragraph I is not satisfied within 120 days of the recording of the judgment in the registry of deeds in which the property is located, it may be foreclosed upon in accordance with the process in RSA 48-A:6.

2 New Section; Actions Against Tenants; Landlord Agent. Amend RSA 540 by inserting after section 1-a the following new section:

540:1-b Landlord's Agent Required.

I. An owner of restricted property, as defined in RSA 540:1-a, II, who resides within the state of New Hampshire, shall, within 30 days of becoming the owner or within 30 days of the effective date of this section, whichever occurs later, file a statement with the town or city clerk of the municipality in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the restricted property. Such person authorized to accept service may be the owner of the premises.

II. An owner of restricted property who resides outside the state of New Hampshire shall, within 30 days of becoming the owner or within 30 days of the effective date of this section, whichever occurs later, file a statement with the town or city clerk of the municipality in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the restricted property.

III. In any legal proceeding in which the property owner resides out of state and said owner fails to: (a) comply with paragraph II, and (b) appear in said proceeding, service of process pursuant to RSA 510:4 shall create a rebuttable presumption that such service was lawful and adequate. As used in this section the term "legal proceeding" includes, but is not limited to, any action at law or in equity or for the enforcement of any provision of RSA 48-A:14, or any housing code adopted by a municipality pursuant to RSA 48-A, or for the enforcement of any municipal health code, building code, or fire or life safety code. A municipality may establish a reasonable filing fee to cover the cost to the town or city clerk of maintaining a record of the filings required by this section.

IV. Any owner of restricted property who violates paragraph I or II of this section shall be subject to a \$1,000 civil penalty.

3 New Subparagraph; Actions Against Tenants; Exemption from Tenancy. Amend RSA 540:1-a, IV by inserting after subparagraph (e) the following new subparagraph:

(f) Vacation or recreational rental units under RSA 540-C.

4 Effective Date. This act shall take effect January 1, 2011.

#### **2010-1164s**

##### **AMENDED ANALYSIS**

This bill provides that a lien may be filed against rental property for unpaid building code violations. The bill also requires owners of restricted rental property to designate an agent for service of process.

**The question is on the adoption of Floor Amendment 1164s.**

**Floor Amendment 1164s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 354-FN.**

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

**Sen. Reynolds is in opposition to the motion of Ought to Pass on SB 354-FN.**

**SB 308**, relative to the price for filling prescriptions. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 3-1. Senator Reynolds for the committee.

**Commerce, Labor and Consumer Protection**

**March 18, 2010**

**2010-1123s**

**09/04**

##### **Amendment to SB 308**

Amend RSA 318:47-h, II as inserted by section 1 of the bill by replacing it with the following:

*II. Once it has settled a claim for filling a prescription for an enrollee or insured person and notified the pharmacy of the amount the pharmacy benefits manager or insurer will pay to the pharmacy for that prescription, the pharmacy benefits manager or insurer shall not lower the amount to be paid to the pharmacy by the pharmacy benefits manager or the insurer for such settled claim; provided, however, that this paragraph shall not apply if the claim was submitted fraudulently or with inaccurate or misrepresented information.*

**The question is on the adoption of Committee Amendment 1123s.**

**Committee Amendment 1123s adopted,**

**The question is on the motion of Ought to Pass as Amended on SB 308.**

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

**SB 332**, relative to recording requirements for mortgage and foreclosure notices. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 3-1. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 332.**

**Motion of Inexpedient to Legislate adopted.**

**SB 333**, relative to foreclosure conveyances and foreclosure consultants. Commerce, Labor and Consumer Protection Committee. Interim Study, Vote 6-0. Senator Cilley for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 333.**

**Motion of Refer to Interim Study adopted.**

**SB 336**, relative to payroll deductions. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 3-1. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 336.**

**Motion of Inexpedient to Legislate adopted.**

**Sen. Cilley is in opposition to the motion of Inexpedient to Legislate on SB 336.**

**SB 340**, relative to using credit rating for purposes of automobile and homeowner insurance. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 4-0. Senator Bragdon for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 340.**

**Motion of Inexpedient to Legislate adopted.**

**Sen. Cilley is in opposition to the motion of Inexpedient to Legislate on SB 340.**

**SB 352**, relative to student insurance. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-0. Senator Reynolds for the committee.

**Commerce, Labor and Consumer Protection**

**March 18, 2010**

**2010-1125s**

**06/03**

#### **Amendment to SB 352**

Amend RSA 415:18, I-a(e) as inserted by section 1 of the bill by replacing it with the following:

(e) A travel agency, or other organization that provides travel-related services, which organization shall be deemed the policyholder and which shall cover all persons for whom travel-related services are provided. Notwithstanding anything herein to the contrary, blanket accident and health coverage for travel-related services issued to a travel agency or to an organization that provides travel-related services may require individual applications or enrollment forms from covered persons and premium payments from covered persons, and the carrier may furnish each covered person with a summary of benefits.

**The question is on the adoption of Committee Amendment 1125s.**

**Committee Amendment 1125s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 352.**

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

**SB 374**, relative to the compensation of physician practices or other entities for providing medical information for workers' compensation purposes. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 4-0. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 374.**

**Motion of Inexpedient to Legislate adopted.**

**Sen. Cilley is in opposition to the motion of Inexpedient to Legislate on SB 374.**

**SB 401**, relative to the safety of retirement accounts. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 2-1. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 401.**

**Motion of Inexpedient to Legislate adopted.**

**SB 408**, relative to purchasing alliances. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 2-0. Senator Hassan for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 408.**

**A roll call was requested by Sen. Hassan, seconded by Sen. DeVries.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

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

**SB 420**, relative to the use of mail-order pharmacies for prescription drug benefits under accident and health insurance policies and plans. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 2-1. Senator DeVries for the committee.

**Commerce, Labor and Consumer Protection**

**March 18, 2010**

**2010-1124s**

**06/04**

#### **Amendment to SB 420**

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

AN ACT establishing a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

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

1 Study Committee Established; Meetings; Report.

I. There is established a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

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

IV. The committee shall study providing medications through the use of a pharmacy benefits management system for injured workers covered by the workers' compensation law, specifically evaluating issues concerning the dispensing of narcotics, a review of formularies, providing exceptions for "first fill" prescription needs, accreditation, and the involvement of employee utilization.

V. 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. Three members of the committee shall constitute a quorum.

VI. 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, 2010.

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



**2010-1124s****AMENDED ANALYSIS**

The bill establishes a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

**The question is on the adoption of Committee Amendment 1124s.**

**Committee Amendment 1124s failed.**

**Sen. Cilley offered a floor amendment.**

**Sen. Cilley, Dist. 6**

**March 23, 2010**

**2010-1158s****10/04****Floor Amendment to SB 420**

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

AN ACT relative to the use of mail-order pharmacies for prescription drug benefits under accident and health insurance policies and plans, and establishing a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

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

2 Study Committee Established; Meetings; Report.

I. There is established a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

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

IV. The committee shall study providing medications through the use of a pharmacy benefits management system for injured workers covered by the workers' compensation law, specifically evaluating issues concerning the dispensing of narcotics, a review of formularies, providing exceptions for "first fill" prescription needs, accreditation, and the involvement of employee utilization.

V. 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. Three members of the committee shall constitute a quorum.

VI. 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, 2010.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

**2010-1158s****AMENDED ANALYSIS**

This bill requires that insurers providing prescription drug benefits under accident and health insurance policies and plans allow the use of a pharmacy that is not a mail-order pharmacy. The bill also establishes a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

**The question is on the adoption of Floor Amendment 1158s.**

**Floor Amendment 1158s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 420.**

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

**SB 421**, relative to the laws regulating trusts and trust companies in New Hampshire. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 3-0. Senator Bragdon for the committee.

**Commerce, Labor and Consumer Protection**

**March 18, 2010**

**2010-1121s**

**08/04**

**Amendment to SB 421**

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

1 Purpose. The general court finds:

I. The market for trusts and fiduciary services across the nation is a rapidly growing sector of the nation's economy.

II. New Hampshire is uniquely positioned to provide the most attractive legal and financial environment for individuals and families seeking to establish and locate their trusts and investment assets.

III. This act will serve to continue New Hampshire's firm commitment to be the best and most attractive legal environment in the nation for trusts and fiduciary services, an environment that will continue to attract to our state good-paying jobs for trust and investment management, legal and accounting professionals, and other professionals to provide the support and infrastructure required to service this growing sector of the nation's economy.

2 New Chapter; Family Trust Companies. Amend RSA by inserting after chapter 392-A the following new chapter:

**CHAPTER 392-B**

**INCORPORATION AND MANAGEMENT OF FAMILY TRUST COMPANIES**

**392-B:1 Definitions.**

I. "Confidential information," with respect to a family trust company, includes the names of stockholders, members, or other owners; ownership information; capital contributions; addresses; business affiliations; findings of the bank commissioner through any examination or investigation of the bank commissioner; any information required to be reported or filed with the bank commissioner, any information that qualifies as any person's "nonpublic personal financial information" under Chapter V of the Gramm-Leach-Bliley Act of 1999 and the regulations implementing it; any information or agreement relating to any merger, consolidation, or transfer; any agreements or information relating to any relationship with a contracting trustee; and any other nonpublic information that, in the judgment of the bank commissioner, could be useful in connection with an act of bribery, extortion, identity theft, or terrorism.

II. "Designated relative" means the individual whose relationship to other individuals determines whether the individuals are family members under RSA 392-B:1, IV, or who is designated in the petition under RSA 392-B:5, I, or pursuant to RSA 392-B:23. The designated relative must be living and 18 years of age or older at the time the said petition or application for change in designated relative is filed with the bank commissioner.

III. "Family trust company" means a nondepository trust company that is organized under this chapter to engage in business with one or more family members, does not transact business with the general public, and is prohibited by its charter from making loans and accepting deposits.

IV.(a) "Family member" means the designated relative and:

(1) Any individual within the fifth degree of lineal kinship to the designated relative;

(2) Any individual within the ninth degree of collateral kinship to the designated relative;

(3) The spouse or former spouse of the designated relative and of any individual qualifying as a family member;

(4) A company controlled by one or more family members who shall possess, directly or indirectly, the power to direct or cause the direction of the management and policies of such company, whether through the ownership of voting securities, by contract, or otherwise;

(5) A trust established by a family member or by an individual who is not a family member if non-charitable beneficiaries who are family members represent a majority of interest in the trust;

(6) The estate of a family member; or

(7) A charitable foundation or other charitable entity created by a family member.

(b) For purposes of this paragraph, a legally adopted individual shall be treated as a natural child of the adoptive parents.

(c) For purposes of this paragraph, "lineal kinship" shall mean a family member who is in the direct line of ascent or descent from the designated relative. "Collateral kinship" shall mean a relationship that is not lineal, but stems from a common ancestor. Degrees are calculated by adding the number of steps from the designated relative through each person to the family member either directly in the case of lineal kinship or through the common ancestor in the case of collateral kinship.

(d) For purposes of this paragraph, no company, trust, charitable foundation, or other charitable entity shall qualify as a family member if the bank commissioner determines such entity was organized or operated for the purpose of evading the limitations of this chapter.

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

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

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

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

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

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

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

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

VI. "Organizational instrument" means the articles of agreement for a corporation or the certificate of formation for a limited liability company.

VII. "Transact business with the general public" means engaging in any sales, solicitations, arrangements, agreements, or transactions to provide trust business services, whether or not for a fee, to more than 15 natural persons that are not family members. In order for a person to be eligible to receive such trust business services, the person shall be:

(a) An employee of the family trust company or of a trust or company that is a family member; and

(b) Engaged principally in providing services to the family trust company or its fiduciary accounts.

392-B:2 Organizers. Except as provided in this section, 3 persons may subscribe to an organizational instrument in writing for the purpose of forming a family trust company and may, upon compliance with the provisions of this chapter, become a family trust company with all the powers and privileges and subject to all the duties, restrictions, and liabilities of a family trust company, as set forth in the general laws now or hereafter in force relating to such family trust companies. If a family trust company is being organized by a holding company that will directly or indirectly hold all of the shares or interests of the family trust company, or in connection with a reorganization of a family trust company into a holding company structure, then only the holding company or, if applicable, the subsidiary of the holding company that will hold all of the shares or interests of the family trust company, is required to subscribe to the organizational instrument.

392-B:3 Limited Liability Company. Notwithstanding RSA 304-C:7, I, or any other provision of law to the contrary, a family trust company subject to the regulation of the bank commissioner may be organized as a limited liability company with all the powers and privileges and subject to all the duties, restrictions, and liabilities of a corporate family trust company. A family trust company organized as a limited liability company shall have all the powers and privileges and, except as otherwise provided in this section, be subject to all the duties, restrictions, and liabilities of state laws applicable to a limited liability company. A family trust company organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a family trust company organized as a corporation. All managers and employees of a family trust company organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a family trust company organized as a corporation. Any reference to corporations, directors, officers, stockholders, or other like terms used to describe corporations in the statutes governing family trust company shall be construed to apply in the same manner to limited liability companies, managers, employees, members, or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instrument of a family trust company chartered as a limited liability company shall provide that its existence shall be perpetual, that the company shall be managed by managers, that no member of the company shall be individually liable for the debts of the company, other than to the extent of the member's investment therein and that any limitation on transferability of ownership interests shall exclude any transfer required by lawful order of the bank commissioner.

392-B:4 Organizational Instrument. Said organizational instrument shall set forth that the organizers thereto associate themselves with the intention of forming a family trust company, and shall specifically state:

- I. The name by which the family trust company shall be known.
- II. The purpose for which it is formed, including an exclusion from taking deposits and making loans.
- III. The name of the registered agent and the address of the registered office.

IV. Any other provisions consistent with the requirements of RSA 293-A if the family trust company is in corporate form or RSA 304-C if the family trust company is in limited liability form.

392-B:5 Petition.

I. Said organizers may file a petition requesting that the bank commissioner grant a charter for a family trust company. Such petition shall be made in the form prescribed by the bank commissioner, together with all other information required by the bank commissioner to be submitted with the petition, and shall be signed by the organizer or organizers, as the case may be. The petition shall state that the family trust company or proposed family trust company will not transact business with the general public without the approval of the bank commissioner and shall state the name of the designated representative whose relationship to other individuals determines whether the individuals are family members under RSA 392-B:1, IV. An examination fee of \$10,000 shall be paid when the petition is filed. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

II.(a) Except as otherwise provided in this chapter, a family trust company shall be subject to the provisions of Title 35 in the same manner and to the same extent as a nondepository trust company, unless expressly exempted by the bank commissioner pursuant to this paragraph.

(b) A family trust company or proposed family trust company may request in writing, in the form required by the bank commissioner, that it be exempted from any provision of Title 35. The bank commissioner may grant or deny the exemption request in whole or in part. The bank commissioner also may issue rules, orders, or declaratory rulings granting exemptions to all family trust companies, or to family trust companies that meet specified conditions.

(c) The bank commissioner may examine or investigate the family trust company or proposed family trust company in connection with the request for exemption. Unless the application presents novel or unusual questions, the bank commissioner shall approve or deny the application for exemption no later than the 61st day after the date the bank commissioner considers the petition complete and accepted for filing. The bank commissioner may require the submission of additional information in order to make an informed decision to approve or reject the proposed exemption.

(d) Any exemption granted under the provisions of this section may be made subject to conditions or limitations imposed by the bank commissioner consistent with this chapter, and those conditions or limitations shall be included in an order.

(e) Rules, orders, or declaratory rulings of the commissioner may provide for other circumstances that justify exemption from any of the specified provisions of Title 35, specifying the provisions that are subject to the exemption request, and establishing procedures and requirements for obtaining, maintaining, or revoking exemptions.

III.(a) The bank commissioner may complete a background investigation and criminal history records check on the person or group of persons acting in concert who propose to acquire or hold directly or indirectly 10 percent or more of the beneficial ownership or control of the family trust company, new officers and directors and any person in a similar position or performing similar functions. If any such person is a subsidiary of another company, the banking department may complete a background investigation and criminal history records check on the individuals who are the indirect owners.

(b) If required by the bank commissioner, the persons described in subparagraph (a) shall submit to the banking department a notarized criminal history records release form, as provided by the New Hampshire division of state police, which authorizes the release of the person's criminal records, if any. The person shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the bank department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the banking department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

(c) The bank commissioner shall submit the criminal history records release form to the New Hampshire division of state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the banking department. The banking department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(d) The bank commissioner may require the incorporators to pay the actual costs of each background investigation and criminal history records check.

(e) The bank commissioner may make further inquiry and investigation as the bank commissioner deems appropriate.

IV. Upon receipt of a petition deemed to be complete by the bank commissioner, the bank commissioner shall promptly conduct an examination of all relevant facts connected with the formation of the proposed family trust company. The bank commissioner may examine the following factors:

(a) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate.

(b) Whether the proposed officers and directors or managers, as a group, have sufficient experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the proposed family trust company will be free from improper or unlawful influence and otherwise will operate in compliance with law, and that success of the proposed family trust company is reasonably probable.

(c) Whether the proposed name of the proposed family trust company is likely to mislead the public as to its character or purpose or is the same as a name already adopted by an existing bank, savings association, or trust institution in this state, or so similar thereto as to be likely to mislead the public.

(d) Any other factor, as the commissioner may deem appropriate.

V. The commissioner may make further inquiry and investigation as the commissioner deems appropriate. Notwithstanding any other law to the contrary, information bearing on actual or proposed accounts of the family fiduciary services company or proposed family fiduciary services company applying for the exemption or the identity or residence address of the designated relative or any other family member shall be confidential and not subject to public disclosure.

VI. The failure of a petitioner to furnish required information, data, other material, or the required fee within 30 days after a request may be considered an abandonment of the petition.

VII. Any application not deemed complete may be rejected by the bank commissioner. A rejected application may be refiled with the bank commissioner upon such form and in such manner as prescribed by the bank commissioner and a refiling fee of \$10,000 shall be paid.

392-B:6 Investigation. For the purpose of any investigation under this chapter, the bank commissioner shall have the power to subpoena witnesses and administer oaths in any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to its investigation.

392-B:7 Decision.

I. In deciding whether or not to grant the petition, the bank commissioner shall consider the information set forth in RSA 392-B:5, IV. Upon reaching his or her decision, the bank commissioner shall make a record thereof. If the petition is denied, it shall be dismissed and no new petition concerning the same company shall be filed within one year thereafter.

II. If the bank commissioner determines that the petition does not meet the requirements of RSA 392-B:5, IV by the exercise proposed by the family trust company of all the powers and privileges which are included in the petition, but that the same would be satisfied by the exercise of a part thereof, he or she shall notify the petitioners; and in such case, the petitioners may have leave to withdraw, and may at once file another petition setting forth new organizational documents, upon which the same procedure shall be conducted as upon the original petition.

III. A petition of the organizers for a charter for the proposed family trust company shall be exempt from any notice, objection, or hearing requirements otherwise applicable to nondepository trust companies.

392-B:8 Confidentiality.

I. All confidential information received in connection with any filing by or concerning a family trust company shall be confidential communications, shall not be subject to subpoena, and shall not be made public unless, in the judgment of the bank commissioner, the ends of justice and the public advantage will be served by the publication of the information.

II. The bank commissioner shall give to the affected family trust company 10 days prior written notice of intent to disclose confidential information directly or indirectly to the public. Any family trust company which receives a notice may object to the disclosure of the confidential information and shall be afforded the right to a hearing in accordance with the provisions of RSA 383. If a family trust company requests a hearing, the bank commissioner may not reveal confidential information prior to the conclusion of the hearing and a ruling. Prior to dissemination of any confidential information, the bank commissioner shall require a written agreement not to reveal the confidential information by the party receiving the confidential information. In no event shall the bank commissioner disclose confidential information to the general public, any competitor, or any potential competitor of a family trust company.

III. Nothing in this chapter shall be construed to preclude a law enforcement officer from gaining access to otherwise confidential records by subpoena, court order, search warrant, or other lawful means. The bank commissioner may share information with other out of state or federal regulators with whom the department has an information sharing agreement. Nothing in this chapter shall be construed to preclude any agency of the state of New Hampshire from gaining access to otherwise confidential records in accordance with any applicable law, including in connection with an investigation or review of the secretary of state conducted in accordance with RSA 421-B.

IV. Notwithstanding any other law to the contrary, information bearing on actual or proposed accounts of the family trust company or proposed family trust company applying for a charter or the identity or residence address of the designated relative or any other family member shall be confidential and not subject to public disclosure.

392-B:9 Organizers' Powers. The organizer or organizers of a family trust company in organization shall hold the franchise until the organization has been completed.

392-B:10 Organization. The organizer or organizers shall meet in person or by written consent to organize the family trust company, to adopt bylaws if the company is a corporation or an operating agreement if the company is a limited liability company and to elect, or cause to be elected, such directors or managers and officers as may be required by the organizational instrument, bylaws or operating agreement. All directors, managers, and officers so elected shall be sworn to the faithful performance of their duties. A temporary secretary shall make and attest a record of the proceedings until the secretary has been chosen and sworn, including a record of such choice and qualification.

392-B:11 Certificate. A majority of the directors or managers shall sign and make oath to a certificate setting forth:

I. A true copy of the organizational instrument, the names and business post office address of the organizer or organizers thereof, and the name and business post office address of the directors, managers, and officers of the family trust company.

II. The date on which such action was taken.

III. A copy of the records.

392-B:12 Approval. Such certificate shall be submitted to the bank commissioner, who shall examine the same, and who may require such amendment thereof or such additional information as he or she may consider necessary. If he or she finds that the certificate is consistent with the decision pursuant to RSA 392-B:7 and that the proceedings in other respects conform to the provisions of this chapter, he or she shall so certify and indorse his or her approval upon said certificate and the organizational instrument.

392-B:13 Record of Organizational Instrument. Within 90 days after a favorable decision pursuant to RSA 392-B:7, the articles of agreement or certificate of formation of the family trust company shall be filed with the secretary of state. The secretary of state, upon payment of a fee equal to the fee charged by the secretary of state to business corporations under RSA 293-A if the family trust company is a corporation or the fee charged to limited liability companies under RSA 304-C if the family trust company is a limited liability company, shall cause the same, with the indorsement thereon, to be recorded.

392-B:14 Certificate of Organization. The secretary shall thereupon issue a certificate of organization in the following form:

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Be it known, that whereas (the names of the organizers of the family trust company) have associated themselves with the intention of forming a family trust company under the name of (the name of the family trust company), for the purpose (the purpose declared in the organizational instrument), and have complied with the provisions of the statutes of this state as duly approved by the bank commissioner and recorded in this office: Now, therefore, I (the name of the secretary), secretary of state, do hereby certify that said (the names of the organizers of the family trust company), and their successors, are legally organized and established as, and are hereby made, an existing family trust company under the name of (name of family trust company), with the powers, rights, and privileges, and subject to the limitations, duties, and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the seal of the state hereunto affixed, this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ (the date of the filing of the organizational instrument).

The secretary of state shall sign the certificate of organization and cause the seal of the state to be affixed thereto, and such certificate shall have the force and effect of a special charter.

392-B:15 Certificate or Record as Evidence. The secretary of state shall also cause a record of the certificate of organization to be made, and such certificate, or such record or a certified copy thereof, shall be conclusive evidence of the existence of such family trust company.

392-B:16 When Organized; Beginning Business. The existence of such family trust company shall begin upon the filing of the organizational instrument with the secretary of state. Any family trust company organized under this chapter shall begin business within 2 years from the date of its organization; otherwise its charter shall be void, unless the bank commissioner, for good cause shown, shall grant one extension for not more than one year.

392-B:17 List of Owners. When all of the initial investment in the capital of the family trust company has been paid, a complete list of the investors, with the name and post office address of each, and the number of shares or interests held by each, shall be filed with the bank commissioner, which list shall be verified by one or more officers of the family trust company. If there is any change in the information contained in the list, the family trust company shall file with the commissioner a revised list within 60 days of the change.

392-B:18 Authorizing Business. Upon receipt of such list, the bank commissioner shall cause an examination to be made; and if, upon such examination, it appears that the required capital has been paid to the family trust company in cash, and that all requirements of law have been complied with, the bank commissioner shall issue a certificate authorizing such family trust company to begin the transaction of business. The cost of such examination shall be paid by the family trust company and shall be limited to a per diem charge for

overall compensation costs, including the benefits portion thereof, and expenses as determined by the bank commissioner, provided, however, that no such family trust company shall be charged or pay for less than one full day. Sums collected under this section shall be payable and credited in accordance with the procedure established under RSA 383:11.

392-B:19 Unauthorized Acts. The transaction of business by such family trust company prior to the issuance of a certificate of authority to engage in business issued by the bank commissioner as required by RSA 392-B:18 shall make the organization void; and in such case the organizers shall be liable as partners for the contracts, debts, and engagements of the company.

392-B:20 Minimum Capital Requirements; Investment of Capital.

I. The initial capital required to organize a family trust company shall be not less than \$250,000. The bank commissioner may require, in the exercise of its discretion based on safety and soundness factors, as set forth in paragraph IV, additional capital at such levels as it determines is necessary to protect against the risks inherent in the business of the family trust company. Once organized, a family trust company shall maintain a minimum level of capital required by the bank commissioner to operate in a safe and sound manner based upon his or her examination of the company, provided that the level of capital shall not be less than \$250,000. The bank commissioner may, by rule, order, or declaratory ruling set liquidity requirements for such capital. The bank commissioner may require any family trust company to increase its capital funds from time to time as may be necessary to comply with reasonable trust standards, as applicable, not inconsistent with law.

II. A family trust company shall pledge to the bank commissioner securities or a surety bond for the benefit of the bank commissioner to defray the costs of a liquidation of the family trust company by the bank commissioner in the event it should fail. The amount of the securities or the surety bond shall be determined by the bank commissioner in an amount that he or she deems appropriate to defray such costs, but in no event shall exceed \$1,250,000. In the event of a receivership of a family trust company, the bank commissioner may, without regard to any priorities, preferences, or adverse claims, reduce the pledged securities or the surety bond to cash and, as soon as practicable, utilize the cash to defray the costs associated with the receivership. If the family trust company chooses to pledge securities to satisfy this provision, the securities shall be held at a depository institution or a Federal Reserve Bank approved by the bank commissioner. The bank commissioner may specify the types of securities that may be pledged. Any fees associated with holding such securities shall be the responsibility of the family trust company. If the family trust company chooses to purchase a surety bond to satisfy this provision, the surety bond shall be issued by a bonding company, approved by the bank commissioner, that is authorized to do business in this state and that has a rating in one of the 3 highest grades as determined by a national rating service. The surety bond shall be in a form approved by the bank commissioner. The family trust company may not obtain a surety bond from any entity in which the family trust company has a financial interest.

III. The safety and soundness factors to be considered by the bank commissioner in the exercise of his or her discretion include:

- (a) The nature and type of business proposed to be conducted.
- (b) The nature and liquidity of assets proposed to be held in its own account.
- (c) The amount of fiduciary assets projected to be under management.
- (d) The type of fiduciary assets proposed to be held and the proposed depository of the assets.
- (e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken.
- (f) The competence and experience of proposed management.
- (g) The extent and adequacy of proposed internal controls.
- (h) The proposed presence or absence of annual unqualified audits by an independent certified public accountant.
- (i) The reasonableness of business plans for retaining or acquiring additional equity capital.
- (j) The existence and adequacy of insurance proposed to be obtained by the family trust company for the purpose of protecting its clients, beneficiaries, and grantors.

IV. Based on the factors in paragraph III, the bank commissioner may require any family trust company to increase its capital funds from time to time as may be necessary for its safe and sound operation.



V. Notwithstanding any other provisions of law to the contrary, a family trust company may invest its funds for its own account in any type or character of equity securities or debt securities subject to the limitations provided by this section, which investments shall otherwise comply with the prudent investor standard described in RSA 564-B:9-902.

VI. Subject to paragraphs VIII and IX, the total investment in equity and investment securities of any one issuer, obligor, or maker held by a family trust company for its own account shall not exceed an amount equal to 15 percent of the family trust company's equity capital. The bank commissioner may authorize investments in excess of this limitation if the bank commissioner concludes that the safe and sound operation of a family trust company would not be adversely affected by a proposed investment exceeding this limitation.

VII. In calculating compliance with the investment limits set forth in paragraph VI, a family trust company shall not be required to combine:

(a) The family trust company's pro rata share of the securities of an issuer in the portfolio of a collective investment vehicle with the family trust company's pro rata share of the securities of that issuer held by another collective investment vehicle in which the family trust company has invested; or

(b) The family trust company's own direct investment in the securities of an issuer with the family trust company's pro rata share of the securities of that issuer held by collective investment vehicles in which the family trust company has invested under the provisions of this section.

IX. Notwithstanding paragraph VII, a family trust company may purchase for its own account, without limitation and subject only to the exercise of prudent judgment:

(a) Bonds and other general obligations of a state, an agency, or political subdivision of a state, the United States, or an agency or instrumentality of the United States.

(b) A debt security that this state, an agency or political subdivision of this state, the United States, or an agency or instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee.

(c) Securities that are offered and sold under 15 U.S.C. section 77d(5).

(d) Mortgage-related securities as defined in 15 U.S.C. section 78c(a).

(e) Investment securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the Federal Agricultural Mortgage Association, or the Federal Farm Credit Banks Funding Corporation; and

(f) Investment securities issued or guaranteed by the North American Development Bank.

X. The bank commissioner may allow a family trust company to make other investments of its corporate funds not specified in this chapter by rules, orders, or declaratory rulings.

#### 392-B:21 Management.

I. A family trust company shall have a board of not less than 3 directors, trustees, or managers who need not be residents of New Hampshire or the United States, unless the bank commissioner shall issue an order requiring directors, trustees, or managers to be residents or citizens of the United States, based on a finding that the safety and soundness of such family trust company is likely to be impaired, but in no event shall the bank commissioner require more than one director or manager to be a resident.

II. The board of directors, trustees, or managers of a family trust company shall meet on a regular basis as often as necessary but not less than 4 times per year, unless the bank commissioner shall issue an order requiring directors, trustees, or managers to meet more frequently, based on a finding that the safety and soundness of such family trust company is likely to be impaired.

III. Unless otherwise provided in its organizational instrument or other agreements, a board of directors, trustees, or managers of a family trust company in the exercise of its sound discretion may permit any or all directors, trustees, or managers to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all of the directors, trustees, or managers participating may simultaneously hear each other during the meeting. A director, trustee, or manager participating in a meeting by this means is deemed to be present in person at the meeting.

IV. The board of directors, trustees, or managers of a family trust company shall have the power to establish such committees and such officers with such titles as may be necessary for transaction of the business of the family trust company and as may be permitted under the laws of this state.

**392-B:22 Annual Certification.** To maintain its status as a family trust company and to maintain any exemptions from the provisions of this title granted by the bank commissioner, a family trust company shall file with the bank commissioner an annual certification that it is in compliance with the provisions of this chapter and the conditions and limitations of all granted exemptions. This annual certification shall be filed in the form required by the bank commissioner and accompanied by a fee of \$100. The annual certification shall be filed on or before December 31 of each year. The bank commissioner may examine or investigate the family trust company periodically as necessary to verify the certification.

**392-B:23 New Designated Relative.** No more than once every 10 years after its organization, the family trust company may designate, in any annual certification, a new designated relative meeting the requirements of RSA 392-B:5, I to be effective on January 1 of the following year, provided that the family trust company, in addition to the certification required in RSA 392-B:21, certifies: (a) that such individual designated as the new designated relative qualified as a family member as of the date of the certification, and (b) that as of the effective date of the new designation, the family trust company will be in compliance with the provisions of this chapter and the conditions and limitations of all exemptions granted. A designation of a new designated relative in accordance with this paragraph shall be accompanied by a fee of \$1,000. No former family member who is rendered ineligible to receive services as a family member as a result of the designation of the new designated relative shall continue to receive services as a family member from the family trust company on or after the effective date of the new designation.

**392-B:24 Termination of Exemption.**

I. If any transaction involving a family trust company requires an application to the bank commissioner for approval under this chapter, and such approval is not obtained prior to consummation of such a transaction, any exemption from the provisions of Title 35 granted to the family trust company shall automatically terminate upon the consummation of the unapproved transaction unless the bank commissioner approves the continuation of the exemption.

II. The bank commissioner may revoke any exemption from the provisions of Title 35 granted to a family trust company in the following circumstances:

(a) An officer or director of the family trust company makes a false statement under oath on any document required to be filed by this chapter or by any rules or orders of the bank commissioner;

(b) The family trust company fails to submit to an examination by the bank commissioner as required by law;

(c) An officer or director of the family trust company withholds requested information from the bank commissioner;

(d) The family trust company violates any provision of this chapter or fails to meet any condition on which the exemption is based; or

(e) The family trust company refuses to comply with any rule or order of the bank commissioner.

III. If the bank commissioner determines from examination or other credible evidence that a family trust company has violated any of the requirements of Title 35 or fails to meet any condition or limitation on which an exemption from the provisions of Title 35 is based, the bank commissioner may, by personal delivery or registered or certified mail, return receipt requested, notify the family trust company that the family trust company's exemptions from the provisions of Title 35 will be revoked unless the family trust company corrects the violation or failure or shows cause why any exemptions should not be revoked. The notification shall state grounds for the revocation with reasonable certainty and shall advise of an opportunity for a hearing. The notice shall state the date upon which the revocation shall become effective absent a correction or showing of cause why the exemption should not be revoked, which shall not be before the 30th day after the date the notification is mailed or delivered, except as provided in paragraph IV. The revocation shall take effect for the family trust company on the date stated in the notice if the family trust company does not request a hearing in writing before the effective date. After the revocation takes effect, the family trust company shall be subject to all of the requirements and provisions of Title 35 applicable to a nondepository trust company.

IV. If the bank commissioner determines from examination or other credible evidence that a family trust company appears to be engaging or attempting to engage in acts intended, designed, or likely to deceive or defraud the public, the bank commissioner may shorten or eliminate the 30-day notice period specified in paragraph III, but shall promptly afford a subsequent hearing upon request to rescind the action taken.

V. If the family trust company does not comply with all of the provisions of this chapter or correct any failure to meet any condition or limitation on which an exemption is based within the notice period specified in paragraphs III or IV, the bank commissioner may institute any action or remedy prescribed by this chapter or any applicable rule.

392-B:25 Amendment of Organizational Instrument or Exemptions. Any family trust company organized under this chapter or chartered prior to the passage thereof may file with the bank commissioner a petition, together with a filing fee of \$1,500, setting forth an amendment to its organizational instrument or its exemptions, and requesting approval of the amended organizational instrument or further exemptions based on the considerations set forth in RSA 392-B:5. Any petition by a family trust company under this paragraph shall be decided by the bank commissioner.

392-B:26 Procedure; Effect. If the petition is granted, a copy of the amended organizational instrument, certified by the clerk or secretary of the family trust company, with the approval of said board indorsed thereon, shall be filed in the office of the secretary of state, accompanied by a fee equal to the fee charged by the secretary of state to business corporations under RSA 293-A if the family trust company is a corporation, or the fee charged to limited liability companies under RSA 304-C if the family trust company is a limited liability company, and thereupon the secretary of state shall cause the same, with the endorsement thereon, to be recorded as provided in RSA 392-B:13, and shall issue a certificate of such amended organizational instrument, which shall conform as nearly as may be to the form prescribed in RSA 392-B:14 and shall have the same force and effect, and thereafter such family trust company shall have all the powers and privileges provided for by such amended certificate or charter and shall be subject to all the provisions of this chapter.

392-B:27 Conversion to Nondepository Trust Company Transacting Business With the General Public.

I. A family trust company may file a notice on a form prescribed by the bank commissioner stating its intent to convert into a nondepository trust company subject to RSA 392, which shall set forth its new proposed name and acknowledge that any exemption granted or otherwise applicable to the family trust company pursuant to this chapter shall cease to apply once the bank commissioner terminates family trust company status. The family trust company shall furnish a copy of the resolution adopted by its board of directors authorizing it to convert into a nondepository trust company, and shall pay the filing fee, if any, prescribed by rule of the bank commissioner.

II. The nondepository trust company may commence transacting business with the general public on the 31st day after the date the bank commissioner receives the notice, unless the bank commissioner:

- (a) Establishes an earlier or later date;
- (b) Notifies the family trust company that the notice raises issues that require additional information or additional time for analysis; or
- (c) Disapproves the termination of family trust company status.

III. If the bank commissioner gives a notification described in subparagraph II(b), the family trust company status may be terminated only on approval by the bank commissioner.

IV. The bank commissioner may deny approval of the proposed termination of family trust company status if the bank commissioner finds that the family trust company lacks sufficient resources to undertake the proposed conversion without adversely affecting its safety or soundness or if the bank commissioner determines that the family trust company could not within a reasonable period be in compliance with any provision of Title 35 from which it previously had been exempted pursuant to this chapter. Such determination shall be based on the factors set forth in RSA 392-B:5, VI to the extent applicable.

392-B:28 Voluntary Dissolution of Family Trust Company. A family trust company may voluntarily dissolve in the manner provided in this chapter. Such dissolution may be accomplished by the liquidation of the family trust company or by reorganizing the family trust company into a domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership that does not have banking or trust powers, and in both instances surrendering its family trust company charter to the bank commissioner. A family trust company that reorganizes into any other entity pursuant to this section shall not engage in any activity that is authorized only for a bank or a family trust company.

392-B:29 Voluntary Dissolution by Liquidation. A family trust company which voluntarily dissolves by means of liquidation, shall do so by complying with the procedures for a voluntary dissolution set forth in the provisions of state law applicable to domestic business corporations, if organized as a banking corpora-

tion, or by complying with the procedures for a voluntary dissolution of a domestic limited liability company, limited partnership, or limited liability partnership, as applicable, if the dissolving family trust company was organized as such other type of banking entity, provided, however, that any filing required to be made with the secretary of state shall be made instead with the bank commissioner.

**392-B:30 Voluntary Dissolution by Reorganization.** A family trust company which voluntarily dissolves by means of a reorganization into a domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership which is not authorized to engage in banking or trust activities shall do so by compliance with the procedures for a reorganization into such type of business entity as set forth in the provisions of domestic and foreign law applicable to such business entities, provided, however, that any filing required to be made with the secretary of state shall be made instead with the bank commissioner.

**392-B:31 Approval of Voluntary Dissolution; Filing Fee.**

I. A family trust company seeking to dissolve its charter shall file an application for dissolution with the board of family trust company incorporation accompanied by a filing fee of \$1,500 payable to the bank commissioner. The bank commissioner shall examine the application for completeness and compliance with the requirements of this section, the domestic business entity laws applicable to the requested type of liquidation or reorganization, and its rules. The application shall include a comprehensive plan of dissolution setting forth the disposition of all assets and liabilities, in reasonable detail to effect the liquidation or reorganization. Among other things, the plan of dissolution shall provide for the discharge or assumption of all of the family trust company's known or unknown claims and liabilities and the transfer of all of its responsibilities as a trustee to a successor trustee or trustees. Additionally, the filing shall include such other certifications, affidavits, documents, or information with respect to the dissolution as the bank commissioner may require to understand how such assets and liabilities will be disposed of, the timetable for effecting disposition of such assets and liabilities, and the applicant's proposal for dealing with any claims that are asserted after the dissolution has been completed. The bank commissioner may conduct a special examination of the applicant for purposes of evaluating the application. Cost of the special examination shall be paid by the applicant.

II. If the bank commissioner finds that the application for dissolution is incomplete, the bank commissioner shall return it for completion not later than 60 days after it is filed. If the application is found to be complete by the bank commissioner, not later than 30 days thereafter, the bank commissioner shall hold a hearing for the purpose of determining whether the plan of dissolution disposes of the assets and liabilities in a lawful manner, is fair and equitable to all interested persons, has no adverse effect on the business of banking in the state, and in general carries out the purposes and intentions of RSA 392-B:28, 29 and 30. Not later than 30 days thereafter, the bank commissioner shall either approve or not approve the application. If the bank commissioner approves the application, then the applicant may proceed with the dissolution under the plan, subject to such conditions that the bank commissioner may prescribe. If the applicant subsequently determines that the plan of dissolution must be amended to complete the dissolution, it shall file an amended plan with the bank commissioner and obtain his or her approval to proceed under the amended plan. If the bank commissioner does not approve the application or amended plan, if any, the applicant may appeal the decision pursuant to RSA 541.

III. Upon completion of all actions required under the plan of dissolution and conditions, if any, prescribed by the bank commissioner, necessary to liquidate the family trust company or to effect the reorganization, the applicant shall submit a written report of its actions to the bank commissioner and the applicant's board of directors shall certify, under oath, that it is true and correct. Following receipt of the report, the bank commissioner may examine the family trust company to determine whether the bank commissioner is satisfied that all required actions have been taken to liquidate or reorganize the family trust company in accordance with the plan of dissolution and any conditions prescribed by the bank commissioner. The cost of the examination shall be paid by the applicant. Not later than 60 days after the filing of the report, the bank commissioner shall examine the report and the bank commissioner's findings, and, if it is satisfied, shall so notify the applicant in writing that the dissolution has been completed and is final. Thereupon, the applicant shall surrender its charter to the bank commissioner, and the bank commissioner shall issue a certificate of dissolution to be filed with the secretary of state pursuant to RSA 392-B:32. If the bank commissioner is not satisfied that all required actions have been taken, it shall notify the applicant in writing what additional actions shall be taken to be eligible for a certificate of dissolution. The bank commissioner shall establish a deadline for the submission of evidence that the additional actions have been taken. The bank commissioner may extend the deadline for good cause shown. If the applicant fails to file a supplemental report showing that the additional actions have been taken before the deadline, or submits a report that is found not to be satisfactory by the bank commissioner, the bank commissioner shall notify the applicant in writing that its application is not approved, and the applicant may appeal the decision pursuant to RSA 541.

IV. The bank commissioner may adopt rules, pursuant to RSA 541-A, relative to the procedures and requirements for a dissolution pursuant to RSA 392-B:28-32.

392-B:32 Procedure; Effect; Recording Fee. When the bank commissioner approves a voluntary dissolution application, the applicant shall file the certificate of dissolution in the office of the secretary of state, accompanied by a fee of \$35. In the case of a reorganization, the applicant shall also file the documents required by the secretary of state for domestic business entities to complete a statutory reorganization of the type approved by the bank commissioner, including the organizational instruments for the reorganized entity. The secretary of state shall record the certificate and other documents, if any, and issue a certificate evidencing such liquidation or reorganization, as applicable. When the secretary of state has issued a certificate evidencing the liquidation or reorganization, as applicable, the dissolving banking corporation, limited liability company, limited liability partnership or limited partnership shall be deemed to have been voluntarily dissolved or reorganized, as applicable, with the same effect as if such voluntary dissolution or reorganization had been effected by a domestic business corporation, limited liability company, limited partnership, or limited liability partnership, by making the filings required of such domestic business entities under the provisions of state law applicable to such domestic business entities.

3 Banks, Trust Companies; Affiliated Investments. Amend RSA 384:65, III to read as follows:

III. A bank, acting as a fiduciary pursuant to RSA 384:65, I, may:

(a) Invest in the securities of an investment company [or], investment trust, **or other company** to which such fiduciary or its affiliate provides services in a capacity other than as trustee, such as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent, administrator, or custodian, and such investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standard pursuant to article 9 of RSA 564-B.

(b) Be compensated by the investment company [or], investment trust, **or other company** for providing services in a capacity other than as trustee, such as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent, administrator, or custodian, if the fiduciary at least annually notifies each person to whom it is required to send account statements under RSA 564-B:8-813 of the rate and method by which the compensation was determined.

4 Trust Companies; Limitations. Amend RSA 384:5-a, II to read as follows:

II. The provisions of paragraph I shall not apply:

(a) [Repealed.]

(b) With respect to any person serving as trustee, director, or officer of more than one affiliate of a bank holding company as defined in RSA 384-B:1, IV and V;

(c) With respect to any person serving as a trustee, director, or officer of[—

(1) ~~An institution which does not engage in a trust business; and~~

(2) ~~A] a trust company which does not make loans and does not accept deposits; or~~

(d) With respect to any person who is serving in a capacity that is permitted under federal laws or regulations governing depository institution management interlocks.

5 Banks, Trust Companies; Confidential Information Conforming Amendment. Amend RSA 392:9-a, I to read as follows:

I. ~~[All confidential information received in connection with any petition or application of or concerning a family fiduciary services company shall be confidential communications, shall not be subject to subpoena, and shall not be made public unless, in the judgment of the commissioner, the ends of justice and the public advantage will be served by the publication of the information.]~~ The commissioner may, at his or her discretion on request or otherwise, determine that confidential information received in connection with any petition or application of or concerning a public trust company ~~[other than a family fiduciary services company]~~ should not be publicly available, in which case such information shall be confidential communications, shall not be subject to subpoena, and shall not be disclosed unless, in the judgment of the commissioner, the ends of justice and the public advantage will be served by the disclosure of the information.

6 Repeal. The following are repealed:

I. RSA 392:1-a, III, relative to the definition of “family fiduciary services company.”

II. RSA 392:40-a, relative to certain exemptions for family fiduciary services companies.

III. RSA 392:40-b, relative to requirements to apply for and maintain status as a family fiduciary services company.

IV. RSA 392:40-c, relative to the conversion of family fiduciary services companies to nondepository public trust companies transacting business with the general public.

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

#### **2010-1121s**

#### **AMENDED ANALYSIS**

This bill defines and regulates family trust companies.

**The question is on the adoption of Committee Amendment 1121s.**

**Committee Amendment 1121s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 421.**

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

**SB 423**, relative to health insurance coverage for licensed athletic trainer services. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 3-0. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 423.**

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

**SB 429**, relative to disclosure of finance charges. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 2-1. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 429.**

**Motion of Inexpedient to Legislate adopted.**

**SB 459**, relative to medical payments coverage. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 2-0. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 459.**

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

**Sen. Letourneau is in opposition to the motion of Ought to Pass on SB 459.**

**SB 468**, relative to tort reform. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 2-1. Senator Hassan for the committee.

**Recess. Out of Recess.**

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 468.**

#### **MOTION TO TABLE**

**Sen. Sgambati moved to table SB 468.**

**Recess. Out of Recess.**

(Sen. Kelly welcomed students from Wheelock Elementary School from Keene, greeting Elizabeth Walsh in particular.)

**Recess. Out of Recess.**

**The question is on the motion to table SB 468.**

**Motion adopted.**

**Sen. Roberge is in opposition to motion of Inexpedient to Legislate on SB 468.**

**LAID ON THE TABLE**

**SB 468**, relative to tort reform.

**Luncheon recess. Out of recess.**

**AFTERNOON SESSION**  
**COMMITTEE REPORTS, RESUMED**

**SB 469**, requiring the department of labor to warn employers of certain violations prior to imposing a fine. Commerce, Labor and Consumer Protection Committee. Interim Study, Vote 3-2. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 469.**

**A roll call was requested by Sen. Bragdon, seconded by Sen. Bradley.**

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

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

**Yeas: 13 - Nays: 11**

**Motion of Refer to Interim Study adopted.**

**SB 513**, relative to incarcerated persons receiving workers' compensation. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 2-1. Senator Bragdon for the committee.

**Commerce, Labor and Consumer Protection**

**March 18, 2010**

**2010-1128s**

**04/03**

**Amendment to SB 513**

Amend RSA 281-A:3-a as inserted by section 1 of the bill by replacing it with the following:

281-A:3-a Incarceration of Certain Persons. Notwithstanding any provision of law to the contrary, an employee who has become incarcerated pursuant to a conviction shall forfeit any right to workers' compensation indemnity benefits 30 days after incarceration for the remaining period of incarceration ***unless the work injury continues to render the employee totally disabled under RSA 281-A:28 or RSA 281-A:28-a, and such benefits are paid to the incarcerated person's spouse or dependent children.***

**2010-1128s**

**AMENDED ANALYSIS**

This bill permits an incarcerated person to receive workers' compensation benefits provided the payments are made to the incarcerated person's spouse or dependent children.

**The question is on the adoption of Committee Amendment 1128s.**

**Committee Amendment 1128s adopted.**

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

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

**SB 515**, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Hassan for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 515.**

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

**SB 301**, relative to combustion of untreated wood at municipal transfer stations. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Odell for the committee.

**Energy, Environment and Economic Development**  
**March 18, 2010**  
**2010-1096s**  
**08/03**

**Amendment to SB 301**

Amend the bill by replacing section 1 with the following:

1 Combustion Ban. Amend 2007, 128:5, I to read as follows:

I. Section 2 of this act shall take effect January 1, [2011] **2014**.

**2010-1096s**

**AMENDED ANALYSIS**

This bill delays the effective date of the ban on combustion of untreated wood at municipal transfer stations.

**The question is on the adoption of Committee Amendment 1096s.**

**Committee Amendment 1096s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 301.**

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

**SB 323**, relative to the energy efficiency and sustainable energy board, the greenhouse gas emissions reduction fund, and the renewable energy fund. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 4-0. Senator Fuller Clark for the committee.

**Energy, Environment and Economic Development**  
**March 16, 2010**  
**2010-1013s**  
**09/04**

**Amendment to SB 323**

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

AN ACT requiring the public utilities commission to study certain energy policy issues.

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

1 Public Utilities Commission; Study of Energy Policy Issues.

I. The public utilities commission shall undertake a study, through means of a nonadjudicative investigation that relies on a broad collaborative process, regarding legislative, regulatory, and market-based policy options to address the following issues:

(a) As part of a comprehensive review of energy efficiency, conservation, demand response, and sustainable energy programs and incentives in the state, possible improvements to and better coordination of those programs and incentives to maximize their effectiveness in supporting green jobs and economic development in New Hampshire, reducing our dependence on imported fossil fuels, meeting goals of the climate change action plan, and supporting development of needed financing mechanisms and competitive opportunities in the market to ensure delivery of energy efficiency programs and services.

(b) The appropriate role of regulated energy utilities in helping the state and consumers achieve the state's energy efficiency potential for all fuels.

(c) The appropriate role of the state in evaluating the effectiveness of all funds made available to stimulate investment in energy efficiency and clean energy and to advance the state's energy goals.

(d) Policy changes that may be necessary in order to achieve the state's energy efficiency and sustainable energy goals and to create the most cost-effective delivery of state funds, initiatives, and programs.

II. The public utilities commission shall work in cooperation and close consultation with the energy efficiency and sustainable energy board in the development of the study and resulting recommendations.

III. The public utilities commission shall submit its findings, results, and recommendations to the senate president, the speaker of the house of representatives and the chairs of the senate energy, environment, and economic development committee and the house science, technology and energy committee, and the energy efficiency and sustainable energy board in an interim report on or before November 1, 2010 and a final report on or before November 1, 2011.



IV. The energy efficiency and sustainable energy board shall provide its recommendations, as required by RSA 125-O:5-a, I, to the senate president, the speaker of the house of representatives, and the chairs of the senate energy, environment, and economic development committee and the house science, technology and energy committee as soon as practicable after receiving the final report due under paragraph III.

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

**2010-1013s**

#### AMENDED ANALYSIS

This bill requires the public utilities commission to study certain energy policy issues and submit the results of its study to the energy efficiency and sustainable energy board.

**The question is on the adoption of Committee Amendment 1013s.**

**Committee Amendment 1013s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 323.**

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

**SB 334**, establishing a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

**Energy, Environment and Economic Development**

**March 18, 2010**

**2010-1111s**

**09/10**

#### Amendment to SB 334

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

AN ACT establishing a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses and relative to investments in photovoltaic renewable energy projects.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 9:

6 Findings and Purpose.

I. The general court finds that:

(a) New Hampshire's unemployment rate is currently over 7 percent.

(b) It is in the public interest to accelerate investments in renewable energy in order to promote immediate job creation.

(c) The city of Manchester and its host utility, Public Service Company of New Hampshire (PSNH), have identified a solar photovoltaic renewable energy project which has the potential to provide construction jobs immediately and benefits to all customers.

(d) This project will be highly visible to citizens and visitors and provide an educational opportunity for the city of Manchester school system.

(e) Since state and federal subsidies alone are insufficient to finance the Manchester solar photovoltaic renewable energy project, additional funding by PSNH will be necessary to create the near-term benefits of this project.

(f) It is therefore in the public interest to allow the city of Manchester and PSNH to develop a solar photovoltaic renewable energy project in accordance with this act.

II. The purpose of this act is to accelerate and authorize the development of the solar photovoltaic renewable energy project in the city of Manchester.

7 Solar Photovoltaic Renewable Energy Project.

I. PSNH shall make the initial up-front investment required for construction of the Manchester solar photovoltaic renewable energy project, and may earn a return on such investment with an incentive to the return on equity component as contemplated by RSA 374-G:5, IV. The costs of this project shall be recovered in the manner set forth in RSA 374-G:5, III.

II. In lieu of PSNH making payments under RSA 362-F:10 for class II electric renewable energy standard obligations or purchasing certificates, as defined in RSA 362-F:2, III, to comply with RSA 362-F class II electric renewable energy standard obligations, beginning upon the effective date of this act PSNH shall retain such payments and utilize \$5,000,000 of such amounts to invest in the development of the solar photovoltaic renewable energy project in Manchester. The amounts retained by PSNH shall be used to amortize the outstanding capital investment for the project. When the nominal payments retained by PSNH equal \$5,000,000, PSNH shall return to routine compliance with RSA 362-F:10 for going-forward class II electric renewable energy standard obligations.

III. The Manchester solar photovoltaic renewable energy project shall be deemed to comply with the use requirements set forth in RSA 374-G:3, I.

IV. The Manchester solar photovoltaic renewable energy project shall be reviewed by the public utilities commission pursuant to the following factors set forth in RSA 374-G:5, II:

(a) Whether the expected value of the economic benefits of the investment to the utility's ratepayers over the life of the investment outweigh the economic costs to the utility's ratepayers.

(b) The efficient and cost-effective realization of the purposes of the renewable portfolio standards of RSA 362-F and the restructuring policy principles of RSA 374-F:3.

(c) The costs and benefits to any participating customer or customers.

(d) The costs and benefits to the company's default service customers.

(e) The energy security benefits of the investment to the state of New Hampshire.

(f) The environmental benefits of the investment to the state of New Hampshire.

(g) The economic development benefits and liabilities of the investment to the state of New Hampshire.

(h) The effect on the reliability, safety, and efficiency of electric service.

(i) The effect on competition within the region's electricity markets and the state's energy services market.

#### 8 Reporting.

I. PSNH shall report by June 30, 2011 and annually thereafter until June 30, 2015, to the legislative oversight committee on electric utility restructuring, established under RSA 374-F:5, and the chairpersons of the house science, technology and energy committee and the senate energy, environment and economic development committee, on the progress and status of the Manchester solar photovoltaic renewable energy project.

II. PSNH shall report on the Manchester photovoltaic renewable energy project in its annual compliance report to the public utilities commission pursuant to NH Admin. Rules, section Puc 2503.03.

#### 2010-1111s

##### AMENDED ANALYSIS

This bill establishes a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses.

This bill also authorizes the development of the solar photovoltaic renewable energy project in Manchester.

**The question is on the adoption of Committee Amendment 1111s.**

**Committee Amendment 1111s adopted.**

**Senator Janeway is in opposition to Committee Amendment 1111s on SB 334.**

**Sen. DeVries offered a floor amendment.**

**Sen. DeVries, Dist. 18**

**Sen. Lasky, Dist. 13**

**March 23, 2010**

**2010-1162s**

**09/04**

##### Floor Amendment to SB 334

Amend section 7 of the bill by inserting after paragraph III the following and renumbering the original paragraph IV to read as VI:

IV. At least 75 percent of the construction jobs created by the Manchester solar photovoltaic renewable energy project shall be performed by contractors located in New Hampshire.

V. PSNH shall engage the community college system of New Hampshire to provide student training opportunities during the construction of the Manchester solar photovoltaic renewable energy project.

**The question is on the adoption of Floor Amendment 1162s.**

**Floor Amendment 1162s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 334.**

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

**Senators Janeway and Fuller Clark are in opposition to the motion of Ought to Pass as Amended on SB 334.**

**SB 338**, relative to modification of PSNH generation assets. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 5-0. Senator Bradley for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 338.**

**Motion of Inexpedient to Legislate adopted.**

**SB 366**, relative to size limitations on OHRVs operating on state-owned trails. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

**Energy, Environment and Economic Development**

**March 18, 2010**

**2010-1112s**

**10/04**

#### **Amendment to SB 366**

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

AN ACT relative to size limitations on OHRVs operating in Jericho Mountain state park.

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

1 Evaluation Process; ATV and Trail Bike Operation on State Lands. Amend RSA 215-A:43, IV to read as follows:

IV. No person shall operate an OHRV wider than 50 inches or over 1000 pounds on any state-owned trails, *except on specifically designated trails within Jericho Mountain state park.*

2 Repeal. RSA 215-A:43, VII(c), relative to OHRV size limitations at Jericho Mountain state park, is repealed.

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

**2010-1112s**

#### **AMENDED ANALYSIS**

This bill excepts designated trails in Jericho Mountain state park from the size limitations for OHRVs.

**The question is on the adoption of Committee Amendment 1112s.**

**Committee Amendment 1112s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 366.**

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

**Sen. Cilley is in opposition to Motion of Ought to Pass on SB 366.**

**SB 369**, relative to the expiration of large groundwater withdrawal permits. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 6-0. Senator Cilley for the committee.

**Energy, Environment and Economic Development**  
**March 18, 2010**  
**2010-1094s**  
**06/05**

**Amendment to SB 369**

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

AN ACT relative to the effect of changes in local permit status on large groundwater withdrawal permits issued by the department of environmental services.

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

1 Approval for Large Groundwater Withdrawals; Change in Status of Local Permit. Amend RSA 485-C:21, VIII to read as follows:

VIII. Before the department issues a large groundwater withdrawal permit, any municipality in which a well is sited or proposed to be sited, or any municipality within the potential impact area of the proposed withdrawal pursuant to paragraph V-e, may require the department to determine that the withdrawal will not infringe on the public's use of groundwater, including any contribution to wetlands and surface waters, by ensuring that the requirements of paragraph V-c are met. The department's determination shall be based on substantial evidence and shall include the methods, evidence, and data it used to support its judgment. *After the department issues a large groundwater withdrawal permit, such municipality may require the department to provide a written finding describing the status of a decision issued by the department on an application submitted under this section when a local building permit directly related to a large groundwater withdrawal activity expires or becomes null and void, or both. The department shall determine if the change in status of such local permit affects the decision the department made on the application.*

2 Effective Date. This act shall take effect 30 days after its passage.

**2010-1094s**

**AMENDED ANALYSIS**

This bill permits a municipality to require the department of environmental services to decide whether a change in the status of a local permit affects the decision to issue a large groundwater withdrawal permit.

**The question is on the adoption of Committee Amendment 1094s.**

**Committee Amendment 1094s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 369.**

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

**SB 370**, relative to sewage disposal systems. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 6-0. Senator Odell for the committee.

**Energy, Environment and Economic Development**  
**March 18, 2010**  
**2010-1095s**  
**06/05**

**Amendment to SB 370**

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

AN ACT relative to sewage disposal systems.

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

1 Permit Eligibility; Exemption. Amend RSA 485-A:35, I to read as follows:

I.(a) All applications, plans, and specifications submitted in accordance with this chapter for subsurface sewage or waste disposal systems shall be prepared and signed by the [person] *individual* who is directly responsible for them and who has a permit issued by the department to perform the work. The department shall issue a permit to any [person] *individual* who applies to the department, [and] pays a fee of \$80, and [who has demonstrated] *demonstrates* a sound working knowledge of the procedures and practices required in the site evaluation, design, and operation of subsurface sewage or waste disposal systems. The department

shall require an oral or written examination or both to determine who may qualify for a permit. Permits shall be issued from January 1 and shall expire December 31 of every other year, ***subject to the grace periods specified in subparagraphs (c) and (d)***. Permits shall be renewable upon proper application, payment of a biennial ***permit*** fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). A permit issued to any [person] ***individual*** may be suspended, revoked or not renewed only for just cause and after the permit holder has had a full opportunity to be heard by the department. An appeal from a decision to revoke, suspend, or not renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted designers shall complete a minimum of [3] **6 hours** [~~annually~~] ***biennially*** of continuing education approved by the department.

2 New Subparagraphs; Permit Eligibility; Exemption. Amend RSA 485-A:35, I by inserting after subparagraph (b) the following new paragraphs:

(c) A permitted designer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided such fees, application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain a designer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall submit any design to the department for a subsurface sewage or waste disposal system. Submittal of such a design after the designer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

3 System Installer Permit. Amend RSA 485-A:36, I to read as follows:

I.(a) No [person] ***individual*** shall engage in the business of installing subsurface sewage or waste disposal systems under this subdivision without first obtaining an installer's permit from the department. The permit holder shall be responsible for installing the subsurface sewage or waste disposal system in ***strict*** accordance with the [~~intent of~~] the approved plan. The department shall issue an installer's permit to any [person] ***individual*** who submits an application provided by the department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and the ability to read approved waste disposal plans. The department shall require an oral or written examination or both to determine who may qualify for an installer's permit. [~~Individuals who have been actively engaged in the business of installing systems for at least 12 months prior to January 1, 1980, shall not be required to submit to such examination, but shall be issued a permit upon filing an application and paying the initial fee, if application is made before June 30, 1980.~~] Permits shall be issued from January 1 and shall expire December 31 of every other year. Permits shall be renewable upon proper application, payment of a biennial ***permit*** fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). The installer's permit may be suspended, revoked or not renewed for just cause, including, but not limited to, the installation of waste disposal systems in violation of this subdivision or the refusal by a permit holder to correct defective work. The department shall not suspend, revoke or refuse to renew a permit except for just cause until the permit holder has had an opportunity to be heard by the department. An appeal from such decision to revoke, suspend or not renew a permit may be taken pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted installers shall complete a minimum of [3] **6 hours** [~~annually~~] ***biennially*** of continuing education approved by the department.

4 New Subparagraphs; System Installer Permit. Amend RSA 485-A:36, I by inserting after subparagraph (b) the following new subparagraphs:

(c) A permitted installer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided the fees, renewal application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain an installer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall install any subsurface sewage or waste disposal system. Installation of such a system after the installer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

5 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:

II-a. No construction or operational approval shall be required from the department prior to expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal system, as long as all of the following conditions are met:

(a) The lot is served by a sewage disposal system that received construction and operational approval from the department within 20 years of the date of the issuance of a building permit for the proposed expansion, relocation, or replacement.

(b) If the property is nonresidential, no waivers were granted in the construction or operational approval of any requirements for total wastewater lot loading, depth to groundwater, or horizontal distances to surface water, water supply systems, or very poorly drained soils.

(c) When applicable, the proposed expansion, relocation, or replacement complies with the requirements of the comprehensive shoreland protection act, RSA 483-B.

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

**2010-1095s**

#### AMENDED ANALYSIS

This bill:

I. Adds requirements for the renewal of septic system designer and installer permits.

II. Permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

**The question is on the adoption of Committee Amendment 1095s.**

**Committee Amendment 1095s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 370.**

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

**SB 409**, requiring buildings or structures constructed or renovated using state funding to adhere to certain energy efficiency and building standards. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

**Energy, Environment and Economic Development**

**March 18, 2010**

**2010-1107s**

**08/09**

#### **Amendment to SB 409**

Amend the bill by replacing section 1 with the following:

1 New Section; Building Requirements for State Funded Buildings. Amend RSA 155-A by inserting after section 12 the following new section:

**155-A:13 Building Requirements for State Funded Buildings.**

I. Any new construction of a building or structure, or renovation or major modification of an existing building or structure, or system thereof, constructed using any state funding shall meet a design standard determined by the commissioners of the department of environmental services and the department of administrative services to be a recognized high performance green building standard that results in substantial energy savings equal to or greater than the 2009 International Energy Conservation Code.

II. With respect to the award of any contract for construction of a building or structure using any state funding, reasonable efforts shall be made to recoup the costs of implementing the requirements of this section as measured by reduced energy costs.

III. Except as otherwise provided by law, each state agency overseeing the erection or construction of a building or structure using any state funding, shall require the specifications to read that the owner will not issue final acceptance of the work until the contractor provides documentation that the project meets the building standard set forth in paragraph I.

IV. The following construction or renovation projects shall be exempt from the requirements of paragraphs I-III:

- (a) A building or structure that is less than 25,000 square feet.
- (b) A building or structure that does not consume energy for heating, ventilating, or air conditioning.
- (c) A renovation or modification that is estimated to cost less than \$1,000,000.
- (d) Temporary structures.
- (e) Public school facilities that are subject to RSA 198:15.

**The question is on the adoption of Committee Amendment 1107s.**

**Committee Amendment 1107s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 409.**

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

**SB 418**, establishing requirements for electric distribution company solicitation of proposals from renewable energy developers. Energy, Environment and Economic Development Committee. Interim Study, Vote 5-0. Senator Fuller Clark for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 418.**

**Motion of Refer to Interim Study adopted.**

**SB 422**, relative to small power producer electric sales in brownfields and economically depressed locations. Energy, Environment and Economic Development Committee. Interim Study, Vote 5-0. Senator Fuller Clark for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 422.**

**Motion of Refer to Interim Study adopted.**

**SB 441**, relative to the lakes management and protection program. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 6-0. Senator Merrill for the committee.

**Energy, Environment and Economic Development**

**March 18, 2010**

**2010-1105s**

**06/04**

**Amendment to SB 441**

Amend the bill by replacing sections 3 and 4 with the following:

3 New Paragraph; Definitions. Amend RSA 483-A:2 by inserting after paragraph III the following new paragraph:

IV. "Valued characteristics" means the uses and values that lakes provide including, but not limited to: passive and active winter and summer recreational activities; aesthetic values such as scenic beauty, wilderness experiences, and educational opportunities; public uses such as drinking water supplies and flood control; ecosystem values such as providing ecological diversity and wildlife habitat; economic values such as revenue generated for the local, regional, and state economies; and social experiences and the opportunity to use our lakes for public enjoyment.

4 Management. Amend RSA 483-A:5, I to read as follows:

483-A:5 Management.

I. The lakes coordinator, in consultation with the advisory committee, and upon consideration of recommendations from each of the relevant divisions and bureaus within the department of environmental services, shall prepare and submit to the legislature for consideration proposed state level management criteria to be provided for the state's lakes *and shorelands*. The management criteria upon adoption shall provide the basis for state agency decisions regarding lakes management and protection. The purpose of such criteria shall be to ensure that:

(a) Water quality shall not be degraded from existing water quality standards established in RSA 485-A.

(b) Potential sources of pollution, whether point or non-point sources on the land or deriving from activity on the lake, shall be managed in such a way as to minimize their adverse impact on water quality. No significant adverse impact or cumulative adverse impact on water quality shall be permitted.

(c) The environment for wildlife, particularly waterfowl and aquatic life, shall be maintained or improved.

(d) The use of lakes and their drainage areas for flood protection and water supply shall be recognized and protected.

(e) Public access shall be provided and maintained appropriate to suitable uses of the lakes.

(f) Recreational uses of lakes shall be consistent with the carrying capacity and ~~[character]~~ *valued characteristics* of each lake ~~[and shall include, but not be limited to, the use of appropriate watercraft, swimming, and fishing].~~ ~~[Permitted]~~ *Recreational* uses shall provide opportunity for the safe enjoyment of a variety of lake experiences within the state as a whole.

Amend RSA 483-A:6, II as inserted by section 5 of the bill by replacing it with the following:

II. The advisory committee shall include the following members to be appointed by the governor and council:

(a) A member representing a New Hampshire lake association nominated by the New Hampshire Lakes ~~[Federation]~~ *Association*.

(b) A member representing the state conservation committee established in RSA 432:10.

(c) A member of the fish and game commission.

(d) A municipal officer of a lakefront community nominated by the New Hampshire Municipal Association.

(e) A member of a conservation commission from a lakefront community nominated by the New Hampshire Association of Conservation Commissions.

(f) A member representing the scientific community ~~[from]~~ *nominated by* the ~~[University]~~ *university system* of New Hampshire.

(g) A member representing the tourism industry nominated by the New Hampshire Travel Council.

(h) ~~[A representative of the conservation community chosen from a list of 3 nominees submitted by the Society for Protection of New Hampshire Forests, the Audubon Society, and the New Hampshire Wildlife Federation.]~~ *A member representing conservation interests nominated jointly by the Loon Preservation Committee, the Society for the Protection of New Hampshire Forests, the Audubon Society of New Hampshire, and the New Hampshire Wildlife Federation.*



- (i) A member representing the *New Hampshire* Marine [Dealers] *Trades* Association.
- (j) A member of the New Hampshire Association of Realtors.
- (k) A member of a planning board appointed by the New Hampshire Municipal Association.
- (l) A member representing the Business and Industry Association of New Hampshire.

***(m) A member representing fishing interests nominated jointly by the New Hampshire Wildlife Federation and the New Hampshire Bass Federation.***

Amend RSA 483-A:6, VI as inserted by section 5 of the bill by replacing it with the following:

VI. The advisory committee shall advise the commissioner and lakes coordinator in carrying out the purposes of this chapter ***and shall report biennially to the commissioner, the state agencies represented on the advisory committee, the house resources, recreation and development committee, and the senate energy, environment and economic development committee regarding the activities carried out for the purposes of this chapter.***

Amend RSA 483-A:7 as inserted by section 6 of the bill by replacing it with the following:

483-A:7 Lakes Management and Protection Plans.

I. The lakes coordinator, in consultation with the advisory committee and ~~[with the cooperation and assistance of]~~ the office of energy and planning, shall ~~[develop detailed]~~ ***monitor and oversee*** guidelines for coordinated lake management and shoreland protection plans together with recommendations for implementation, ***if necessary***. Upon acceptance of the guidelines ***or substantive changes to the guidelines*** by the advisory committee, the lakes coordinator and members of the advisory committee shall hold public hearings regarding the guidelines ***or changes to the guidelines***. At least one hearing shall be held in each ~~[counselor]~~ ***executive council*** district.

II. The lakes coordinator ~~[and]~~ ***in consultation with*** the office of energy and planning, with the help of appropriate council on resources and development agencies, shall provide technical assistance and, within the limits of legislative appropriations, award financial grants to regional planning commissions established under RSA ~~[36:45-53]~~ ***36:45 through RSA 36:53*** in support of lake management and shoreland protection planning. The commissioner, with the advice of the lakes coordinator and the advisory committee, shall adopt rules, pursuant to RSA 541-A, relative to awarding financial grants under this paragraph.

III. The lakes coordinator ~~[and]~~ ***in cooperation with*** the office of energy and planning, ~~[in cooperation with]~~ regional planning agencies, and appropriate council on resources and development agencies, shall provide technical assistance and information in support of lake management and local shoreland planning ~~[efforts]~~ consistent with the guidelines established under RSA 483-A:7, I ~~[and]~~, compatible with the criteria ~~[established]~~ ***proposed*** under RSA 483-A:5, ***and consistent with state and federal water quality laws***.

IV. Whenever more than one municipality borders a lake, all such municipalities shall be encouraged to cooperate in the development ***and implementation*** of a coordinated lake management and shoreland protection plan.

V. Lake management and shoreland ~~[management]~~ ***protection*** plans developed pursuant to paragraphs I, II, and III shall address, but not be limited to, the following:

- (a) ~~[Permitted]~~ Recreational uses and activities.
- (b) ~~[Permitted]~~ Non-recreational uses and activities.
- (c) Existing and future land uses.
- (d) Protection of wetlands, wildlife, fish habitats, and other significant natural areas.
- (e) Dams, bridges, and other water structures.
- (f) Public access by foot and vehicle.
- (g) Setbacks and other location requirements.
- (h) Dredging, filling, mining, and earth moving.
- (i) Prohibited uses.

- (j) Factors controlling water levels and flowage rights.
- (k) Facilities appropriate to support approved lake uses.
- (l) Water safety.
- (m) Other factors affecting water quality.

Amend the bill by replacing section 8 with the following:

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

**The question is on the adoption of Committee Amendment 1105s.**

**Committee Amendment 1105s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 441.**

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

**SB 480**, relative to appeals of decisions by the department of environmental services. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 6-0. Senator Fuller Clark for the committee.

**Energy, Environment and Economic Development**

**March 18, 2010**

**2010-1106s**

**08/04**

#### **Amendment to SB 480**

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Attorney General; Hearing Officer. Amend RSA 21-M:3 by inserting after paragraph VII the following new paragraph:

VIII. The attorney general shall appoint one or more individuals to serve as a hearing officer for the appeal panels established under RSA 21-O:14. The attorney general and the commissioner of the department of environmental services may enter into a memorandum of understanding to transfer funds sufficient to fund the hearing officer position and related expenses. Such individual or individuals shall be qualified by education and experience in the conduct of administrative adjudicative hearings and the application of law to facts. When designated as the hearing officer for a particular appeal, the hearing officer shall:

- (a) Regulate all procedural aspects of a proceeding, including presiding over the hearing and any prehearing conferences;
- (b) Decide all questions of law based on the facts as found by the appeal panel; and
- (c) Prepare and issue all written decisions on behalf of the appeal panel.

Amend RSA 21-O:14, III as inserted by section 7 of the bill by replacing it with the following:

III. Persons aggrieved by the disposition of administrative appeals before any council established by this chapter may appeal such results ~~[in accordance with RSA 541]~~ **within 30 days of a decision by such council. The appellant may choose to appeal to the superior court or the supreme court.**

**The question is on the adoption of Committee Amendment 1106s.**

**Committee Amendment 1106s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 480.**

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

**SB 313**, extending the repeal date of the state park system advisory council. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Downing for the committee.

**Senate Executive Departments and Administration**

**March 17, 2010**

**2010-1064s**

**04/01**

#### **Amendment to SB 313**

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

AN ACT extending the repeal date of the state park system advisory council and relative to field purchases and transfers of funds for the state park system and the bureau of trails.

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

1 State Park System Advisory Council; Repeal Date Extended. Amend 2007, 359:5 to read as follows:

359:5 Repeal. Section 4 of this act is repealed effective June 30, ~~2010~~ **2011**.

2 New Section; State Park System; Field Purchases and Transfer of Funds. Amend RSA 216-A by inserting after section 3-k the following new section:

216-A:3-l Field Purchases and Transfer of Funds.

I. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state park system and facilities.

II. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the operation of the state park system. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court and the governor and council of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

3 New Paragraphs; Bureau of Trails; Responsibilities. Amend RSA 215-A:3 by inserting after paragraph II the following new paragraphs:

II-a. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state trail system and facilities.

II-b. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the bureau of trails. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court and the governor and council of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

4 New Paragraphs; Snowmobiles; Bureau Responsibilities. Amend RSA 215-C:2 by inserting after paragraph VIII the following new paragraphs:

VIII-a. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state trail system and facilities.

VIII-b. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the bureau of trails. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court and the governor and council of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

5 State Historic Sites Fund. Amend RSA 12-A:10-f, I to read as follows:

I. There is hereby established in the office of the state treasurer a fund to be known as the state historic sites fund which shall be kept separate and distinct from all other funds. Such fund shall be the depository of all ***fees, rentals, revenue from operations, retail sales, net profit from concession operations***, donations, gifts, and grants received from the bureau of historic sites pursuant to RSA 12-A:10-e. All moneys in such fund shall be nonlapsing and continually appropriated to the bureau of historic sites for the purposes set forth in RSA 12-A:10-e, including the principal and interest on any bonds which may be issued in the name of the state for the purpose of capital improvements to the state historic sites properties under the administration of department of resources and economic development.

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

**2010-1064s**

#### AMENDED ANALYSIS

This bill:

I. Extends the repeal date of the state park system advisory council to June 30, 2011.

II. Authorizes the director of the division of parks and recreation to make field purchases of up to \$2,000 for the state park system and facilities and the state trail system and facilities.

III. Authorizes the commissioner of the department of resources and economic development to transfer funds between and among appropriations for the operations of the state park system and the bureau of trails.

IV. Requires additional fees and revenues from operation of the historic sites to be deposited into the state historic sites fund.

**The question is on the adoption of Committee Amendment 1064s.**

**Committee Amendment 1064s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 313.**

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

**SB 319**, relative to purchases by on-premises alcoholic beverages licensees. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

**Senate Executive Departments and Administration**

**March 17, 2010**

**2010-1062s**

**03/09**

**Amendment to SB 319**

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

AN ACT relative to purchases by on-premises alcoholic beverages licensees and relative to liquor licenses.

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

2 New Section; Temporary Licenses. Amend RSA 178 by inserting after section 2 the following new section:

178:2-a Temporary Licenses. The director of licensing may issue a temporary form of any license authorized by this chapter. Temporary licenses shall be valid for the period specified in the license, which shall not exceed 90 days. Temporary license may not be renewed. Persons seeking a temporary license under this section shall file an application with the director of licensing which is in such form and contains such information as the commission may establish by rule consistent with the purposes of this chapter.

3 New Paragraph; Liquor License Applications. Amend RSA 178:3 by inserting after paragraph IX the following new paragraph:

IX-a. The director of licensing shall review each license application and submit to the commission a written recommendation on whether the license should be granted or denied. Upon deciding to grant or deny a license, the commission shall issue written findings stating its reasons for the decision.

**2010-1062s**

**AMENDED ANALYSIS**

This bill:

I. Authorizes on-premises alcoholic beverages licensees to purchase liquor and wine from agency stores.

II. Authorizes temporary liquor licenses.

III. Requires the liquor commission to state in writing its reasons for granting or denying a license.

**The question is on the adoption of Committee Amendment 1062s.**

**Committee Amendment 1062s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 319.**

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

**Recess. Out of Recess.**

**SB 348**, establishing the opticians governing board in the office of licensed allied health professionals. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 5-0. Senator Cilley for the committee.

**Senate Executive Departments and Administration**

**March 18, 2010**

**2010-1119s**

**10/04**

**Amendment to SB 348**

Amend RSA 327-A:3 as inserted by section 1 of the bill by replacing it with the following:

327-A:3 Applications for Licensure; Eligibility; Reciprocity.

I. An application for licensure under this chapter shall be filed with the board in such form and detail as the board shall require in accordance with RSA 328-F and rules adopted under RSA 541-A, shall be duly signed and verified, and shall be available for public inspection. The application shall also include, but not be limited to, the following information:

(a) The name and the business address of the applicant; if an individual, the name under which he or she intends to conduct business; if a partnership, the name and business address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and business address of each of the officers of the corporation.

(b) The place or places, including the complete address or addresses, where the business is to be conducted.

II. Each applicant for licensure as an ophthalmic dispenser or optician shall meet the following minimum requirements:

(a) Be at least 18 years of age.

(b) Demonstrate sufficient evidence of good professional character.

(c) Have completed high school or its equivalent.

(d) Have met any requirements set forth in this chapter or in rules adopted by the board as they pertain to reciprocity, grandfathering, or apprenticeship.

(e) Have successfully completed one of the following educational requirements:

(1) A 2-year associates degree in science from a college of opticianry as approved by the board and the successful completion of the American Board of Opticianry (ABO) written exam; or

(2) An apprenticeship of a minimum of 4,000 hours, followed by a 6-month dispensing internship and the successful completion of the American Board of Opticianry (ABO) written exam.

III. Notwithstanding paragraph I, the board may grant initial ophthalmic dispenser or optician licenses to the following:

(a) An applicant who is an ABO certified optician and who has at least 3 consecutive years experience in this state.

(b) An ophthalmic dispenser registered with the department of health and human services for at least 3 consecutive years prior to January 1, 2011 who shows, to the satisfaction of the board, proof that they have complied with continuing education requirements, and who successfully completes the American Board of Opticianry written exam by June 1, 2012.

(c) An applicant who is an American Board of Opticianry certified optician and who has at least 3 consecutive years experience in another state for which the board determines that the requirements or standards for certification or licensure in that state are equivalent to, or greater than, those established by this chapter.

Amend RSA 327-A:4, III as inserted by section 1 of the bill by replacing it with the following:

III. Establishing an apprenticeship program for persons working under the direct supervision of a licensed optician, ophthalmologist, or optometrist.

Amend RSA 327-A:7 as inserted by section 1 of the bill by replacing it with the following:

327-A:7 Renewal; Continuing Education. Licenses issued under this chapter shall be subject to renewal every 2 years and shall expire unless renewed in the manner prescribed in RSA 328-F. Licenses for ophthalmic dispensing shall be renewed upon the payment of the renewal fee and the completion of 8 credits of continuing education during the previous 2-year period with at least 5 of the continuing education credits earned through live didactic courses. Any national, regional, or state optical company, trade, or professional group is authorized to sponsor continuing education programs approved by the American Board of Opticianry or the board. The board shall authorize continuing education programs which contribute to the advancement, extension, or enhancement of the professional skills and the technical knowledge of opticians.

**The question is on the adoption of Committee Amendment 1119s.**

**Committee Amendment 1119s adopted.**

**Sen. Bragdon offered a floor amendment.**

**Sen. Bragdon, Dist. 11**

**March 24, 2010**

**2010-1168s**

**10/04**

**Floor Amendment to SB 348**

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

AN ACT establishing a committee to study issues relative to the regulation of opticians in New Hampshire.

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

1 Committee Established. There is hereby established a committee to study issues relative to regulating opticians in the state of New Hampshire.

2 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

II. Legislative 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 whether there is a need to license, certify, or otherwise increase the regulation of opticians in New Hampshire. In doing so, the committee shall consider the health, safety, and protection of consumers as well as the health of the eyewear marketplace in New Hampshire. The committee shall solicit information from opticians in the state, optometrists, the attorney general's office, and the department of health and human services.

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 house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2010.

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

**2010-1168s**

**AMENDED ANALYSIS**

This bill establishes a committee to study issues relative to regulating opticians in the state of New Hampshire.

**The question is on the adoption of Floor Amendment 1168s.**

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

**The following Senators voted Yes: Gallus, Bradley, Sgambati, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Carson, Boutin, Barnes, DeVries, Letourneau, Downing.**

**The following Senators voted No: Reynolds, Houde, Cilley, Larsen, D'Allesandro, Merrill, Hassan, Fuller Clark.**

**Yeas: 15 - Nays: 8**

**Floor Amendment 1168s adopted.**

**Sen. Lasky asserts Rule 42 on SB 348.**

**The question is on the motion of Ought to Pass as Amended on SB 348.**

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

**Sen. Lasky asserts Rule 42 on SB 348.**

**Sen. Reynolds is in opposition to the motion of Ought to Pass as Amended on SB 348.**

**SB 414**, relative to the Mount Washington commission. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-1. Senator Downing for the committee.

**Senate Executive Departments and Administration**

**March 17, 2010**

**2010-1063s**

**10/04**

**Amendment to SB 414**

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

3 Mount Washington Commission Reinstated. Pursuant to 2009, 144:87, I(a), the Mount Washington commission established in RSA 227-B is hereby reinstated.

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

**The question is on the adoption of Committee Amendment 1063s.**

**A roll call was requested by Sen. Bragdon, seconded by Sen. Boutin.**

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

**The following Senators voted No: Cilley, Hassan.**

**Yeas: 21 - Nays: 2**

**Committee Amendment 1063s adopted.**

**Sen. Larsen asserts Rule 42 on SB 414.**

**The question is on the motion of Ought to Pass as Amended on SB 414.**

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

**Sen. Larsen asserts Rule 42 on SB 414.**

**SB 440**, relative to executive branch ethics. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

**Senate Executive Departments and Administration**

**March 18, 2010**

**2010-1115s**

**05/04**

**Amendment to SB 440**

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

AN ACT relative to executive branch ethics and establishing a committee to study the impact of implementing a 10-hour per day, 4-day week for state employees.

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

5 Committee Established. There is established a committee to study the impact of implementing a 10-hour per day, 4-day week for state employees.

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

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

(b) Four 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.

III. The committee shall study the impact of implementing a 10-hour per day, 4-day week for state employees. The committee shall solicit information and testimony from agencies and individuals with experience and expertise that may be of assistance to the committee in the performance of its study.

IV. On or before September 1, 2010, the commissioner of the department of administrative services, the commissioner of the department of safety, the commissioner of the department of corrections, the commissioner of the department of environmental services, and the commissioner of the department of health and human services shall report to the committee on the feasibility, potential advantages, and disadvantages of implementing a 10-hour per day, 4-day week for the employees of their respective departments.

V. 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.

VI. 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 chairpersons of the house and senate executive departments and administration committees, the chairpersons of the house and senate finance committees, the house clerk, the governor, and the state library on or before November 1, 2010.

#### 6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

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

#### 2010-1115s

#### AMENDED ANALYSIS

This bill:

I. Revises certain voting, quorum, and complaint procedures of the executive branch ethics committee.

II. Establishes a committee to study the impact of implementing a 10-hour per day, 4-day week for state employees.

**The question is on the adoption of Committee Amendment 1115s.**

**Committee Amendment 1115s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 440.**

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

**SB 443**, relative to rulemaking authority of the electricians' board. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

**Senate Executive Departments and Administration**

**March 18, 2010**

**2010-1117s**

**10/09**

#### Amendment to SB 443

Amend the bill by replacing section 1 with the following:

1 Electricians; Rulemaking Authority. Amend the introductory paragraph of RSA 319-C:6-a to read as follows:

319-C:6-a Rulemaking Authority. *Notwithstanding RSA 21-G:9*, the board, with *an affirmative vote of at least 3 of the 5 appointed board members and with* the approval of the commissioner of safety, shall adopt rules, pursuant to RSA 541-A, relative to:

#### 2010-1117s

#### AMENDED ANALYSIS

This bill requires rules of the electricians' board to be adopted by an affirmative vote of at least 3 of the 5 appointed board members and approved by the commissioner of safety.



**The question is on the adoption of Committee Amendment 1117s.**

**Committee Amendment 1117s adopted.**

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

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

**SB 453**, relative to air quality in ice rinks. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

**Senate Executive Departments and Administration**

**March 18, 2010**

**2010-1114s**

**04/05**

**Amendment to SB 453**

Amend the bill by replacing section 1 with the following:

1 New Section; State Board of Fire Control; Emissions Inspections at Indoor Ice Rinks. Amend RSA 153 by inserting after section 10-c the following new section:

153:10-d Emission Control at Indoor Ice Rinks.

I. Every owner or operator of an indoor ice rink shall conduct an annual emissions inspection for each ice resurfer, ice edger, or other machine which is powered by an internal combustion engine and which is used in an indoor ice rink. The inspection shall be performed by a person qualified to certify that the emissions emitted from the machine conform to the manufacturer's specifications for emissions. Evidence of annual inspection shall be available for review by the state fire marshal.

II. Every owner or operator of an indoor ice rink shall obtain an annual inspection of the building's ventilation system to ensure the system is operating according to the manufacturer's specifications. The inspection shall be performed by a mechanical contractor qualified to inspect ventilation equipment. Evidence of annual inspection shall be available for review by the state fire marshal.

III. Any person who fails to comply with the provisions of this section shall be guilty of a violation.

**The question is on the adoption of Committee Amendment 1114s.**

**Committee Amendment 1114s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 453.**

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

**SB 466**, relative to automatic fire warning devices and carbon monoxide detection devices in dwellings. Executive Departments and Administration Committee. Interim Study, Vote 3-2. Senator Downing for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 466.**

**Motion of Refer to Interim Study adopted.**

**SB 479**, relative to administrative review by the commissioner of safety of decisions by the bureau of hearings. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 5-0. Senator DeVries for the committee.

**The question is on committee recommendation of Inexpedient to Legislate on SB 479.**

**Motion of Inexpedient to Legislate failed.**

**Sen. DeVries moved Ought to Pass.**

**Sen. Letourneau offered a floor amendment.**

**Sen. Letourneau, Dist. 19**

**Sen. Carson, Dist. 14**

**March 23, 2010**

**2010-1155s**

**05/04**

**Floor Amendment to SB 479**

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

AN ACT relative to the function of the bureau of hearings, department of safety.

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

1 Bureau of Hearings. Amend RSA 21-P:13, II to read as follows:

II. The bureau of hearings shall be responsible *for conducting all initial administrative reviews and* for holding all hearings on licenses, permits, and registrations issued by any division of the department pursuant to title XXI, RSA 106-F, and RSA 158. The bureau of hearings shall have authority to take disciplinary action in the name of such division against any holder of such license, permit or registration in accordance with law. ~~[Unless otherwise provided by law, all rehearings and appeals shall be held in accordance with RSA 541.]~~ *In the case of either an initial administrative review or a hearing, the hearing examiner shall issue his or her ruling within 15 days of the request for administrative review or the hearing date. The ruling shall be in writing and a copy shall be provided to the parties. The ruling shall be final unless either a review is filed pursuant to RSA 21-P:13, III or a request for rehearing or appeal is filed in accordance with RSA 541 or unless otherwise provided by law.*

2 New Paragraph; Bureau of Hearings; Administrative Review by Commissioner. Amend RSA 21-P:13 by inserting after paragraph II the following:

III. Within 10 days following the hearing examiner's ruling, a party aggrieved by the ruling, including a law enforcement officer or department representative aggrieved by the ruling, may petition the commissioner for an administrative review of the ruling. The petition shall be in writing and shall set forth fully every ground upon which it is claimed that the ruling is erroneous as a matter of law, or cannot be sustained by the facts as presented in the initial administrative review or at the hearing, or is contrary to department policy approved by the commissioner prior to the ruling. The filing of the petition shall not stay a suspension or revocation of the person's driver's license or privilege to drive if imposed, or the restoration of the person's driver's license or privilege to drive. Any objection to the petition shall be filed by the opposing party within 10 days following the filing of the petition. The administrative review shall be performed without a hearing. After a review of the ruling, the commissioner shall issue within 10 days a finding either affirming the ruling or granting a new hearing if the ruling is erroneous as a matter of law, or cannot be sustained by the facts as presented in the initial administrative review or at the hearing, or is contrary to department policy approved by the commissioner prior to the ruling. Any grant of a new hearing shall be accompanied by a written explanation setting forth the specific error of law, the reason why the ruling cannot be sustained by the facts, or how the ruling is contrary to department policy approved by the commissioner prior to the ruling.

3 Rules of the Road; Administrative Review and Hearings. Amend RSA 265:91-b, III to read as follows:

III. In the case of either an administrative review or a hearing, the hearing examiner shall issue his or her ~~[recommendation]~~ **ruling** on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The ~~[recommendation]~~ **ruling** shall be in writing and a copy shall be provided to the parties. The ~~[recommendation]~~ **ruling** shall be final unless a review or appeal is filed under RSA ~~[265:91-d]~~ **21-P:13, III** or RSA 265:91-e.

4 Driving or Operating Under the Influence; Administrative Review and Hearings. Amend RSA 265-A:31, III to read as follows:

III. In the case of either an administrative review or a hearing, the hearing examiner shall issue his or her ~~[recommendation]~~ **ruling** on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The ~~[recommendation]~~ **ruling** shall be in writing and a copy shall be provided to the parties. The ~~[recommendation]~~ **ruling** shall be final unless a review or appeal is filed under RSA ~~[265-A:33]~~ **21-P:13, III** or RSA 265-A:34.

5 Repeal. The following are repealed:

I. RSA 265:91-d, relative to review by the director of motor vehicles of rulings by hearings examiners to suspend or revoke driver's licenses for serious traffic offenses.

II. RSA 265-A:33, relative to review by the director of motor vehicles of rules by hearings examiners to suspend or revoke driver's licenses for driving or operating under the influence of drugs or liquor.

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

**2010-1155s****AMENDED ANALYSIS**

This bill establishes and clarifies the commissioner's power to exercise quasi-judicial authority on behalf of the department of safety by reviewing rulings issued by department hearings examiners.

**Recess. Out of Recess.**

**The question is on the adoption of Floor Amendment 1155s.**

**MOTION TO TABLE**

**Sen. DeVries moved to table SB 479.**

**The question is on the motion to table SB 479.**

**Motion adopted.**

**LAI D ON THE TABLE**

**SB 479**, relative to administrative review by the commissioner of safety of decisions by the bureau of hearings.

**SB 507**, relative to the Masonic Home. 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 507.**

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

**SB 514**, relative to commercial weighing or measuring devices. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 3-0. Senator Downing for the committee.

**Senate Executive Departments and Administration**

**March 18, 2010**

**2010-1118s**

**08/09**

**Amendment to SB 514**

Amend RSA 438:14-a as inserted by section 2 of the bill by replacing it with the following:

438:14-a Registered Serviceman. A registered serviceman who installs, services, repairs, reconditions, tests, or calibrates a commercial weighing or measuring device shall mark said device in a manner approved by the commissioner. This mark shall authorize the device owner to use a licensed device unless rejected pursuant to RSA 438:14.

**2010-1118s****AMENDED ANALYSIS**

This bill:

I. Defines registered serviceman.

II. Permits registered servicemen to mark commercial weighing or measuring devices in a manner approved by the commissioner of the department of agriculture, markets and food.

**The question is on the adoption of Committee Amendment 1118s.**

**Committee Amendment 1118s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 514.**

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

**SB 359-FN**, (New Title) requiring the commissioner of administrative services to post online certain information regarding payments made by the state. Finance Committee. Inexpedient to Legislate, Vote 5-2. Senator D'Allesandro for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 359-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, Bradley, Odell, Roberge, Bragdon, Carson, Boutin, Barnes, Letourneau, Downing.**

**Yeas: 14 - Nays: 10**

**Motion of Inexpedient to Legislate adopted.**

(President Larsen announced that in observance of Sen. Houde's birthday, cake would be available as an afternoon refreshment.)

**SB 361-FN**, (New Title) relative to benefits related to service of certain part-time district court justices and judges of probate retiring because of permanent disability. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Hassan for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1134s**

**06/04**

**Amendment to SB 361-FN**

Amend section 1 of the bill by replacing paragraph III with the following:

III. The sums necessary to fund the benefits under this section may be paid from existing appropriations to the judicial branch.

**The question is on the adoption of Committee Amendment 1134s.**

**Committee Amendment 1134s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 361-FN.**

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

**SB 389-FN-A**, relative to the interest and dividends tax on certain distributions to investors in investment organizations. Finance Committee. Ought to Pass, Vote 7-0. Senator Janeway for the committee.

**MOTION TO TABLE**

**Sen. Janeway moved to table SB 389-FN-A.**

**The question is on the motion to table SB 389-FN-A.**

**Motion adopted.**

**LAIID ON THE TABLE**

**SB 389-FN-A**, relative to the interest and dividends tax on certain distributions to investors in investment organizations.

**SB 396-FN**, limiting the use of child restraint practices in schools and treatment facilities. Finance Committee. Ought to Pass, Vote 7-0. Senator Sgambati for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 396-FN.**

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

**SB 402-FN**, requiring reductions in the number of state-owned passenger vehicles. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Janeway for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1132s**

**03/04**

**Amendment to SB 402-FN**

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

AN ACT relative to state-owned vehicles.

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

1 New Subdivision; Disposal of State-Owned Vehicles Based on Personal Use. Amend RSA 21-I by inserting after section 19-g the following new subdivision:

Disposal of State-Owned Vehicles Based on Personal Use

21-I:19-h Disposal of State-Owned Vehicles Based on Personal Use.

I. Each agency, as defined in RSA 21-I:19-g, III, shall maintain a written record of all personal use of state-owned motor vehicles by employees, including, but not limited to, use of vehicles for commuting or other non-business purposes. The record shall include the number of miles traveled for personal use.

II. By August 1, 2010, each agency shall review the utilization of all vehicles which are assigned to the agency to determine if personal use for any vehicle exceeds 15 percent of the total miles traveled by that vehicle for the preceding fiscal year. By August 1 of each year after 2010, each agency shall conduct the same review using the percentage of personal use miles adjusted by the vehicle utilization committee.

III. Each agency shall, by August 15, 2010, report to the commissioner in writing all vehicles which are determined to have personal use exceeding 15 percent of the total miles traveled by that vehicle for the preceding fiscal year. Each agency shall, by August 15 of each year after 2010, report to the commissioner in writing all vehicles which are determined to have personal use miles exceeding the percentage adjusted by the vehicle utilization committee.

IV. The commissioner shall, by October 1, 2010 and each October 1 thereafter, submit a report to the governor and council and to the fiscal committee of the general court identifying all vehicles which he or she has been advised have personal use exceeding the applicable percentage of total miles traveled by that vehicle for the preceding fiscal year.

V. The director of the division of plant and property management of the department of administrative services shall declare all vehicles reported under paragraph III surplus and shall transfer or otherwise dispose of those vehicles unless a waiver of this requirement is granted by the vehicle utilization committee.

VI. Requests for waivers from the vehicle utilization committee shall be submitted to the commissioner at the same time as the report required by paragraph III. The vehicle utilization committee shall grant a waiver if it concludes that to do so would be in the best interests of the state.

VII. There is hereby established a vehicle utilization committee consisting of the following officials or designees:

(a) The commissioner of the department of administrative services.

(b) The director of the division of plant and property management of the department of administrative services.

(c) The commissioner of the department of transportation.

(d) The commissioner of the department of safety.

(e) The commissioner of the department of environmental services.

VIII. After October 1, 2010, the vehicle utilization committee may, at any time, with the prior approval of the fiscal committee of the general court, adjust the percentage of personal use miles traveled by a vehicle during the preceding fiscal year which may result in a vehicle being declared surplus and subject to transfer or other disposal by the director of the division of plant and property management. In the absence of any adjustment, the percentage shall be 15 percent. Any adjustment of the percentage made by the vehicle utilization committee shall be communicated to agencies by the vehicle utilization committee and shall remain in effect until further adjustment, if any, is made.

2 Travel and Fleet Operation Cost Reductions.

I. In this section:

(a) "Agency" includes a department, institution, board, division, and commission.

(b) "Commissioner" means the commissioner of the department of administrative services.

(c) "Light duty truck" means any of the following which has a gross vehicle weight rating of up to 10,000 pounds: a passenger van seating up to 8 people, a pick-up truck, a sport utility vehicle, or a cargo van.

(d) "Passenger vehicle" means a passenger sedan or station wagon.

II.(a) Each state agency shall reduce its combined in-state travel and fleet operations costs by 6 percent for the fiscal year ending June 30, 2011 and by an additional 6 percent for fiscal year ending June 30, 2012. By September 1, 2010, each agency shall review and determine its in-state travel reimbursement costs and light duty truck and passenger vehicle fleet operations costs for the prior 12 months. By October 1, 2010, each agency shall submit to the commissioner, in writing, an action plan that contains a proposed reduction of its combined in-state travel and fleet operations costs by 6 percent for the fiscal year ending June 30, 2011 and by an additional 6 percent for fiscal year ending June 30, 2012. Such action plan shall include sufficient detail to demonstrate how costs savings will be realized in each fiscal year.

(b) The commissioner shall review the action plan submitted by each agency to determine whether he or she concurs that the action plan would, based upon available information, likely reduce the combined costs by the required amount.

(c) If the commissioner concurs that the action plan would be likely to reduce the combined costs by the required amount, the commissioner shall, by November 1, 2010, so advise the agency in writing and the agency shall implement the plan for the fiscal years ending June 30, 2011 and June 30, 2012.

(d) If the commissioner does not concur that the action plan would be likely to reduce the combined costs by the required amount, he or she shall, by November 1, 2010, instruct the agency to submit, and the agency shall submit, a revised plan by December 1. If the commissioner concurs that the revised plan would be likely to reduce the combined costs by the required amount, the commissioner shall, by January 1, 2011, so advise the agency in writing and the agency shall implement the plan for the fiscal years ending June 30, 2011 and June 30, 2012. The commissioner shall by December 31, 2010, provide the governor and council and the fiscal committee of the general court with a report specifying the status of all action and revised plans submitted to the commissioner under this section.

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

## **2010-1132s**

### **AMENDED ANALYSIS**

This bill requires that each state agency reduce its combined in-state travel and fleet operations costs by 6 percent for the fiscal year ending June 30, 2011 and by an additional 6 percent for fiscal year ending June 30, 2012. This bill also requires the disposal of a state-owned vehicle if the personal use miles traveled by the vehicle exceeds a specified percentage of total miles traveled.

**The question is on the adoption of Committee Amendment 1132s.**

**Committee Amendment 1132s adopted.**

**Sen. D'Allesandro offered a floor amendment.**

**Sen. D'Allesandro, Dist. 20**

**March 23, 2010**

**2010-1163s**

**01/09**

### **Floor Amendment to SB 402-FN**

Amend RSA 21-I:19-h, I as inserted by section 1 of the bill by replacing it with the following:

I. Each agency, as defined in RSA 21-G:5, III, shall maintain a written record of all personal use of state-owned motor vehicles by employees, including, but not limited to, use of vehicles for commuting or other non-business purposes. The record shall include the number of miles traveled for personal use.

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

(a) "Agency" means "agency" as defined in RSA 21-G:5, III.

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

II.(a) Each state agency shall reduce its combined in-state travel and fleet operations costs by 6 percent for the fiscal year ending June 30, 2011 and by an additional 6 percent for fiscal year ending June 30, 2012, unless the fiscal committee of the general court and the governor and council conclude that to do so would not be in the best interests of the state. By September 1, 2010, each agency shall review and determine its in-state travel reimbursement costs and light duty truck and passenger vehicle fleet operations costs for the prior 12

months. By October 1, 2010, each agency shall submit to the commissioner, in writing, an action plan that contains a proposed reduction of its combined in-state travel and fleet operations costs by 6 percent for the fiscal year ending June 30, 2011 and by an additional 6 percent for fiscal year ending June 30, 2012. Such action plan shall include sufficient detail to demonstrate how costs savings will be realized in each fiscal year.

**The question is on the adoption of Floor Amendment 1163s.**

**Floor Amendment 1163s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 402-FN.**

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

**SB 450-FN**, relative to costs and expenditures at the department of health and human services. Finance Committee. Ought to Pass with Amendment, Vote 5-1. Senator Sgambati for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1113s**

**09/04**

#### **Amendment to SB 450-FN**

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

AN ACT relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax.

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

1 Department; Powers and Duties; Publication of Rates of Reimbursement Exempt From Rulemaking. Amend RSA 170-G:4, XVII to read as follows:

XVII. Establish rates for all services, placements and programs which are paid for by the department pursuant to RSA 169-B:40, 169-C:27, 169-D:29, and any services required to be provided by the department pursuant to paragraph II of this section. When educational aspects are present in any service, placement or program subject to rate-setting by the department, rates for the educational component shall be addressed jointly by the department and the department of education. ***Publication of rates of reimbursement shall be exempt from the provisions of RSA 541-A.***

2 New Paragraph; Administrative Procedure Act; Exception Added. Amend RSA 541-A:21 by inserting after paragraph VI the following new paragraph:

VII. RSA 170-G:4, XVII, relative to the publication of rates for services, placements, and programs which are paid for by the department of health and human services pursuant to RSA 169-B:40, RSA 169-C:27, and RSA 169-D:29 shall be exempt from RSA 541-A.

3 Administration of the New Hampshire Employment Program; Duties; Rulemaking. Amend RSA 167:83, V to read as follows:

V. The commissioner ~~[shall]~~ **may** enter into an agreement or contract with the commissioner of the department of employment security to carry out the employment program and may delegate authority and duties for the employment program to the commissioner of the department of employment security and other state agencies. The commissioner shall adopt rules for the employment program ~~[in consultation with the commissioner of the department of employment security]~~.

4 Non-TANF Funded Program for 2-Parent Families With Dependent Children. Amend RSA 167:77-e to read as follows:

167:77-e Assistance Program for 2-Parent Families with Dependent Children. ~~[By October 1, 2008,]~~ The department ~~[shall]~~ **may** establish a non-TANF, state-funded financial assistance program for 2-parent needy families with dependent children in which one parent is underemployed or unemployed. With the exception of parental underemployment or unemployment, client eligibility and program requirements and administration shall be in accordance with this chapter and the rules adopted under this chapter. In order to meet the federal work participation rate and avoid federally-imposed penalties, the commissioner may add additional groups of families to this state-funded, financial assistance program as funding permits and also may transfer cases back to the TANF program, pursuant to rules adopted under RSA 541-A.

5 Eligibility for Medical Assistance. Amend RSA 167:4, IV(c) to read as follows:

(c) Notwithstanding any provision of law to the contrary, for purposes of medicaid eligibility, investment in life insurance policies with cash surrender, **benefit, or face** value in excess of \$1,500 shall be limited to policies that ensure payment to the state of New Hampshire of all the proceeds of the policy in excess of amounts spent on burial up to the total of medicaid expenditures made on behalf of the individual, ***except that life insurance policies which name the Medicaid recipient's spouse who remains living in the community or recipient's disabled child who is under the age of 65 as the only beneficiary or beneficiaries shall be exempt from this eligibility requirement.***

6 Authorizing the Department of Health and Human Services to File Claims for Medical and Financial Assistance Against Abandoned Property Held by the Treasury; Filing of Claim With Administrator. Amend RSA 471-C:26, I(c)(2)(3) to read as follows:

(2) ***Except as provided in subparagraphs (5)-(7),*** in the case of a closed estate where the unclaimed property is valued at less than \$5,000 and does not include securities in share form, in accordance with the final distribution of assets as approved by the probate court.

(3) ***Except as provided in subparagraphs (5)-(7),*** in the absence of an open estate or probate court decree of final distribution, and the unclaimed property is valued at less than \$5,000 and does not include securities in share form, by the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin in accordance with the provisions of RSA 561:1.

7 New Subparagraphs; Filing of Claim With Administrator. Amend RSA 471-C:26, I(c) by inserting after subparagraph (4) the following new subparagraphs:

(5) Before distributing any unclaimed property pursuant to subparagraphs (2) and (3), the administrator shall first ensure that the department of health and human services does not have a claim for medical and or financial assistance paid on behalf of the deceased owner.

(6) In the event that the department of health and human services has a claim for medical and or financial assistance paid on behalf of the deceased owner, the department may submit a claim for such assistance using an affidavit developed by the administrator that ensures that:

(A) No individual has moved to probate the deceased owner's estate through which the department could assert its claim or probate administration for the deceased owner had been open and no individual has moved to reopen the estate through which the department could assert its claim;

(B) The department does not believe, based on the information available to it, there are known expenses for the deceased owner's necessary funeral and burial; and

(C) Based on all facts known to the department, its recovery of this abandoned property is not limited by the prohibitions to recovery as set forth in 42 U.S.C. section 1396p and RSA 167:16-a, IV.

(7) If the department of health and human services has made a claim against a deceased owner's unclaimed property as provided in subparagraph (6), under no circumstances shall the administrator distribute to the department more than the claimed amount.

8 Repeal. 2009, 144:211, relative to community mental health centers; administrative requirements suspended, is repealed.

9 Department of Health and Human Services; Transfer Among Accounts. Amend 2009, 144:39, III to read as follows:

III. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary except RSA 9:17-c, and subject to the approval of the fiscal committee of the general court and governor and council, for the biennium ending June 30, 2011, the commissioner of the department of health and human services is hereby authorized to transfer funds within and among all PAUs within the department, as the commissioner deems necessary and appropriate to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and otherwise as necessary for the efficient management of the department[~~, with the exception of class 60 transfers~~].

10 Lead Paint Poisoning Prevention and Control; Rulemaking. Amend RSA 130-A:10, IV to read as follows:

IV. Fees to be collected for the issuance of licenses to lead inspectors, lead risk assessors, lead abatement contractors, for certification of lead abatement workers and lead clearance testing technicians, for testing



resulting from investigations, for certifications of training programs, *exam and training fees*, [and] for notifications under RSA 130-A, *and other environmental fees*. Property owners who own more than 4 but fewer than 7 dwelling units shall pay a fee for licensure which is 1/2 of that paid by other lead abatement contractor licensees. Such reduced fee license shall only be valid for work on dwellings or dwelling units owned by such license holder.

11 Lead Poisoning Prevention Fund. Amend RSA 130-A:15 to read as follows:

130-A:15 Lead Poisoning Prevention Fund. There is hereby established the lead poisoning prevention fund to be used to carry out the provisions of this chapter. The fund shall be composed of fees, fines, gifts, grants, donations, bequests, or other moneys from any public or private source and shall be used to implement and encourage lead paint removal and education, *and to support program staff and administrative costs*. The fund shall be nonlapsing and shall be continually appropriated to the commissioner of the department of health and human services for the purposes of this chapter.

12 New Paragraph; Department of Health and Human Services; Duties of the Department. Amend RSA 161:2 by inserting after paragraph XVII the following new paragraph:

XVIII. Refugee Resettlement. Administer the New Hampshire refugee resettlement program as funded by and in cooperation with the United States Department of Health and Human Services under the Refugee Act of 1980.

13 New Section; Special Fund; Civil Fines. Amend RSA 151 by inserting after section 16-a the following new section:

151:16-b Civil Fines. All administrative fines and other civil monetary penalties collected by the department from facilities licensed under this chapter shall be kept by the state treasurer in a separate, non-lapsing, interest bearing account. Interest earned on moneys deposited in the account shall be deposited into the account. The moneys in the account shall be used by the department for the protection of the health and property of residents of facilities licensed under this chapter.

14 New Subparagraph; Special Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (299) the following new subparagraph:

(300) Civil fines collected under RSA 151:16-b, which shall be deposited as provided in such section.

15 Eligibility for Services Under the Medicaid Waiver. Amend RSA 151-E:3, II to read as follows:

II. A person is eligible for services under the medicaid waiver if the person has been determined *clinically* eligible under RSA 151-E:3, I(a), *and financially eligible pursuant to rules adopted by the commissioner under RSA 541-A*.

16 Medicaid Enhancement Tax; Due Date. Amend RSA 84-A:3, II-a to read as follows:

II-a. For the taxable period beginning July 1, 1993, and for every taxable period thereafter, each hospital shall pay 100 percent of its medicaid enhancement tax due and payable for the taxable period no later than the fifteenth day of the [third] *fourth* month of the taxable period. Notwithstanding any provision of this chapter or any other law, no penalty or interest shall be imposed for failure to make payment of tax when due if such payment is made on or before the last day of the month in which such payment is due.

17 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, I(a)(3) to read as follows:

(3) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or the department of safety to complete, an impaired driver intervention program (I.D.I.P.) or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention [detention-center] program (M.O.P.) or an equivalent 7-day residential intervention program approved by the commissioner of health and human services;

18 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, I(b)(3) to read as follows:

(3) Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive days shall be served at

the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** established under RSA 265-A:40, which sentence shall begin no later than ~~[21]~~ **45** days after conviction. In the event that the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** has no available space, the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention ~~[detention-center]~~ **program** or equivalent program within 60 days after the person has completed serving the required 7 consecutive days or such other time as the court may order;

19 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, I(c)(3) to read as follows:

(3) Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive days served at the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** established under RSA 265-A:40, which sentence shall begin no later than 21 days after conviction. In the event that the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services, and the remainder of the sentence may be deferred at the court's discretion. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention ~~[detention-center]~~ **program** or equivalent program within 60 days after the person has completed serving the required 7 consecutive days or such other time as the court may order. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence; and

20 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, IV(a)(3)-(5) to read as follows:

(3)(A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 37 consecutive days of which 30 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive days to be served at the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** established under RSA 265-A:40 within 21 days after conviction, except that in circumstances where the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention ~~[detention-center]~~ **program** or equivalent program within 60 days after the person has completed serving the required 30 consecutive 24-hour periods or such other time as the court may order.

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive days shall be served at the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** established under RSA 265-A:40, which sentence shall begin no later than 21 days after conviction. In the event that the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ **program** has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention ~~[detention-center]~~ **program** or equivalent program within 60 days after the person has completed serving the required 7 consecutive days or such other time as the court may order.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the ~~[state-operated]~~ 7-day multiple DWI offender intervention ~~[detention-center]~~ program prior to license restoration. If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.

21 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, VI to read as follows:

VI. If any person is convicted of a violation of RSA 265-A:2, I or RSA 265-A:3, and the conviction is not based upon a complaint which alleges prior convictions as provided in paragraph IV, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within 10 years preceding the date of the offense, the person's driver's license or privilege to drive shall be revoked for not less than one year nor more than 3 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that within 45 days after conviction the person has entered the 7-day program at the ~~[state-operated]~~ multiple DWI offender intervention ~~[detention-center]~~ program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services, as provided in RSA 265-A:40 and RSA 265-A:42. The person's license shall not be restored until the person has successfully completed the program. The court may further order attendance at a residential treatment center, for a period not to exceed 30 days, at the person's own expense.

22 Penalties for Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, XI to read as follows:

XI. Any person convicted of a violation of RSA 265-A:2, RSA 265-A:3, or RSA 265-A:19, II, and who at the time of driving or attempting to drive a vehicle or off highway recreational vehicle or operating or attempting to operate a boat was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the ~~[state-operated]~~ multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

23 Penalties for Boating While Intoxicated. Amend RSA 265-A:19, II to read as follows:

II. Any person convicted of a violation of RSA 265-A:2, II who at the time of the violation was transporting a person under the age of 16 shall not operate a boat on the waters of this state until the offender has successfully completed a 7-day program at the ~~[state-operated]~~ multiple DWI offender program or an equivalent 7-day residential intervention program approved by the department of health and human services at the person's own expense. Any person operating a boat in violation of this paragraph is guilty of a misdemeanor.

24 Impaired Driver Intervention Programs. Amend RSA 265-A:39, I to read as follows:

I. Except as provided in paragraph IV, the commissioner of the department of health and human services shall be responsible for biennially approving the impaired driver intervention programs and 7-day residential intervention programs equivalent to the multiple DWI offender intervention ~~[detention-center]~~ program (M.O.P.) which persons convicted under RSA 265-A:2 or RSA 265-A:3 shall attend in order to regain their driver's licenses or driving privileges; but the commissioner of the department of health and human services shall not approve any impaired driver intervention program unless such program is conducted without cost to the state. Notwithstanding RSA 6:12, any fees collected under subparagraph IV(g) of this section shall be placed in a nonlapsing revolving account and shall be used by the commissioner for the purposes of this subdivision only.

25 Multiple DWI Offender Intervention Program. RSA 265-A:40 is repealed and reenacted to read as follows:

265-A:40 Multiple DWI Offender Intervention Program.

I. The commissioner of the department of health and human services shall be responsible for the establishment and administration of the 7-day multiple DWI offender intervention program which persons convicted under RSA 265-A:2 or RSA 265-A:3 or sentenced pursuant to RSA 651:2, V(h) may be required to attend. The commissioner shall have the authority to directly operate the program, to approve community-based providers to operate the program in accordance with rules adopted pursuant to RSA 541-A, or to contract with public or private entities to operate the program.

II. Any person who attends the 7-day multiple DWI offender intervention program shall be required to pay the fees for the program to the department of health and human services. Full payment shall be made in advance unless the person has entered into a payment plan contract with the office of reimbursements prior to entry into the program. Payment of all fees shall be made no later than one year after completion of the program. The fees shall be sufficient to make the program self-supporting, exclusive of start-up costs. The fees collected shall be deposited in a special account in the office of the state treasurer and utilized as provided in RSA 265-A:41.

III. The 7-day multiple DWI offender intervention program shall furnish to the courts a report indicating when a person has completed attendance at the program, and shall furnish to the division of motor vehicles, department of safety, a report indicating when a person who attends the program pursuant to RSA 265-A:18 has successfully completed the program and treatment or involvement in a substance abuse program when appropriate and warranted.

IV. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the operation of the 7-day multiple DWI offender intervention program with respect to:

- (a) Program curriculum and content.
- (b) Any other matter related to the proper administration of this section.

26 Impaired Driver Intervention Programs; Utilization of Funds. Amend RSA 265-A:41 to read as follows:

265-A:41 Utilization of Funds. All funds derived from the fees collected by the commissioner of the department of health and human services under RSA 265-A:18 shall be paid over to the state treasurer within 10 days of the subsequent month, or at an earlier date, for deposit into a separate account in the treasury known as the 7-day multiple DWI offender intervention [~~detention-center~~] program account. These funds are appropriated as indicated in the operating budget as a source of funds for the 7-day multiple DWI offender intervention [~~detention-center~~] program. Any funds remaining in the account over the appropriation indicated in the operating budget shall lapse into the general fund at the end of each fiscal year.

27 Impaired Driver Intervention Programs; Attendance Required. Amend RSA 265-A:42, IV(b) to read as follows:

(b) In the case of enrollment in the [~~state-operated~~] 7-day multiple DWI offender intervention [~~detention-center~~] **program**, a person shall provide such certified copy at the time of enrollment or prior to the issuance of a report under RSA 265-A:40, III and RSA 265-A:18, VIII.

28 Sentences and Limitations. Amend RSA 651:2, V(h) to read as follows:

(h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the [~~state-operated~~] 7-day multiple DWI offender intervention [~~detention-center~~] program established under RSA 265-A:40, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.

29 Report Required. The commission to examine driving while impaired education and intervention programs shall, pursuant to the authority under 2008, 256:10, as extended by 2009, 202:5, study the penalties for intoxication or under the influence of drugs offenses, including but not limited to the multiple DWI offender intervention program. Based upon available research and data, the commission shall review and evaluate the merits of the penalties and the program in order to develop recommendations on these issues. On or before November 1, 2010, the commission shall report its findings to the governor's commission on alcohol and drug abuse prevention, intervention, and treatment, the speaker of the house of representatives, the president of the senate, the commissioner of the department of health and human services, the house clerk, the senate clerk, the state library, and the governor and shall make recommendations, if appropriate, for future legislation to address these issues.

30 State Treasurer; Application of Receipts. Amend RSA 6:12, I (b)(147) to read as follows:

(147) Moneys deposited in the 7-day multiple DWI offender intervention [~~detention-center~~] program account under RSA 265-A:41.

31 Department of Health and Human Services; Office of Reimbursements; Duties. Amend RSA 126-A:34, I(a) to read as follows:

(a) Review and investigate all records of the New Hampshire hospital, Laconia developmental services, the secure psychiatric unit, the Glenclyff home, the Anna Philbrook center, and the multiple DWI offender intervention [~~detention-center~~] program (M.O.P.), relative to expenses incurred by patients, residents, or clients at such institutions, facilities, or programs or expenses incurred by patients, residents, or clients receiving care, treatment, services, or maintenance at the direction of the commissioner of health and human services, and make recommendations to the commissioner and to the respective superintendents or directors of such institutions, facilities, or programs as to the rates to be charged for the care, treatment, and maintenance of such patients, residents, or clients.

32 Department of Health and Human Services; Office of Reimbursements; Financial Statements. Amend RSA 126-A:38, II-III to read as follows:

II. Persons admitted to the multiple DWI offender intervention [~~detention-center~~] program (M.O.P.) who do not pay program fees in full at the time of admission shall file a financial statement under penalty of perjury on forms provided for this purpose by the office of reimbursements and shall enter a payment contract for balance of fees due. The office of reimbursements shall be entitled to recover reasonable attorneys fees and costs of collection for program fees not paid in accordance with a payment contract.

III. Persons admitted to the multiple DWI offender intervention [~~detention-center~~] program (M.O.P.) shall notify the office of reimbursements of each change of mail address and actual street address until that person has made payment in full of fees due in accordance with an M.O.P. payment contract. Whenever notice to a person subject to a payment contract is required, notice to the last mail address on file with the office of reimbursements shall be deemed notice to and binding on the payer.

33 Applicability. Section 5 of this act shall take effect on the first day of the following month upon certification by the secretary of state to the director of legislative services that increased funding under the American Recovery and Reinvestment Act has expired.

34 Effective Date.

I. Section 5 of this act shall take effect as provided in section 33 of this act.

II. Sections 13, 14, and 16 of this act shall take effect July 1, 2010.

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

## **2010-1113s**

### **AMENDED ANALYSIS**

This bill:

I. Consolidates the amount to be reduced by the department of health and human services, as required under HB 1-A of the 2009 legislative session, for the biennium instead of for each fiscal year.

II. Exempts certain rates for services, placements, and programs for children and families from RSA 541-A.

III. Clarifies the administration of the New Hampshire employment program.

IV. Makes the funded family assistance program (FANF) permissive rather than mandatory.

V. Requires recipients of medical assistance to name the state of New Hampshire as beneficiary of all life insurance policies, except under certain circumstances.

VI. Allows the department of health and human services to make a claim for recovery of assistance for a deceased recipient from the division of abandoned property.

VII. Authorizes the commissioner of the department of health and human services to transfer funds within and among all PAUs within the department, to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and as otherwise necessary for the efficient management of the department.

VIII. Permits funds from the lead paint poisoning prevention fund to be used to support program staff and administrative costs.

IX. Transfers powers and duties for the New Hampshire refugee resettlement program from the governor's office to the department of health and human services.

X. Establishes a special account for civil fines collected by the department of health and human services under RSA 151.

XI. Clarifies criteria for determining eligibility for services under the Medicaid waiver.

XII. Changes the due date for the Medicaid enhancement tax.

XIII. Renames the "multiple DWI offender intervention detention center program" as the "multiple DWI offender intervention program," and authorizes the commissioner of the department of health and human services to directly operate the program, to approve community-based providers of the program, or to contract with public or private entities to operate the program.

XIV. Requires the commission to examine driving while impaired education and intervention programs to study penalties for intoxication or under the influence of drugs offenses and submit a report of its findings.

**The question is on the adoption of Committee Amendment 1113s.**

**Committee Amendment 1113s adopted.**

**Sen. Sgambati offered a floor amendment.**

**Sen. Sgambati, Dist. 4**

**March 24, 2010**

**2010-1174s**

**01/09**

#### **Floor Amendment to SB 450-FN**

Amend the bill by inserting after section 33 the following and renumbering the original section 34 to read as 35:

34 Authorization. The general court may authorize additional modifications to the 2010-2011 state budget, 2009, 143, as may be required to accomplish a balanced budget in a time of fluctuating revenues.

**The question is on the adoption of Floor Amendment 1174s.**

**Floor Amendment 1174s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 450-FN.**

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

**SB 454-FN**, relative to requiring submission of a reduced spending alternative as part of the biennial budget process. Finance Committee. Interim Study, Vote 7-0. Senator D'Allesandro for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 454-FN.**

**Motion of Refer to Interim Study adopted.**

**Senators Bradley and Carson are in opposition to motion of Refer to Interim Study on SB 454-FN.**

**SB 462-FN-L**, relative to distribution of funds for education. Finance Committee. Inexpedient to Legislate, Vote 5-1. Senator Janeway for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 462-FN-L.**

**Motion of Inexpedient to Legislate adopted.**

**Senators Bradley and Letourneau are in opposition to the motion of Inexpedient to Legislate on SB 462-FN-L.**

**SB 465-FN-L**, relative to the transition period for implementing the adequacy aid formula. Finance Committee. Ought to Pass with Amendment, Vote 6-0. Senator Hassan for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1131s**

**04/03**

#### **Amendment to SB 465-FN-LOCAL**

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

1 School Money; Determination of Grants. Amend RSA 198:41, III to read as follows:

III. For the fiscal years beginning July 1, 2009 [and], **July 1, 2010, and July 1, 2011** [~~July 1, 2010~~], the department of education shall not:

(a) Distribute a total education grant on behalf of all pupils who reside in a municipality that exceeds that municipality's total education grant for the 2009 fiscal year by more than 15 percent; or

(b) Reduce the total state aid for an adequate education provided on behalf of all pupils who reside in a municipality to an amount less than that municipality's total state aid for an adequate education received in the 2009 fiscal year.

2 Excess Education Tax Payment. Amend RSA 198:46, I to read as follows:

I. A municipality in which education property tax revenue collected exceeds the amount necessary to fund the cost of an adequate education in a fiscal year, as determined in RSA 198:40-a, shall collect and remit such excess to the department of revenue administration on or before March 15 of the tax year in which the excess occurs. For fiscal years 2010 ~~and 2011~~ **through 2012**, the version of RSA 198:41, II effective for the fiscal year ending June 30, 2009 shall be used to determine excess.

3 Effective Date of Prospective Repeal. Amend 2008, 173:18 to read as follows:

173:18 Effective Date.

I. Paragraphs I and II of section 17 of this act shall take effect June 30, 2009.

II. Section 8 ~~and paragraph III of section 17~~ of this act shall take effect July 1, 2011.

**III. Paragraph III of section 17 of this act shall take effect July 1, 2012.**

**IV.** The remainder of this act shall take effect July 1, 2009.

4 Committee Established. There is established a committee to study the sustainability of the existing state programs for funding K-12 education, including adequate education grants, fiscal capacity disparity aid, and catastrophic aid.

5 Membership and Compensation.

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

(a) Three members of the senate, at least one of whom shall be a member of the education committee, and at least one of whom shall be a member of the finance committee, appointed by the president of the senate.

(b) Four members of the house of representatives, at least one of whom shall be a member of the education committee, and at least one of whom shall be a member of the education 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.

6 Duties. The committee shall study the sustainability of the existing state programs for funding K-12 education, including adequate education grants, fiscal capacity disparity aid, and catastrophic aid.

7 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. Four members of the committee shall constitute a quorum.

8 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 December 1, 2010.

9 Effective Date.

I. Sections 1-3 of this act shall take effect July 1, 2010.

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

**2010-1131s**

#### AMENDED ANALYSIS

This bill extends the provisions for calculating the distribution of education grants through the 2012 fiscal year and extends the prospective repeal for the calculation of education grants to July 1, 2012. The bill also establishes a committee to study the sustainability of the existing state programs for funding K-12 education, including adequate education grants, fiscal capacity disparity aid, and catastrophic aid.

**The question is on the adoption of Committee Amendment 1131s.**

**Committee Amendment 1131s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 465-FN-L.**

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

**SB 483-FN-A**, relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax. Finance Committee. Ought to Pass, Vote 7-0. Senator D'Allesandro for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 483-FN-A.**

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

**SB 485-FN-A**, relative to ratification of cost items contained in a collective bargaining agreement for court security officers of the judicial branch, and making an appropriation therefor. Finance Committee. Ought to Pass with Amendment, Vote 6-0. Senator D'Allesandro for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1129s**

**03/04**

**Amendment to SB 485-FN-A**

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

AN ACT relative to ratification of cost items contained in a collective bargaining agreement for court security officers of the judicial branch.

Amend the bill by replacing section 2 with the following:

2 Funding. The supreme court shall fund the collective bargaining agreement cost items ratified in section 1, and may use funds from the following sources:

I. Notwithstanding the provisions of RSA 490:26-c, I and II, sums held in the escrow fund for court facility improvements.

II. Notwithstanding the provisions of RSA 490-E:4, II, sums held in the mediation and arbitration fund established in RSA 490-E:4, I.

III. Sums retained by the court as administrative processing fees for forfeiture of recognizances under RSA 597:38-a.

**2010-1129s**

**AMENDED ANALYSIS**

This bill ratifies the cost items and terms and conditions of employment contained in a collective bargaining agreement affecting court security officers of the judicial branch. The bill also authorizes funding.

**The question is on the adoption of Committee Amendment 1129s.**

**Committee Amendment 1129s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 485-FN-A.**

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

**HB 486-FN-L**, relative to the school building aid program. Finance Committee. Ought to Pass with Amendment, Vote 6-1. Senator Hassan for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1130s**

**04/03**

**Amendment to SB 486-FN**

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

1 Statement of Purpose.

I. The general court recognizes that the state of New Hampshire has a role in providing financial assistance for school building costs to ensure that all children can attend safe and viable schools.

II. The committee on school building aid established by 2009 Laws, chapter 144 found in its interim report dated December 15, 2009 that the cost of program financing has grown 150 percent in the last decade and that the existing growth rate of the present school building aid program is not sustainable indefinitely



into the future. The committee recommended that the general court honor its outstanding obligations for school building aid. At the same time, the committee recognized the need to redesign the state's school building aid program to ensure that children in every part of the state attend school in suitable buildings while also ensuring that eligibility criteria provide access to aid to those communities with the greatest need.

III. The committee further recommended that the general court consider implementing a temporary one-year suspension of school building aid to provide the committee sufficient time to complete its review of the future structure and operation of the school building aid program and present any findings and recommendations for subsequent legislative deliberation and action. The general court finds that such a temporary suspension is needed both to redesign the current program and to provide school districts and municipalities with sufficient notice of the redesigned program prior to consideration of future school construction.

IV. In finding that a temporary one-year suspension in the building aid program will allow for the redesign of the program to ensure for its long-term sustainability, the general court recognizes and agrees, as the committee found in its interim report, that there should be a waiver process during the suspension period to address remediation of school buildings prior to the end of the suspension period.

## 2 School Building Aid; Alternative School Building Aid.

I. Notwithstanding RSA 198:15-a through RSA 198:15-hh and RSA 198:15-u through RSA 198:15-w, and notwithstanding the school building aid funding provisions of 2009, 144:11, the commissioner of the department of education shall issue no school building aid or alternative school building aid for any project approved on or after June 30, 2010 through June 30, 2011.

II. The commissioner of the department of education, in consultation with the state fire marshal, may grant a waiver to the suspension of school building aid under paragraph I if the state fire marshal or designee determines, based on reasonable information and belief, that:

(a) The condition of such school building or portion thereof constitutes a clear and imminent danger to the life or safety of occupants or other persons; or

(b) Any egress, fire spread, or structural deficiencies in a school building or portion thereof present a substantial risk to the occupants or other persons and require remediation prior to July 1, 2011. Any school building aid provided under a waiver granted pursuant to this paragraph shall be limited to the costs associated with the remediation of the conditions that are determined either to pose a clear and imminent danger to the life or safety of persons or that are otherwise determined to require attention prior to July 1, 2011 due to a substantial risk from egress, fire spread, or structural deficiencies.

3 Committee to Study the School Building Aid Grant Program; Membership. Amend 2009, 144:13, I(a)-(b) to read as follows:

(a) ~~[Two]~~ **Three** members of the senate, appointed by the president of the senate.

(b) ~~[Three]~~ **Four** members of the house of representatives, appointed by the speaker of the house of representatives.

4 Committee to Study the School Building Aid Grant Program; Duties. Amend 2009, 144:13, IV to read as follows:

IV. The committee ~~[may]~~ **shall** solicit and ~~[receive]~~ **consider** testimony **and other information on the goals, procedures, structure, and operation of the school building aid grant program** from any person or organization with information or expertise relevant to the committee's objective **in connection with the formulation of any findings or recommendations for proposed legislation**.

5 Committee to Study the School Building Aid Grant Program. Amend 2009, 144:13, VI to read as follows:

VI. The committee shall submit an interim report on or before December 15, 2009 and, **following a public hearing on a draft final report**, a final report on or before ~~[November]~~ **December** 1, 2010, containing ~~[its]~~ **any** 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.

## 6 Effective Date.

I. Section 2 of this act shall take effect June 30, 2010.

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

**2010-1130s****AMENDED ANALYSIS**

This bill:

I. Provides that no school building aid or alternative school building aid grants shall be made to school districts for projects approved on or after June 30, 2010 through June 30, 2011.

II. Provides that the commissioner of the department of education, in consultation with the state fire marshal, may grant a waiver to the suspension of school building aid if the state fire marshal or designee determines, based on reasonable information and belief, that the condition of such school building or portion thereof constitutes a clear and imminent danger to the life or safety of occupants or other persons, or that a school building or portion thereof has egress, fire spread, or structural deficiencies that present a substantial risk to the occupants or other persons and require remediation prior to July 1, 2011.

III. Amends the membership and duties of the committee to study the school building aid grant program established in 2009, 144:13.

**The question is on the adoption of Committee Amendment 1130s.**

**Committee Amendment 1130s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 486-FN-L.**

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

**Recess. Out of recess.**

**SPECIAL ORDER**

**Without objection President Larsen moved the following bills forward out of order so as to be considered in sequence with SB 489 (Finance): SB 497 (Finance), CACR 32 (Judiciary), SB 487 (Public and Municipal Affairs), and SB 488 (Public and Municipal Affairs).**

**SB 489-FN-A-L**, relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing. Finance Committee. Ought to Pass with Amendment, Vote 4-2. Senator D'Allesandro for the committee.

**Senate Finance**

**March 18, 2010**

**2010-1136s**

**04/03**

**Amendment to SB 489-FN-A-LOCAL**

Amend RSA 284-A:1 as inserted by section 1 of the bill by replacing it with the following:

284-A:1 Definitions. In this chapter:

I. "Applicant" means any person, officer, director, or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under the provisions of this chapter. In cases in which the applicant is a corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or any other form of legal business entity, the lottery commission shall determine the associated persons whose qualifications must be provided and reviewed as a precondition to the licensing of the applicant.

II. "Central computer system" means a central monitor and control system provided and monitored by the lottery commission to which video lottery terminals communicate for purposes of information retrieval, retrieval of the win and loss determination from video lottery machines, and programs to activate and disable video lottery machines.

III. "Charitable gaming" means games of chance and other gaming as permitted under RSA 287-A, RSA 287-D, and RSA 287-E.

IV. "Destination golf resort and convention center" means the facility which is issued a resort gaming facility license in accordance with this chapter. The destination golf resort and convention center shall include a minimum of 300 new hotel rooms, restaurants, entertainment facilities, convention and meeting space, and other amenities typical of resorts and convention centers. The facility shall have adequate floor space, which is separate from the conference areas, for gaming. It shall be located in a town along the Massachusetts border in Hillsborough county.

V. "Facility licensee" means any north country facility licensee, destination golf resort and convention center licensee, or any pari-mutuel licensee.

VI. "Facility licensee location" means a pari-mutuel licensee location, north country facility licensee location, or destination golf resort and convention center, and the portion of such facility approved for video lottery machine operations.

VII. "Key employee" means any individual who is employed in a director or department head capacity and who is authorized to make discretionary decisions that regulate video lottery machine operations, including the general manager and assistant manager of the operator licensee or technology provider, director of operations, director of cage and/or credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller, and any employee who supervises the operations of these departments or to whom these department directors or department heads report and such other positions which the lottery commission shall determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee. All other gaming employees shall be considered as non-key employees.

VIII. "Licensee" means any applicant licensed by the lottery commission under this chapter.

IX. "Net machine income" means all cash or other consideration utilized to play a video lottery machine at a facility licensee, less all cash or other consideration paid to players of video lottery machines as winnings. Non cashable promotional credits shall be excluded from the calculation.

X. "North country facility license" means the license issued to a north country facility licensee by the lottery commission pursuant to RSA 284-A.

XI. "North country facility licensee" means one of no more than 2 facilities licensed by the lottery commission pursuant to this chapter, one of which shall be located in Grafton county and one of which shall be located in Coos county.

XII. "North country facility licensee location" means the facility which is issued a north country facility license in accordance with this chapter.

XIII. "Operator applicant" means the applicant applying for an operator's license to operate video lottery machines in accordance with this chapter.

XIV. "Operator's license" means the license issued by the lottery commission to an operator licensee which allows the operator licensee to possess, conduct, and operate video lottery machines in accordance with this chapter.

XV. "Operator licensee" means an operator applicant who is issued a license by the lottery commission to procure and operate video lottery machines pursuant to this chapter.

XVI. "Pari-mutuel licensee" means an entity licensed and authorized to conduct racing, whether live, simulcast, or both, as provided in RSA 284:16 or RSA 284:16-a at a pari-mutuel licensee location.

XVII. "Pari-mutuel licensee location" means the facility at which a pari-mutuel licensee is located and where a pari-mutuel licensee was authorized to conduct live horse racing or live dog racing as of January 1, 2009 for at least the number of days as required in RSA 284:22-a, II(a)(3) or made the election as provided in RSA 284:22-a and such election was approved by the racing and charitable gaming commission, and any real estate in which a pari-mutuel licensee had an interest as of January 1, 2009 which is adjacent to the real estate at which the pari-mutuel licensee was authorized to conduct live horse racing or live dog racing as of January 1, 2009.

XVIII. "Progressive jackpot" means a prize that increases over time or as video lottery machines that are linked to a progressive system are played. Upon conditions established by the lottery commission, a progressive jackpot may be paid by annuity.

XIX. "Progressive system" means one or more video lottery machines linked to one or more common progressive jackpots.

XX. "Resort gaming facility license" means the license issued by the lottery commission to the destination golf resort and convention center pursuant to RSA 284-A.

XXI. "Resort gaming facility licensee" means the holder of the destination golf resort and convention center license issued by the lottery commission.

XXII. "Table game" means games authorized pursuant to RSA 287-H.

XXIII. "Technology provider" means any person or entity which designs, manufactures, installs, distributes, or supplies video lottery machines for sale or lease to the operator licensees, and which are for use by an operator licensee for conducting video lottery games in accordance with this chapter.

XXIV. "Technology provider license" means the license issued by the lottery commission to a technology provider licensee which allows the technology provider licensee to design, manufacture, install, distribute, or supply video lottery machines for sale or lease to the operator licensees.

XXV. "Technology provider licensee" means a technology provider that is licensed by the lottery commission.

XXVI. "Token" means the coin or coupon, which is not legal tender, sold by a cashier in a face amount equal to the cash paid by a player for the sole purpose of playing a video lottery machine at the facility licensee or paid to a player of a video lottery machine, which can be exchanged for cash at the facility licensee.

XXVII. "Video lottery machine" means an electronic, mechanical, or computerized machine which, upon the insertion of bills, coins, tokens, or any representative of value is available to be played where, by chance or skill, or both, the player may receive cash, cash equivalents, or tokens. Video lottery machines include, but are not limited to, slot machines, video poker machines, and other lottery machines. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary. Video lottery machines do not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

XXVIII. "Video lottery" means any lottery conducted with a video lottery machine or linked video lottery machines with an aggregate progression prize or prizes. Video lottery conducted pursuant to this chapter shall not be considered a state-run lottery.

Amend RSA 284-A:2, VII(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The lottery commission shall keep and maintain a list of all applicants for licenses it receives under this chapter together with a record of all actions taken with respect to such applicants. Subject to RSA 284-A:2, VII(d) and (e), a file and record of the actions by lottery commission shall be open to public inspection provided, however, that the information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after 5 years from the date of such action.

Amend the introductory paragraph of RSA 284-A:2, IX as inserted by section 1 of the bill by replacing it with the following:

IX. The lottery commission shall establish standards for reviewing, selecting, and granting licenses for no more than 2 north country facility locations. Applications requesting review and approval of any north country facility licensee location must be received by the lottery commission by July 1, 2013 or no license shall be granted for any north country facility location under this chapter. Standards shall specify the process for licensure and the criteria which shall be met by applicants shall include:

Amend RSA 284-A:2, X(e) as inserted by section 1 of the bill by replacing it with the following:

(e) The process for licensure of a destination golf resort and convention center as a facility licensee.

Amend RSA 284-A:3, XII as inserted by section 1 of the bill by replacing it with the following:

XII. A north country facility location shall commence construction of the north country facility licensee location within 12 months of receiving a north country facility license pursuant to paragraph IX, and a pari-mutuel licensee location shall commence any necessary construction or renovation of the area intended for operation of video lottery machines within 12 months of the pari-mutuel licensee or its operator applicant receiving an operator's license pursuant to RSA 284-A:5.

Amend RSA 284-A:4, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The operator licensee operating video lottery machines at a pari-mutuel licensee location at which live horse racing was authorized to be conducted as of January 1, 2009 and where horse racing, whether live or simulcast, is conducted shall be limited to a maximum of 5,000 video lottery machines in operation at each such pari-mutuel licensee location.

Amend RSA 284-A:5, I(e)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) Upon approval of an operator licensee, the lottery commission shall charge an initial license fee of \$50,000,000 for an operator licensee seeking to operate at a pari-mutuel licensee location where live horse racing was authorized as of January 1, 2009 or at a destination golf resort and convention center; \$20,000,000 for an operator licensee seeking to operate at a pari-mutuel licensee location where live dog racing was authorized as of January 1, 2009; and \$10,000,000 for an operator licensee at a north country facility licensee. The lottery commission shall charge a license fee of \$1,000,000 to renew a license for an operator's license at the pari-mutuel licensee location where live horse racing was authorized as of January 1, 2009 or a destination golf resort and convention center; \$500,000 to renew a license for an operator's license at a pari-mutuel licensee location where live dog racing was authorized as of January 1, 2009; and \$500,000 for renewal of an operator license at a north country facility licensee; however, such person seeking renewal of such license shall pay all costs incurred by the attorney general to conduct an investigation with regard to such application to renew the operator's license. Notwithstanding any other provision of this chapter, the first \$50,000,000 received by the lottery commission pursuant to this subparagraph shall be dedicated to the department of health and human services for the purposes of restoring programming and rate reductions.

Amend RSA 284-A:8, I(a)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) One percent of the net machine income generated by video lottery machines operated by an operator licensee shall be paid in equal portions to each of the municipalities of New Hampshire which abut and are contiguous to a municipality in which that operator licensee operates video lottery machines. Except that if a municipality abuts and is contiguous to more than one municipality in which an operator licensee operates video lottery machines, such municipality will only receive net machine income pursuant to this subsection from the operator licensee who operates video lottery machines in the same county as the abutting municipality.

Amend RSA 284-A:8, III as inserted by section 1 of the bill by replacing it with the following:

III. The operator licensee shall deliver the amounts payable to the state or municipality as provided in paragraph I or II in immediately available funds of the United States on a weekly basis on the third business day following the end of each week. At the time payment is delivered, the operator licensee shall provide a written accounting of net machine income generated from the video lottery machines by the operator licensee on an aggregate basis and the calculation of amounts due to the state separately for distribution pursuant to subparagraphs I(a)(1), (5), (6), (7) and (8), the amount due the municipality pursuant to subparagraph I(a)(2), the amount due to the county pursuant to subparagraph I(a)(3), the amount due certain municipalities pursuant to subparagraph I(a)(4), and the balance of net machine income retained by the operator licensee. The operator licensee shall pay a penalty of \$1,000 for each day that payment or the accounting is not delivered on time to the state, a penalty of \$1,000 for each day that payment or the accounting is not delivered to the municipality on time, and a penalty of \$1,000 for each day that payment or the accounting is not delivered to the county on time.

Amend RSA 284-A:12 as inserted by section 1 of the bill by replacing it with the following:

284-A:12 Term of License. Any license issued pursuant to this chapter and any renewal thereof shall be valid for 5 years unless earlier suspended or revoked by the lottery commission. The lottery commission shall adopt procedures for license renewal that take into consideration whether the applicant has been previously licensed in good standing under this chapter. No license issued by the lottery commission may be transferred to a separate entity without approval by the lottery commission consistent with this chapter.

Amend RSA 21-P:11-b, I(d) as inserted by section 3 of the bill by replacing it with the following:

(d) Investigate crimes which may involve a violation of RSA 287-A or RSA 287-H that occur at a facility licensee location.

Amend the bill by replacing section 7 with the following:

7 New Paragraph; Facility Licensee; Cocktail Lounge License. Amend RSA 178:22, by inserting after paragraph V the following new paragraph:

VI. The commission may issue a special license to a person holding a pari-mutuel license or an operator's license at a facility licensee location under the provisions of RSA 284-A provided the facility licensee location has an existing liquor license. Such special license shall allow the sale of liquor, wine, and beverages within the facility licensee location, including dining room, function room, gaming room, lounge, or any other area designated by the commission, without regard to whether meals are served therein, but only during the time gaming is being conducted under RSA 284-A.

Amend RSA 287-H as inserted by section 14 of the bill by replacing it with the following:

CHAPTER 287-H  
TABLE GAMES

287-H:1 Definitions. In this chapter:

I. "Associated equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used in connection with table gaming, including linking devices, replacement parts, equipment which affects the proper reporting of gross revenue, computerized systems for controlling and monitoring table games, including, but not limited to, the central control computer, and devices for weighing or counting money.

II. "Cash" means United States currency and coin or foreign currency and coin that have been exchanged for its equivalent in United States currency and coin.

III. "Cash equivalent" means an asset that is readily convertible to cash, including, but not limited to, any of the following:

(a) Travelers checks.

(b) Certified checks, cashier's checks, and money orders.

(c) Personal checks or drafts.

(d) Credit extended by the table game licensee, a recognized credit card company, or a banking institution.

(e) Any other instrument that the New Hampshire racing and charitable gaming commission deems a cash equivalent. Other than recognized credit cards or credit extended by the table game certificate holder, all instruments that constitute a cash equivalent shall be made payable to the table game certificate holder, to the bearer, or to cash. An instrument made payable to a third party shall not be considered a cash equivalent and shall be prohibited.

IV. "Certificate holder" means a video lottery operator licensee issued a table game operator certificate by the commission to operate the table games at a licensed facility.

V. "Commission" means the racing and charitable gaming commission.

VI. "Count room" means the room designated for counting, wrapping, and recording of table game receipts.

VII.(a) "Gross table game revenue" means the total of cash or equivalent wagers received in the playing of a table game minus the total of:

(1) Cash or cash equivalents paid out to patrons as a result of playing a table game;

(2) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a table game; and

(3) Any personal property distributed to a patron as a result of playing a table game.

(b) "Gross table game revenue" does not include travel expenses, food, refreshments, lodging, or other complimentary services. This term does not include counterfeit money, tokens, or chips; coins or currency of other countries received in the playing of a table game, except to the extent that they are readily convertible to United States currency; cash taken in a fraudulent act perpetrated against a licensee for which the licensee is not reimbursed; or cash received as entry fees for contests or tournaments in which patrons compete for prizes.

VIII. "Key employee" means any individual who is employed in a director or department head capacity and who is authorized to make discretionary decisions that regulate table game operations, including but not limited to, the director of table games, pit bosses, shift bosses, credit supervisors, cashier supervisors, table game facility managers, and assistant managers.

IX. "Licensed facility" means any north country facility licensee, destination golf resort and convention center licensee, or pari-mutuel licensee licensed by the lottery commission pursuant to RSA 284-A.

X. "Table game" means any banking or percentage game in which there is an opportunity for the player to use his or her reason, foresight, or other strategy to increase the expected return, including roulette, baccarat,

blackjack, poker, craps, big six wheel, mini-baccarat, red dog, pai gow, casino war, Asia poker, Boston 5 stud poker, Caribbean stud poker, Colorado hold 'em poker, double attack blackjack, double cross poker, double down stud poker, fast action hold 'em, flop poker, four card poker, let it ride poker, mini-craps, mini-dice, pai gow poker, pokette, Spanish 21, Texas hold 'em bonus poker, three card poker, two card joker poker, ultimate Texas hold 'em, winner's pot poker and sic bo and any other games approved by the commission. The term includes any variations or composites of approved games, provided that the commission determines that the new table game, variations, or composites are suitable for use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate, and any other game which the commission determines to be suitable for use in a licensed facility after an appropriate test or experimental period as the commission may deem appropriate. The term shall also include gaming contests or tournaments in which players compete against one another in any table game authorized for use in a licensed facility by the commission. The term shall not include wagering on pari-mutuel racing regulated by the racing and charitable gaming commission pursuant to RSA 284, raffles regulated pursuant to RSA 287-A, lotteries regulated by the lottery commission pursuant to RSA 284:21-a and RSA 287-F, and bingo and lucky 7 games regulated by the racing and charitable gaming commission pursuant to RSA 287-E. Table games which are operated as games of chance pursuant to RSA 287-D shall not be subject to the provisions of this chapter.

XI. "Table game device" includes tables, cards, dice, chips, shufflers, tiles, dominoes, wheels, drop boxes, or any mechanical or electrical contrivance, terminal, machine or other device approved by the commission and used or consumed in operation of or connection with a table game.

XII. "Table game operation certificate" means a certificate issued by the commission that certifies that the table gaming operation of a licensed facility conforms to the requirements of this chapter and rules adopted under this chapter and that authorizes the holder of a video lottery operator license to conduct table gaming under this chapter.

XIII. "Table game operator" means:

(a) "Primary game operator" which means any consultant or any person involved in conducting, managing, supervising, directing, or running the table games at a licensed facility and shall include the banker, the auditor, the counter, and persons involved in the cage; or

(b) "Secondary game operator" which means any person involved in dealing, running a roulette wheel, or handling chips at a licensed facility.

XIV. "Technology provider" means a technology provider that is licensed by the lottery commission pursuant to RSA 284-A, or who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise modifies table games.

XV. "Video lottery operator licensee" means a person issued a license by the lottery commission to procure and operate video lottery machines pursuant to RSA 284-A.

287-H:2 State Employee Prohibition. No member, employee, or independent contractor of the lottery commission or racing and charitable gaming commission shall accept a complimentary service or wager or be paid any prize from any wager at any licensed facility within the state or at any other facility outside this state which is owned or operated by a licensed gaming entity or any of its affiliates, intermediaries, subsidiaries, or holding companies thereof for the duration of his or her term of office, employment, or contract with the lottery commission or the racing and charitable gaming commission and for a period of one year from the termination of term of office, employment, or contract with the lottery commission or racing and charitable gaming commission. The provisions of this section shall not apply to employees who utilize table games for testing purposes or to verify the performance of table games as part of an enforcement investigation.

287-H:3 General and Specific Powers.

I. The commission shall have general and sole regulatory authority over the conduct of table games described in this chapter. The commission shall ensure the integrity of the acquisition and operation of table game devices and associated equipment and shall have sole regulatory authority over every aspect of the authorization and operation of table games.

II. The commission shall:

(a) Issue, approve, renew, revoke, suspend, condition, or deny issuance or renewal of a table game operation certificate to a video lottery operator.

(b) Determine at its discretion the suitability of any person, including technology vendors not licensed pursuant to RSA 284-A, who furnishes or seeks to furnish to a certificate holder licensee directly or indirectly any services or property related to the table games or associated equipment or through any arrangements under which that person receives payment based directly or indirectly on earnings, profits, or receipts from table games and associated equipment. Any criminal background checks shall be conducted by the division of state police, gaming enforcement unit, and any other background investigations shall be conducted by the attorney general's office. The commission may require any such person to comply with the requirements of this chapter and the rules of the commission and may prohibit the person from furnishing the services or property.

III. The commission shall not issue or renew a table games operation certificate unless it is satisfied that the applicant is an operator licensee in good standing operating video lottery machines under RSA 284-A.

IV. To publish on the commission's Internet website a complete list of all persons or entities who applied for or held a table game operation certificate, manufacturer license, supplier license, or racetrack license at any time during the preceding calendar year and all affiliates, intermediaries, subsidiaries, and holding companies thereof and the status of the application or license, however, information regarding any applicant who's approval or certificate has been denied, revoked or not renewed shall be removed from such list after 5 years from the date of such action.

287-H:4 Enforcement. The commission, with the assistance of the attorney general and the division of state police gaming enforcement unit, shall administer and enforce the provisions of this chapter.

287-H:5 Rulemaking.

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

(a) The application procedure for video lottery operator licensees to obtain a table game operation certificate.

(b) The approval procedure for table game operators, including the classification of primary game operators and secondary game operators.

(c) Procedures for a hearing following revocation of any table game operation certificate pursuant to this chapter.

(d) The operation of table games.

(e) Refunds of certificate fees pursuant to this chapter.

(f) Procedures for approving technology providers not licensed by RSA 284-A and associated fees.

(g) Accountability controls to ensure game integrity, including, but not limited to, cash, attendance, prizes, income, expense, and financial reporting, and record-keeping to be implemented by licensed table game operators in addition to requirements set forth in this chapter.

(h) Enforcement of this chapter.

(i) The issuance of subpoenas, administrative orders and fines, badge specifications, requirements, and fees.

(j) Other matters related to the proper administration of this chapter.

II. Pending the adoption of rules under RSA 541-A, the commission shall adopt interim rules pursuant to RSA 541-A:19 after a public hearing and within 90 days after the enactment of this chapter. Such interim rules shall implement the provisions of this chapter.

287-H:6 Table Games Authorized. A person licensed to operate video lottery pursuant to RSA 284-A may operate table games at a licensed facility in the manner hereinafter provided and not otherwise:

I. Persons holding a current license in good standing from the lottery commission to operate video lottery pursuant to RSA 284-A may apply for a table games operation certificate for the operation of table games at a licensed facility and upon confirmation by the commission that it meets the criteria set forth in this section shall be granted a certificate for the operation of table games.

II. The certificate shall authorize table games at specified licensed facilities.

III. The certificate shall only permit the operation of table games at a licensed facility that operates or permits the operation of games of chance for or on behalf of charitable organizations pursuant to RSA 287-D,



provided that the space allocated for games of chance at the licensed facility be at least 5,000 square feet within the principal gaming area of the licensed facility, and the number of tables used for table games shall be limited to not more than 150 tables.

IV. The certificate shall not be transferable.

287-H:7 Authorization to Conduct Table Games and Licensure.

I. Notwithstanding any other provision of law to the contrary, the commission may authorize only a licensed video lottery operator to engage in the operation of table games and the system of wagering associated with table games at a licensed facility. Authorization to conduct table games shall be contingent upon the licensee's agreement to conduct table games in accordance with this chapter.

II. A video lottery operator who is issued a table games operation certificate may only be permitted to operate table games at a licensed facility consistent with the permission granted by the certificate.

III.(a) A video lottery operator licensee may seek approval to operate table games by filing a petition with the commission.

(b) A petition shall include the following:

(1) The name, business address, and contact information of the petitioner.

(2) The name and address, job title, and a photograph of each principal and key employee of the petitioner not currently approved or licensed by the commission, including table game operators.

(3) An itemized list of the number and type of table games for which authorization is being sought.

(4) The estimated number of full-time and part-time employment positions that will be created at the licensed facility if table games are authorized.

(5) Information and authorizations sufficient to allow the commission to confirm that any person providing services as a table game operator has not, in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the previous 5 years which has not been annulled by a court, or has violated any statutes or rules governing gambling or gaming of any kind.

(6) The details of any financing that will be obtained or has been obtained to fund the expansion of the licensed facility to accommodate the operation of table games.

(7) Detailed site plans identifying the petitioner's proposed table game area within the licensed facility including reference to the area reserved for charitable games of chance. The proposed table game area shall be reviewed by the commission to determine the adequacy of the proposed internal controls and external security and proposed surveillance measures and submit a finding regarding adequacy to the commission.

IV. The applicant shall certify under oath that:

(a) The information provided on the application is accurate.

(b) Information and authorizations sufficient to allow the commission to confirm that any person providing services as a table game operator has not, in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the previous 5 years which has not been annulled by a court, or has violated any statutes or rules governing gambling or gaming of any kind.

(c) The applicant will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of table games.

287-H:8 Standard of Review. The commission shall grant the petition and issue a certificate to authorize the petitioner to operate table games if the petitioner establishes evidence of the following:

I. The petitioner is an eligible video lottery operator licensee duly licensed pursuant to RSA 284-A.

II. If necessary, the petitioner has secured adequate financing to fund the expansion of the petitioner's licensed facility to accommodate the operation of table games.

III. The proposed internal and external security and proposed surveillance measures within the petitioner's proposed table game area within the licensed facility are adequate.

IV. The petitioner agrees to permit the operation of charitable games of chance consistent with RSA 287-H:6, III.

287-H:9 Commencement of Table Game Operations. A video lottery operator licensee may not operate or offer table games for play at a licensed facility until:

I. The commission approves the petition filed under RSA 287-H:7.

II. The video lottery operation pays the fee under RSA 287-H:14.

III. The commission has issued a table games operation certificate to the video lottery operator licensee under RSA 287-H:6 and RSA 287-H:8.

287-H:10 Term of Table Game Authorization. After payment of the fee under RSA 287-H:14, authorization to conduct table games shall be in effect unless suspended, revoked, or not renewed by the commission upon good cause consistent with the license requirements provided in this chapter. Video lottery operator licensees shall be required to update the information in their initial table games petition at times prescribed by the commission, but at least as frequently as the operator is required to renew its video lottery operator's license. An additional license fee of no more than \$1,000,000 shall be imposed for renewal of a table game operation certificate every 5 years. The commission shall be entitled to use such funds to support staff and resources necessary to implement this chapter.

287-H:11 Condition of Continued Operation. A certificate holder shall maintain all books, records, and documents pertaining to the certificate holder's table game operation in a manner and location as approved by the commission. All books, records, and documents related to table game operations shall:

I. Be maintained separate and apart from all books, records, and documents of the video lottery machine operations.

II. Be immediately available for inspection upon request of the commission, the state police or agents of the attorney general during all hours of operation in accordance with rules adopted by the commission; and

III. Be maintained for a period as the commission, by rule, may require.

287-H:12 Table Game Accounting Controls and Audits.

I. Prior to being approved for a table game operation certificate, a video lottery operator licensee shall obtain approval from the commission of its proposed site plans and internal control systems and audit protocols for its table games operation.

II. The video lottery operator licensee's proposed internal controls and audit protocols shall:

(a) Safeguard its assets and revenues, including the recording of cash and evidences of indebtedness related to the table games.

(b) Provide for reliable records, accounts, and reports of any financial event that occurs in the operation of a table game, including reports to the commission related to the table games.

(c) Provide for accurate and reliable financial records related to the table games operation.

(d) Establish procedures for all the following:

(1) The receipt, storage, and disbursal of chips, cash, and other cash equivalents used in table gaming.

(2) Check cashing.

(3) The redemption of chips and other cash equivalents used in table gaming and the payoff of jackpots.

(4) The recording of transactions pertaining to table gaming.

(e) Establish procedures for the collection and security of moneys at the gaming tables.

(f) Establish procedures for the transfer and recording of chips between the gaming tables and the cashier's cage.

(g) Establish procedures for the transfer of drop boxes for table games from the gaming tables to the count room.

- (h) Establish procedures and security for the counting and recording of table gaming revenue.
- (i) Establish procedures for the security, storage, and recording of cash, chips, and other cash equivalents utilized in table gaming.
- (j) Establish procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels, and all other gaming equipment.
- (k) Establish procedures and rules governing the conduct of particular games and the responsibility of casino personnel.
- (l) Establish procedures for the collection and recording of revenue from poker when it is a non-licensee bank game, including the type of rake utilized, the methodology for calculating the rake, and the amount of maximum permissible rake.
- (m) Ensure that any wagering governing the operation of a table game is implemented only in accordance with the management's general or specific authorization, as approved by the commission.
- (n) Ensure that there is proper and timely accounting of gross table game revenue and the calculation of gross table game revenue, fees, and taxes and maintain accountability for assets.
- (o) Ensure that recorded accountability for assets is compared with actual assets at reasonable intervals and that appropriate action is taken with respect to any discrepancies.
- (p) Ensure that all functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound financial practices by competent, qualified personnel.
- (q) Permit use of its existing onsite facilities by the commission, other persons authorized by the commission to facilitate their ability to perform regulatory and oversight functions under this chapter.

III. Each video lottery operator licensee shall, prior to being approved for a table game operation certificate, submit to the commission a detailed description of its administrative and accounting procedures related to table games, including its written system of internal controls. Each written system of internal controls shall include:

- (a) An organizational chart depicting appropriate functions and responsibilities of employees involved in the table game operation.
- (b) A description of the duties and responsibilities of each position shown on the organizational chart.
- (c) The record retention policy of the applicant.
- (d) The procedure to be utilized to ensure that assets are safeguarded, including mandatory count procedures.

IV. Prior to approving a petitioner for a table game operation certificate, the commission shall review the system of internal controls submitted under RSA 287-H:7, III(b)(9) to determine whether it conforms to the requirements of this chapter and provides adequate and effective controls for the operations of the licensed facility.

#### 287-H:13 Wagering Policies.

I. Holders of table game operation certificates shall maintain a detailed narrative description of the administrative and accounting procedures which meet the requirements of this section.

II. A video lottery operator licensee may accept a check from a patron in exchange for cash or chips, provided that each check is deposited with the financial institution upon which the check is drawn within 10 days of receipt by the video lottery operator licensee.

III. Holders of table game operation certificates may make credit card advances and debit card withdrawals available to table game patrons at a licensed facility. All fees charged for cash advances, check cashing, and debit card withdrawals shall be disclosed. Notwithstanding any other provision of law, a holder of a table game operation certificate may provide credit to patrons for the purpose of playing table games in accordance with this section. No third party checks shall be permitted.

#### 287-H:14 Table Game Authorization Fee.

I. Upon approval of a petition filed under RSA 287-H:7 and prior to the commencement of the operation of table games at the licensed facility, the commission shall impose a one-time authorization fee on the video lottery operator licensee in the amount of \$10,000,000. The commission is authorized to use such funds to support staff and resources necessary to implement this chapter.

II. All table game authorization fees received by the commission under this section shall be deposited in the general fund.

**287-H:15 Distribution of Table Game Revenues.**

I. Each certificate holder shall pay from its daily gross table game revenue from the table games in operation at its licensed facility:

(a) Eight percent of daily gross table revenue to the state to be deposited into the general fund.

(b) The balance of the daily gross table game revenue shall be retained by the video lottery operator licensee that operates the table games.

II. The distribution due to the state pursuant to subparagraph I(a) shall be due and payable to the state treasurer on a quarterly basis and shall be based upon gross table game revenue derived during the previous quarter. All funds owed to the state under this section shall be held in trust by the certificate holder until the funds are paid or transferred and distributed by the certificate holder. Unless otherwise agreed to by the commission, a certificate holder shall establish a separate bank account to maintain table gaming proceeds until such time as the proceeds are paid or transferred under this section.

**287-H:16 Authorization of Suppliers and Manufacturers of Table Game Devices.** Any person seeking to supply table game devices for use at a licensed facility shall obtain approval by the commission for authority to manufacture or supply table games, table game devices, or other equipment associated with table games, and shall pay such fees as the commission deems reasonable and appropriate. Upon approval, the manufacturer or supplier shall pay a fee of \$50,000. A fee of \$25,000 shall be paid for the annual renewal of a supplier license.

**287-H:17 Equipment; Wagering; Prizes.**

I. No table games shall be conducted with any equipment except such as is owned or leased from a supplier or manufacturer of such equipment who has been approved by the commission pursuant to RSA 287-H:16 and who has registered with the secretary of state in such manner and on such form as the secretary of state prescribes.

II. All devices and equipment used to conduct table games shall be subject to inspection by duly authorized law enforcement officials of the commission.

III. The amount of any wager permitted to be played by a player, on any table game, shall be prominently posted.

**287-H:18 Sanction Powers of the Racing and Charitable Gaming Commission.**

I. The commission shall have the sole and exclusive authority following appropriate hearings and factual determinations, to impose sanctions against any person for any violation of this chapter or any rule of the commission adopted under the provisions of this chapter as follows:

(a) Revocation or suspension of a license.

(b) Civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$50,000 for each violation.

(c) Order restitution of any moneys or property unlawfully obtained or retained by a person.

(d) Issue a cease and desist order which specifies the conduct which is to be discontinued, altered, or implemented by the person.

(e) Issue letters of reprimand or censure, which shall be made a permanent part of the file of each person so sanctioned.

(f) Impose any or all of the foregoing sanctions in combination with each other.

II. In determining appropriate sanctions in a particular case, the commission shall consider:

(a) The risk to the public and to the integrity of table game operations created by the conduct of the person.

(b) The seriousness of the conduct of the person and whether the conduct was purposeful or with knowledge that it was in contravention of the provisions of this chapter or the rules of the commission.

(c) Any justification or excuse for such conduct.

(d) The prior history of the person involved.

(e) The corrective action taken by the person to prevent future misconduct of a like nature from occurring.

(f) In the case of a monetary penalty, the amount of the penalty in relation to the misconduct and the financial means of the person.

(g) In the event that a person receives 3 civil penalties during the term of such person's license, the commission may subject such person to enhanced fines or other disciplinary action.

287-H:19 Declaration of Limited Exemption from Operation of Provisions of 15 U.S.C. section 1171-1172. Pursuant to section 2 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," approved January 2, 1951, being Chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that it is in the state's best interest to benefit from limiting gambling device revenues but prevent the proliferation of gambling devices by limiting approved facility locations and therefore that section 2 of that act of Congress shall not apply to any gambling device in this state where the transportation of such a device is specifically authorized by and done in compliance with the provisions of this chapter and any rules adopted pursuant to it, and that any such gambling device transported in compliance with state law and rules shall be exempt from the provisions of that act of Congress.

287-H:20 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

**The question is on the adoption of Committee Amendment 1136s.**

**Committee Amendment 1136s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 489-FN-A-L.**

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

**The following Senators voted Yes: Gallus, Reynolds, Sgambati, Cilley, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, DeVries, D'Allesandro, Downing, Hassan.**

**The following Senators voted No: Bradley, Houde, Janeway, Odell, Roberge, Boutin, Barnes, Le-tourneau, Merrill, Fuller Clark.**

**Yeas: 14 - Nays: 10**

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

#### **SPECIAL ORDER**

**SB 497-FN-A**, changing the business profits tax deduction for reasonable compensation for partnerships, limited liability companies, and sole proprietorships and modifying the interest and dividends tax statute to follow the definitions of interest and dividends used in the United States Internal Revenue Code. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator D'Allesandro for the committee.

**Senate Finance**

**March 22, 2010**

**2010-1142s**

**09/01**

#### **Amendment to SB 497-FN-A**

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

2 Business Profits Tax; Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted to read as follows:

III.(a) In the case of any business organization filing a business profits tax return as a proprietorship or a partnership, a deduction of an amount equal to a fair and reasonable compensation for the personal services of a natural person who is a proprietor, partner, or member provided to the business organization, as determined pursuant to the general rule of subparagraph (b) and the reporting safe harbor rule of subparagraph (c); provided, however, that the amount of such deduction shall not exceed such business organization's gross business profits. The purpose of this paragraph is to permit a deduction from gross business profits of such a business organization all amounts that are fairly attributable to the personal services of the proprietor, partner, or member, but not to permit a deduction from gross business profits of amounts that are attributable to a rate of return on net equity capital actually invested in the business organization. Such amounts would generally include amounts reported as earned income on federal tax returns, but would also include amounts attributable to personal services provided in connection with the operation and rental of real property, the sale of property and services, and other amounts due to services rendered.

(b) Subject to the provisions of subparagraph (c) which establishes a reporting safe harbor, the amount of the deduction allowed under this paragraph shall be determined using the standards set forth in section 162(a)(1) of the United States Internal Revenue Code, as it may be amended from time to time, and the Treasury Regulations, administrative rulings, and judicial cases issued thereunder.

(c)(1) Amounts described in subparagraph (2) with respect to any taxable period shall be treated as attributable to the provision of personal services to the business organization by a proprietor, partner, or member. A business organization may elect the reporting safe harbor set forth in subparagraph (2) by specifying its election on its annual return required to be filed pursuant to RSA 77-A:6, I. The amount of the deduction reported pursuant to the safe harbor set forth below shall not be subject to redetermination or adjustment by the commissioner; provided, that upon request, the business organization shall be required to substantiate that the proprietor or at least one partner or member performed personal services for the business organization.

(2) For any business organization filing a business profits tax return as a proprietorship or partnership, if the business organization has gross business profits determined after applying the additions and deductions required by RSA 77-A:4 but before application of this subparagraph equal to or greater than the independent investor return amount, then the business organization may deduct all amounts of such adjusted gross business profits in excess of such independent investor return amount.

(d) The principles stated in subparagraphs (b) and (c) shall apply similarly to all business organizations regardless of their form of organization.

3 New Paragraphs; Business Profits Tax; New Definition; Independent Investor Return Amount; Actual Total Capital. Amend RSA 77-A:1 by inserting after paragraph XXIX the following new paragraphs:

XXX. "Independent investor return amount" means the amount that an independent investor would realize as an investment return on the actual total capital invested in the business organization, assuming that a single independent investor contributed all of the actual total capital and required an investment return determined using the independent investor risk rate per annum applicable for the taxable period, computed on a simple interest basis. The independent investor return amount shall be determined on a cumulative basis so that if gross business profits determined after applying the additions and deductions required by RSA 77-A:4 but before application of RSA 77-A:4, III are less than the independent investor return amount for a taxable period ending after June 30, 2010, the portion of the independent investor return amount that is not reported as taxable business profits for such taxable period shall be carried forward to subsequent tax periods.

XXXI. "Independent investor risk rate," with respect to any taxable period, means the long-term annual applicable federal rate specified in section 1274(d) of the United States Internal Revenue Code, as it may be amended from time to time, as in effect for the September that is included within such taxable period, plus 15 percentage points.

XXXII. "Actual total capital" means the net equity value for the business organization measured at the beginning of each applicable taxable period. For a business organization required to file a federal partnership information return, the actual total capital shall be the amount of the organization's aggregate partners' capital account as reported on its federal partnership information return. For all other business organizations, the actual total capital shall be determined by reference to the organization's aggregate net owners' equity amount using principles similar to business organizations required to make and file a United States partnership return of income.

**The question is on the adoption of Committee Amendment 1142s.**

**Committee Amendment 1142s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 497-FN-A.**

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

#### **MOTION FOR RECONSIDERATION**

**Sen. Cilley, having voted on the prevailing side, moved for reconsideration of the Ought-to-Pass-as-Amended vote on SB 497-FN-A.**

**The question is on the motion for reconsideration on SB 497-FN-A.**

**Motion adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 497-FN-A.**

**A roll call was requested by Sen. Cilley, seconded by Sen. Reynolds.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

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

**Recess. Out of recess.**

#### **EVENING SESSION COMMITTEE REPORTS, RESUMED**

##### **SPECIAL ORDER**

**CACR 32, relating to clarification of certain language. Providing that all references to people in the constitution shall refer to both male and female. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Lasky for the committee.**

**The question is on the adoption of committee recommendation of Ought to Pass on CACR 32.**

**A roll call was requested by Sen. Hassan, seconded by Sen. Kelly.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

**Motion of Ought to Pass adopted by the required 3/5 vote, bill ordered to Third Reading.**

##### **SPECIAL ORDER**

**SB 487-L, relative to charter limitations on the growth of budgets and taxes and to the validity of certain city and town charter provisions. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Houde for the committee.**

#### **MOTION TO TABLE**

**Sen. Houde moved to table SB 487-L.**

**The question is on the motion to table SB 487-L.**

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

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

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

**Yeas: 14 - Nays: 10**

**Motion adopted.**

**LAID ON THE TABLE**

**SB 487-L**, relative to charter limitations on the growth of budgets and taxes and to the validity of certain city and town charter provisions.

**SPECIAL ORDER**

**SB 488**, relative to the adoption of local spending caps. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Houde for the committee.

**MOTION TO TABLE**

**Sen. Houde moved to table SB 488.**

**The question is on the motion to table SB 488.**

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

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

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

**Yeas: 14 - Nays: 10**

**Motion adopted.**

**LAID ON THE TABLE**

**SB 488**, relative to the adoption of local spending caps.

**Recess. Out of Recess.**

**MOTION TO REMOVE FROM THE TABLE**

**Sen. Houde moved to remove SB 390 from the table.**

**The question is to remove SB 390 from the table.**

**Motion adopted.**

**REMOVED FROM THE TABLE**

**SB 390**, relative to health insurance premium only cafeteria plans. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 4-1. Senator Cilley for the committee.

**Sen. Houde offered a floor amendment.**

**Sen. Houde, Dist. 5**

**March 9, 2010**

**2010-0934s**

**05/10**

**Floor Amendment to SB 390-FN**

Amend RSA 275:43-c as inserted by section 1 of the act by replacing it with the following:

275:43-c Required Premium Only; Cafeteria Plan. Each small employer, as that term is defined in RSA 420-G:2, XVI, which employs 5 or more employees in the state of New Hampshire and which does not offer employer-sponsored health insurance to all of its employees, may establish and maintain a health coverage premium only cafeteria plan that satisfies the requirements of 26 U.S.C., section 125, and which is specifically established for the purpose of allowing employees who are not eligible for employer-sponsored coverage to purchase health coverage as defined in RSA 420-G:2, IX in the small group market. An employee who works over 15 hours per week and who is not eligible for an employer-sponsored plan may elect to purchase small group health coverage on an individual basis through a payroll deduction. The employer shall not be required to pay for or otherwise contribute to the cost of any health insurance purchased through the cafeteria plan.

**2010-0934s**

**AMENDED ANALYSIS**

This bill permits small employers which employ 5 or more employees and which do not offer employer-sponsored health insurance to all of its employees to establish and maintain a health coverage premium only cafeteria plan.



**The question is on the adoption of Floor Amendment 0934s.**

**Floor Amendment 0934s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 390-FN.**

**A roll call was requested by Sen. Hassan, seconded by Sen. DeVries.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

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

### **SPECIAL ORDER**

**SB 392-FN**, requiring public hearings when insurance companies set base rate increases. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 3-1. Senator Cilley for the committee.

**Commerce, Labor and Consumer Protection**

**March 4, 2010**

**2010-0915s**

**06/09**

### **Amendment to SB 392-FN**

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

AN ACT requiring public hearings concerning health care cost increases in health care services.

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

1 New Paragraph; Insurance; Requested Information. Amend RSA 420-G:14-a by inserting after paragraph IV the following new paragraphs:

V. The commissioner shall hold an annual public hearing concerning private and public health care payer costs and cost trends and health care provider costs and cost trends for the purpose of identifying and quantifying the factors that contribute to cost increases in health insurance premiums and health care services in New Hampshire. The commissioner shall identify variations in the price that health carriers pay for health care services and shall undertake further analysis to determine whether the observed price variations correlate to the quality of care, the sickness or the complexity of the population served, the relative proportion of patients on Medicare or Medicaid that are served by the health care provider, the cost to the health care provider of delivering the service, or the relative proportion of free or reduced care provided to the uninsured. The commissioner shall also analyze the utilization of health care services and payment methodologies, including innovative payment systems, to determine the effect of those methodologies or payment systems on utilization, cost, and quality of care. The commissioner shall further evaluate health insurance premium increases, medical loss ratios, and health carriers' profits. In advance of holding the public hearing, the commissioner may require any health care provider, health insurer, or third party administrator to produce documents and information deemed necessary and relevant to evaluate the factors that contribute to cost growth in health care services, increased utilization of health care, and health insurance premium costs. The commissioner shall keep confidential all nonpublic documents and shall not disclose those documents without the consent of the health care provider or health care payer that produced the information or documents. The commissioner may compel a health care provider or a health insurance carrier to testify at the annual public hearing.

VI. The commissioner shall prepare an annual report concerning health care cost drivers and cost trends. The annual report shall be designed to allow policymakers to develop strategies to contain the increase of health care costs without negatively affecting access to health care services or health care quality. On an annual basis, the report shall identify and quantify spending trends and shall identify and quantify the underlying factors that contributed to the growth of health care costs and increases in health insurance premiums. The report shall include recommendations and strategies for increasing the efficiency of New Hampshire's health

care financing and delivery system. The report shall be based on the commissioner's analysis of information and data available to the commissioner, the testimony at the public hearing, and any other information or documents submitted in connection with the public hearing. The commissioner shall submit the annual report to the governor, the president of the senate, and the speaker of the house of representatives. The report shall be submitted by November 1 of each year.

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

#### **2010-0915s**

##### **AMENDED ANALYSIS**

This bill requires the insurance commissioner to hold an annual public hearing concerning health care costs to identify and quantify the factors contributing to cost increases in health care services in New Hampshire. The commissioner shall prepare an annual report to be submitted to the governor, the president of the senate, and the speaker of the house of representatives.

**The question is on the adoption of Committee Amendment 0915s.**

**Committee Amendment 0915s adopted.**

**Sen. Sgambati offered a floor amendment.**

**Sen. Sgambati, Dist. 4**

**March 24, 2010**

**2010-1179s**

**01/03**

##### **Floor Amendment to SB 392-FN**

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

AN ACT requiring public hearings concerning health care cost increases in health care services and relative to hospital billing for services to uninsured patients.

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

2 New Section; Hospital Rates for Uninsured Patients. Amend RSA 151 by inserting after section 12-a the following new section:

151:12-b Hospital Rates for Uninsured Patients. When billing uninsured patients for a service rendered, a hospital, as defined in RSA 151-C:2, shall accept as payment in full an amount no greater than the average amount received by that hospital from patients covered by health maintenance organizations, as defined in RSA 420-B:1, for that service.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

#### **2010-1179s**

##### **AMENDED ANALYSIS**

This bill requires the insurance commissioner to hold an annual public hearing concerning health care costs to identify and quantify the factors contributing to cost increases in health care services in New Hampshire. The commissioner shall prepare an annual report to be submitted to the governor, the president of the senate, and the speaker of the house of representatives.

This bill also requires hospitals, when billing uninsured patients, to accept as payment in full an amount no greater than the average amount received by that hospital from patients covered by health maintenance organizations.

**The question is on the adoption of Floor Amendment 1179s.**

**Floor Amendment 1179s adopted.**

**Sen. Bradley offered a floor amendment.**

**Sen. Bradley, Dist.3**  
**Sen. Bragdon, Dist. 11**  
**Sen. Gallus, Dist. 1**  
**Sen. Odell, Dist. 8**  
**Sen. Roberge, Dist. 9**  
**Sen. Carson, Dist. 14**  
**Sen. Boutin, Dist. 16**  
**Sen. Barnes Jr., Dist. 17**  
**Sen. Letourneau, Dist. 19**  
**Sen. Downing, Dist. 22**  
**March 24, 2010**  
**2010-1166s**  
**01/04**

### **Floor Amendment to SB 392-FN**

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

AN ACT requiring the insurance commissioner to establish a certain website.

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

1 New Section; Insurance Department; Cost of Hospital Services. Amend RSA 400-A by inserting after section 14 the following new section:

400-A:14-a Hospital Services Cost Data; Website.

I. The commissioner shall create and maintain an independent website designed to assist consumers in making informed decisions regarding their medical care and informed choices among health care providers. Information shall be presented in a format that is understandable to the average consumer. The commissioner shall take appropriate action to publicize the availability of this website.

II. The commissioner shall determine and compile hospital services cost data, including, but not limited to, health care costs for hospitals in this state and patient outcomes for hospitals in this state. The commissioner shall determine the most commonly occurring procedures to be included in this data. The commissioner shall also utilize claims data collected pursuant to RSA 420-G:10-a and hospital discharge data collected pursuant to RSA 126:25 as necessary to perform his or her duties and to support the consumer health information website. The commissioner may consult with any person or entity the commissioner deems relevant to compiling such information. The commissioner shall disseminate such hospital services cost data to consumers, health care providers, and insurers. The website shall provide comparative cost information on hospital services and other health care information as the commissioner deems appropriate.

III.(a) The commissioner shall determine, for each service, the comparative information to be included on the consumer health information website, including whether to:

(1) List services separately or as part of a group of related services; or

(2) Combine the cost information and patient outcome for each facility and its affiliated clinicians and physician practices or to list facility and professional services separately.

(b) The website shall provide updated information on a regular basis, at least annually, and additional comparative cost information shall be published as determined by the commissioner.

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

**2010-1166s**

### **AMENDED ANALYSIS**

This bill requires the insurance commissioner to determine and compile certain information on the cost of hospital services and to establish a consumer health information website. Under this bill, the commissioner shall disseminate such data to consumers, health care providers, and insurers.

**The question is on the adoption of Floor Amendment 1166s.**

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

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

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

**Yeas: 10 - Nays: 14**

**Floor Amendment 1166s failed.**

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

**A roll call was requested by Sen. Hassan, seconded by Sen. DeVries.**

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

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

**Yeas: 14 - Nays: 10**

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

### **SPECIAL ORDER**

**SB 505-FN-A**, establishing the New Hampshire health services cost review commission and continually appropriating a special fund. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 3-2. Senator Hassan for the committee.

**Sen. Bradley offered a floor amendment.**

**Sen. Gallus, Dist. 1**

**Sen. Bradley, Dist. 3**

**Sen. Odell, Dist. 8**

**Sen. Roberge, Dist. 9**

**Sen. Bragdon, Dist. 11**

**Sen. Carson, Dist. 14**

**Sen. Boutin, Dist. 16**

**Sen. Barnes Jr., Dist. 17**

**Sen. Letourneau, Dist. 19**

**Sen. Downing, Dist. 22**

**March 17, 2010**

**2010-1069s**

**01/10**

### **Floor Amendment to SB 505-FN-A**

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

AN ACT relative to health insurance coverage.

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

1 New Section; Insurance Department; Health Insurance Coverage. Amend RSA 400-A by inserting after section 14 the following new section:

400-A:14-a Health Insurance Coverage. No resident of this state, regardless of whether he or she has or is eligible for health insurance coverage under any policy or program provided by or through his or her employer, or a plan sponsored by the state or the federal government, shall be required to obtain or maintain a policy of individual insurance coverage except as required by a court or the department of health and human services where an individual is named a party in a judicial or administrative proceeding. No provision of this title shall render a resident of this state liable for any penalty, assessment, fee, or fine as a result of his or her failure to procure or obtain health insurance coverage. This section shall not apply to individuals voluntarily applying for coverage under a state-administered program pursuant to Title XIX or Title XXI of the Social Security Act. This section shall not apply to students being required by an institution of higher education to obtain and maintain health insurance as a condition of enrollment. Nothing in this section shall impair the rights of persons to privately contract for health insurance for family members or former family members.

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

**2010-1069s****AMENDED ANALYSIS**

This bill provides that a resident of New Hampshire shall not be required to obtain, or be assessed a fee or fine for failure to obtain, health insurance coverage.

**Sen. Barnes moved the question.**

**Without objection President Larsen closed debate on Floor Amendment 1069s, with a remaining question and speaker.**

**The question is on the adoption of Floor Amendment 1069s.**

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

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

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

**Yeas: 10 - Nays: 14**

**Floor Amendment 1069s failed.**

**Sen. Hassan offered a floor amendment.**

**Sen. Hassan, Dist. 23**

**March 24, 2010**

**2010-1178s**

**01/09**

**Floor Amendment to SB 505-FN-A**

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

AN ACT establishing the commission on health care cost containment and appropriating a special fund.

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

**1 Commission on Health Care Cost Containment Established.**

I. There is established a commission on health care cost containment to make recommendations to contain costs and improve quality in cooperation with and in furtherance of federal health reform. The commission shall examine current contracting and reimbursement practices with regard to hospital services, ambulatory surgical facilities, as defined under RSA 151-C:2, I, and health insurance carriers, as well as health care cost reimbursement by public payers and the uninsured to make recommendations for changes in the system for financing these health care services.

**II. For the purposes of this act "hospital services" means:**

(a) Inpatient hospital services as enumerated in Medicare regulation 42 C.F.R. section 409.10, as amended;

(b) Emergency services; and

(c) Outpatient services that are billed to commercial payers or individual purchasers as hospital services.

**2 Membership; Compensation; Consultations.**

I. The members of the commission shall represent the public interest, shall not have a present connection with any hospital, ambulatory surgical facility, or health carrier, and shall consist of the following members:

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

(b) One member of the house of representatives, appointed by the speaker of the house of representatives.

(c) One representative of the Citizens' Health Initiative who shall be the chair of the commission, appointed by the governor.

(d) The commissioner of the department of health and human services, or designee.

(e) The insurance commissioner, or designee.

(f) A public member with a background in health care policy or health care economics, appointed by the governor.

(g) A public member with sufficient knowledge and expertise to represent the interests of health care consumers, appointed by the governor.

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

III. The commission shall hold public hearings and consult with hospital representatives, insurer representatives, consumers and consumer representatives, health care economists, and other available individuals and organizations with expertise or interest in hospital cost containment and federal health reform initiatives. In addition, in developing its recommendations, the commission shall review and consider the report of the committee appointed pursuant to 2009, 77 to study the certificate of need process, and review and consider the report of the commission appointed pursuant to 2009, 265 to study hospital billing practices of health care providers.

3 Initial Meeting; Final Report. The commission shall have its initial meeting by September 1, 2010 and shall submit its final report, with findings and recommendations, including recommendations for 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, 2011.

4 Duties. The commission shall examine the existing health care cost reimbursement system, in cooperation with and furtherance of any changes under federal health care reform. The commission's investigation shall include examination of the following issues:

I. Options for increasing transparency about the price of health care services.

II. Options for reimbursement system change that would create and/or increase incentives to contain unit costs and utilization and to reward the delivery of efficient and effective care.

III. The impact of the existing system of cost reimbursement on the availability and access to health care services for persons in rural and underserved parts of the state.

IV. The impact of the existing system of payment on access to health care services by the uninsured.

V. The relationship between the price of specific services and the costs of providing those services.

VI. The relationship between a health care facility's pricing and the amount of free and subsidized care provided, as well as the amount of care sponsored by public payers.

VII. Options for implementing a common payment system and including public payers, Medicaid and Medicare, in such a system.

VIII. Options for the establishment of a publicly administered program to disseminate health care cost data to consumers, health care providers, and insurers that would provide meaningful cost comparison information.

IX. The effect of managed care contracting and network contracting requirements on the competitiveness of New Hampshire's health insurance market.

#### 5 Recommendations.

I. Upon completion of its examination of the existing health care payment system and options for containing costs in the system, the commission shall issue a report with recommendations for effecting changes to the system that will:

(a) Promote price transparency and provide consumers with sufficient information to make informed health care choices.

(b) Allow for the coordination of health care payment reforms across all payers to create uniform incentives to improve the efficiency and quality of care.

(c) Contain the increases in health care costs and utilization to a level that is consistent with the best performing systems, states, or regions.

(d) Provide incentives for containing unit costs and utilization and reward the delivery of efficient and effective care.

(e) Reduce or eliminate payment discrimination against the uninsured who lack the financial resources to obtain health insurance.

(f) Promote competition in the health insurance market.

II. In developing its recommendations, the commission shall gather all existing reports that have been generated during the period from 2004 to the present by the general court or the Citizens' Health Initiative relative to health care costs, including, but not limited to medical malpractice, chronic disease management, life style choices, and pharmaceutical costs and shall review these findings as relative to any change under federal health reform.

#### 6 Commission on Health Cost Containment Fund.

I. There is hereby established in the state treasury a special fund to support the operations of the commission on health care cost containment that shall consist of moneys from the assessment on hospitals, ambulatory surgical facilities, and health carriers authorized under this act. Moneys from any other source may also be deposited in the fund. The fund shall be non-lapsing and continually appropriated to the commission. The fund shall be invested and reinvested in the same manner as other state funds. Any investment earnings shall be retained to the credit of the fund. The fund shall be used only to provide funding for the commission and for the purposes authorized under this act. When the commission terminates its existence subsequent to submitting its final report, any money remaining in the fund shall be refunded to hospitals, ambulatory surgical facilities, health carriers, or other contributors in proportion to each entity's original contribution to the fund.

II. The fund shall be capitalized through a one-time assessment administered by the department of administrative services. The assessment shall be allocated 50 percent to health carriers, as defined in RSA 420-G:2, with at least 1,000 covered lives in the state, in proportion to gross premiums written, and 50 percent to hospitals, as defined in RSA 151-C:2, XX, and ambulatory surgical facilities, in proportion to net operating revenue. The total amount of the assessment shall be \$250,000.

III. The commission may accept and expend moneys from the fund or as otherwise made available for its purposes. The commission may retain experts or administrative support, may enter into memoranda of understanding with other state agencies to obtain staff support, information, or data, may solicit relevant information from insurance carriers, hospitals, ambulatory surgical facilities, and other health care providers, and may hold hearings to fulfill its responsibilities. The commission shall be administratively attached, pursuant to RSA 21-G:10, to the department of administrative services. No action of the commission shall be considered official unless approved by a majority vote of the commission.

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

#### 2010-1178s

##### AMENDED ANALYSIS

This bill establishes the commission on health care cost containment and establishes a one-time assessment on hospitals, ambulatory surgical facilities, and health carriers to fund the operation of the commission.

**The question is on the adoption of Floor Amendment 1178s.**

**Floor Amendment 1178s adopted.**

**Recess. Out of recess.**

**The question is on the adoption of motion of Ought to Pass as Amended on SB 505-FN-A.**

**A roll call was requested by Sen. Hassan, seconded by Sen. Barnes.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

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

**SPECIAL ORDER**

**Without objection President Larsen moved to Special-Order SB 464 from the Transportation Calendar order to be heard at this time.**

**SB 464**, relative to speed limits on Lake Winnepesaukee and reporting vessel operation violations. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 4-1. Senator Fuller Clark for the committee.

**Transportation and Interstate Cooperation****March 18, 2010****2010-1109s****03/10****Amendment to SB 464**

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

2 Lake Winnepesaukee; Prima Facie Speed Limits. Amend RSA 270-D:2, X(b)(1)-(2) to read as follows:

(1) [25] **30** miles per hour during the period from 1/2 hour after sunset to 1/2 hour before sunrise; and

(2) [45] **50** miles per hour at any other time.

**2010-1109s****AMENDED ANALYSIS**

This bill eliminates the prospective repeal of provisions establishing speed limits on Lake Winnepesaukee and requiring the reporting of vessel operation violations to the division of motor vehicles for inclusion in the convicted person's driving record. This bill also increases the prima facie speed limits for Lake Winnepesaukee.

**The question is on the adoption of Committee Amendment 1109s.**

**Committee Amendment 1109s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 464.**

**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 464.**

**SB 500-FN**, implementing changes in the probation, parole, and sentencing of certain offenders in an effort to increase public safety, strengthen community supervision, and reduce recidivism. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Hassan for the committee.

**Senate Finance****March 18, 2010****2010-1133s****06/04****Amendment to SB 500-FN**

Amend RSA 504-A:4, III as inserted by section 3 of the bill by replacing it with the following:

III. A probation or parole officer may require any probationer, whose sentence includes a one to 5 day jail sanction pursuant to RSA 651:2, V(i), to serve a county house of corrections sanction or a portion thereof, provided that the probationer is advised of and waives his or her right to counsel and to a preliminary hearing under RSA 504-A:5 and violation of probation hearing. If the probation officer intends to impose this sanction, the officer shall advise the offender of the violations alleged, the date or dates of the violation, and the number of days the offender shall serve. If the offender objects to the imposition of the jail sanction, a violation of probation hearing shall be held. This short jail stay may not be issued for any violation of probation which could warrant an additional, separate felony charge.

Amend RSA 651-A:6, I(c) as inserted by section 6 of the bill by replacing it with the following:

*(c) All prisoners who have not been previously paroled, or who were recommitted to prison more than one year prior to the expiration of the maximum term of his or her sentence, shall be released on parole at least 9 months prior to the expiration of the maximum term of his or her sentence. This provision shall not apply to any prisoner who is the subject of a pending petition for civil commitment pursuant to RSA 135-E. In the event that the prisoner is not civilly committed, he or she shall be released on parole for the remainder of his or her sentence.*



Amend RSA 651-A:17 as inserted by section 9 of the bill by replacing it with the following:

651-A:17 Parole Revocation. Any parolee arrested under RSA 651-A:15-a shall be entitled to a hearing before the board within 45 days, in addition to any preliminary hearing which is required under RSA ~~[504-A:6]~~ **504-A:5**. The parolee shall have the right to appear and be heard at the revocation hearing. The board shall have power to subpoena witnesses, pay said witnesses such fees and expenses as allowed under RSA 516:16, and administer oaths in any proceeding or examination instituted before or conducted by it, and to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda, papers or tangible objects of any kind. If the board, after a hearing, finds that the parolee has violated the conditions of parole, violated the law, or associated with criminal companions and in its judgment should be returned to the custody of the commissioner of corrections, the board shall revoke the parole. A prisoner whose parole is revoked shall be recommitted to the custody of the commissioner of corrections. ***This provision shall not apply to a parolee who has accepted an option, offered by a probation/parole officer, to participate in an intermediate sanction program and has waived his or her right to counsel and to a preliminary hearing under RSA 504-A:5.***

Amend the bill by replacing all after section 13 with the following:

14 Involuntary Civil Commitment of Sexually Violent Predators; Notice. Amend RSA 135-E:3, II to read as follows:

II. When a person who has committed a sexually violent offense is to be released from total confinement in New Hampshire, the agency with jurisdiction over the person shall give written notice to the person and the county attorney of the county where that person was last convicted of a sexually violent offense, or attorney general if the case was prosecuted by the attorney general. If the person is in custody on an out-of-state or federal sexually violent offense, the agency with jurisdiction shall give written notice to the person and the county attorney of the county where the person plans to reside upon release or, if no residence in this state is planned, the county attorney in the county where the facility from which the person to be released is located or to the attorney general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written notice shall be given at least 9 months prior to the anticipated release ~~[from the maximum sentence]~~ ***on parole pursuant to RSA 651-A:6, I(c)***, except that in the case of persons who are totally confined for a period of less than 9 months, written notice shall be given as soon as practicable.

15 Involuntary Civil Commitment of Sexually Violent Predators; Release From Total Confinement. Amend RSA 135-E:4, I to read as follows:

I. In the event that a person who has been convicted of a sexually violent offense is eligible for immediate release ~~[from total confinement]~~ ***on parole pursuant to RSA 651-A:6, I(c), or*** upon completion of the maximum term of incarceration, the agency with jurisdiction shall provide immediate notice to the county attorney or attorney general of the person's release. The county attorney or attorney general or the agency with jurisdiction may file a petition for an emergency hearing in the superior court requesting that the person subject to immediate release be evaluated by the multidisciplinary team to determine whether the person is a sexually violent predator. The hearing shall be held within 24 hours of the filing of the petition, excluding Saturdays, Sundays, and holidays. The person shall not be released from total confinement until after the hearing has been held. At the hearing, the court shall determine whether there is probable cause to believe that the person is a sexually violent predator. If the court finds probable cause, the person shall be held in an appropriate secure facility.

16 Effective Date.

I. RSA 651-A:6, I(c) as inserted by section 6 of this act shall take effect as provided in section 13 of this act.

II. RSA 651-A:16-a as inserted by section 8 of this act, and RSA 651-A:19 as inserted by section 10 of this act shall take effect as provided in section 13 of this act.

III. Sections 14-15 of this act shall take effect September 1, 2010 at 12:01 a.m.

IV. The remainder of this act shall take effect July 1, 2010.

**The question is on the adoption of Committee Amendment 1133s.**

**Committee Amendment 1133s adopted.**

**Sen. Barnes is in opposition to Committee Amendment 1133s.**

**The question is on the motion of Ought to Pass as Amended on SB 500-FN.**

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

**Sen. Barnes is in opposition to the motion of Ought to Pass as Amended on SB 500-FN.**

**SB 511-FN-A**, relative to an exemption from the tax on gambling winnings. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Sgambati for the committee.

**Senate Finance**  
**March 18, 2010**  
**2010-1127s**  
**03/04**

**Amendment to SB 511-FN-A**

Amend RSA 77:41, II as inserted by section 1 of the bill by replacing it with the following:

***II. No tax shall be levied directly or indirectly under this subdivision upon gambling winnings otherwise taxable hereunder, won prior to January 1, 1999 and distributed in annuity payments.***

**2010-1127s**

**AMENDED ANALYSIS**

This bill establishes an exemption from the tax on gambling winnings for gambling winnings won prior to January 1, 1999 and distributed in annuity payments.

**The question is on the adoption of Committee Amendment 1127s.**

**Committee Amendment 1127s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 511-FN-A.**

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

**SB 517-FN-A**, establishing a veterans' legal aid advocacy project and making an appropriation therefor. Finance Committee. Ought to Pass with Amendment, Vote 7-0. Senator Hassan for the committee.

**Senate Finance**  
**March 18, 2010**  
**2010-1135s**  
**06/04**

**Amendment to SB 517-FN-A**

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

AN ACT establishing a veterans' legal aid advocacy project.

Amend subparagraphs I(i)(6)-(9) as inserted by section 1 of the bill by replacing them with the following:

(6) The state veterans council, New Hampshire Legal Assistance, and the New Hampshire Pro Bono Section of the Bar Association have the expertise and experience to implement and coordinate the efficient and effective delivery of veterans' legal aid services to the state's veterans; and

(7) New staff at the state veterans council, New Hampshire Legal Assistance, and the Pro Bono Section of the Bar Association is needed to provide legal aid advocacy for more of the veterans that need help.

Amend RSA 115-C:4 as inserted by section 2 of the bill by replacing it with the following:

115-C:4 Funding. Funding for the veterans legal advocacy project established by this chapter shall be contingent upon the receipt of grants or federal funds for such purpose. The veterans legal advocacy project shall report on the availability and acquisition of federal appropriations and grants to the governor and the general court.

Amend the bill by deleting sections 3-4 and renumbering the original section 5 to read as 3.

**2010-1135s**

**AMENDED ANALYSIS**

This bill establishes a veterans' legal aid advocacy project.

**The question is on the adoption of Committee Amendment 1135s.**

**Committee Amendment 1135s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 517-FN-A.**

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

**SB 519-FN-L**, relative to spending reductions for the department of health and human services. Finance Committee. Inexpedient to Legislate, Vote 7-0. Senator Sgambati for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 519-FN-L.**

**A roll call was requested.**

**Recess. Out of recess.**

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 519-FN-L.**

**A roll call had been requested by Sen. Houde, seconded by Sen. Sgambati.**

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

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

**Motion of Inexpedient to Legislate adopted.**

**SB 520-FN-L**, relative to school district liability for special education costs. Finance Committee. Ought to Pass, Vote 6-0. Senator Gallus for the committee.

**Sen. D'Allesandro offered a floor amendment.**

**Sen. D'Allesandro, Dist. 20**

**March 24, 2010**

**2010-1175s**

**04/01**

#### **Floor Amendment to SB 520-FN-LOCAL**

Amend RSA 186-C:13, IV as inserted by section 1 of the bill by replacing it with the following:

IV. If a child attends a public school operated by a school district in which the child does not reside, the school district in which the child resides shall bear financial responsibility for the child under this chapter unless the school district in which the child does not reside is liable under paragraph I of this section or explicitly accepts financial responsibility through a written agreement.

**2010-1175s**

#### **AMENDED ANALYSIS**

This bill clarifies school district financial liability for special education and related services provided to a child.

**The question is on the adoption of Floor Amendment 1175s.**

**Floor Amendment 1175s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 520-FN-L.**

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

**SB 518**, establishing a committee to study the scope, content, and duration of youth alcohol and drug prevention programs. Health and Human Services Committee. Ought to Pass with Amendment, Vote 3-0. Senator Sgambati for the committee.

**Health and Human Services**  
**March 16, 2010**  
**2010-1052s**  
**05/01**

**Amendment to SB 518**

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

AN ACT relative to membership of the governor's commission on alcohol and drug abuse prevention, intervention, and treatment.

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

1 Governor's Commission on Alcohol and Drug Abuse Prevention, Intervention, and Treatment; Youth Representative. Amend RSA 12-J:1, I to read as follows:

I. [Six] **Seven** public members, appointed by the governor and council, 2 of whom shall be professionals knowledgeable about alcohol and drug abuse prevention; 2 of whom shall be professionals knowledgeable about alcohol and drug abuse treatment, [and] 2 of whom shall be public members who are not professionals within the alcohol and drug addiction prevention and treatment system, **and one additional member who shall be recommended by the legislative youth advisory council established in RSA 19-K.** The members appointed pursuant to this paragraph shall serve 3-year terms; provided that initially 2 members shall serve for one year, 2 members shall serve for 2 years, and 2 members shall serve for 3 years.

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

**2010-1052s**

**AMENDED ANALYSIS**

This bill adds a member recommended by the legislative youth advisory council to the governor's commission on alcohol and drug abuse prevention, intervention, and treatment.

**The question is on the adoption of Committee Amendment 1052s.**

**Committee Amendment 1052s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 518.**

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

**SB 329**, relative to the bonds of county officers. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Roberge for the committee.

**Senate Judiciary**  
**March 16, 2010**  
**2010-1050s**  
**10/03**

**Amendment to SB 329**

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

AN ACT relative to the bonds of county officers, and relative to the form of constitutional questions on the ballot.

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

5 Constitutional Amendments; Form of Ballot; Question. Amend RSA 663:3 to read as follows:

663:3 Form of Ballot. The following words shall be printed above the constitutional amendment questions on all ballots containing such questions: "Questions Relating to Constitutional Amendments Proposed by the Convention to Revise the Constitution." A constitutional question shall include, in the text of the question, the text of the article of the constitution as it is proposed to be amended, [and the] **except where the proposed changes are solely to utilize gender neutral terms. In such case, the constitutional question shall include a summary of the proposed gender neutral changes. The constitutional question shall also include the** results of the vote taken on ordering the proposed amendment to third reading in both the senate and the house of representatives or at the constitutional convention, whichever is appropriate.

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

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

**2010-1050s**

**AMENDED ANALYSIS**

This bill transfers the approvals of and procedures for bonds of county officers from the superior court to the county commissioners. The bill also allows for a constitutional question on the ballot to include a summary of changes when the changes are solely to utilize gender neutral terms.

**The question is on the adoption of Committee Amendment 1050s.**

**Committee Amendment 1050s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 329.**

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

**Recess. Out of recess.**

**SB 516**, relative to limitations on liability for railroad operators operating railroads near a recreational trail. Judiciary Committee. Interim Study, Vote 3-1. Senator Letourneau for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 516.**

**Motion of Refer to Interim Study adopted.**

**Senators Reynolds and Sgambati are in opposition to the motion of Refer to Interim Study on SB 516.**

**SB 317**, relative to the standard for zoning variances. Public and Municipal Affairs Committee. Interim Study, Vote 4-1. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 317.**

**Motion of Refer to Interim Study adopted.**

**Sen. Sgambati is in opposition to the motion of Refer to Interim Study on SB 317.**

**SB 430**, relative to grading and improving subdivision streets. Public and Municipal Affairs Committee. Interim Study, Vote 5-0. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on SB 430.**

**Motion of Refer to Interim Study adopted.**

**HOUSE MESSAGE**

The Clerk read the following Message from the House:

*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 460-FN-A**, relative to the lapse of certain legislative and judicial branch appropriations, budget reductions for the department of health and human services, and voluntary furloughs for judges.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 460-FN-A**, relative to the lapse of certain legislative and judicial branch appropriations, budget reductions for the department of health and human services, and voluntary furloughs for judges.

**Sen. D'Allesandro recommends concurrence with House Amendment 0807h on SB 460-FN-A.**

**The question is concurrence with House Amendment 0807h on SB 460-FN-A.**

**Motion to concur adopted, SB 460-FN-A 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 301**, relative to combustion of untreated wood at municipal transfer stations.

**SB 308**, relative to the price for filling prescriptions.

**SB 313**, (New Title) extending the repeal date of the state park system advisory council and relative to field purchases and transfers of funds for the state park system and the bureau of trails.

**SB 319**, (New Title) relative to purchases by on-premises alcoholic beverages licensees and relative to liquor licenses.

**SB 323**, (New Title) requiring the public utilities commission to study certain energy policy issues.

**SB 329**, (New Title) relative to the bonds of county officers, and relative to the form of constitutional questions on the ballot.

**SB 334**, (New Title) establishing a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses and relative to investments in photovoltaic renewable energy projects.

**SB 348**, (New Title) establishing a committee to study issues relative to the regulation of opticians in New Hampshire.

**SB 352**, relative to student insurance.

**SB 354-FN-L**, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

**SB 361-FN**, (New Title) relative to benefits related to service of certain part-time district court justices and judges of probate retiring because of permanent disability.

**SB 366**, (New Title) relative to size limitations on OHRVs operating in Jericho Mountain state park.

**SB 369**, (New Title) relative to the effect of changes in local permit status on large groundwater withdrawal permits issued by the department of environmental services.

**SB 370**, (New Title) relative to sewage disposal systems.

**SB 390-FN**, relative to health insurance premium only cafeteria plans.

**SB 392-FN**, (Second New Title) requiring public hearings concerning health care cost increases in health care services and relative to hospital billing for services to uninsured patients.

**SB 396-FN**, limiting the use of child restraint practices in schools and treatment facilities.

**SB 402-FN**, (New Title) relative to state-owned vehicles.

**SB 408**, relative to purchasing alliances.

**SB 409**, requiring buildings or structures constructed or renovated using state funding to adhere to certain energy efficiency and building standards.

**SB 414**, relative to the Mount Washington commission.

**SB 420**, (New Title) relative to the use of mail-order pharmacies for prescription drug benefits under accident and health insurance policies and plans, and establishing a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law.

**SB 421**, relative to the laws regulating trusts and trust companies in New Hampshire.

**SB 423**, relative to health insurance coverage for licensed athletic trainer services.

**SB 440**, (New Title) relative to executive branch ethics and establishing a committee to study the impact of implementing a 10-hour per day, 4-day week for state employees.

**SB 441**, relative to the lakes management and protection program.

**SB 443**, relative to rulemaking authority of the electricians' board.

**SB 450-FN**, (New Title) relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax.

**SB 453**, relative to air quality in ice rinks.

**SB 459**, relative to medical payments coverage.

**SB 460-FN-A**, (New Title) relative to the lapse of certain legislative and judicial branch appropriations, budget reductions for the department of health and human services, voluntary furloughs for judges, and transfers of federal funds.

**SB 464**, relative to speed limits on Lake Winnepesaukee and reporting vessel operation violations.

**SB 465-FN-L**, relative to the transition period for implementing the adequacy aid formula.

**SB 480**, relative to appeals of decisions by the department of environmental services.

**SB 483-FN-A**, relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax.

**SB 485-FN-A**, (New Title) relative to ratification of cost items contained in a collective bargaining agreement for court security officers of the judicial branch.

**SB 486-FN-L**, relative to the school building aid program.

**SB 489-FN-A-L**, relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing.

**SB 497-FN-A**, changing the business profits tax deduction for reasonable compensation for partnerships, limited liability companies, and sole proprietorships and modifying the interest and dividends tax statute to follow the definitions of interest and dividends used in the United States Internal Revenue Code.

**SB 500-FN**, implementing changes in the probation, parole, and sentencing of certain offenders in an effort to increase public safety, strengthen community supervision, and reduce recidivism.

**SB 505-FN-A**, (New Title) establishing the commission on health care cost containment and appropriating a special fund.

**SB 507**, relative to the Masonic Home.

**SB 511-FN-A**, relative to an exemption from the tax on gambling winnings.

**SB 513**, relative to incarcerated persons receiving workers' compensation.

**SB 514**, relative to commercial weighing or measuring devices.

**SB 515**, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics.

**SB 517-FN-A**, (New Title) establishing a veterans' legal aid advocacy project.

**SB 518**, (New Title) relative to membership of the governor's commission on alcohol and drug abuse prevention, intervention, and treatment.

**SB 520-FN-L**, relative to school district liability for special education costs.

**CACR 32**, relating to clarification of certain language. Providing that all references to people in the constitution shall refer to both male and female.

## 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.**