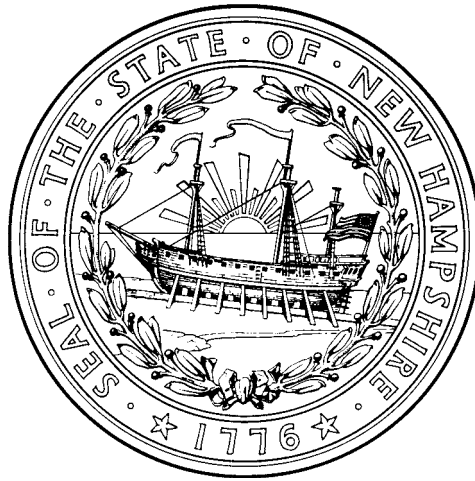


March 21, 2012  
Nos. 6-7

# **STATE OF NEW HAMPSHIRE**

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**Second Year of the 162<sup>nd</sup> Session of the  
New Hampshire General Court**

**Legislative Proceedings**

## **SENATE JOURNAL**

**ADJOURNMENT – MARCH 7, 2012 SESSION  
COMMENCEMENT – MARCH 21, 2012 SESSION**

# SENATE JOURNAL 6 *(continued)*

*March 7, 2012*

## HOUSE MESSAGE

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

**SB 201**, apportioning state senate districts.

## HOUSE MESSAGE

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

**HB 388-FN**, establishing the amount of the enhanced 911 services surcharge and requiring providers of voice over Internet protocol services to pay surcharges for deposit in the enhanced 911 system fund.

**HB 602-FN-A**, relative to funding the law requiring reporting of health care acquired infections.

**HB 1127**, relative to barbering apprentices.

**HB 1131**, establishing a committee to study methods of creating a balanced and neutral judiciary.

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

**HB 1139**, making changes to the unique pupil identification system.

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

**HB 1157**, relative to signage at fuel service stations.

**HB 1167**, relative to the calculation of days in the school year.

**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 1174**, relative to negotiations for contracts for county employees.

**HB 1185-FN-A**, relative to the police standards and training council.

**HB 1202-FN**, amending the definition of "sending district" as it applies to students attending regional vocational education programs.

**HB 1204**, relative to matching funds of highway projects, and relative to the administration of the meals and rooms tax.

**HB 1207-FN**, defining the owner of timber rights for purposes of timber tax assessment.

**HB 1208**, relative to advertising of alcoholic beverages.

**HB 1214**, banning corn-based ethanol as an additive to gasoline sold in New Hampshire.

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

**HB 1230-FN**, requiring a listing of state real property.

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

**HB 1232-FN**, relative to prerecorded political messages.

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

**HB 1237**, establishing the joint committee on employee relations.

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

**HB 1244**, relative to firearms possession while trapping.

**HB 1246**, permitting resident application for pistol or revolver licenses to be submitted to the state police or the sheriff's department.

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

**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 1290**, relative to self-storage facility liens.

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

**HB 1306-FN-L**, requiring a report on part-time employment of retired members of the retirement system.

**HB 1327**, relative to official oppression.

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

**HB 1370**, making technical changes to the New Hampshire real estate practice act.

**HB 1371**, relative to conflicts of interest of county government officials.

**HB 1409**, relative to definitions under the Uniform Securities Act.

**HB 1410**, relative to securities regulation.

**HB 1415**, relative to permits for repair or replacement of sewage and waste disposal system.

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

**HB 1419**, relative to the rights of military parents.

**HB 1434**, relative to display of antique motor vehicle plates.

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

**HB 1456**, relative to school district policies on health and sex education.

**HB 1477**, relative to the definition of spent materials.

**HB 1480**, relative to requiring sprinklers in certain buildings.

**HB 1487**, relative to low carbon fuel standards programs.

**HB 1495-FN**, establishing a Purple Heart Trail along U. S. Route 3.

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

**HB 1546**, recodifying the laws relative to religious societies and adding a religious exemption to the insurance mandates relative to coverage for contraception.

**HB 1551**, clarifying the liability of landowners, lessees, and occupants of premises who allow other persons to use the premises for hunting, fishing, and other recreational purposes or to remove fuel wood, and relative to the losing party's payment of the prevailing party's costs in actions against such landowners, lessees, and occupants.

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

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

**HB 1583**, relative to immunity for school personnel using reasonable force to protect a minor.

**HB 1587**, relative to employer safety programs.

**HB 1589**, establishing a committee to study and propose a recodification of the education laws currently in RSA title 15.

**HB 1593-FN**, relative to the department of information technology.

**HB 1596**, relative to the membership of the advisory council on child care.

**HB 1615**, relative to industrial hemp.

**HB 1618**, relative to types of community living facilities.

**HB 1644**, relative to the regulation of individual home health care service providers by the department of health and human services.

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

**HB 1672**, apportioning delegates to state party conventions.

**HB 1673-FN**, relative to complaints of election law violations.

**HB 1687-FN**, relative to state employee information available on the state transparency website.

**HB 1698-FN-A**, establishing a committee to study implementing keno in the state of New Hampshire.

**HB 1704-FN**, relative to limits on political contributions and relative to reporting by political committees.

**HB 1718**, relative to judicial review of electoral districts.

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

**HB 1722**, relative to disqualification of judges and lawyers from practicing in the circuit courts.

**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.

### HOUSE MESSAGE

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

**HB 415**, relative to access to abuse and neglect investigation records pending a child custody dispute.

**HB 1182**, prohibiting the sale of baby food products containing bisphenol A in New Hampshire.

**HB 1206**, relative to continuing obligations under expired public employee labor agreements.

**HB 1216**, relative to the authority for withholding or withdrawal of life-sustaining treatment.

**HB 1217**, relative to the form for executing advance directives for health care decisions.

**HB 1263**, relative to the termination of tenancy and repealing the requirement that landlords of restricted residential property provide service of process information.

**HB 1282-FN-L**, relative to workforce housing and the definition of community.

**HB 1300**, relative to removing public officials for cause.

**HB 1308**, relative to the definition of "public body" under the right-to-know law.

**HB 1329**, relative to the default budget in certain towns.

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

**HB 1405**, relative to refugee resettlement.

**HB 1416-L**, relative to a required fluoride statement.

**HB 1418-FN-A**, increasing the threshold amounts for taxation under the business enterprise tax.

**HB 1440**, relative to driver education.

**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.

**HB 1483-FN**, repealing the retirement system special account.

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

**HB 1574**, relative to an employee's lunch or eating period.

**HB 1617-FN**, repealing the certificate of need law.

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

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

**HB 1635**, relative to motor vehicle inspections.

**HB 1636**, relative to the extension of fill and dredge in wetlands permits.

**HB 1645-FN**, relative to decertification of a bargaining unit.

**HB 1677-FN**, relative to choice as to whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization.

**HB 1679-FN**, relative to partial-birth abortion.

**HB 1716**, relative to the state 10-year transportation improvement program.

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

**HCR 40**, a resolution for the purpose of petitioning the Congress of the United States to adopt an amendment to the Constitution of the United States, for submission to the states, to require, with certain exceptions, that the federal budget be balanced; or, in the alternative, to call a convention for the sole and exclusive purpose of proposing a federal balanced budget amendment for submission to the states for ratification.

**HCR 42**, a resolution supporting the preservation of the electoral college.

### HOUSE MESSAGE

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

**HB 1175**, relative to the membership of the cooperative school district budget committees.

**HB 1251-FN**, establishing a committee to study requiring that all sales of alcoholic beverages for off-premises consumption be made at state liquor stores.

**HB 1254**, establishing a committee to study the effect of illegal immigration on the state and its political subdivisions.

**HB 1297**, relative to federal health care reform and health care exchanges.

**HB 1341**, repealing the provision relative to the unauthorized use of firearms in the compact part of a city or town.

**HB 1377**, requiring postsecondary education institutions to compile and submit reports on remedial education courses.

**HB 1431**, relative to requirements for a barber to obtain a license and for a licensed barber, cosmetologist, manicurist, or esthetician to obtain a shop license.

**HB 1474**, relative to eliminating the requirement that attorneys be members of the state bar association.

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

**HB 1526-FN**, relative to possession of less than one-half ounce of marijuana.

**HB 1532-FN**, relative to trespass on land which is not posted.

**HB 1664-FN**, establishing a committee to study transferring election law enforcement to the secretary of state.

**HB 1699-FN**, relative to driving under the influence of drugs.

**HB 1703**, requiring the school board to develop and implement a policy that incorporates the foundations of financial literacy into the school curriculum and instruction.

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

**HB 1720-FN**, relative to jury trials in class actions brought under the consumer protection act.

### INTRODUCTION OF HOUSE BILLS

Sen. Bradley offered the following Resolution:

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

**Adopted.**

**First and Second Reading and Referral**

**HB 137-FN-L**, relative to the state fire code and the state building code. (Public and Municipal Affairs)

**HB 351-FN**, relative to insurance reimbursement for doctors of naturopathic medicine. (Commerce)

**HB 383**, prohibiting the collection of certain agency fees from state employees who are not members of the state employees' association. (Executive Departments and Administration)

**HB 388-FN**, establishing the amount of the enhanced 911 services surcharge and requiring providers of voice over Internet protocol services to pay surcharges for deposit in the enhanced 911 system fund. (Energy and Natural Resources)

**HB 581**, regulating guaranteed price plans and prepaid contracts for petroleum. (Commerce)

**HB 602-FN-A**, relative to funding the law requiring reporting of health care acquired infections. (Health and Human Services)

**HB 1127**, relative to barbering apprentices. (Executive Departments and Administration)

**HB 1131**, establishing a committee to study methods of creating a balanced and neutral judiciary. (Judiciary)

**HB 1133**, relative to membership of the enhanced 911 commission. (Energy and Natural Resources)

**HB 1139**, making changes to the unique pupil identification system. (Education)

**HB 1150**, relative to examinations for licensure as a professional engineer or land surveyor. (Executive Departments and Administration)

**HB 1155**, relative to the regulation of dentists by the board of dental examiners. (Executive Departments and Administration)

**HB 1157**, relative to signage at fuel service stations. (Transportation)

**HB 1167**, relative to the calculation of days in the school year. (Education)

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

**HB 1174**, relative to negotiations for contracts for county employees. (Public and Municipal Affairs)

**HB 1175**, relative to the membership of the cooperative school district budget committees. (Education)

**HB 1185-FN-A**, relative to the police standards and training council. (Executive Departments and Administration)

**HB 1202-FN**, amending the definition of "sending district" as it applies to students attending regional vocational education programs. (Education)

**HB 1204**, relative to matching funds of highway projects, and relative to the administration of the meals and rooms tax. (Ways and Means)

**HB 1207-FN**, defining the owner of timber rights for purposes of timber tax assessment. (Ways and Means)

**HB 1208**, relative to advertising of alcoholic beverages. (Commerce)

**HB 1214**, banning corn-based ethanol as an additive to gasoline sold in New Hampshire. (Energy and Natural Resources)

**HB 1223-FN**, relative to remedies under the right-to-know law. (Judiciary)

**HB 1224**, allowing municipalities to send tax, water, and sewer bills electronically. (Public and Municipal Affairs)

**HB 1231**, removing the prohibition on the sale, gift, or display of certain young birds. (Energy and Natural Resources)

**HB 1232-FN**, relative to prerecorded political messages. (Public and Municipal Affairs)

**HB 1233**, establishing a statute of limitations on wetlands filling and dredging. (Energy and Natural Resources)

**HB 1240**, relative to license suspensions for refusal to consent to an alcohol test. (Judiciary)

- HB 1244**, relative to firearms possession while trapping. (Energy and Natural Resources)
- HB 1259-FN**, relative to payment of medical expenses for individuals who surrender themselves to law enforcement or corrections officials. (Judiciary)
- HB 1273**, relative to the termination of parental rights in cases where the child is born of rape. (Judiciary)
- HB 1281**, establishing a committee to study alternative medical insurance coverage for elected state officials. (Health and Human Services)
- HB 1290**, relative to self-storage facility liens. (Judiciary)
- HB 1294**, relative to applications for abatement of property taxes. (Ways and Means)
- HB 1296**, relative to net energy metering. (Energy and Natural Resources)
- HB 1301**, relative to challenges to voters. (Public and Municipal Affairs)
- HB 1307**, relative to agricultural plates. (Transportation)
- HB 1312**, relative to the statute of limitations for violations involving a motor vehicle accident resulting in death or serious bodily injury. (Judiciary)
- HB 1333**, establishing a committee to study the establishment of a point system for violations of hunting and fishing laws and regulations enforced by the fish and game department. (Energy and Natural Resources)
- HB 1336**, relative to reciprocity for nonresident trainers of hunting dogs. (Energy and Natural Resources)
- HB 1341**, repealing the provision relative to the unauthorized use of firearms in the compact part of a city or town. (Judiciary)
- HB 1351**, relative to disclosure of information by the board of funeral directors and embalmers and governing boards of allied health professionals. (Executive Departments and Administration)
- HB 1356**, classifying certain land in Litchfield as land to be retained by the state. (Energy and Natural Resources)
- HB 1357**, relative to the membership of mosquito control districts. (Public and Municipal Affairs)
- HB 1367**, relative to the issuance of administrative inspection warrants. (Judiciary)
- HB 1370**, making technical changes to the New Hampshire real estate practice act. (Commerce)
- HB 1371**, relative to conflicts of interest of county government officials. (Public and Municipal Affairs)
- HB 1377**, requiring postsecondary education institutions to compile and submit reports on remedial education courses. (Education)
- HB 1392**, relative to oyster aquaculture licenses. (Energy and Natural Resources)
- HB 1409**, relative to definitions under the Uniform Securities Act. (Commerce)
- HB 1410**, relative to securities regulation. (Commerce)
- HB 1415**, relative to permits for repair or replacement of sewage and waste disposal system. (Energy and Natural Resources)
- HB 1417**, relative to a student's freedom of association. (Education)
- HB 1419**, relative to the rights of military parents. (Judiciary)
- HB 1422**, relative to the applicability of foreign law in cases before New Hampshire tribunals. (Judiciary)
- HB 1431**, relative to requirements for a barber to obtain a license and for a licensed barber, cosmetologist, manicurist, or esthetician to obtain a shop license. (Executive Departments and Administration)
- HB 1434**, relative to display of antique motor vehicle plates. (Transportation)
- HB 1442**, relative to motorcycle noise emission regulation. (Transportation)
- HB 1448**, requiring public access to any document and Internet content which is incorporated by reference in administrative rules. (Executive Departments and Administration)

**HB 1455-FN**, relative to special licenses for taking lobster while engaged in recreational scuba diving. (Energy and Natural Resources)

**HB 1456**, relative to school district policies on health and sex education. (Education)

**HB 1474**, relative to eliminating the requirement that attorneys be members of the state bar association. (Judiciary)

**HB 1477**, relative to the definition of spent materials. (Energy and Natural Resources)

**HB 1480**, relative to requiring sprinklers in certain buildings. (Commerce)

**HB 1495-FN**, establishing a Purple Heart Trail along U. S. Route 3. (Transportation)

**HB 1510-FN**, relative to taxpayer standing for declaratory judgments. (Judiciary)

**HB 1526-FN**, relative to possession of less than one-half ounce of marijuana. (Judiciary)

**HB 1532-FN**, relative to trespass on land which is not posted. (Judiciary)

**HB 1535-FN**, relative to arrest records under the right-to-know law. (Judiciary)

**HB 1563**, relative to Greenland's water rights. (Public and Municipal Affairs)

**HB 1579**, authorizing the department of employment security to garnish the wages of individuals with delinquent unemployment compensation overpayments. (Commerce)

**HB 1583**, relative to immunity for school personnel using reasonable force to protect a minor. (Education)

**HB 1585-FN**, relative to inspections of trucks and buses. (Transportation)

**HB 1587**, relative to employer safety programs. (Commerce)

**HB 1589**, establishing a committee to study and propose a recodification of the education laws currently in RSA title 15. (Education)

**HB 1593-FN**, relative to the department of information technology. (Executive Departments and Administration)

**HB 1596**, relative to the membership of the advisory council on child care. (Health and Human Services)

**HB 1618**, relative to types of community living facilities. (Health and Human Services)

**HB 1644**, relative to the regulation of individual home health care service providers by the department of health and human services. (Health and Human Services)

**HB 1662-FN**, relative to preparation of fiscal notes. (Finance)

**HB 1664-FN**, establishing a committee to study transferring election law enforcement to the secretary of state. (Public and Municipal Affairs)

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

**HB 1672**, apportioning delegates to state party conventions. (Internal Affairs)

**HB 1673-FN**, relative to complaints of election law violations. (Public and Municipal Affairs)

**HB 1687-FN**, relative to state employee information available on the state transparency website. (Finance)

**HB 1699-FN**, relative to driving under the influence of drugs. (Judiciary)

**HB 1703-FN**, requiring the school board to develop and implement a policy that incorporates the foundations of financial literacy into the school curriculum and instruction. (Education)

**HB 1719**, relative to the filing period for elections. (Public and Municipal Affairs)

**HB 1721**, relative to permitting for the replacement of sewage disposal systems and relative to oil spillage prevention, control, and countermeasure plans. (Energy and Natural Resources)

**HB 1722**, relative to disqualification of judges and lawyers from practicing in the circuit courts. (Judiciary)

**HJR 22**, supporting the use of an aversive agent in certain engine coolants and antifreeze to render them impalatable. (Transportation)



**REPORT OF COMMITTEE ON ENROLLED BILLS**

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

**HB 1170**, allowing municipalities to authorize the inclusion of a statement of the estimated tax impact of the budget and special warrant articles to be voted at annual meeting.

**HB 1488**, relative to the alternative budget procedure in a school administrative unit.

**SB 201**, apportioning state senate districts.

**Sen. Bradley 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 Bills:

**HB 592**, apportioning state representative districts and relative to the boundaries of wards.

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

**Adopted.**

**Out of Recess. Call Senate to Order.**

**MOTION TO ADJOURN FROM LATE SESSION**

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

**Adopted. Adjournment from the Late Session.**

# SENATE JOURNAL 7

*March 21, 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.

You are here to make choices; that's the role of leaders. But, before making those choices, it's important to ask a question. It's not necessary to ask this question; it's very possible—and even rather common—not to ask this question before making choices. In a busy day, I often catch myself making hundreds of decisions without asking this question. We make 35,000 choices a day. So, the context for making our choices is in question. I have a sign on the wall entering my house; all my guests have to read this sign before they enter my door. It says: Before you speak, is it kind? Is it true? Does it improve on the silence? So, perhaps a pre-decision question for a group of leaders—especially in the Senate—would be along those same lines. Before you vote, is it kind? Is it true? Does it improve on the lives of the poor and the marginalized? Let us pray.

*God of our decisions, help us to make good choices, and when we begin to falter in favor of choices which benefit us or someone else, forgive our wanderings and guide us home to our true selves. Amen.*

Sen. Houde led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS AND PRESENTATIONS**

Sen. Stiles introduced Elizabeth O'Malley and Noah Hartnett, students from Portsmouth High School, serving as Senate Pages today.

Sen. Prescott welcomed a class from the Lincoln Street School in Exeter, guests in the Senate gallery today.

**FINANCE REPORT**

Sen. Morse announces that the following bills will not come to Finance: SB 217-FN, SB 266-FN, SB 392-FN, SB 399-FN, HB 309-FN, SB 272-FN, SB 276-FN, SB 318-FN, SB 390-FN, SB 292-FN, SB 305-FN-A, SB 382-FN-L, SB 403-FN-A, SB 405-FN, HB 518-FN-A. Sen. Morse announces that the following bill, which is still in Health and Human Services Committee, will not come to Finance: SB 409-FN.

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 bill was removed from the Consent Calendar:

**SB 150-FN**, authorizing individuals and certain businesses to purchase health insurance from out-of-state insurance companies. Removed by Sen. D'Allesandro.

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

### ENERGY AND NATURAL RESOURCES

**SB 264**, relative to energy facility site evaluations. Inexpedient to Legislate, Vote 5-0. Senator Odell for the committee.

This bill would have made changes to the site evaluation process for energy facilities. The committee decided to use Senate Bill 215 as the vehicle to make changes to the site evaluation committee as recommended by the bill's prime sponsor.

**SB 344**, allowing the department of resources and economic development to cut vegetation in shoreland areas where public safety is of concern. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

This bill allows the department of resources and economic development to cut vegetation within the protected shoreland for purposes of addressing public safety concerns and requires two weeks' notice to the department of environmental services before such cutting takes place.

### Energy and Natural Resources

March 5, 2012

2012-1112s

06/04

### Amendment to SB 344

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

1 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, V(a)(2)(D)(vi) to read as follows:

(vi) Owners of lots and holders of easements on lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the waterfront buffer. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraph (g)(2) or (g)(3), or RSA 483-B:11, II. ***In addition, the commissioner of the department of resources and economic development may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of resources and economic development within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under subparagraphs (i) through (iv), the commissioner of the department of resources and economic development shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.***

2 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, V(b)(2)(A) to read as follows:

(A) Within the natural woodland buffer of a given lot the vegetation, except lawn, within at least 25 percent of the area outside the waterfront buffer shall be maintained unaltered or improved with additional vegetation. Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area to be maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased. ***In addition, the commissioner of the department of resources and economic development may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of resources and economic development within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under this subparagraph, the commissioner of the***

*department of resources and economic development shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.*

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

#### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**SB 256**, relative to public utilities commission contracts with consultants. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

As amended this bill requires that for investigations or proceedings involving the acquisition, merger, transfer, sale, or lease of the works or system of a public utility, the commission shall not enter into a contract with experts, accountants, or other assistants in an amount greater than \$250,000, including any contract extension, without the approval of the governor and council. For all other investigations or proceedings, the commission shall not enter into a contract with experts, accountants, or other assistants in an amount greater than \$100,000, including any contract extension, without the approval of governor and council.

#### **Senate Executive Departments and Administration**

**March 8, 2012**

**2012-1165s**

**01/04**

#### **Amendment to SB 256**

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

1 New Paragraph; Public Utilities Commission Contracts With Consultants. Amend RSA 365:37 by inserting after paragraph II the following new paragraph:

III. For investigations or proceedings involving the acquisition, merger, transfer, sale, or lease of the works or system of a public utility, the commission shall not enter into a contract with experts, accountants, or other assistants in an amount greater than \$250,000, including any contract extension, without the approval of the governor and council. For all other investigations or proceedings, the commission shall not enter into a contract with experts, accountants, or other assistants in an amount greater than \$100,000, including any contract extension, without the approval of governor and council.

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

**2012-1165s**

#### **AMENDED ANALYSIS**

This bill requires that certain public utilities commission contracts with consultants be approved by the governor and council.

#### **FINANCE**

**SB 320-FN**, directing the department of safety to subscribe to a scrap metal theft alert system. Inexpedient to Legislate, Vote 7-0. Senator Morse for the committee.

This legislation seeks to address the recent increase in criminal activity surrounding scrap metals. However the committee could not justify the fiscal impact at this time.

#### **PUBLIC AND MUNICIPAL AFFAIRS**

**SB 260**, relative to historic district commission regulations. Ought to Pass with Amendment, Vote 5-0. Senator Stiles for the committee.

This is enabling legislation that authorizes a planning board to take action to protect and preserve significant archeological deposits in conjunction with its exercise of subdivision or site plan review.

#### **Public and Municipal Affairs**

**March 7, 2012**

**2012-1131s**

**03/09**

#### **Amendment to SB 260**

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

AN ACT relative to protection and preservation of significant archeological deposits.

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

1 New Subdivision; Preservation of Archeological Deposits or Sites. Amend RSA 674 by inserting after section 42 the following new subdivision:

Preservation of Archeological Deposits or Sites

674:42-a Preservation of Archeological Deposits or Sites. In conjunction with its exercise of subdivision or site plan review, the planning board may take action to protect and preserve significant archeological deposits or sites that qualify as historic resources, as defined in RSA 227-C:1, VII. Prior to exercising such authority, the board shall adopt regulations providing for the protection of such deposits and sites. The board may seek the advice of the historic district commission or the heritage commission, or both, if such commissions exist, in adopting and applying such regulations.

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

**2012-1131s**

AMENDED ANALYSIS

This bill authorizes a planning board to take action to protect and preserve significant archeological deposits in conjunction with its exercise of subdivision or site plan review.

**SB 310**, requiring the commemoration of Purple Day in recognition of epilepsy awareness. Ought to Pass with Amendment, Vote 5-0. Senator Stiles for the committee.

This bill requires the Governor to issue proclamations for the observance of Purple Day, March 26, 2013 in support of epilepsy awareness, and Cancer Prevention Day, February 4, 2013 to promote cancer awareness through multiple outreach efforts.

**Public and Municipal Affairs**

**March 7, 2012**

**2012-1130s**

**04/01**

**Amendment to SB 310**

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

AN ACT relative to the commemoration of Purple Day in recognition of epilepsy awareness and relative to the observance of Cancer Prevention Day.

Amend the bill by replacing section 1 with the following:

1 Observance of Purple Day. The governor shall issue a proclamation calling for the proper observance of March 26, 2013 as Purple Day in support of epilepsy awareness and shall call on the citizens of New Hampshire to observe the day with appropriate ceremonies and activities.

2 Observance of Cancer Prevention Day.

I. In 2010, there were 2,700 deaths in New Hampshire from cancer and 8,350 new cases involving cancer were diagnosed in New Hampshire. The general court recognizes the efforts of the organizations and volunteer groups that promote awareness for the reduction of cancer.

II. The governor shall issue a proclamation calling for the proper observance of February 4, 2013 as Cancer Prevention Day promoting cancer awareness through multiple outreach efforts and calling on the citizens of New Hampshire to observe the day with appropriate ceremonies and activities.

**2012-1130s**

AMENDED ANALYSIS

This bill requires the governor to issue proclamations for the observance of Purple Day in support of epilepsy awareness, and Cancer Prevention Day to promote cancer awareness.

**SB 340**, relative to locations for junkyards. Ought to Pass with Amendment, Vote 5-0. Senator Forrester for the committee.

This bill allows municipalities that have not adopted zoning ordinances to establish setback requirements for junkyards and automotive recycling yards.

**Public and Municipal Affairs**  
**March 7, 2012**  
**2012-1140s**  
**08/10**

**Amendment to SB 340**

Amend the bill by replacing section 1 with the following:

1 Junkyards; Location Requirements. Amend RSA 236:118, III to read as follows:

III. Unless a lesser setback is allowed by local zoning ordinance, ***or an ordinance adopted pursuant to paragraph IV***, in no case may a license be granted for a new junk yard or automotive recycling yard located:

(a) Less than 660 feet from the right-of-way lines of a non-interstate class I, class II, class III, or class III-a highway; or

(b) Less than 300 feet from the right-of-way lines of class IV, class V, and class VI highways.

***IV. In a municipality that has not enacted a zoning ordinance, the local governing body may adopt an ordinance establishing lesser setback requirements than those established in paragraph III.***

**2012-1140s**

**AMENDED ANALYSIS**

This bill allows municipalities that have not adopted zoning ordinances to establish setback requirements for junk yards and automotive recycling yards.

**SB 351**, relative to proclaiming Blue Star Mother's Day. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

This bill requires the Governor to issue a proclamation for the observance of Blue Star Mother's Day, May 19, 2013, recognizing and honoring all mothers who now have, or have had children honorably serving in the United States Armed Forces.

**Public and Municipal Affairs**  
**March 7, 2012**  
**2012-1139s**  
**08/04**

**Amendment to SB 351**

Amend the bill by replacing section 1 with the following:

1 Blue Star Mother's Day. The governor shall issue a proclamation calling for the proper observance of the first Sunday after Mother's Day on May 19, 2013 as Blue Star Mother's Day recognizing and honoring all mothers who now have, or have had, children honorably serving in the United States Armed Forces. The governor shall urge the citizens of this state to observe this day with appropriate events.

**SB 389-L**, relative to sewer commission costs. Ought to Pass, Vote 5-0. Senator Stiles for the committee.

This bill clarifies costs for which sewer commissions are responsible.

**TRANSPORTATION**

**SB 390-FN**, establishing a special number plate to benefit the New England Patriots Charitable Foundation. Interim Study, Vote 5-0. Senator Kelly for the committee.

This legislation sought to establish a special number plate to benefit the New England Patriots Charitable Foundation in furtherance of its' mission of assisting youth and families with proceeds to be apportioned and distributed for charitable purposes in New Hampshire and also directed a portion of the proceeds to the NH treasurer for deposit in the general fund. The Committee had concerns regarding the constitutionality of the bill and therefore voted to recommend that it be referred to interim study.

**WAYS AND MEANS**

**SB 395**, relative to construction of an access road on land in current use. Ought to Pass with Amendment, Vote 6-0. Senator Rausch for the committee.

This legislation allows an adjoining property owner, utilizing an existing right of way, to be assessed the land use tax penalty for construction of an access road if such road construction would constitute a change in use. Such land would remain in current use for the owner of the land.

**Senate Ways and Means**  
**March 6, 2012**  
**2012-1120s**  
**10/04**

**Amendment to SB 395**

Amend the bill by replacing section 1 with the following:

1 Current Use Taxation; Land Use Change Tax; Road Construction. Amend RSA 79-A:7, VI(e) to read as follows:

(e) A road is constructed on an existing right-of-way on current use land solely for the purpose of access to an adjoining lot where the owner of the land in current use does no other activity changing the use of the land under this section and does not share any ownership interest in the adjoining lot. Provided, however, and notwithstanding any other provision of law to the contrary, that if such road construction on an existing right-of-way would constitute a change in use if done by the owner of the land in current use, then the owner of such adjoining property utilizing the road for access shall be responsible for and shall be assessed the land use change tax penalty *on such land* as provided for in this section, *although such land in current use shall remain in current use*. Enforcement and collection proceedings shall be applied to the party responsible for the payment of the penalty under this subparagraph.

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

**REGULAR CALENDAR REPORTS**

**COMMERCE**

**SB 203-FN-A**, relative to limited liability companies. Ought to Pass with Amendment, Vote 4-0. Senator De Blois for the committee.

**Commerce**  
**March 13, 2012**  
**2012-1214s**  
**03/09**

**Amendment to SB 203-FN-A**

Amend RSA 304-C:5, II as inserted by section 2 of the bill by replacing it with the following:

II. Domestic limited liability companies formed on or before December 31, 2012 shall be governed by the New Hampshire limited liability company act until January 1, 2014. On and after January 1, 2014, this act shall govern all limited liability companies. However:

(a) If all of the members of any domestic limited liability company formed on or before December 31, 2012 elect, in writing, to be governed by this act as in effect on January 1, 2013, the domestic limited liability company shall be governed by this act as in effect on the effective date of the election.

(b) Notwithstanding any other provision of this section, a domestic limited liability company formed on or before December 31, 2012 shall be governed by its operating agreement, whether written, oral, or implied, to the extent that this operating agreement overrides any nonmandatory provision of the New Hampshire limited liability company act or of this act.

Amend RSA 304-C:110 as inserted by section 2 of the bill by inserting after paragraph IV the following new paragraph:

V. However, unless the operating agreement provides otherwise, a member or manager shall not be subject to a duty set forth in this section if:

(a) The member or manager discloses the material facts concerning an action which the member or manager wants to take that may breach the duty; and

(b) Before the member or manager takes the action, it is approved by majority vote of the disinterested members.

Amend RSA 304-C:53 as inserted by section 2 of the bill by deleting paragraph IV.

Amend RSA 304-C:65, II as inserted by section 2 of the bill by replacing it with the following:

II. Unless the operating agreement provides otherwise, the number of votes that each member shall be entitled to cast on each matter on which the members may vote shall be proportionate to the member's share of contributions of cash, property, and services to the limited liability company in connection with its formation.

Amend RSA 304-C:66, II as inserted by section 2 of the bill by replacing it with the following:

II. Unless the operating agreement provides otherwise, the following types of matters shall require the affirmative vote of the members of manager-managed limited liability companies:

- (a) Whether to compromise a member's promise to make a contribution to the limited liability company;
- (b) Whether the limited liability company shall indemnify a member or other person;
- (c) Whether the limited liability company shall admit a new member;
- (d) Whether a member may transfer or pledge all or any part of the member's membership rights, except that, unless the operating agreement provides otherwise, a member may transfer all or any part of the member's limited liability company interest without a vote by the other members;
- (e) Whether the limited liability company interest may grant additional membership rights to a member;
- (f) Whether to remove a manager;
- (g) Whom to appoint to replace a manager who has ceased to be a manager;
- (h) Whether and on what terms the limited liability company may sell all or substantially all of its assets outside the ordinary course of business;
- (i) Whether and on what terms the limited liability company may change its business organization form under RSA 304-C:149;
- (j) Whether and on what terms the limited liability company may participate in a merger;
- (k) Whether and on what terms the limited liability company may be dissolved; and
- (l) Whether a member may take an action that breaches the member's duty of loyalty or any duty subsidiary to that duty.

Amend RSA 304-C as inserted by section 2 of the bill by inserting after section 105 the following new section:

304-C:105-a Right of Legal Representatives of Certain Dissociated Members to Exercise Members' Membership Rights.

I. Unless the operating agreement provides otherwise, and subject to RSA 304-C:153, upon the dissociation of a member under RSA 304-C:100, V because of the member's death, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the membership rights held by the member immediately before the member's death for the purpose of settling the member's estate or administering the member's property.

II. Unless the operating agreement provides otherwise, upon the dissociation of a member under RSA 304-C:100, VI because of a determination that the member is incapacitated, the member's legal representative may, for a period of one year after the date of the determination, exercise all of the membership rights held by the member immediately before the date of the determination.

III. Unless the operating agreement provides otherwise, upon the dissociation of a member that is a corporation, trust, or other entity under RSA 304-C:101 because of the entity's dissolution or termination, all of the membership rights held by the member immediately before the effective date of the dissolution or termination may be exercised by its legal representative or successor for the purposes of winding up its affairs.

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

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

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

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

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

**Yeas: 24 - Nays: 0**

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

**SB 204**, adopting amendments to Article 9 of the Uniform Commercial Code relative to secured transactions. Ought to Pass with Amendment, Vote 4-0. Senator Sanborn for the committee.

**Commerce**

**March 6, 2012**

**2012-1118s**

**05/04**

**Amendment to SB 204**

Amend the bill by replacing section 18 with the following:

18 Uniform Form of Written Financing Statement and Amendment. RSA 382-A:9-521 is repealed and reenacted to read as follows:

382-A:9-521 Uniform Form of Written Financing Statement and Amendment. A filing office that accepts written records shall not refuse to accept a written initial financing statement, addendum, or amendment in the form and format set forth in the official text of the 2010 amendments to Article 9 of the Uniform Commercial Code promulgated by the American Law Institute and the Uniform Law Commission, or in such form and format as may be subsequently adopted by the American Law Institute, the Uniform Law Commission, or the International Association of Commercial Administrators, except for a reason set forth in Section 9-516(b).

**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.**

**SB 212-FN**, relative to pooled risk management programs. Ought to Pass with Amendment, Vote 3-1. Senator White for the committee.

**Commerce**

**March 13, 2012**

**2012-1215s**

**01/09**

**Amendment to SB 212-FN**

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

1 Pooled Risk Programs; Purpose: Definitions; Categories of Coverage. RSA 5-B:1-RSA 5-B:3 are repealed and reenacted to read as follows:

5-B:1 Purpose. The purpose of this chapter is to provide for the establishment of pooled risk management programs and to affirm the status of such programs for the benefit of political subdivisions of the state. The purpose of this chapter is also to give structure and clarity to the regulation and operation of pooled risk management programs.

5-B:1-a Findings. The legislature finds that:

I. Insurance and risk management is essential to the proper functioning of political subdivisions.

II. Risk management can be achieved through purchase of traditional insurance or by participation in pooled risk management programs established for the benefit of political subdivisions.

III. Pooled risk management is an essential governmental function by providing focused public sector loss prevention programs, accrual of interest and dividend earnings which may be returned to the public benefit, and establishment of costs predicated solely on the actual experience of political subdivisions within the state.

IV. The resources of political subdivisions have at times been burdened by the securing of insurance protection through standard carriers, and that pooled risk management programs which meet the standards established by this chapter should not be subject to department of insurance regulation and taxation by the state, or regulated as insurance companies.



V. Although regulated by the department of state, programs which meet the standards established by this chapter shall not be subject to the bureau of securities regulation's oversight, unless a clear and specific securities-related infraction has occurred.

5-B:2 Definitions. In this chapter:

I. "Annual filing" means an annual filing with the department made for the purpose of providing public access to certain information concerning the nature and organization of pooled risk management programs. Such annual filing shall include but not be limited to the following:

- (a) The name and legal address of each pooled risk management program.
- (b) A list of current officers, their titles and addresses.
- (c) A brief description of the coverage provided.
- (d) The annual audit of financial transactions required under RSA 5-B:5, I(d).
- (e) A written plan of operation or bylaws.
- (f) The annual actuarial accounting required under RSA 5-B:5, III.
- (g) A policy adopted on an annual basis by the board of the risk pool management program regarding the level of reserves needed and a description of the principles utilized by the board to set that policy.
- (h) A policy adopted by the board on an annual basis related to the timing of returning any surplus to the pool members and a description of the principles utilized by the board in setting that policy.
- (i) The amount of reserves, contingency reserves listed by the categories outlined in paragraph IV(b), any surplus at the end of the fiscal year.
- (j) The amount of any surplus returned to members.
- (k) A policy adopted by the board on an annual basis regarding program investments and investment management.
- (l) A list of all securities held at year end, including, if applicable, each security's purchase and sale date, price, the number of shares held, and final maturity.

II. "Department" means the department of state, but shall not include the bureau of securities regulation, except as provided in RSA 5-B:1.

III. "Political subdivision" means any city, town, county, school district, chartered public school, village district, school administrative unit, or any district or entity created for a special purpose administered or funded by any of the above named governmental units. "Political subdivision" intentionally and specifically does not mean the state.

IV. "Reserves" shall mean and include the amounts of program assets in the following categories:

- (a) Reserves for program liabilities, including claims reported but unpaid, claims incurred but unreported, unallocated loss adjustment expenses, and the reasonable and prudent administrative expenses associated with such claims.
- (b) Contingency reserves to meet the future needs of the program, including protection from excess losses, catastrophic losses, insufficient contributions and underwriting risk, losses on rate guarantees, reinsurance denial or failure, investment losses, and capital expenses not included in the rates.

V. "Risk management" means the defense of claims and indemnification for losses arising out of the ownership, maintenance, and operation of real or personal property and the acts or omissions of officials, employees, and agents; the provision of loss prevention services including, but not limited to, inspections of property and the training of personnel; and the investigation, evaluation, and settlement of claims by and against political subdivisions. Risk management also means and includes disease management, medical management, legal risk management, wellness programs and incentives, and educational programs directly related to the risks covered under this chapter.

VI. "Surplus" means the amount of assets in excess of the sum of reserves as defined in paragraph IV. Assets for purposes of this paragraph shall not include fixed assets, prepaid expenses, or any other amount required to be recognized as an unrealized gain or loss under generally accepted accounting principles (GAAP).

### 5-B:3 Pooled Risk Management Authorized and Affirmed; Membership.

I. A political subdivision, by a properly documented majority resolution of its governing body, may establish and enter into agreements for obtaining or implementing insurance by self-insurance; for obtaining insurance from any insurer authorized to transact business in this state as an admitted or surplus lines carrier; or for obtaining insurance secured in accordance with any method provided by law; or for obtaining insurance by any combination of the provisions of this paragraph. Agreements made pursuant to this paragraph may provide for pooling of self-insurance reserves, risks, claims and losses, and of administrative services and expenses associated with them among political subdivisions. To accomplish the purposes of this chapter, 2 or more political subdivisions may form an association under the laws of this state or affirm an existing association so formed to develop and administer a risk management program having as its purposes reducing the risk of its members; improving the health and wellness of the employees, dependents, and retirees of its members; safety engineering; distributing, sharing, and pooling risks; acquiring insurance, excess loss insurance by purchase or by self-funding, or reinsurance; and processing, paying, and defending claims against the members of such association.

II. In a pooled risk management program's budget there shall be a separate line item accounting for advocacy work.

III. Pooled risk management programs shall be subject to the provisions of RSA 31:8-a.

IV. RSA 53-A shall not apply to an association formed or affirmed under this chapter, nor to the participation in such an association by a political subdivision.

V.(a) Any association formed or affirmed under this chapter offering pooled risk management programs established for the benefit of political subdivisions may provide any or all of the following coverages; provided that each pooled risk management program shall only provide one of 2 such categories of coverage:

(1) Property and casualty coverage:

(A) Casualty, including general and professional liability; errors and omissions; workers' compensation and employer's liability; medical expense reimbursement payments; or unemployment compensation as authorized under federal law.

(B) Property, including marine and inland navigation, transportation, boiler and machinery; fire, theft, or natural hazards.

(C) Vehicle, including any liability or loss arising from the ownership or operation of vehicles.

(D) Surety and fidelity.

(E) Environmental impairment.

(F) Third party liability protection.

(G) Public official schedule bonds.

(H) Faithful performance and crime coverage.

(I) Legal fee protection.

(2) Employee benefit coverage:

(A) Hospital, medical, or surgical benefits for employees, retirees, and their dependents.

(B) Life, accidental death and dismemberment, vision loss or impairment benefits for employees, retirees, and their dependents.

(C) Short-term or long-term disability coverage for employees.

(D) Dental coverage for employees, retirees, and their dependents.

(E) Legal benefits for employees.

(F) Flexible spending account services, COBRA administration services and retiree billing services.

(G) Wellness programs for employees, retirees, and their dependents.

(H) Prescription drug coverage for employees, retirees, and their dependents.

(b) Pharmacy benefit management programs with the state are specifically prohibited.

2 Pooled Risk Programs; Annual Filing Requirements. Amend RSA 5-B:4 to read as follows:

5-B:4 ~~[Informational]~~ **Annual** Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an ~~[informational]~~ **annual** filing, as defined in RSA 5-B:2, [H] **I**, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under RSA 421-B:26-a over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this ~~[section]~~ **chapter** as long as their operations and reports conform to the laws and rules adopted by those departments.

3 Pooled Risk Programs; Authority of the Secretary of State; Investigations; Cease and Desist Orders; Penalties. Amend RSA 5-B:4-a to read as follows:

5-B:4-a Authority of the Secretary of State; Investigations; Cease and Desist Orders; Penalties.

I. Notwithstanding any other provision of law, the secretary of state shall have exclusive authority and jurisdiction:

(a) To bring administrative actions to enforce this chapter.

(b) To investigate and impose penalties for violations of this chapter, including but not limited to:

(1) Fines.

(2) Rescission, restitution, or disgorgement.

II. The secretary of state shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter.

III. For the purpose of any investigation, hearing, or proceeding under this chapter, the secretary of state or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the secretary of state deems relevant or material to the inquiry.

IV. In the event that a person refuses to obey a subpoena issued to him or her or any order or determination the secretary of state is authorized to make, the superior court, upon application by the ~~[attorney general or]~~ secretary of state or any officer designated by the secretary of state, may issue to the person an order directing him or her to appear before the ~~[attorney general or]~~ secretary of state, or the officer designated by him or her, to produce documentary evidence if so ordered or to give evidence relative to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter.

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter, the secretary of state shall have ~~[the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with RSA 421-B:26-a]~~ **all enforcement powers outlined in RSA 421-B:23. All examinations of a pooled risk management program established under this chapter shall be conducted in accordance with the procedures outlined in RSA 421-B:9.**

VII. The following fines and penalties may be imposed on any person who has violated this chapter.

(a) Any person who, either knowingly or negligently, violates any provision of this chapter or any rule or order thereunder, may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine ~~[not to exceed \$2,500]~~. Each of the acts specified shall constitute a separate violation.

(b) After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter, or rule or order under this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter.

**VIII. Appeals of administrative orders requiring rescission, restitution, or disgorgement shall be by de novo review by the superior court in Merrimack county.**

**IX.** Decisions of the secretary of state may be appealed to the supreme court pursuant to RSA 541.

4 Pooled Risk Programs; Requirements for Organization and Operation. Amend RSA 5-B:5 to read as follows:

5-B:5 Standards of Organization and Operation.

I. Each pooled risk management program shall meet the following standards of organization and operation. ***Each program shall be organized into one of the 2 categories of pools enumerated in RSA 5-B:3, V, and be separate and distinct from each other, to include no comingling of funds between distinct pools, and to have separate and distinct boards of directors for each pool.*** Each program shall:

(a) Exist as a [legal entity] ***nonprofit corporation organized*** under [New Hampshire law] ***RSA 292. No other organizational structures shall be permitted.***

(b) Be governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses. ***All new board members after the effective date of this section shall serve a maximum of 3 3-year terms. After 2 years such former board members may return as members. Each board shall govern each distinct program based upon the needs of the member political subdivisions and in compliance with all provisions of this chapter, consistent with its fiduciary duties and business judgment.***

(c) Return all earnings and surplus in excess of any amounts required for [administration,] claims, reserves, [and] ***the purchase of excess insurance, and reasonable costs of administration*** to the participating political subdivisions, ***to be paid to the political subdivisions which contributed to the pooled risk management program, annually. Management, investment, and return of such funds shall comply with all provisions of RSA 41:29, RSA 32, and RSA 35. Reserves under this chapter shall not exceed 25 percent of any pooled risk management program's total annual average premium receipts for the prior 3 years for each separate program enumerated in RSA 5-B:3, V, unless detailed findings of fact supporting deviation from this limit are submitted to and approved by a majority of the member political subdivisions. All such funds shall be returned in the form of a premium reduction for the following year or by check, the choice of which shall be made by the member communities. The treasurer of the political subdivision shall deposit the check into the account which was the original source of funding if that is the refund method applicable.***

(d) [Provide for] ***Submit and pay for*** an annual audit of financial transactions by an independent certified public accountant ***chosen by board of directors.*** [The audit shall be filed with the department and distributed to participants of each pooled risk management program.]

(e) ***Submit to such other financial accountings as may be reasonably requested by member political subdivisions, which shall pay for such an accounting.***

(f) Be governed by written bylaws which shall detail the terms of eligibility for participation by political subdivisions, the governance of the program and other matters necessary to the program's operation. Bylaws and any subsequent amendments shall be filed with the department ***and shall be posted prominently on the program's website. Reasonable rules and conditions may be adopted regarding returning to the pooled risk program, if they are only to prevent adverse selection or otherwise harming the remaining political subdivisions in the pool. Such rules shall be adopted in advance and communicated in writing to the secretary of state and members, and contained in the bylaws of each pool.***

[f] Provide for an annual actuarial evaluation of the pooled risk management program. The evaluation shall assess the adequacy of contributions required to fund any such program and the reserves necessary to be maintained to meet expenses of all incurred and incurred but not reported claims and other projected needs of the plan. The annual actuarial evaluation shall be performed by a member of the American Academy of Actuaries qualified in the coverage area being evaluated, shall be filed with the department, and shall be distributed to participants of each pooled risk management program.

(g) Provide notice to all participants of and conduct 2 public hearings for the purpose of advising of potential rate increases, the reasons for projected rate increases, and to solicit comments from members regarding the return of surplus, at least 10 days prior to rate setting for each calendar year.]

**II. Membership in a pooled risk management program established and operated pursuant to this chapter shall not be considered a security under RSA 421-B.**

**III. Each pooled risk management program shall provide for an annual actuarial accounting of the pooled risk management program, which shall assess the adequacy of contributions required to fund any such program and the reserves necessary to be maintained to meet the expenses of all incurred and incurred but not reported claims and other projected needs of the plan. This evaluation shall be performed by a member of the American Academy of Actuaries qualified in the coverage area being evaluated, filed with the department, and distributed to participants of each pooled risk management program.**

**IV. Each pooled risk management program shall conduct 2 annual meetings to advise participants of proposed rates and to elect board members, providing notice to all pooled risk management program participants by means of a prominent posting on its website.**

**V. The rates proposed by any pooled risk management program established under this chapter shall be uniform among all pooled risk management program's participants or health pool groups under 51 lives, and shall be variable for taking into account credible experience within rate bands having a maximum deviation from baseline of plus or minus 15 percent totaling 30 percent in aggregate, due to prior credible claim loss experience underwriting for health pool groups of 51 lives or over. For all other programs except health, this rule shall not apply.**

**VI. If a pooled risk management program fails to provide for an annual [audit] *accounting* or an annual actuarial [evaluation] *accounting*, the department shall perform or cause to be performed the required [audit] *accounting* or [evaluation] *actuarial* accounting and shall be reimbursed the [cost] *costs* by the program.**

**VII. Within 60 days following a risk pool's submission of its annual informational filing, the department shall acknowledge the sufficiency of such filing by:**

**(a) Notifying the risk pool that its informational filing is in order;**

**(b) Requesting additional information from the risk pool; or**

**(c) Notifying the risk pool of alleged deficiencies and providing the risk pool with a reasonable time to cure such deficiencies, failing which the department shall take such administrative action pursuant to RSA 5-B:4-a as is necessary to enforce the provisions of this chapter.**

5 Declaration of Status; Tax Exemption; Liability. Amend RSA 5-B:6 to read as follows:

5-B:6 Declaration of Status; Tax Exemption; Liability.

**I. Any pooled risk management program meeting the standards required under this chapter is not an insurance company, reciprocal insurer, or insurer under the laws of this state, and administration of any activities of the plan shall not constitute doing an insurance business for purposes of regulation or taxation. If the standards required under this chapter are not met by the pooled risk program, these exemptions shall not apply to that pooled risk program.**

**II. Any such program operating under this chapter[~~, whether or not a body corporate,~~] may sue or be sued; make contracts; hold and dispose of real property; and borrow money, contract debts, and pledge assets in its name.**

**III. Participation by a political subdivision in a pooled risk management program formed and affirmed under this chapter shall not subject any such political subdivision to any liability to any third party for the acts or omissions of the pooled risk management program or any other political subdivision participating in the program.**

**IV. Pooled risk management programs operated in accordance with this chapter shall not be deemed to be offering securities or engaged in the sale of securities, and they shall not be subject to regulation under RSA 421-B.**

6 Confidentiality of Certain Claims Information. RSA 5-B:7 is repealed and reenacted to read as follows:

5-B:7 Confidentiality of Certain Claims Information. Notwithstanding any provision of law to the contrary, any information of any pooled risk management program formed or affirmed under this chapter pertaining to claims analysis or claims management shall be privileged and confidential and not subject to disclosure to any third party. Private health information protected under the Health Insurance Portability and Accountability Act (HIPAA) or any other state or federal law shall also be considered privileged and confidential and not subject to disclosure to any third party. Any proprietary commercial information which could provide an unfair business advantage to a competing entity offering similar risk coverage shall be considered confidential and not subject to disclosure under RSA 91-A. For purposes of this section, proprietary commercial information shall include the substance of the pooled risk management program's agreements and arrangements with vendors, contractors, suppliers, agents, third party administrators, and insurance carriers.

5-B:8 Task Force For Review of New Information Established.

I. There is established a task force to review new information which may come to light regarding pooled risk management programs established pursuant to this chapter. The members of the task force shall be as follows:

- (a) The president of the senate, or designee.
- (b) The speaker of the house of representatives, or designee.
- (c) The governor, or designee.
- (d) The secretary of state, or designee.

II. Legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

III. The task force shall meet at the call of the secretary of state when new information comes to light regarding pooled risk management programs established pursuant to this chapter. The task force may hold public hearings with notice placed in a newspaper of general circulation not less than 5 days before the date fixed for the hearing. The task force may recommend proposed legislation if necessary.

7 Pooled Risk Management Programs; Exemption. Amend RSA 402-H:11-b to read as follows:

402-H:11-b Exemption. An association administering a pooled risk management program operated pursuant to RSA 5-B or conducting business that is exempt from taxation under the Internal Revenue Code, section 115 shall not be required to obtain a certificate of authority or to meet the other requirements of this chapter for services provided in connection with the administration of its pooled risk management plans or its section 115 business, but shall be required to register with the commissioner *of insurance* pursuant to RSA 402-H:11-a. Pooled risk management program registration may be accomplished by providing the commissioner *of insurance* a copy of the [informational] **annual accounting** filing required to be filed with the department of state pursuant to RSA 5-B:4.

8 Repeal. 2010, 149:8, III, relative to a repeal of authority of the secretary of state to investigate, issue cease and desist orders, and impose penalties regarding pooled risk programs, is repealed.

9 Applicability. Any RSA 5-B enforcement action pending as of July 1, 2012 shall remain under the jurisdiction of the secretary of state and bureau of securities regulation.

10 Effective Date.

- I. RSA 5-B:3, V(b) as inserted by section 1 of this act shall take effect January 1, 2014.
- II. The remainder of this act shall take effect July 1, 2012.

**2012-1215s**

AMENDED ANALYSIS

This bill:

- I. Makes changes in the laws regulating pooled risk management programs.
- II. Requires pooled risk management programs to return any surplus annually in the form of a premium reduction or by check to the appropriate political subdivisions.
- III. Establishes a task force which shall meet at the call of the secretary of state whenever new information comes to light regarding pooled risk management programs established pursuant to RSA 5-B.

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

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

**SB 245**, relative to health care sharing organizations. Ought to Pass with Amendment, Vote 4-0. Senator Sanborn for the committee.

**Commerce**  
**March 6, 2012**  
**2012-1117s**  
**01/09**

**Amendment to SB 245**

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

II. In this section, a "health care sharing organization" means a faith-based nonprofit organization that has been in existence continuously and has facilitated the sharing of medical expenses of participants without interruption since December 31, 1999, that is tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code, which limits its participants to individuals who share a common set of ethical or religious beliefs, and whose participants share medical expenses in accordance with those beliefs.

**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.**

**SB 336**, relative to insurance payments for health care providers. Ought to Pass with Amendment, Vote 4-0. Senator De Blois for the committee.

**Commerce**  
**March 6, 2012**  
**2012-1119s**  
**01/04**

**Amendment to SB 336**

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

AN ACT relative to medical payments coverage.

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

1 Medical Payments Coverage. Amend RSA 264:16, III-V to read as follows:

III. Medical payments coverage shall not be assignable to any health care provider *and no health care provider shall submit, on behalf of an insured, a claim to an auto insurer for payment under the medical payments provision in a motor vehicle liability policy subject to this section.*

*IV. An auto insurer shall make payments for medical costs under medical payments coverage as follows:*

*(a) Upon submission by the policyholder of a claim for an incurred but unpaid medical cost without further instruction, payment of the claim shall be made in the name of the policyholder and the provider and sent to the policyholder.*

*(b) Upon submission by a policyholder of a claim for an incurred but unpaid medical cost with express instruction from the policyholder directing payment be made to the provider, payment shall be made only in the name of the provider and sent directly to the provider.*

*(c) Upon submission by the policyholder of a claim for a paid medical cost, payment shall be made in the name of the policyholder and sent to the policyholder.*

[IV:] V. The insured shall have the exclusive right to submit a claim for medical expenses under either medical payments coverage or a health insurance policy or both, as the insured elects; provided, however, an insured shall not be entitled to duplicate payment from medical payments coverage and a health insurance policy for the same medical expense.

[V:] VI. This section shall not apply to any commercial policy insuring more than 4 automobiles, nor to any commercial policy covering a garage, automobile sales agency, repair shop, service station, public parking place operation hazards, or trucking operation.

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

**2012-1119s**

**AMENDED ANALYSIS**

This bill clarifies payments under medical coverage under motor vehicle policies.

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

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

**Sen. White moved to remove SB 222 from the table. Adopted.**

**Sen. White asserts Rule 2-15 on SB 222.**

**COMMERCE**

**SB 222**, relative to property and casualty insurance. Ought to Pass with Amendment, Vote 4-0. Senator Prescott for the committee.

**Commerce**

**February 7, 2012**

**2012-0653s**

**01/04**

**Amendment to SB 222**

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 6:

4 Investigations; Enforcement. Amend RSA 400-A:16, III(b) to read as follows:

(b) The commissioner may share documents, materials, or other information, including the confidential and privileged documents, materials, or other information under paragraph III, with other state, federal, and international regulatory agencies *including the Bank for International Settlements*, with the *International Association of Insurance Supervisors or the* National Association of Insurance Commissioners, [its] *their* affiliates or subsidiaries, and with state, federal, and international law enforcement authorities; provided, that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

5 Examinations. Amend RSA 400-A:37, IV-a(e)(1) to read as follows:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subparagraphs (a) and (b), with other state, federal, and international regulatory agencies *including the Bank for International Settlements*, with the *International Association of Insurance Supervisors or the* National Association of Insurance Commissioners and [its] *their* affiliates and subsidiaries, and with state, federal, and international law enforcement authorities; provided, that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information.

**2012-0653s**

**AMENDED ANALYSIS**

This bill makes technical corrections in the laws relating to property and casualty insurance. This bill also clarifies the insurance commissioner's ability to share information during investigations and examinations.

This bill is a request of the insurance department.

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

**Sen. White asserts Rule 2-15 on SB 222.**

**Sen. White offered a floor amendment.**

**Sen. DeBlois, Dist. 18**

**Sen. White, Dist. 9**

**March 14, 2012**

**2012-1234s**

**01/10**

**Floor Amendment to SB 222**

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



AN ACT relative to property and casualty insurance, insurance investigations, and insurance certificates. Amend the bill by replacing all after section 5 with the following:

6 Certificates of Insurance. Amend RSA 412:6-b, II(b)(1) to read as follows:

(1) Each certificate shall contain the following statement, *or language substantially similar*, in sufficient font and size and located on the certificate to be readily identifiable:

“This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policy or policies referenced herein.”

7 Certificates of Insurance. Amend RSA 412:6-b, II(b)(4) to read as follows:

(4) No person shall prepare or issue a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance referenced in the certificate; *provided that with respect to subparagraph (3) and this subparagraph a certificate may show an umbrella/excess liability limit less than the actual policy limit if the certificate is issued with respect to a particular agreement or contract and such lower limit meets the requirements of the agreement.*

8 Certificates of Insurance. Amend RSA 412:6-b, II(e) to read as follows:

(e) An insurance producer may charge a reasonable fee for providing a certificate. *A fee shall be reasonable if it accurately reflects the actual effort and cost to the producer required to prepare and issue the certificate.*

9 Repeal. RSA 412:43, III, relative to rulemaking regarding certificates of insurance, is repealed.

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

**2012-1234s**

#### AMENDED ANALYSIS

This bill:

I. Makes technical corrections in the laws relating to property and casualty insurance.

II. Clarifies the insurance commissioner’s ability to share information during investigations and examinations.

III. Clarifies the law regarding certificates of insurance.

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

**Sen. White asserts Rule 2-15 on SB 222.**

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

**Sen. White asserts Rule 2-15 on SB 222.**

**Sen. White moved to remove SB 335 from the table. Adopted.**

**Sen. White asserts Rule 2-15 on SB 335.**

#### COMMERCE

**SB 335**, establishing a procedure for certain condominiums to waive portions of the state fire code. Inexpedient to Legislate, Vote 2-2. Senator Houde 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. Houde.**

**The following Senators voted Yes: Forrester, Bradley, Houde, Odell, Kelly, Luther, Carson, Larsen, D’Allesandro, Merrill, Prescott.**

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

**Yeas: 11 - Nays: 13**

**Failed.**

**Sen. White asserts Rule 2-15 on SB 335.**

**Sen. White moved Ought to Pass.**

**Recess. Out of recess.**

**Sen. Bradley moved to Lay on the Table SB 335. Adopted.**

**Sen. White asserts Rule 2-15 on SB 335.**

## **EDUCATION**

**SB 372-FN-L**, establishing an education credit against the business profits tax. Ought to Pass with Amendment, Vote 3-1. Senator Forsythe for the committee.

### **Senate Education**

**March 7, 2012**

**2012-1128s**

**04/10**

### **Amendment to SB 372-FN-LOCAL**

Amend the title of the bill to read as follows:

AN ACT establishing an education tax credit.

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

#### **1 Purpose.**

##### **I. The general court finds that:**

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

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

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

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

##### **II. The purpose of this act is to:**

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

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

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

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

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

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

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

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

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

CHAPTER 77-G  
EDUCATION TAX CREDIT

77-G:1 Education Tax Credit.

I. The following definitions shall apply in this chapter:

- (a) "Business organization" shall be as defined in RSA 77-A:1, I.
- (b) "Business enterprise" shall be as defined in RSA 77-E:1, III.
- (c) "Donation receipt" means a document submitted by a scholarship organization that contains at a minimum:
  - (1) The business organization's or business enterprise's name, address, and federal taxpayer identification number.
  - (2) The scholarship organization's name and address.
  - (3) The donation amount and date received.
- (d) "Educational expenses" means the tuition cost of an eligible student to attend a public or nonpublic school, excluding students who were placed into a nonpublic school by their school district, and in the case of a home educated student, the academic expenses not to exceed 25 percent of the average scholarship as defined in subparagraph II(b), incurred in a child's home schooling. Educational expenses shall not include fees or expenses related to participation in athletic programs, transportation expenses, or the cost of a parent's time expended in the home schooling of his or her child.
- (e) "Education tax credit application" means a document developed by the department of revenue administration and submitted by a business organization or business enterprise that contains at a minimum:
  - (1) The business organization's or business enterprise's name, address, and federal taxpayer identification number.
  - (2) A contact person's name, title, and phone number.
  - (3) The requested donation amount.
  - (4) A signed statement certifying that the business organization or business enterprise agrees to make donations in accordance with the requirements established in this chapter.
- (f) "Eligible student" means a New Hampshire resident who is at least 5 years of age and no more than 20 years of age, has not graduated from high school, and
  - (1)(A) Who is currently attending a New Hampshire public school, including a chartered public school, and for whom the state would be paying an adequate education grant in the next school year if the student remained in the public school or chartered public school; or
  - (B) Who received a scholarship under subparagraph (A) or this subparagraph in the prior program year; or
  - (C) Who does not qualify under subparagraphs (A) or (B); and
  - (2) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9909(2). The scholarship organization shall verify eligibility under this subparagraph.
- (g) "Nonpublic school" shall be as defined in RSA 193-A:1.
- (h) "Owner or operator" means an owner, president, officer, or director of an eligible nonprofit scholarship organization or a person with equivalent decision making authority over an eligible nonprofit scholarship organization.
- (i) "Parent" means the natural or adoptive parent or legal guardian of a child.
- (j) "Program year" means the year beginning January 1 and ending December 31.

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

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

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

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

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

(l) “Receiving school” means a public or nonpublic school which the eligible student seeks to attend.

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

(n) “Scholarship organization” means a charitable organization incorporated or qualified to do business in this state that:

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

(2) Complies with applicable state and federal antidiscrimination provisions;

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

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

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

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

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

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

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

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

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

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

(1) The number of scholarships granted under subparagraph I(f)(1)(A).

(2) The number of scholarships granted under subparagraph I(f)(1)(B).

(3) The number of scholarships granted under subparagraph I(f)(1)(C).

(4) The total dollar amount of all scholarships granted.

(5) The total dollar amount of donations spent on administrative expenses pursuant to subparagraph V(f).

(6) The total dollar amount to be carried forward pursuant to subparagraph V(g).

(7) The total dollar amount of donations used and not used for scholarships.

(8) The number of scholarships granted under subparagraph VII.

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

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

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

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

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

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

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

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

(b) The average value of all scholarships awarded by a scholarship organization, excluding eligible students who received scholarships for educational expenses related to home education only, shall not exceed \$2,500. Beginning in the second year of the program, the commissioner of the department of revenue administration shall annually adjust this amount based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the calendar year ending 12 months prior to the beginning of program year. In the first program year, a scholarship organization shall award a minimum of 70 percent of all scholarships issued to eligible students as defined in subparagraphs I(f)(1)(A) and (B) and shall notify the department of education of the unique pupil identifier for each pupil granted a scholarship by July 15. The required minimum percentage of all scholarships issued by a scholarship organization to eligible students as defined in subparagraphs I(f)(1)(A) and (B) shall be reduced by 10 percent each program year for years 2 through 7 of the program, and, at the beginning of the eighth program year and every program year thereafter, there shall be no required minimum percentage of scholarships.

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

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

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

IV.(a) The aggregate of tax credits issued by the commissioner of the department of revenue administration to all taxpayers claiming the credit shall not exceed \$6,800,000 for the program year, and

(b) For each program year in which the amount of the total donations used for scholarships exceeds 80 percent of the current program year's tax credits allowed, the aggregate of tax credits allowed for the next program year shall increase by 25 percent.

V. A scholarship organization shall:

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

(b) Not restrict or reserve scholarships for use at a single nonpublic school and shall not promise a business organization or business enterprise that a scholarship will be granted to a specific student or a specific person.

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

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

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

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

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

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

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

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

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

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

(e) On or before July 15, a scholarship organization shall furnish a list of the unique pupil identification numbers, dates of birth, grade level, and prior public school number of the scholarship recipients issued to eligible students as defined in subparagraphs I(f)(1)(A) and (B) and the subparagraph under which they were eligible, to the department of education pursuant to paragraph XI. The department of education shall notify the scholarship organization within 30 days of any students who are ineligible under subparagraph I(f)(1)(A). The scholarship organization shall notify the department of education within 30 days if any student eligible under subparagraphs I(f)(1)(A) or (B) is not awarded a scholarship or returns to public school. The department of education shall return such student to the calculation of the average daily membership in residence, as defined in RSA 189:1-d, IV, for the student's school district of residence, and add the amount calculated under RSA 198:40-a, I-III to the adequate education grant amount to the student's school district of residence, and include such amount in the next adequate education grant payment made under RSA 198:42.

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

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

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

VII. A scholarship organization may grant a financial hardship exception to the federal poverty guideline requirement for eligibility under subparagraph I(f)(2), provided that the exceptions granted shall not exceed 20 percent of the scholarships granted by the scholarship organization in the program year.

VIII. The provisions of this section regarding nonpublic schools and their relation to scholarship organizations shall apply only to nonpublic schools that choose to accept scholarship students.

IX. The department of revenue administration shall:

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

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

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

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

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

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

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

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

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

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

(g)(1) Contract with a qualified research entity which has experience evaluating school choice programs to conduct a study of the education tax credit program established in this chapter. The commissioner may apply for, accept, and expend grant funds from any source for the purposes of this paragraph. The study shall assess:

(A) The level of participating students' satisfaction with the program;

(B) The level of parental satisfaction with the program;

(C) The fiscal impact of the program to the state and school districts;

(D) The resulting competition from private schools on school districts, public school students, and quality of life in a community;

(E) The impact of the program on public and private school capacity, availability, and quality; and

(F) The academic performance and graduation rates of participating students as compared to students who applied for a scholarship under this program but did not receive one.

(2) The researchers who conduct the study shall:

(A) Apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;

(B) Protect the identity of participating schools and students by keeping anonymous all disaggregated data other than that for the categories of grade level, gender, race, and ethnicity; and

(C) Provide the house and senate education committees with a final copy of the evaluation of the program.

(3) Participating public and private schools shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(4) The study shall cover the period beginning with the first program year and ending with the fifth program year and shall be conducted in the sixth program year. After that time, the general court may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 U.S.C. section 1232g).

X.(a) A receiving nonpublic school or home education program that accepts students benefiting from scholarships, grants, or tax credits shall not be an agent of the state or federal government.

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

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

XI. Using the unique pupil identification system established in RSA 193-E:5, the department of education shall determine the number of pupils receiving a scholarship under subparagraphs I(f)(1)(A) and (B) who were counted in the calculation of the average daily membership in attendance for schools, other than



chartered public schools, as defined in RSA 198:38, I, for the pupil's school district of residence and for each such pupil, shall deduct the amount calculated under RSA 198:40-a, I-III from the adequate education grant amount disbursed to the pupil's school district of residence. This shall be completed prior to September 1 of the program year in which the scholarships are granted.

XII. The department of education shall verify a student's eligibility under subparagraph I(f)(1)(A) upon request of a scholarship organization. The department of education shall assist the department of revenue administration, upon request, in the investigation of student eligibility complaints.

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

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

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

**2012-1128s**

#### AMENDED ANALYSIS

This bill establishes an education tax credit against the business profits tax and/or the business enterprise tax for business organizations and business enterprises that contribute to scholarship organizations which award scholarships to be used by students to defray the educational expenses of attending a nonpublic school.

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

**Sen. Merrill moved to Lay on the Table SB 372-FN-L.**

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

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

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

**Yeas: 6 - Nays: 18**

**Failed.**

**Recess. Out of recess.**

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

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

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

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

**Yeas: 15 - Nays: 9**

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

**SB 383-FN-L**, revising the distribution of school building aid grants. Ought to Pass with Amendment, Vote 4-0. Senator Stiles for the committee.

**Senate Education**

**March 7, 2012**

**2012-1133s**

**04/09**

#### Amendment to SB 383-FN-LOCAL

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

1 School Building Aid; Annual Grant. Amend RSA 198:15-a to read as follows:

198:15-a Annual Grant for the Payment of Debt Service for School Construction.

I. To aid local school districts in meeting the costs of [the payment of debt for] school buildings [and educational administration buildings, including office facilities for school administrative units, and to meet the costs of leasing permanent space in a building which is used for the operation of a high school vocational technical education program], the department of education shall, from funds appropriated by the general court to carry out the provisions of this subdivision, pay [annually] to the school districts of the state, sums in accordance with the provisions of this subdivision or the alternative school building aid provisions under RSA 198:15-u through RSA 198:15-w[, depending on which option a school district elects. The annual grant to school districts shall be made in 2 approximately equal payments, one in October and one in April of each fiscal year. No payment shall be made to a school district prior to the district's first payment on the amount of principal borrowed].

II. [To provide funds for appropriations made to the department of education relative to paragraph I for the fiscal years ending June 30, 2009, June 30, 2010, and June 30, 2011, the state treasurer is hereby authorized to borrow upon the credit of the state the sums necessary for payment of such grants and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made when due by the state treasurer from funds designated under RSA 78-A:26, I(a)] ***Beginning with construction authorized by a local school district on or after July 1, 2013, office facilities for school administrative units and the purchase or lease-purchase of temporary space for any purpose, including but not limited to modulars, trailers, or other similar structures to be used as classroom, office, or storage space shall not be eligible for school building aid.***

***III. Facilities constructed using school building aid shall be used as instructional facilities for kindergarten through grade 12 for at least 20 years. A school district that discontinues the use of the facilities shall be required to repay the state 100 percent of the state grant received. Upon a showing of good cause by the school district, the commissioner of the department of education may waive this penalty in whole or part on a case by case basis.***

2 School Building Aid; Amount of Grant. Amend RSA 198:15-b to read as follows:

198:15-b Amount of [Annual] Grant.

I.(a)(1) ***For construction authorized by a school district on or before July 1, 2013***, the amount of the annual grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, any receiving district operating an area school as defined in RSA 195-A:1, or any receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22, shall be a sum equal to 30 percent of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district, joint maintenance agreement, or receiving district, heretofore or hereafter incurred, for the cost of construction or purchase of school buildings and school administrative unit facilities, or for the cost of acquiring, developing, or renovating any municipally-owned land, buildings, or facilities to be used for school district purposes, to the extent approved by the department of education, provided that any school district may receive an annual grant in the amount of 40 percent for the construction of an educational administration building for a school administrative unit, and provided that the amount of the annual grant in the case of a cooperative school district, joint maintenance agreement, a receiving district operating an area school, or any receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22, shall be 40 percent plus 5 percent for each pre-existing district in excess of 2 and each sending district in excess of one, and provided further that no cooperative school district, joint maintenance agreement, or receiving district operating an area school, shall receive an annual grant in excess of 55 percent.

***(2)(A) For construction authorized by a school district after July 1, 2013, school building aid grants for new construction shall not exceed the state appropriation for school building aid for the fiscal year, less any debt service payments due and owing in the fiscal year for construction or renovation projects approved in a prior fiscal year, less the amount owed for construction or renovation projects approved prior to July 1, 2013 in accordance with subparagraph (a)(1), unless otherwise provided by an act of the general court. School building aid grants approved pursuant to RSA 198:15-u through RSA 198:15-w, shall be disbursed to school districts pursuant to this subparagraph and no state bonds shall be authorized or issued for the purpose of funding school building aid grants. The amount of the grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as***

***defined in RSA 195:1, any receiving district operating an area school as defined in RSA 195-A:1, or any receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22, shall be calculated based on the criteria set forth in RSA 198:15-v.***

***(B) The amount of the grant to any chartered public school established in accordance with RSA 194-B:3-a shall be 30 percent of the eligible cost of construction.***

***(C) The state board of education shall make an initial grant equal to 50 percent of the eligible amount upon approval of the application for school building aid by the state board of education, and a final grant for the balance of the approved amount upon completion of the construction and verification of the construction by the department of education.***

(b) For any municipally-owned land, buildings, or facilities for which school building aid is granted under this subdivision, the following shall apply:

(1) A school district, a city maintaining a school department within its corporate organization, a cooperative school district as defined in RSA 195:1, a receiving district operating an area school as defined in RSA 195-A:1, or a receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22, shall have first priority in the use of such land, buildings, or facilities for 10 years or the life of any bond or note issued to provide funds for such land, buildings, or facilities, whichever is greater.

(2) The cost of any proposed renovation project shall be less than the cost of a new acquisition for the same purpose.

(3) In the absence of a bond or note or upon the expiration of any bond or note issued to provide funds for land, buildings, or facilities, the principal parties shall enter into an agreement on how such land, buildings, or facilities are to be used.

I-a.(a) A receiving district situated in this state which is providing education to students from another school district situated in this state under a contract entered into pursuant to RSA 194:21-a or RSA 194:22, shall be eligible to receive the higher annual grant amount provided in RSA 198:15-b, I or RSA 198:15-v under the following conditions:

(1) The contract requires the receiving district to educate at least 70 percent of the public school students at particular grade levels from a sending district as provided in the contract.

(2) The contract contains a provision for the payment of capital costs for specific capital projects.

(3) The contract provides the manner in which school building aid is to be credited to school districts.

(4) The contract or sending district's obligation to pay capital costs is for a period of 10 years or longer.

(b) The provisions of this paragraph shall only apply for those years in which the contract is in effect. In all other years, the receiving district shall receive aid in the amount for which it would otherwise be eligible under RSA 198:15-b, I or RSA 198:15-v.

(c) No receiving district shall receive a school building aid grant which is less than what a single school district would receive under RSA 198:15-b, I or RSA 198:15-v.

I-b.(a) A school district, or other entity listed in paragraph I of this section, which is in compliance with the requirements of this section, shall be entitled to receive an additional grant equal to 3 percent of the total construction costs. To be eligible for additional grant moneys, construction projects, as built, shall meet the criteria for designation as a high performance school under the most recent edition of the New England version of standards from the Collaborative for High Performance Schools. Application for the grant of additional moneys shall be submitted on forms developed by the department of education.

(b) ~~[Not more than \$100,000 in any fiscal year in new additional grant moneys shall be awarded. In the event that the total additional grant entitlement in any fiscal year exceeds \$100,000, the full entitlement of grant moneys shall be awarded to the districts having projects which exceed the minimum criteria for designation as a high performance school to the greatest extent.]~~

(c) ~~The department of education shall review other high performance standards as they are developed and shall recommend adoption of new standards when in the judgment of the department, the new standards better reflect the intent of this section.~~

I-c.(a) In addition to the requirements of paragraph I, each school district, prior to receipt of any grant monies, shall submit for review and approval a written maintenance plan describing in detail how the school district intends to maintain the new facilities to be constructed with state aid moneys. The required maintenance plan shall include, but not be limited to, the following information:

(b) A description of the procedures to be used, and the method of staffing in which, the following building services are or will be provided. For work performed by in-house staff, an indication of the staffing level shall be provided, expressed as full-time equivalent positions:

- (1) Daily facility cleaning.
- (2) Grounds maintenance.
- (3) Refuse removal.
- (4) Snow removal.
- (5) Minor maintenance and repair.
- (6) Pest management.
- (7) Periodic equipment servicing and preventive maintenance.
- (8) Plan for 12 month operations, if applicable.

(c) The average amount of space, in square feet, assigned to each custodian for daily cleaning.

(d) The process for reporting, recording, verifying, and prioritizing building problems and fire safety issues.

(e) The process for assigning corrective work.

(f) The process for determining that corrective work has solved the problem.

(g) The process for tracking and analyzing recurring problems.

(h) The process for scheduling and completing preventive maintenance services and inspections on installed equipment and major building systems including, but not limited to heating, ventilation, air conditioning, life safety, elevators, plumbing, roofs, windows, doors, and kitchen appliances.

(i) Custodial or maintenance staff increases or reductions that result from the project.

(j) The training program for employees on new equipment to be installed by the project.

(k) A statement of assurance, signed by the chair of the school board, which indicates that the district intends to maintain and service all installed equipment according to the manufacturer's instructions.

~~II. for the purposes of computing grants hereunder, the amount of the annual payment of principal shall be increased by an amount equal to the amount of capital reserve or the amount raised by taxation which was actually expended for the project at any time, divided by the number of years for which bonds or notes were issued to provide funds for such school building or school administrative unit facilities; provided, however that funds received from trusts, bequests, gifts or insurance policies shall not be eligible for computing grants hereunder. When bonds and notes are issued for a period of less than 5 years, the amount of aid for which the district is eligible shall be paid in no fewer than 5 equal installments.~~

~~III. If the project was entirely financed by the use of amounts raised by taxation or by the use of capital reserve other than funds from trusts, bequests, gifts or received from insurance policies the aid provided herein shall be paid in 5 equal installments.~~

~~IV.]~~ **II.** For the purposes of this subdivision, "construction" shall include any one or more of the following for the construction of instructional facilities only:

- (a) The acquisition and development of a site.
- (b) Planning, construction, or both, of a new building.
- (c) Planning, construction, or both, of additions to existing buildings .
- (d) Architectural and engineering fees.

(e) Purchase of equipment and any other costs necessary for the completion of a building as approved by the department of education.

(f) Substantial renovations approved by the commissioner of education.

(g) Purchase or lease-purchase of mechanical, structural, or electrical equipment, including the cost of installation of such equipment, which is designed to improve energy efficiency or indoor air quality in school buildings. All grant amounts awarded under this subparagraph shall be returned to the state if such equipment is removed from the school building by the vendor due to the school district's failure to comply with the terms of the lease-purchase agreement. Lease-purchase agreements shall be subject to the requirements of RSA 33:7-e.

[V.] **III.** Purchase of school buildings shall include the acquisition and improvement of land in connection therewith and the remodeling, altering, repairing, equipping and furnishing of such buildings as approved by the department of education.

[VI. ~~Repealed~~].

[VII.] **IV.** In this paragraph, "new construction" means additional square footage but shall not mean the renovation of school buildings ~~[or school administrative unit facilities]~~. The provisions of this paragraph shall apply to any school building aid grants made pursuant to RSA 198:15-a through RSA 198:15-w.

(a) The department of education shall issue annually maximum eligible cost standards for the construction of new school buildings ~~[or school administrative unit facilities]~~, less site acquisition costs, qualifying for school building aid. These standards shall take into account the type, size, and location of the school ~~[or school administrative unit facility]~~ and shall be based on an appropriate construction cost index developed or adopted by the department which shall reflect cost differences in the several regions of the state. Maximum cost standards shall be computed and published annually and expressed as a maximum cost per square foot.

(b) Maximum size standards for new construction shall be as follows:

(1) Maximum gross square footage per pupil:

	Student Population	
	<u>under 250</u>	<u>250 and over</u>
Elementary school	144	120
Middle or junior high school	168	140
Senior high school (excluding vocational-technical centers)	192	160

(2) Maximum usable site size for new schools:

Elementary School	20 acres plus 1 acre for each 100 pupils
Middle or junior high school	25 acres plus 1 acre for each 100 pupils
Senior high school	30 acres plus 1 acre for each 100 pupils

***(3) In addition to the provisions of subparagraphs (1) and (2), the department of education shall require architectural designs for new space in order to make efficient use of space. Space determined by the department to be excessive or unnecessary to fulfill educational needs shall not be eligible for reimbursement.***

(c) For the purpose of calculating the total school building aid grants made under RSA 198:15-a through RSA 198:15-w, the final approved cost for school construction or school project shall not exceed the cost that would result if the project conformed to the maximum cost and size standards. The provisions of this section shall not preclude an eligible applicant from exceeding the maximum standards provided, however, the cost of the portion of the facilities which exceed the maximum standards shall not be eligible for school building aid. The maximum cost and size standards in effect at the time general contract work begins shall be used for the purposes of determining school building aid.

(d) The commissioner of the department of education shall have the authority to waive eligible cost and size standards for new construction for good reason shown.

[VH:] V. For the purpose of receiving grants under this section, acquisition of additional land as part of any school renovation project shall not be required unless such additional land is necessary to ensure the safe flow of traffic for school buses or other vehicles entering or exiting school grounds, or the safe boarding or discharge of children using school buses or other vehicles.

3 School Building Aid; Approval of Plans. Amend RSA 198:15-c to read as follows:

198:15-c Approval of Plans, Specifications, and Costs of Construction or Purchase.

**I.** A school district maintaining approved schools, desiring to avail itself of the grants herein provided shall have the plans, specifications, and cost estimates for school plant construction or proposals for the purchase of school buildings, or both, and the costs for them approved by the ~~[state board]~~ **department of education** prior to the start of construction. For this purpose the district shall submit its plans, specifications, cost, and purchase estimates in writing to the department of education on such forms as the department prescribes. A school district shall also submit a copy of any application for energy efficiency reimbursement under RSA 374-F. The department of education shall coordinate with the public utilities commission to ensure that eligible school districts have submitted applications for funding reimbursement and technical assistance as available from energy utility companies to promote indoor air quality and energy efficiency in public schools. Application for school building aid shall be submitted before ~~[January 1 of each year in order to be eligible for school building aid in the fiscal year following the year of submittal]~~ **December 1 of the fiscal year prior to the biennium in which school building aid is to be disbursed.**

**II.(a) The commissioner shall accept school building aid applications based upon completeness and submit a preliminary school building aid list to the school building authority established pursuant to RSA 195-C. By March 1 of the fiscal year prior to the biennium in which school building aid is to be disbursed, the school building authority shall develop a rank ordered list of all school building construction and renovation proposals submitted by school districts and shall categorize each proposal based on school building and site criteria in descending order. The school building authority shall recommend prioritized proposals to be funded in descending rank order to the state board of education for approval. School districts which have projects approved for funding shall be notified by the department of education of the projected amount to be funded within 10 days of approval. The project rating system and criteria used to rate project applications which shall include an administrative review process for appeal of a school district's project point rating, shall be developed by the department of education and approved by the state board of education no later than November 1, 2013.**

(b) A ranking system in support of primary categories criteria shall include consideration of unsafe conditions; obsolete, inefficient, or unsuitable facilities or mechanical and building systems; overcrowding and associated influences to instructional areas and programming; enrollment projections and population shifts; and other conditions as determined necessary. The ranking system shall also include criteria to determine if a school district has made a reasonable attempt to accommodate maintenance activities including scheduled and unscheduled repairs, upkeep, minor alterations, enhancements to buildings, and preventative maintenance necessary to achieve the design life expectancy of building systems and components.

(c) The school building authority shall recommend those proposals to be funded in descending rank order to the state board of education for approval. Those proposals not approved shall be considered for approval in the next biennial budget. Project proposals shall be funded to the extent of available appropriations in the fiscal year.

(d) Emergency requests shall be dealt with on a case-by-case basis as deemed appropriate by the state board of education.

**III.** The department of education shall not approve the plans, specifications, cost, or purchase estimates, if in the department's judgment the facilities planned will not adequately meet the educational requirements, or if its cost estimates are excessive or unreasonable. The department of education shall not approve the plans, specifications, cost, or purchase estimates if in the department's judgment the proposed construction or purchase is in conflict with effective statewide planning pursuant to RSA 9-A or the principles of smart growth pursuant to RSA 9-B. Necessary costs of the purchase of school buildings may be determined by any recognized method of real estate appraisal with appropriate adjustments for remodeling or other expenditures. Upon approval of the construction or purchase, or both, by the department of education, the school district shall be entitled to receive ~~[an annual]~~ **a** grant as provided herein.

4 School Building Aid; Proration and Unexpended Funds. Amend RSA 198:15-e to read as follows:

198:15-e Proration and Unexpended Funds. ~~[If in any year,]~~ The amount appropriated for distribution as school building grants in accordance with *the version of RSA 198:15-b in effect prior to July 1, 2012 shall be first awarded to a school district for an eligible project funded before July 1, 2012. If the amount appropriated in any fiscal year* is insufficient therefor, ~~[grants for eligible construction work approved by the legislative body of the school district since the approval of the most recent state biennial budget shall be deferred and included in a request for a future appropriation, or partial grants may be made to the extent of the available appropriation. Any partial grant made shall be prorated proportionally among all districts with eligible construction work approved since the approval of the most recent biennial budget. The department of education shall include any unpaid grant amounts in the next biennial budget or request a supplemental appropriation. If the amount appropriated is insufficient after deducting all grants approved since the approval of the most recent biennial budget,]~~ the appropriation shall be prorated proportionally among the districts entitled to a grant. *If the amount appropriated exceeds the amount necessary to fund grants to school districts for construction projects approved by the state board of education in a prior fiscal year, the remaining amount of the appropriation shall be distributed to school districts for proposals approved by the state board of education in accordance with the procedure set forth in RSA 198:15-c, II. Such school district shall receive a grant equal to 100 percent of the approved amount of the request until the amount appropriated has been exhausted. A partial grant may be awarded to the extent that funds are available. If a school district declines a full or partial grant, a grant shall be made to the next ranked school district until the amount appropriated has been exhausted.* Any amounts not distributed in the first year of any biennium may be distributed in the second year if required to distribute the maximum amount permissible under RSA 198:15-a.

5 Kindergarten Construction Program; Eligibility. Amend RSA 198:15-s, II(b)(4) to read as follows:

(4) Costs shall be limited to the annual maximum eligible cost standards in accordance with RSA 198:15-b, [VH] V, unless waived by the commissioner of the department of education for good cause.

6 Alternative School Building Aid. Amend RSA 198:15-v, II to read as follows:

II.(a) The amount of the annual grant in this subdivision shall be a sum equal to a percentage of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district, joint maintenance agreement, or receiving district, for all approved costs of construction or purchase of school buildings and school administrative unit facilities, for ~~[which loans are approved after July 1, 2005]~~ *grants approved on or before July 1, 2013* according to the following table:

Building Aid Factor	Single District	Preexisting District in a Cooperative School District, Area School, or Joint Maintenance Agreement
0-59	60 percent	60 percent
60-69	55 percent	60 percent
70-89	45 percent	55 percent
90-114	40 percent	50 percent
115 or greater	30 percent	40 percent

(b) *For projects approved after July 1, 2013, the amount of the grant to any school district, city, cooperative school district, joint maintenance agreement, or receiving district shall be a sum equal to the percentage of all approved costs for construction or purchase of school buildings according to the following table:*

<i>Building Aid Factor</i>	<i>Single District</i>	<i>Preexisting District in a Cooperative School District, Area School, or Joint Maintenance Agreement</i>
<i>0-59</i>	<i>80 percent</i>	<i>80 percent</i>
<i>60-69</i>	<i>45 percent</i>	<i>50 percent</i>
<i>70-89</i>	<i>35 percent</i>	<i>45 percent</i>
<i>90-114</i>	<i>30 percent</i>	<i>40 percent</i>
<i>115 or greater</i>	<i>20 percent</i>	<i>30 percent</i>

(c) The percentage once determined for a particular borrowing shall not thereafter be subject to change.

7 School Building Authority. Amend RSA 195-C:1, I to read as follows:

I. There shall be a school building authority, referred to in this chapter as the authority, [~~of 5 members~~] consisting of the state treasurer, the commissioner of education, *the state fire marshal or designee*, and 3 other members appointed by the governor, *one of whom shall have expertise in education, one of whom shall have expertise in finance, and one of whom shall have expertise in building construction or engineering*, with the advice and consent of the council, for terms of 3 years and until their successors are appointed and qualify. The governor shall designate one of said members as chairman. In case of vacancy among the appointive members of the authority, the governor, with the advice and consent of the council, shall fill the same for the unexpired term. The appointive members of the authority shall receive as compensation for their services, while actually engaged in the business of the authority, the sum of \$8 per day plus their necessary subsistence expenses. The appointive members of the authority shall be paid mileage at the state employees rate, plus necessary travel expenses, only when performing activities at the request of the state board of education.

8 Construction or Renovation of Regional Vocational Education Centers. Amend RSA 188-E:3, II to read as follows:

II. Upon completion, the constructed or renovated facility shall become the property of the school district or public academy, as the case may be. Provision of the site, parking, and other related areas shall be the responsibility of the local community. Site work, including but not limited to cut and fill work, compaction, demolition, relocation of utilities, relocation of roadways and sidewalks, and similar work within an area extending to one foot beyond the outside edge of the exterior walls of the building, shall be eligible for grants under paragraph I. Nothing shall prohibit the inclusion of the site and related facilities which are not funded as part of construction cost by the state under this chapter from being included in a regular building aid application of the district as provided in RSA 198:15-b. *However, no school district which receives any funding under this chapter shall be eligible to receive school building aid under RSA 198:15-b for the same project.*

9 Repeal. RSA 198:15-hh, relative to annual grant for leased space, is repealed.

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

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

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

**SB 387**, allowing schools to develop policies on the distribution of literature of patriotic organizations. 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.**

## **ENERGY AND NATURAL RESOURCES**

**SB 217-FN**, relative to management of Cannon Mountain by the department of resources and economic development. Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

### **Energy and Natural Resources**

**March 12, 2012**

**2012-1191s**

**04/09**

### **Amendment to SB 217-FN**

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

1 Department of Resources and Economic Development; Cannon Mountain and Franconia Notch Park Master Plan.

I. The commissioner of the department of resources and economic development shall develop a master plan for Cannon Mountain and Franconia Notch state park. The master plan shall include measures to enhance the experience of visitors, protect the natural beauty of the park, promote access to the park, promote access



for hikers, enhance the collection of revenue, and promote the establishment of a veterans' memorial. The master plan shall include an analysis of whether it is in the public interest to lease the ski operations of Cannon Mountain to a private vendor. If the master plan recommends leasing the ski operations of Cannon Mountain, the master plan shall include the terms and conditions of any prospective lease in a manner that best protects the public interest.

II. The master plan shall be submitted to the state park system advisory council established in RSA 216-A:3-k for its recommendations prior to being submitted, along with any recommendations for proposed legislation, to the governor and council and the general court on or before July 1, 2013.

III. In addition, the commissioner of the department of resources and economic development shall develop a plan detailing measures to be undertaken to ensure that the ski operations of Cannon Mountain, including all debt obligations, will become self-funded and self-sufficient. The commissioner shall submit the plan to the governor and council on or before November 1, 2012.

## 2 Establishment of a Veterans' Memorial.

I. The commissioner of the department of resources and economic development shall consult with veterans service organizations who may draft a plan for construction of a veterans' memorial in an area of the park that is accessible to the public and convenient in terms of parking and facilities. The department shall not be responsible for the cost of development of this plan but the department shall approve any plan submitted by veterans service organizations. The plan shall include details relating to a design for the memorial and the projected cost of the memorial. The department shall be responsible for the cost of landscaping the specified area for the memorial and may propose funding for landscaping in the next capital budget. All other costs for construction and operation of the memorial shall be funded through private donations. If veterans service organizations choose not to submit a plan for a veterans' memorial or cannot raise the necessary funding, nothing in this section shall obligate the department to proceed with planning or construction of a veterans' memorial.

II. Upon approval of the plan for the veterans' memorial in paragraph I, the commissioner of the department of resources and economic development shall authorize volunteers to relocate the Kinsman Ridge trailhead around the site of the veterans' memorial.

3 Department of Resources and Economic Development; Hiking Corridor on Ski Trails. The commissioner of the department of resources and economic development shall, after consulting with fish and game department, develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. The department may restrict access to the hiking trail only during times the ski area is open to the public and only if restricting such access is necessary to promote safety.

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

**2012-1191s**

### AMENDED ANALYSIS

This bill requires the commissioner of the department of resources and economic development to:

I. Develop a master plan for Cannon Mountain and Franconia Notch state park including recommendations on whether or not the ski operations of Cannon Mountain should be leased to a private entity.

II. Consult with veterans service organizations in drafting a plan for the construction of a veterans' memorial in Franconia Notch state park.

III. Develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain.

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

**Sen. Bradley offered a floor amendment.**

**Sen. Bradley, Dist. 3**

**March 21, 2012**

**2012-1367s**

**04/03**

### Floor Amendment to SB 217-FN

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

1 Department of Resources and Economic Development; Cannon Mountain and Franconia Notch Park Master Plan.

I. The commissioner of the department of resources and economic development shall develop a master plan for Cannon Mountain and Franconia Notch state park. The master plan shall include measures to enhance the experience of visitors, protect the natural beauty of the park, promote access to the park, promote access for hikers, enhance the collection of revenue, and promote the establishment of a veterans' memorial. The master plan shall include an analysis of whether it is in the public interest to lease the ski operations of Cannon Mountain to a private vendor. If the master plan recommends leasing the ski operations of Cannon Mountain, the master plan shall include the terms and conditions of any prospective lease in a manner that best protects the public interest.

II. The master plan shall be submitted to the state park system advisory council established in RSA 216-A:3-k for its recommendations prior to being submitted, along with any recommendations for proposed legislation, to the governor and council and the general court on or before July 1, 2013.

III. In addition, the commissioner of the department of resources and economic development shall develop a plan detailing measures to be undertaken to ensure that the ski operations of Cannon Mountain, including all debt obligations, will become self-funded and self-sufficient. The commissioner shall submit the plan to the senate president, the speaker of the house of representatives, and the governor and council on or before November 1, 2012.

2 Establishment of a Veterans' Memorial.

I. The commissioner of the department of resources and economic development shall consult with veterans service organizations who may draft a plan for construction of a veterans' memorial in an area of the park that is accessible to the public and convenient in terms of parking and facilities. The department shall not be responsible for the cost of development of this plan but the department shall approve any plan submitted by veterans service organizations. The plan shall include details relating to a design for the memorial and the projected cost of the memorial. The department shall be responsible for the cost of landscaping the specified area for the memorial and may propose funding for landscaping in the next capital budget. All other costs for construction and operation of the memorial shall be funded through private donations. If veterans service organizations choose not to submit a plan for a veterans' memorial or cannot raise the necessary funding, nothing in this section shall obligate the department to proceed with planning or construction of a veterans' memorial.

II. Upon approval of the plan for the veterans' memorial in paragraph I, the commissioner of the department of resources and economic development shall authorize volunteers to relocate the Kinsman Ridge trailhead around the site of the veterans' memorial.

3 Department of Resources and Economic Development; Hiking Corridor on Ski Trails. The commissioner of the department of resources and economic development shall, after consulting with fish and game department, develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. The department may restrict access to the hiking trail only during times the ski area is open to the public and only if restricting such access is necessary to promote safety.

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

**2012-1367s**

#### AMENDED ANALYSIS

This bill requires the commissioner of the department of resources and economic development to:

I. Develop a master plan for Cannon Mountain and Franconia Notch state park including recommendations on whether or not the ski operations of Cannon Mountain should be leased to a private entity.

II. Consult with veterans service organizations in drafting a plan for the construction of a veterans' memorial in Franconia Notch state park.

III. Develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain.

**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.**

**Recess. Out of recess.**

**SB 218-FN**, relative to electric renewable portfolio standards. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

**Energy and Natural Resources****March 14, 2012****2012-1235s****06/09****Amendment to SB 218-FN**

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

1 Electric Renewable Portfolio Standards; Definitions; Eligible Biomass Technologies. Amend RSA 362-F:2, VIII(a) to read as follows:

(a) Has a quarterly average nitrogen oxide (NO<sub>x</sub>) emission rate of less than or equal to 0.075 pounds/million British thermal units (lbs/Mmbtu), and *either has* an average particulate emission rate of less than or equal to 0.02 lbs/Mmbtu as measured and verified under RSA 362-F:12 *or is participating in a plan approved by the department under RSA 362-F:11, IV for reductions in particulate matter emissions from other emission sources comparable to the difference between the generation unit's particulate matter emissions rate and the 0.02 lbs/Mmbtu rate*; and

2 Definitions; Renewable Energy Source; Useful Thermal Energy. Amend RSA 362-F:2, XIV and XV to read as follows:

XIV. "Provider of electricity" means a distribution company providing default service; *a non-residential customer meeting its retail load through direct purchase from the wholesale electricity market, except as provided in RSA 362-F:15, II*; or an electricity supplier as defined in RSA 374-F:2, II, but does not include municipal suppliers.

XV. "Renewable energy source," "renewable source," or "source" means a class I, II, III, or IV source of electricity or ~~[electricity displacement by a class I source under RSA 362-F:4, I(g)]~~ *a class I source of useful thermal energy*. An electrical generating facility, while selling its electrical output at long-term rates established before January 1, 2007 by orders of the commission under RSA 362-A:4, shall not be considered a renewable source.

*XV-a. "Useful thermal energy" means renewable energy delivered from class I sources that can be metered and that is delivered to an end user in the form of direct heat, steam, hot water, or other thermal form that is used for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed in New Hampshire.*

3 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2025 and thereafter</u>
Class I	0.0%	0.5%	1%	2%	3%	[4%] <b>4.2%</b>	[5%] <b>5.4%</b>	[6%] <b>6.6%</b>	[16%] <b>18.6%</b> (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.3%
[Class III	3.5%	4.5%	5.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%]
<b>Class III</b>	<b>3.5%</b>	<b>4.5%</b>	<b>5.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>
[Class IV	0.5%	1%	1%	1%	1%	1%	1%	1%	1%]
<b>Class IV</b>	<b>0.5%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>	<b>1.5%</b>	<b>1.5%</b>	<b>1.5%</b>	<b>1.5%</b>

\*Class I increases an additional [one] **1.2** percent per year from 2015 through 2025. *A minimum percentage of the class 1 totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The minimum percentage to be satisfied by the acquisition of renewable en-*

*ergy certificates from qualifying renewable energy technologies producing useful thermal energy shall be 0.2 percent in 2013, 0.4 percent in 2014, and increased annually by .02 percent per year from 2015 through 2025. Classes II, III, and IV remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.*

4 Electric Renewable Energy Classes. Amend the introductory paragraph of RSA 362-F:4, I to read as follows:

I. Class I (New) shall include the production of electricity ***or useful thermal energy*** from any of the following, provided the source began operation after January 1, 2006, except as noted below:

5 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(b) to read as follows:

(b) Geothermal energy, ***if the geothermal energy output is in the form of useful thermal energy only if the unit began operation after January 1, 2013.***

6 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(g) to read as follows:

(g) ~~[The equivalent displacement of electricity, as determined by the commission, by end-use customers, from solar hot water heating systems used instead of electric hot water heating]~~ ***Solar thermal energy; if the solar thermal energy output is in the form of useful thermal energy only if the unit began operation after January 1, 2013.***

7 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(j) to read as follows:

(j) The production of electricity from a class III or IV source that has begun operation as a new facility by demonstrating that 80 percent of its resulting tax basis of the source's plant and equipment, but not its property and intangible assets, is derived from capital investment directly related to restoring generation or increasing capacity including department permitting requirements for new plants. Such production shall not qualify for class III or IV certificates. ***Commencing July 1, 2013, a class III source eligible as a class I source under this subparagraph or subparagraph (i) may submit a notice to the commission electing to be a class III source instead of a class I source. Once such notice is given, the production from such a source shall qualify for class III certificates, provided the source meets the other requirements of a class III eligible biomass technology.***

(k) ***The production of electricity from any fossil-fueled generating facility that originally commenced operation prior to January 1, 2006, if after January 1, 2012 such facility co-fires with class I eligible biomass fuels to displace the combustion of an amount of fossil fuels. The portion of the total electrical energy output that qualifies as class I from a facility in a given time period shall be the fraction of electrical production derived from the combustion of biomass fuels based on the heat input at the facility in that time period as determined by the commission in consultation with the department. To qualify under this paragraph, the electricity generation facility that co-fires with biomass fuels shall:***

***(1) Either have a quarterly average nitrogen oxide (NOx) emission rate, as measured and verified under RSA 362-F:12, of less than or equal to 0.075 pounds/million British thermal units (lbs/Mmbtu) or be a participant in a plan approved by the department for reductions in NOx from other emission sources. The quantity of reductions required shall be the fraction of electrical production derived from the combustion of biomass fuels, as determined under this paragraph, multiplied by the difference between the generation unit's NOx emissions rate and the 0.075 lbs/Mmbtu rate. The plan shall contain reductions, in the aggregate or individually, in NOx emissions from other emission sources under the jurisdiction of the department and demonstrate that the reductions will be quantifiable. The department shall expeditiously review the plan and, if approved, provide such information as it deems relevant to the commission. The application submitted to the commission under RSA 362-F:11 shall inform the commission of the plan and the commission shall certify the source in accordance with the plan approved by the department; and***

***(2) Either have an average particulate emission rate, as measured and verified under RSA 362-F:12, of less than or equal to 0.02 lbs/Mmbtu or be a participant in a plan approved by the department for reductions in particulate matter emissions from emission sources owned by or affiliated with the co-firing entity. The quantity of reductions required shall be the fraction of electrical production derived from the combustion of biomass fuels, as determined under this paragraph, multiplied by the difference between the generation unit's particulate matter emissions rate and the 0.02 lbs/Mmbtu rate. The plan shall contain reductions, in the aggregate or individually, in particulate matter emissions from other emission sources under the jurisdiction of the depart-***

*ment and demonstrate that the reductions will be quantifiable. The department shall expeditiously review the plan and, if approved, provide such information as it deems relevant to the commission. The application submitted to the commission under RSA 362-F:11 shall inform the commission of the plan and the commission shall certify the source in accordance with the plan approved by the department.*

*(1) Biomass renewable energy technologies producing useful thermal energy that began operation after January 1, 2013 provided that:*

*(1) If the unit is a biomass unit rated between 3 and 30 Mmbtu/hr design gross heat input, and has an average particulate emission rate of less than or equal to 0.10 lbs/Mmbtu as measured and verified by conducting and reporting the results of a one-time initial stack test in accordance with methods approved by the department;*

*(2) If the unit is a biomass unit rated equal to or greater than 30 Mmbtu/hr design gross heat input, and has an average particulate emission rate of less than or equal to 0.02 lbs/Mmbtu as measured and verified under RSA 362-F:12;*

*(3) If the unit is a biomass unit rated less than 100 Mmbtu/hr design gross heat input, and it implements Best Management Practices as determined by the department; and*

*(4) If the unit is a biomass unit rated equal to or greater than 100 Mmbtu/hr design gross heat input, and it has a quarterly average NOx emission rate of less than or equal to 0.075 Mmbtu/hr as measured and verified under RSA 362-F:12.*

8 Electric Renewable Energy Classes. Amend RSA 362-F:4, III to read as follows:

III. Class III (Existing Biomass/Methane) shall include the production of electricity from any of the following, provided the source began operation prior to January 1, 2006:

(a) Eligible biomass technologies having a gross nameplate capacity of 25 MWs or less.

(b) Methane gas. *Effective for electricity production commencing January 1, 2014, methane gas shall not qualify for class III if the production is from a source which began operation prior to January 1, 2006 and which source exceeds a total gross nameplate capacity of 10 MWs in the aggregate located at any single landfill site. All phases, stages, cells, lifts, expansions, and other landfill areas shall be combined in determining the single landfill site. Only class III and potential class III eligible sources at any single landfill site shall be included in determining whether the 10 MW aggregate limitation has been exceeded.*

9 Electric Renewable Energy Classes. Amend RSA 362-F:4, IV(a) to read as follows:

IV.(a) Class IV (Existing Small Hydroelectric) shall include the production of electricity from hydroelectric energy, provided the facility:

*(1) Began operation prior to January 1, 2006[;];*

*(2) When required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects; and*

*(3) Either:*

*(a) Has a total nameplate capacity of 5 MWs or less as measured by the sum of the nameplate capacities of all the generators at the facility[;] and has actually installed both upstream and downstream diadromous fish passages and such installations have been approved by the Federal Energy Regulatory Commission, [and when required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects] or;*

*(b) Has a total nameplate capacity of one MW or less as measured by the sum of the nameplate capacities of all generators at the facility, is in compliance with applicable Federal Energy Regulatory Commission fish passage restoration requirements, and is interconnected with an electric distribution system located in New Hampshire.*

10 Commission Review and Report. Amend RSA 362-F:5, VI to read as follows:

VI. The timeframe and manner in which new renewable class I and II sources might transition to and be treated as existing renewable sources and if appropriate, how corresponding portfolio standards of new and existing sources might be adjusted;

11 Renewable Energy Certificates. Amend RSA 362-F:6, II to read as follows:

II. The commission shall establish procedures by which electricity ***and useful thermal energy*** production not tracked by ISO-New England from customer-sited sources, including behind the meter production, may be included within the certificate program, provided such sources are located in New Hampshire. The procedures may include the aggregation of sources and shall be compatible with procedures of the certificate program administrator, ***where possible***. The production shall be monitored and verified by an independent entity designated by the commission, which may include electric distribution companies, ***or by such other means as the commission finds adequate in verifying that such production is occurring. The commission may also establish a methodology for estimating production from customer-sited sources for which certificates are not issued and giving credit for such production in certificate equivalents, in an equitable manner.***

12 New Paragraph; Renewable Energy Certificates. Amend RSA 362-F:6 by inserting after paragraph IV the following new paragraph:

V. A qualified producer of useful thermal energy shall provide for the metering of useful thermal energy produced in order to calculate the quantity of megawatt-hours for which renewable energy certificates are qualified, and to report to the public utilities commission under rules adopted pursuant to RSA 362-F:13. Monitoring, reporting, and calculating the useful thermal energy produced in each quarter shall be expressed in megawatt-hours, where each 3,412,000 BTUs of useful thermal energy is equivalent to one megawatt-hour.

13 Sale, Exchange, and Use of Certificates. Amend RSA 362-F:7, I to read as follows:

I. A certificate may be sold or otherwise exchanged by the source to which it was initially issued or by any other person or entity that acquires the certificate. A certificate may only be used once for compliance with the requirements of this chapter. It may not be used for compliance with this chapter if it has been or will be used for compliance with any similar requirements of another non-federal jurisdiction, or otherwise sold, retired, claimed, or represented as part of any other electrical energy output or sale. Certificates shall only be used by providers of electricity for compliance with the requirements of RSA 362-F:3 in the year in which the generation represented by the certificate was produced, except that unused certificates of the proper class issued for production during the prior 2 years ~~[or the first quarter of the subsequent year]~~ may be used to meet up to 30 percent of a provider's requirements for a given class obligation in the current year of compliance.

14 Renewable Energy Fund. Amend RSA 362-F:10, II to read as follows:

II. In lieu of meeting the portfolio requirements of RSA 362-F:3 for a given year if, and to the extent sufficient certificates are not otherwise available at a price below the amounts specified in this paragraph, an electricity provider may, at the time of report submission for that year under RSA 362-F:8, make payment to the commission at the following rates for each megawatt-hour not met for a given class obligation through the acquisition of certificates:

(a) Class I—\$57.12, ***except for that portion of the class minimum electric renewable portfolio standards to be met by qualifying renewable energy technologies producing useful thermal energy under RSA 362-F:3 which shall be \$28 beginning January 1, 2013.***

(b) Class II—\$150.-

(c) Class III—\$28.

(d) Class IV—\$28.

15 Renewable Energy Fund. Amend RSA 362-F:10, X to read as follows:

X. Consistent with RSA 362-F:10, VI, the commission shall, over each 2-year period commencing July 1, 2010, reasonably balance overall amounts expended, ***allocated, or obligated*** from the fund, net of administrative expenditures, between residential and nonresidential sectors. Funds from the renewable energy fund awarded to renewable projects in the residential sector shall be in approximate proportion to the amount of electricity sold at retail to that sector in New Hampshire, and the remaining funds from the renewable energy fund shall be awarded to projects in the nonresidential sector which include commercial and industrial sited renewable energy projects, existing generators, and developers of new commercial-scale renewable generation in New Hampshire.

16 New Paragraph; Application. Amend RSA 362-F:11 by inserting after paragraph III the following new paragraph:

IV. A biomass facility otherwise meeting the eligibility requirements of class III, but which as of January 1, 2012 was not an eligible biomass technology due to the inability to achieve the particulate matter emissions rate specified in RSA 362-F:2, VIII(a), may consult with the department and submit a plan to meet the alternative requirement under that paragraph. The plan shall contain reductions, in the aggregate or individually, in emissions from other emission sources and demonstrate that the reductions will be quantifiable. The department shall expeditiously review the plan and, if approved, provide such information it deems relevant to the commission. The application submitted under this section shall inform the commission of the plan and the commission shall certify the source in accordance with the plan approved by the department.

17 New Paragraph; Rulemaking. Amend RSA 362-F:13 by inserting after paragraph VI the following new paragraph:

VI-a. Adopt procedures for the metering, verification, and reporting of useful thermal energy output.

18 New Paragraph; Rulemaking. Amend RSA 362-F:13 by inserting after paragraph VII the following new paragraph:

VIII. The department may adopt rules, under RSA 541-A, to determine Best Management Practices for qualifying renewable energy technologies producing useful thermal energy.

19 New Sections; Economic Benefits Retention; Phase-In for Existing Supply Contract Load. Amend RSA 362-F by inserting after section 13 the following new sections:

362-F:14 Economic Benefits Retention. The commission shall, in all decisions affecting class eligible technologies or class standards, consider regional and state job loss, job retention, economic impacts, and certificate production from class eligible and potentially eligible technologies. The proposed action shall aid job retention or job creation, economic activities, and certificate demand, taking into account the certificate supply potential from these technologies.

362-F:15 Phase-In for Existing Supply Contract Load.

I. The increases in the annual purchase percentages in RSA 362-F:3 as compared to those in effect as of January 1, 2012 shall apply to the electrical load under any electrical power supply contracts for a term of years entered into by providers of electricity prior to or on July 1, 2012, upon the expiration of the term of any such contract. Providers of electricity shall inform the commission by July 1 of each year of all such contracts and their terms, including but not limited to the execution date and expiration date of the contract and the annual volume of electrical energy supplied.

II. A "provider of electricity" as defined in RSA 362-F:2, XIV shall not include any non-residential customer contract in effect for a term of years until the term of such contract has expired. The supplier of electrical power under any such contract shall inform the commission by July 1 of each year of such contract and its terms, including but not limited to, the execution date and expiration date and the annual volume of electrical energy supplied.

20 Effective Date.

I. RSA 362-F:2, XIV, as amended by section 2 of this act, shall take effect January 1, 2013.

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

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

**Sen. Bradley offered a floor amendment.**

**Sen. Bradley, Dist. 3**

**March 21, 2012**

**2012-1368s**

**06/01**

### **Floor Amendment to SB 218-FN**

Amend the bill by replacing section 3 with the following:

3 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2025 and thereafter</u>
Class I	0.0%	0.5%	1%	2%	3%	[4%] <b>4.2%</b>	[5%] <b>5.4%</b>	[6%] <b>6.6%</b>	[16%] <b>18.6%</b> (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.3%
[Class III	<del>3.5%</del>	<del>4.5%</del>	<del>5.5%</del>	<del>6.5%</del>	<del>6.5%</del>	<del>6.5%</del>	<del>6.5%</del>	<del>6.5%</del>	<del>6.5%</del> ]
<b>Class III</b>	<b>3.5%</b>	<b>4.5%</b>	<b>5.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>
[Class IV	<del>0.5%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del>	<del>1%</del> ]
<b>Class IV</b>	<b>0.5%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>	<b>1.5%</b>	<b>1.5%</b>	<b>1.5%</b>	<b>1.5%</b>

\*Class I increases an additional ~~[one]~~ **1.2** percent per year from 2015 through 2025. ***A minimum percentage of the class 1 totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The minimum percentage to be satisfied by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy shall be 0.2 percent in 2013, 0.4 percent in 2014, and increased annually by 0.2 percent per year from 2015 through 2025.*** Classes II, III, and IV remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

**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. Sanborn is in opposition to the motion of Ought to Pass as Amended on SB 218-FN.**

**SB 266-FN**, prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

#### **Energy and Natural Resources**

**March 15, 2012**

**2012-1263s**

**09/10**

#### **Amendment to SB 266-FN**

Amend RSA 374:62, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) An electric utility selling or providing electricity shall create a form that the person or persons who own the home or business must sign to opt-in to having a smart meter gateway device installed on or in his or her home or business. The form shall, in at least 12-point boldface type, state that:

(1) The opt-in is optional and one's service will not be affected if one elects not to opt-in; and

(2) The device is a "smart meter gateway device," and provide the definition in subparagraph I(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.**

**SB 298**, naming the lifeguard tower at the Hampton Beach Seashell Facility for James W. Donahue, Jr. Inexpedient to Legislate, Vote 4-0. Senator Bradley for the committee.

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

**SB 392-FN**, relative to road salt applicators. Ought to Pass with Amendment, Vote 5-0. Senator Gallus for the committee.

#### **Energy and Natural Resources**

**March 13, 2012**

**2012-1211s**

**06/04**

#### **Amendment to SB 392-FN**

Amend the bill by inserting before section 1 the following and renumbering the original sections 1 through 4 to read as 2 through 5, respectively:



1 Purpose. This chapter establishes a voluntary program for the certification of commercial road salt applicators in order to encourage more efficient winter maintenance of roadways, parking lots, and sidewalks and to provide certain liability protections for certified commercial applicators and landowners whose premises are maintained by certified commercial applicators.

**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.**

**SB 399-FN**, relative to the maximum permit application fee for certain municipal dredging projects. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

### **Energy and Natural Resources**

**March 12, 2012**

**2012-1202s**

**06/09**

#### **Amendment to SB 399-FN**

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

AN ACT relative to the maximum permit application fee for certain municipal or state agency dredging projects.

Amend the bill by replacing section 1 with the following:

1 Excavating and Dredging Permit; Maximum Application Fee. Amend RSA 482-A:3, X(b) to read as follows:

(b) For tidal dredging projects with the primary purpose to improve navigation for a municipality *or state agency*, the maximum application fee for a municipality shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with a municipality *or state agency* to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

*(c) For dredging projects with the primary purpose to restore or reclaim a lake or pond for a municipality or state agency, the maximum application fee for a municipality or state agency shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with a municipality or state agency to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of the standard application fees.*

**2012-1202s**

#### **AMENDED ANALYSIS**

This bill limits the maximum permit application fee for certain municipal or state agency dredging projects.

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

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

**Recess. Out of recess.**

### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**SB 229-FN**, establishing a defined contribution retirement plan for public employees. Ought to Pass with Amendment, Vote 4-0. Senator Groen for the committee.

### **Senate Executive Departments and Administration**

**March 15, 2012**

**2012-1265s**

**10/05**

#### **Amendment to SB 229-FN**

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

AN ACT establishing a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system, and making an appropriation therefor.

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

1 New Section; Commission to Study a Viable Defined Contribution Plan. Amend RSA 100-A by inserting after section 56 the following new section:

100-A:56-a Commission to Study a Viable Defined Contribution Plan.

I. There is established a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system.

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

(a) Three members of the house of representatives, one of whom shall be from the executive departments and administration committee and one of whom shall be from the finance committee, appointed by the speaker of the house of representatives.

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

(c) The chairman of the New Hampshire retirement system board of trustees, or designee.

(d) Two member representatives of group I of the retirement system, one appointed by the governor and one appointed by the speaker of the house of representatives.

(e) Two member representatives of group II of the retirement system, one appointed by the governor and one appointed by the president of the senate.

(f) Four employer representatives, with one of the 4 employer representative appointed by the New Hampshire Municipal Association, one appointed by the New Hampshire School Boards Association, one appointed by the New Hampshire Association of Counties, and one representing the state of New Hampshire, appointed by the governor.

(g) One public member with recognized expertise in finance, financial management, or the governance and oversight of large endowments or public funds, appointed by the governor.

(h) Two public members with recognized expertise in the design, administration, implementation and educational components of public sector and/or private sector defined contribution plans. One member to be appointed by the speaker of the house of representatives and one member to be appointed by the president of the senate.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall:

(a) Study and make recommendations regarding a viable defined contribution plan to replace the current defined benefit plan for new hires. Such study shall include but not necessarily be limited to:

(1) Evaluation and comparison of defined contribution plans in place in other states, in the private sector, and in public and private sector higher education.

(2) Evaluation and comparison of mandatory and voluntary contribution requirements in defined contribution plans and the statistical outcomes for each in providing retirement benefits.

(3) Evaluation of the effect on retirement account balances and member retirement outcomes of allowing participant loans or hardships withdrawals.

(4) Evaluation of various investment management options for participants and the effect such options have on retirement outcomes.

(5) Evaluation of employer and employee education programs for administration and participation in defined contribution plans.

(6) Evaluation of a plan design with a fixed employer and employee contribution, but which provides a hybrid defined benefit and defined contribution member benefit.

(b) Provide a legislative history of the existing New Hampshire retirement system and the financial impact that major legislative decisions have had on the funding of the corpus of the plan.

(c) Analyze the current financial status of the retirement system and the challenges facing the system in the future.

(d) Study the impact on the investment returns and plan funding of closing the existing New Hampshire retirement system defined benefit plan, and compare and evaluate how other jurisdictions and/or the private sector have addressed these issues.

(e) Evaluate various methods for continued funding of the unfunded accrued liability of the existing New Hampshire retirement system, including but not limited to recent legislative proposals establishing a state administered defined contribution plan.

(f) Evaluate options for providing a cost of living increase for current New Hampshire retirement system plan participants and provide an analysis of the annual costs of the same for the amortization period of the system's unfunded accrued liability.

(g) Study the issue of equity in contribution rates between employers and employees.

(h) Study other matters deemed necessary by the commission.

(i) Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts. The commission may employ support staff for the purposes of its duties.

V. The commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2013.

## 2 Appropriation; Expenditures.

I. There is hereby appropriated the sum of \$100,000 for fiscal year 2013 which may be expended by the commission established by this act for the purposes of RSA 100-A:56-a as inserted by this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The commission established in RSA 100-A:56-a as inserted by this act is authorized to accept and expend private sector grants, gifts, or donations of any kind for the purpose of the duties required in this act. Any moneys collected shall be continually appropriated to the commission for the purposes of this act.

3 Commission Repealed. RSA 100-A:56-a, relative to the commission on long-term viability, defined contribution plan, is repealed.

## 4 Effective Date.

I. Section 3 of this act shall take effect January 1, 2014.

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

**2012-1265s**

### AMENDED ANALYSIS

This bill establishes a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system. The bill makes an appropriation to the commission for purposes of the duties of the commission.

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

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

**SB 259**, relative to the appointment of the director of ports and harbors and relative to transfer of land within the Pease development authority. Ought to Pass with Amendment, Vote 4-0. Senator Carson for the committee.

**Senate Executive Departments and Administration**

**March 15, 2012**

**2012-1267s**

**05/04**

### Amendment to SB 259

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

AN ACT relative to the appointment of the director of ports and harbors.

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

**2012-1267s**

#### AMENDED ANALYSIS

This bill transfers appointment of the director of ports and harbors from the governor to the Pease development authority board of directors.

The bill is a request of the Pease development authority.

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

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

**Recess. Out of recess.**

**SB 311-FN-A**, transferring authority over weights and measures to the department of safety. Ought to Pass with Amendment, Vote 3-1. Senator Carson for the committee.

#### **Senate Executive Departments and Administration**

**March 15, 2012**

**2012-1266s**

**08/09**

#### **Amendment to SB 311-FN-A**

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

AN ACT establishing a director of the division of weights and measures and relative to the enforcement of weights and measures rules and statutes.

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

1 New Sections; Division of Weights And Measures; Director. Amend RSA 438 by inserting after section 8 the following new sections:

438:8-a Division Director; Salary.

I. The commissioner shall nominate a director for the division of weights and measures for appointment by the governor, with the consent of the council. The director shall serve a term of 4 years from the date of appointment. The director shall be qualified by reason of professional competence, education, and expertise including management experience and at least 5 years of experience as a full time police officer at a command or management level.

II. The salary of the director shall be determined after assessment and review of the appropriate temporary letter grade allocation in RSA 94:1-a,(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

438:8-b Division Director; Duties.

I. Subject to direction from the commissioner, the director of weights and measures shall direct and supervise the functions of the division of weights and measures including the work of the inspectors, the metrologist, and the clerical staff.

II. The director, in accordance with the policies of the department of administrative services shall keep records on the weights and measures inspectors which shall include by employee, the hours worked, approval of any overtime hours worked and the reason therefore, and accurate records of leave time accrued and used.

III. The director shall designate the procedure for prosecuting violations of this chapter and shall make judicious use of the civil penalty system in lieu of criminal prosecution when in his or her judgment it will be equally or more effective in enforcing the provisions of this chapter.

IV. The director shall, with approval of the commissioner, establish a code of conduct for the inspectors which shall be available upon request and shall establish rules, regulations, and standard operating procedures for the inspectors.

438:8-c Weights and Measures Advisory Board.

I. There shall be a weights and measures advisory board consisting of 11 members. The members shall be appointed by commissioner of the department of safety, and shall include the following:

- (a) Two members who are grocers.
- (b) Two members who are oil dealers.
- (c) Two members who are scrap dealers.
- (d) Two members who are engaged in farmers' markets
- (e) One member who sells wood by the cord.
- (f) One gasoline filling station operator
- (g) One member of the general public who is not involved commercially with weights and measures.

II. The director of weights and measures shall serve as an ex-officio, non-voting member of the board.

III. Board members shall serve for a term of 4 years. Board members shall not serve more than 2 consecutive terms. The board shall annually elect from among its members a chairman and a vice-chairman.

IV. Board members shall serve without compensation, except that they shall receive reimbursement for their reasonable and necessary expenses in the performance of their duties. This reimbursement shall be a charge against the appropriation for the department for weights and measures.

V. The board shall meet at least 4 times per year at a time and place to be fixed by the chairman, either upon his or her own motion or at the request of 3 or more board members.

VI. The weights and measures advisory board shall regularly advise the director of the division of weights and measures and the commissioner on all matters related to the enforcement of this chapter.

2 Police Authority and Training of Inspectors. RSA 438:15-a is repealed and reenacted to read as follows:

438:15-a Police Authority and Training of Inspectors.

I. Effective no later than January 1, 2013, the arrest powers of inspectors in the division of weights and measures shall lapse unless and until reauthorized on an individual basis by the commissioner upon recommendation of the director of weights and measures and henceforth only such inspectors as the commissioner shall designate and swear in on an annual basis after consultation with the director of weights and measures shall possess the power of arrest.

II. Each inspector of the department of agriculture, markets and foods including the director if authorized by the commissioner to have the power of arrest regarding the laws encompassed in RSA 438 shall successfully complete the requirements for part-time police officers established by the police standards and training council pursuant to RSA 188-F no later than 2 years from the date of hire. Upon successfully meeting such requirements such employee shall be certified as a part-time police officer.

III. The division of state police, notwithstanding the provisions of RSA 106-B:15, shall have the authority to assist the director of weights and measures in the investigation and prosecution of any criminal matters.

3 New Subdivision; Weights and Measures Fees. Amend RSA 438 by inserting after section 45 the following new subdivision:

#### Weights and Measures Fees

438:46 Fees for Licensing Commercial Devices. The following annual device license fees shall be charged for the following categories:

- I. Scales 100 pounds or less, \$18 each;
- II. Scales over 100 pounds to 2,000 pounds, \$27 each;
- III. Scales over 2,000 pounds to 5,000 pounds, \$54 each;
- IV. Non-vehicle scales over 5,000 pounds, \$90 each;
- V. Vehicle scales, \$180 each;
- VI. Lift truck/forklifts, on board weighing systems/scales, \$90 each;

VII. On board weighing systems/scales, refuse or recyclable materials collection trucks, \$90 each;

VIII. Analytical balances, \$36 each;

IX. Retail motor fuel dispensers, except liquefied petroleum gas and natural gas dispensers, \$18 per meter;

X. Liquefied petroleum gas retail motor fuel dispensers, \$54 per meter;

XI. Natural gas retail motor fuel dispensers, \$54 per meter;

XII. Liquid vehicle tank meters, except liquefied petroleum gas and natural gas meters, \$54 per meter;

XIII. Liquid bulk storage meters, \$90 per meter;

XIV. Liquefied gas meters, \$90 per meter;

XV. Taxi meters, \$27 per meter; and

XVI. Linear and cordage measures, \$18 per meter.

XVII. If the invoice for license renewal is not paid within 30 days of the expiration date, the licensee may request to have the license reinstated and the annual fee shall be increased by 50 percent.

438:47 Fees Charged by the New Hampshire Metrology Laboratory.

I. The following fees shall be charged by the New Hampshire Metrology Laboratory for the testing and certification of standards used by registered service technicians, governmental agencies, members of the public, and private industry:

(a) Class F test weights meeting specifications and tolerances contained in current NIST Handbook 105-1, greater than 99 pounds but less than 500 pounds, \$80 each;

(b) Class F test weights meeting specifications and tolerances contained in current NIST Handbook 105-1, up to 99 pounds, the greater of:

(1) Twenty dollars per weight; or

(2) The hourly charge set forth in paragraph II applied to the time required to test and certify all of the weights submitted for testing and certification, with a minimum charge for one hour;

(c) Class F test weight sets meeting specifications and tolerances contained in current NIST Handbook 105-1, the greater of:

(1) Fifty-five dollars per weight set; or

(2) The hourly charge set forth in paragraph II applied to the time required to test and certify all of the weight sets submitted for testing and certification, with a minimum charge for one hour;

(d) Glass flasks meeting specifications and tolerances contained in current NIST Handbook 105-2, \$75 each;

(e) Field standard test measures up to and including 5 gallons meeting specifications and tolerances contained in current NIST Handbook 105-3, \$45 for each test measure;

(f) Field standard test measures with a capacity greater than 5 gallons up to and including 25 gallons meeting specifications and tolerances contained in current NIST Handbook 105-3, \$105 for each test measure;

(g) Field standard test measures with a capacity greater than 25 gallons up to and including 75 gallons meeting specifications and tolerances contained in current NIST Handbook 105-3, \$130 for each test measure; and

(h) Volumetric compartment calibrations:

(1) For the first 100 gallons or less, \$160; and

(2) For each additional 100 gallons or less, \$50.

II. All testing and certification of standards not listed in paragraph I shall be performed at a rate of \$80 per hour, with a minimum charge of the fee for one hour.

III. The division shall charge a \$50 fee for each National Voluntary Laboratory Accreditation Program (NVLAP) accredited calibration report.

## 438:48 Fees for the Rental of Test Equipment.

I. Test equipment owned by the office shall be rented only to currently registered service technicians for their use in testing and calibration of commercial weighing, measuring, and counting devices.

II. The following fees shall apply to the rental of test equipment:

- (a) Test weights, 500 pound and 1,000 pound, \$8 each weight per day;
- (b) Test weights, 50 pound and 25 pound, \$4 each weight per day;
- (c) Class F test weight sets, \$25 each set per day;
- (d) Volumetric 5 gallon field standards, \$10 each field standard per day;
- (e) Volumetric 10 gallon provers, \$75 each prover per day; and
- (f) Volumetric test truck, \$150 per hour plus \$1 per mile.

## 438:49 Fees for the Testing, Certification, and Sealing of Commercial Devices.

I. The following fees shall be charged for the testing, certification, and sealing of devices by the office's inspectors:

- (a) For precious metal and jewelry scales, \$30 per scale;
- (b) For scales with a capacity of 100 pounds or less, other than precious metal and jewelry scales, \$20 per scale;
- (c) For scales with a capacity greater than 100 pounds up to and including 2,000 pounds, \$75 per scale;
- (d) For scales with a capacity greater than 2,000 pounds up to and including 5,000 pounds:
  - (1) If the office does the testing, certifying, and sealing, \$200 per scale; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$100 per scale;
- (e) For scales with a capacity greater than 5,000 pounds, up to and including 10,000 pounds:
  - (1) If the office does the testing, certifying, and sealing, \$250 per scale; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$100 per scale;
- (f) For scales with a capacity greater than 10,000 pounds, up to and including 120,000 pounds:
  - (1) If the office does the testing, certifying, and sealing, \$400 per scale; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$100 per scale;
- (g) For scales with a capacity greater than 120,000 pounds, up to and including 200,000 pounds:
  - (1) If the office does the testing, certifying, and sealing \$600 per scale; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$200 per scale;
- (h) For onboard weighing systems or scales on lift trucks or forklifts:
  - (1) If the office does the testing, certifying and sealing, \$200 per scale; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$100 per scale;
- (i) For other onboard weighing systems or scales, for example, those on trucks for the collection of refuse or recyclable materials, \$200 each;
- (j) For retail motor fuel devices except for devices dispensing LP gas and natural gas:
  - (1) For devices dispensing up to 20 gallons per minute, \$25 per meter; and
  - (2) For devices dispensing more than 20 gallons per minute, \$75 per meter;
- (k) For LP gas retail motor fuel dispensers, \$48 per meter;
- (l) For natural gas retail motor fuel dispensers, \$48 per meter;

- (m) For vehicle tank meters other than LP gas and natural gas meters:
  - (1) If the office does the testing, certifying, and sealing, \$100 per meter; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$50 per meter;
- (n) For LP gas and natural gas vehicle tank meters:
  - (1) If the office does the testing, certifying, and sealing, \$125 per meter; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$50 per meter;
- (o) LPG filling station meters, \$75 per meter;
- (p) For bulk storage meters:
  - (1) If the office does the testing, certifying, and sealing, \$150 per meter; and
  - (2) If a contractor does the testing and the division does the certifying and sealing, \$75 per meter;
- (q) Taxi meters, \$25 per meter;
- (r) Linear measures, \$18 per device;
- (s) Timing devices, \$20 per device;
- (t) Motor oil and fluid dispensers, \$20 per device;
- (u) Water meters, \$20 per device;
- (v) Fabric measuring devices, \$20 per device;
- (w) Wire and cordage measuring devices, \$20 per device; and
- (x) Capacity measurements, dry or liquid, \$100 per unit.

II. There shall be no fee for the testing, certifying, and sealing of scales used by an agricultural business, such as a farm stand or a farmers' market, when the business uses, at a single location or at all its locations taken together, no commercial weighing or measuring devices other than 3 or fewer scales each having a capacity of no more than 100 pounds or 50 kilograms.

#### 438-:50 Licensing Fees for Weighmasters.

I. The fee for an initial weighmaster license shall be \$96.

II. The fee for renewal of a weighmaster license shall be \$96.

III. Any person who requests that the commissioner issue a duplicate public weighmaster license shall be charged a \$10 fee for the duplicate.

4 Existing Director of Weights and Measures. The existing position of director of weights and measures shall lapse upon the effective date of this act and the appropriation for such position shall be available to compensate the new unclassified position of director of the division of weights and measures established by this act.

5 Vehicle Usage. The commissioner of the department of agriculture, markets, and food, upon recommendation of the director of weights and measures and upon determining that it would be less expensive to lease vehicles for the inspectors than to reimburse them for private vehicle mileage, is authorized to enter into vehicle leasing agreements for said purpose.

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

#### 2012-1266s

#### AMENDED ANALYSIS

This bill:

- I. Establishes a director of the division of weights and measures.
- II. Requires inspectors to undergo police standards training.
- III. Sets certain weights and measures related fees in statute.



IV. Allows the commissioner of the department of agriculture, markets, and food to enter into agreements to lease vehicles for inspectors.

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

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

**Sen. White moved to remove SB 335 from the table. Adopted.**

**Sen. White asserts Rule 2-15 on SB 335.**

#### **COMMERCE**

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

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

**Sen. White offered a floor amendment.**

**Sen. White, Dist. 9**

**March 19, 2012**

**2012-1308s**

**05/10**

#### **Floor Amendment to SB 335**

Amend RSA 153:8-b, I as inserted by section 1 of the bill by replacing it with the following:

I. Notwithstanding RSA 153:5 or any other provision of law to the contrary, an existing high-rise apartment building that is held in a condominium form of ownership as of the effective date of this section, shall not be required to be retrofitted to comply with fire code rules adopted subsequent to the date that it was first occupied or allowed to be occupied as an apartment building, whichever came first, if the unit owners unanimously vote to opt-out of such rules. If the voting interests approve the opt-out by a unanimous vote, the association shall execute within 30 days of the vote a written affidavit of unanimous consent to the opt-out, to be filed with the state fire marshal's office and a copy of the same signed affidavit to be filed with the local fire department. Within the same 30 days of the vote and, in no case, later than the date that it files the affidavit with the state fire marshal and the local fire department, the association shall mail or hand-deliver to all unit owners written notice of the vote results. A unit owner shall provide any prospective buyer or tenant a copy of the written notice prior to the sale or lease of the unit.

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

**Sen. White asserts Rule 2-15 on SB 335.**

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

**A roll call was requested by Sen. Larsen, seconded by Sen. Prescott.**

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

**The following Senators voted No: Bradley, Houde, Odell, Kelly, Carson, Larsen, Barnes, D'Allesandro, Merrill, Prescott.**

**Yeas: 14 - Nays: 10**

**Adopted, bill ordered to Third Reading.**

**Sen. White asserts Rule 2-15 on SB 335.**

#### **FINANCE**

**SB 228-FN-L**, repealing the assessments for excess benefits paid by employers in the retirement system. Ought to Pass, Vote 7-0. Senator Morse for the committee.

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

**SB 234-FN**, relative to salary grades for certain executive branch positions and relative to the retirement classification of the director of the division of forests and lands. Ought to Pass, Vote 7-0. Senator D'Allesandro for the committee.

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

**SB 293-FN**, relative to notice requirements and payment of interest by the department of revenue administration for overpayments and underpayments of tax. Inexpedient to Legislate, Vote 5-2. Senator Morse for the committee.

**Sen. Morse moved to Lay on the Table SB 293-FN. Adopted.**

**SB 295-FN-A**, increasing the research and development tax credit against the business profits tax. Ought to Pass, Vote 6-0. Senator Odell for the committee.

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

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

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

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

**Yeas: 24 - Nays: 0**

**Adopted, bill ordered to Third Reading.**

**SB 307-FN**, relative to the refund of tax overpayment related to a fraudulent investment scheme. Ought to Pass, Vote 7-0. Senator Forrester for the committee.

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

**SB 329-FN-L**, requiring nursing facilities to have at least one automated external defibrillator. Inexpedient to Legislate, Vote 6-1. Senator Morse for the committee.

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

**SB 381-FN**, relative to auction houses and relative to wine auctions. Interim Study, Vote 7-0. Senator Morse for the committee.

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

**SB 384-FN**, relative to eligibility for child care assistance for individuals pursuing a bachelor's degree. Inexpedient to Legislate, Vote 6-1. Senator Morse 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. Kelly.**

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

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

**Yeas: 18 - Nays: 6**

**Adopted.**

**SB 404-FN**, relative to funding for pupils enrolled in vocational education programs. Ought to Pass, Vote 7-0. Senator Forrester for the committee.

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

**HB 1196**, repealing the task force on state procurement policies and procedures. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

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

**HEALTH AND HUMAN SERVICES**

**SB 284**, establishing pilot projects to improve access to oral health care. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

**Health and Human Services****March 15, 2012****2012-1269s****06/09****Amendment to SB 284**

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

AN ACT establishing a certified public health dental hygienist in New Hampshire.

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

1 New Section; Certified Public Health Dental Hygienist. Amend RSA 317-A by inserting after section 21-d the following new section:

317-A:21-e Certified Public Health Dental Hygienist.

I. A dental hygienist licensed under this chapter may obtain a certification to practice as a certified public health dental hygienist by submitting an application to the board in writing and completing additional educational and training requirements as required by the board. A certified public health dental hygienist practicing under this section may:

(a) Collect and assess medical and dental histories, including preliminary inspection of the oral cavity and surrounding structures, and periodontal probing and charting.

(b) Instruct in oral hygiene techniques.

(c) Prepare a treatment plan within the public health dental hygienist scope of practice.

(d) Perform complete oral prophylaxis as appropriate, including the removal of calciferous deposits and the removal of subgingival accretions and stains by scaling and root planing.

(e) Perform professional application of topical fluoride, including fluoride varnish.

(f) Place sealants, if qualified and when authorized by a dentist with an active license, provided that:

(1) Written informed consent shall be obtained from the patient's legal guardian; and

(2) The supervising dentist and the public health hygienist shall be responsible for the sealants being indicated and correctly placed.

(g) Place temporary restorations without excavation.

(h) Perform radiographic imaging limited to bite wings, and occlusal and periapical radiography, as needed.

(i) Provide nutritional counseling for the control of dental disease.

(j) Provide referrals.

(k) Perform any procedure that is within the scope of practice that has been authorized under public health supervision.

II. A certified public health dental hygienist, acting under the public health supervision of an actively licensed dentist, may practice in a school, hospital, or other institution, or for a homebound person without the dentist having to be present, provided the dentist has reviewed the records once in a 12-month period.

III. The dental hygienists committee established under RSA 317-A:2-a shall develop and propose to the board for its review and approval all application and certification requirements, education programs, and other regulations and requirements relating to certified public health dental hygienists.

IV. Public health dental hygienist certification under this section shall not preclude non-certified dental hygienists from practicing under public health supervision as allowed under the rules of the board of dental examiners.

3 Board of Dental Examiners; Rulemaking Authority. Amend RSA 317-A:12, I to read as follows:

I. The application procedure for a dental or dental hygiene license ***and for public health dental hygienist certification***;

4 Board of Dental Examiners Rulemaking Authority. Amend RSA 317-A:12, V to read as follows:

V. How a license ***or certification*** issued under this chapter shall be renewed;

5 Board of Dental Examiners Rulemaking Authority. Amend RSA 317-A:12, XI to read as follows:

XI. Continuing education requirements for licensees ***and holders of certificates***;

6 Board of Dental Examiners Rulemaking Authority. Amend RSA 317-A:12, XII-b to read as follows:

XII-b. Procedures which may be assigned by a licensed dentist to dental hygienists, ***public health dental hygienists***, dental assistants, and to persons not licensed to practice dentistry;

7 Non-Practice. Amend RSA 317-A:23 to read as follows:

317-A:23 Non-practice.

I. None of the following procedures may be assigned to a dental hygienist or assistant or to any other person not licensed to practice dentistry:

[F-](a) Diagnosis, treatment planning and prescriptions (including prescriptions for drugs and medications or authorization for restorative, prosthodontic, or orthodontic appliances).

[H-](b) Surgical procedures on hard or soft tissues within the oral cavity; or any other inter-oral procedure that contributes to, or results in, an irremediable alteration of the oral anatomy.

***II. Under the public health supervision of an actively-licensed dentist and in accordance with a written practice agreement, a certified public health dental hygienist may provide services pursuant to RSA 317-A:21-e, I for which certified public health dental hygienists have been trained and which have been authorized by a supervising dentist in writing. Services may be provided to an individual patient without the patient first seeing a dentist for an examination, diagnosis, and treatment planning if the supervising dentist has provided written general authorization and standing protocols for the certified public health dental hygienist.***

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

**2012-1269s**

#### AMENDED ANALYSIS

This bill provides for a certified public health dental hygienist in New Hampshire.

**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.**

**SB 286**, relative to a controlled drug prescription health and safety program. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

**Health and Human Services**

**March 9, 2012**

**2012-1178s**

**01/10**

#### **Amendment to SB 286**

Amend RSA 318:31, IV(a) as inserted by section 2 of the bill by replacing it with the following:

(a) A licensed hospital pharmacy that dispenses for administration in the hospital;

Amend RSA 318-B:33, IV as inserted by section 2 of the bill by inserting after subparagraph (o) the following:

(p) Source of payment for prescription.

Amend section 2 of the bill by inserting after RSA 318-B:37 the following new section:

318-B:38 Advisory Council Established.

I. There is hereby established an advisory council to assist the board in carrying out its duties under this subdivision. The members of the council shall be as follows:

- (a) A representative of the board of medicine, appointed by such board.
- (b) A representative of the pharmacy board, appointed by such board.
- (c) A representative of the board of dental examiners, appointed by such board.
- (d) A representative of the New Hampshire board of nursing, appointed by such board.
- (e) A representative of the board of veterinary medicine, appointed by such board.
- (f) The attorney general, or designee.
- (g) The commissioner of the department of health and human services, or designee.
- (h) A representative of the New Hampshire Medical Society, appointed by the society.
- (i) A representative of the New Hampshire Dental Society, appointed by the society.
- (j) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.
- (k) A representative of a retail pharmacy, appointed jointly by the New Hampshire Pharmacists Association, the New Hampshire Independent Pharmacy Association, and the New Hampshire Association of Chain Drug Stores.
- (l) Two public members appointed by the governor's commission on alcohol and drug abuse prevention, intervention, and treatment, one of whom may be a member of the commission.

II. The council shall:

- (a) Develop criteria for reviewing the prescribing and dispensing information collected.
- (b) Develop criteria for reporting matters to the applicable health care regulatory board for further investigation.
- (c) Develop criteria for notifying practitioners who are engaged in obtaining controlled substances from multiple prescribers or dispensers.
- (d) Collect information on the outcomes and impact of the program including: satisfaction of users of the program, impact on prescribing patterns, impact on referrals to regulatory boards, and other relevant measures.
- (e) Assist the board in meeting its responsibilities in RSA 318-B:32, I to implement and operate the program.
- (f) Assist the board in adopting and revising the rules under RSA 541-A to implement the program.

III. The council may meet as often as necessary to effectuate its goals. The first meeting shall be called by the representative of the pharmacy board within 45 days of the effective date of this subdivision. At the first meeting, a chairman shall be elected by the members.

**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 309-FN**, relative to certain insurance mandates and establishing a committee to study current insurance mandates. Interim Study, Vote 4-1. Senator Bradley for the committee.

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

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

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

**The following Senators voted No: Forsythe, Groen, Sanborn, White, De Blois.**

**Yeas: 19 - Nays: 5**

**Adopted.**

**Sen. D'Allesandro moved to remove SB 283 from the table. Adopted.**

**HEALTH AND HUMAN SERVICES**

**SB 283**, relative to disposition of nursing home patient accounts. Ought to Pass with Amendment, Vote 5-0. Senator Lambert for the committee.

**Health and Human Services**

**February 17, 2012**

**2012-0897s**

**06/01**

**Amendment to SB 283**

Amend RSA 151-A:15, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding the provisions of RSA 561, if all known debts of the deceased have been paid and a balance remains in the deceased's estate after the filing required under paragraph I, the probate court ~~[shall]~~ **may** order the administrator to pay the balance ~~[into the treasury of the county where the deceased was domiciled, where it shall be subject to the claims of persons entitled to it, through application to the county commissioners]~~ **to the state treasurer to be held as abandoned property pursuant to RSA 471-C.**

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

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

**Recess. Out of recess.**

**JUDICIARY**

**SB 272-FN**, relative to truancy. Ought to Pass with Amendment, Vote 4-1. Senator Houde for the committee.

**Senate Judiciary**

**March 15, 2012**

**2012-1275s**

**04/09**

**Amendment to SB 272-FN**

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

1 New Paragraph; Truant Officers; Truancy Defined. Amend RSA 189:35-a by inserting after paragraph VI the following new paragraph:

***VII. A municipality may adopt an ordinance prohibiting truancy. All truancy cases shall be heard separately from the trial of criminal cases, and hearings shall be held wherever possible in rooms not used for criminal trials. Notwithstanding RSA 169-B:32, only the parties, one or more parents or guardians of the child accused of truancy, their witnesses, their counsel, if any, and school or school district officials shall be admitted. Case records shall be treated as confidential.***

2 School Attendance; Bylaws as to Nonattendance. Amend RSA 193:16 to read as follows:

193:16 Bylaws as to Nonattendance. Districts may make bylaws, not repugnant to law, concerning habitual truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h), and to compel the attendance of such children at school; failure to comply with such bylaws shall constitute a violation for each offense. ***All truancy cases shall be heard separately from the trial of criminal cases, and hearings shall be held wherever possible in rooms not used for criminal trials. Notwithstanding RSA 169-B:32, only the parties, one or more parents or guardians of the child accused of truancy, their witnesses, their counsel, if any, and school or school district officials shall be admitted. Case records shall be treated as confidential.***

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

**2012-1275s**

**AMENDED ANALYSIS**

This bill authorizes a municipality to adopt an ordinance prohibiting truancy and specifies procedures for the hearing of truancy cases.

**Recess. Out of recess.**

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

**Sen. Kelly is in opposition to the adoption of the Committee Amendment to SB 272-FN.**

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

**Sen. Kelly is in opposition to the motion of Ought to Pass as Amended on SB 272-FN.**

**Without objection President Bragdon moved SB 276-FN be Special-Ordered to March 28, 2012.**

**SB 359**, relative to civil actions involving accessibility standards for public buildings. Ought to Pass with Amendment, Vote 4-1. Senator Carson for the committee.

**Senate Judiciary**

**March 15, 2012**

**2012-1274s**

**05/04**

#### **Amendment to SB 359**

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

1 Accessibility Standards for Public Buildings; Enforcement Actions. Amend RSA 155-A:5-a, V to read as follows:

V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, does not agree to bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the owner bring the building into compliance. ~~[If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner.]~~ ***At the conclusion of the case, the court may award attorney's fees and costs consistent with the Americans with Disabilities Act of 1990, as amended.*** [For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.]

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

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

**Sen. Houde offered a floor amendment.**

**Sen. Houde, Dist. 5**

**March 20, 2012**

**2012-1344s**

**05/10**

#### **Floor Amendment to SB 359**

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

1 Accessibility Standards for Public Buildings; Enforcement Actions. Amend RSA 155-A:5-a, V to read as follows:

V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system

determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, does not agree to bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the owner bring the building into compliance. ~~[If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner.]~~ ***At the conclusion of the case, the court shall award attorney's fees and costs consistent with the Americans with Disabilities Act of 1990, as amended, and as interpreted by the courts of the United States with jurisdiction in New Hampshire.*** ~~[For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.]~~

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

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

**Recess. Out of recess.**

**Sen. Bradley moved to Lay on the Table SB 359. Adopted.**

#### **PUBLIC AND MUNICIPAL AFFAIRS**

**SB 318-FN**, relative to eligibility to vote, voter registration, and verifying identity of voters. Ought to Pass with Amendment, Vote 4-1. Senator Barnes for the committee.

#### **Public and Municipal Affairs**

**March 7, 2012**

**2012-1132s**

**03/09**

#### **Amendment to SB 318-FN**

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

AN ACT relative to eligibility to vote and voter registration.

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

1 Voter, Office Holder; Claim of Domicile. Amend RSA 654:1, I to read as follows:

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. A person's claim of domicile for voting purposes shall ~~[not]~~ be conclusive of the person's residence for ~~[any]~~ ***all*** other legal ~~[purpose]~~ ***purposes. Nothing in this section shall prevent the university system of New Hampshire or the community college system of New Hampshire from establishing rules for in-state tuition.***

2 Voter Registration. Amend RSA 654:7 to read as follows:

654:7 ***Voter Registration***; Voter Registration Form.

***I. Any person registering to vote shall be:***

***(a) At least 18 years of age on the day of the election; and***

***(b) A United States citizen; and***



***(c) Domiciled in the town or city in which the applicant is registering to vote and not otherwise disqualified to vote.***

***II. The applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12 and fill out the form as prescribed in paragraph IV.***

***III. If an applicant is unable to provide the proof of qualifications as required in RSA 654:12, he or she may register by completing the necessary affidavits, pursuant to RSA 654:12, and completing the form in paragraph IV.***

**IV.** A standard registration application form shall be used throughout the state. The registration form shall be no larger than 8 1/2 inches by 11 inches. The secretary of state shall prescribe the form of the voter registration form, which shall be in substantially the following form:

Date \_\_\_\_\_

# VOTER REGISTRATION FORM

(Please print or type)

1. Name \_\_\_\_\_

Last	(suffix) First	Full Middle Name
------	----------------	------------------

Last

(suffix) First.

Full Middle Name

2. Address \_\_\_\_\_  
Street Ward Number

Street

Ward Number

Town or City

Zip Code

3. Mailing Address if different than in 2 \_\_\_\_\_

Street	Ward Number
--------	-------------

Street

Ward Number

Town or City

Zip Code

4. Place and Date of Birth \_\_\_\_\_

Town or City

State

Town or City

State

Date \_\_\_\_\_

5. If a naturalized citizen, give name of court where and date when naturalized \_\_\_\_\_

6. Place last registered to vote \_\_\_\_\_

Street	Ward Number
--------	-------------

Street

Ward Number

7. Name under which previously registered, if different from above

8. Party Affiliation (if any) \_\_\_\_\_

9. Driver's License Number \_\_\_\_\_ State \_\_\_\_\_

If you do not have a valid driver's license, provide the last four digits of your social security number

My name is \_\_\_\_\_. I am today registering to vote in the city/town of \_\_\_\_\_, New Hampshire.

I understand that to vote in this city/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this city/town.

[I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town.]

*I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of*

*returning. By registering or voting today, I am acknowledging that I am not domiciled in any other state or any other city/town. I understand that if I am domiciled in another state or city/town, I may be entitled to vote in elections held within that state or city/town by absentee ballot.*

*In declaring New Hampshire as my domicile, I am subject to the laws of the State of New Hampshire which apply to all residents, including laws requiring me to register my motor vehicles and apply for a New Hampshire's driver's license within 60 days of becoming a resident.*

*In declaring New Hampshire as my domicile, I realize that I may be forfeiting benefits or rights, including the right to vote in another state.*

*If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.*

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

---

Date

Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

3 Qualified Voter Affidavit. Amend RSA 654:12, I(a) to read as follows:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The qualified voter affidavit shall be in the following form, and shall be retained in accordance with RSA 33-A:3-a:

Date: \_\_\_\_\_.

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: \_\_\_\_\_.

Name at birth if different: \_\_\_\_\_.

Place of birth: \_\_\_\_\_.

Date of birth: \_\_\_\_\_.

Date and Place of Naturalization: \_\_\_\_\_.

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I ***am not in possession of documents necessary to prove my identity, citizenship, and age and that I*** am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

---

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, \_\_\_\_\_, (print name of notary public, justice of the peace, election officer), appeared \_\_\_\_\_, (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

---

Notary Public/Justice of the Peace/

Official Authorized by RSA 659:30

4 Domicile Affidavit. Amend RSA 654:12, I(c) to read as follows:

(c) DOMICILE. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form, which shall be retained in accordance with RSA 33-A:3-a:

DOMICILE AFFIDAVIT

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Current Domicile Address: \_\_\_\_\_

Street

Ward Number

Town or City

Zip Code

Date when current domicile was established: Month: \_\_\_\_\_ Year: \_\_\_\_\_

Place and date of birth: \_\_\_\_\_

Address of last previous domicile: \_\_\_\_\_

Street

Ward Number

Town or City

Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that ***I am not in possession of necessary documents to prove my domicile and that*** my established domicile is at the current domicile address I have entered above. I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, \_\_\_\_\_ (print name of notary public, justice of the peace, election officer), appeared \_\_\_\_\_ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/ Official Authorized by RSA 659:30

5 Voter Records. Amend RSA 654:12, V(a) to read as follows:

V.(a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented and shall inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or she will receive a letter of identity verification. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in

New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first. ***The person entering the voter information of election day residents into the centralized voter registration database shall cause the records to indicate if the voter executed a domicile affidavit.***

6 New Subparagraphs; Voter Registration; Domicile Verification. Amend RSA 654:12, V by inserting after subparagraph (c) the following new subparagraphs:

(d) Within 90 days of each state election, the secretary of state shall cause a list of persons executing domicile affidavits since the prior election to be forwarded to the attorney general, the division of motor vehicles, and the clerk of the city or town in which such persons registered. The division of motor vehicles shall send a letter to each such person informing him or her of the obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. The division of motor vehicles shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information.

(e) The division of motor vehicles shall cause any letters mailed pursuant to subparagraph (d) that are returned as undeliverable by the United States Post Office to be referred to the attorney general and the attorney general shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.

(f) Upon completion of any investigation authorized under this section, the attorney general shall forward a report summarizing the results of the investigation to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

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

**2012-1132s**

#### AMENDED ANALYSIS

This bill:

I. Establishes that a claim of domicile for voting purposes shall be conclusive of residence for all other legal purposes.

II. Modifies forms and procedures for voter registration.

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

**Sen. Barnes offered a floor amendment.**

**Sen. Barnes, Dist. 17**

**Sen. Forrester, Dist. 2**

**March 19, 2012**

**2012-1301s**

**03/09**

#### Floor Amendment to SB 318-FN

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

AN ACT relative to voter registration.

Amend the bill by replacing section 1 with the following:

1 Voter, Office Holder; Claim of Domicile. Amend RSA 654:1, I to read as follows:

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. ~~[A person's claim of domicile for voting purposes shall not be conclusive of the person's residence for any other legal purpose.]~~

**IV.** A standard registration application form shall be used throughout the state. The registration form shall be no larger than 8 1/2 inches by 11 inches. The secretary of state shall prescribe the form of the voter registration form, which shall be in substantially the following form:

Date \_\_\_\_\_

(Please print or type)

1. Name _____		
Last	(suffix) First	Full Middle Name

2. Address \_\_\_\_\_  
 Street \_\_\_\_\_ Ward Number \_\_\_\_\_

Town or City	Zip Code
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3. Mailing Address if different than in 2 \_\_\_\_\_

Street	Ward Number
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Town or City	Zip Code
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4. Place and Date of Birth \_\_\_\_\_  
 Town or City \_\_\_\_\_ State \_\_\_\_\_

Date \_\_\_\_\_

5. If a naturalized citizen, give name of court where and date when naturalized \_\_\_\_\_

6. Place last registered to vote \_\_\_\_\_

Street	Ward Number
--------	-------------

7. Name under which previously registered, if different from above

8. Party Affiliation (if any) \_\_\_\_\_

9. Driver's License Number \_\_\_\_\_ State \_\_\_\_\_

If you do not have a valid driver's license, provide the last four digits of your social security number

My name is \_\_\_\_\_. I am today registering to vote in the city/town of \_\_\_\_\_, New Hampshire.

I understand that to vote in this city/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this city/town.

[I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town.]

***I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.***

*In declaring New Hampshire as my domicile, I am subject to the laws of the State of New Hampshire which apply to all residents, including laws requiring me to register my motor vehicles and apply for a New Hampshire's driver's license within 60 days of becoming a resident.*

***In declaring New Hampshire as my domicile, I realize that I may be forfeiting benefits or rights, including the right to vote in another state.***

***If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.***

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

---

Date

Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

**2012-1301s**

**AMENDED ANALYSIS**

This bill modifies forms and procedures for voter registration.

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

**Recess. Out of recess.**

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

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

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

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

**Yeas: 19 - Nays: 5**

**Adopted, bill ordered to Third Reading.**

**SB 398**, proclaiming March 30 as Welcome Home Vietnam Veterans Day. Ought to Pass with Amendment, Vote 3-2. Senator Merrill for the committee.

**Public and Municipal Affairs**

**March 7, 2012**

**2012-1151s**

**01/04**

**Amendment to SB 398**

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

AN ACT   proclaiming March 30, 2013 as Welcome Home Vietnam Veterans Day.

Amend the bill by replacing section 2 with the following:

2 Welcome Home Vietnam Veterans Day. The governor shall proclaim March 30, 2013 as Welcome Home Vietnam Veterans Day to acknowledge and commemorate the military service of American men and women in Vietnam. The day may be observed by suitable observances and exercises by civic groups and the public.

**2012-1151s**

**AMENDED ANALYSIS**

This bill proclaims March 30, 2013 as Welcome Home Vietnam Veterans Day to acknowledge and commemorate the military service of American men and women in Vietnam.

**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.**

**TRANSPORTATION**

**SB 361**, establishing an interagency task force on energy infrastructure corridors. Ought to Pass with Amendment, Vote 4-0. Senator Stiles for the committee.

**Senate Transportation**

**March 8, 2012**

**2012-1172s**

**06/01**

**Amendment to SB 361**

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

AN ACT establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

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

1 Declaration of Purpose. The legislature finds that the state would be well served by determining whether it is feasible to use existing transportation rights of way to serve as locations for underground utility infrastructure. This act establishes a commission to conduct a feasibility study, and, if warranted, to recommend a process by which appropriate energy infrastructure corridors should be identified for specific utility facilities and a process by which bidding for these corridors and revenue for the annual use of the corridors would be established.

2 New Chapter; Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter 362-F the following new chapter:

CHAPTER 362-G  
COMMISSION TO STUDY THE FEASIBILITY OF  
ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS  
WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

362-G:1 Definitions. In this chapter:

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.

II. "Energy infrastructure corridor" means a transportation right of way on an existing state-owned transportation right of way within which energy infrastructure could potentially be sited underground.

III. "Potential developer" means a person that can demonstrate to the state the financial and technical capability to engage in the development and construction of energy infrastructure.

IV. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

V. "State-owned" means owned by the state or by a state agency or state authority.

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within the Existing Transportation Rights of Ways.

I. There is established a commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights of ways.

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

- (a) One member of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The director of the office of energy and planning, or designee.
- (d) The commissioner of the department of administrative services, or designee.
- (e) The commissioner of the department of transportation, or designee.
- (f) The commissioner of the department of environmental services, or designee.

- (g) The commissioner of the department of resources and economic development, or designee.
- (h) The chairman of the public utilities commission, or designee.
- (i) The commissioner of the department of revenue administration, or designee.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall identify the feasibility of using state-owned transportation corridors for underground energy infrastructure and, if the commission finds the use of transportation corridors feasible for such underground use, shall specify which corridors are most appropriate for specific utility infrastructures. In determining whether the establishment of one or more energy infrastructure corridors is in the long-term public interest of the state, the commission's assessment of feasibility shall consider, but shall not be limited to the following issues:

- (a) Whether such corridor or corridors materially enhance the delivery of electricity or other utilities, or both, to New Hampshire consumers and increase the reliability and security of the electricity distribution system in the state.
- (b) The identification of the corridors.
- (c) The identification of available technologies.
- (d) The identification of the costs of available technologies.
- (e) Whether there would be long-term economic benefits for the state, including, but not limited to, direct financial benefits from leasing rights of ways; employment opportunities; and private sector economic development.
- (f) What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers.
- (g) Whether such corridors would do any harm to the orderly development of renewable energy generation in the state.
- (h) A process design to assure the efficient development of such corridor or corridors by energy distribution companies serving the state.
- (i) What actions need to be taken to assure that conflict with the public purposes for which such rights of way are already owned is minimized.
- (j) Whether the development of such corridor or corridors would lead to any reduction in emissions of greenhouse gases.
- (k) Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor.

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

VI. Report. The commission, after public hearings, shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2012.

3 Repeal. The following are repealed:

I. RSA 362-G, relative to the commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights of way.

II. RSA 371:16-a, relative to the establishment of the commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.



4 Effective Date.

I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

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

**2012-1172s**

#### AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

This bill also repeals the commission established in HB 648 of the 2012 regular session.

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

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

#### WAYS AND MEANS

**SB 292-FN**, relative to property taxation of certain manufactured housing. Ought to Pass with Amendment, Vote 4-0. Senator Morse for the committee.

**Senate Ways and Means**

**March 13, 2012**

**2012-1217s**

**10/01**

#### **Amendment to SB 292-FN**

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

AN ACT relative to the property taxation of campers, trailers, and other buildings.

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

1 New Section; Taxation of Property; Campers, Trailers, Other Buildings. Amend RSA 72 by inserting after section 7-c the following new section:

72:7-d Campers, Trailers, Other Buildings. A camper, trailer, or other constructed edifice, which is not manufactured housing under RSA 72:7-a, is taxable as a building, if by its use it: (1) is intended to be more or less permanent, not a temporary structure; (2) is more or less completely enclosed; (3) is used as a dwelling, storehouse, or shelter; and (4) is intended to remain stationary.

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

**2012-1217s**

#### AMENDED ANALYSIS

This bill inserts criteria to determine when certain buildings are taxable as property.

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

**Sen. Morse moved to Lay on the Table SB 292-FN. Adopted.**

**SB 305-FN-A**, relative to disposition of boat fee revenue. Interim Study, Vote 4-0. Senator Luther for the committee.

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

**SB 382-FN-L**, allowing changes to property assessments for damaged buildings or for new construction. Ought to Pass with Amendment, Vote 3-0. Senator Rausch for the committee.

**Senate Ways and Means**

**March 13, 2012**

**2012-1218s**

**10/01**

#### **Amendment to SB 382-FN-LOCAL**

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

AN ACT allowing for proration of property assessments for damaged buildings.

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

1 Property Tax Year. Amend RSA 76:2 to read as follows:

76:2 Property Tax Year. The property tax year shall be April 1 to March 31 and all property taxes shall be assessed on the inventory taken in April of that year, *except for prorated assessments on damaged buildings under RSA 76:21.*

2 New Subdivision; Prorated Assessments for Damaged Buildings. Amend RSA 76 by inserting after section 20 the following new subdivision:

**Prorated Assessments for Damaged Buildings**

76:21 Prorated Assessments for Damaged Buildings.

I. Whenever, after the beginning of the tax year on April 1 and until the date that the local tax rate has been approved for that tax year, a building containing a residential dwelling unit or no more than 4 residential units is damaged due to unintended fire or natural disaster to the extent that 75 percent of the building requires reconstruction to restore occupancy, the assessing officials shall prorate the assessment for the building for the current tax year.

II. The proration of the building assessment shall be based on the number of days that the building was available for occupancy divided by the number of days in the tax year, multiplied by the building assessment. The number of days counted shall include the actual days unavailable for occupancy, or will extend to the end of the tax year if the property is not available for occupancy on the date that the local tax rate has been approved for that tax year.

III. A person aggrieved of a property tax for a building damaged as provided in paragraph I shall file an application with the assessing officials in writing no later than the date that the local tax rate has been approved for that tax year.

IV. Proration of the assessment shall be denied if the assessing officials determine that the applicant did not meet the requirements of this section or acted in bad faith.

V. The total tax reduction from proration under this section for any city or town shall be limited to an amount equal to  $\frac{1}{2}$  of one percent of the total property taxes committed in the tax year. If the assessing officials determine that it is likely that this limit will be reached, the proration shall not be applied to any additional properties.

VI. Nothing in this section shall limit the ability of the assessing officials to abate taxes for good cause shown pursuant to RSA 76:16.

VII. Appeals of a decision under this section shall be to the board of tax and land appeals or the superior court as set forth in RSA 76:16-a or RSA 76:17.

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

**2012-1218s**

**AMENDED ANALYSIS**

This bill establishes the procedure for the proration of assessments for property taxes for residential buildings damaged due to unintended fire or natural disaster to the extent that 75 percent of the building requires reconstruction to restore occupancy.

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

**Sen. Kelly is in opposition to the adoption of the Committee Amendment to SB 382-FN-L.**

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

**Sen. Kelly is in opposition to the motion of Ought to Pass as Amended on SB 382-FN-L.**

**SB 386-FN-A**, authorizing the state treasurer to issue bonds for highway construction. Ought to Pass, Vote 4-0. Senator Rausch for the committee.

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

**SB 403-FN-A**, relative to the report on tobacco tax revenues. Inexpedient to Legislate, Vote 5-1. Senator Luther for the committee.

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

**Recess. Out of recess.**

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

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

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

**Yeas: 19 - Nays: 5**

**Adopted.**

**SB 405-FN**, establishing the workforce investment tax credit. Inexpedient to Legislate, Vote 4-0. Senator Odell for the committee.

**Recess. Out of recess.**

**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. Houde.**

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

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

**Yeas: 17 - Nays: 7**

**Adopted.**

**HB 518-FN-A**, changing the prospective repeal date for the research and development tax credit. Ought to Pass, Vote 3-0. Senator Rausch for the committee.

**Sen. Rausch moved to Lay on the Table HB 518-FN-A. Adopted.**

### **FINANCE**

**SB 150-FN**, authorizing individuals and certain businesses to purchase health insurance from out-of-state insurance companies. Inexpedient to Legislate, Vote 7-0. Senator D'Allesandro for the committee.

The committee felt that this bill was well intended legislation but will increase the cost of health care for many individuals in the State of New Hampshire.

**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, Bradley, Houde, Odell, Kelly, Luther, Lambert, Carson, Larsen, Boutin, Barnes, Rausch, D'Allesandro, Merrill, Morse, Prescott, Stiles, Bragdon.**

**The following Senators voted No: Forsythe, Groen, Sanborn, White, De Blois.**

**Yeas: 19 - Nays: 5**

**Adopted.**

**Without objection, the Clerk shall read the title of the Veto Message only.**

### **VETO MESSAGE**

#### **Governor Lynch's Veto Message Regarding SB 160**

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on January 27, 2012, I vetoed SB 160, relative to regulation of installment loans.

I am vetoing this legislation because legalizing excessive interest rates for so-called "installment loans" – interest rates in excess of 400 percent APR – hurts our families, communities and economy.

SB 160 creates a new small loan product in New Hampshire – an installment loan – and overturns the interest rate cap for payday lenders. These new installment loans are essentially payday loans that would create an escalating spiral of debt for New Hampshire families that would undermine their financial security, as well as the financial well being of our communities and our economy. That is why 31 other states – including all the other New England states – ban these types of excessive interest rates for consumer credit.

SB 160 was strongly opposed by both Republicans and Democrats in the legislature, the American Friends Service Committee, the New Hampshire Local Welfare Administrator's Association, AARP, the New Hampshire Department of Justice, New Hampshire Legal Assistance and a coalition of churches.

While this legislation allows a lender to charge nominal interest of \$15.50 per \$100 installment, there could be as many as 26 installments per year with the resulting APR being in excess of 400 percent. On a 6-month loan with payments every two weeks, lenders will be able to charge consumers over \$1,100 to repay a \$500 loan. For vulnerable families, these excessive interest charges could force them further into a cycle of debt, and potentially onto public assistance.

Oversight and regulation of payday lenders under SB 160 is also inconsistent with current practices for other forms of consumer credit. For example, unlike current law for the examination of banks, the Banking Commissioner must provide a payday lender with advanced notice before conducting examination of its books, records and loan documents. Administrative fine authority over payday lenders is less than half of the existing authority over other lenders. Consumers will not receive the same level of protection from payday lenders as they do now with other providers of consumer credit.

The lack of adequate consumer protections and the existence of excessive interest rates will undoubtedly increase the cycle of debt for too many of our families are not in New Hampshire's interest. Therefore, I am vetoing SB 160.

Respectfully submitted,  
John H. Lynch  
Governor

Date: January 27, 2012

**The question is, notwithstanding the Governor's Veto, shall SB 160 become law?**

**A roll call is required.**

**The following Senators voted Yes: Forrester, Forsythe, Sanborn, White, Lambert, Carson, Boutin, De Blois, Morse, Stiles, Bragdon.**

**The following Senators voted No: Gallus, Bradley, Houde, Groen, Odell, Kelly, Luther, Larsen, Barnes, Rausch, D'Allesandro, Merrill, Prescott.**

**Yeas: 11 - Nays: 13**

**Veto sustained lacking necessary 2/3 vote.**

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

**President Bragdon noted that Committee of Conference conferees will be appointed at a later time.**

#### **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 19**, relative to the definition of "prime wetlands."

**Sen. Odell moves nonconcurrence and requests Committee of Conference. Adopted.**

#### **HOUSE MESSAGE**

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

**CACR 6**, relating to taxation. Providing that a 3/5 vote is required to pass legislation imposing new or increased taxes or license fees, or to authorize the issuance of state bonds and providing that the general court shall appropriate funds for payment of interest and installments of principle of all state bonds.

and requests a Committee of Conference.

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

REPRESENTATIVES: Stepanek, Sanborn, Ulery, Azarian

**Sen. Bradley moves to accede to House Request. Adopted.**

#### HOUSE MESSAGE

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

**CACR 12**, relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education.

and requests a Committee of Conference.

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

REPRESENTATIVES: L. Ober, Hess, Balboni, Renzullo

Alternate: Robert A. Foose

**Sen. Bradley moves to accede to House Request. Adopted.**

#### HOUSE MESSAGE

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

**HB 627-FN**, relative to "essential benefits" under federal health care reform.

and requests a Committee of Conference.

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

REPRESENTATIVES: Hunt, Manuse, Flanders, Schlachman

**Sen. Prescott moves to accede to House Request. 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

**SB 204**, adopting amendments to Article 9 of the Uniform Commercial Code relative to secured transactions.

**SB 217-FN**, relative to management of Cannon Mountain by the department of resources and economic development.

**SB 218-FN**, relative to electric renewable portfolio standards.

**SB 222**, relative to property and casualty insurance, insurance investigations, and insurance certificates.

**SB 228-FN-L**, repealing the assessments for excess benefits paid by employers in the retirement system.

**SB 234-FN**, relative to salary grades for certain executive branch positions and relative to the retirement classification of the director of the division of forests and lands.

**SB 245**, relative to health care sharing organizations.

**SB 256**, relative to public utilities commission contracts with consultants.

**SB 260**, relative to protection and preservation of significant archeological deposits.

**SB 266-FN**, prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent.

**SB 272-FN**, relative to truancy.

**SB 283**, relative to disposition of nursing home patient accounts.

**SB 284**, establishing a certified public health dental hygienist in New Hampshire.

**SB 286**, relative to a controlled drug prescription health and safety program.

**SB 295-FN-A**, increasing the research and development tax credit against the business profits tax.

**SB 307-FN**, relative to the refund of tax overpayment related to a fraudulent investment scheme.

**SB 310**, relative to the commemoration of Purple Day in recognition of epilepsy awareness and relative to the observance of Cancer Prevention Day.

**SB 318-FN**, relative to voter registration.

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

**SB 336**, relative to medical payments coverage.

**SB 340**, relative to locations for junkyards.

**SB 344**, allowing the department of resources and economic development to cut vegetation in shoreland areas where public safety is of concern.

**SB 351**, relative to proclaiming Blue Star Mother's Day.

**SB 361**, establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

**SB 382-FN-L**, allowing for proration of property assessments for damaged buildings.

**SB 389-L**, relative to sewer commission costs.

**SB 392-FN**, relative to road salt applicators.

**SB 395**, relative to construction of an access road on land in current use.

**SB 398**, proclaiming March 30, 2013 as Welcome Home Vietnam Veterans Day.

**SB 399-FN**, relative to the maximum permit application fee for certain municipal or state agency dredging projects.

**SB 404-FN**, relative to funding for pupils enrolled in vocational education programs.

**HB 1196**, repealing the task force on state procurement policies and procedures.

#### **LIST OF RULE 2-15'S FOR THE DAY**

Sen. White: SB 222, SB 335.

#### **ANNOUNCEMENTS**

(The Chair recognized Sen. Barnes.)

SENATOR BARNES: I apologize, and I won't take too much of your time. This is, I guess, a Rule 2-17.

Yesterday was a bad day for me. In the morning, when I came into the State House, I received a call from a selectperson from the Town of Allenstown, letting me know that an old friend of mine, a former legislator of 14 years on the other side of the wall, had passed away. It was in the obituaries today.

Gabby Daneault was a true gentleman. If the Town of Allenstown was a city, Gabby would have been the mayor. My mother, when I was a young fellow, told me to be wary of Democrats. But, in spite of that, Gabby and I became the closest of friends.

Gabby was a selectman for 36 years, plus about 15 other things in the Town of Allenstown. He and I didn't talk politics, because he was a strong union fellow—and you know what that means with Right to Work—and

a few other things. But, Gabby and I didn't talk about legislation; we didn't talk politics, except when we'd get together to file legislation. He thought more of his Town of Allenstown than I've seen anybody up here ever do. You know, he wasn't a flashy guy; he wasn't a mouthy guy, so you didn't really hear much from him over there. He was just a gentleman doing the people's work: why we're all up here. And, Gabby truly did a great job.

He worked for the State of New Hampshire for 32 years; he was a janitor for the judges. My understanding is, from Gabby, he told me one time when I was ragging on him that he's very friendly with the Supreme Court Justice. I said: "Oh, big deal! Who's that?" "Chuck Douglas and I, we talk quite often; I clean his office." I said: "Oh, okay, Gabby." So, he threw that at me. He was a State Representative for eight years. And, the reason he became a gentleman who served over there...In 1988, when I first ran for this Senate, I was told by folks that I should go visit all the towns and say hi to my selectmen. So, I wandered in and I found out where Allenstown was. I got there, walked in, gave my spiel, come out, and all of a sudden, Gabby comes running out after me: "Ooh! I liked what you said, but I can't vote for you!" I said: "What do you mean, you can't vote for me?" He said: "Well, I'm a Democrat!" And, it was a primary that I was in—it was a primary. So, we started to talk, he was telling me his background. And, I said: "You know, you'd do a heck of a job in the House. Allenstown needs a Representative; why don't you run for the House?" "Oh, people have talked about it, but I don't, you know, I don't know if I can handle it; I really don't know." I said: "Hey, you get there for a couple of years, you listen, you learn, and a lot of good people will help you along." Gabby ran, and Gabby won. And, I was very proud of the man. I didn't win that race, incidentally, but next time around, I got 'em.

But, Gabby was also one of those folks who...You know that generation that we keep hearing about, World War II? Gabby was in the Navy; he was a swab jockey, and he served on the USS Baltimore. Now, I'm not sure if that was the same ship that my good friend sitting over there where the good Senator was sitting, if that was the Baltimore that he served on, but I almost think I saw a bumper sticker on his car one time that said he was on the Baltimore. And, I'm talking about Junie Blaisdell; he and Junie might have been on the same ship. They saw action in the South Pacific during World War II.

And, his daughter, very loving daughter, she asked me to get resolutions and have the Governor come to the wake and the funeral and ask the Congressional delegation for letters. And, I've been to the Governor's Office; they're putting something together, and if the Governor's available, he'll drop in at the wake or the funeral; he can't promise that that'll happen, but if his schedule lets him be there...Because, he was so proud...There was a guy that was so proud to represent the people. There wasn't any hoopla, no big blast, no noise; just doing the job for the people that he represented. One of the 400—and damn it all—I'm going to miss him.

No more ballgames at Fenway. I took him down there, we got into the clubhouse, sat in the dugout, went up to the left field wall, saw where they put the numbers up; he could never forget that. He'd say: "God, we were where Babe Ruth was! We were there where Ted Williams was!" Great Red Sox fan. Now, Gabby spoke a lot of French; obviously he was very proud of his French heritage. And, the Red Sox had a guy by the name of Rheal Cormier. Gabby thought he was a Hall-of-Famer and he was going to be a Cy Young Award winner. And, every time Rheal got knocked out in the first inning, I'd call Gabby up and I'd say: "That damn Frenchman; he didn't do anything!" And, once in a while, when Rheal had a good game, he'd call me up and bust on me. And, we'd talk a lot of baseball.

One last story about my good friend: Allenstown is a Democratic town. And, most of the time when I ran, I did fairly well, and sometimes I even won the town. But, it wasn't because of me; it was because of Gabby Daneault. So, I'm up there one day, and he says: "Come on; come with me." We run across the street—there was a hot dog stand across the street; he wanted to introduce me to the owner. So, we met the owner. And then, coming down the sidewalk, was this elderly woman with a cane, walking like this. And, he said: "Oh, wait a minute!" Gabby runs over and I hear all this French going on, and this woman starts staring at me. She picked up the cane; Gabby comes running back. He says: "Jack, quick, come with me." I said: "Where we going?" He says: "The priest is across the street in front of the church. Go over there, put your arm around him, shake his hand...Do it." I said: "Okay." Gabby gets over there and says: "Father, would you please talk to Mrs. So-and-so?"—and, Mrs. So-and-so was across the street staring at us—"because she swore that she would never vote for me again; she'd never vote for a Republican—she never will, and she'll never vote for me again! Can you take care of it the next time she comes in?" He said: "Gabby, I'll take care of it."

Great guy, representing the people—you don't have to make a lot of noise; you don't have to be in the newspaper—just doing your damn job, and so proud of being a State Representative.

(The Chair recognized Sen. D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. On Sunday, a former Senate President, David Nixon, was 80 years of age. David Nixon came to the Senate in 1973, and in one of the most hotly contested and longstanding battles, became President of the Senate. And, for the first time in the history of the Senate, Harry Spanos was appointed Vice President. Harry Spanos was a very, very prominent Democrat from Claremont—great, great human being.

Dave Nixon went to Leominster High School, then to Wesleyan University. By the way, the founder of Southwest Airlines was his classmate at Wesleyan. He, Kimon Zachos, and Dave Nixon were classmates. Dave then went into the service after graduating from law school at the University of Michigan, came back to New Hampshire, and formed a legal partnership with John King. John King later became Governor of the State of New Hampshire; he was Minority Leader in the House, became Governor of the State of New Hampshire, became a Superior Court judge, and became Chief Justice of the Supreme Court. I believe he's the only human being in the history of this state to be Governor and Chief Justice of the Supreme Court.

Dave was a lawyer among lawyers—is a lawyer among lawyers; takes all kinds of very difficult cases. He does more pro bono work than anybody I know, and he takes the most difficult cases that are around. He set some landmark work here in New Hampshire by winning the first malpractice case against Portsmouth Hospital—I think some of you might remember that: The largest settlement ever given in the history of the state was accomplished by David Nixon. David Nixon sat at that rostrum and guided this Senate through one of the most difficult periods in the history of our state: the 1973 session and the 1974 Special Session of the Legislature. In those days, we were meeting every other year.

Dave Nixon: 80 years young. An active participant in all walks of life, a distinguished citizen, but most of all, gave public service here in the Senate as the President of our Senate, on the other side as a Representative, and I think is a wonderful model for all of us to look up to because he gave of himself in public service and continues to do that. And, he's 80 years young, and he gave out some pins at his party, saying: "Being 80 isn't that bad, particularly when you're thinking about 81." So, a tribute to our former President, David Nixon. Thank you, Mister President.

(The Chair recognized Sen. Larsen.)

SENATOR LARSEN: Rule 2-17. I'd like to simply say ditto to the wonderful words of Senator Barnes: Gabby Daneault, we both knew. He was the mayor not only of Allenstown, but he was slightly the mayor of Pembroke. And, everybody knew him; everybody loved him. And, I spent many an afternoon with Gabby Daneault. So, we will miss him.

I rise, however, to add to the list of those who have passed the name of former Senator Leo Fraser's daughter. Leo Fraser served here with me and Jack, some of us, Senator D'Allesandro, for a number of years here in the Senate. And, sadly, former Senator Fraser lost his daughter, Susan, at the age of 55. She passed away on Sunday, March 4<sup>th</sup>.

She was born in Brockton, Mass. and she graduated from Pittsfield High. She received her BS in Business Administration from UNH and joined her father and brother in starting Fraser Insurance Company here in town in 1976. They are now celebrating 35 years there. But, in truth, I'm sure they will feel her loss both at home and at the business. She has ten siblings, who all will miss her. As her mother has passed, we send our condolences to Leo, and wish that to go as part of the permanent record. Thank you.

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

#### **MOTION TO RECESS TO CALL OF THE CHAIR**

Sen. Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments and when we recess, we recess to the call of the Chair.

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