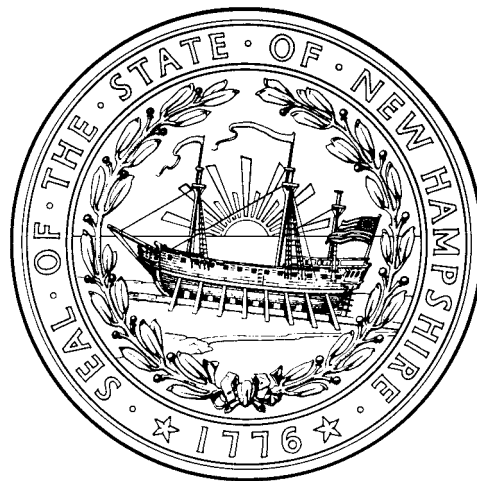


May 2, 2012
Nos. 11-12

STATE OF NEW HAMPSHIRE

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



**Second Year of the 162nd Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – APRIL 25, 2012 SESSION
COMMENCEMENT – MAY 2, 2012 SESSION**

SENATE JOURNAL 11 *(continued)*

April 25, 2012

HOUSE MESSAGE

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

SB 315, requiring motorists to give wide berth to highway maintenance vehicles.

SB 317, relative to towable devices permitted to be towed by a motorboat.

SB 323, authorizing accounting transfers by the department of corrections.

SB 369-FN-L, relative to aid to assisted persons.

SB 379, relative to insurance fraud.

SB 389-L, relative to sewer commission costs.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 335, establishing a procedure for certain condominiums to waive portions of the state fire code.

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 41, relative to enforcement of the timber tax and excavation tax by the department of revenue administration.

SB 225-FN-L, relative to the return of personal property confiscated by law enforcement agencies from a person charged with a crime.

SB 357, establishing a commission to study how the Patient Protection and Affordable Care Act of 2009, as amended, will affect emergency and ambulance providers.

SB 362-FN, relative to benefits related to service of certain part-time judges of probate retiring because of permanent disability.

SB 383-FN-L, revising the distribution of school building aid grants.

SB 392-FN, relative to road salt applicators.

SCR 1, urging Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States.

HOUSE MESSAGE

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

SB 374, naming marine patrol headquarters in honor of David Barrett.

April 16, 2012
2012-1662-EBA
03/04

Enrolled Bill Amendment to SB 363

The Committee on Enrolled Bills to which was referred SB 363

AN ACT establishing a commission to study the regulation and licensing of youth camps, including youth skills camps.

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

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 363

This enrolled bill amendment deletes unnecessary language from the bill.

Enrolled Bill Amendment to SB 363

Amend RSA 198:15-x, I as inserted by section 1 of the bill by replacing line 1 with the following:

I. There is established a commission to study the regulation and

Amend RSA 198:15-x, IV as inserted by section 1 of the bill by replacing line 1 with the following:

IV. The commission shall:

Amend RSA 198:15-x, V as inserted by section 1 of the bill by replacing line 1 with the following:

V. The commission shall report its findings and any recommendations for proposed

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

April 20, 2012
2012-1770-EBA
04/09

Enrolled Bill Amendment to HB 247

The Committee on Enrolled Bills to which was referred HB 247

AN ACT relative to seller financing of mortgages and making changes to the laws regulating mortgage bankers and brokers and debt adjustment services.

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 247

This enrolled bill amendment corrects a statutory reference in the amending language of section 8 of the bill.

Enrolled Bill Amendment to HB 247

Amend section 8 of the bill by replacing line 1 with the following:

8 Mortgage Bankers and Brokers; Exemptions. Amend RSA 397-A:4, VI to read as follows:

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

April 18, 2012
2012-1734-EBA
10/01

Enrolled Bill Amendment to HB 1133

The Committee on Enrolled Bills to which was referred HB 1133

AN ACT relative to membership of the enhanced 911 commission.

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 1133

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 1133

Amend RSA 106-H:3, I(a) as inserted by section 1 of the bill by replacing line 3 with the following:

services or designee, the chairman of the public utilities commission or designee, [a representative of

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

April 17, 2012
2012-1685-EBA
03/05

Enrolled Bill Amendment to HB 1231

The Committee on Enrolled Bills to which was referred HB 1231

AN ACT removing the prohibition on the sale, gift, or display of certain young birds.

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 1231

This enrolled bill amendment deletes part of a section title to reflect changes in the statute made in the bill.

Enrolled Bill Amendment to HB 1231

Amend RSA 437:15 as inserted by section 1 of the bill by replacing line 1 with the following:

437:15 Sale or Gift [of Small Quantities]. [~~Chicks, ducklings, goslings, and~~] Rabbits younger than

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

April 17, 2012
2012-1686-EBA
03/05

Enrolled Bill Amendment to HB 1448

The Committee on Enrolled Bills to which was referred HB 1448

AN ACT requiring public access to any document and Internet content which is incorporated by reference in administrative rules.

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 1448

This enrolled bill amendment clarifies a reference in the bill.

Enrolled Bill Amendment to HB 1448

Amend RSA 541-A:12, VII as inserted by section 2 of the bill by replacing line 1 with the following:

VII. Each agency shall include the information required in subparagraph IV(b) as an appendix

Sen. Prescott moved adoption of the Enrolled Bill Amendment. 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 12

May 2, 2012

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

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

When we're born, there's this tendency to think that the first thing we do is scream. But, actually, the first thing we do is take a sharp intake of breath and notice that we're alive. And then we all have just three questions that we ask: Who is that man? Why am I cold? Where is my mother? And, we will ask these three questions through the whole rest of our lives. The question is not how and how often we ask these questions, but how far out ahead of those questions we get. There's a wonderful story from the Midrash of Judaism of a rabbi who's noticing that everyone in the marketplace is running hither and thither and yon trying to get things done, and they're going awfully fast. He stops them and says: "What are you doing?" And, they all said: "Well, we're running after the things we want." And, he said: "Well, could they be behind you?" And they all stopped. So, it's easy to get way out ahead of our own headlights in our rush to get things done. And, the problem with that is that the light is behind us and what lies in front of us is darkness, over which we trip. So, it's important that we go back to what we learned as children: that impossible things are possible, that goodness and kindness are paramount, and that we are deeply, deeply, deeply loved. Let us pray.

God of our lives, so dwell within us that we can sense Your guidance like an internal compass pointing us to truth and not just to drama or ego. Give us a sense that what we need, we have. Amen.

Sen. Luther led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Larsen introduced Rowan Ferrier and Peter Newland, students from Concord High School, serving as Senate Pages today.

Sen. Groen welcomed a class from the McClelland Elementary School in Rochester, guests in the Senate gallery.

FINANCE REPORT

Sen. Morse announces that the following bills will not come to Finance: HB 1366, HB 1727-FN, HB 1202-FN, HB 388-FN, HB 1490-FN, HB 222-FN, HB 1306-FN-L, HB 1483-FN, HB 1521-FN, HB 1617-FN, HB 217-FN, HB 536-FN, HB 1223-FN, HB 1535-FN, HB 1537-FN, HB 1611-FN, HB 1665-FN, HB 1699-FN, HB 1707-FN, HB 1629-FN, HB 1701-FN, HB 1260-FN.

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

SPECIAL ORDER

Without objection President Bragdon moved HB 217-FN, HB 225-FN, HB 1510-FN, HB 1633, and HB 1699-FN be Special-Ordered to May 9, 2012.

Recess. Out of recess.

CONSENT CALENDAR REPORTS

Sen. Bradley moved that the Consent Calendar with the relevant amendments as printed in the day's Calendar be adopted and that all bills adopted be ordered to Third Reading.

ENERGY AND NATURAL RESOURCES

HB 1380, relative to the development of wetland mitigation banks. Ought to Pass, Vote 5-0.
Senator Merrill for the committee.

This is enabling legislation that permits the establishment of wetland mitigation banks by not only public but also private entities, provided that such banks comply with all federal, state, and Army Corps of Engineers requirements.

FINANCE

HB 618-FN, requiring state agencies to develop performance measures and to develop budgets for each biennium. Interim Study, Vote 7-0. Senator Morse for the committee.

The Finance committee feels that in last years budget, reforms were made that have yet to come to fruition and although we appreciate the objectives the sponsor is trying to achieve the bill does not consider the extensive effort that will be required by state agencies to tie the performance measures to the budget.

HB 652-FN, establishing a commission relative to Medicaid managed care. Inexpedient to Legislate, Vote 7-0. Senator Morse for the committee.

The Senate Finance committee feels this bill is unnecessary. The Medicaid Managed Care program is moving forward and a separate commission is not needed.

JUDICIARY

HB 574, relative to the taking of private property during a state of emergency. Ought to Pass with Amendment, Vote 5-0. Senator Forsythe for the committee.

This bill revises the statute on the taking of private property to ensure that personal private property can not be taken by the state.

Senate Judiciary

April 26, 2012

2012-1861s

05/10

Amendment to HB 574

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

1 Taking of Private Property; Compensation and Use. Amend RSA 4:46, I(c)(3) to read as follows:

(3) Any cattle, poultry, provisions for man or beast, clothing, bedding, medicines, and medical supplies in excess of the reasonable [~~and immediate~~] needs of the owner and the owner's household, *during the expected duration of the emergency*.

2 New Paragraph; Taking of Private Property; Property Owned or Used by Individuals or Families Excluded. Amend RSA 4:46 by inserting after subparagraph I-a the following new subparagraph:

I-b. This section shall not apply to personal property owned by or intended for use by individuals or families.

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

2012-1861s

AMENDED ANALYSIS

This bill prohibits the state from taking personal property owned or used by individuals or families during a declared state of emergency. The bill also limits the provisions taken by the state in an emergency to those in excess of the reasonable needs of the owner and the owner's household during the expected duration of the emergency.

HB 1526-FN, relative to possession of less than one-half ounce of marijuana. Inexpedient to Legislate, Vote 5-0. Senator Houde for the committee.

The Committee does not support legislation decriminalizing possession of marijuana due to concerns about the message it sends to young people - as well as the potential for marijuana use to lead to use of other illegal substances.

PUBLIC AND MUNICIPAL AFFAIRS

HB 1329, relative to the default budget in certain towns. Interim Study, Vote 5-0. Senator Barnes for the committee.

This bill requires a default budget form include any reductions made by the governing body in the proposed operating budget, when demonstrating how the default budget amount was calculated. Committee members strongly urge this bill be incorporated into the duties of the committee established in SB 238, to assess the form of government in towns that have elected the official ballot referendum form of meeting.

WAYS AND MEANS

HB 1251-FN, establishing a committee to study requiring that all sales of alcoholic beverages for off-premises consumption be made at state liquor stores. Inexpedient to Legislate, Vote 6-0. Senator Boutin for the committee.

This bill sought to establish a committee to study requiring that all sales of alcoholic beverages for off-premises consumption be made at state liquor stores. The prime sponsor requested that the legislation be found inexpedient to legislate.

HB 1698-FN-A, establishing a committee to study implementing keno in the state of New Hampshire. Inexpedient to Legislate, Vote 6-0. Senator Luther for the committee.

This bill sought to establish a committee to study implementing keno in the state of New Hampshire. This was not the original intent of the prime sponsor and the committee does not believe this study is necessary as a great deal of information on the subject matter is already available.

The question is on the adoption of the Consent Calendar. Adopted, bills ordered to Third Reading.

REGULAR CALENDAR REPORTS

COMMERCE

HB 351-FN, relative to insurance reimbursement for doctors of naturopathic medicine. Ought to Pass with Amendment, Vote 2-1. Senator De Blois for the committee.

Commerce

April 24, 2012

2012-1827s

01/10

Amendment to HB 351-FN

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

AN ACT relative to insurance reimbursement for health care providers.

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

1 New Section; Coverage for Health Care Services; Individual. Amend RSA 415 by inserting after section 6-q the following new section:

415:6-r Coverage for Health Care Services; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance coverage for services provided by health care providers licensed pursuant to RSA 316-A, RSA 326-B, RSA 328-E, and RSA 329 and which services are reimbursed in accordance with Current Procedural Terminology (CPT) codes. Services provided under this section may be subject to reasonable deductibles, co-payments, and coinsurance amounts, fee or benefit limits, practice parameters, and utilization review consistent with rules adopted by the insurance department; provided that the amounts, limits, and review shall not function to direct treatment in a manner which unfairly discriminates against any health care service, and collectively shall be no more restrictive than those applicable under the same policy for services provided by other health care providers, but may allow for the management of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers.

2 New Section; Coverage for Health Care Services; Group. Amend RSA 415 by inserting after section 18-v the following new section:

415:18-w Coverage for Health Care Services; Group. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance coverage for services provided by health care providers licensed pursuant to RSA 316-A, RSA 326-B, RSA 328-E, and RSA 329 and which services are reimbursed in accordance with Current Procedural Terminology (CPT) codes. Services provided under this section may be subject to reasonable deductibles, co-payments, and coinsurance amounts, fee or benefit limits, practice parameters, and utilization review consistent with rules adopted by the insurance department; provided that the amounts, limits, and review may not function to direct treatment in a manner which unfairly discriminates against any health care service, and collectively may be no more restrictive than those applicable under the same policy for services provided by other health care providers, but may allow for the management of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers.

3 Health Service Corporations; Coverage for Health Care Services. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA

415:6-m, RSA 415:6-o, **RSA 415:6-r**, RSA 415:18, V, RSA 415:18, VII(g), RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, **RSA 415:18-w**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

4 Health Maintenance Corporations; Coverage for Health Care Services. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, **RSA 415:6-r**, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, **RSA 415:18-w**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

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

2012-1827s

AMENDED ANALYSIS

This bill requires health insurance reimbursement for health care services provided by health care providers licensed pursuant to RSA 316-A, RSA 326-B, RSA 328-E, and RSA 329 and which services are reimbursed in accordance with Current Procedural Terminology (CPT) codes.

The question is on the adoption of the Committee Amendment.

A division vote was requested.

Yeas: 16 - Nays: 8

Adopted.

Sen. White asserts Rule 2-15 on HB 351-FN.

Sen. Sanborn offered a floor amendment.

Sen. Sanborn, Dist. 7

May 1, 2012

2012-1916s

01/10

Floor Amendment to HB 351

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

AN ACT relative to insurance reimbursement for doctors of naturopathic medicine.

Amend the bill by replacing sections 1 and 2 with the following:

1 New Section; Coverage for Naturopathy Providers; Individual. Amend RSA 415 by inserting after section 6-q the following new section:

415:6-r Naturopathy Providers; Payment for Equivalent Types of Service; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses shall provide to persons covered by such insurance who are residents of this state coverage for expenses arising from a health service performed by a doctor of naturopathic medicine licensed under RSA 328-E if that particular type of service is within the scope of practice of such doctor and if the insurer would reimburse for that type of service when performed by any other type of health care provider. Such coverage shall be subject to each insurer's standards and mechanisms for determining medical necessity, for credentialing pursuant to RSA 420-J:4, and for contracting pursuant to RSA 420-J:8. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

2 New Section; Coverage for Naturopathy Providers; Group. Amend RSA 415 by inserting after section 18-v the following new section:

415:18-w Naturopathy Providers; Payment for Equivalent Types of Services; Group. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses shall provide to each group, or to the portion of each group comprised of certificate holders of

such insurance who are residents of this state, coverage for expenses arising from a health service performed by a doctor of naturopathic medicine licensed under RSA 328-E if that particular type of service is within the scope of practice of such doctor and if the insurer would reimburse for that type of service when performed by any other type of health care provider. Such coverage shall be subject to each insurer's standards and mechanisms for determining medical necessity, for credentialing pursuant to RSA 420-J:4, and for contracting pursuant to RSA 420-J:8. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

2012-1916s

AMENDED ANALYSIS

This bill requires health insurance reimbursement for health care services provided by a doctor of naturopathic medicine licensed under RSA 328-E under certain circumstances.

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

Sen. Barnes called the question. Without objection, President Bragdon closed debate with remaining speakers.

Recess. Out of recess.

Sen. Bradley moved to Lay on the Table HB 351. Adopted.

Sen. White asserts Rule 2-15 on HB 351-FN.

Recess. Out of recess.

HB 1366, relative to employer charges for unemployment compensation benefits and relative to suitable work and eligibility requirements for claimants for unemployment compensation benefits. Ought to Pass with Amendment, Vote 4-0. Senator Sanborn for the committee.

Commerce

April 25, 2012

2012-1835s

08/04

Amendment to HB 1366

Amend the bill by replacing all after section 3 with the following:

4 Disqualifications for Benefits. Amend RSA 282-A:32, I(d) to read as follows:

(d) [He] ***The individual*** has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commissioner or to accept suitable work when offered him ***or her***, or to return to his ***or her*** customary self-employment (if any) when so directed by the commissioner.

(1) ~~[The commissioner, in determining whether or not any work is suitable for an individual, shall consider the following]~~ ***If the commissioner determines that work in the individual's customary occupation, at the individual's customary rate of pay, is immediately available within the individual's labor market area, the commissioner, to find that any work is suitable for an individual, shall determine each of the following:***

(A) ***That*** the degree of risk involved to [his] ***the individual's*** health, safety and morals ***in performing such work is reasonable***; and

(B) [His] ***That the individual's*** physical fitness ***reasonably allows the individual to perform the essential functions of the work***; and

(C) [His] ***That the individual's*** prior training ***and experience reasonably allow the individual to successfully perform or to acquire those skills necessary to perform the work***; and

(D) ~~[His experience; and~~

~~(E) His prospects for securing, in his labor market area, work in his customary occupation; and~~

(F) ***That*** the distance of the available work from [his] ***the individual's*** residence ***is reasonable***; but such distance shall not be ***considered reasonable if it is both*** substantially greater than that distance to all those places to which others living in the same town or city travel for work which utilizes similar or related skills or services, and also ***substantially greater than the distance*** to where [he] ***the individual*** acquired his ***or her*** currently available annual earnings; and

(E) That the rate of pay for the work is reasonable in light of the individual's

~~[(G)His]~~ prior earnings and length of unemployment, but ***in determining whether the rate of pay is reasonable*** his ***or her*** prior earnings shall be given more weight than his ***or her*** length of unemployment.

(2) If the commissioner determines that work in the individual's customary occupation and at the individual's customary rate of pay is not immediately available within the individual's labor market area, the commissioner, to find that any work is suitable for an individual, shall determine each of the following:

(A) That the degree of risk involved to the individual's health, safety and morals in performing such work is reasonable; and

(B) That the individual's physical fitness reasonably allows the individual to perform the essential functions of the work; and

(C) That the individual's prior training and experience reasonably allow the individual to successfully perform, or to acquire those skills necessary to perform, the work; and

(D) That the distance of the available work from the individual's residence is reasonable; but such distance shall not be considered reasonable if it is both substantially greater than that distance to all those places to which others living in the same town or city travel for work which utilizes similar or related skills or services, and also substantially greater than the distance to where the individual acquired the individual's currently available annual earnings; and

(E) That the work, part-time or full-time, pays minimum wage or an hourly rate which when multiplied times 40 is equal to or greater than 150 percent of the individual's weekly benefit, whichever is greater; and

(F) That the wages, hours, or other conditions of the temporary work are not substantially less favorable to the individual than those prevailing for similar temporary or permanent work in the locality.

~~[(2)]~~ ***(3)*** Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new full-time or part-time work under any of the following conditions:

(A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the work are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(D) If the individual is unable to apply for or accept full-time or part-time work during the hours of a particular shift because he or she is the only adult available for the care of an ill, infirm, or physically or mentally disabled family member whom a licensed physician has certified is in need of care for the activities of daily living;

(E) If the individual is unable to apply for or accept full-time or part-time work during the hours of a particular shift because he or she is the only adult available for the care of a natural, adopted, step, or foster child under the age of 16; or

(F) If the individual is permanently physically and/or mentally disabled, full-time or part-time work for such individual shall be deemed to be the hours and shifts the individual is physically able to work as certified by a licensed physician provided there is a market for the services the individual offers during such hours and shifts.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new suitable, temporary, full-time, or part-time work, offered to the individual without the expectation of such work becoming permanent, for any week which follows the earlier of:

(A) The last week which includes one or more days within the maximum expected duration of the temporary work; or

(B) The fifth week of the 5 weeks in which the individual, subsequent to the date the individual refused such temporary work, meets the earnings requalification requirements of RSA 282-A:32, I.

[(3)] (5) For the purposes of section 3304(a)(8) of the Internal Revenue Code of 1954, this subsection, together with RSA 282-A:31, I(c) shall be waived.

5 Disqualifications for Benefits. Amend RSA 282-A:32, I(a)(2) to read as follows:

(2) An individual terminates employment in good faith to accept better [full-time] employment, which is to begin within a reasonable period[, and subsequently becomes unemployed from such employment due to unavailability of work before earning the requalifying wages set forth in this section. Notwithstanding any other provision of this chapter, such subsequent employer shall be deemed to be that individual's most recent employer];

6 Fund Chargeable. Amend RSA 282-A:75, IV to read as follows:

IV. Benefits are paid to an individual by reason of RSA 282-A:32, I(a)(2), (3), (4), (5), or (6).

7 Effective Date. This act shall take effect October 1, 2012.

Recess. Out of recess.

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 1727-FN, to return certain insurance exchange moneys to the federal government. Inexpedient to Legislate, Vote 4-1. Senator Sanborn for the committee.

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

EDUCATION

HB 1202-FN, amending the definition of "sending district" as it applies to students attending regional vocational education programs. Interim Study, Vote 5-0. Senator Prescott for the committee.

The question is on the adoption of the Committee recommendation of Refer to Interim Study. Adopted.

HB 1383, relative to residency status for the purpose of receiving in-state tuition status within the university system of New Hampshire. Ought to Pass with Amendment, Vote 4-1. Senator Carson for the committee.

Senate Education

April 25, 2012

2012-1838s

08/10

Amendment to HB 1383

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

1 New Paragraph; Legal Status of Students Receiving In-State Tuition. Amend RSA 187-A:16 by inserting after paragraph XXII the following new paragraph:

XXIII. Require every student admitted after December 31, 2012 and receiving the in-state rate of tuition to execute an affidavit attesting he or she is a legal resident of the United States.

2 Effective Date. This act shall take effect January 1, 2013.

2012-1838s

AMENDED ANALYSIS

This bill requires every student admitted to the university system of New Hampshire after December 31, 2012 and receiving the in-state rate of tuition to execute an affidavit attesting he or she is a legal resident of the United States.

Sen. Kelly moved to Lay on the Table HB 1383.

Recess. Out of recess.

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

The following Senators voted Yes: Houde, Kelly, Larsen, D'Allesandro, Merrill.

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

Yeas: 5 - Nays: 19

Failed.

Sen. Barnes called the question. Without objection, President Bragdon closed debate with remaining speakers.

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, 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, bill ordered to Third Reading.

HB 1607-FN-L, establishing an education tax credit. Ought to Pass with Amendment, Vote 3-2. Senator Forsythe for the committee.

Senate Education

April 25, 2012

2012-1832s

04/10

Amendment to HB 1607-FN-LOCAL

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

1 Purpose.

I. The general court finds that:

(a) It has the inherent power to determine subjects of taxation for general or particular public purposes.

(b) Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the general court may cherish using its sovereign power to determine subjects of taxation and exemptions from taxation.

(c) Ensuring that all parents may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the general court may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

(d) Expanding educational opportunities and thereby promoting healthy competition is critical to improving the quality of education in the state and ensuring that all children have the opportunity to receive a high quality education.

II. The purpose of this act is to:

(a) Allow maximum freedom to parents and nonpublic schools to respond to and, without governmental control, provide for the educational needs of children, and this act shall be liberally construed to achieve that purpose.

(b) Promote the general welfare by expanding educational opportunities for children.

(c) Enable children in this state to achieve a higher level of excellence in their education.

(d) Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

2 New Paragraph; Business Profits Tax; Education Tax Credit. Amend RSA 77-A:5 by inserting after paragraph XIV the following new paragraph:

XV. The education tax credit as computed in RSA 77-G:4.

3 New Section; Business Enterprise Tax; Education Tax Credit. Amend RSA 77-E by inserting after section 3-c the following new section:

77-E:3-d Education Tax Credit. The education tax credit as computed in RSA 77-G:4 shall be allowed against the tax due under this chapter.

4 New Chapter; Education Tax Credit. Amend RSA by inserting after chapter 77-F the following new chapter:

CHAPTER 77-G EDUCATION TAX CREDIT

77-G:1 Definitions.

I. The following definitions shall apply in this chapter:

(a) "Adequacy cost" means the total cost of the opportunity for an adequate education as defined in RSA 198:40-a, I-III.

(b) "Adequacy grant" means the grant calculated under RSA 198:41, or for a chartered public school, the amount calculated under RSA 194-B:11.

(c) "Business organization" shall be as defined in RSA 77-A:1, I.

(d) "Business enterprise" shall be as defined in RSA 77-E:1, III.

(e) "Donation receipt" means a document submitted by a scholarship organization that contains at a minimum:

(1) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(2) The scholarship organization's name and address.

(3) The donation amount and date received.

(f) "Educational expenses" means the tuition cost of an eligible student to attend a public or nonpublic school, excluding students who were placed into a nonpublic school by their school district, and in the case of a home educated student, the academic expenses not to exceed 25 percent of the average scholarship as defined in RSA 77-G:2, I(b), incurred in a child's home schooling. Educational expenses shall not include fees or expenses related to participation in athletic programs, transportation expenses, or the cost of a parent's time expended in the home schooling of his or her child.

(g) "Education tax credit application" means a document developed by the department of revenue administration and submitted by a business organization or business enterprise that contains at a minimum:

(1) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(2) A contact person's name, title, and phone number.

(3) The requested donation amount.

(4) A signed statement certifying that the business organization or business enterprise agrees to make donations in accordance with the requirements established in this chapter.

(h) "Eligible student" means a New Hampshire resident who is at least 5 years of age and no more than 20 years of age, has not graduated from high school, and

(1)(A) Who is currently attending a New Hampshire public school, including a chartered public school, and for whom the adequacy grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(B) Who received a scholarship under subparagraph (A) or this subparagraph in the prior program year; or

(C) Who does not qualify under subparagraphs (A) or (B); and

(2) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9909(2). The scholarship organization shall verify eligibility under this subparagraph.

(i) "Nonpublic school" shall be as defined in RSA 193-A:1.

(j) "Owner or operator" means an owner, president, officer, or director of an eligible nonprofit scholarship organization or a person with equivalent decision making authority over an eligible nonprofit scholarship organization.

(k) "Parent" means the natural or adoptive parent or legal guardian of a child.

(l) "Program year" means the year beginning January 1 and ending December 31.

(m) "Receipt" means a document developed by the department of revenue administration that is issued by the receiving school, or parent in the case of a home educated student, to the scholarship organization which makes payment for educational expenses on behalf of an eligible student and that contains, at a minimum and where applicable:

(1) The name and address of the school if a school is attended or, in the case of a home educated student, the name and address of a parent.

(2) The name and address of the eligible student for whom the expense has been paid.

(3) The name of the payer and the date and amount of the expense paid.

(4) Receipts for all specific, reimbursed educational expenses.

(n) "Receiving school" means a public or nonpublic school which the eligible student seeks to attend.

(o) "Release of information form" means a document developed by a receiving school, signed by the parent or guardian of an eligible student, and which acknowledges the consent of the parent or guardian to release of information contained in the receipt.

(p) "Scholarship impact report" means a document designed by the department of education completed by a school district which is eligible to receive a stabilization grant under RSA 77-G:8. The report shall be put online by the department of education. The report by the district shall include at a minimum:

(1) The percentage and number of students who received scholarships.

(2) Aggregated results from the scholarship organization on the reason the students left the resident school district.

(q) "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

(1) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code;

(2) Complies with applicable state and federal antidiscrimination and privacy laws;

(3) Is registered with the charitable trusts unit of the New Hampshire attorney general's office; and

(4) Has been approved by the department of revenue administration for the purpose of issuing scholarships as provided in this chapter.

(r) "Scholarship organization application" means a document developed by the department of revenue administration and submitted by a scholarship organization that contains at a minimum:

(1) The scholarship organization's name, address, and federal taxpayer identification number.

(2) A contact person's name, title, and phone number.

(3) A signed statement that the scholarship organization has met the eligibility requirements of subparagraph (q), and will comply with the provisions of this chapter.

(s) "Scholarship organization report" means a document developed by the New Hampshire department of revenue administration and submitted by a scholarship organization to the department of revenue administration that shall be a public record and contains at a minimum:

- (1) The number of scholarships granted under subparagraph I(h)(1)(A).
- (2) The number of scholarships granted under subparagraph I(h)(1)(B).
- (3) The number of scholarships granted under subparagraph I(h)(1)(C).
- (4) The total dollar amount of all scholarships granted.
- (5) The total dollar amount of donations spent on administrative expenses pursuant to RSA 77-G:5, I(f).
- (6) The total dollar amount to be carried forward pursuant to RSA 77-G:5, I(g).
- (7) The total dollar amount of donations used and not used for scholarships.
- (8) The number of scholarships granted under RSA 77-G:5, II(i).

(9) The number of scholarships distributed by the organization, per school, and the dollar range of those scholarships. All home educated students shall be totaled together as a single school.

(10) An analysis, broken down by zip code, of the place of residence for each student receiving a scholarship under this program.

(11)(A) The aggregated results from a survey, designed by the department of revenue administration, and administered by the scholarship organization, which shall solicit and receive information from at least 90 percent of the parents or legal guardians of participating students, broken down by the number of years in the program. In each case, the respondent shall be asked to gauge their level of agreement with the statement as follows: "strongly agree," "agree," "no change," "disagree," "strongly disagree." The following statements shall be included in the survey:

(i) I am satisfied with the school my child is attending as compared to the school my child attended prior to the availability of the education tax credit program.

(ii) My child has seen a measurable improvement in academic achievement.

(iii) My child would have been unable to attend the school of his or her choice without the education tax credit program.

(B) The survey shall include the following question to the parent or legal guardian of a participating student: "Excluding the education tax credit scholarship, how much did you pay out of pocket for your child to attend school this year?"

(12) The aggregated results from a survey, designed by the department of education, and administered by the scholarship organization, which shall solicit and receive information from the parents or legal guardians of participating students who graduated or stopped attending 2 years prior. A parent's or legal guardian's response to the survey shall be optional. Results shall be aggregated by the scholarship organization and published by the department of education. The survey shall solicit the following information:

(A) Whether the student is attending a private, public, community college, or vocational college, or otherwise employed or unemployed.

(B) Whether the student graduated or not.

(13) The number of students who graduated from high school in the previous year, and the number that dropped out of school.

(14) A signed statement that the scholarship organization acknowledges compliance with the provisions of this chapter.

(t) "Scholarship receipt" means a document developed by the department of revenue administration and submitted by a scholarship organization to the business organization or business enterprise and that contains at a minimum:

(1) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(2) The amount of the donations used or carried forward and the amount not used.

77-G:2 Scholarships.

I.(a) An eligible student may receive a scholarship to attend (1) a nonpublic school, except when the student has been placed by the local school district through the special education process; or (2) a public school located outside of the school district in which the student resides and for which the public school is not eligible to receive an adequate education grant payment for the student in the current fiscal year, in an amount not to exceed the tuition cost of the public or nonpublic school. A home education student may also receive a scholarship to cover educational expenses. A student shall not receive a scholarship from more than one scholarship organization.

(b) The average value of all scholarships awarded by a scholarship organization, excluding eligible students who received scholarships for educational expenses related to home education only, shall not exceed \$2,500. Beginning in the second year of the program, the commissioner of the department of revenue administration shall annually adjust this amount based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the calendar year ending 12 months prior to the beginning of program year. In each of the first and second program years, a scholarship organization shall award a minimum of 70 percent of all scholarships issued to eligible students as defined in RSA 77-G:1, I(h)(1)(A) and (B) and shall notify the department of education of the name, date of birth, place of birth, and school last attended for each of these students granted a scholarship by July 15. The required minimum percentage of all scholarships issued by a scholarship organization to eligible students as defined in RSA 77-G:1, I(h)(1)(A) and (B) shall be reduced by 5 percent each program year for years 3 through 15 of the program, and, at the beginning of the sixteenth program year and every program year thereafter, there shall be no required minimum percentage of scholarships.

(c) The minimum value of a scholarship granted to a student receiving special education programs or services pursuant to RSA 186-C shall be 75 percent of the maximum average scholarship size as defined in subparagraph (b).

(d) A student shall reapply each year for a scholarship.

77-G:3 Contributions to Scholarship Organizations. For each contribution made to a scholarship organization, a business organization or business enterprise may claim a credit equal to 85 percent of the contribution against the business profits tax due pursuant to RSA 77-A, or against the business enterprise tax due pursuant to RSA 77-E, or apportioned against both provided the total credit granted against both shall not exceed the maximum education tax credit allowed. Credits provided under this chapter shall not be deemed taxes paid for the purposes of RSA 77-A:5, X. The department of revenue administration shall not grant the credit without a scholarship receipt. No business organization or business enterprise shall direct, assign, or restrict any contribution to a scholarship organization for the use of a particular student or nonpublic school. No business organization or business enterprise shall receive more than 10 percent of the aggregate amount of tax credits permitted in RSA 77-G:4.

77-G:4 Tax Credits.

I. The aggregate of tax credits issued by the commissioner of the department of revenue administration to all taxpayers claiming the credit shall not exceed \$3,400,000 for the first program year and \$5,100,000 for the second program year, subject to the provisions of paragraph III.

II. Beginning with the second program year, if the amount of the total donations used for scholarships exceeds 80 percent of the current program year's tax credits allowed, the aggregate of tax credits allowed for the next program year shall increase by 25 percent, subject to the provisions of paragraph III.

III. In each program year, the increase in the aggregate of tax credits allowed pursuant to paragraphs I and II shall be contingent upon the board of directors of the community development finance authority certifying in writing to the commissioner of the department of revenue administration that the community development finance authority has received \$5,000,000 or more in contributions for the state fiscal year or that the authority has received contribution offers sufficient to meet its state fiscal year limit but did not meet its limit for other reasons.

77-G:5 Scholarship Organizations.

I. A scholarship organization shall:

(a) Provide scholarships from eligible contributions to eligible students to defray educational expenses.

(b) Not restrict or reserve scholarships for use at a single nonpublic school and not restrict or reserve a scholarship for a specific student or a specific person.

(c) Verify a student's eligibility to apply for and receive a scholarship through transcripts and attendance records.

(d) Not have an owner or operator who also owns or operates a nonpublic school that participates in the education tax credit program.

(e) Not have an owner or operator who in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a business organization or business enterprise of which he or she owned more than 20 percent.

(f) Not use more than 10 percent of eligible contributions used during the program year in which the contributions are collected, and for which scholarship receipts were issued for tax credit purposes, for administrative expenses. Administrative expenses shall be reasonable and necessary for the organization's management and distribution of eligible contributions pursuant to this chapter.

(g) In the first program year, there shall be no carry forward of unused eligible contributions. In each program year thereafter, not more than 10 percent of eligible contributions may be carried forward to the following program year. Any amount carried forward shall be expended for annual or partial year scholarships in the program year into which the amount is carried forward.

(h) Maintain separate accounts for scholarship funds, non-tax credit donations, and operating funds.

(i)(1) Not award a scholarship to any lineal descendant or equivalent step-person of any officer, director, or employee of any scholarship organization; and

(2) Not award a scholarship to any lineal descendant or equivalent step-person of any proprietor, partner, or member of any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax, nor any lineal descendant or equivalent step-person of any officer, director, or owner of more than a 5 percent interest in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax, nor any employee who is among the highest 20 percent of paid employees in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax.

(j) Provide to any school district which receives a stabilization grant pursuant to RSA 77-G:8 a copy of the aggregated results of the survey required under RSA 77-G:1, I(s)(12) about the stated reasons for leaving that school district.

II.(a) An organization seeking approval as a scholarship organization under this chapter shall submit an application to the department of revenue administration each program year no later than June 15. The department of revenue administration shall approve or deny the application within 30 days of receipt. The department shall deny any application that fails to meet the statutory requirements and shall notify the scholarship organization of the reasons for denial.

(b) A business organization or business enterprise shall submit an education tax credit application to the department of revenue administration no earlier than January 1 and no later than June 15. The department shall approve these applications within 30 days on a first come-first serve basis, up to the aggregate tax credit amount allowed under RSA 77-G:4. If multiple education tax credit applications are received on the same day, they shall be processed at random. No business organization or business enterprise shall be granted an education tax credit for more than 10 percent of the aggregate tax credit amount permitted in RSA 77-G:4. The department of revenue administration may approve only a portion of a request if required to prevent exceeding the aggregate tax credit amount allowed under RSA 77-G:4. The approval shall include the amount allowed and the date of approval.

(c) Once an education tax credit application is approved, the business organization or business enterprise shall donate within 60 days of the date of approval or the request shall expire. Donations may be made to multiple scholarship organizations provided the total amount donated by the business organization or business enterprise does not exceed the amount allowed under RSA 77-G:4. Donations shall be made no later than July 15 of the program year.

(d) Upon receiving a donation, the scholarship organization shall send a "donation receipt" to the department of revenue administration and to the business organization or business enterprise within 15 days. The department of revenue administration shall notify the scholarship organization and the business organization or business enterprise within 15 days if the donations made by a business organization or business enterprise exceed the amount allowed. If a business organization or business enterprise fails to donate the total amount allowed within the time permitted, the department of revenue administration may grant credit requests in the order specified in subparagraph (b).

(e) On or before July 15, a scholarship organization shall furnish the name, date of birth, place of birth, and the school last attended for each student eligible pursuant to RSA 77-G:1, I(h)(1)(A) and (B) who is receiving a scholarship, and the subparagraph under which they were eligible, to the department of education. The department of education shall notify the scholarship organization within 30 days of any students who are ineligible under RSA 77-G:1, I(h)(1)(A). The scholarship organization shall notify the department of education within 30 days if any student eligible under RSA 77-G:1, I(h)(1)(A) or (B) is not awarded a scholarship or returns to public school. The department of education shall return such student to the calculation of the average daily membership in residence, as defined in RSA 189:1-d, IV, for the student's school district of residence, and add the amount calculated under RSA 198:40-a, I-III to the adequate education grant amount to the student's school district of residence, and include such amount in the next adequate education grant payment made under RSA 198:42.

(f) On or before December 1, the scholarship organization shall send a scholarship receipt to the business organization or business enterprise and to the department of revenue administration. The scholarship receipt shall include the amount of the donation that was used under this chapter which is eligible for the tax credit, and the amount that was not used. The scholarship organization shall return any unused funds to the business organization or business enterprise.

(g) On or prior to December 1, the scholarship organization shall submit a scholarship organization report to the department of revenue administration. The scholarship organization shall also include a scholarship organization application if it intends to issue scholarships under this chapter in the next program year. The department of revenue administration shall review the scholarship organization report and the scholarship receipts to ensure that the administrative expenses requirement set forth in subparagraph (f) is not exceeded, that the number of scholarships issued under RSA 77-G:1, I(h)(1)(A) and (B) meets the requirements of this chapter, and the average scholarship size does not exceed the amount allowed. If any of these requirements are not met, the department of revenue administration may deny a scholarship application for subsequent program years and shall notify the scholarship organization of the reasons for denial.

(h) A business organization or business enterprise may file for the tax credit after receiving the scholarship receipt, and may file a tax credit request for the subsequent program year up to the amount donated in the current program year.

(i) A scholarship organization may grant a financial hardship exception to the federal poverty guideline requirement for eligibility under RSA 77-G:1, I(h)(2), provided that the exceptions granted shall not exceed 20 percent of the scholarships granted by the scholarship organization in the program year.

(j) The provisions of this chapter regarding nonpublic schools and their relation to scholarship organizations shall apply only to nonpublic schools that choose to accept scholarship students.

77-G:6 Department of Revenue Administration; Requirements.

I. The department of revenue administration shall:

(a) Develop, and annually verify and update, by February 1, a list of eligible nonprofit scholarship funding organizations that meet the requirements of this chapter. The department shall post this list on the department's Internet website and update the list monthly until July 15. The department shall forward the list and any updates to the commissioner of the department of education who shall post the list on the department of education's Internet website.

(b) Conduct or require audits in response to any reasonable complaints made. The cost of an independent audit shall be paid by the scholarship organization, but this cost shall be excluded from the administrative expenses requirement set forth in RSA 77-G:5, I(f).

(c) Establish a process by which individuals may notify the department of revenue administration of any violation by a parent, business organization, business enterprise, scholarship organization, or nonpublic school of state laws relating to program participation. The department of revenue administration shall conduct an inquiry of any written complaint of a violation of this chapter, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains facts demonstrating a violation of this chapter or any rule adopted pursuant to this chapter. In order to determine legal sufficiency, the department of revenue administration may require supporting information or documentation from the complainant.

(d) Create, maintain, and post online the relevant forms and reports, and submit scholarship organization reports to the members of the house and senate education committees and to the department of education.

(e) Post to the department's website an up-to-date total of the amount of credits available.

(f) No later than January 1, 2013, adopt rules pursuant to RSA 541-A, relative to:

(1) The application procedure for a scholarship organization applying to accept scholarship donations under this chapter.

(2) The application procedure for a business organization or business enterprise applying for a tax credit under this chapter.

(3) Complaint procedures, including the filing of a complaint and investigations of complaints.

(4) The design and content of the forms and applications required to be filed with, or issued by, the department of revenue administration under this chapter.

77-G:7 Department of Education; Requirements.

I. The department of education shall determine the number of students receiving a scholarship under RSA 77-G:1, I(h)(1)(A) and (B) who were counted in the calculation of the average daily membership in attendance for schools, other than chartered public schools, as defined in RSA 198:38, I, for the student's school district of residence and for each such student, shall deduct the amount calculated under RSA 198:40-a, I-III from the total education grant amount disbursed to the student's school district of residence calculated pursuant to RSA 198:40-a, IV(b)-(c). This adjustment shall be completed prior to September 1 of the program year in which the scholarships are granted.

II. The department of education shall verify a student's eligibility under RSA 77-G:1, I(h)(1)(A) upon request of a scholarship organization. The department of education shall assist the department of revenue administration, upon request, in the investigation of student eligibility complaints.

III. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to forms necessary for any surveys required and the procedures for determining and disbursing stabilization grants.

77-G:8 Stabilization Grant.

I. If the amount of the reduction to a school district's adequacy grant pursuant to RSA 77-G:7, I is greater than one percent of a school district's adequacy cost, the commissioner of the department of education shall disburse a stabilization grant for the current and next 3 fiscal years to each such school district equal to the amount of the reduction in excess of one percent. This stabilization grant shall be included in the April 1 disbursement required pursuant to RSA 198:42. To receive this payment, the school district shall provide a scholarship impact report to the department of education no later than March 1.

II. The commissioner of the department of revenue administration shall adjust the percentage multiplier in paragraph I in each program year by the percentage increase in the aggregate tax credit limit in each successive program year as provided in RSA 77-G:4.

77-G:9 Exceptions.

I. A receiving nonpublic school or home education program that accepts students benefiting from scholarships, grants, or tax credits shall not be considered an agent of the state or federal government as a result of participating in the program established in this chapter.

II. Except as provided in this chapter, or otherwise provided in law, no state department, agency, or board shall regulate the educational program of a receiving nonpublic school or home education program that accepts students pursuant to this chapter.

III. Donations made by a business organization or business enterprise to a scholarship organization that are not for the purpose of obtaining a tax credit under this chapter shall not be subject to the requirements in this chapter.

77-G:10 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

5 Applicability. The first program year of the education tax credit pursuant to RSA 77-G as inserted by section 4 of this act shall begin on January 1, 2013.

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

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

Recess. Out of recess.

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, Bragdon.

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

Yeas: 17 - Nays: 7

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

Sen. Bradley moved to remove HB 351 from the table. Adopted.

Recess. Out of recess.

COMMERCE

HB 351-FN, relative to insurance reimbursement for doctors of naturopathic medicine.

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

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

The following Senators voted Yes: Bradley, Forsythe, Houde, Sanborn, Kelly, Lambert, Larsen, Boutin, Barnes, De Blois, D'Allesandro, Merrill, Stiles.

The following Senators voted No: Gallus, Forrester, Groen, Odell, White, Luther, Carson, Rausch, Morse, Prescott, Bragdon.

Yeas: 13 - Nays: 11

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

Recess. Out of recess.

ENERGY AND NATURAL RESOURCES

HB 388-FN, establishing the amount of the enhanced 911 services surcharge and requiring providers of Voice over Internet Protocol services to pay surcharges for deposit in the enhanced 911 system fund. Ought to Pass with Amendment, Vote 5-0. Senator Odell for the committee.

Energy and Natural Resources

April 18, 2012

2012-1741s

09/01

Amendment to HB 388-FN

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

AN ACT requiring providers of Voice over Internet Protocol services to pay surcharges for deposit in the enhanced 911 system fund.

Amend the bill by replacing section 3 with the following:

3 Funding; Surcharge. Amend RSA 106-H:9, I to read as follows:

I.(a) The enhanced 911 system and the statewide emergency notification system shall be funded through a surcharge to be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, each individual commercial mobile radio service number, *each VoIP service number with a place of primary use within New Hampshire*, and each semi-public and public coin and public access line. *For purposes of this subparagraph, "place of primary use" shall have the same meaning as the definition contained in 4 U.S.C. section 124(8).* No such surcharge shall be imposed upon more than 25 business telephone exchange lines, including PBX trunks and Centrex lines, or more than 25 commercial mobile radio service exchange lines *or VoIP service lines or channels* per customer billing account.

(b) In the case of local exchange telephone companies, the surcharge shall be contained within tariffs or rate schedules filed with the public utilities commission and shall be billed on a monthly basis by each local exchange telephone company.

(c) In the case of an entity which provides commercial mobile radio service the surcharge shall be billed to each customer on a monthly basis and shall not be subject to any state or local tax; the surcharge shall be collected by the commercial mobile radio service provider, and may be identified on the customer's bill.

(d) In the case of a VoIP provider, the surcharge shall be billed to each customer on a monthly basis and shall not be subject to any state or local tax; the surcharge shall be collected by the VoIP provider, and may be identified on the customer's bill.

(e) Each local exchange telephone company, **VoIP service provider**, or entity which provides commercial mobile radio service shall remit the surcharge amounts on a monthly basis, **as prescribed by the commissioner**, to the enhanced 911 services bureau, which shall be forwarded to the state treasurer for deposit in the enhanced 911 system fund. The state treasurer shall pay expenses incurred in the administration of the enhanced 911 system and the statewide emergency notification system from such fund. Such fund shall not lapse. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the enhanced 911 system or the statewide emergency notification system, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the enhanced 911 system fund to the department of safety for such purposes. The moneys in the account shall not be used for any purpose other than the development and operation of enhanced 911 services and the statewide emergency notification system, in accordance with the terms of this chapter. Surcharge amounts shall be reviewed after the budget has been approved or modified, and if appropriate, new tariffs or rate schedules shall be filed with the public utilities commission reflecting the surcharge amount.

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

5 Effective Date. This act shall take effect January 1, 2013.

2012-1741s

AMENDED ANALYSIS

This bill requires providers of Voice over Internet Protocol services to pay the enhanced 911 services surcharge. The bill repeals a requirement that the enhanced 911 services surcharge provide adequate funding for enhanced 911 system operations and the statewide emergency notification system.

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.

Sen. Sanborn is in opposition to the motion of Ought to Pass as Amended on HB 388-FN.

HB 1484, relative to fees for state parks. Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

Energy and Natural Resources

April 25, 2012

2012-1876s

04/05

Amendment to HB 1484

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

AN ACT relative to fees for state parks and relative to limitations for nonconforming structures located within protected shoreland.

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

2 Shoreland Water Quality Protection Act; Nonconforming Structures. Amend RSA 483-B:11, I to read as follows:

I. Except as otherwise prohibited by law or applicable municipal ordinance, nonconforming structures located within the protected shoreland may be repaired, replaced in kind, reconstructed in place, altered, or expanded. Repair, replacement-in kind, or reconstruction in place may alter or remodel the interior design or existing foundation of the nonconforming structure, but shall result in no expansion or relocation of the existing footprint within the waterfront buffer. However, alteration or expansion of a nonconforming structure may expand the existing footprint within the waterfront buffer, provided the structure is not extended closer to the reference line and the proposal or property is made more nearly conforming than the existing

structure or the existing conditions of the property. ***This provision shall not allow for the enclosure, or conversion to living space, of any deck or open porch located between the primary structure and the reference line and within the waterfront buffer.***

3 New Paragraph; Shoreland Water Quality Protection Act; Nonconforming Structures. Amend RSA 483-B:11 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding paragraphs I and IV, between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that a deck or open porch extending a maximum of 12 feet towards the reference line may be added to nonconforming structures erected prior to July 1, 1994.

4 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.

2012-1876s

AMENDED ANALYSIS

This bill provides that a change to the fees for access to or use of the state park system proposed by the commissioner of the department of resources and economic development shall take effect no later than 60 days after such change is proposed, unless the fee change is denied by the fiscal committee. The bill also adds provisions relating to alterations to nonconforming structures located within protected shoreland.

President Bragdon ruled Committee Amendment 1876s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1876s to HB 1484 by the necessary 2/3 vote.

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.

Recess. Out of recess.

HB 1487, relative to low carbon fuel standards programs. 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. Larsen, seconded by Sen. Barnes.

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

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

Yeas: 9 - Nays: 14

Failed.

Sen. Bradley moved Ought to Pass.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

April 30, 2012

2012-1903s

06/01

Floor Amendment to HB 1487

Amend RSA 21-O:23 as inserted by section 1 of the bill by replacing it with the following:

21-O:23 Low Carbon Fuel Standards Programs; State Participation.

I. The state of New Hampshire shall not join, implement, or participate in any state, regional, or national low carbon fuel standards program or any similar program that requires quotas, caps, or mandates on any fuels used for transportation, industrial purposes, or home heating without seeking and receiving prior legislative approval.

II. The department may engage in regional and national discussions of such programs.

III. The department shall report all expenses resulting from its discussions to the fiscal committee of the general court on a semi-annual basis.

2012-1903s

AMENDED ANALYSIS

This bill prohibits the state from participating in any low carbon fuel standards program requiring quotas, caps, or mandates on fuels used for transportation, industrial purposes, or home heating without prior legislative approval.

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 16 - Nays: 8

Adopted.

Sen. Boutin offered a floor amendment.

Sen. Boutin, Dist. 16

Sen. Bradley, Dist. 3

May 2, 2012

2012-1956s

06/03

Floor Amendment to HB 1487

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

AN ACT relative to low carbon fuel standards programs and relative to fees for vital records.

Amend RSA 21-O:23 as inserted by section 1 of the bill by replacing it with the following:

21-O:23 Low Carbon Fuel Standards Programs; State Participation.

I. The state of New Hampshire shall not join, implement, or participate in any state, regional, or national low carbon fuel standards program or any similar program that requires quotas, caps, or mandates on any fuels used for transportation, industrial purposes, or home heating without seeking and receiving prior legislative approval.

II. The department of environmental services may engage in regional and national discussions of such programs.

III. The department of environmental services shall report all expenses resulting from its discussions to the fiscal committee of the general court on a semi-annual basis.

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

2 Fees for Copies, Verifications, and Amendments to Vital Records. Amend RSA 5-C:10, II to read as follows:

II. The town clerk shall forward \$8 of each search fee collected by the clerk under this section to the department of state for deposit in the vital records improvement fund established under RSA 5-C:15 ~~and \$3 to the state treasurer for deposit in the general fund,~~ and shall retain the remaining ~~[\$4]~~ \$7 as the clerk's fee for issuing such a copy. For subsequent copies issued at the same time, the town clerk shall forward \$5 of the fee collected for each subsequent copy under this section to the department for deposit in the vital records improvement fund established under RSA 5-C:15 ~~[and \$2 to the state treasurer for deposit in the general fund,~~ and shall retain the remaining ~~[\$3]~~ \$5 as the clerk's fee for issuing such a copy. The town clerk shall retain the \$25 fee for a delayed birth certificate as the clerk's fee for examining documents and issuing the delayed birth certificate. Fees collected by the registrar shall be forwarded to the state treasurer for deposit into the vital records improvement fund established under RSA 5-C:15.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2013.

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

2012-1956s**AMENDED ANALYSIS**

This bill prohibits the state from participating in any low carbon fuel standards program requiring quotas, caps, or mandates on fuels used for transportation, industrial purposes, or home heating without prior legislative approval.

This bill also increases the portion of vital record fees retained by the town clerk and removes the requirement that a portion of the fees be deposited in the general fund.

President Bragdon ruled Floor Amendment 1956s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Floor Amendment 1956s to HB 1487 by the necessary 2/3 vote.

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 20 - Nays: 4

Adopted.

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

A division vote was requested.

Yeas: 15 - Nays: 9

Adopted, bill ordered to Third Reading.

HB 1490-FN, relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. Ought to Pass with Amendment, Vote 3-2.

Senator Bradley for the committee.

Energy and Natural Resources

April 26, 2012

2012-1872s

09/04

Amendment to HB 1490-FN

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 allow-

ances. 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, 2013 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 any 2 New England states participating in the regional greenhouse gas initiative end or agree to end their participation in the initiative or if a New England state which has at least 10 percent

of the total load of the New England 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 states have terminated or have authorized termination of their participation in the initiative or 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, 2013.

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

2012-1872s

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 2 or more New England states withdraw or agree to withdraw from participating in the initiatives or if a state which has at least 10 percent of the total load of the New England states participating in the initiative withdraws or authorizes withdrawal from participation in the initiative.

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: Forrester, Bradley, Forsythe, Groen, Sanborn, Odell, White, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

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

Yeas: 18 - Nays: 6

Adopted, bill ordered to Third Reading.

HB 1721, relative to permitting for the replacement of sewage disposal systems and relative to oil spillage prevention, control, and countermeasure plans. 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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 222-FN, relative to the specificity of certain statutory provisions granting rulemaking authority. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Senate Executive Departments and Administration

April 26, 2012

2012-1880s

04/01

Amendment to HB 222-FN

Amend RSA 12-E:2, VIII-a as inserted by section 2 of the bill by replacing it with the following:

VIII-a. Confer with the commissioner of the department of environmental services relative to the requirements needed to protect the environment from the effects of prospecting, mining, and reclamation activities, and, to the extent the rulemaking authority of the department of environmental services is ***considered*** inadequate to address environmental or public health concerns that the commissioner and the commissioner of the department of environmental services agree are necessary to protect the environment or public health, adopt such rules. ***As a condition of invoking rulemaking authority under this paragraph, the department, in collaboration with the department of environmental services, shall provide a written report, 10 days prior to initiating rulemaking, detailing the necessity for the proposed rule as set forth in the***

rulemaking notice, to include any fiscal impact or policy implications related to the adoption of the proposed rule, to the house and senate executive departments and administration committees; the house and senate finance committees; the house environment and agriculture committee; the house resources, recreation and development committee; the house science, technology and energy committee; the senate energy and natural resources committee; the joint legislative committee on administrative rules; and the fiscal committee of the general court.

Amend the bill by replacing section 10 with the following:

10 Rulemaking; New Paragraphs Added; Human Service. Amend RSA 161:4-a, IX to read as follows:

IX. The implementation of the requirements of federal discretionary grants awarded to the department of health and human services and any other awards received through a successful department of health and human services response to federal requests for applications and requests for proposals.

X. Sections 1902 through 1946 of the Social Security Act, 42 USC section 1396, et seq. that reflect how the Title XIX program will be administered in New Hampshire in order to carry out the purposes of the Title XIX program. Such rules shall be adopted, consistent with the provisions of the Title XIX program, as are necessary for the proper and efficient administration of the Title XIX program in New Hampshire and in conformity with the specific requirements of Title XIX, federal regulations, and other official federal Health and Human Services issuances. Such rules shall include, as applicable, but not be limited to:

- (a) Recipient eligibility.*
- (b) Provider participation requirements.*
- (c) Types and ranges of services covered and non-covered.*
- (d) Service limits.*
- (e) Co-payment requirements.*
- (f) Prior authorization requirements.*
- (g) Documentation.*
- (h) Third party liability.*
- (i) Utilization review and control.*
- (j) Payment for services.*
- (k) Rate setting methodologies.*

(l) Administrative and operating procedures such as claim submission requirements, forms, payment limits and adjustments, lock-in, provider suspension and exclusion, board composition, board functions and responsibilities, appeals, dispensing limitations, prescription certifications, documentation retention policies, and informing requirements.

(m) Any other item necessary for proper operation of the title XIX program consistent with efficiency, economy, and quality of care.

XI. Requiring service providers and facilities to maintain liability insurance, as necessary.

XII. Any other matters necessary to implement his or her duties under RSA 161 or any other law delegating the commissioner rulemaking authority. As a condition of the commissioner invoking his or her rulemaking authority under this paragraph, the department of health and human services shall provide a written report detailing the necessity for the proposed rule as set forth in the rulemaking notice, to include any fiscal impact and or policy implications related to the adoption of the proposed rule, to the house and senate executive departments and administration committees, the house and senate finance committees, the joint legislative committee on administrative rules, the oversight committee on health and human services, and the fiscal committee of the general court.

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 1306-FN-L, requiring a report on part-time employment of retired members of the retirement system. Inexpedient to Legislate, Vote 4-0. Senator White for the committee.

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

HB 1483-FN, repealing the retirement system special account. Ought to Pass, Vote 4-1. Senator Groen for the committee.

Sen. Groen moved to Lay on the Table HB 1483-FN.

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

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

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Adopted.

HB 1521-FN, relative to retired state employees group insurance participation. 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.

FINANCE

HB 242-FN-A, relative to the net operating loss carryover under the business profits tax.

Ought to Pass, Vote 7-0. Senator Odell for the committee.

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

HB 1652-FN-A, requiring the transfer of insurance premium tax revenue to the department of health and human services and the revenue stabilization reserve account. Ought to Pass with Amendment, Vote 7-0. Senator Morse for the committee.

Senate Finance

April 26, 2012

2012-1885s

01/09

Amendment to HB 1652-FN-A

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

AN ACT excluding charges for Internet access from the communications services tax and requiring the transfer of insurance premium tax revenue to the department of health and human services.

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

1 Communications Services Tax; Purpose. Amend 82-A:1 to read as follows:

82-A:1 Statement of Purpose. It is the intent of the general court to impose a tax on those who use 2-way communications services and to source mobile telecommunications services to the place of primary use. It is also the intent of the general court that **Internet access service and** basic communications services essential to public health, safety, and welfare shall not be subject to the tax imposed by this chapter.

2 Communications Services Tax; Definition of "Communications Services;" Internet Access Excluded. Amend RSA 82-A:2, III(b) and (c) to read as follows:

(b) Purchases of communications services by a communications services provider for use as a component part of the service provided by him to the ultimate retail consumer who originates or terminates the taxable end-to-end communications, including carrier access charges, right of access charges, charges for use of inter-company facilities, and all communications services resold in the subsequent provision of, used as a component of, or integrated into end-to-end communications services; [or]

(c) The one-way transmission of radio or television programming, by cable, broadcast, satellite, microwave or similar facility, which is made available generally to any person able to receive such transmission, together with the interaction, if any, of such person required for the selection of such programming other than by use of the same facility by which such transmission was received[-]; **or**

(d) Internet access.

3 New Paragraphs; Communications Services Tax; Definitions of “Internet” and “Internet Access.” Amend RSA 82-A:2 by inserting after paragraph XXIV the following new paragraphs:

XXV. “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprises the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

XXVI. “Internet access”:

(a) Means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

(b) Includes the purchase, use, or sale of communications services by a provider of a service described in subparagraph (a) to the extent such communications services are purchased, used or sold:

(1) To provide such service; or

(2) To otherwise enable users to access content, information, or other services offered over the Internet;

(c) Includes services that are incidental to the provision of the service described in subparagraph (a) when furnished to users as part of such service, such as a home page, electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

(d) Does not include voice, audio, or video programming, or other products and services (except services described in subparagraph (a), (b), (c), or (e)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (a), (b), (c), or (e); and

(e) Includes a homepage, electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity that are provided independently or not packaged with Internet access.

4 Communications Services Tax; Definition of “Gross Charge;” Charges of Internet Access Excluded. Amend RSA 82-A:2, V(f)-(h) to read as follows:

(f) Charges for communications services and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax imposed under this chapter has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service; ~~and~~

(g) [Repealed.]

(h) Bad debt. For the purposes of this paragraph, bad debt means any portion of a debt that is related to a purchase at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made[-]; **and**

(i) Charges for Internet access.

5 Existing Assessments Not Enforceable. The department of revenue administration shall not enforce any existing assessment of communications services tax on charges for Internet access, shall promptly withdraw all such pending assessments, and shall issue no additional assessments with respect to such charges.

6 Transfer of Insurance Premium Tax Revenue to Department of Health and Human Services. Notwithstanding any provision of law to the contrary, and in recognition of an unanticipated surplus for the fiscal year ending June 30, 2011 as determined by the official audit performed pursuant to RSA 21-I:8, II(a), the state treasurer shall transfer \$1,500,000 in revenue received from the insurance premium tax pursuant to RSA 400-A:32 to the department of health and human services for the purpose of providing services to the developmentally disabled. Said amounts are hereby appropriated to the department for the biennium ending June 30, 2013.

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

2012-1885s

AMENDED ANALYSIS

This bill clarifies that Internet access service is not subject to the communications services tax. This bill also transfers certain revenue received from the insurance premium tax to the department of health and human services for the purpose of providing services to the developmentally disabled.

President Bragdon ruled Committee Amendment 1885s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1885s to HB 1652-FN-A by the necessary 2/3 vote.

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, Houde, Groen, Sanborn, Odell, White, Kelly, Luther, Lambert, Carson, Larsen, Boutin, Barnes, De Blois, Rausch, D'Allesandro, Merrill, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: (None).

Yeas: 24 - Nays: 0

Adopted, bill ordered to Third Reading.

HB 1692-FN, making changes to the administration of the university system of New Hampshire. Ought to Pass with Amendment, Vote 7-0. Senator Barnes for the committee.

Senate Finance

April 26, 2012

2012-1884s

04/10

Amendment to HB 1692-FN

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

AN ACT establishing additional reporting requirements for the university system of New Hampshire.

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

1 New Paragraph; State College and University System; Legislative Oversight. Amend RSA 187-A:2-b by inserting after paragraph II the following new paragraph:

III.(a) By January 31 of each year, the board of trustees of the university system of New Hampshire shall submit an annual accountability and transparency report on the university system office to the chairpersons of the house and senate finance and education committees, the chairpersons of the public higher education study committee, the speaker of the house of representatives, the senate president, the governor and council, the house clerk, the senate clerk, and the state library. The report shall include a description of the results from efforts to control costs and prices while sustaining and improving the quality of programs and services and student success in earning degrees.

(b) The report shall include the following information about the university system office:

- (1) Highlights from the previous fiscal year.
- (2) Major initiatives completed in the past year.

- (3) Analysis of the prior fiscal year budget.
- (4) Number of employees.
- (5) Responsibilities.
- (6) Organizational chart.
- (7) Goals for the upcoming fiscal year.
- (c) The report shall contain reports on progress in achieving the university system's goals including:
 - (1) Access and accountability.
 - (2) Efficiency and effectiveness.
 - (3) Workforce and economic development.
 - (4) World-class academic programs and research.

(d) The university system board of trustees shall make the report available to the public by posting it in a conspicuous location on the university system website, along with copies of the reports filed by the university system under RSA 187-A:16, RSA 187-A:22, and RSA 187-A:25-a. The board shall also make minutes from the board of trustees' meetings and such other reports and information as the board of trustees determines would enhance the accountability and transparency of the university system office.

2 Report on Board Autonomy Efforts. The university system board of trustees shall submit a report by November 30, 2012 to the house and senate education committees and the house and senate finance committees on the status of the work of the board of trustees to modify current board policies and procedures to enhance the ability of the 4 component institutions of the university system to operate with the highest measure of autonomy and self-governance to achieve their respective unique educational missions while continuing to operate as a well coordinated system of public higher education, subject to the supervision of the board of trustees. This report shall include information regarding the estimated fiscal impact of such work.

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

2012-1884s

AMENDED ANALYSIS

This bill requires the board of trustees of the university system of New Hampshire to submit an annual accountability and transparency report and a report on the board's autonomy efforts.

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 1223-FN, relative to remedies under the right-to-know law. Ought to Pass with Amendment, Vote 5-0. Senator Forsythe for the committee.

Senate Judiciary

April 26, 2012

2012-1860s

01/09

Amendment to HB 1223-FN

Amend RSA 91-A:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. If the court finds that an officer, employee, or other official of a public body or public agency has violated any provision of this chapter in bad faith, the court shall impose against such person a civil penalty to be deposited in the general fund of not less than \$250 and not more than \$2,000. Upon such finding, such person or persons may also be required to reimburse the public body or public agency for any attorney's fees or costs it paid pursuant to paragraph I.

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

Sen. Houde offered a floor amendment.

Sen. Houde, Dist. 5
 Sen. Carson, Dist. 14
 Sen. Groen, Dist. 6
 Sen. Forsythe, Dist. 4
 May 1, 2012
 2012-1925s
 01/09

Floor Amendment to HB 1223-FN

Amend RSA 91-A:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. If the court finds that an officer, employee, or other official of a public body or public agency has violated any provision of this chapter in bad faith, the court shall impose against such person a civil penalty of not less than \$250 and not more than \$2,000. Upon such finding, such person or persons may also be required to reimburse the public body or public agency for any attorney's fees or costs it paid pursuant to paragraph I. If the person is an officer, employee, or official of the state or of an agency or body of the state, the penalty shall be deposited in the general fund. If the person is an officer, employee, or official of a political subdivision of the state or of an agency or body of a political subdivision of the state, the penalty shall be payable to the political subdivision.

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

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

HB 1367, relative to the issuance of administrative inspection warrants. Ought to Pass with Amendment, Vote 5-0. Senator Forsythe for the committee.

Senate Judiciary
April 26, 2012
2012-1863s
05/04

Amendment to HB 1367

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

AN ACT relative to the issuance of administrative inspection warrants for inventory or appraisal of taxable property.

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

1 New Paragraph; Requirements for Issue of Administrative Inspection Warrant for Inventory or Appraisal of Taxable Property. Amend RSA 595-B:2 by inserting after paragraph II the following new paragraph:

II-a. Notwithstanding paragraph II, for an inspection warrant issued pursuant to RSA 74:17, probable cause required under paragraph I shall be deemed to exist if the selectmen or assessing officials have probable cause to believe that entry to the property is required to fairly assess the property value.

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

2012-1863s

AMENDED ANALYSIS

The bill provides that selectmen or assessing officials may obtain an administrative inspection warrant for the inventory or appraisal of taxable property if they have probable cause to believe that entry to the property is required to fairly assess the property value.

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 1438, relative to confidentiality of police personnel files. Inexpedient to Legislate, Vote 4-0. Senator Houde for the committee.

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

HB 1535-FN, relative to arrest records under the right-to-know law. Ought to Pass with Amendment, Vote 4-1. Senator Groen for the committee.

Senate Judiciary

April 26, 2012

2012-1858s

01/04

Amendment to HB 1535-FN

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

1 New Section; Arrest Records. Amend RSA 594 by inserting after section 14 the following new section:

594:14-a Arrest Records.

I. For the purposes of this section, an “arrest record” means a record created by law enforcement personnel to document the arrest of an individual 17 years of age or older. Arrest records are “governmental records” as defined in RSA 91-A and subject to disclosure in accordance with that chapter, with the exception noted in RSA 106-B:14.

II. Arrest records shall contain, at a minimum:

- (a) The identity of the individual arrested;
- (b) A statement of why and how the arrest was made;
- (c) The alleged crime; and
- (d) Whether the arrest was made pursuant to a warrant.

2 Effective Date. This act shall take effect January 1, 2013.

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.

Sen. Kelly is in opposition to the motion of Ought to Pass as Amended on HB 1535-FN.

HB 1537-FN, relative to violations of privacy occurring outside a private place. Ought to Pass, Vote 5-0. 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 1615, relative to industrial hemp. Interim Study, Vote 4-0. Senator Groen for the committee.

The question is on the adoption of the Committee recommendation of Refer to Interim Study. Adopted.

HB 1707-FN, relative to penalties for operation after revocation or suspension. Ought to Pass, Vote 5-0. Senator Luther for the committee.

Recess. Out of recess.

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

PUBLIC AND MUNICIPAL AFFAIRS

HB 121, relative to eligibility for the property tax exemption for the disabled. Ought to Pass with Amendment, Vote 2-1. Senator Barnes for the committee.

Public and Municipal Affairs

April 18, 2012

2012-1721s

10/05

Amendment to HB 121

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

1 Exemption for the Disabled; Eligibility; Social Security Act. Amend RSA 72:37-b, I and I-a to read as follows:

I.(a) Upon its adoption by a city or town as provided in RSA 72:27-a, any person who is eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled shall receive a yearly exemption in an amount to be chosen by the town or city.

(b) A person who meets the criteria for disability that are used under Title II or Title XVI of the federal Social Security Act, but who is not eligible for benefits under such titles because he or she is not insured for disability benefits under the Social Security Act, shall qualify for the exemption under subparagraph (a), provided that the person submits an affidavit from a physician licensed in New Hampshire that attests to the fact that the person meets the criteria for disability under Title II or Title XVI of the Social Security Act.

I-a. Upon the adoption of this paragraph by a city or town as provided in RSA 72:27-a, a person who is eligible under Title II or Title XVI of the federal Social Security Act on his or her sixty-fifth birthday, *or who is eligible for an exemption as provided in paragraph I(b) on his or her sixty-fifth birthday*, shall remain eligible for a yearly exemption either in the amount of the exemption applicable under paragraph I or the amount of the elderly exemption granted to the person under RSA 72:39-b, whichever is greater.

2 Application to Previously Adopted Exemptions. The amendment to RSA 72:37-b, I and I-a made in section 1 of this act shall be effective and made applicable in any city or town that has previously adopted the exemption for the disabled under RSA 72:37-b, and pursuant to RSA 72:27-a, IV, such changes are hereby expressly effective without further action by the city or town.

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

2012-1721s

AMENDED ANALYSIS

This bill requires that the property tax exemption for the disabled applies to persons who meets the criteria for disability that are used under Title II or Title XVI of the federal Social Security Act, but who are not eligible for benefits under such titles. The changes apply in cities and town that previously adopted the exemption for the disabled without further action by the city or town.

Sen. Barnes moved to Lay on the Table HB 121. Adopted.

Sen. Boutin asserts Rule 2-15 on HB 121.

HB 582, relative to communication between employers and employees during bargaining negotiations. Ought to Pass, Vote 3-2. Senator Barnes for the committee.

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

A division vote was requested.

Yeas: 9 - Nays: 7

Adopted, bill ordered to Third Reading.

HB 1353, relative to establishing an individual's status as a veteran. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

Public and Municipal Affairs

April 24, 2012

2012-1828s

03/01

Amendment to HB 1353

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

AN ACT relative to establishing an individual's status as a veteran and relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces and relative to certain maintenance at the rotary in the town of Epsom.

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

3 Statement of Purpose. The general court finds that:

I. Since the Revolutionary War, more than 1,000,000 members of the United States Armed Forces have paid the ultimate price by sacrificing their lives in the line of duty.

II. The contributions of those fallen members of the Armed Forces are deserving of national recognition.

III. Currently, there is no officially recognized symbol that solely acknowledges members of the Armed Forces who died in the line of duty.

4 New Sections; Honor and Remember Flag. Amend RSA 3 by inserting after section 3-b the following new sections:

3:3-c Official Adoption of Honor and Remember Flag. The Honor and Remember Flag created by Honor and Remember, Inc, is hereby adopted as this state's emblem of the service and sacrifice of the brave men and women of the United States Armed Forces who have given their lives in the line of duty.

3:3-d Display of Honor and Remember Flag. The Honor and Remember Flag shall be displayed above the state house in Concord immediately below the state flag on the following days:

I. Gold Star Mother's Day, the first Sunday after Easter.

II. Memorial Day, the last Monday in May.

III. Independence Day, July 4.

5 Maintenance of Rotary. The department of transportation shall properly maintain the flag of the United States, the POW-MIA flag, and the landscaping at the rotary in the town of Epsom.

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

2012-1828s

AMENDED ANALYSIS

This bill:

I. Adds a notarized statement of service letter to the documents accepted to establish an individual's status as a veteran.

II. Specifies that training for active duty shall be included as service for purposes of the veterans' tax credit.

III. Adopts the national Honor and Remember Flag as the official symbol of the state of New Hampshire to recognize and honor fallen members of the armed forces.

IV. Requires the department of transportation to properly maintain the flags and landscaping at the rotary in the town of Epsom.

President Bragdon ruled Committee Amendment 1828s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1828s to HB 1353 by the necessary 2/3 vote.

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.

HCR 38, urging the United States Congress to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

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

HCR 42, supporting the preservation of the electoral college. Ought to Pass, Vote 4-1. 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.**

TRANSPORTATION

HB 1157, relative to signage at fuel service stations. Ought to Pass with Amendment, Vote 4-0. Senator Stiles for the committee.

Senate Transportation
April 26, 2012
2012-1865s
05/10

Amendment to HB 1157

Amend the bill by replacing section 1 with the following:

1 Gasoline and Diesel Fuel Prices; Roadside Signs. RSA 339:30-a is repealed and reenacted to read as follows:
339:30-a Gasoline and Diesel Fuel Prices.

I. All persons who shall offer for sale or sell gasoline or diesel fuel at retail shall post the price of all grades and services of such fuel in at least 2 of the following ways:

(a) On a price sign affixed to the fuel dispenser in numerals not less than 4 inches high and 3/4 of an inch in width; such price signs shall be placed on the dispenser so that they are clearly visible from both sides of the dispenser from either direction of a motorist's approach;

(b) On a stationary roadside fuel price sign; the stationary roadside fuel sign must be clearly visible from the street; or

(c) By a digital unit price indicator or an analog unit price indicator on the face of the dispenser; the indicators must display the actual price of the fuel pumped.

II. When a grade, blend, or mixture of gasoline or diesel fuel is sold from a single dispenser for a regular price and a cash discount price, both unit prices shall be posted on the dispenser in accordance with subparagraph I(a) and either subparagraph I(b) or I(c). Roadside signs advertising the cash discount price of gasoline or diesel fuel shall disclose that the advertised price is limited to cash purchases and display the word "cash" next to the cash discount price. The letters in the word "cash" or other words of disclosure shall be of the same height and width as the numerals of the cash discount price.

III. Numerals indicating fractions or portions of whole numbers on any posted price shall be at least 1/2 the size of the whole number on such display, and all posted prices shall reflect the total price of such fuel, including all taxes thereon.

IV. If a computing device is part of the fuel dispensing equipment, it shall compute the total price for single purchases at all the unit prices for which the grade, blend, or mixture of gasoline or diesel fuel being dispensed is offered for sale, except for the unit prices charged by contract for fleet sales and similar price-contract sales. When a grade, blend, or mixture of fuel is offered for sale at more than one unit price through a dispenser with a computing device:

(a) The unit price for a transaction shall be selected by controls on the dispenser to be used by the customer; and

(b)(1) A printed receipt of the transaction shall be made available to the customer, showing unit price, the total number of gallons dispensed, and the total price of the sale issued mechanically by the dispenser; or

(2) A printed receipt shall be made available to the customer, showing the unit price, the total number of gallons dispensed, and the total price of the sale from a person attending the dispenser or the store where the fuel is offered for sale.

V. When a special sale price or promotional discount price is offered on a grade, blend, or mixture of gasoline or diesel fuel, the dispenser shall be set to compute transactions at the special sale price or promotional discount price.

VI. Any person who shall violate the provisions of this section shall be guilty of a violation.

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 1328, relative to vehicle operation with a stuck throttle or runaway engine. Inexpedient to Legislate, Vote 4-0. Senator Boutin for the committee.

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

HB 1549, prohibiting the use of motor vehicle records for any federal identification database. Ought to Pass, Vote 3-1. 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 1629-FN, relative to state photographic identification indicating honorable veteran's status. Ought to Pass with Amendment, Vote 4-0. Senator Stiles for the committee.

Senate Transportation

April 26, 2012

2012-1869s

09/03

Amendment to HB 1629-FN

Amend the bill by replacing section 3 with the following:

3 Implementation. The director of the division of motor vehicles shall implement the provisions of RSA 260:21, III and RSA 263:40, as inserted by sections 1 and 2 of this act, upon his or her determination that veteran's status designation information may be accepted and maintained by the department of safety's information technology system, but in no event later than July 1, 2014. The director shall provide the date of implementation to the secretary of state and the director of the office of legislative services within 30 days of implementation.

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 1635, relative to motor vehicle inspections. Ought to Pass with Amendment, Vote 4-0. Senator Boutin for the committee.

Senate Transportation

April 26, 2012

2012-1871s

05/03

Amendment to HB 1635

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

1 Penalty for Failing to Obey Inspection Requirements. Amend RSA 266:5 to read as follows:

266:5 Penalty for Failing to Obey Inspection Requirements. The driver or owner of any motor vehicle failing to comply with the requirements of the director relative to inspection shall be guilty of a violation, and the director may refuse to register, or may suspend or revoke the registration of, any motor vehicle, trailer, or semi-trailer which has not been inspected as required or which is unsafe or unfit to be driven; provided, however, no person shall be charged with a violation of this section until a period of 10 days has elapsed from the date the inspection was due. ***It shall be a rebuttable presumption that a vehicle that is required to be inspected is in violation of this section if the vehicle fails to display a valid inspection sticker.*** This section shall not apply to those vehicles required to be inspected under the provisions of RSA 266:1, IV. The fine for a violation of this section shall be \$60.

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

2012-1871s

AMENDED ANALYSIS

This bill establishes that a vehicle is presumed to be in violation if it fails to display a valid inspection sticker.

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 1701-FN, prohibiting New Hampshire from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state. Ought to Pass with Amendment, Vote 4-0. Senator Rausch for the committee.

Senate Transportation
April 26, 2012
2012-1870s
09/03

Amendment to HB 1701-FN

Amend RSA 12-N:1 as inserted by section 1 of the bill by replacing it with the following:

12-N:1 Prohibition on Certain Reciprocity Agreements With Other States. The state of New Hampshire is prohibited from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state; provided, that this prohibition shall not apply to the following multi-jurisdictional reciprocal agreements and related taxes and fees:

I. The international fuel tax agreement authorized pursuant to RSA 260:65-b.

II. The international registration plan authorized pursuant to RSA 260:73.

III. The Uniform Carrier Registration System as authorized by section 4305 of the federal Unified Carrier Registration Act of 2005, 49 U.S.C. section 14504a, as amended pursuant to RSA 21-P:4, XIV.

IV. The toll violation enforcement reciprocity agreement, adopted by memorandum of agreement between New Hampshire, Maine, and Massachusetts, and other agreements related to collection of toll revenue or related fees between New Hampshire and other states.

2012-1870s

AMENDED ANALYSIS

This bill prohibits New Hampshire from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state. Certain reciprocal agreements are excepted from this prohibition.

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.

WAYS AND MEANS

HB 1260-FN, relative to certain contributions to pari-mutuel pools by race simulcasters in Cheshire county, compensation of charitable organizations by gaming operators, and unauthorized gambling machines and sweepstakes. Ought to Pass with Amendment, Vote 6-0. Senator Odell for the committee.

Senate Ways and Means
April 25, 2012
2012-1850s
08/09

Amendment to HB 1260-FN

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

1 Cheshire County; Simulcast Pari-Mutuel Contributions. Amend RSA 284:23, I-III to read as follows:

I.(a) Each person, association or corporation licensed to conduct a running horse race or running horse meet under this chapter shall pay to the state treasurer a sum of money equal to one percent of the total contributions to all pari-mutuel pools conducted, made, or sold at any such race or meet licensed under this chapter. The amounts so paid to the state treasurer shall be for the use of the state.

(b) Each person, association, or corporation licensed to simulcast a running horse race or running horse meet under this chapter shall pay to the state treasurer a sum of money equal to 1 1/4 percent of the total contributions to all such pari-mutuel pools conducted, made, or sold at such simulcast race or simulcast race meet by such person, association, or corporation licensed to simulcast such races. The amount so paid to the state treasurer shall be for the use of the state.

(c) Any amounts so paid to the state treasurer by any person, association, or corporation licensed to simulcast a running horse race or running horse meet under this chapter collected in Cheshire county shall be held in escrow for a period of not more than 36 months by the state

treasurer. If any person, association, or corporation licensed under this chapter has commenced to hold a live race meet within the 36-month period the escrowed amounts shall be paid to the racing and charitable gaming commission to offset any expenses incurred for the services required to hold such meet. If there is no live race meet within the 36-month period all sums so escrowed shall be for the use of the state.

II.(a) Each person, association, or corporation licensed to conduct a harness horse race or harness horse race meet under this chapter shall pay to the state treasurer a sum of money equal to one percent of all total contributions to all pari-mutuel pools in a calendar day. The amount so paid to the state treasurer shall be for the use of the state.

(b) Each person, association, or corporation licensed to simulcast a harness horse race or simulcast a harness horse race meet under this chapter shall pay to the state treasurer a sum of money equal to 1 1/4 percent of the total contributions to all such pari-mutuel pools conducted, made, or sold at such simulcast race or race meet by such person, association, or corporation licensed to simulcast such races. The amount so paid to the state treasurer shall be for the use of the state.

(c) Any amounts so paid to the state treasurer by any person, association, or corporation licensed to simulcast a harness horse race or harness horse race meet under this chapter collected in Cheshire county shall be held in escrow for a period of not more than 36 months by the state treasurer. If any person, association, or corporation licensed under this chapter has commenced to hold a live race meet within the 36-month period the escrowed amounts shall be paid to the racing and charitable gaming commission to offset any expenses incurred for the services required to hold such meet. If there is no live race meet within the 36-month period all sums so escrowed shall be for the use of the state.

III.(a) [Repealed.]

(b) Each person, association or corporation licensed to simulcast a dog race or simulcast a dog race meet under this chapter shall pay to the state treasurer a sum of money equal to 1 1/2 percent of all pari-mutuel pools conducted, made, or sold at such simulcast race or simulcast race meet by such person, association, or corporation licensed under this chapter. The amount so paid to the state treasurer shall be for the use of the state.

(c) Any amounts so paid to the state treasurer by any person, association, or corporation licensed to simulcast a dog race or meet under this chapter collected in Cheshire county shall be held in escrow for a period of not more than 36 months by the state treasurer. If any person, association, or corporation licensed under this chapter has commenced to hold a live race meet within the 36-month period the escrowed amounts shall be paid to the racing and charitable gaming commission to offset any expenses incurred for the services required to hold such meet. If there is no live race meet within the 36-month period all sums so escrowed shall be for the use of the state.

2 New Subparagraph; Revocation; Simulcast Wagers. Amend RSA 284:22-a, II by inserting after subparagraph (c) the following new subparagraph:

(d) Notwithstanding subparagraph II(a), an individual, association, partnership, joint venture, corporation, or other organization or entity may be issued a license to conduct simulcasting without conducting live horse racing at a location in Cheshire county, provided such person or entity applies for, and is issued, a license to conduct live horse racing at such location in Cheshire county, complies with other provisions of this chapter with regard to application and issuance of such license, makes such election with the approval of the commission and such person or entity has submitted an economic development plan to the commission to conduct a live horse racing meet in Cheshire county within 36 months of the granting of a license. If no live horse racing is conducted within the 36-month period the license to receive simulcast wagers shall be revoked. The commission shall adopt regulations regarding the criteria of the proposed economic development plan prior to issuance of any approval.

3 New Paragraph; Operation of Games of Chance; Fees. Amend RSA 287-D:2-b by inserting after paragraph II-a the following new paragraph:

II-b. No operator shall require additional fees not specifically allowed under this chapter as a condition of contracting with the operator for game dates.

4 Operation of Games of Chance; Fees. Amend RSA 287-D:3, VII to read as follows:

VII. Unless a charitable organization rents a facility from a game operator employer or a primary game operator licensed under RSA 287-D:2-c, the charitable organization shall only rent a facility by means of a fixed rental payment. The fixed rental payment shall not be based on a percentage of what the charitable organization receives from the game of chance and it shall reflect fair rental value of the property for any use not just as a place to hold a game of chance. If a charitable organization rents a facility from a licensed game operator under RSA 287-D:2-c, the charitable organization shall retain no less than 35 percent of the gross revenues from any games of chance minus any prizes paid in accordance with RSA 287-D:3, VIII. Any rental agreement entered into by the charitable organization shall be submitted with the charitable organization's license application for review by the racing and charitable gaming commission. Under no circumstances shall a charitable organization sustain any loss from games of chance, such that its share of the gross revenues minus any prizes paid is less than zero dollars, during a license period with a single game operator. ***All contracts between a game operator employer and a charitable organization to conduct games of chance under this chapter shall contain the following language: "This agreement represents the entire agreement between the parties hereto. No charge or fee of any kind that is not contained in this agreement shall be paid by the charity."***

5 Operation of Games of Chance; Fees. Amend RSA 287-D:3, VIII to read as follows:

VIII. The charitable organization shall retain no less than 35 percent of the gross revenues from any game of chance minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-c are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose. ***No fee for any service which is required by or provided by the game operator employer or primary game operator shall be allowed unless such fee is agreed to in writing and disclosed to the commission as part of the agreement between the game operator employer or primary game operator and the charity.***

6 Financial Reports and Inspections. Amend RSA 287-D:5, I to read as follows:

I. ~~(a) A charitable organization[, a licensed game operator employer, or a primary game operator under contract to conduct games of chance on behalf of a charitable organization and designated by the charitable organization to be responsible for submitting financial reports]~~ shall submit a complete financial report for all game dates licensed under RSA 287-D:2 and RSA 287-D:2-a to the racing and charitable gaming commission on forms approved by the racing and charitable gaming commission within 15 days of the end of each month during which a game of chance was held.

(b) A licensed game operator or a primary game operator under contract to conduct games of chance on behalf of a charitable organization shall prepare and submit the financial reports required under subparagraph (a). In such case the charitable organization shall not be required to submit such report.

7 Definitions; Gambling and Gambling Machines. Amend RSA 647:2, II(d)-(e) to read as follows:

(d) "Gambling" means to risk something of value upon a future contingent event not under one's control or influence, upon an agreement or understanding that something of value will be received in the event of a certain outcome, ***and includes the activity of conducting or playing sweepstakes or games of chance on a gambling machine.***

(e) "Gambling machine" means any device or equipment ***owned, leased, or otherwise controlled by a sweepstakes sponsor or any of its affiliates, partners, subsidiaries, or contractors*** which is capable of being used to ***play sweepstakes or games of chance and*** which ~~[discharge]~~ ***discharges*** money, or anything that may be exchanged for money ***or cash equivalent or opportunities to enter sweepstakes or play games of chance,*** or ~~[to display]~~ ***displays*** any symbol entitling a person to receive money ***or cash equivalent or opportunities to enter sweepstakes or play games of chance.*** ***This definition shall apply to an electronic device or equipment whether or not:***

(1) It is server-based.

(2) It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

(3) It utilizes software such that the simulated game influences or determines the winning or value of the prize.

(4) It selects prizes from a predetermined, finite pool of entries.

(5) It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

(6) It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

(7) It utilizes software to create a game result.

(8) It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.

(9) It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.

(10) It requires purchase of a product.

(11) The product, if any, has legitimate value.

(12) It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.

(13) It determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(14) It is a slot machine or other form of electrical, mechanical, or computer game

8 New Paragraph; Gambling; Promotional Sweepstakes. Amend RSA 647:2 by inserting after paragraph I-a the following new paragraph:

I-b. A person is guilty of a class B felony if a person knowingly and unlawfully promotes or conducts or offers a sweepstakes that is executed through the use of the visual display of a gambling machine. If the offense continues over consecutive days, the person shall be charged with a single continuing offense. Notwithstanding RSA 651:2, IV, any person convicted under this paragraph shall be fined not less than \$1,000 per day for each gambling machine used or intended for use to display sweepstakes.

9 New Subparagraphs; Definitions; Sweepstakes; Visual Display. Amend RSA 647:2, II by inserting after subparagraph (g) the following new subparagraphs:

(h) "Sweepstakes" means any game, advertising scheme or plan, or other promotion which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

(i) "Visual display" means any visual information, capable of being seen by a person entering a sweepstakes that takes the form of an actual game play, or simulated game play, such as video poker, or any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

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

2012-1850s

AMENDED ANALYSIS

This bill:

I. Requires the racing and charitable gaming commission to hold certain contributions to the pari-mutuel pools from race simulcasters in escrow in Cheshire county.

II. Prohibits game operators from charging charitable organizations certain fees.

III. Creates a felony and a violation for promoting or conducting unauthorized sweepstakes with an unauthorized gambling machine.

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

Sen. Odell moved to Lay on the Table HB 1260-FN. Adopted.

HB 1418-FN-A, increasing the threshold amounts for taxation under the business enterprise tax. Ought to Pass, Vote 5-1. Senator Rausch for the committee.

Sen. Odell offered a floor amendment.

Sen. Odell, Dist. 8
 May 2, 2012
 2012-1965s
 09/10

Floor Amendment to HB 1418-FN-A

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

AN ACT increasing the threshold amounts for taxation under the business enterprise tax and extending the commission to study business taxes.

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

2 Commission to Study Business Taxes Extended. Amend RSA 77-F:1, VII and VIII to read as follows:

VII. The commission shall, following a public hearing on a draft [final] report, submit a [final] report on the items included in subparagraphs III(a), (b), and (e) or before December 1, 2010, containing its findings and any recommendations for proposed legislation, to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the house and senate ways and means committees, the house and senate clerks, and the state librarian.

VIII. The commission shall, following a public hearing on a draft [final] report, submit a [final] report on the items included in subparagraphs III(c) and (d) or before November 1, 2012, containing its findings and any recommendations for proposed legislation, to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the house and senate ways and means committees, the house and senate clerks, and the state librarian.

IX. The commission shall, following a public hearing on a draft report, submit a report on the items included in subparagraphs III(a), (b), and (e) or before December 1, 2012, containing its findings and any recommendations for proposed legislation, to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the house and senate ways and means committees, the house and senate clerks, and the state librarian.

X. The commission shall, following a public hearing on a draft report, submit a report on the items included in subparagraphs III(c) and (d) or before November 1, 2014, containing its findings and any recommendations for proposed legislation, to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the house and senate ways and means committees, the house and senate clerks, and the state librarian.

3 Commission to Study Business Taxes Extended. Amend SS2010, 1:123, III to read as follows:

III. Section 56 of this act shall take effect November 1, [2012] **2014**.

4 Effective Date.

I. Section 1 of this act shall be in effect for taxable periods ending on or after December 31, 2013.

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

2012-1965s

AMENDED ANALYSIS

This bill increases the threshold amounts for taxation under the business enterprise tax. The bill also extends the commission to study business taxes.

President Bragdon ruled Floor Amendment 1965s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Floor Amendment 1965s to HB 1418-FN-A by the necessary 2/3 vote.

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

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

Recess. Out of recess.

HEALTH AND HUMAN SERVICES

HB 1217, relative to the form for executing advance directives for health care decisions. Ought to Pass with Amendment, Vote 3-0. Senator Lambert for the committee.

Health and Human Services**April 27, 2012****2012-1889s****01/04****Amendment to HB 1217**

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

AN ACT relative to reciprocity of advance directives.

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

1 Advance Directives; Reciprocity. RSA 137-J:17 is repealed and reenacted to read as follows:

137-J:17 Reciprocity. An advance directive, living will, or similar document executed in another state, and valid according to the laws of the state where it was executed, shall be as effective in this state as it would have been if executed according to the laws of this state.

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

2012-1889s**AMENDED ANALYSIS**

This bill clarifies reciprocity regarding advance directives executed in other states.

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 1617-FN, repealing the certificate of need law. Interim Study Vote 3-0. Senator Sanborn for the committee.

Sen. Sanborn moved to Lay on the Table HB 1617-FN. Adopted.

HB 1642-FN, relative to destination specialty hospitals. Ought to Pass with Amendment, Vote 2-1. Senator Bradley for the committee.

Health and Human Services**April 27, 2012****2012-1890s****01/04****Amendment to HB 1642-FN**

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

AN ACT relative to destination specialty hospitals and the health services planning and review board, prospectively repealing the certificate of need law, and extending the moratorium on nursing home beds and rehabilitation beds.

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

1 Statement of Purpose. The general court, in an effort to improve the quality of health care and while identifying new economic growth opportunities for New Hampshire, makes the following findings:

I. Health care is among the fastest growing industries both in New Hampshire and nationally and, with the changing demographics of both the state and the nation, will continue to expand greatly in the next decade.

II. Having high end specialty care facilities in New Hampshire will benefit our residents, should they need this level of care.

2 New Paragraph; Certificate of Need; Definition Added. Amend RSA 151-C:2 by inserting after paragraph XV-a the following new paragraph:

XV-b. "Destination specialty hospital" means a for-profit institution with a licensed bed capacity of 50 or fewer which provides diagnostic, therapeutic, treatment, and rehabilitative care services to inpatients

and outpatients, which shall include at least a 7 percent representative portion of Medicaid patients and uncompensated care patients, by or under the supervision of physicians, and whose proposed annual patient base is composed of a minimum of 65 percent of patients who reside outside of the state of New Hampshire. This paragraph shall include a for-profit destination specialty hospital meeting the terms required under this paragraph created by a hospital licensed pursuant to RSA 151.

3 Certificate of Need; Exemption Added. Amend RSA 151-C:13, I(h) and (i) to read as follows:

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds; ~~and~~

(i) Acute care centers established, operated, or designated by the department pursuant to RSA 141-C:26; **and**

(j) Destination specialty hospitals as defined in RSA 151-C:2, XV-b.

4 Health Services Planning and Review Board. RSA 151-C:3, I-IV are repealed and reenacted to read as follows:

I.(a) There is hereby established a health services planning and review board composed of the following members:

(1) The commissioner of the department of health and human services, or a designee whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(2) The commissioner of the department of insurance, or a designee whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(3) Three consumers, each from a different region of the state, appointed by the governor and council. For the purposes of this subparagraph, "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in his or her immediate family to anyone who is involved in the delivery of health care services or health insurance.

(b) The commissioner of the department of health and human services, or designee, and the commissioner of the department of insurance, or designee, shall serve as the only permanent members of the board. All other members of the board shall serve 3-year terms. Members of the board shall not serve more than 2 full consecutive terms.

II. No consumer member shall be appointed to or shall serve on the board who also serves on any board of any health care facility or health care insurer licensed or regulated in this state.

III. A member of the board may resign upon written notice to the governor. The governor shall appoint a replacement to fulfill the unexpired term. A member of the board may be discharged pursuant to RSA 4:1.

IV. The commissioner of the department of health and human services, or designee, shall serve as chairman of the board.

5 New Section; Duties and Powers of the Board. Amend RSA 151-C by inserting after section 3 the following new section:

151-C:3-a Duties and Powers of the Board.

I. The primary function of the board shall be to act in a health care planning capacity. In that capacity, the board shall:

(a) Determine and evaluate the sufficiency of the existing supply of health care professionals, services, and facilities. Such evaluation shall include an assessment of health resources in each county, and in the state as a whole.

(b) Determine services that are likely to be overused if excess capacity is available.

(c) Determine services that are likely to benefit from open competition.

(d) Determine services for which a minimum number of procedures is required or recommended in order to maintain institutional competency.

(e) Determine services for which excess capacity currently exists.

(f) Determine services for which insufficient capacity currently exists.

(g) Annually develop projections of services and utilization of services looking forward at least 5 years from the date of the projection.

(h) Annually publish a list of the top 10 most needed and undersupplied services or facilities on a statewide basis.

(i) Annually publish a list of the top 10 most oversupplied services or facilities on a statewide basis.

(j) Conduct public hearings and invite testimony as necessary to facilitate its planning functions.

(k) Develop metrics to access information on the quality of patient outcomes from New Hampshire medical providers who are subject to the certificate of need process.

(l) Develop standards of transparency for provider costs so that patients have an opportunity to realistically compare provider costs.

II. The secondary function of the board shall be to accept applications for, and issue certificates of need, pursuant to this chapter. In that capacity, the board shall utilize data and information developed pursuant to its primary function as defined in paragraph I.

6 Commission on Health Care Cost Containment. Amend RSA 21-S:3, I-IV to read as follows:

I. "Ambulatory surgical facility" means [~~"ambulatory surgical facility" as defined in RSA 151-C:2, I]~~ ***a health care facility or a portion of a health care facility which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.***

II. "Commission" means the New Hampshire commission on health care cost containment, established in RSA 21-S:2.

III. "Health carrier" means any entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to provide, deliver, arrange for, pay for, or reimburse any of the costs of health services, including an insurance company, a health maintenance organization, a nonprofit health services corporation, or any other entity providing health coverage.

IV. "Hospital" means [~~"hospital" as defined in RSA 151-C:2, but not including governmental facilities]~~ ***an institution 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. The term "hospital" includes psychiatric and substance abuse treatment hospitals. The term "hospital" does not include governmental facilities.***

7 Health Care Commission. Amend RSA 21-S:8, II to read as follows:

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[~~, as defined in RSA 151-C:2, I,~~] in proportion to net operating revenue. The total amount of the assessment shall be \$250,000. The department of health and human services and the insurance department shall each certify to the department of administrative services the allocated assessment for each affected health carrier, hospital, and ambulatory surgical facility by August 1, 2010.

8 Data Review. Amend RSA 126:26 to read as follows:

126:26 Data Review. The department of health and human services shall ~~[provide access, without restriction, to the data collected under RSA 126:25 to the health services planning and review board. The department shall]~~ prepare a report ***relative to the data collected under RSA 126:25, I*** on or before November 15, 1996, and annually thereafter, to the speaker of the house of representatives and president of the senate. The report shall contain, but not be limited to, an analysis and evaluation of the data collected and recommendations for improved efficiencies and for health care cost containment. The department of health and human services is also authorized to prepare periodic reports on price and utilization of health services for the purpose of encouraging competition.

9 Reference Deleted. Amend the introductory paragraph of RSA 126:28 to read as follows:

Notwithstanding any other provision of law, all information required to be filed under this subdivision~~;~~ ~~with the exception of confidential commercial and financial information as defined in RSA 151-C:2;~~ shall be made available:

10 Reference Changed. Amend RSA 126:29, IV to read as follows:

IV. In addition to any other penalties provided by law, any provider required to provide data under RSA 126:25, ~~[H]~~ ***I***, who willfully fails to comply with the provisions of this subdivision shall be subject to a civil penalty of \$50 for each day of noncompliance, which shall not be reimbursable by any commercial insurer, nonprofit health services corporation, health maintenance organization, or multiple employer welfare arrangement as provided in RSA 415, 420-A, 420-B, and 415-E.

11 Reference Deleted. Amend RSA 126:30 to read as follows:

126:30 User Fees. Any person~~;~~ ~~other than those covered by the fee provisions of RSA 151-C:15, I,~~ requesting copies of data or statistical information filed with the department of health and human services under RSA 126 or RSA 141-B shall pay to the department a fee established by the commissioner of health and human services pursuant to RSA 126:27, IV. The fee shall reflect the full costs of preparing the data for release, including the cost of personnel time, computer and any related expenses associated with fulfilling the request. Fees paid under this section shall be deposited into a revolving account which shall not lapse and shall be used in administering the responsibilities of the department of health and human services under this subdivision.

12 Acute Care Centers; Reference Deletion. Amend RSA 141-C:26 to read as follows:

141-C:26 Acute Care Centers. The commissioner, with the written approval of the governor, may establish, operate, or authorize the operation of temporary acute care centers for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care. Any such facility so established or designated shall be exempt from the provisions of RSA 151 ~~[and RSA 151-C]~~. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding the facility and staffing requirements, screening and admission criteria, payment and reimbursements, clinical standards, recordkeeping, and discharge criteria for acute care centers. In adopting such rules, the commissioner shall take into consideration, to the extent feasible, the rights and responsibilities of patients set forth in RSA 151:21. For purposes of immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

13 Definition Clarified. Amend RSA 151:2, I(a) to read as follows:

(a) Hospitals, ~~[as defined in RSA 151-C:2;]~~ and infirmaries or health services maintained by an educational institution. ***For the purposes of this subparagraph "hospital" means an institution 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. The term "hospital" includes psychiatric and substance abuse treatment hospitals.***

14 Hospital Rates for Self-Pay Patients; Reference Deletion. Amend RSA 151:12-b to read as follows:

151:12-b Hospital Rates for Self-Pay Patients. When billing self-pay 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 amount

generally billed and received by the hospital for that service for patients covered by health insurance. A hospital shall determine the amount generally billed to health carriers in a manner consistent with Section 9007 of the Patient Protection and Affordable Care Act of 2009. A hospital shall provide written notice to a self-pay patient in advance of providing a service and at the time the service is billed regarding the requirements under this section. ***For the purposes of this section “hospital” means an institution 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. The term “hospital” includes psychiatric and substance abuse treatment hospitals.***

15 Disclosure of Information; Hospitals and Physician Hospital Organizations; Reference Deletion. Amend RSA 151:31, I to read as follows:

I. ~~(a) Hospitals~~~~[, as defined in RSA 151-C:2,]~~ shall make an annual report, beginning on November 1, 2000, to the attorney general including the following information:

~~[(a)]~~ **(1)** The hospital’s financial relationships with physician hospital organizations.

~~[(b)]~~ **(2)** Number and type of providers employed by the hospital, and any affiliates, as defined in RSA 541-C:2, II, and contracting with or through physician hospital organizations.

~~[(c)]~~ **(3)** Frequency of contract negotiations with providers and physician hospital organizations.

~~[(d)]~~ **(4)** The number of primary care physicians and specialty care physicians, by specialty, that are employed by each hospital or affiliate.

~~[(e)]~~ **(5)** The number of primary care physicians and specialty care physicians, by specialty, that are members of the hospital’s active medical staff.

~~[(f)]~~ **(6)** An organizational chart showing the corporate structure of the hospital and any affiliates including a description of the type of services provided by each entity.

~~[(g)]~~ **(7)** A list of physician practices that are owned by the hospital and its affiliates, or which contract with the hospital and any affiliates for the provision of professional services.

~~[(h)]~~ **(8)** A copy of the policy adopted by the hospital, and any affiliates, requiring physicians employed by such hospital to notify their patients when they are referring a patient for professional services to be provided by a physician employed by the same hospital or affiliate. The policy shall also expressly state that no physician employed by the hospital or any affiliate is required or in any way obligated to refer patients to physicians also employed or under contract with the hospital or any affiliate.

(b) For the purposes of this section “hospital” means an institution 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. The term “hospital” includes psychiatric and substance abuse treatment hospitals.

16 Definition Clarified. Amend RSA 153-A:2, XI to read as follows:

XI. “Facility” means a hospital as defined in RSA ~~[151-C:2, XX]~~ **151:2, I(a).**

17 Reference Clarification. Amend RSA 161-J:2, II(d) to read as follows:

(d) A hospital ~~[as defined in RSA 151-C:2, XX]~~ ***which means an institution 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. The term “hospital” includes psychiatric and substance abuse treatment hospitals.***

18 Reference Deleted. Amend RSA 195-D:3, XII to read as follows:

XII. “Nursing home,” notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or performed under the general direction

of persons licensed to practice medicine or surgery in New Hampshire, and in whole or in part is, or shall be upon completion, ~~[(a)] licensed as a residential care facility under RSA 151:2, I(e) or [(b) can be upon receipt of a certificate of need under RSA 151-C]~~ licensed as a nursing home under the laws of New Hampshire.

19 References Deleted. Amend RSA 281-A:2, XII-b to read as follows:

XII-b. "Health care provider" as used in this chapter includes doctors, chiropractors, rehabilitation providers, health services ~~[as defined in RSA 151-C:2, XVIII]~~, health care facilities ~~[as defined in RSA 151-C:2, XV-a]~~, and health maintenance organizations ~~[as defined in RSA 151-C:2, XVI]~~. ***For the purposes of this paragraph:***

(a) "Health services" means clinically related diagnostic, treatment, or rehabilitative services, as well as preventive services, and includes, without limitation, alcohol, drug abuse, and mental health services.

(b) "Health care facility" means hospitals, ambulatory surgical facilities, specialty hospitals, and licensed nursing homes including all services and property owned by such. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.

(c) "Health maintenance organization" means a public or private organization, organized under the laws of any state or the federal government which:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

(2) Is compensated, except for co-payments, for the provision of the basic health care services listed in subparagraph (c)(1) to enrolled participants on a predetermined periodic basis without regard to the date on which health care services are provided; a predetermined periodic basis shall be fixed without regard to the frequency, extent, or kind of health care service actually provided; and

(3) Provides physician services primarily:

(A) Directly through physicians who are either employees or partners of such organization;

(B) Through arrangements with individual physicians or one or more groups of physicians organized in a group practice or individual basis; or

(C) A combination of (A) and (B), as provided herein.

20 Reference Changed. Amend RSA 318:29, V(i) to read as follows:

(i) Any ownership or control of an ownership interest of a pharmacy within the state by an individual licensed to prescribe medicine, or a corporation, professional association or partnership consisting of such prescriber or prescriber's immediate family members, except such corporations as are expressly exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code. This shall not include ownership of investment securities purchased by the practitioner on terms available to the general public and which are publicly traded. This subparagraph shall not apply to the ownership or control of an ownership interest of an institutional pharmacy operated within the state by or for hospitals, as defined in RSA ~~[151-C:2, XX]~~ **151:2, I(a)**, licensed by the state pursuant to RSA 151.

21 References Deleted. Amend RSA 508:18 to read as follows:

508:18 Liability Limited; Health Care Facilities and Personnel.

I. No health care facility ***licensed under RSA 151***, licensed physician, registered nurse, certified physician's assistant or qualified medical technician or medical technologist ordered by a law enforcement officer to perform a test, medical examination or procedure on a person in the custody of such officer, shall be held liable for any damage arising out of the performance of such test, examination, or procedure, if the test, examination, or procedure is performed with ordinary care. Nothing in this section shall be construed to legalize an otherwise illegal test, examination or procedure insofar as the law enforcement agency and any employee thereof is concerned.

II. For purposes of this section, "health care facility" means ~~["health care facility" as defined in RSA 151-C:2, XV-a]~~ ***hospitals, ambulatory surgical facilities, specialty hospitals, and licensed nursing homes including all services and property owned by such. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.***

22 Repeal. The following are repealed:

- I. RSA 126:25, II, relative to a plan developed by the health services planning and review board.
- II. RSA 151-C, relative to certificate of need review of proposed new institutional health services.
- III. Sections 6-21 of this act relative to references to RSA 151-C.

23 Certificate of Need; Nursing Home Beds; Rehabilitation Beds; Moratorium Extended. Amend RSA 151-C:4, III(a) to read as follows:

III.(a) No new certificate of need shall be granted by the board for any nursing home, skilled nursing facility, intermediate care facility, or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending June 30, [2012] **2014**. This moratorium shall also apply to new certificates of need regarding any rehabilitation bed in any type of facility, including rehabilitation hospitals and facilities offering comprehensive rehabilitation services. However, a certificate of need shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act. In addition, a certificate of need may be issued for construction or renovation as necessary to repair or refurbish an existing facility, or to accommodate additional beds obtained by transfer to an existing facility. In the case of repair, refurbishment, or transferred beds, the resulting costs in excess of the current capital expenditure threshold as adjusted for inflation pursuant to RSA 151-C:5, II(f)(1) shall not be reflected in any state Medicaid rate. Any application for a certificate of need under this subparagraph shall indicate whether it is for a life safety code requirement or to remedy deficiencies noted in a licensing inspection or whether it is for repair or refurbishment of an existing facility or for transferred beds. If the application is approved, it shall be deemed that the board has agreed with the indicated reason for such application.

24 Effective Date.

- I. Sections 4 and 5 of this act shall take effect January 1, 2013.
- II. Sections 6-22 of this act shall take effect January 1, 2018.
- III. The remainder of this act shall take effect 60 days after its passage.

2012-1890s

AMENDED ANALYSIS

This bill:

- I. Exempts destination specialty hospitals from the certificate of need process.
- II. Changes the membership of the health services planning and review board and clarifies the duties and powers of the board.
- III. Repeals the certificate of need law on January 1, 2018.
- IV. Extends the moratorium on nursing home beds and rehabilitation beds until June 30, 2014.

Sen. White moved to Lay on the Table HB 1642-FN. Adopted.

Sen. Sanborn is in opposition to the motion to Lay on the Table HB 1642-FN.

JUDICIARY

HB 536-FN, relative to the natural right to carry a firearm, openly or concealed, without a license. Ought to Pass with Amendment, Vote 4-1. Senator Groen for the committee.

Senate Judiciary

April 27, 2012

2012-1891s

04/01

Amendment to HB 536-FN

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

AN ACT relative to carrying a loaded, concealed pistol or revolver without a license.

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

1 Pistols and Revolvers; Carrying Without License. RSA 159:4 is repealed and reenacted to read as follows:

159:4 Carrying Without License.

I. No person shall carry a loaded pistol or revolver concealed upon his or her person, except in his or her dwelling, house, or place of business who:

- (a) Is prohibited from possessing a weapon under any provision of this chapter;
- (b) Is subject to a court order under RSA 173-B which prohibits such person from possessing a dangerous weapon or requires such person to relinquish dangerous weapons in his or her possession;
- (c) Has been convicted of a crime of domestic violence;
- (d) Is currently serving any terms of imprisonment, is on probation or parole, is a fugitive from justice, or is subject to a condition of bail prohibiting possession of a weapon;
- (e) Is less than 18 years of age;
- (f) Is an illegal alien;
- (g) Is an unlawful user of or addicted to any controlled drug or controlled drug analog, as defined in RSA 318-B;
- (h) Has been adjudicated as a mental defective or has been committed to a mental institution;
- (i) Has been discharged from the United States Armed Forces under dishonorable conditions; or
- (j) Having been a citizen of the United States, has renounced his or her citizenship.

II. Whoever violates the provisions of this section shall, for the first such offense, be guilty of a misdemeanor. For the second and for each subsequent violation of the provisions of this section, such person shall be guilty of a class B felony, provided such second or subsequent violation has occurred within 7 years of the previous conviction.

III. Nothing in this section shall restrict the right of a person to carry a loaded pistol or revolver concealed upon his or her person if such person possesses a valid license issued pursuant to RSA 159:6.

2 Pistols and Revolvers; License to Carry. Amend RSA 159:6 to read as follows:

159:6 License to Carry.

I. The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of such town or city, or the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not less than [4] 5 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. Hunting, target shooting, or self-defense shall be considered a proper purpose. The license shall be valid for all allowable purposes regardless of the purpose for which it was originally issued. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for [4] 5 years. When required, license renewal shall take place within the month of the [fourth] **fifth** anniversary of the license holder's date of birth following the date of issuance. The license shall be issued within 14 days after application, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy kept in the office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$10, which fee shall be for the use of the law enforcement department of the town or city granting said licenses; the fee for licenses granted to out-of-state residents shall be [~~\$100~~] **\$20**, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the cities and towns authorized to issue the licenses. ***The form shall require no more information than was required on the state of New Hampshire application for a pistol/revolver license, form DSSP 85, as revised in December 2009.*** No other forms shall be used by officials of cities and towns. The cost of the forms shall be paid out of the fees received from nonresident licenses.

II. No photograph or fingerprint shall be required or used as a basis to grant, deny, or renew a license to carry for a resident or nonresident, unless requested by the applicant.

III. The availability of a license to carry a loaded pistol or revolver under this section or under any other provision of law shall not be construed to prohibit the unlicensed transport or carrying of a firearm in a vehicle, or on or about one's person, whether openly or concealed, loaded or unloaded, by a resident, nonresident, or alien, if such individual is not otherwise prohibited by statute from possessing a firearm in the state of New Hampshire.

3 Pistols and Revolvers; Reciprocity. RSA 159:6-d is repealed and reenacted to read as follows:

159:6-d Reciprocity. The director of the division of state police shall negotiate and enter into reciprocal agreements in other jurisdictions to recognize in those jurisdictions the validity of the license issued under RSA 159:6. The director shall apply to every jurisdiction with which New Hampshire does not currently have a reciprocity agreement, at least once every 5 years to obtain recognition in those jurisdictions of the license issued under RSA 159:6. Any such agreement executed shall not expire unless an expiration date is required under the statutes of the reciprocal jurisdiction.

4 Pistols and Revolvers; Exemption. Amend RSA 159:14 to read as follows:

159:14 Exemption. None of the provisions of this chapter shall prohibit an individual not licensed under the provisions thereof who is not engaged in the business of selling pistols or revolvers from selling a pistol or revolver to a person *who is* licensed under this chapter, **to a New Hampshire resident who may lawfully own firearms**, or to a person personally known to him *or her*.

5 Game Animals; Bow and Arrow. Amend RSA 208:5, V to read as follows:

V. The licensee shall not be entitled to carry any firearms while hunting under the provisions of this section, unless such licensee also possesses a valid firearms hunting license, or a valid license to carry firearms issued pursuant to RSA 159, **or is otherwise qualified pursuant to RSA 159:6, III.**

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

2012-1891s

AMENDED ANALYSIS

This bill:

I. Increases the length of time for which a license to carry a pistol or revolver is valid, and reduces the fee for nonresidents wishing to obtain a license to carry.

II. Allows a person to carry a loaded, concealed pistol or revolver without a license provided such person is not otherwise prohibited by law.

III. Requires the director of the division of state police to negotiate and enter into agreements with other jurisdictions to recognize in those jurisdictions the validity of the license to carry issued in this state.

IV. Clarifies to whom a pistol or revolver may be sold.

V. Allows a person who has obtained a license to hunt with a bow and arrow to carry a firearm if he or she is otherwise qualified under the license to carry statute.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Sen. White, 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.

Sen. Forsythe moved to Lay on the Table HB 536-FN.

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

The following Senators voted Yes: Forrester, Bradley, Forsythe, Houde, Odell, Kelly, Luther, Carson, Larsen, Boutin, Barnes, De Blois, Rausch, D'Allesandro, Merrill, Morse, Stiles.

The following Senators voted No: Gallus, Groen, Sanborn, White, Lambert, Prescott, Bragdon.

Yeas: 17 - Nays: 7

Adopted.

HB 1611-FN, repealing certain provisions relative to the sale of pistols and revolvers. Interim Study, Vote 4-0. Senator Houde for the committee.

The question is on the adoption of the Committee recommendation of Refer to Interim Study. Adopted.

HB 1665-FN, enabling a superior court or circuit court to implement one or more drug courts. Ought to Pass with Amendment, Vote 4-0. Senator Luther for the committee.

Senate Judiciary

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09/04

Amendment to HB 1665-FN

Amend RSA 490-G:2, III as inserted by section 1 of the bill by replacing it with the following:

III. A person sentenced by a drug court may, at least one year after successful completion of all programs and conditions imposed by the drug court, petition for annulment of the charges, arrest, conviction, and sentence that relate to such person's entry into the drug court.

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 1723, making technical corrections regarding parental notification prior to abortion. Ought to Pass, Vote 3-1. Senator Groen for the committee.

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

A division vote was requested.

Yeas: 16 - Nays: 8

Adopted, bill ordered to Third Reading.

Sens. Kelly, Prescott, and Stiles are in opposition to the motion of Ought to Pass on HB 1723.

Without objection the Clerk was instructed to read the first complete House Message and thereafter only the title of each bill shall be read.

HOUSE MESSAGE

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

SB 49, relative to tip pooling arrangements.

Sen. Prescott moves concurrence. Adopted.

SB 152-FN, relative to participation in state employees' group insurance by members of the general court.

Sen. Carson moves concurrence. Adopted.

SB 153-FN, relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board.

Sen. Carson moves concurrence. Adopted.

SB 281, relative to exposure to infectious disease by emergency response and public safety workers and notification of public health authorities.

Sen. Bradley moves concurrence. Adopted.

SB 319, changing the membership of and extending the 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.

Sen. Bradley moves concurrence. Adopted.

Without objection the Clerk was instructed to read the first complete House Message and thereafter only the title of each bill shall be read.

HOUSE MESSAGE

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

SB 190, relative to the duties and membership of the executive branch ethics committee.

Sen. Carson moves nonconcurrence and requests Committee of Conference. Adopted.

President appoints Senators Groen, White, Larsen.

Without objection the Clerk was instructed to read the first complete House Message and thereafter only the title of each bill shall be read.

HOUSE MESSAGE

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

HB 102, establishing a committee to study certain issues relative to the insurance department, banking department, and bureau of securities regulation of the office of the secretary of state.

and requests a Committee of Conference.

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

REPRESENTATIVES: Hunt, Mauro, McGuiness, Gidge

Sen. Carson moves to accede to House Request. Adopted.

The President appointed Senators White, Luther, Larsen.

HB 193, relative to the Mount Washington commission.

Sen. Carson moves to accede to House Request. Adopted.

The President appointed Senators Carson, Groen, Larsen.

HB 145, permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties.

Sen. Houde moves to accede to House Request. Adopted.

The President appointed Senators Groen, Luther, Houde.

HB 146, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy.

Sen. Houde moves to accede to House Request. Adopted.

The President appointed Senators Forsythe, Groen, Houde.

HB 158, relative to the misuse of social security numbers.

Sen. Houde moves to accede to House Request. Adopted.

The President appointed Senators Carson, Luther, Houde.

HB 597, revising the child support guidelines based on an income shares model of calculating child support.

Sen. Houde moves to accede to House Request. Adopted.

The President appointed Senators Groen, Forsythe, Houde.

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 222-FN, relative to the specificity of certain statutory provisions granting rulemaking authority.

HB 242-FN-A, relative to the net operating loss carryover under the business profits tax.

HB 388-FN, requiring providers of Voice over Internet Protocol services to pay surcharges for deposit in the enhanced 911 system fund.

HB 574, relative to the taking of private property during a state of emergency.

HB 582, relative to communication between employers and employees during bargaining negotiations.

HB 1157, relative to signage at fuel service stations.

HB 1217, relative to reciprocity of advance directives.

HB 1223-FN, relative to remedies under the right-to-know law.

HB 1353, relative to establishing an individual's status as a veteran and relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces and relative to certain maintenance at the rotary in the town of Epsom.

HB 1366, relative to employer charges for unemployment compensation benefits and relative to suitable work and eligibility requirements for claimants for unemployment compensation benefits.

HB 1367, relative to the issuance of administrative inspection warrants for inventory or appraisal of taxable property.

HB 1380, relative to the development of wetland mitigation banks.

HB 1383, relative to residency status for the purpose of receiving in-state tuition status within the university system of New Hampshire.

HB 1484, relative to fees for state parks and relative to limitations for nonconforming structures located within protected shoreland.

HB 1487, relative to low carbon fuel standards programs and relative to fees for vital records.

HB 1490-FN, relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

HB 1521-FN, relative to retired state employees group insurance participation.

HB 1535-FN, relative to arrest records under the right-to-know law.

HB 1537-FN, relative to violations of privacy occurring outside a private place.

HB 1549, prohibiting the use of motor vehicle records for any federal identification database.

HB 1629-FN, relative to state photographic identification indicating honorable veteran's status.

HB 1635, relative to motor vehicle inspections.

HB 1652-FN-A, excluding charges for Internet access from the communications services tax and requiring the transfer of insurance premium tax revenue to the department of health and human services.

HB 1665-FN, enabling a superior court or circuit court to implement one or more drug courts.

HB 1692-FN, establishing additional reporting requirements for the university system of New Hampshire.

HB 1701-FN, prohibiting New Hampshire from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state.

HB 1707-FN, relative to penalties for operation after revocation or suspension.

HB 1721, relative to permitting for the replacement of sewage disposal systems and relative to oil spillage prevention, control, and countermeasure plans.

HB 1723, making technical corrections regarding parental notification prior to abortion.

HCR 38, urging the United States Congress to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam.

HCR 42, supporting the preservation of the electoral college.

LIST OF RULE 2-15'S FOR THE DAY

Sen. White: HB 351-FN.

Sen. Boutin: HB 121.

ANNOUNCEMENTS

Without objection President Bragdon moved that all Rule 2-17's shall be entered into the permanent *Journal* of the Senate.

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 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.