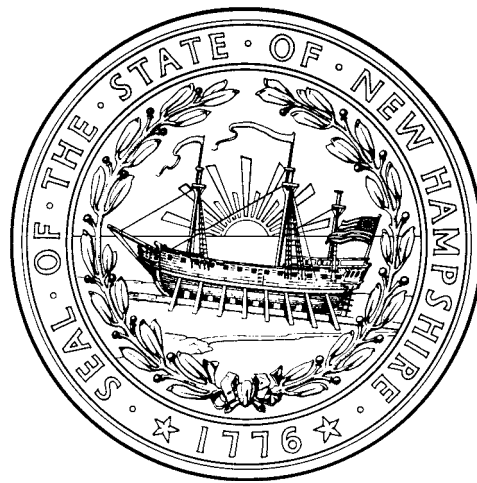


May 9, 2012
Nos. 12-13

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 – MAY 2, 2012 SESSION
COMMENCEMENT – MAY 9, 2012 SESSION**

SENATE JOURNAL 12 *(continued)*

May 2, 2012

April 25, 2012
2012-1839-EBA
08/05

Enrolled Bill Amendment to HB 344-FN

The Committee on Enrolled Bills to which was referred HB 344-FN

AN ACT relative to judicial performance evaluations.

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 344-FN

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to HB 344-FN

Amend RSA 490:32, VI as inserted by section 1 of the bill by replacing line 7 with the following:
percentage of responses received, and[, without identifying individual judges,] a summary of the

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

April 25, 2012
2012-1836-EBA
04/03

Enrolled Bill Amendment to HB 1477

The Committee on Enrolled Bills to which was referred HB 1477

AN ACT relative to the definition of spent materials.

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 1477

This enrolled bill amendment makes corrections to the bill title and the section heading in section 1 of the bill.

Enrolled Bill Amendment to HB 1477

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

AN ACT relative to the definition of spent material.

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

1 Spent Material; Definitions. RSA 147-A:2, XII-a is repealed and reenacted to read as follows:

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

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 127, relative to the definition of oral communication.

HB 151, repealing the laws relative to marital masters.

HB 171, relative to restrictions on liquor licenses.

HB 247, relative to seller financing of mortgages and making changes to the laws regulating mortgage bankers and brokers and debt adjustment services.

HB 1133, relative to membership of the enhanced 911 commission.

HB 1195, relative to membership of the joint legislative historical committee.

HB 1208, relative to advertising of alcoholic beverages.

HB 1231, removing the prohibition on the sale, gift, or display of certain young birds.

HB 1255, relative to the membership of the commission on primary care workforce issues.

HB 1256, establishing a New Hampshire state register of historic places.

HB 1270, requiring an employer to disclose non-compete and non-piracy agreements prior to making an offer of employment or an offer of change in job classification.

HB 1304, relative to the waiver of financial responsibility requirements for certain habitual offenders.

HB 1448, requiring public access to any document and Internet content which is incorporated by reference in administrative rules.

HB 1672, apportioning delegates to state party conventions.

HB 1680, relative to the duties of the oversight committee on health and human services.

SB 363, establishing a commission to study the regulation and licensing of youth camps, including youth skills camps.

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

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

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 342, relative to boat operation rules.

HB 1138, naming a bridge in Pelham in honor of Sergeant Daniel R. Gionet.

HB 1150, relative to examinations for licensure as a professional engineer or land surveyor.

HB 1233, establishing a statute of limitations on wetlands filling and dredging.

HB 1240, relative to license suspensions for refusal to consent to an alcohol test.

HB 1296, relative to net energy metering.

HB 1417, relative to a student's freedom of association.

HB 1442, relative to motorcycle noise emission regulation.

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

Out of Recess. Call Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 13

May 9, 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.

I'm about to do something I've never done before, and it's the kind of thing that's going to make Tammy's eyes bleed. But, I'm not going to use this. It was charming last night when I wrote it. But, I want to say something different, and that is that this last week, I was—surprisingly—I was elected to what we call the executive council of the Episcopal Church, which is the 45 people who run the worldwide Episcopal Church. And, I represent New England, and...Thank you. But, the pride that I noticed in myself, the bubbling up inside, and the planning and the maneuvering...I wasn't in the office six seconds before I started to think little thoughts of revenge, little actions of mischief, little connivings of moving forward in one way that would abandon others. And, for the first time in my whole time as the chaplain here, I actually felt some of what you feel. And then, five different people came to me this morning in only seven minutes and said: "Wow, this is really hard." So, I just want to tell you what I'm telling myself. And, that is, I'm telling myself: I need to drink less coffee, I need to spend more time in silence reflecting on my life and the world, I need to be mindful of when I'm about to be really, really witchy, I need to be kind and loving to the people around me, and I need a group of people close to me who care about me and love me. It's my only plan, but I think it's a good one. And so, I just offer it to you, in these last few weeks when statements can get awfully mean-spirited and temptations to revenge and acting out can sort of bubble up and demons need to be leashed and sometimes chained. These are the links on my chain, and I just offer them to you for the links on yours. Let us pray.

Precious God, we thank You for such a beautiful place like New Hampshire. And, as it comes to life in spring and becomes the playground of the whole world, people come from far and wide to enjoy this beauty and the kind and goodness of our people, and the gorgeousness of our forests, and the loveliness of our villages, we ask You for good, kind, loving, soulful leadership so that what we do is backed up in goodness by how we do what we do. Amen.

Sen. Lambert led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Carson introduced Sarah Jasper and Alex Tucci, students from Alvirne High School, serving as Senate Pages today.

Sen. Barnes welcomed a group of students from Danville Elementary School visiting in the Senate gallery.

Sen. Lambert welcomed Cheryl Freed and Marine Costaz, guests in the Senate gallery.

The Senate acknowledged Sen. Merrill's birthday.

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

CONSENT CALENDAR REPORTS

The following bills were removed from the Consent Calendar:

HB 137-FN-L, relative to the state fire code and the state building code. Removed by Sen. Barnes.

HB 1209, establishing a committee to study administration of the business profits tax and the business enterprise tax. Removed by Sen. Odell.

HB 1555, relative to the penalty for firearm use in a state area for propagation of game controlled by the fish and game department. Removed by Sen. Larsen.

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.

FINANCE

HB 263-FN, relative to the time limits for assistance from the Temporary Assistance for Needy Families Program (TANF). Interim Study, Vote 7-0. Senator Morse for the committee.

The Senate Finance Committee believes that this may be an expense on our cities and towns that would delay the receipt of much needed assistance to the families by forcing the TANF client to apply for hardship waivers.

PUBLIC AND MUNICIPAL AFFAIRS

HCR 35, designating Miss New Hampshire, of the Miss America Scholarship Program, the official honorary hostess of the state of New Hampshire during her term as Miss New Hampshire. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

This resolution designates Miss New Hampshire, of the Miss America Scholarship Program, as an official ambassador of the state of New Hampshire during her term as Miss New Hampshire.

Public and Municipal Affairs

May 2, 2012

2012-1970s

05/09

Amendment to HCR 35

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

A RESOLUTION designating Miss New Hampshire, of the Miss America Scholarship Program, an official ambassador of the state of New Hampshire during her term as Miss New Hampshire.

Amend the resolution by replacing all after the title with the following:

Whereas, the Miss America Scholarship Program, established in 1921, and its preliminary pageants comprise the largest women's scholarship foundation in the world, offering \$45 million to its contestants nationwide in 2002 alone; and

Whereas, it is the oldest, most prestigious competition for young women in America, and unlike other contests, is a non-profit endeavor; and

Whereas, the Miss America organization provides its participants with a vehicle to further their personal and professional goals and instills a spirit of community service through a variety of unique nationwide community-based programs; and

Whereas, the Miss New Hampshire pageant held its first contest in 1948 and has done so each year as the official preliminary for the Miss America pageant; and

Whereas, the pageant's participants, who are interested foremost in their education, are judged on the basis of the whole person including talent, intelligence, poise, beauty, spirit, as well as their platform, and seek to represent New Hampshire in the annual national pageant; and

Whereas, a young woman possessing these attributes would be an ideal person to serve as an official ambassador of New Hampshire; and

Whereas, many other states, including Nevada, Arkansas, Arizona, Mississippi, South Carolina, Missouri, Louisiana, Florida, Kentucky, and Hawaii have their respective official preliminary Miss America contestant winners serve in official capacities in their states; and

Whereas, it would be a great benefit to the state of New Hampshire to have a Miss New Hampshire serve as an official ambassador to assist with ceremonial functions, such as welcoming visiting dignitaries and attending important events, and to assist with other duties that may arise; now, therefore be it

Resolved by the House of Representatives, the Senate concurring:

That the members of the New Hampshire general court proclaim that the woman chosen as Miss New Hampshire of the Miss America Scholarship Program serve as an official ambassador of New Hampshire during her term as Miss New Hampshire; and

That the clerk of the house of representatives transmit copies of this concurrent resolution, signed by the speaker of the house of representatives and the senate president, to the Miss New Hampshire Scholarship Program, the current reigning Miss New Hampshire, the Miss America Scholarship Program Organization, and the governor of the state of New Hampshire.

2012-1970s

AMENDED ANALYSIS

This resolution designates Miss New Hampshire, of the Miss America Scholarship Program, as an official ambassador of the state of New Hampshire during her term as Miss New Hampshire.

WAYS AND MEANS

HB 564, relative to the adoption of forms by the department of revenue administration for the filing of taxes and removing the requirement for electronic tax payments. Interim Study, Vote 6-0. Senator Boutin for the committee.

This bill would have required the Department of Revenue Administration to go through the JLCAR process before making any changes to tax forms. The DRA already seeks input from CPA's, tax attorneys and taxpayers through their forms committee when considering a form change. Requiring them to also go through the JLCAR process would result in delays and complications that could be harmful to the taxpayer.

HB 1294, relative to applications for abatement of property taxes. Inexpedient to Legislate, Vote 6-0. Senator Luther for the committee.

This bill would have allowed for an application for property tax abatement to be signed by an applicant's attorney or authorized representative rather than the actual applicant. The committee believes that signing a property tax abatement application is the responsibility of the taxpayer and furthermore is not a burden for the taxpayer to do so.

HB 1592, establishing a committee to study the reporting of business tax revenues collected by the state. Inexpedient to Legislate, Vote 6-0. Senator D'Allesandro for the committee.

This bill sought to establish a committee to study the reporting of business tax revenues collected by the state. This committee believes this study is duplicative of the study committee created by HB 1209 and is therefore unnecessary.

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

REGULAR CALENDAR REPORTS

SPECIAL ORDER

Without objection President Bragdon moved HB 1410, HB 1206, HCR 40, HB 217-FN, and HB 1699-FN be Special-Ordered to May 16, 2012.

COMMERCE

HB 1172, authorizing nano brewery, beverage manufacturer, and brew pub licensees to sell their products at farmers' markets and establishing an alcohol consultant license. Ought to Pass, Vote 3-0. Senator De Blois for the committee.

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

Recess. Out of recess.

HB 1182, prohibiting the sale of baby food products containing bisphenol A in New Hampshire. Inexpedient to Legislate, Vote 2-1. Senator White for the committee.

Sen. White moved to Lay on the Table HB 1182.

Sen. White withdrew his motion to Lay on the Table HB 1182.

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

Sen. Bradley moved Ought to Pass.

Sen. Bradley moved to Lay on the Table HB 1182. Adopted.

HB 1241, relative to table wines. Ought to Pass with Amendment, Vote 3-0. Senator Prescott for the committee.

Commerce

May 1, 2012

2012-1938s

03/10

Amendment to HB 1241

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

AN ACT relative to table wines and specialty beer.

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

3 Definitions; Specialty Beer. Amend RSA 175:1, LXIV-a to read as follows:

LXIV-a. "Specialty beer" means any beer as defined in RSA 175:1, VII intended for human consumption as a beverage, having an alcohol content greater than 6 percent but not more than 12 percent by volume at 60 degrees Fahrenheit. ***Specialty beer shall possess the character and flavor of a beer and may contain added ingredients such as, but not limited to, molasses, maple syrup, honey, spices, herbs, fruits, nuts, chocolate, vanilla, or other nonbeverage ingredients. Specialty beer shall not include a caffeinated or stimulant-enhanced malt beverage or flavor.*** The commission may approve any specialty beer greater than 12 percent ***alcohol by volume at 60 degrees Fahrenheit. The commission may approve any specialty beer as liquor as defined by RSA 175:1, XLII and shall establish rules for a listing procedure.***

2012-1938s

AMENDED ANALYSIS

This bill defines fermented fruit and agricultural products with an alcohol content of 15.5 to 18 percent as table wine. This bill also refines the definition of specialty beer.

President Bragdon ruled Committee Amendment 1938s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1938s to HB 1241 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.

HB 1297, relative to federal health care reform and health care exchanges. Interim Study, Vote 2-1. Senator Prescott for the committee.

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

Sen. Bradley moved Ought to Pass.

Sen. White offered a floor amendment.

Sen. White, Dist. 9

May 8, 2012

2012-2113s

01/09

Floor Amendment to HB 1297

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

1 Purpose and Scope. Amend RSA 420-N:1 to read as follows:

420-N:1 Purpose and Scope.

[I.] The intent of this chapter is to preserve the ***state's status as the primary regulator of the business of insurance within New Hampshire and the*** constitutional integrity and sovereignty of the state of New Hampshire under the Tenth Amendment to the United States Constitution and part I, article 7 of the New Hampshire constitution ~~[by creating]~~ ***and to create*** a legislative oversight committee to supervise the insurance commissioner's ~~[implementation]~~ ***administration*** of the insurance reforms required under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder (hereinafter "the Act").

~~[H. Further, it is the intent of this chapter to prevent the state of New Hampshire from defaulting into federal oversight regarding the Act by not meeting certain federally-mandated time frames for state implementation of the Act. It is the intent of this chapter to preserve the state's flexibility by allowing consideration of each state implementation requirement as it arises.]~~

2 New Subdivision; Health Exchange. Amend RSA 420-N by inserting after section 6 the following new subdivision:

Health Exchange

420-N:7 Prohibition on State-Based Health Exchange; Guidelines for Interaction With Federally-Facilitated Health Exchange.

I. No New Hampshire state agency, department, or political subdivision shall plan, create, participate in or enable a state-based exchange for health insurance under the Act, or contract with any private entity to do so.

II. State agencies or departments may interact with the federal government with respect to the creation of a federally-facilitated exchange for New Hampshire.

III. Subject to the requirements of this chapter with respect to oversight committee approval, state agencies or departments may operate specific functions of a federally-facilitated exchange consistent with this subdivision to enable the continuation of traditional areas of state regulation and authority.

IV. State agency activities relating to any federally-facilitated exchange for New Hampshire shall be consistent with the following objectives:

(a) Promoting preservation of the private, commercial delivery of health coverage through carriers and producers to the greatest degree possible under the Act and minimizing interference with the operation of commercial markets.

(b) Minimizing overhead and administrative expenses.

(c) Promoting competition and consumer choice, for example by advocating for allowing all health and dental plans that meet the minimum requirements necessary to be certified as qualified plans under the Act to be offered in the exchange.

(d) Preserving to the greatest extent possible the state's insurance regulatory authority and the state's flexibility in determining Medicaid eligibility standards and program design and operation.

420-N:8 Federally-Facilitated Exchange; Authority of the Commissioner.

I. In the event a federally-facilitated exchange is established for New Hampshire, the commissioner shall retain authority with respect to insurance products sold in New Hampshire on the federally-facilitated exchange to the maximum extent possible by law as provided in title XXXVII, including but not limited to producer and insurer licensing, form and rate approval, reinsurance and other risk-sharing mechanisms, network adequacy, industry assessments, internal grievance standards, external review, and unfair trade practices.

II. Any person who sells, solicits, or negotiates insurance within the meaning of RSA 402-J:3 through a federally-facilitated exchange shall be licensed as a producer under RSA 402-J; provided, that nothing in this subdivision shall prohibit the sale of health coverage by an exchange or health carrier directly to the consumer without the use of a producer. This paragraph shall not be interpreted to require that all navigators as defined under the Act be licensed as producers, but rather that any individual who in fact performs a producer function be licensed, whether or not that person is employed by a navigator.

III. The commissioner may establish standards and training requirements for navigators on a federally-facilitated exchange consistent with section 1311(i) of the Act and regulations implemented under the Act, including provisions to ensure that any private or public entity that is selected as a navigator avoids conflicts of interest and is appropriately qualified to engage in navigator activities.

IV. The commissioner shall, consistent with the requirements of the Act, allow producers to enroll individuals, employers, or employees in qualified health plans offered through a federally-facilitated exchange in this state, including enrollment using Internet websites.

V. The commissioner may adopt rules, pursuant to RSA 541-A and in accordance with RSA 420-N:4, II, as necessary to perform the duties specified in this section and to protect against adverse selection by creating a level playing field between a federally-facilitated exchange and the commercial health insurance market.

420-N:9 Federally-Facilitated Exchange; Authority of the Health and Human Services Commissioner.

I. The commissioner of health and human services shall have authority to establish New Hampshire eligibility standards, enrollment procedures, and outreach mechanisms for persons who are enrolled through a federally-facilitated exchange in this state in the Medicaid program under title XIX of the Social Security Act or the Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act.

II. The commissioner of health and human services may establish navigator guidelines for New Hampshire consistent with section 1311(i) of the Act, and regulations implemented under the Act, to ensure that navigators are qualified to reach and assist the Medicaid-eligible and other populations served by a federally-facilitated exchange in New Hampshire.

III. The commissioner of health and human services may adopt rules, pursuant to RSA 541-A and subject to oversight committee approval under RSA 161:11, as necessary to fulfill the purposes of this subdivision.

420-N:10 Health Exchange Advisory Board.

I. There is hereby created a health exchange advisory board for the purpose of advising the commissioner and the commissioner of health and human services regarding the interests of New Hampshire businesses and consumers with respect to any federally-facilitated exchange that may be created for New Hampshire. The board shall consist of 12 members, as follows:

- (a) Two persons representing health insurance carriers, appointed by the commissioner.
- (b) One person representing dental carriers, appointed by the commissioner.
- (c) One person representing producers, appointed by the commissioner.
- (d) One person representing Medicaid recipients, appointed by the commissioner of health and human services.
- (e) One person representing health care providers and health care facilities in New Hampshire, appointed by the commissioner of health and human services.
- (f) One person who is an advocate for enrolling hard to reach populations, including individuals with a mental health or substance abuse disorder, appointed by the commissioner of health and human services.
- (g) One person who is a public health expert, appointed by the commissioner of health and human services.
- (h) Four public members appointed by the governor, with consent of the executive council, who are not employed by or affiliated with a carrier, a producer, or health care provider, other than incidentally as a covered person or purchaser of health coverage or health care, as follows:
 - (1) One person who can reasonably be expected to purchase individual coverage through the exchange with the assistance of a premium tax credit and who can reasonably be expected to represent the interests of consumers purchasing individual coverage through the exchange;
 - (2) One person representing an employer that can reasonably be expected to purchase group coverage through an exchange and who can reasonably be expected to represent the interests of employers;
 - (3) One person representing navigators or entities likely to be licensed as navigators; and
 - (4) One person employed by an employer who can reasonably be expected to purchase group coverage through an exchange and who can reasonably be expected to represent the interests of such employees.

II. Members of the board may serve up to 2 3-year terms. Of the initial members, 4 members shall serve an initial term of one year, 4 members shall serve an initial term of 2 years, and 4 members shall serve an initial term of 3 years in order to achieve staggered terms.

III. The board shall elect a chairperson annually from among its members. If a vacancy occurs on the board, the vacancy for the unexpired term shall be filled in accordance with the above procedures with a person who has the appropriate qualifications to fill that position on the board.

IV. Initial appointments shall be made within 30 days of the effective date of this subdivision, and subsequent appointments shall be made within 30 days of any vacancy.

V. Meetings of the board shall be held at the call of the chairperson or when 5 members so request.

VI. The board shall be a public body subject to RSA 91-A, and its meetings shall be considered public proceedings.

3 Repeal. The following are repealed:

- I. RSA 420-N:6, relative to federal health care reform; consistency.
- II. RSA 420-N:8-RSA 420-N:10, relative to health exchange.

4 Contingency. If the exchange provisions under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 are found unconstitutional or repealed, paragraph II of section 3 of this act shall take effect on the date certified by the commissioner of the department of insurance to the director of legislative services and the secretary of state.

5 Effective Date.

I. Paragraph II of section 3 of this act shall take effect as provided in section 4 of this act.

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

2012-2113s**AMENDED ANALYSIS**

This bill clarifies the implementation of certain provisions of the Patient Protection and Affordable care Act. This bill prohibits the state of New Hampshire from planning, creating, or participating in a state health care exchange. The bill also establishes guidelines for interaction with a federally-facilitated exchange created for New Hampshire.

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

Sen. Bradley moved to Lay on the Table HB 1297. Adopted.

HB 1480, relative to requiring sprinklers in certain buildings. Ought to Pass with Amendment, Vote 3-0. Senator Prescott for the committee.

Commerce

May 1, 2012

2012-1947s

08/03

Amendment to HB 1480

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

AN ACT requiring all local enforcement agencies and other officials responsible for enforcement of fire codes to provide information on the local and state appeals process when issuing a building permit or notice of violation.

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

1 New Paragraph; Notice of Appeal Process. Amend RSA 155-A:7 by inserting after paragraph III the following new paragraph:

IV. All local enforcement agencies and selectmen and the state fire marshal in those communities without a local enforcement agency shall provide information on the local and state appeals process when issuing a building permit or notice of violation.

2 Notice of Appeal Process. Amend RSA 154:2, II to read as follows:

II.(a) The fire chief shall have the authority to enforce any local or state laws or rules pertaining to the control of combustible or hazardous materials, or both, the design of exits, and any other fire safety measures including the state fire code enacted pursuant to RSA 153:5.

(b) All local fire chiefs and duly authorized subordinates shall provide information on the local appeals process for local fire code ordinances and the variance process for the state fire code upon review of plans and notice of violations.

3 New Paragraph; Notice of Appeals. Amend RSA 153:14 by inserting after paragraph IV the following new paragraph:

V. All fire chiefs and duly authorized subordinates shall provide information on the local appeals process for local fire code ordinances and the variance process for the state fire code upon review of plans and notice of violations.

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

2012-1947s**AMENDED ANALYSIS**

This bill requires all local enforcement agencies and other officials responsible for enforcement of the fire code to provide information on the local and state appeals process when issuing a building permit or notice of violation.

President Bragdon ruled Committee Amendment 1947s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1947s to HB 1480 by the necessary 2/3 vote.

The question is on the adoption of the Committee Amendment.

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

Sen. Sanborn asserts Rule 2-15 on HB 1480.

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

Sen. Sanborn asserts Rule 2-15 on HB 1480.

HB 1622, relative to the adoption of forms under the administrative procedures act by the department of insurance. Ought to Pass, Vote 3-0. Senator White for the committee.

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

ENERGY AND NATURAL RESOURCES

HB 1140, relative to the care of war memorials in Franconia Notch state park. Ought to Pass with Amendment, Vote 4-0. Senator Gallus for the committee.

Energy and Natural Resources

May 1, 2012

2012-1920s

04/10

Amendment to HB 1140

Amend the bill by replacing section 1 with the following:

1 New Section; Expansion of State Park System; Franconia Notch State Park; War Memorials.

Amend RSA 216-A by inserting after section 6-a the following new section:

216-A:6-b Franconia Notch State Park War Memorials.

I. The war memorials on the eastern shore of Profile Lake in Franconia Notch state park shall be maintained in an appropriate manner for viewing and visiting by veterans and the public. Signage that recognizes the status of the park as a memorial to the men and women of New Hampshire who have served the nation in times of war as provided for in 1925, 260, and signage that directs people to the memorial site shall be placed in appropriate locations. The state shall not be responsible for the cost of purchasing and installing the signage. Veterans groups may aid the state in the purchase and placement of signage and enhancing and maintaining the memorial sites through programs such as the Adopt-a-Park program and by other means. Veterans, as defined in RSA 21:50, and members of a veteran's immediate family accompanying them, shall pay no fee to visit the war memorials on the eastern shore of Profile Lake. Fees may be charged for the use of amenities, improvements, amusements, special events, and other enterprise and concession activities.

II. The director of the division of parks and recreation may solicit, accept, and expend any gifts, grants, and donations for the purpose of placement of signage, and enhancing and maintaining the war memorials in accordance with this section.

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 1346, relative to the construction of power line extensions. Ought to Pass with Amendment, Vote 4-1. Senator Lambert for the committee.

Energy and Natural Resources
May 2, 2012
2012-1966s
06/10

Amendment to HB 1346

Amend RSA 370:12 as inserted by section 1 of the bill by replacing it with the following:

370:12 Installation of Power Line Extensions. Any New Hampshire utility customer that requires a power line extension for a home or ancillary service located on private property may hire a contractor who is licensed in the state of New Hampshire and is approved by the utility. Such contractor shall supply and install materials specified by the local utility for underground and overhead line extensions, the cost of which shall be borne by the utility customer.

2012-1966s

AMENDED ANALYSIS

This bill permits certain Public Service of New Hampshire customers to hire licensed contractors to install power line extensions.

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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1300, relative to removing public officials for cause. Ought to Pass with Amendment, Vote 3-1. Senator Luther for the committee.

Senate Executive Departments and Administration
May 3, 2012
2012-2004s
05/09

Amendment to HB 1300

Amend the bill by replacing section 1 with the following:

1 Removal of Public Officials for Cause. Amend the introductory paragraph of RSA 4:1 and RSA 4:1, I to read as follows:

4:1 Removal of Public Officials for Cause. No state official who is not a classified employee shall be discharged or removed except for malfeasance, misfeasance, ~~[inefficiency in office;]~~ **intentional non-performance**, incapacity, **incompetency**, or unfitness to perform assigned duties, or for the good of the department, agency, or institution to which such official is assigned, according to the procedures set out in this section, unless otherwise provided by law.

I. The attorney general, the governor, any member of the executive council, ***the majority of any standing committee of the house of representatives or senate germane to the department, agency, or institution to which such official is assigned***, or the appointing authority of such official, may petition the governor and council for the removal of such official setting forth the grounds and reasons therefor.

2012-2004s

AMENDED ANALYSIS

This bill provides that a public official may be removed for the failure to perform assigned duties. The bill also permits a majority of the relevant legislative committee to petition the governor and council for the official's removal.

Sen. Luther moved to Lay on the Table HB 1300. Adopted.

HB 1362, exempting service animals from dog registration and licensing and establishing an option for permanent registration and licensing of service animals. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Senate Executive Departments and Administration
May 3, 2012
2012-1991s
08/04

Amendment to HB 1362

Amend RSA 466:8 as inserted by section 1 of the bill by replacing it with the following:

I. No fee shall be required for the registration and licensing of a dog which has served with the armed forces of the United States and has received an honorable discharge therefrom.

II. No fee shall be required for the registration and licensing of a service animal dog as defined in RSA 167-D:1, IV. When registering and applying for a license for a dog that is a service animal, the owner or trainer shall present an identification card issued by a recognized dog training agency. If a dog has been trained by its owner and does not have an identification card issued by a recognized dog training agency or school, in order to register and license a dog that is a service animal, the dog shall pass the Assistance Dogs International Public Access Test administered by a service animal trainer, as defined in RSA 167-D:1, V, and the owner shall present a letter from a health care professional stating that the individual requires the use of a service animal to perform tasks directly related to his or her disability.

III. The owner of a dog that is a service animal may elect for the registration and licensing of such dog to be permanent and not subject to annual renewal so long as such dog has met the requirements of this section.

IV. For the purpose of this section, the town clerk of each town or municipality shall determine the process by which permanently registered dogs that are service animals will be tracked for town purposes and ensure that town service animal owners are not required to participate, in any way, with an annual renewal of such dog's registration or licensing. In cases of change of town of residency, the service animal owner shall re-register the dog at no cost. If the owner has elected to obtain a tag through the governor's commission on disability as set forth in paragraph V, the owner shall let the governor's commission on disability know of any change in town of residency.

V. Certificates and tags stamped "G C D – Permanent Registration" with a registration number shall be issued by the governor's commission on disability to those who wish to affix such a tag on their service animal's collar after registering the dog under paragraph II. Tags and certificates may be obtained directly from the governor's commission on disability which will verify with the town clerk that such dog has met the requirements under paragraph II and is duly registered and licensed by the town of residency. Tags issued by the governor's commission on disability shall not be used to verify the legitimacy or authenticity of a service animal for any purpose.

VI. Upon the death or retirement of a service animal, the owner or person in possession of the service animal tag shall immediately return the tag to the governor's commission on disability.

VII. The tag identifying a service animal shall be used only by an eligible service animal, as defined in RSA 167-D:1, IV.

VIII. The owners and trainers of dogs that are service animals shall comply with all state and local ordinances regarding rabies certification under RSA 436:102 and RSA 466:1-a.

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 1387, requiring flags purchased with state funds or displayed in state facilities to be manufactured in the United States. Ought to Pass, Vote 3-1. Senator Luther for the committee.

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

HB 1508, relative to procedures of the board of mental health practice. Ought to Pass with Amendment, Vote 3-1. Senator Carson for the committee.

Senate Executive Departments and Administration
May 3, 2012
2012-1990s
10/04

Amendment to HB 1508

Amend the bill by deleting section 2 and renumbering the original sections 3-12 to read as 2-11, respectively.

Amend the bill by replacing section 3 with the following:

3 License Reinstatement. Amend RSA 330-A:31, II to read as follows:

II. If a license is not renewed it may be *retroactively* reinstated not later than 6 months after the date of license expiration upon payment of the fee and compliance with rules adopted by the board. A license may be placed on inactive status pursuant to rules adopted by the board.

2012-1990s

AMENDED ANALYSIS

This bill makes various changes to the regulation of mental health practitioners including the requirements of the board of mental health practice relating to investigation and hearings concerning disciplinary proceedings, the form of complaints against licensees, and the disclosure of patient records.

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 1553, repealing obsolete and outdated provisions of the Revised Statutes Annotated. Ought to Pass with Amendment, Vote 4-0. Senator White for the committee.

Senate Executive Departments and Administration

May 3, 2012

2012-1988s

09/01

Amendment to HB 1553

Amend the bill by deleting section 1 and renumbering the original sections 2-5 to read as 1-4, respectively.

Amend section 1 of the bill by deleting paragraph VIII.

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 1582 relative to medical and surgical benefits for state employees. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

Senate Executive Departments and Administration

May 3, 2012

2012-1987s

01/09

Amendment to HB 1582

Amend the bill by replacing section 2 with the following:

2 New Paragraph; State Employees; Medical and Surgical Benefits. Amend RSA 21-I:30 by inserting after paragraph I the following new paragraph:

I-a. Nothing in this section shall prohibit the state or state employees from making contributions to post-retirement medical savings plans for such employees, if authorized by a collective bargaining agreement, but only for the term of such agreement.

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 1631, allowing persons licensed to provide emergency medical services to work at social or sporting events. Ought to Pass with Amendment, Vote 4-0. Senator Luther for the committee.

Senate Executive Departments and Administration

May 3, 2012

2012-1989s

01/09

Amendment to HB 1631

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

1 New Subparagraph; Plan Required. Amend RSA 21-P:12-b, II by inserting after subparagraph (m) the following new subparagraph:

(n) Develop and implement a plan for individuals possessing a New Hampshire emergency services license to provide non-emergency services at social or sporting events. Such plan shall be developed and implemented by July 1, 2013. The plan shall be distributed to the commissioner of safety, the director of the division of fire standards and training and emergency medical services, and the chair of the emergency medical and trauma services coordination board.

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

2012-1989s

AMENDED ANALYSIS

This bill allows New Hampshire emergency medical services providers to provide non-emergency medical services at a social or sporting event.

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.

FINANCE

HB 225-FN, relative to the return of personal property confiscated by law enforcement agencies from a person charged with a crime. Interim Study, Vote 6-1. Senator Forrester for the committee.

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

Sen. Groen moved Ought to Pass.

Sen. Groen offered a floor amendment.

Sen. Groen, Dist. 6

May 9, 2012

2012-2154s

01/04

Floor Amendment to HB 225-FN

Amend RSA 595-A:6, II as inserted by section 1 of the bill by replacing it with the following:

II. Upon the acquittal of or dismissal of criminal proceedings against a person charged with a crime or upon the disposal of criminal proceedings against a person by nol prosequi or upon a finding that no abuse has occurred in a proceeding against a person under RSA 173-B, any personal property owned by such person, including weapons, confiscated by a law enforcement agency or entity under this section shall be returned to the person or made available to the person by the law enforcement agency or entity that confiscated the personal property within 10 days of receipt of written notice that the acquittal or dismissal or nol prosequi or determination of no finding has become a final judgment, not subject to appeal. For purposes of this section, any court rule, statute, or common law allowing for an appeal to be taken after expiration of any appeal period shall not count toward such appeal period. This section shall not apply to illegal contraband or to personal property that a person, is prohibited from possessing under state or federal law. Property held for use as evidence in a case involving a co-defendant may be retained by the law enforcement agency or entity pursuant to law authorizing property owned by a third person to be held for use as evidence in a case involving a person other than the property owner. If after diligent efforts the agency or entity is unable to comply with this section, it may file a request with the court for an extension or exemption.

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.

Sen. Kelly is in opposition to the motion of Ought to Pass as Amended on HB 225-FN.

Recess. Out of recess.

HB 1418-FN-A, increasing the threshold amounts for taxation under the business enterprise tax and extending the commission to study business taxes. Ought to Pass with Amendment, Vote 6-1. Senator Morse for the committee.

Senate Finance

May 3, 2012

2012-2010s

09/01

Amendment to HB 1418-FN-A

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

AN ACT extending the commission to study business taxes.

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.

Amend the bill by replacing section 3 with the following:

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

2012-2010s

AMENDED ANALYSIS

The bill extends the commission to study business taxes.

Sen. Morse moved to Lay on the Table HB 1418-FN-A. Adopted.

HEALTH AND HUMAN SERVICES

HB 1560, relative to the interstate Health Care Compact. Interim Study, Vote 5-0. Senator Bradley for the committee.

Sen. Bradley moved to Lay on the Table HB 1560.

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

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

The following Senators voted No: Forsythe, De Blois, Morse.

Yeas: 21 - Nays: 3

Adopted.

HB 1725-FN, prohibiting health care practitioner self-referrals for medical devices. Interim Study, Vote 4-1. Senator Sanborn for the committee.

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

HCR 31, commending the work of pregnancy care centers in New Hampshire and across the United States. Ought to Pass with Amendment, Vote 4-1. Senator De Blois for the committee.

Health and Human Services

May 3, 2012

2012-2013s

09/01

Amendment to HCR 31

Amend the second paragraph after the title by replacing it with the following:

Whereas, more than 2,500 pregnancy centers across the United States provide individualized care to women and men facing planned and unplanned pregnancies, including resources to meet their physical, psychological, emotional, and spiritual needs; and

Amend the tenth paragraph after the title by replacing it with the following:

Whereas, pregnancy care centers operate primarily through reliance on the voluntary donations and time of caring individuals who are committed to caring for the needs of women and promoting and protecting life; and

Amend the first paragraph after the resolving clause to read as follows:

That the New Hampshire general court recognizes the many contributions made by pregnancy care centers and supports pregnancy care centers in their unique, positive contributions to the individual lives of women, men, and babies, both born and unborn; and

Amend the resolution by deleting the third paragraph after the resolving clause.

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 41, urging the United States Congress to find that the Department of Health and Human Services' grant to Planned Parenthood of Northern New England is unconstitutional and void. Inexpedient to Legislate, Vote 4-1. Senator Kelly 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: Gallus, Bradley, Houde, Groen, Sanborn, Odell, White, Kelly, Luther, Lambert, Carson, Larsen, Boutin, Rausch, D'Allesandro, Merrill, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Forrester, Forsythe, Barnes, De Blois.

Yeas: 20 - Nays: 4

Adopted.

INTERNAL AFFAIRS

HCR 2, in support of the Arizona immigration law. Inexpedient to Legislate, Vote 2-1. Senator Larsen 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: Gallus, Forrester, Houde, Odell, Kelly, Larsen, D'Allesandro, Merrill, Prescott.

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

Yeas: 9 - Nays: 15

Failed.

Sen. Bradley moved Ought to Pass.

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

HCR 37, urging the New Hampshire delegation to support any legislation requiring a comprehensive audit of the Federal Reserve. Ought to Pass, Vote 3-0. Senator Bradley for the committee.

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

HCR 43, urging the joint legislative historical committee to move the granite gates Lafayette passed through to the state house grounds. Ought to Pass, Vote 3-0. Senator Larsen for the committee.

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

Recess. Out of recess.

HB 1184, relative to the use of video evidence to support an arrest for willful concealment of merchandise. Ought to Pass with Amendment, Vote 4-0. Senator Forsythe for the committee.

Senate Judiciary
May 1, 2012
2012-1936s
04/01

Amendment to HB 1184

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

AN ACT relative to arrest without a warrant for the offense of willful concealment.

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

1 New Paragraph; Use of Force by Merchants. Amend RSA 627:8-a by inserting after paragraph II the following new paragraph:

III. Notwithstanding RSA 594:10, a peace officer may arrest a person who has been detained pursuant to this section, without a warrant, if the peace officer has probable cause to believe that the person has committed the offense of willful concealment and if the merchant or his or her agent witnessed the offense or if the unlawfully obtained goods or merchandise of the store were recovered from the person.

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

2012-1936s

AMENDED ANALYSIS

This bill establishes circumstances under which a peace officer may arrest a person for the offense of willful concealment.

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 1341, repealing the provision relative to the unauthorized use of firearms in the compact part of a city or town. Interim Study, Vote 4-0. Senator Carson for the committee.

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

Sen. Bragdon is in opposition to the motion of Refer to Interim Study on HB 1341.

Recess. Out of recess.

HB 1510-FN, relative to taxpayer standing for declaratory judgments. Ought to Pass, Vote 4-1. Senator Luther for the committee.

Sen. Forsythe offered a floor amendment.

Sen. Forsythe, Dist. 4
May 4, 2012
2012-2029s
10/05

Floor Amendment to HB 1510

Amend the bill by replacing section 1 with the following:

1 Declaratory Judgments; Standing. Amend RSA 491:22, I to read as follows:

I. Any person claiming a present legal or equitable right or title may maintain a petition against any person claiming adversely to such right or title to determine the question as between the parties, and the court's judgment or decree thereon shall be conclusive. *The taxpayers of a taxing district in this state shall be deemed to have an equitable right and interest in the preservation of an orderly and lawful government within such district; therefore any taxpayer in the jurisdiction of the taxing district shall have standing to petition for relief under this section when it is alleged that the taxing district or any agency or authority thereof has engaged, or proposes to engage, in conduct that is unlawful or unauthorized, and in such a case the taxpayer shall not have to demonstrate that his or her personal rights were impaired or prejudiced. The preceding sentence shall not be deemed to convey standing to any person to challenge an action or decision of any governmental authority pursu-*

ant to legally authorized administrative or judicial procedures unless his or her personal rights are affected by the action or decision. The existence of an adequate remedy at law or in equity shall not preclude any person from obtaining such declaratory relief. However, the provisions of this paragraph shall not affect the burden of proof under RSA 491:22-a or permit awards of costs and attorney's fees under RSA 491:22-b in declaratory judgment actions that are not for the purpose of determining insurance coverage.

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.

Sens. Forrester and Kelly are in opposition to the motion of Ought to Pass as Amended on HB 1510.

PUBLIC AND MUNICIPAL AFFAIRS

HB 1354, relative to a person's residence for voting and all other legal purposes. Inexpedient to Legislate, Vote 4-0. Senator Barnes for the committee.

Sen. Barnes moved to Lay on the Table HB 1354. Adopted.

HB 1478, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements. Inexpedient to Legislate, Vote 4-0. Senator Barnes for the committee.

Sen. Barnes moved to Lay on the Table HB 1478. Adopted.

HB 1633, relative to a tally requirement on school district warrant articles. Ought to Pass, Vote 4-1. Senator Boutin for the committee.

Sen. Stiles offered a floor amendment.

Sen. Stiles, Dist. 24

Sen. Bragdon, Dist. 11

May 9, 2012

2012-2157s

06/01

Floor Amendment to HB 1633

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

AN ACT relative to a tally requirement on school district and village district warrant articles.

Amend RSA 32:5, V-a as inserted by section 1 of the bill by replacing it with the following:

V-a. *The legislative body of any town, school district, or village district* may vote to require that all votes by an advisory budget committee, a town, *school district, or village district* budget committee, and the governing body or, in towns, *school districts, or village districts* without a budget committee, all votes of the governing body relative to budget items or any warrant articles shall be recorded votes and the numerical tally of any such vote shall be printed in the town, *school district, or village district* warrant next to the affected warrant article. *Unless the legislative body has voted otherwise*, if a town *or school district* has not voted to require such tallies to be printed in the town *or school district* warrant next to the affected warrant article, the governing body may do so on its own initiative.

Amend RSA 40:13, V-a as inserted by section 2 of the bill by replacing it with the following:

V-a. *The legislative body of any town, school district, or village district* may vote to require that all votes by an advisory budget committee, a town, *school district, or village district* budget committee, and the governing body or, in towns, *school districts, or village districts* without a budget committee, all votes of the governing body relative to budget items or any warrant articles or ballot questions shall be recorded votes and the numerical tally of any such vote shall be printed in the town, *school district, or village district* warrant next to the affected warrant article or on the ballot next to the affected ballot question. *Unless the legislative body has voted otherwise*, if a town *or school district* has not voted to require such tallies to be printed in the town *or school district* warrant next to the affected warrant article or on the ballot next to the affected ballot question, the governing body may do so on its own initiative.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 2013.

2012-2157s

AMENDED ANALYSIS

This bill permits school districts and village districts to require tallies on school district warrant articles.

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 1704-FN, relative to limits on political contributions and relative to reporting by political committees. Ought to Pass with Amendment, Vote 4-0. Senator Boutin for the committee.

Public and Municipal Affairs

May 2, 2012

2012-1968s

03/10

Amendment to HB 1704-FN

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

AN ACT relative to political contributions and expenditures, relative to reporting by political committees, and relatives to nomination of political organizations.

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

1 Declaration of Intent; Political Organization. Amend RSA 655:17-c to read as follows:

655:17-c Declaration of Intent; Political Organization.

I. Declarations of intent for political organizations shall be in the following form and signed by the chairman of the political organization:

I, _____, chairman of the _____ organization hereby declare that the _____ organization intends to file nomination papers by the deadline established under RSA 655:43, I. ~~I further declare that the _____ organization intends to file the names of candidates for the following offices with the nomination papers.]~~

II. At the time of filing the declaration of intent, the chairman of the political organization shall submit a list of the offices for which it intends to file candidates and the names of the candidates for those offices. In addition, each candidate shall file a declaration of candidacy. The declaration of candidacy shall be in the form provided by RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election. If the political organization does not obtain enough nomination papers to have its name placed on the ballot, any declarations of candidacy filed for that political organization shall be void.

2 Definitions; Political Committee. RSA 664:2, III is repealed and reenacted to read as follows:

III. "Political committee" means any organization that has as its major purpose promoting, defeating, or influencing a candidate election, campaign, or measure and that makes expenditures aggregating more than \$2,500 in a calendar year for that purpose; or that does not have as its major purpose promoting, defeating, or influencing a candidate election, campaign, or measure but whose independent expenditures, as defined in paragraph XI, and spending on electioneering communication, as defined in paragraph XVIII, when combined, total more than \$5,000 in a calendar year. As used in this paragraph, "organization" includes, but is not limited to, for-profit and nonprofit corporations, associations, partnerships, and the political committee of a political party, as defined in paragraph V.

3 Definitions; Expenditure. Amend RSA 664:2, IX to read as follows:

IX. "Expenditure" shall mean the disbursement of money or thing of value or the making of a legally binding commitment to make such a disbursement in the future for the purpose of influencing the nomination for election or election of any candidate ***or candidates or the success or defeat of a measure or measures.*** It does not include the candidate's filing fee or his ***or her*** expenses for personal travel and subsistence.

4 Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity expressly advocating the election or defeat of a clearly identified candidate ***or candidates or the success or***

defeat of a measure or measures which are made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which are not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, “clearly identified” means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

5 New Paragraph; Definitions; Electioneering Communication. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraph:

XVIII. “Electioneering communication” means any broadcast, publication, mailer, or cable or satellite communication that fulfills each of the following conditions:

(a) The communication refers to a clearly identified candidate for state office or measure without a call to action.

(b) The communication is publicly distributed within 60 days prior to a general election or 30 days prior to a primary election for the office a candidate is seeking.

(c) The communication is targeted to the relevant electorate.

6 Registration of Political Committees. Amend RSA 664:3, I to read as follows:

I. Any political committee, except the political committee of a political party, shall register with the secretary of state as provided in this section. The committee shall register with the secretary of state not later than 24 hours after receiving any contribution in excess of [~~\$500~~] **\$2,500** or before making any expenditure in excess of [~~\$500~~] **\$2,500 in the aggregate**, but in no event later than 14 days after the formation of the committee. The registration shall be accompanied by a fee of \$50, which shall be deposited by the secretary of state into the general fund; provided, however, that the political committee of a candidate which registers under this section shall not be required to pay the \$50 fee. Each political committee shall designate a treasurer or agent who is a citizen of this state and who is authorized to receive all process and other legal documents on behalf of the political committee, and through whom may be obtained access to all books and records of the political committee. The political committee shall file with the secretary of state a statement of the purpose of the committee and shall indicate whether the committee will be making independent expenditures in support of or in opposition to any candidate including a statement of the name, address, occupation, and principal place of business of its chairperson and treasurer or agent, and the names and addresses of other officers. The committee shall file an amendment to its registration within 14 days of any change in the officers or purpose of the committee.

7 Prohibited Political Contributions; Amount. Amend RSA 664:4, V to read as follows:

V. By any person (1) if in excess of [~~\$5,000~~] **\$7,000** in value, except for contributions made by a candidate in behalf of his **or her** own candidacy, or if in excess of [~~\$1,000~~] **\$3,500** in value by any person or by any political committee to a candidate or a political committee working on behalf of a candidate who does not voluntarily agree to limit his campaign expenditures and those expenditures made on his behalf as provided in RSA 664:5-a, ***provided that a person may contribute up to \$7,000 for the state primary election and up to \$7,000 for the general election to a candidate who has agreed to voluntary spending limits; or up to \$3,500 for the state primary election and up to \$3,500 for the general election to a candidate who has not agreed to voluntary spending limits, to a political committee, or to a political party; and may contribute an additional \$5,000 during an exploratory period to a political committee working on behalf of a person prior to his or her public declaration of candidacy,*** (2) if made anonymously or under a name not that of the donor, (3) if made in the guise of a loan, (4) if any other manner concealed, (5) if made without the knowledge and written consent of the candidate or his **or her** fiscal agent, a political committee or its treasurer, or not to any one of the same.

8 Political Expenditure Limitation Amounts. Amend RSA 664:5-b to read as follows:

664:5-b Political Expenditure Limitation Amounts. Total expenditures by a candidate who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a shall be as follows:

I. For governor:

(a) [~~\$625,000~~] **\$1,000,000** in a state primary election.

(b) [~~\$625,000~~] **\$1,000,000** in a state general election.

I-a. For United States senator:

- (a) [~~\$625,000~~] **\$1,000,000** in a state primary election.
- (b) [~~\$625,000~~] **\$1,000,000** in a state general election.

II. For representative to Congress:

- (a) [~~\$350,000~~] **\$500,000** in a state primary election.
- (b) [~~\$350,000~~] **\$500,000** in a state general election.

III. For executive council:

- (a) [~~\$50,000~~] **\$75,000** in a state primary election.
- (b) [~~\$50,000~~] **& 75,000** in a state general election.

IV. For state senate:

- (a) [~~\$20,000~~] **\$50,000** in a state primary election.
- (b) [~~\$20,000~~] **\$50,000** in a state general election.

V. For representative to the general court and all county offices, based upon the latest figures filed with the secretary of state:

- (a) [~~\$.50~~] **\$1.00** per registered voter in the district or the county in a state primary election.
- (b) [~~\$.50~~] **\$1.00** per registered voter in the district or the county in a state general election.

VI. For the purposes of this section, RSA 664:5-a, and the enforcement provisions of this chapter, “total expenditures” shall mean the sum of all expenditures made to influence either a state primary or a state general election made by a candidate and those made on the candidate’s behalf by the candidate’s committee or committees, the candidate’s party, and the candidate’s immediate family. For candidates for governor, United States senator, representative to Congress, state senate, state representative, and executive council, “total expenditures” shall include any such expenditures made after January 1 of the election year, regardless of when the person actually declares his or her candidacy. Each campaign expenditure limitation amount shall apply solely and independently to either the state primary election or the state general election.

9 Reporting by Political Committee. Amend RSA 664:6, I to read as follows:

I. Any political committee whose receipts or expenditures in support of a candidate, measure, or political party exceed [~~\$500~~] **\$2,500** except, for the purposes of this paragraph only, the political committee of a political party, [~~or~~] the political committee of a candidate, ***or a corporation that is tax exempt under section 501(c)(4), 501(c)(5), and 501(c)(6) of the United States Internal Revenue Code***, shall file with the secretary of state an itemized statement, signed by its chairman and treasurer showing each of its receipts exceeding \$25 with the full name and home post office address of the contributor in alphabetical order and the amount of the contribution, the date it was received, and the aggregate total for each election for each contributor of over \$100. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o’clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. All receipts of \$25 or under shall appear on the statements as unitemized receipts. Any listing which exceeds an individual’s aggregate total of \$100 for each election shall be accompanied by the contributor’s occupation including official job title, the name of the contributor’s employer, and the city or town of the contributor’s principal place of business, if any. The statement shall also show each committee expenditure with the full name and city or town of persons, corporations, committees, or to whomever paid or to be paid, the date paid, and the election for which the expenditure was made, with the specific nature and amount of each expenditure since the date of the registration.

10 Reporting by Political Committee. Amend RSA 664:6, II-a to read as follows:

II-a. A political committee shall file a statement in the same form as in paragraph I with the secretary of state not later than the Wednesday immediately preceding a primary and a general election, before 5 o’clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statements are filed and itemize all receipts and expenditures since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting

requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution exceeding ~~[\$500]~~ **\$2,500** which is received after the statement under this paragraph is filed and prior to the day of election.

11 Reporting by Political Committee. Amend RSA 664:6, IV-IV-a to read as follows:

IV. Any political committee whose receipts or expenditures do not exceed ~~[\$500]~~ **\$2,500** for a reporting period need not file. However, when a committee's accumulated receipts or expenditures for an election exceed ~~[\$500]~~ **\$2,500** the committee shall file a statement at the next reporting deadline, ***unless the committee is a corporation that is tax exempt under section 501(c)(4), 501(c)(5), and 501(c)(6) of the United States Internal Revenue Code.***

IV-a. Any political committee whose independent expenditures ***or spending on electioneering communications***, in aggregate, exceed ~~[\$500]~~ **\$2,500** shall file an itemized statement with the secretary of state not later than 24 hours after such expenditures are made, and thereafter each time a further ~~[\$500]~~ **\$2,500** is expended. Such itemized statements shall cover the period during which independent expenditures ***and spending on electioneering communications*** totaling ~~[\$500]~~ **\$2,500** were made. Each statement shall include a certification by the political committee that the independent expenditure ***or electioneering communication*** meets the definition in RSA 664:2, XI ***or RSA 664:2, XVIII***. Each statement shall contain the date of each independent expenditure ***or spending on electioneering communications***; the name and address of the person to whom the expenditure was made; the name of the candidate on whose behalf or against whom each ***independent*** expenditure was made ***or referenced in each electioneering communication***; the amount of each expenditure; the purpose of each expenditure, and the aggregate amount of all previous independent expenditures ***and spending on electioneering communications***. If ~~[the independent expenditure is]~~ ***expenditures are*** made in support of or to oppose more than one candidate, the statement made under this paragraph shall allocate the way in which the expenditure was made among the candidates on a reasonable basis. For the purposes of this paragraph, "reasonable basis" means a statement which reflects the benefit or the burden reasonably expected to be derived or suffered by each candidate. The filing requirements of this paragraph shall be in addition to all other filing requirements under this section, and shall not be limited to the filing periods during which expenditures must otherwise be reported.

12 New Section; Reports of Spending on Information Critical of General Court Members. Amend RSA 664 by inserting after section 6 the following new section:

664:6-a Reports of Spending on Information Critical of General Court Members. Any political committee whose spending on distribution of information critical of a member of the general court who has not filed for office, in aggregate, exceeds \$500 shall file an itemized statement with the secretary of state not later than 24 hours after such spending, and thereafter each time a further \$500 is spent. Such itemized statements shall cover the period during which a total of \$500 was spent. Each statement shall contain each date when such money was spent; the name and address of the person paid; the name of the member of the general court mentioned in the information distributed; the amount of each payment; the purpose of each payment; and the aggregate amount of all previous payments. If the payment is made for information critical of more than one member of the general court, the statement made under this paragraph shall allocate the way in which the payment was made among the members on a reasonable basis. For the purposes of this paragraph, "reasonable basis" means a statement which reflects the burden reasonably expected to be suffered by each member. The filing requirements of this paragraph shall be in addition to all other filing requirements, and shall not be limited to the filing periods during which expenditures must otherwise be reported.

13 New Paragraph; Penalties. Amend RSA 664:21 by inserting after paragraph VI the following new paragraph:

VII.(a) A political committee that fails to register in accordance with RSA 664:3 shall be subject to a fine equal to 25 percent of the electioneering communication and independent expenditures made during the period from the date the political committee was required to register to the date the political committee registered.

(b) A political committee that fails to report independent expenditures or spending on electioneering communications in accordance with RSA 664:6, IV-a shall be subject to a fine equal to 25 percent of the electioneering communication and independent expenditures not reported or reported late.

14 Repeal. RSA 655:40-b, relative to filing names of candidates, is repealed.

15 Effective Date.

I. Sections 3-6, 9-11, and 13 of this act shall take effect August 1, 2012.

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

2012-1968s

AMENDED ANALYSIS

This bill:

I. Modifies the procedure for nominating a political organization.

II. Modifies the definition of "political committee."

III. Increases the limit on campaign contributions.

IV. Authorizes contributions of up to \$5,000 each during the exploratory period of a campaign.

V. Increases voluntary campaign expenditure limits.

VI. Requires reporting by political committees of spending on electioneering communications, as defined in the bill.

VII. Raises from \$500 to \$2,500 the amount of contributions or expenditures triggering registration and reporting requirements for political committees.

VIII. Requires reporting by a political committee of spending on distribution of information critical of a member of the general court.

Sen. Bradley moved to Lay on the Table HB 1704-FN.

Sen. Bradley withdrew his motion to Lay on the Table HB 1704-FN.

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

Sen. Boutin is in opposition to the Committee Amendment on HB 1704-FN.

Sen. Bradley moved to Lay on the Table HB 1704-FN. Adopted.

PUBLIC AND MUNICIPAL AFFAIRS

HB 137-FN-L, relative to the state fire code and the state building code. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

This bill clarifies the authority of the state fire marshal to inspect and issue permits for state buildings and authorizes municipalities to contract with outside agencies for building inspection services. It defines the state fire code, updates references to the most recent version of the codes that comprise the state building code, and ratifies changes to the state building code already adopted by the state building code review board.

Public and Municipal Affairs

May 2, 2012

2012-1971s

05/10

Amendment to HB 137-FN-LOCAL

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

1 Legislative Declaration of Purpose. The general court declares that the purpose of this act is the following:

I. The general court finds that a clearer distinction between codes that apply to new construction and codes that apply to existing buildings and their uses is in the best interest of the citizens of New Hampshire.

II. The state building code and the state fire code both govern the construction and renovation of buildings. Additionally, the state fire code governs the fire safety requirements of existing buildings. Amendments to these 2 codes currently follow separate processes, the building code requiring action by the legislature and the fire code requiring approval by the joint legislative committee on administrative rulemaking. When overlap of these 2 codes creates a conflict with differing requirements, property owners with building projects may suffer undue expense and/or delay.

III. The purpose of this act is to reduce the number of conflicts between the building code and the fire code, create a less burdensome regulatory process when conflicts arise, promote a more parallel adoption

process for the building and fire codes, clearly define the authority of the state fire marshal and the building code review board to amend adopted codes, reserve the authority for code adoption and changes to code editions to the general court, ratify updates and changes to the state building code already adopted by the building code review board, and adopt by reference the 2009 editions of the Life Safety Code 2009 edition and the Uniform Fire Code NFPA 1, as published by the National Fire Protection Association.

2 New Paragraph; State Board of Fire Control; Definition of State Fire Code Added. Amend RSA 153:1 by inserting after paragraph VI the following new paragraph:

VI-a. "New Hampshire fire code" or "state fire code" means the adoption by reference of the Life Safety Code 2009 edition and the Uniform Fire Code NFPA 1, 2009 edition, as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5. The provisions of any other national code, model code, or standard referred to within a code listed in this definition shall be included in the state fire code unless amended in accordance with RSA 153:5.

3 Joint Committee on Code Enforcement. RSA 153:4-b is repealed and reenacted to read as follows:

153:4-b Joint Committee on Code Enforcement. There is established a joint committee on code enforcement, consisting of the chairpersons or presidents, or their designees, of the following: the state board of fire control, the electricians' board, the board for the licensing and regulation of plumbers, the water well board, the board of architects, the board of professional engineers, the architectural barrier-free design committee, the state building code review board, the New Hampshire Association of Fire Chiefs, the New Hampshire Building Officials Association, and the state fire marshal. The chair or designee of the state board of fire control shall serve as the chair of the joint committee. The joint committee shall meet at least annually to carry out its duties as established in this chapter. The duties of the committee shall be to discuss matters of mutual interest in the area of code administration, coordination of the state building code and the state fire code adoption, inspections, licensing, and certification.

4 Organization of Firefighters; Clarification of Title of Fire Marshal. Amend RSA 154:4 to read as follows:

154:4 Organization of Firefighters. The firefighters shall be organized in such companies, under the supervision of duly selected officers, and shall be subject to such duties in relation to the care, preservation and use of the public property entrusted to them, and to meeting for drill in the management thereof, as the chief, firewards or engineers shall direct or approve; and shall, by night or day, under their direction, use their best endeavors to extinguish any fire that may happen in their town or the vicinity of their town. Firefighters may also mitigate other emergencies which may happen in their town or the vicinity of their town. ***The title of "fire marshal" is expressly reserved for use by the state to identify the position described in RSA 21-P:12.***

5 State Fire Code; Rules. RSA 153:5 is repealed and reenacted to read as follows:

153:5 State Fire Code; Rules.

I. The fire marshal, with the board of fire control, may adopt rules with the approval of the commissioner of safety to amend the state fire code described in RSA 153:1 to the extent the board deems such amendments are necessary, provided that any such amendments are ratified by the adoption of appropriate legislation within 2 years of their adoption. If such amendments are not ratified, then the amendments shall expire at the end of the 2-year period.

II. With the approval of the commissioner of safety, the state board of fire control is authorized, pursuant to RSA 541-A, to adopt rules governing its procedures of operation. The board shall meet to review and assess the application of the state fire code and shall recommend legislation, as the board deems necessary, to modify the requirements of the state fire code, in order to provide consistency with the application of other laws, codes, or regulations, giving due consideration to the economic impact and costs of such amendment, and to promote public safety and best practices.

III. The state fire code and associated rules shall not require automatic fire suppression or sprinkler systems in detached one or 2-family dwelling units in a structure used only for residential purposes.

IV. The state fire marshal may exempt a building, structure, or equipment from such rules if he or she finds that such exemption does not constitute a hazard to the public welfare and safety. A reasonable time, as determined by the state fire marshal, shall be allowed to make necessary alterations. Nothing in this section shall be construed to prevent municipalities from adopting bylaws or ordinances relative to a subject area of rules adopted by the state fire marshal in accordance with this section if such bylaws or ordinances are no less restrictive than those adopted by the state fire marshal.

V. The state fire marshal, and the local fire chief, in accordance with RSA 154:2, shall use the state fire code, including rules adopted under paragraph I, and any local codes adopted in accordance with RSA 47:22 or RSA 155-A:3, for the purposes of new construction, additions, and alterations. It is the intent of the legislature to avoid conflicts in the adoption and application of the state building code and the state fire code.

6 Approval of Plans for Construction or Revision of State Buildings. RSA 153:8-a, I is repealed and reenacted to read as follows:

I. The state fire marshal or, by his or her direction, the deputy fire marshal shall be responsible for:

(a) Approval of all plans for construction or revision of all state buildings and properties, including the university system and the community college system of New Hampshire, as to compliance with the state building code and state fire code.

(b) Enforcement of the state fire code.

(c) With approval of the commissioner of safety, adoption of rules relative to the granting of exceptions or variances under this paragraph, and rules to be known as the state fire code as provided in RSA 153:5.

(d) Development, in consultation with the commissioner of safety and the commissioner of administrative services, of a schedule for the periodic safety inspection of all occupied public buildings owned by the state.

7 New Hampshire Building Code; Definition of Building. Amend RSA 155-A:1, I to read as follows:

I. "Building" means building as defined and interpreted by the International Code Council's International Building Code [2006] **2009, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.**

8 New Hampshire Building Code; Definition of Local Enforcement Agency and New Hampshire Building Code. Amend RSA 155-A:1, III and IV to read as follows:

III. "Local enforcement agency" means for a municipality that has adopted enforcement provisions or additional regulations under RSA 674:51 **or RSA 47:22**, the building inspector, **code official**, or other local government official ~~[with authority]~~ **qualified and authorized** to make inspections and to enforce the laws, ordinances, and rules enacted by the state and by local government that establish standards and requirements applicable to the construction, alteration, or repair of buildings. **For the purpose of enforcement of the state fire code for buildings and structures not owned by the state, the local enforcement agency means the municipal fire chief or his or her representative, pursuant to RSA 154:2, II.**

IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code [2006] **2009, the International Existing Building Code 2009**, the International Plumbing Code [2006] **2009**, the International Mechanical Code [2006] **2009**, the International Energy Conservation Code [2006] **2009**, and the International Residential Code [2006] **2009**, as published by the International Code Council, and the National Electric Code [2008] **2011, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.** The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition.

9 New Paragraph; Definition of New Hampshire Fire Code Added. Amend RSA 155-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. "New Hampshire fire code" or "state fire code" means the state fire code as defined in RSA 153:1 and as amended by rules adopted pursuant to RSA 153:5.

10 New Hampshire Building Code; Definition of Structure. Amend RSA 155-A:1, VI to read as follows:

VI. "Structure" means structure as defined and interpreted by the International Code Council's International Building Code [2006] **2009, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.**

11 State Building Code. RSA 155-A:2 is repealed and reenacted to read as follows:

I. All buildings, building components, and structures constructed in New Hampshire shall comply with the state building code and state fire code. The construction, design, structure, maintenance, and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, removal, or demolition of all buildings and structures previously erected shall be governed by the provisions of the state building code.

II. To the extent that there is any conflict between the state building code and the state fire code, the code creating the greater degree of life safety shall take precedence, subject to the review provisions contained in RSA 155-A:10. If the municipal building and fire code official cannot agree which code creates the greater degree of life safety, the property owner may notify the 2 officials in writing that if agreement is not reached within 2 business days of delivery of said notification, that the decision shall be made by the property owner to comply with either the applicable building code or fire code. Such decision by the property owner after proper notification shall not be grounds for the denial of a certificate of occupancy.

III. To the extent that it does not conflict with any other provision of law, and except as otherwise provided in this paragraph, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts where such activities have been authorized in accordance with RSA 674:51 and RSA 47:22. Pursuant to the state fire marshal's authority to enforce the state building code under RSA 155-A:7, I, the fire marshal may establish for municipalities that do not have a building inspector or other enforcement mechanism authorized in RSA 155-A:4, with approval of the commissioner of safety and by rules adopted under RSA 541-A, fees to defray the cost of issuing building permits in accordance with the state building code. Such fees shall be deposited in the fire standards and training and emergency medical services fund established in RSA 21-P:12-d.

IV. Except for buildings owned by the state, the community college system of New Hampshire, or the university system, the issuance of permits and certificates of occupancy pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts. The state fire marshal shall issue permits and conduct inspections for buildings owned by the state, the community college system of New Hampshire, and the university system. Nothing in this section shall prohibit the state fire marshal from contracting with or authorizing a local enforcement agency or other qualified third party for these services.

V. Counties, towns, cities, and village districts may adopt by ordinance pursuant to RSA 674:51 or RSA 47:22 any additional regulations provided that such regulations are not less stringent than the requirements of the state building code and the state fire code.

VI. For any municipality which has not adopted an enforcement mechanism under RSA 674:51, the contractor of the building, building component, or structure shall notify the state fire marshal concerning the type of construction before construction begins excluding one- and 2-family dwellings. Any municipality that has not adopted an enforcement mechanism under RSA 674:51 may contract with a local enforcement agency or a qualified third party for these services unless such an arrangement is contrary to a local government enactment or policy.

VII. The contractor of a building, building component, or structure shall be responsible for meeting the minimum requirements of the state building code and state fire code. No municipality shall be held liable for any failure on the part of a contractor to comply with the provisions of the state building code.

VIII. Nothing in this chapter shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local code requirements that are less stringent than the state building code or state fire code, and all buildings, building components, and structures shall comply with all applicable state or local building and fire code requirements, land use restrictions including but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances.

IX. Nothing in this chapter shall be construed to permit or encourage the state to initiate or assume an independent role in the administration and enforcement of the New Hampshire building code for a building or structure that is not owned by the state unless otherwise authorized by law.

X. No state agency, authority, board, or commission shall vary, modify, or waive the requirements of the state building code or state fire code, unless approved by the state building code review board pursuant to RSA 155-A relative to the state building code or the state fire marshal pursuant to RSA 153:8-a, I(c) for the state fire code. Nothing in this chapter shall affect the statutory authority of the commissioner of labor, the state board for the licensing and regulation of plumbers, or the state electricians' board to administer their respective programs, provided that any changes to codes proposed under the rulemaking authority of these agencies shall not be enforced until approved by the state building code review board.

12 Local Amendment of State Building Code. Amend RSA 155-A:3, IV(b) to read as follows:

(b) Any provision of the state building code that conflicts with existing or amended local ordinances, regulations, policies, practices, or procedures regarding the appointment, removal, or duties of municipal

employees and the organization of municipal departments, shall not apply ***provided that the ordinances, regulations, policies, practices, or procedures do not prevent effective enforcement of the state building code or state fire code.***

13 Permit for Construction or Renovation of Public Buildings. RSA 155-A:4 is repealed and reenacted to read as follows:

155-A:4 Permit Required.

I. Before starting new construction or renovation of buildings and structures as described in RSA 155-A:2, I, the person responsible for such construction shall obtain a permit.

II. In municipalities that have adopted an enforcement mechanism pursuant to RSA 674:51 and RSA 47:22, the permit under this section shall conform to the locally adopted process. No permit shall be issued that would not result in compliance with the state building code and state fire code.

III. For buildings and structures owned by the state, the community college system of New Hampshire, or the university system, the person responsible for such activities shall obtain a permit from the state fire marshal. Before issuing the permit, the state fire marshal shall give due consideration to any written recommendations of the municipal fire chief, building official, or designee in the community where the state building is located.

14 Enforcement Authority. RSA 155-A:7, I is repealed and reenacted to read as follows:

I. The local enforcement agency appointed pursuant to RSA 674:51 or RSA 47:22 shall have the authority to enforce the provisions of the state building code and the local fire chief shall have the authority to enforce the provisions of the state fire code, provided that where there is no local enforcement agency or contract with a qualified third party pursuant to RSA 155-A:2, VI, the state fire marshal or the state fire marshal's designee may enforce the provisions of the state building code and the state fire code, subject to the review provisions in RSA 155-A:10, upon written request of the municipality.

15 State Building Code Review Board. Amend RSA 155-A:10 to read as follows:

155-A:10 State Building Code Review Board.

I. There is established a state building code review board consisting of the commissioner of safety or the commissioner's designee, and ~~[additional]~~ ***the following*** members, appointed by the commissioner of safety ~~[as follows]~~:

(a) One architect licensed in this state for a minimum of 5 years, nominated by the board of architects established in RSA 310-A:29.

(b) One structural engineer licensed in this state for a minimum of 5 years, nominated by the board of ***professional*** engineers established in RSA 310-A:3.

(c) One mechanical engineer licensed in this state for a minimum of 5 years, nominated by the board of ***professional*** engineers established in RSA 310-A:3.

(d) One electrical engineer licensed in this state for a minimum of 5 years, nominated by the board of ***professional*** engineers established in RSA 310-A:3.

(e) One representative of the state's municipalities, nominated by the New Hampshire Municipal Association.

(f) One municipal building official, nominated by the New Hampshire Building Officials Association.

(g) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

(h) One active fire prevention officer, nominated by the New Hampshire Association of Fire Chiefs.

(i) One building contractor, primarily engaged in the business of constructing nonresidential buildings, nominated by the Associated General Contractors of New Hampshire.

(j) One building contractor primarily engaged in the business of constructing residential buildings, nominated by the New Hampshire Home Builders Association.

(k) One representative from the state energy conservation code office under RSA 155-D, nominated by the New Hampshire public utilities commission.

(l) One master plumber licensed in this state for a minimum of 5 years, nominated by the state board for the licensing and regulation of plumbers established in RSA 329-A.

(m) One mechanical contractor ~~[with a minimum of 5 years experience]~~, primarily engaged in the business of mechanical construction, nominated by the New Hampshire Plumbing and Mechanical Contractors Association.

(n) One master electrician licensed in this state for a minimum of 5 years, nominated by the electricians' board established in RSA 319-C.

(o) One representative of the Committee on Architectural Barrier - Free Design nominated by the governor's commission on disability.

(p) One ~~[master electrician licensed in this state for a minimum of 5 years]~~ **electrical contractor**, nominated by Electrical Contractors Business Association.

II. The term of each member shall be 3 years. The chair *of the board* shall be appointed by the commissioner of safety ***after meeting with the board***. Board members shall be appointed for no more than 2 consecutive 3-year terms. ***The board shall elect from among the members a vice-chair, who shall assume the responsibilities of the chair in the event of the chair's absence.***

III. The board shall be administratively attached to the department of safety under RSA 21-G:10.

IV. The board shall meet to review and assess the application of the state building code and shall recommend legislation, as the board deems necessary, to ~~[modify]~~ **amend** the requirements of the state building code ~~[and the state fire code]~~ in order to provide consistency with the application of other laws, rules, or regulations, ***to avoid undue economic impacts on the public by considering the cost of such amendments***, and to promote public safety and best practices.

V. The board may adopt rules to ~~[update or change]~~ **amend** the state building code for the codes described in RSA 155-A:1, IV ***and IV-a***, to the extent the board deems that such ~~[updates or changes]~~ **amendments** are necessary, provided that any such ~~[updates or changes]~~ **amendments** are ratified by the adoption of appropriate legislation within 2 years of their adoption. If such ~~[updates or changes]~~ **amendments** are not ratified, then the rules shall expire, notwithstanding RSA 541-A:17, I, at the end of the 2-year period. With the approval of the commissioner of safety, the board shall be authorized, pursuant to RSA 541-A, to adopt rules relative to procedures of its operation and appeals to the board.

VI. ~~[The board shall review the National Fire Protection Association Building Code and its companion manuals when published, and shall review any other building codes when published, in order to evaluate whether the state should continue with the International Building Codes and its manuals, switch to other codes or adopt a combination of codes.]~~

VII.] The state building code review board shall not adopt or enforce any rule requiring the installation of fire sprinkler systems in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes. This paragraph shall not prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee.

16 Appeal of Decision by the State Fire Marshal to the Building Code Review Board. RSA 155-A:11, I is repealed and reenacted to read as follows:

I. Any person aggrieved by a decision of the state fire marshal relative to the application and enforcement of the state building code pursuant to RSA 153:8-a, I(a), or the state fire code, may appeal the decision to the board.

17 Powers of the Building Code Board of Appeals. RSA 674:34 is repealed and reenacted to read as follows:

674:34 Powers of Building Code Board of Appeals. The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

18 State Building Code; Ratification of Amendments by the State Building Code Review Board. Pursuant to RSA 155-A:10, V, the general court hereby ratifies the amendments to the state building codes, as defined in RSA 155-A:1, adopted by the state building code review board between January 1, 2010 and February 29, 2012, in administrative rules Bcr 300.

19 Working Group Formed. There is established a working group to study the egress provisions in the International Building Code and the egress provisions in the Life Safety Code in an effort to harmonize the codes and make them applicable to the needs of New Hampshire citizens balancing life safety considerations and economic concerns. The working group shall consist of the commissioner of safety or designee, a representative of the board of architects chosen by the board, a representative of the New Hampshire Home Builders and Remodelers Association chosen by the association, a representative of the New Hampshire Building Officials Association chosen by the association, a representative of the New Hampshire Association of Fire Chiefs chosen by the association, and the state fire marshal or designee. The commissioner of safety or designee shall serve as the chair and shall convene the meetings of the group. The group shall file a report with the chairs of the house and senate executive departments and administration committees not later than April 1, 2013, recommending any legislative changes.

20 New Subparagraphs; Rulemaking Exception. Amend RSA 541-A:21 by inserting after subparagraph (dd) the following new subparagraphs:

(ee) RSA 155-A:10, V, relative to the amendments to the state building code and state fire code for the codes described in RSA 155-A:1, IV and IV-a.

(ff) RSA 153:5, II, relative to the adoption of the state fire code.

21 Repeal. RSA 155-A:6, relative to the inspection of state buildings, is repealed.

22 Effective Date.

I. Section 4 of this act shall take effect July 1, 2013.

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

2012-1971s

AMENDED ANALYSIS

This bill:

I. Defines the state fire code, establishes a procedure for amendment of the state fire code by the state fire marshal and state advisory board of fire control, and revises membership of the joint committee on code enforcement.

II. Reserves the title of “fire marshal” for use by the state and clarifies responsibility of the state fire marshal to approve plans for construction or renovation of state buildings and to enforce the state fire code.

III. Updates references to the most recent version of the codes that comprise the state building code.

IV. Clarifies the authority of the state fire marshal to inspect and issue permits for state buildings and authorizes municipalities to contract with outside agencies for building inspection services.

V. Clarifies membership of the building code review board and authorizes the board to amend the state building code, provided that such amendments are subsequently ratified by the legislature.

VI. Ratifies changes to the state building code already adopted by the state building code review board.

VII. Establishes a working group to study egress provisions in the International Building Code and Life Safety Code.

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

Sen. Barnes offered a floor amendment.

Sen. Barnes, Jr., Dist. 17

May 9, 2012

2012-2182s

10/05

Floor Amendment to HB 137-FN-LOCAL

Amend RSA 153:5, I as inserted by section 5 of the bill by replacing it with the following:

I. Notwithstanding RSA 21-G:9, II(b), the fire marshal, with the board of fire control, may adopt rules with the approval of the commissioner of safety, which shall be exempt from RSA 541-A, to amend the state fire code described in RSA 153:1 to the extent the board deems such amendments are necessary, provided

that any such amendments are ratified by the adoption of appropriate legislation within one year of their adoption. If such amendments are not ratified, then the amendments shall expire at the end of the one-year period.

Amend RSA 155-A:2, VI as inserted by section 11 of the bill by replacing it with the following:

VI. For any municipality which has not adopted an enforcement mechanism under RSA 674:51, the contractor of the building, building component, or structure shall notify the state fire marshal concerning the type of construction before construction begins excluding one- and 2-family dwellings. Any municipality that has adopted an enforcement mechanism under RSA 674:51 may contract with a local enforcement agency or a qualified third party for these services as an alternative to establishing the position of building inspector under RSA 674:51, III(c), and such agency or third party shall have the same authority as a building inspector as provided in that section.

Amend the bill by replacing section 20 with the following:

20 New Subparagraphs; Rulemaking Exception. Amend RSA 541-A:21, I by inserting after subparagraph (dd) the following new subparagraphs:

(ee) RSA 155-A:10, V, relative to the amendments to the state building code and state fire code for the codes described in RSA 155-A:1, IV and IV-a.

(ff) RSA 153:5, I, relative to the adoption of the state fire code.

Amend the bill by inserting after section 20 the following and renumbering the original sections 21-22 to read as 22-23, respectively:

21 Transfer of Rulemaking Authority Relative to State Fire Code. Existing rules known as the state fire code and adopted under RSA 541-A and RSA 153:5 prior to the effective date of this act shall remain in effect until they expire or are amended, superseded, or repealed by the adoption of rules in accordance with RSA 153:5, I as amended by section 5 of this act.

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.

WAYS AND MEANS

HB 1209, establishing a committee to study administration of the business profits tax and the business enterprise tax. Ought to Pass with Amendment, Vote 6-0. Senator Boutin for the committee.

This bill establishes a committee to study administration of the business profits tax and the business enterprise tax. The committee amendment removes the Senate membership and adjusts the quorum from four to two members.

Senate Ways and Means

May 1, 2012

2012-1939s

10/09

Amendment to HB 1209

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

I. The committee shall consist of 3 members of the house of representatives, appointed by the speaker of the house of representatives.

Amend the bill by replacing section 4 with the following:

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

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

Sen. Odell offered a floor amendment.

Sen. Odell, Dist. 8
May 8, 2012
2012-2099s
10/03

Floor Amendment to HB 1209

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The committee shall consist of 3 members of the house of representatives, appointed by the speaker of the house of representatives.

Amend the bill by replacing section 4 with the following:

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

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.

ENERGY AND NATURAL RESOURCES

HB 1555, relative to the penalty for firearm use in a state area for propagation of game controlled by the fish and game department. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

This bill requires that the penalty for possession of a firearm in a state fish and game refuge applies only to a person who discharges his or her firearm for the purpose of taking wildlife. The amendment simply removes the purpose statement in the bill.

Energy and Natural Resources
May 3, 2012
2012-1993s
10/03

Amendment to HB 1555

Amend the bill by deleting section 1 and renumbering the original sections 2 and 3 to read as 1 and 2, respectively.

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

President Bragdon ruled floor amendment non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of a non-germane floor amendment to HB 1555 by the necessary 2/3 vote.

Sen. White objected to the motion to suspend Rule 3-7 to allow for the introduction of a non-germane floor amendment.

Sen. Larsen moved to suspend Rule 3-7 to allow for the introduction of a non-germane floor amendment to HB 1555.

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

Sen. Carson is excused.

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, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

Yeas: 5 - Nays: 18

Failed lacking necessary 2/3 vote.

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

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 287, relative to confidential prescription data.

Sen. Bradley moves nonconcurrence. Adopted.

SB 302, relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces.

Sen. Barnes moves nonconcurrence. 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 214, relative to the applicability of the right-to-know law to public libraries.

Sen. Barnes moves concurrence. Adopted.

SB 216, relative to notification of revocation of conditional discharge by the department of health and human services.

Sen. Houde moves concurrence. Adopted.

SB 291, relative to the use of currently allowed impact fees by municipalities.

Sen. Rausch moves concurrence. Adopted.

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 137-FN-L, relative to the state fire code and the state building code.

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

HB 1140, relative to the care of war memorials in Franconia Notch state park.

HB 1172, authorizing nano brewery, beverage manufacturer, and brew pub licensees to sell their products at farmers' markets and establishing an alcohol consultant license.

HB 1184, relative to arrest without a warrant for the offense of willful concealment.

HB 1209, establishing a committee to study administration of the business profits tax and the business enterprise tax.

HB 1241, relative to table wines and specialty beer.

HB 1346, relative to the construction of power line extensions.

HB 1362, exempting service animals from dog registration and licensing and establishing an option for permanent registration and licensing of service animals.

HB 1387, requiring flags purchased with state funds or displayed in state facilities to be manufactured in the United States.

HB 1480, requiring all local enforcement agencies and other officials responsible for enforcement of fire codes to provide information on the local and state appeals process when issuing a building permit or notice of violation.

HB 1508, relative to procedures of the board of mental health practice.

HB 1510-FN, relative to taxpayer standing for declaratory judgments.

HB 1553, repealing obsolete and outdated provisions of the Revised Statutes Annotated.

HB 1555, relative to the penalty for firearm use in a state area for propagation of game controlled by the fish and game department.

HB 1582 relative to medical and surgical benefits for state employees.

HB 1622, relative to the adoption of forms under the administrative procedures act by the department of insurance.

HB 1631, allowing persons licensed to provide emergency medical services to work at social or sporting events.

HB 1633, relative to a tally requirement on school district and village district warrant articles.

HCR 2, in support of the Arizona immigration law.

HCR 31, commending the work of pregnancy care centers in New Hampshire and across the United States.

HCR 35, designating Miss New Hampshire, of the Miss America Scholarship Program, an official ambassador of the state of New Hampshire during her term as Miss New Hampshire.

HCR 37, urging the New Hampshire delegation to support any legislation requiring a comprehensive audit of the Federal Reserve.

HCR 43, urging the joint legislative historical committee to move the granite gates Lafayette passed through to the state house grounds.

LIST OF RULE 2-15'S FOR THE DAY

Sen. Sanborn: HB 1480.

ANNOUNCEMENTS

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of 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.