

May 11, 2011
Nos. 15-16

STATE OF NEW HAMPSHIRE

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



162nd Session of the New Hampshire General Court
Legislative Proceedings

SENATE JOURNAL

ADJOURNMENT – MAY 4, 2011 SESSION
COMMENCEMENT – MAY 11, 2011 SESSION

SENATE JOURNAL 15 *(continued)*

May 4, 2011

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 3-FN-A-L, making comprehensive changes to the state retirement system.

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

REPRESENTATIVES: Hawkins, Kurk, W. Smith, and Sedensky

HOUSE MESSAGE

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

SB 81-FN, relative to powers and duties of commissioners of executive branch agencies, and relative to the extension of the expired term of a commissioner or agency head.

SB 122, establishing a committee to study the laws relating to electronic prescriptions.

SB 195, naming the Manchester Airport Access Road for Raymond Wieczorek.

HOUSE MESSAGE

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

HB 55, adding members to the exotic aquatic weeds and species committee.

HB 70, relative to changes to town charters.

HB 132, adopting and implementing the United States flag code.

HB 155, relative to permits to conduct raffles.

HB 278, setting the natural mean high water mark of Ossipee Lake.

HB 474-FN, relative to freedom of choice on whether to join a labor union.

HB 580-FN-L, establishing a committee to study collective bargaining by public employees.

HOUSE MESSAGE

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

SB 76-FN, relative to the authority of the department of revenue administration to adopt rules and to administer state tax laws.

HOUSE MESSAGE

The House of Representatives has voted to Lay On The Table the following entitled Bill(s) sent down from the Senate:

CACR 5, relating to the governor's power to reduce appropriations. Providing that the governor shall have line item reduction power of items in any bill making appropriations of money.

SB 133-FN, relative to reestablishing the exemption from property taxation for telecommunications poles and conduits.

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:

HCR 27, honoring the members of the military and intelligence community who carried out the mission that killed Osama bin Laden, and for other purposes.

HJR 4, prohibiting the implementation of certain rules of the board of medicine.

INTRODUCTION OF HOUSE BILL

Sen. Bradley 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 titles and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HJR 4, prohibiting the implementation of certain rules of the board of medicine. (Health and Human Services Committee.)

April 26, 2011
2011-1570-EBA
03/01

Enrolled Bill Amendment to HB 35-FN

The Committee on Enrolled Bills to which was referred HB 35-FN

AN ACT authorizing the acquisition of certain dams in the Connecticut Lakes Headwaters Tract.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 35-FN

This enrolled bill amendment corrects certain references in the bill.

Enrolled Bill Amendment to HB 35-FN

Amend RSA 482:48, VII(d)-(e) as inserted by section 1 of the bill by replacing them with the following:

(d) Coon Brook Bog Dam in the town of Pittsburg, known as number 194.18.

(e) Round Pond Dam in the town of Pittsburg, known as number 194.27.

Sen. Prescott moved adoption of the Enrolled Bill Amendment. Adopted.

April 26, 2011
2011-1571-EBA
06/10

Enrolled Bill Amendment to HB 86

The Committee on Enrolled Bills to which was referred HB 86

AN ACT relative to filling a vacancy among county officers.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 86

This enrolled bill amendment makes a technical correction to amending language.

Enrolled Bill Amendment to HB 86

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

1 Vacancies; County Officers. Amend RSA 661:9, I to read as follows:

Sen. Prescott moved adoption of the Enrolled Bill Amendment. Adopted.

April 29, 2011
2011-1676-EBA
06/03

Enrolled Bill Amendment to HB 609-FN

The Committee on Enrolled Bills to which was referred HB 609-FN

AN ACT establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 609-FN

This enrolled bill amendment makes grammatical and technical corrections.

Enrolled Bill Amendment to HB 609-FN

Amend RSA 490-F:2 as inserted by section 1 of the bill by replacing line 5 with the following:

as justice or efficiency requires in the discretion of the administrative judge of the circuit court.

Amend RSA 490-F:8, II as inserted by section 1 of the bill by replacing line 2 with the following:

are eligible to serve as judicial referees on the effective date of this chapter shall maintain such

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

2 Judicial Branch Family Division Clerks; Fees. RSA 490-D:12, II and III are repealed and

Amend RSA 502-A:8, I as inserted by section 4 of the bill by replacing line 11 with the following:

VIII; and RSA 105:6 and RSA 105:7, shall be remitted monthly to the treasurer of the

Amend RSA 502-A:11 as inserted by section 5 of the bill by replacing line 1 with the following:

502-A:11 Criminal Cases; District Courts. Each district court shall have the powers of a justice

Amend RSA 502-A:11 as inserted by section 5 of the bill by replacing line 5 with the following:

both, including all violations of the provisions of RSA 266:16 and RSA 266:25 pertaining to vehicles

Amend RSA 599:1 as inserted by section 28 of the bill by replacing line 11 with the following:

bound over, it shall be the duty of the superior court to transmit to the justice of the district court,

Sen. Prescott moved adoption of the Enrolled Bill Amendment. Adopted.

April 25, 2011
2011-1560-EBA
08/01

Enrolled Bill Amendment to HB 621 FN-LOCAL

The Committee on Enrolled Bills to which was referred HB 621 FN-LOCAL

AN ACT relative to the authority of the department of transportation.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 621 FN-LOCAL

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 621 FN-LOCAL

Amend the bill by replacing line 1 of section 5 with the following:

5 Duties. The committee shall study whether certain rules adopted by the department of

Sen. Prescott moved adoption of the Enrolled Bill Amendment. Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 56, relative to proper observance of September 11, 2001.

HB 58, relative to inter-facility transfers of critical access hospital patients.

HB 71, authorizing establishment of pharmaceutical drug take-back programs.

HB 92, relative to expiration of licenses issued by the board of foresters.

HB 115, relative to the temporary removal or transfer of prisoners from a county correctional facility.

HB 142, relative to sales of artificial flowers and miniature flags.

HB 143, relative to the sale of stove polish.

HB 144, relative to energy efficiency and clean energy districts.

HB 148, relative to federal funding for motorcycle-only roadside checkpoints.

HB 196, relative to the certificates of completion of a basic hunter education program or bow hunter education program.

HB 198, relative to the investment options for county funds.

HB 251, relative to absentee ballots.

HB 274, relative to voting procedures.

HB 277, relative to the deposit of fees collected under the Unified Carrier Registration System into the highway fund.

HB 331, relative to posting agency expenditures on the state transparency website.

HB 386, adding Granite state college to the university system of New Hampshire corporate charter and adding a student trustee from Granite state college to the university system board of trustees.

HB 444, relative to the commemoration of General John Stark Day.

HB 464, requiring the transfer of certain retirement system group II special account funds to the state annuity accumulation fund.

HB 503, allowing a master electrician to have 2 apprentice electricians under his or her supervision.

HB 549, relative to driver's license reexaminations.

HB 558, relative to exchanging Haseltine Street in Plaistow for a section of NH 121A from the intersection of Haseltine and Main Streets to the border with Haverhill, Massachusetts.

HB 571, relative to lobster and crab licenses issued by the fish and game department.

SB 57, relative to regulation of title loan lenders.

SB 62, relative to persons participating in the return to work program.

SB 66, relative to nonresident tuition for motorcycle rider education.

SB 102, establishing a commission to study the effects of service-connected post-traumatic stress disorder and traumatic brain injury suffered in the line of duty by members of the armed forces and veterans.

SB 104, relative to certain agricultural operations and certain bonds for excavation and driveways.

SB 173, proclaiming January 24, 2012 as Granny D. Day.

Sen. Prescott moved adoption of the Report of Committee on Enrolled Bills. Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 474, relative to freedom of choice on whether to join a labor union.

Sen. Bradley moved adoption of the Report of Committee on Enrolled Bills. Adopted.

Out of Recess. Call Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 16

May 11, 2011

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

The Reverend Jason Wells, guest chaplain to the Senate, offered the following meditation and prayer.

Even though the parable of the Good Samaritan is a Christian story, it has achieved meaning for people of all faiths and no faith. You know the story of the traveler who was attacked and beaten along the road. A priest and a Levite passed him by, offering no help, and then a Samaritan came by to sacrifice his time, his energy, and his money to save the man's life. By ignoring the man, the first two passersby did nothing to violate the man's rights; they were totally intact. They did nothing to spend money, they did nothing against the law or unconstitutional. Clearly, they did nothing. But yet, we find ourselves bid to not look at that example that would say that our moral and spiritual responsibilities simply belong back in the temples, back on sacred ground. And, we are bid to wear the Samaritan's shoes in the story. We are asked to seek out, as he did, the places where, out on the public roads and public streets, out in secular ground, we should take the responsibility to pay the cost for the sake of others. And, in doing so, we show the golden rule to all people: to believers and unbelievers alike, in all places. Let us pray:

Heavenly Father, take every aspect of our lives: our work, our family, our politics, and our personal lives, and unite them all together under Your gracious and loving and merciful will. Amen.

Sen. De Blois led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Barnes introduced Jessica Small and Sabrina Baptiste, students from Raymond High School in Raymond, serving as Senate Pages today.

Sen. White introduced Rep. Jeanine Notter, a guest on the Senate floor.

Sen. Stiles introduced Jennie Rowntree, Meg Ortega, Leah Willingham, and Rachel Green, members of Girls Rock.

Without objection, President Bragdon authorized Senator Luther to use electronic devices on the floor of the Senate.

FINANCE REPORT

Sen. Morse announces the following bills will not come to Finance: HB 205-FN, HB 210-FN, HB 225-FN, HB 276-FN, HB 299-FN, HB 330-FN, HB 378-FN, HB 442-FN, HB 468-FN, HB 479-FN, HB 487-FN, HB 634-FN.

COMMITTEE REPORTS

COMMERCE

HB 276-FN, relative to wine manufacturers. Ought to Pass, Vote 5-0. Senator De Blois for the committee.

Sen. De Blois moved to Recommit to Committee HB 276-FN. Adopted.

HB 291, relative to permissible fireworks. Ought to Pass, Vote 5-0. Senator Prescott for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 317, relative to fire warning devices and carbon monoxide detection devices in dwellings. Ought to Pass, Vote 5-0. Senator De Blois for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 605, authorizing the business finance authority to establish a New Hampshire innovation business job growth program. Ought to Pass with Amendment, Vote 5-0. Senator Sanborn for the committee.

Commerce
May 3, 2011
2011-1727s
05/10

Amendment to HB 605

Amend the introductory paragraph of RSA 162-A:13-d, III as inserted by section 1 of the bill by replacing it with the following:

III. Upon approval by the authority's board of directors, the authority may apply funds maintained in the New Hampshire innovation business job growth fund to provide guarantees of the principal of investments in qualified venture capital funds and to invest directly in qualified venture capital funds that by contract agree to invest such principal in New Hampshire within 60 months of the receipt of the guarantees. The authority's board of directors shall approve such application of funds after making all of the following findings:

Amend the introductory paragraph of RSA 162-A:13-d, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Qualified venture capital funds are those funds that have by contract with the authority's board of directors agreed to invest, no later than 60 months after the execution of the guarantee or investment, the amount of the guaranteed or invested principal in businesses whose primary operations are located in New Hampshire and that, in opinion of the board:

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Sanborn asserts Rule 2-15 on HB 605.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Sanborn asserts Rule 2-15 on HB 605.

HB 617, repealing the prohibitions on Sunday business activities. Ought to Pass with Amendment, Vote 3-2. Senator De Blois for the committee.

Commerce
May 3, 2011
2011-1723s
05/10

Amendment to HB 617

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

AN ACT establishing a committee to study the consequences of repealing the prohibition on Sunday business activities.

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

1 Committee Established. There is established a committee to study the consequences of repealing the prohibition on Sunday business activities.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study the consequences of repealing RSA 332-D, relative to prohibitions on Sunday business activities. The committee shall solicit testimony from any individual or group with information relevant to the committee's study.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, 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.

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

2011-1723s

AMENDED ANALYSIS

This bill establishes a committee to study the consequences of repealing the prohibition on Sunday business activities.

Sen. De Blois moved to Lay on the Table HB 617. Adopted.

EDUCATION

HB 290, relative to staffing exceptions for small schools. Inexpedient to Legislate, Vote 4-1. Senator Carson for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate. Adopted.

Sens. Forsythe, Groen, and Sanborn, are in opposition to the motion of Inexpedient to Legislate on HB 290.

ENERGY AND NATURAL RESOURCES

HB 205-FN, relative to notice to owners of upstream dams. Ought to Pass with Amendment, Vote 5-0. Senator Gallus for the committee.

Energy and Natural Resources

May 5, 2011

2011-1770s

03/05

Amendment to HB 205-FN

Amend the bill by replacing section 2 with the following:

2 Board's Procedure on Plats; Notice to Upstream Dam Owners. Amend RSA 676:4, I(d) to read as follows:

(d)(1) Notice to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, ~~[upstream dam owners, the department of environmental services dam bureau,]~~ and the public shall be given as follows: The planning board shall notify the abutters, the applicant, holders of conservation, preservation, or agricultural preservation restrictions, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by certified mail of the date upon which the application will be formally submitted to the board. ~~[For those proposals near rivers and streams and downstream of a dam, the planning board shall also notify the owners of the upstream dam and the department of environmental services dam bureau by certified mail.]~~ Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall also be given at the same time by posting or publication as required by the subdivision regulations. The notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session was

made known at the prior hearing. All costs of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the planning board to terminate further consideration and to disapprove the plat without a public hearing.

(2) For those proposals in which any structure or proposed building site will be within 500 feet of the top of the bank of any lake, pond, river, or stream, the planning board shall also notify the department of environmental services by first class mail at the same time that notice is provided to abutters, cost to be paid in advance by the applicant consistent with subparagraph (d)(1). The sole purpose of notification to the department shall be to provide information to the department for dam hazard classification. This requirement shall not confer upon the department the status of an abutter. Failure by the municipality to notify the department shall not be considered a defect of notice.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted.

Recess. Out of recess.

Bill ordered to Third Reading.

HB 468-FN, relative to assessments for aquatic resource compensatory mitigation. Ought to Pass with Amendment, Vote 4-1. Senator Merrill for the committee.

Energy and Natural Resources

May 5, 2011

2011-1771s

03/04

Amendment to HB 468-FN

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

1 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as follows:

III. An administrative assessment which equals [20] **10** percent of the sum of paragraphs I and II.

2 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as follows:

III. An administrative assessment which equals [10] **20** percent of the sum of paragraphs I and II.

3 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

II. An administrative assessment equal to [20] **10** percent of the amount in paragraph I.

4 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

II. An administrative assessment equal to [10] **20** percent of the amount in paragraph I.

5 Rulemaking. Amend RSA 482-A:31, II to read as follows:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river construction, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of [20] **10** percent of the total cost shall be added as part of the calculation method.

6 Rulemaking. Amend RSA 482-A:31, II to read as follows:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river construction, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of [10] **20** percent of the total cost shall be added as part of the calculation method.

7 Repeal. 2010, 16:3, 16:5, and 16:7, relative to administrative assessments, are repealed.

8 Effective Date.

I. Sections 2, 4, and 6 of this act shall take effect July 1, 2015.

II. The remainder of this act shall take effect July 1, 2011.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HB 519-FN, repealing New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. Inexpedient to Legislate, Vote 3-2. Senator Lambert for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate.

A roll call was requested by Sen. Houde, seconded by Sen. Forsythe.

The following Senators voted Yes: Houde, Odell, Kelly, Lambert, Larsen, D'Allesandro, Merrill, Stiles, Bragdon.

The following Senators voted No: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, White, Luther, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott.

Yeas: 9 - Nays: 15

Failed.

Sen. Bradley moved Ought to Pass on HB 519-FN.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

May 10, 2011

2011-1823s

09/01

Floor Amendment to HB 519-FN

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

AN ACT relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

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

1 Energy Consumption Reduction Goal; Reports; Reference Change. Amend RSA 21-I:14-c, III to read as follows:

III. Beginning in calendar year 2012, the commissioner shall submit an annual report to be made available to the public on or before December 1 compiling the annual reports submitted under paragraph II, with findings on the departments' annual progress in complying with the energy consumption reduction goal established in paragraph I and problems which may prevent the departments from achieving this goal, to the ~~[energy efficiency and sustainable energy board established under RSA 125-O:5-a, the]~~ governor, the senate president, the speaker of the house of representatives, the chair of the senate energy ~~[environment and economic development]~~ **and natural resources** committee and the chair of the house science, technology and energy committee.

2 Rulemaking; Energy Efficiency Fund and Use of Auction Proceeds. Amend RSA 125-O:8, II to read as follows:

II. The public utilities commission shall adopt rules, under RSA 541-A, to administer the ~~[greenhouse gas emissions reduction]~~ **energy efficiency** fund **and auction proceeds received** pursuant to RSA 125-O:23.

3 Carbon Dioxide Emissions Budget Trading Program; Auction Proceeds. Amend RSA 125-O:21, III to read as follows:

III. The department shall make available for sale at one or more auctions all of the budget allowances for a given year, except for those granted or reserved under RSA 125-O:22, VI, 125-O:24, and 125-O:25. The department may also make available for sale at one or more auctions a portion of future year budget allowances. Such auctions may be conducted in coordination with other states. Revenues from the sale of allowances shall be deposited in the ~~[greenhouse gas emissions reduction]~~ **energy efficiency** fund established under RSA 125-O:23.

4 Greenhouse Gas Emissions Reduction Fund Replaced With Energy Efficiency Fund and Use of Auction Proceeds. RSA 125-O:23 is repealed and reenacted to read as follows:

125-O:23 Energy Efficiency Fund and Use of Auction Proceeds.

I. There is hereby established an energy efficiency fund. This nonlapsing, special fund shall be continually appropriated to the commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein, as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All programs supported by these funds shall be subject to audit by the commission as deemed necessary. A portion of the fund moneys shall be used to pay for commission and department costs to administer this subdivision, including contributions for the state's share of the costs of the RGGI regional organization. The commission shall transfer from the fund to the department such costs as may be budgeted and expended, or otherwise approved by the fiscal committee of the general court and the governor and council, for the department's cost of administering this subdivision.

II. All amounts in excess of the threshold price of \$1 for any allowance sale shall be rebated to all default service electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner to be determined by the commission.

III. All remaining proceeds received by the state from the sale of allowances shall be allocated by the commission as an additional source of funding to electric distribution companies for core energy efficiency programs that are funded by SBC funds.

5 Review of New Hampshire RGGI Program. Amend RSA 125-O:27 to read as follows:

125-O:27 Review of the New Hampshire RGGI Program. At the time of the 2012 comprehensive review by the signatory states as required in the MOU, the commission and the department shall concurrently review New Hampshire specific elements of the RGGI program, in particular ***RSA 125-O:23***, ~~IV~~ and ***RSA 125-O:25***, and include the results of such review in the agencies' annual report under RSA 125-O:21, VI.

6 Legislative Oversight Committee on Electric Utility Restructuring; Report. Amend 374-F:5, III to read as follows:

III. The committee shall provide an ***interim report on or before April 1, and an*** annual report on or before November 1 to the governor, the speaker of the house, the senate president, the state library, and the public utilities commission on the status of electric utility restructuring, ***including the status of core energy efficiency programs monitored under RSA 374-F:6.***

7 New Paragraph; Legislative Oversight Committee on Electric Utility Restructuring; Duties. Amend 374-F:6 by inserting after paragraph IV the following new paragraph:

V. Monitoring core energy efficiency programs funded by proceeds from sale of allowances under the regional greenhouse gas initiative program pursuant to RSA 125-O:23, III.

8 Funding of Contracts. All contracts executed before December 31, 2010 and funded through the greenhouse gas emissions reduction fund shall remain funded through such fund or the energy efficiency fund according to the terms of those contracts. Any funds remaining in the greenhouse gas emissions reduction fund as of January 1, 2012 shall be transferred to the energy efficiency fund.

9 Fund Name Change. Amend RSA 6:12, I(b)(272) to read as follows:

(272) Moneys deposited in the ~~[greenhouse gas emissions reduction]~~ ***energy efficiency*** fund established in RSA 125-O:23.

10 Repeal. The following are repealed:

I. RSA 125-O:5-a, I(d), relative to recommendations made to the public utilities commission by the energy efficiency and sustainable energy board.

II. RSA 125-O:19, relative to statement of purpose and findings.

III. RSA 125-O:21, VI(g), relative to a report on the allocation and spending of the greenhouse gas emissions reduction fund.

11 Contingent Repeal. The following are repealed:

I. RSA 125-O:3, III(d), relative to carbon dioxide cap.

II. RSA 125-O:20 through 125-O:28, relative to the regional greenhouse gas initiative.

12 Powers and Duties of Commissioner; Reference Deletion Related to Contingency. Amend RSA 125-O:6, I to read as follows:

I. Develop a trading and banking program to provide appropriate compliance flexibility in meeting the emission caps established under RSA 125-O:3, III ~~[and allowance requirements of RSA 125-O:21 and RSA 125-O:22]~~, and to encourage earlier and greater emissions reductions and the development of new emission control technologies in order to maximize the cost-effectiveness with which the environmental benefits of this chapter are achieved.

13 Rulemaking Authority; Changes Related to Contingent Repeal. Amend RSA 125-O:8 to read as follows:

125-O:8 Rulemaking Authority.

~~[F.]~~ The commissioner shall adopt rules under RSA 541-A, commencing no later than 180 days after the effective date of this section, relative to:

~~[(a)]~~ **I.** The establishment of trading and banking programs as authorized by RSA 125-O:6, I.

~~[(b)]~~ **II.** The establishment of a method for allocating allowances and other emissions reduction units or mechanisms as authorized by RSA 125-O:3, II and III.

~~[(c)]~~ **III.** Emissions and allowance monitoring, tracking, recordkeeping, reporting, and other such actions as may be necessary to verify compliance with this chapter.

~~[(d)]~~ The method and requirements for auctioning budget allowances under RSA 125-O:21, which may use regional organizations.

~~[(e)]~~ Defining eligible projects for early reduction allowances under RSA 125-O:21, IV, and establishing criteria to quantify and grant such allowances.

~~[(f)]~~ Defining eligible projects for offset allowances under RSA 125-O:21, V, and establishing criteria to quantify and grant such allowances, including the accreditation of third-party verifiers.

~~[(g)]~~ The forms and information required on applications for a temporary or operating permit required under RSA 125-O:22.

~~H.~~ The public utilities commission shall adopt rules, under RSA 541-A, to administer the greenhouse gas emissions reduction fund pursuant to RSA 125-O:23.]

14 Compliance Dates; Reference Deletions Related to Contingent Repeal. Amend RSA 125-O:9 to read as follows:

125-O:9 Compliance Dates. The owner or operator of each affected source shall comply with the provisions of this chapter, excluding the subdivision on mercury emissions, RSA 125-O:11 through 125-O:18, ~~[and the subdivision for CO₂ emissions, RSA 125-O:19 through RSA 125-O:28,]~~ by December 31, 2006.

15 Non-Severability; Reference Deletions Related to Contingent Repeal. Amend RSA 125-O:10 to read as follows:

125-O:10 Non-Severability. No provision of ~~[RSA 125-O:1 through RSA 125-O:18 of]~~ this chapter shall be implemented in a manner inconsistent with the integrated, multi-pollutant strategy ~~[or RSA 125-O:1 through RSA 125-O:18]~~ of this chapter, and to this end, the provisions of ~~[RSA 125-O:1 through RSA 125-O:18 of]~~ this chapter are not severable.

16 Compliance. The repeal of the regional greenhouse gas initiative program under section 11 of this act shall not affect each affected CO₂ source's obligation to satisfy the program's requirements for the compliance period ending December 31 of the prior year, including those contained in adopted rules. All means of enforcement shall remain in place for these requirements, including the provisions of RSA 125-O:7 and any permit issued or modified by the department of environmental services in accordance with RSA 125-O:22, IV.

17 Contingency. If a New England state which has at least 10 percent of the total load of the 10 states participating in the regional greenhouse gas initiative ends its participation in the initiative sections 11-15 of this act shall take effect upon the date that the commissioner of the department of environmental services certifies to the secretary of state and the director of the office of legislative services that such state has terminated its participation in the initiative.

18 Effective Date.

I. Sections 1-9 and 16-17 of this act shall take effect January 1, 2012.

II. The remainder of this act shall take effect as provided in section 17 of this act.

2011-1823s

AMENDED ANALYSIS

This bill replaces the greenhouse gas emission reduction fund with the energy efficiency fund, lowers the rebate threshold for auction proceeds to \$1, and allocates the remaining proceeds received by the state from the sale of allowances to core energy efficiency programs funds by system benefits charges. The bill also requires the legislative oversight committee on electric utility restructuring to monitor and report on certain core energy efficiency programs.

The bill contains a contingent repeal of New Hampshire's regional greenhouse gas initiative cap and trade program if a New England state which has at least 10 percent of the total load of the 10 states participating in the initiative withdraw from participation in the initiative.

The question is on the adoption of the Floor Amendment. Adopted.

Sens. Carson, Forsythe, Groen, and White are in opposition to the Floor Amendment to HB 519-FN.

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

A roll call was requested by Sen. Larsen, seconded by Sen. Houde.

The following Senators voted Yes: Forrester, Bradley, Houde, Odell, Kelly, Luther, Lambert, Larsen, Boutin, Barnes, Rausch, D'Allesandro, Merrill, Prescott, Stiles, Bragdon.

The following Senators voted No: Gallus, Forsythe, Groen, Sanborn, White, Carson, De Blois, Morse.

Yeas: 16 - Nays: 8

Adopted, bill ordered to Committee on Finance (Rule 4-3).

HB 651, allowing the sale and possession of monk parakeets. Ought to Pass, Vote 5-0. Senator Lambert for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 211, relative to the review and approval of proposed agency rules under the administrative procedures act. Ought to Pass, Vote 5-0. Senator Groen for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 299-FN, relative to the method of financing for the judicial retirement plan. Ought to Pass with Amendment, Vote 5-0. Senator White for the committee.

Senate Executive Departments and Administration

May 5, 2011

2011-1774s

10/04

Amendment to HB 299-FN

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

2 Judicial Retirement Plan; Recalculation and Recertification of Employer Rate. Notwithstanding the requirements of RSA 100-C:13, I, the board of trustees of the judicial retirement plan shall direct the plan's actuary to recalculate the employer contribution rate for the state fiscal years 2012 and 2013 to reflect the requirements of RSA 100-C:13, III(d) as amended by section 1 of this act. Such recalculated employer contribution rate shall be recertified by the board of trustees to the judicial branch and shall be used by the judicial branch for state fiscal years 2012 and 2013 until the next biennial valuation.

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

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HB 413, directing the joint legislative oversight committee on the emergency management system to review the duties of certain other committees. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 450, relative to the regulatory authority of the board of barbering, cosmetology, and esthetics. Inexpedient to Legislate, Vote 5-0. Senator Luther for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate. Adopted.

Sen. White asserts Rule 2-15 on HB 450.

Sen. Forsythe is in opposition to the motion of Inexpedient to Legislate on HB 450.

HB 462-FN, relative to the determination of employer assessments for excess benefits paid by employers in the retirement system. Ought to Pass with Amendment, Vote 4-0. Senator Groen for the committee.

Senate Executive Departments and Administration

May 5, 2011

2011-1772s

08/10

Amendment to HB 462-FN

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

1 Retirement System; Employer Assessment for Excess Benefits. Amend RSA 100-A:16, III-a to read as follows:

III-a. Upon the retirement of a member:

(a) The retirement system shall:

(1) Calculate average base pay of a member during his or her highest 3 years of creditable service, or during all of the years in his or her creditable service if less than 3 years;

(2) Multiply the average base pay determined in subparagraph (1) above by 125 percent;

(3) Subtract the result from subparagraph (2) from the member's average final compensation.

(b) If the calculation in subparagraph (a)(3) is greater than zero, the employer shall be assessed the cost of the excess benefit provided by:

(1) Multiplying the present value of the member's retirement benefit by the amount determined in subparagraph (a)(3) divided by the ~~amount in subparagraph (a)(2):~~ **member's average final compensation; and**

(2) Subtracting from that amount a credit to account for the portion of the present value of the member's retirement benefit attributable to the compensation above base pay, as determined by the retirement system, that has been funded through the normal employer contributions.

(c) The employer shall certify to the accuracy of each member's base pay.

(d)(1) The retirement system shall certify to the cost determined in subparagraph (b) to the employer and assess upon the employer such cost for payment to the retirement system at such times and in such manner as the board of trustees may prescribe.

(2) The assessments upon employers determined in subparagraph (b) shall be phased-in over a 4-year period as follows:

(A) Until the end of state fiscal year 2013, the retirement system shall assess and collect 25 percent of the amount determined in subparagraph (b).

(B) For state fiscal year 2014, the retirement system shall assess and collect 50 percent of the amount determined in subparagraph (b).

(C) For state fiscal year 2015, the retirement system shall assess and collect 75 percent of the amount determined in subparagraph (b).

(D) For all state fiscal years thereafter, the retirement system shall assess and collect the full amount determined in subparagraph (b).

(3) Each such employer is hereby authorized to appropriate the sums necessary for payment of such assessments.

2 Retirement System; Effective Date; Employer Assessments. Amend 2008,300:35, VII as amended by 2009, 4:1 and 2010, 357:1, to read as follows:

VII. Sections 33 and 34 of this act shall take effect July 1, [2011] **2012**.

3 Effective Date.

I. Section 1 of this act shall take effect July 1, 2012 at 12:01 a.m.

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

2011-1772s

AMENDED ANALYSIS

This bill:

I. Modifies the method of calculation of the retirement system employer assessment under RSA 100-A:16, III-a for excess benefits paid to retirees.

II. Phases in the required payments over 4 years.

III. Extends the effective date of the implementation of employer assessments to July 1, 2012.

The question is on the adoption of the Committee Amendment. Adopted.

Recess. Out of recess.

Sen. Groen offered a floor amendment.

Sen. Groen, Dist. 6

May 10, 2011

2011-1814s

10/04

Floor Amendment to HB 462-FN

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Retirement System; Interactive Estimator. The retirement system shall develop and implement on the retirement system's website, within 30 days after the effective date of this section, an interactive estimator for a retirement system employer to evaluate its probable costs under RSA 100-A:16, III-a, as amended by this act, for individual members.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Committee on Finance (Rule 4-3).

FINANCE

HB 113, prohibiting the use of state funds for New Hampshire public television. Inexpedient to Legislate, Vote 4-3. Senator D'Allesandro for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate.

Sen. Bradley moved to Lay on the Table HB 113.

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

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, Odell, White, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Houde, Kelly, Larsen, D'Allesandro, Merrill.

Yeas: 19 - Nays: 5

Adopted.

HEALTH AND HUMAN SERVICES

HB 442-FN, relative to the use of marijuana for medicinal purposes. Ought to Pass with Amendment, Vote 3-2. Senator Kelly for the committee.

Health and Human Services

May 5, 2011

2011-1778s

04/09

Amendment to HB 442-FN

Amend RSA 126-V:4, I as inserted by section 2 of the bill by replacing it with the following:

I. The fee structure by the department for alternative treatment centers and registry identification cards shall generate revenues sufficient to offset all state expenses of implementing and administering this chapter, and no state funds shall be used to implement or administer this chapter; however,

Amend RSA 126-V:8, II(a)(12) as inserted by section 2 of the bill by replacing it with the following:

(12) Permissible hours of operation, including the establishment of an appointment-only system for patient access.

Amend RSA 126-V:8, II(d) as inserted by section 2 of the bill by replacing it with the following:

(d) Within 18 months of the effective date of this section, provided that at least 2 applications have been submitted that score sufficiently high to receive a certificate, the department shall issue alternative treatment center registration certificates to the 2 highest-scoring applicants.

Amend RSA 126-V:8, II(f)-(g) as inserted by section 2 of the bill by replacing them with the following:

(f) If at any time after one year after the effective date of this section, fewer than 2 alternative treatment centers hold valid registration certificates in New Hampshire, the department shall accept applications for a new alternative treatment center. Except as provided in subparagraph (g), no more than 2 alternative treatment centers shall hold valid registration certificates at one time. One alternative treatment center shall be located in Carroll, Coos, or Grafton county and one shall be located in Cheshire, Hillsborough, or Rockingham county.

(g) If at any time after 2 years after the effective date of this section, the report issued pursuant to RSA 126-V:9 determines that 2 alternative treatment centers are not sufficient to ensure access to registered qualifying patients throughout the state, the department shall accept applications for up to 2 additional alternative treatment centers and issue registration certificates to the appropriate number of applicants who score the highest. The number of additional alternative treatment centers shall be determined by the department, based on the report issued pursuant to RSA 126-V:9.

Amend RSA 126-V:8, III(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Any time one or more alternative treatment center registration applications are being considered, the department shall also allow for comment by the public and shall solicit input from registered qualifying patients, registered designated caregivers, local law enforcement agencies, and the towns or cities where the applicants would be located.

Amend RSA 126-V:8, VI(b) as inserted by section 2 of the bill by replacing it with the following:

(b) An alternative treatment center may not be located in a residential district or within 1,000 feet of the property line of a pre-existing public or private school or playground.

Amend RSA 126-V:8, VII(a) as inserted by section 2 of the bill by replacing it with the following:

(a) An alternative treatment center agent shall require a qualifying patient or the designated caregiver to produce a valid registry identification card and one additional form of photo identification in order to gain access to the center. Each time an alternative treatment center agent dispenses marijuana to a registered qualifying patient directly or through the qualifying patient's registered designated caregiver, he or she shall consult the alternative treatment center's records to verify that the records do not indicate that the dispensing of marijuana would cause the registered qualifying patient to receive more marijuana than is permitted in a 10-day period. Each time marijuana is dispensed, the alternative treatment center agent shall record the date the marijuana was dispensed and the amount dispensed. All records shall be kept according to the registry identification number of the registered qualifying patient and registered designated caregiver, if any.

Amend RSA 126-V:9 as inserted by section 2 of the bill by inserting after paragraph VI the following new paragraph and renumbering the original paragraphs VII-VIII to read as VIII-IX, respectively:

VII. Input from state and local law enforcement agencies.

Amend RSA 126-V:1, I as inserted by section 2 of the bill by replacing it with the following:

I. "Alternative treatment center" means:

(a) A not-for-profit entity registered under RSA 126-V:8 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana, or related supplies and educational materials, to a registered qualifying patient who has designated it, either by dispensing it directly to the registered qualifying patient or by dispensing it to his or her registered designated caregiver, or

(b) A hospital registered under RSA 126-V:8 which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons, which has a pharmacy on site staffed full-time by at least one registered pharmacist, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana, or related supplies and educational materials, to a registered qualifying patient who has designated it, either by dispensing it directly to the registered qualifying patient or by dispensing it to his or her registered designated caregiver.

Amend RSA 126-V:4, I as inserted by section 2 of the bill by replacing it with the following:

I. The fee structure by the department for alternative treatment centers and registry identification cards shall generate revenues sufficient to offset all state expenses of implementing and administering this chapter, and no state funds shall be used to implement or administer this chapter; however,

Amend RSA 126-V:8, II(a)(12) as inserted by section 2 of the bill by replacing it with the following:

(12) Permissible hours of operation, including the establishment of an appointment-only system for patient access.

Amend RSA 126-V:8, II(d) as inserted by section 2 of the bill by replacing it with the following:

(d) Within 18 months of the effective date of this section, the department shall issue one alternative treatment center registration certificate to the highest-scoring applicant under RSA 126-V:1, I(a), provided that such applicant has achieved a score which is sufficient to receive a registration certificate. The department shall issue a registration certificate to any alternative treatment center applicant as defined in RSA 126-V:1, I(b) which receives a sufficient score under this chapter.

Amend RSA 126-V:8, II(f)-(g) as inserted by section 2 of the bill by replacing them with the following:

(f) If at any time after one year after the effective date of this section, no alternative treatment center as defined in RSA 126-V:1, I(a) holds a valid registration certificate in New Hampshire, the department shall accept applications for registration of an alternative treatment center as defined in RSA 126-V:1, I(a). Except as provided in subparagraph (g), no more than one alternative treatment center as defined in RSA 126-V:1, I(a) shall operate in this state at any time. There shall be no limit on the number of alternative treatment centers as defined in RSA 126-V:1, I(b) in operation in this state at any time.

(g) If at any time after 2 years after the effective date of this section, the report issued pursuant to RSA 126-V:9 determines that the alternative treatment centers registered and operating in this state are not sufficient to ensure access to registered qualifying patients throughout the state, the department shall accept applications for one additional alternative treatment center as defined in RSA 126-V:1, I(a), and issue a registration certificate to the applicant which achieves the highest score.

Amend RSA 126-V:8, III(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Any time one or more alternative treatment center registration applications are being considered, the department shall also allow for comment by the public and shall solicit input from registered qualifying patients, registered designated caregivers, local law enforcement agencies, and the towns or cities where the applicants would be located.

Amend RSA 126-V:8, VI(b) as inserted by section 2 of the bill by replacing it with the following:

(b) An alternative treatment center as defined in RSA 126-V:1, I(a) may not be located in a residential district or within 1,000 feet of the property line of a pre-existing public or private school or playground.

Amend RSA 126-V:8, VII(a) as inserted by section 2 of the bill by replacing it with the following:

(a) An alternative treatment center agent shall require a qualifying patient or the designated caregiver to produce a valid registry identification card and one additional form of photo identification in order to gain access to the center. Each time an alternative treatment center agent dispenses marijuana to a registered qualifying patient directly or through the qualifying patient's registered designated caregiver, he or she shall consult the alternative treatment center's records to verify that the records do not indicate that the dispensing of marijuana would cause the registered qualifying patient to receive more marijuana than is permitted in a 10-day period. Each time marijuana is dispensed, the alternative treatment center agent shall record the date the marijuana was dispensed and the amount dispensed. All records shall be kept according to the registry identification number of the registered qualifying patient and registered designated caregiver, if any.

Amend RSA 126-V:9 as inserted by section 2 of the bill by inserting after paragraph VI the following new paragraph and renumbering original paragraphs VII-VIII to read as VIII-IX, respectively:

VII. Input from state and local law enforcement agencies.

The question is on the adoption of the Committee Amendment.

Sen. D'Allesandro moved to Lay on the Table HB 442-FN. Adopted.

Sens. Forsythe, Kelly, and White are in opposition to the motion to Lay on the Table HB 442-FN.

HB 479-FN, relative to receivership of nursing homes and other residential health care facilities. Re-refer to committee, Vote 5-0. Senator Sanborn for the committee.

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

INTERNAL AFFAIRS

HB 114, reinstating and expanding the duties of the joint legislative historical committee. Ought to Pass, Vote 5-0. Senator Lambert for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 160, relative to the powers of the joint committee on legislative facilities. Inexpedient to Legislate, Vote 3-2. Senator Prescott for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate. Adopted.

Sens. Bradley, Forsythe, and Groen are in opposition to the motion of Inexpedient to Legislate on HB 160.

HB 190, relative to legislative study committees. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

Internal Affairs

May 4, 2011

2011-1759s

04/01

Amendment to HB 190

Amend RSA 14:49, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The membership of any study committee established by the general court shall be limited to members of the general court only.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

JUDICIARY

HB 52, relative to grounds for modification of parental rights and responsibilities. Ought to Pass with Amendment, Vote 4-0. Senator Luther for the committee.

Senate Judiciary
 April 29, 2011
 2011-1678s
 05/04

Amendment to HB 52

Amend the bill by replacing section 3 with the following:

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

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HB 131, relative to indemnification of volunteers performing duties in the state park system. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Senate Judiciary
 May 5, 2011
 2011-1782s
 04/10

Amendment to HB 131

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

2011-1782s

AMENDED ANALYSIS

This bill amends the statute governing indemnification of volunteers under the supervision of department of resources and economic development personnel.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HB 174, relative to insurance coverage for court-ordered counseling in divorce proceedings. Ought to Pass, Vote 4-0. Senator Groen for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 210-FN, relative to the use of deadly force to protect oneself. Ought to Pass with Amendment, Vote 3-1. Senator Luther for the committee.

Senate Judiciary
 May 5, 2011
 2011-1780s
 04/05

Amendment to HB 210-FN

Amend the bill by replacing section 1 with the following:

1 Physical Force in Defense of a Person. Amend RSA 627:4, III to read as follows:

III. A person is not justified in using deadly force on another to defend himself, *herself*, or a third person from deadly force by the other if he *or she* knows that he *or she* and the third person can, with complete safety:

(a) Retreat from the encounter, except that he *or she* is not required to retreat if he *or she* is within his *or her* dwelling [ør], its curtilage, *or in any place where he or she has a right to be*, and was not the initial aggressor; or

(b) Surrender property to a person asserting a claim of right thereto; or

(c) Comply with a demand that he *or she* abstain from performing an act which he *or she* is not obliged to perform; nor is the use of deadly force justifiable when, with the purpose of causing death or serious bodily harm, the actor has provoked the use of force against himself *or herself* in the same encounter.

(d) If he *or she* is a law enforcement officer or a private person assisting [him] *a law enforcement officer* at [his] *the law enforcement officer's* direction and was acting pursuant to RSA 627:5, he *or she* need not retreat.

2011-1780s

AMENDED ANALYSIS

This bill allows a person who is in any place where he or she has a right to be to use deadly force to protect oneself or a third person.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Failed.

Sen. Groen is in favor of the motion of Ought to Pass as Amended on HB 210-FN.

Sen. Luther moved Re-refer to committee on HB 210-FN. Adopted.

HB 225-FN, relative to the return of personal property confiscated by law enforcement agencies from a person charged with a crime. Re-refer to committee, Vote 4-0. Senator Carson for the committee.

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

HB 313, requiring parental consent for court referral of a minor to a juvenile diversion program. Ought to Pass, Vote 4-0. Senator Luther for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 330-FN, relative to carrying firearms. Re-refer to committee, Vote 4-0. Senator Groen for the committee.

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

Sen. Sanborn is in opposition to the motion to Re-refer to committee HB 330-FN.

HB 378-FN, inserting an exception to the criminal threatening statute, relative to the minimum mandatory sentence for a felony conviction involving the possession, use, or attempted use of a firearm, and relative to the definition of "non-deadly" force. Re-refer to committee, Vote 3-1. Senator Groen for the committee.

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

Sen. Sanborn is in opposition to the motion to Re-refer to committee HB 378-FN.

HB 478-FN, relative to testimony by video teleconference. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

Senate Judiciary

May 5, 2011

2011-1779s

03/10

Amendment to HB 478-FN-LOCAL

Amend the bill by replacing section 3 with the following:

3 New Section; Testimony by Video Teleconference for Motor Vehicle Violations. Amend RSA 516 by inserting after section 37 the following new section:

516:38 Testimony by Video Teleconference for Motor Vehicle Violations. In any contested case for an alleged motor vehicle violation in district court at which a keeper of the records or technical specialist from the department of safety, bureau of hearings or division of motor vehicles is summoned to testify, the state may move to take the testimony of the keeper of the records or technical specialist by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to records of the department of safety. Notice shall be provided to the defendant, and the defendant shall have an opportunity

to object to the introduction of testimony by video teleconference. Similarly, in any contested case for an alleged motor vehicle violation in district court, the defendant may move to take the testimony of his or her own expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to records of the department of safety. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at a contested case for an alleged motor vehicle violation in district court. For purposes of this section, "video teleconference" includes the use of any technology that provides live, interactive aural and visual communication.

2011-1779s

AMENDED ANALYSIS

This bill authorizes testimony by video teleconference at department of safety administrative hearings and in district court motor vehicle cases.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Committee on Finance (Rule 4-3).

HB 490-FN, adopting the interstate compact for juveniles. Ought to Pass, Vote 4-0. Senator Groen for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Committee on Finance (Rule 4-3).

HB 532-L, relative to municipal liability for dog bites. Ought to Pass, Vote 4-0. Senator Carson for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 544, relative to state authority over firearms and ammunition. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Senate Judiciary

May 5, 2011

2011-1783s

04/09

Amendment to HB 544

Amend RSA 159:26, I as inserted by section 1 of the bill by replacing it with the following:

I. To the extent consistent with federal law, the state of New Hampshire shall have authority and jurisdiction over the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearms components, ammunition, ~~[or]~~ firearms supplies, **or knives** in the state. Except as otherwise specifically provided by statute, no ordinance or regulation of a political subdivision may regulate the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearms components, ammunition, or firearms supplies in the state. Nothing in this section shall be construed as affecting a political subdivision's right to adopt zoning ordinances for the purpose of regulating firearms **or knives** businesses in the same manner as other businesses or to take any action allowed under RSA 207:59.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HB 614, requiring a performance audit of the guardian ad litem board and guardian ad litem services. Ought to Pass, Vote 3-1. Senator Groen for the committee.

Sen. Groen moved to Lay on the Table HB 614. Adopted.

HB 634-FN, relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

Senate Judiciary
May 5, 2011
2011-1784s
05/09

Amendment to HB 634-FN

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

AN ACT relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent and relative to standards of practice for non-certified guardians ad litem.

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

1 Repayment of Mediator Fees by Indigent Parties. Amend RSA 461-A:7, X to read as follows:

X. In the event both parties are indigent, the mediator shall be paid a set fee for his or her services. The amount of the fee shall be set annually by supreme court rule. The court may order each party to pay a proportional amount of said fee. The fee shall be paid from the ~~[special fund established pursuant to RSA 461-A:17]~~ **mediation and arbitration fund established in RSA 490-E:4** and repaid by the parties in accordance with RSA 461-A:18, **including fees for pre-suit marital mediation authorized pursuant to RSA 490-E:2, V. The supreme court shall determine by rule a percentage amount of the entry fee paid to each clerk of court for each petition in domestic relations cases to be deposited into the mediation and arbitration fund to be used to pay for mediation where both parties are indigent. At no time shall the percentage amount exceed 25 percent of the entry fee for each petition.**

2 Repayment of Guardian Ad Litem Fees by Indigent Parties. Amend RSA 461-A:16, IV to read as follows:

IV. The fees for services for the guardian ad litem and others utilized by the guardian and approved by the court shall be a charge against the parties in a proportional amount as the court may determine. ~~[Where the parties are indigent, compensation for guardians ad litem and others utilized by the guardian and approved by the court shall be based upon the applicable fee schedule established by the supreme court for indigent defense counsel.]~~

3 Repayment of Mediator and Guardian Ad Litem Fees. Amend RSA 461-A:18, I to read as follows:

I. In any case where a mediator has been appointed pursuant to RSA 461-A:7 or a guardian ad litem has been appointed pursuant to RSA 461-A:16 and the responsible party's proportional share of the expense ~~[is]~~ **was** ordered to be paid by the judicial council from the ~~prior~~ special fund established pursuant to RSA 461-A:17 **or is ordered to be paid by the judicial branch from the mediation and arbitration fund pursuant to RSA 490-E:4**, the party shall be ordered by the court to repay the state through the unit of cost containment, office of administrative services, the fees and expenses paid on the party's behalf as the court may order consistent with the party's ability to pay, such ability to be determined by the unit of cost containment.

4 Mediation and Arbitration Fund. Amend RSA 490-E:4, I(a) to read as follows:

(a) All moneys collected pursuant to **RSA 461-A:7, X**, RSA 490:27, II, RSA 490-D:12, III, RSA 503:4, II, and RSA 502-A:28, III.

5 Liability for Expenses. RSA 461-A:17 is repealed and reenacted to read as follows:

461-A:17 Guardians Ad Litem and Mediators; Liability for Expenses. The judicial council shall have no responsibility for the payment of the costs of a mediator or guardian ad litem for any party under this chapter.

6 Repeal. RSA 6:12, I(b)(81), relative to moneys deposited in the mediator and guardian ad litem fund, is repealed.

7 Parental Rights and Responsibilities; Non-Certified Guardians Ad Litem. Amend the introductory paragraph of RSA 461-A:16, VI to read as follows:

VI. The supreme court shall provide the following relative to **non-certified** guardians ad litem appointed pursuant to this section:

8 Effective Date. This act shall take effect July 1, 2011.

2011-1784s

AMENDED ANALYSIS

This bill:

I. Abolishes a special fund for compensation of mediators and guardians ad litem in marital cases where the parties are indigent and requires that such compensation be paid from the mediation and arbitration fund.

II. Requires the supreme court to determine by rule a percentage amount of the entry fee for each petition in domestic relations cases to be deposited into the mediation and arbitration fund.

III. Requires the supreme court to adopt practice standards for non-certified guardians ad litem appointed in parental rights and responsibilities cases.

Sen. Houde moved to Lay on the Table HB 634-FN. Adopted.

PUBLIC AND MUNICIPAL AFFAIRS

HB 61, relative to daylight saving time. Ought to Pass, Vote 5-0. Senator Merrill for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 109, relative to residential fire sprinklers. Ought to Pass with Amendment, Vote 4-1. Senator Barnes for the committee.

Public and Municipal Affairs

May 4, 2011

2011-1749s

05/10

Amendment to HB 109

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

1 New Paragraph; Local Land Use; Subdivision Regulations. Amend RSA 674:36 by inserting after paragraph III the following new paragraph:

IV. The planning board shall not require, or adopt any regulation requiring, the installation of a fire suppression sprinkler system in proposed one- or 2-family residences as a condition of approval for a local permit. Nothing in this paragraph shall prohibit a duly adopted regulation mandating a cistern, dry hydrant, fire pond, or other credible water source other than a fire suppression sprinkler system.

2 Effective Date. This act shall take effect July 1, 2011.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Prescott asserts Rule 2-15 on HB 109.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Prescott asserts Rule 2-15 on HB 109.

Sen. Odell is in opposition to the motion of Ought to Pass as Amended on HB 109.

HB 257, relative to removal of political advertising. Inexpedient to Legislate, Vote 5-0. Senator Barnes for the committee.

The question is on the adoption of the Committee recommendation of Inexpedient to Legislate. Adopted.

HB 398, relative to service animals. Ought to Pass, Vote 5-0. Senator Boutin for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

HB 487-FN, relative to election day registrants. Ought to Pass with Amendment, Vote 4-1. Senator Stiles for the committee.

Public and Municipal Affairs

May 4, 2011

2011-1747s

03/05

Amendment to HB 487-FN

Amend RSA 654:12, V(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter identified at a state general election as a first-time election day registrant in New Hampshire who also did not verify his or her identity with an approved photo identification. The letter shall be mailed within 90 days after the general election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the person that a person who was unable to present photo identification registered or registered and voted using his or her name and address and instruct the person *to return the letter within 45 days with a written confirmation that the person registered and voted or* to contact the attorney general immediately if he or she did not register and vote. *Any voter under a protective order pursuant to RSA 173-B, and whose name does not appear on the checklist as provided under RSA 654:25, shall not be subject to the provisions of paragraph V.*

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended.

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

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, White, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Houde, Odell, Kelly, Larsen, D'Allesandro, Merrill.

Yeas: 18 - Nays: 6

Adopted, bill ordered to Third Reading.

HB 521, relative to meeting dates for county conventions. Ought to Pass, Vote 4-0. Senator Forrester for the committee.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

TRANSPORTATION

HB 218, repealing the New Hampshire rail transit authority. Ought to Pass with Amendment, Vote 4-1. Senator Boutin for the committee.

Senate Transportation

May 5, 2011

2011-1773s

05/10

Amendment to HB 218

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

AN ACT relative to the New Hampshire rail transit authority.

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

1 New Hampshire Rail Transit Authority; Authority Established. Amend RSA 238-A:2 to read as follows:

238-A:2 Authority Established; Duties. There is hereby established the New Hampshire rail transit authority for the [general] purpose of *studying cost-benefit analyses of* developing [and providing] commuter rail or other similar forms of passenger rail service. The authority shall be an administratively attached agency, pursuant to RSA 21-G:10, to the department of transportation.

2 Membership. Amend RSA 238-A:4, I(h) to read as follows:

(h) Four members appointed by the governor, one of whom resides in the [service] *study* area of the authority as established in RSA 238-A:5, I, 2 of whom are recognized as experts in railroad matters, and one public member.

3 Study Areas of the Authority. Amend RSA 238-A:5 to read as follows:

238-A:5 [Service-Area] *Study Areas* of the Authority.

I. The [service-area] *study areas* of the authority shall include any town or city in the state of New Hampshire through which commuter rail or other similar forms of passenger rail service [operates or] may operate.

II. The board of directors shall determine when to expand the ~~[service-area]~~ **study areas** of the authority. Upon approval of a resolution to expand the ~~[service-area]~~ **study areas** of the authority, after a properly noticed public hearing, the board of directors shall notify eligible cities, towns, or regional planning commissions of the determination to expand the ~~[service-area]~~ **study areas** of the authority. A city, town, or regional planning commission may petition the authority to support the development and establishment of commuter rail and related public transportation services within its jurisdiction. The board of directors shall have sole discretion to accept or reject any such petition. When considering an expansion of the ~~[service-area]~~ **study areas** of the authority the board of directors shall consider support for the proposed passenger or commuter rail project by affected towns, cities, and regional planning commissions, and the completion of an alternatives analysis or major investment study.

III. When the ~~[service-area]~~ **study areas** of the authority ~~[is]~~ **are** expanded as identified in ~~[RSA 238-A:5,]~~ **paragraph II**, new members will be added to the board of directors as follows:

(a) One designee for each town or city added to the ~~[service-area]~~ **study areas** that is not represented on the board of directors.

(b) One designee for each regional planning commission added to the ~~[service-area]~~ **study areas** that is not represented on the board of directors.

4 Powers. Amend RSA 238-A:8, XIII to read as follows:

XIII. Conduct or cause to be conducted any studies that the authority determines necessary **pursuant to RSA 238-A:2**.

5 Expenses and Obligations. Amend RSA 238-A:11 to read as follows:

238-A:11 Expenses and Obligations. All expenses incurred in carrying out this chapter shall be paid solely from funds provided to or obtained by the authority under this chapter. ~~[Any notes, obligations, or liabilities under this chapter shall not be deemed to be a debt of the state or a pledge of the faith and credit of the state; but those notes, obligations, and liabilities are payable exclusively from funds provided to or obtained by the authority under this chapter. The records and correspondence relating to negotiations, trade secrets received by the authority, and estimates of costs on projects to be put out to bid are confidential.]~~

6 New Section; Limitation of Authority. Amend RSA 238-A by inserting after section 19 the following new section:

238-A:20 Limitation of Authority. Neither the state of New Hampshire nor its representatives shall expend any capital or operating funds for the purpose of developing or providing passenger rail service without the approval of the general court.

7 Repeal. The following are repealed:

I. RSA 238-A:1, V, VI, and VII, relative to definitions of railroad lines, passenger rail service, and railroad.

II. RSA 238-A:3, relative to duties of the authority.

III. RSA 238-A:5, II and III, relative to service area of the authority.

IV. RSA 238-A:8, VII, IX, X, XII, XIV, XV, and XVI, relative to powers of the authority.

V. RSA 238-A:9, I, II, III, IV, V, VI, VII, and VIII, relative to funding.

VI. RSA 238-A:10, relative to bonds.

VII. RSA 238-A:13, relative to property of the authority.

VIII. RSA 238-A:14, relative to exemption from taxes.

IX. RSA 238-A:15, relative to public utilities commission.

X. RSA 238-A:16, relative to review of rail transit authority.

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

2011-1773s

AMENDED ANALYSIS

This bill modifies the New Hampshire rail transit authority.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Sen. Lambert, seconded by Sen. Prescott.

The following Senators voted Yes: Forrester, Bradley, Forsythe, Houde, Groen, Sanborn, White, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Stiles, Bragdon.

The following Senators voted No: Gallus, Odell, Kelly, Luther, Lambert, Larsen, D'Allesandro, Merrill, Prescott.

Yeas: 15 - Nays: 9

Adopted.

Sen. Lambert offered a floor amendment.

Sen. Lambert, Dist. 13

Sen. Luther, Dist. 12

Sen. Kelly, Dist. 10

May 11, 2011

2011-1856s

06/05

Floor Amendment to HB 218

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

AN ACT relative to the New Hampshire rail transit authority.

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

1 New Hampshire Rail Transit Authority; Authority Established. Amend RSA 238-A:2 to read as follows:

238-A:2 Authority Established. There is hereby established the New Hampshire rail transit authority for the general purpose of ~~[developing and providing]~~ **overseeing and facilitating activities related to** commuter rail or other similar forms of passenger rail service. The authority shall be an administratively attached agency, pursuant to RSA 21-G10, to the department of transportation. ***Pursuant to this authority, prior to the expenditure of any state or federal moneys by the state of New Hampshire, or its representatives, on the construction or reconstruction of any passenger railroad infrastructure, or the operation of passenger railroad service, the department of transportation and the New Hampshire rail transit authority shall first receive approval from the general court for both the capital and operating budget appropriations related to passenger rail service. This section shall not apply to federal money received or expended for planning purposes or studies related to passenger rail service.***

2 New Hampshire Rail Transit Authority; Duties. Amend RSA 238-A:3 to read as follows:

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

I. Studying the feasibility of new or expanded passenger rail service and making recommendations to the general court as appropriate. Studies shall include potential impacts of expanded passenger rail service on freight rail.

II. Subject to the approval of the general court, the acquisition, lease, possession, use, operation, repair, renewal, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance, and disposition of:

- (a) Railroad lines and related facilities.
- (b) Railroad rolling stock, machinery, and equipment.
- (c) Real and personal property of any kind.

[H] ***III. Subject to the approval of the general court,*** the acquisition, lease, license, possession, use, and disposition of any rights in or related to such property, including trackage, operating, maintenance, dispatching, and other contractual rights and services from railroad companies, other transportation service providers, public utilities, private persons, and government agencies including the Massachusetts Bay Transportation Authority.

3 New Hampshire Rail Transit Authority: Powers. Amend RSA 238 A:8, IX and X to read as follows:

IX. *Subject to the approval of the general court*, enter into and fulfill any contracts or agreements with public or private transportation operators, government agencies, or other entities for management, operation, or support of public transit services or as the board of directors otherwise deems necessary.

X. *Subject to the approval of the general court*, lease the passenger rail system or part thereof, or contract for the use of the passenger rail system or any part thereof with any operator as may be required for operation of the passenger rail service.

4 New Hampshire Rail Transit Authority; Funding. Amend the introductory paragraph of RSA 238-A:9 to read as follows:

238-A:9 Funding. The authority shall seek, apply for, accept for its use, and use funds necessary for the implementation of this chapter. ***Pursuant to this section, prior to the expenditure of any state or federal moneys by the state of New Hampshire, or its representatives, on the construction or reconstruction of any passenger railroad infrastructure, or the operation of passenger railroad service, the department of transportation and the New Hampshire rail transit authority shall first receive approval from the general court for both the capital and operating budget appropriations related to passenger rail service. This section shall not apply to federal money received or expended for planning purposes or studies related to passenger rail service.***

5 Repeal. The following are repealed:

I. RSA 238-A:8, VII and XII, relative to powers of the authority.

II. RSA 238-A:10, relative to bonds.

III. RSA 238-A:13, II, relative to property of the authority.

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

2011-1856s

AMENDED ANALYSIS

This bill modifies the duties of the New Hampshire rail transit authority. The bill requires the approval of the general court for any expenditures for rail transit.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Lambert, seconded by Sen. Luther.

The following Senators voted Yes: Houde, Odell, Kelly, Luther, Lambert, Larsen, D'Allesandro, Merrill, Prescott.

The following Senators voted No: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, White, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Stiles, Bragdon.

Yeas: 9 - Nays: 15

Failed.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended.

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

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, White, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Houde, Odell, Kelly, Luther, Lambert, Larsen, D'Allesandro, Merrill.

Yeas: 16 - Nays: 8

Adopted, bill ordered to Third Reading.

WAYS AND MEANS

HB 557-FN-A, relative to the standards and burden of proof with respect to the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships. Ought to Pass with Amendment, Vote 4-0. Senator Luther for the committee.

Senate Ways and Means
May 3, 2011
2011-1716s
01/09

Amendment to HB 557-FN-A

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

2 Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted as follows:

III.(a) In the case of a proprietorship, partnership, or limited liability company filing a business profits tax return as a proprietorship, partnership, or limited liability company, a deduction 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, 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 proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to the personal services of the proprietor, partner, or member. Such amounts shall generally include all amounts reported as earned income on federal tax returns, but shall 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) A taxpayer claiming a deduction under this paragraph shall bear the burden of proving that at least one or more proprietors, partners, or members provided actual services to the business organization at any time during the taxable period. Once a taxpayer has satisfied this burden of proof, the amount claimed as a deduction shall be presumed to be reasonable, unless the commissioner proves by a preponderance of the evidence that the deduction claimed by the taxpayer is grossly excessive.

3 Applicability. This act shall apply with respect to taxable periods ending after January 1, 2013.

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

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Committee on Finance (Rule 4-3).

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Bradley 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.

Adopted. Adjournment from the Early Session.

LATE SESSION

Third Reading and Final Passage

HB 52, relative to grounds for modification of parental rights and responsibilities.

HB 61, relative to daylight saving time.

HB 109, relative to residential fire sprinklers.

HB 114, reinstating and expanding the duties of the joint legislative historical committee.

HB 131, relative to indemnification of volunteers performing duties in the state park system.

HB 174, relative to insurance coverage for court-ordered counseling in divorce proceedings.

HB 190, relative to legislative study committees.

HB 205-FN, relative to notice to owners of upstream dams.

HB 211, relative to the review and approval of proposed agency rules under the administrative procedures act.

HB 218, relative to the New Hampshire rail transit authority.

HB 291, relative to permissible fireworks.

HB 299-FN, relative to the method of financing for the judicial retirement plan.

HB 313, requiring parental consent for court referral of a minor to a juvenile diversion program.

HB 317, relative to fire warning devices and carbon monoxide detection devices in dwellings.

HB 398, relative to service animals.

HB 413, directing the joint legislative oversight committee on the emergency management system to review the duties of certain other committees.

HB 468-FN, relative to assessments for aquatic resource compensatory mitigation.

HB 487-FN, relative to election day registrants.

HB 521, relative to meeting dates for county conventions.

HB 532-L, relative to municipal liability for dog bites.

HB 544, relative to state authority over firearms and ammunition.

HB 605, authorizing the business finance authority to establish a New Hampshire innovation business job growth program.

HB 651, allowing the sale and possession of monk parakeets.

LIST OF RULE 2-15'S FOR THE DAY

Sen. Prescott: HB 109.

Sen. Sanborn: HB 605.

Sen. White: HB 450.

ANNOUNCEMENTS

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Bradley 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 and when we recess, we recess to the Call of the Chair.

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