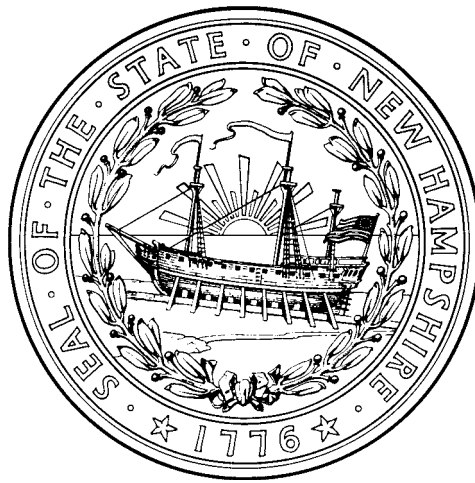


March 28, 2012
Nos. 7-8

STATE OF NEW HAMPSHIRE

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



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

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MARCH 21, 2012 SESSION
COMMENCEMENT – MARCH 28, 2012 SESSION**

SENATE JOURNAL 7 *(continued)*

March 21, 2012

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:

CACR 26, Relating to administration of the supreme court. Providing that the article authorizing the chief justice of the supreme court to make rules governing the administration of all the courts of the state shall be repealed.

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

HB 1225, permitting a charter school to incur long-term debt.

HB 1389, relative to the pre-engineering technology curriculum and pre-engineering technology advisory council.

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

HB 1642-FN, relative to destination specialty hospitals.

HB 1671, apportioning congressional districts.

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 1440, relative to driver education. (Transportation)

HB 1645-FN, relative to decertification of a bargaining unit. (Commerce)

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. (Commerce)

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 8

March 28, 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.

Simplicity is a challenge for us, but is also our only way forward as western humans. With the increase in technology of the past 100 years, our human systems of thinking and processing have been strained with overstimulation, over-cafeination, and over-functioning in order to live as the top 11 percent of wealthy people in the planet.

The managerial challenge for leaders like you is similar to the spiritual challenge for people of faith. Our need is not to do more but to focus better and simplify so that we do less and do it from a place of clarity.

After 200,000 years of human existence on this planet, we have, in the past 100 years, polluted our awareness with too much information. This time of explosive overstimulation is a relatively brief and recent event in our human development, equivalent to the final paragraph of a twenty-volume set of 1,000-page books.

The way out of this psychological tar pit is living with intentional simplicity. Simplicity is not reducing as much as it is focusing on the important rather than the urgent. Let us pray.

God of our creation, so calm our hearts and soothe our minds that we are reminded of the great gift of the human life which you breathe into us. Call us into a simplicity which helps us to see the important within the urgent. Amen

Sen. Sanborn led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Bradley introduced Simon Campbell and Andrew Torressen, students from Moultonborough Academy, serving as Senate Pages today.

Sen. Odell introduced Dr. John Wilson, a guest in the Senate gallery today.

Sen. White introduced Hugh Rooney, a guest in the Senate gallery today.

Sen. Houde introduced Captain Crate, a guest in the Senate gallery today.

Sen. Morse introduced Sara Watkins, recent Backyard Game of the Year Playoffs winner, and her Pollard Elementary School class.

FINANCE REPORT

Sen. Morse announces that the following bills will not come to Finance: HB 449-FN, HB 458-FN-A, HB 654-FN-L, SB 409-FN, SB 275-FN, SB 276-FN, HB 1302-FN.

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

SPECIAL ORDER

Without objection President Bragdon moved SB 212-FN, SB 225-FN-L, SB 311-FN-A, SB 372-FN-L, SB 409-FN, and SB 202 be Special-Ordered to the afternoon session.

CONSENT CALENDAR REPORTS

The following bills were removed from the Consent Calendar:

SB 300, relative to special education services in chartered public schools. Removed by Sen. Bragdon.

SB 388, relative to the use of land along Silver Lake that is below the public trust boundary. Removed by Sen. Odell.

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.

EDUCATION

SB 267, relative to the establishment of school zones and school zone speed limits by municipalities. Inexpedient to Legislate, Vote 5-0. Senator Stiles for the committee.

This bill permits local authorities to decrease the speed limit in an area near a school that has not been approved as a school zone by the department of transportation. Senate Bill 267 was introduced based on a disagreements between a local school and the DOT. Since that time the disagreements have been resolved and the legislation is no longer necessary.

SB 408, relative to a school district's policy informing parents of bullying incidents. Inexpedient to Legislate, Vote 5-0. Senator Forsythe for the committee.

This bill changes the procedure of a school's policy on granting a waiver from notifying parents of incidents of bullying and cyberbullying. The committee found that the current process is working and allows each school district to determine the procedures it deems necessary. We found that the waiver is rarely used and this change in law would be unnecessary.

ENERGY AND NATURAL RESOURCES

SB 396, declaring the Temple Mountain ski area a historic site. Inexpedient to Legislate, Vote 5-0. Senator Lambert for the committee.

This bill would have declared the Temple Run ski area a historic site. However, the committee understands that the management structure that is in place is working and the process has now been started for a historical highway marker through the Department of Cultural Resources to properly honor the historical significance of the site.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 193, relative to the Mount Washington commission. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

As amended this bill requires that the Mount Washington Commission submit an annual report to the senate president and the speaker of the house of representatives detailing expenses incurred by the legislative members of the commission while in performance of their duties for the commission. This amendment also changes the term lengths for the members of the commission from 5 years to 4 years and as well establishes a quorum requirement of seven members.

Senate Executive Departments and Administration

March 22, 2012

2012-1399s

04/09

Amendment to HB 193

Amend RSA 227-B:3, II as inserted by section 1 of the bill by replacing it with the following:

[V:] **II.** All such members so appointed shall serve a term of [5] **4** years ~~[commencing with the effective date of this chapter].~~ ***The terms of the members of the legislature shall be coterminous with their terms in office. Members of the commission shall continue to serve until a successor is appointed by the appointing authority.*** [Vacancies] ***In the case of a vacancy other than by expiration of term, the vacancy shall be filled for the unexpired term in the same manner and by the same body as the original appointment was made. Seven members of the commission shall constitute a quorum.***

Amend the bill by inserting after section 3 the following and renumbering the original sections 4-6 to read as 5-7, respectively:

4 New Paragraph; Mount Washington Commission; Powers and Duties. Amend RSA 227-B:6 by inserting after paragraph VIII the following new paragraph:

IX. Submit an annual report beginning January 1, 2013 to the senate president and the speaker of the house of representatives detailing the expenses incurred by the legislative members of the commission while in the performance of their duties for the commission.

HB 624, relative to the rulemaking authority of state agencies to establish fees and costs and establishing a committee to study the rulemaking authority of state agencies to establish fees. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

This bill establishes a house member study committee to research the rulemaking authority of state agencies to establish fees.

Senate Executive Departments and Administration

March 22, 2012

2012-1396s

05/04

Amendment to HB 624

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

AN ACT establishing a committee to study the rulemaking authority of state agencies to establish fees.

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

1 Committee Established.

I. There is established a committee to study the rulemaking authority of state agencies to establish fees.

II.(a) The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

- (a) Review statutes that authorize fees to be set in administrative rules.
- (b) Review the frequency of changes to fees established by state agencies and boards.
- (c) Examine whether establishing statutory or other parameters would positively impact fee changes.
- (d) Evaluate the process of setting fees to cover agency expenses or budgets.
- (e) Review and recommend policy changes resulting from the study committee.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 15 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee 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, and the senate clerk on or before October 20, 2012.

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

2012-1396s

AMENDED ANALYSIS

This bill establishes a committee to study the rulemaking authority of state agencies to establish fees.

HEALTH AND HUMAN SERVICES

HB 1349-L, relative to the service of town health officers. Ought to Pass, Vote 5-0. Senator Sanborn for the committee.

Today, by statute, Municipal Health Officers are prohibited from assisting other communities. Passage of HB 1349 will expand jurisdictional powers, to empower health officers and communities to enter into or enjoy sharing the services of officers when needed to cover sick or unavailable officers or provide unique expertise. The Bill also contains guidelines to consider compensation mechanics.

INTERNAL AFFAIRS

HB 656, relative to boundaries of wards. Inexpedient to Legislate, Vote 5-0. Senator Bragdon for the committee.

This bill contains a number of provisions dealing with ward boundaries, especially as they relate to state legislative districts. The provisions in this bill were incorporated into HB 592, which passed the Senate earlier this session, thus making this bill unnecessary.

HB 1717, apportioning county commissioner districts. Ought to Pass, Vote 5-0. Senator Lambert for the committee.

This legislation establishes new county commissioner districts in accordance with the latest federal decennial census. All county commissioners approve of the new districts.

JUDICIARY

SB 275-FN, relative to causing death or serious bodily injury by means of a fraudulent act. Interim Study, Vote 5-0. Senator Carson for the committee.

This bill was filed in response to a particular situation that, for reasons specific to the case, did not result in a penalty that was adequate from the family's perspective. However, the Committee - with consent of sponsor - recommends Interim Study to determine implications of amending existing criminal statute.

PUBLIC AND MUNICIPAL AFFAIRS

SB 210, relative to the default budget in school districts which have adopted the official ballot method of voting. Inexpedient to Legislate, Vote 5-0. Senator Barnes for the committee.

This bill would have provided that the default budget shall not exceed the operating budget in school districts which have adopted the official ballot method of voting. It was decided the subject matter would be appropriate for study by the committee established in SB 238, whose responsibilities include the assessment of current procedures.

SB 353-L, relative to establishing water and sewer infrastructure in the commercial district of a town. Interim Study, Vote 5-0. Senator Boutin for the committee.

This bill enabling municipalities to protect the water supply by establishing centralbusiness utility districts and providing utility services in compliance with various governmental requirements, is worthy of further research and analysis. Thus, the committee recommends Interim Study.

HB 1134, establishing a committee to study the construction of a permanent memorial to Governor John Gilbert Winant on state property other than the state house grounds. Ought to Pass, Vote 5-0. Senator Merrill for the committee.

This bill establishes a committee to study the construction of a permanent memorial to Governor John Gilbert Winant, including an appropriate site, design and private funding source. The memorial will be located on state property other than the State House grounds.

HB 1420, relative to the disposition of the remains of service members. Ought to Pass, Vote 5-0. Senator Boutin for the committee.

This bill declares that if a service member has designated an individual responsible for his or her remains in the event of the service member's death, such person shall have custody and control over the final disposition of the body and personal effects. The designation must be made on a US Department of Defense Record of Emergency Data Form, DD Form 93.

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

REGULAR CALENDAR REPORTS

COMMERCE

SB 205, revising the New Hampshire business corporations act, RSA 293-A. Ought to Pass with Amendment, Vote 3-2. Senator Prescott for the committee.

Commerce

March 20, 2012

2012-1347s

03/04

Amendment to SB 205

Amend RSA 293-A:1.20(e) as inserted by section 1 of the bill by replacing it with the following:

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals.

Amend RSA 293-A:1.20(i) as inserted by section 1 of the bill by replacing it with the following:

(i) The document must be delivered to the office of the secretary of state for filing and shall be accompanied by the correct filing fee, and any franchise tax, license fee, or penalty required by this chapter or other law. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state.

Amend RSA 293-A:1.20(j)(3)(ii) as inserted by section 1 of the bill by replacing it with the following:

(ii) "plan" means a plan of domestication, entity conversion, merger, or share exchange.

Amend RSA 293-A:1.22(a)(5)-(9) as inserted by section 1 of the bill by replacing it with the following:

- | | |
|--|-------|
| (5) Articles of domestication | \$ 35 |
| (6) Articles of charter surrender | \$ 35 |
| (7) Articles of domestication and conversion | \$ 35 |
| (8) Articles of entity conversion | \$ 35 |

(9) Statement of Abandonment of a Domestication \$ 35

(9A) Statement of Abandonment of a Merger or Share Exchange \$ 35

Amend RSA 293-A:1.24(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A domestic or foreign corporation may correct a document filed with the secretary of state within one year of filing, if:

(1) the document contains an inaccuracy; or

(2) the document was defectively executed, attested, sealed, verified, or acknowledged.

Amend RSA 293-A:1.25(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with his or her name and official title and the date of receipt on the filed document. After filing a document, except as provided in RSA 293-A:5.03 and RSA 293-A:15.09, the secretary of state shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgement of the date of filing.

Amend RSA 293-A:1.28(b)(2)(i) as inserted by section 1 of the bill by replacing it with the following:

(i) the domestic corporation is duly incorporated under the law of this state and the date of its incorporation; or

Amend RSA 293-A:1.36 as inserted by section 1 of the bill by replacing it with the following:

293-A:1.36 Penalties Imposed. Each corporation, domestic or foreign, that fails or refuses to file its annual report or to pay all associated fees related thereto, or both, for any year on or before April 1 shall be subject to an additional fee as set out in RSA 293-A:1.22(a)(17).

Amend RSA 293-A:1.40(a)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) "Articles of incorporation" means the original articles of incorporation, all amendments thereof, and any other documents permitted or required to be filed by a domestic business corporation with the secretary of state under any provision of this chapter except RSA 293-A:16.21.

Amend RSA 293-A:1.40(a)(7D) as inserted by section 1 of the bill by replacing it with the following:

(7D) "Eligible entity" means a domestic or foreign unincorporated entity.

Amend RSA 293-A:1.40(a)(9) as inserted by section 1 of the bill by replacing it with the following:

(9) "Entity" includes domestic and foreign business corporation; estate; trust; domestic and foreign unincorporated entity; and state, United States, and foreign government.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(10A) and renumbering the original RSA 293-A:1.40(a)(10B) to read as RSA 293-A:1.40(a)(10A).

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(14A) and renumbering the original RSA 293-A:1.40(a)(14B) to read as RSA 293-A:1.40(a)(14A).

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(14C).

Amend RSA 293-A:1.40(a)(15B) as inserted by section 1 of the bill by replacing it with the following:

(15B) "Organic law" means the statute governing the internal affairs of a domestic or foreign business or unincorporated entity.

Amend the introductory paragraph of RSA 293-A:1.40(a)(15C) as inserted by section 1 of the bill by replacing it with the following:

(15C) "Owner liability" means personal liability for a debt, obligation, or liability of a domestic or foreign business or unincorporated entity that is imposed on a person:

Amend RSA 293-A:1.40(a)(22A) as inserted by section 1 of the bill by replacing it with the following:

(22A) "Sign" or "signature" means, with present intent to authenticate or adopt a document, to execute or adopt a tangible symbol to a document, including any manual, facsimile, or conformed signature, or electronic signature under RSA 294-E. Amend RSA 293-A:2.01 as inserted by section 1 of the bill by replacing it with the following:

293-A:2.01 Incorporators. One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation and the certificate required by RSA 421-B:11, II(a) to the secretary of state for filing.

Amend RSA 293-A:4.01(a)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) must contain the word “corporation,” “incorporated,” or “limited,” or the abbreviation “corp.,” “inc.,” or “ltd.,” or words or abbreviations of like import in another language; and

Amend RSA 293-A:4.01(b)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the fictitious name adopted by a foreign entity authorized to transact business in this state because its real name is unavailable;

Amend RSA 293-A:4.01(c) as inserted by section 1 of the bill by replacing it with the following:

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or not likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from a review of the records of the secretary of state.

Amend RSA 293-A:4.02(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A person may reserve the exclusive use of a corporate name by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant’s exclusive use for a nonrenewable 120-day period.

Amend RSA 293-A:4.03(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this chapter, provided its corporation name is available as required by RSA 293-A:4.01.

Amend RSA 293-A:4.03(c) as inserted by section 1 of the bill by replacing it with the following:

(c) The name is registered for the applicant’s exclusive use upon the effective date of the application until the close of the calendar year.

Amend RSA 293-A:4.03(e) as inserted by section 1 of the bill by replacing it with the following:

(e) A foreign corporation whose registration is effective may thereafter qualify the foreign corporation to transact business in New Hampshire under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Amend RSA 293-A:5.01(a)(2)(ii) as inserted by section 1 of the bill by replacing it with the following:

(ii) a corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office;

(iii) a limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(iv) a limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend RSA 293-A:5.03(b) as inserted by section 1 of the bill by replacing it with the following:

(b) After filing the statement the secretary of state shall mail the copy to the corporation at its principal office.

Amend RSA 293-A:8.60(a)(5)(v) as inserted by section 1 of the bill by replacing it with the following:

(v) a domestic or foreign (A) business (other than the corporation or an entity controlled by the corporation) of which the director is a director, (B) unincorporated entity of which the director is a general partner or a member of the governing body, or (C) individual, trust or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary; or

Amend RSA 293-A:9.22(b)-(c) as inserted by section 1 of the bill by replacing it with the following:

(b) The articles of domestication shall have attached articles of incorporation.

(c) The articles of domestication with articles of incorporation and the certificate required by RSA 421-B:11, II(a) shall be delivered to the secretary of state for filing, and shall take effect at the effective time provided in RSA 293-A:1.23.

Amend RSA 293-A:9.24(a)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) the corporation is deemed to:

(i) be incorporated under and subject to the organic law of this state for all purposes;

(ii) be the same corporation without interruption as the corporation that existed under the laws of the foreign jurisdiction; and

(iii) have been incorporated on the date it was originally incorporated in the foreign jurisdiction.

Amend RSA 293-A:9.25(b) as inserted by section 1 of the bill by replacing it with the following:

(b) If a domestication is abandoned under subsection (a) after articles of charter surrender have been filed with the secretary of state but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the domestication with the fee required under RSA 293-A:1.22(a)(9). The statement shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:9.30 through RSA 293-A:9.43 and the subdivision headings preceding RSA 293-A:9.30 and RSA 293-A:40.

Amend the subdivision heading preceding RSA 293-A:9.50 as inserted by section 1 of the bill by replacing it with the following:

Part C Entity Conversion

Amend RSA 293-A:10.04(a) as inserted by section 1 of the bill by inserting after the introductory paragraph the following new subparagraph and renumbering the original subparagraphs (1)-(8) to read as (2)-(9), respectively:

(1) increase or decrease the aggregate number of authorized shares of the class;

Amend RSA 293-A:10.05(a)(5) as inserted by section 1 of the bill by replacing it with the following:

(5) to change the corporate name by substituting the word “corporation,” “incorporated,” “limited,” or the abbreviation “corp.,” “inc.,” or “ltd.,” for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

Amend RSA 293-A:10.05(a)(7) as inserted by section 1 of the bill by replacing it with the following:

(7) to delete a class of shares from the articles of incorporation, as a result of the operation of RSA 293-A:6.31(b), when there are no remaining outstanding shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

Amend RSA 293-A:11.02(d)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) the articles of incorporation of any domestic or foreign business, or the organic documents of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign business or unincorporated entity is not to be created by the merger, any amendments to the survivor’s articles of incorporation or organic documents; and

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:11.02(g).

Amend RSA 293-A:11.06(a) as inserted by section 1 of the bill by replacing it with the following:

(a) After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange shall be signed on behalf of each party to the merger or share exchange in accordance with RSA 293-A:1.20(f). The articles shall set forth:

(1) either:

(i) the plan of merger or share exchange, or

(ii) a statement that the plan of merger or share exchange will be made available to any shareholder entitled to vote on the merger or share exchange upon the request of such shareholder to the president or secretary of the corporation;

(2) the names of the parties to the merger or share exchange;

(3) if the articles of incorporation of the survivor of a merger are amended, the amendments to the survivor's articles of incorporation, or if a new corporation is created as a result of a merger, the articles of incorporation of the new corporation and the certificate required by RSA 421-B:11, II(a);

(4) if the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation;

(5) if the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(6) as to each foreign corporation or eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

Amend RSA 293-A:13.02(a)(6)-(8) as inserted by section 1 of the bill by replacing it with the following:

(6) consummation of a domestication if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the corporation, as the shares held by the shareholder before the domestication; or

(7) consummation of a conversion of the corporation to an unincorporated entity pursuant to RSA 293-A:9.50 through RSA 293-A:9.56.

Amend the introductory paragraph of RSA 293-A:13.02(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Notwithstanding RSA 293-A:13.02(a), the availability of appraisal rights under RSA 293-A:13.02(a) (1), (2), (3), (4), (6), and (7) shall be limited in accordance with the following provisions:

Amend RSA 293-A:13.02(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Notwithstanding any other provision of RSA 293-A:13.02, the articles of incorporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, except that (i) no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group (alone or as part of a group) on the action or if the action is a conversion to an unincorporated entity under RSA 293-A:9.50 through RSA 293-A:9.56, or a merger having a similar effect, and (ii) any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one year of that date if such action would otherwise afford appraisal rights.

Amend RSA 293-A:14.21(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

(a) If the secretary of state determines that one or more grounds exist under RSA 293-A:14.20 for dissolving a corporation, the secretary of state shall notify the corporation in writing of such determination and shall mail such notice to the corporation at its principal address as listed in the records of the secretary of state.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after notification, the secretary of state shall administratively dissolve the corporation by mailing a notice of dissolution to the corporation at its principal address as listed in the records of the secretary of state, together with an application for reinstatement. Such notice shall recite the grounds for dissolution and the effective date thereof.

Amend RSA 293-A:14.23(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

(a) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall notify the corporation in writing of such denial. Such notice shall set forth the reason or reasons for denial and shall be mailed to the corporation at its principal address as listed in the records of the secretary of state.

(b) The corporation may appeal the denial of reinstatement to the superior court of the county in which its principal office (or, if none in this state, its registered office) is located within 30 days after notification of denial. The corporation shall appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:15.03(b).

Amend RSA 293-A:15.06 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.06 Corporate Name of Foreign Corporation.

(a) If the corporate name of a foreign corporation does not satisfy the requirements of RSA 293-A:4.01, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(1) may add the word "corporation," "incorporated," or "limited," or the abbreviation "corp.," "inc.," or "ltd." to its corporate name for use in this state; or

(2) may use an available fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(b) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of RSA 293-A:4.01, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of subsection (a) and obtains an amended certificate of authority under RSA 293-A:15.04.

Amend RSA 293-A:15.07 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.07 Registered Office and Registered Agent of Foreign Corporation.

(a) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) a registered office that may be the same as any of its places of business; and

(2) a registered agent, who may be:

(i) an individual who resides in this state and whose business office is identical with the registered office;

(ii) a corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office;

(iii) a limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(iv) a limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend RSA 293-A:15.21 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.21 Automatic Withdrawal Upon Certain Conversions. A foreign corporation authorized to transact business in this state that converts to any form of domestic filing entity shall be deemed to have withdrawn on the effective date of the conversion.

Amend the introductory paragraph of RSA 293-A:15.23(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A foreign business corporation authorized to transact business in this state that converts to any form of foreign unincorporated entity that is required to obtain a certificate of authority or make a similar

type of filing with the secretary of state if it transacts business in this state shall file with the secretary of state an application for transfer of authority signed by any officer or other duly authorized representative. The application shall set forth:

Amend RSA 293-A:15.31 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.31 Procedure for and Effect of Revocation.

(a) If the secretary of state determines that one or more grounds exist under RSA 293-A:15.30 for revocation of a certificate of authority, the secretary of state shall notify the foreign corporation in writing of such determination and shall mail such notice to the corporation at its principal office listed on the records of the New Hampshire secretary of state.

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after notification, the secretary of state may revoke the foreign corporation's certificate of authority by issuing a notice of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall mail such notice to the corporation at its principal office listed on the records of the New Hampshire secretary of state.

(c) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(d) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

Amend RSA 293-A:15.32(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the superior court for Merrimack county within 30 days after revocation. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

Amend RSA 293-A:16.21 as inserted by section 1 of the bill by replacing it with the following:

293-A:16.21 Annual Report for Secretary of State.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

- (1) the name of the corporation and the state or country under whose law it is incorporated;
- (2) the address of its registered office and the name of its registered agent at that office in this state;
- (3) the address of its principal office;
- (4) names and business addresses of its directors and principal officers; and
- (5) a brief description of the nature of its business.

(b) Information in the annual report must be current as of January 1 of the year the report is due.

(c) The first annual report must be delivered to the secretary of state between January 1 and April 1 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business; provided, however, that a foreign corporation that has received its certificate of authority at any time between December 1 of the preceding year and April 1, or a domestic corporation which has received its certificate of incorporation during the same period shall not be required to file an annual report during that year. Subsequent annual reports must be delivered to the secretary of state between January 1 and April 1 of the following calendar years.

(d) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within 30 days after the effective date of notice, it is deemed to be timely filed.

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

Recess. Out of recess.

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

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

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

The following Senators voted No: Sanborn, White.

Yeas: 22 - Nays: 2

Adopted, bill ordered to Third Reading.

SB 251, prohibiting certain games and contests in premises licensed by the liquor commission. Inexpedient to Legislate, Vote 4-1. Senator Sanborn for the committee.

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

Sen. Kelly is in opposition to the motion of Inexpedient to Legislate on SB 251.

SB 341, authorizing electronic payment of payroll. Inexpedient to Legislate, Vote 3-2. Senator De Blois for the committee.

Sen. De Blois moved to Lay on the Table SB 341. Adopted.

Sen. Prescott moved to remove SB 350-FN from the table. Adopted.

Sen. White asserts Rule 2-15 on SB 350-FN.

COMMERCE

SB 350-FN, relative to the sale of portable electronics insurance.

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

Sen. White asserts Rule 2-15 on SB 350-FN.

Sen. Prescott moved Ought to Pass.

Sen. Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

March 20, 2012

2012-1340s

01/09

Floor Amendment to SB 350-FN

Amend RSA 402-K:1, VI(b)-(d) as inserted by section 1 of the bill by replacing it with the following:

(b) A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling, power surges, or normal wear and tear;

(c) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or

(d) A homeowner's, renter's, motor vehicle, commercial multi-peril, or similar policy.

Amend RSA 402-K:2, III as inserted by section 1 of the bill by replacing it with the following:

III. The supervising entity shall maintain a registry of vendor locations which are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the commissioner and within 10 working days notice to the supervising entity, the registry shall be open to inspection and examination by the commissioner during regular business hours of the supervising entity.

Amend RSA 402-K:3 as inserted by section 1 of the bill by replacing it with the following:

402-K:3 Marketing Requirements for Sale of Portable Electronics Insurance.

I. At every location where portable electronics insurance is offered to customers, brochures or other written materials shall be made available to a prospective customer which:

(a) Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, motor vehicle insurance policy, or other source of coverage.

(b) State that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services.

(c) Summarize the material terms of the insurance coverage, including:

(1) The identity of the insurer;

(2) The identity of the supervising entity;

(3) The amount of any applicable deductible and how it is to be paid;

(4) Benefits of the coverage; and

(5) Key terms and conditions of coverage such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or non-original manufacturer parts or equipment.

(d) Provide a toll-free number and a summary of the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements.

(e) State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

II. Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

III. Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program in compliance with RSA 417:4, VIII(e) and RSA 417-B:2-a.

IV. A certificate, endorsement, brochure, or other evidence setting forth the terms and conditions of the portable electronics insurance policy shall be provided to each enrolled customer.

Amend RSA 402-K:4, I(b)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) The training may be provided in electronic form. However, if conducted in an electronic form the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by employees of the supervising entity who are licensed to sell, solicit, or negotiate portable electronics insurance to the extent required by RSA 402-J.

Amend RSA 402-K:4, II as inserted by section 1 of the bill by replacing it with the following:

II. The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.

Amend RSA 402-K:5 as inserted by section 1 of the bill by replacing it with the following:

402-K:5 Suspension or Revocation of License. If a vendor of portable electronics or its employee or authorized representative violates any provision of this chapter, the commissioner may:

I. After notice and hearing, impose fines not to exceed \$1,000 per violation or \$25,000 in the aggregate for such conduct;

II. After notice and hearing, impose other penalties that the commissioner deems necessary and reasonable to carry out the purpose of this article, including but not limited to:

(a) Suspending the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred; and

(b) Suspending or revoking the ability of individual employees or authorized representatives to act under the license.

Amend the introductory paragraph of RSA 402-K:6 as inserted by section 1 of the bill by replacing it with the following:

Notwithstanding RSA 417-B, RSA 417-C, or any other provision of law:

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

Sen. White asserts Rule 2-15 on SB 350-FN.

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 350-FN.

EDUCATION

SB 401, relative to reporting the average daily membership of pupils in the public schools. Ought to Pass with Amendment, Vote 4-1. Senator Forsythe for the committee.

Senate Education

March 20, 2012

2012-1362s

04/10

Amendment to SB 401

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

AN ACT relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants.

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

1 Adequate Education; Definitions. Amend RSA 198:38, I to read as follows:

I. "Average daily membership in attendance" or "ADMA" means the average daily membership in attendance of pupils in kindergarten through grade 12, as defined in RSA 189:1-d, III of the ~~[second school year preceding the]~~ **school year** in which the calculation is made, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar year.

2 Adequate Education; Definitions. Amend RSA 198:38, IV to read as follows:

IV. "Determination year" means the ~~[fiscal year that was 3 years prior to the fiscal year for which aid is to be determined]~~ **school year immediately preceding the school year for which aid is determined**. Unless otherwise indicated, determination year data shall be used to calculate aid.

3 Distribution Schedule for Adequate Education Grants. Amend RSA 198:42, I to read as follows:

I. The adequate education grant determined in RSA 198:41 shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for children with disabilities, as the case may be, from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department. ***During the course of the school year, the commissioner may make adjustments in grant payments necessitated by variations in the ADMA data for a school district for any fiscal year in which the ADMA calculation is made.***

4 School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a, IV(a) to read as follows:

(a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education [~~which shall be used in each year of the biennium~~].

5 School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a, V to read as follows:

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the ~~fiscal~~ **school** year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

6 New Paragraph; School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a by inserting after paragraph V the following new paragraph:

VI. Notwithstanding RSA 32:11, the commissioner of the department of education shall adjust the April adequate education grant disbursement as provided in RSA 198:42 to the extent necessary to ensure that the total education grant for each school district is within 5 percent of the school district's estimated total education grant amount, as provided in the report prepared by the department of education pursuant to RSA 198:40-a, V, for the school year for which the calculation is made.

7 Applicability. The provisions of this act shall apply beginning with the 2013-2014 school year and not before.

8 Effective Date. This act shall take effect July 1, 2012.

2012-1362s

AMENDED ANALYSIS

This bill amends the definition of "determination year" for the purpose of calculating adequate education grants and authorizes the commissioner of the department of education to make adjustments in adequate education grants based on variations in the average daily membership in attendance data.

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

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

Sen. Kelly is in opposition to the motion of Ought to Pass as Amended on SB 401.

ENERGY AND NATURAL RESOURCES

SB 215, relative to the duties of the site evaluation committee. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Energy and Natural Resources

March 22, 2012

2012-1398s

09/10

Amendment to SB 215

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

AN ACT establishing a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee.

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

1 Committee Established.

I. There is established a committee to study and develop recommendations for proposed legislation to update and improve the procedures and criteria for review and siting of energy facilities.

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

(1) Two members of the senate, including one member of the energy and natural resources committee, appointed by the president of the senate.

(2) Two members of the house of representatives, including one member of the science, technology, and energy committee, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

(a) Study whether existing procedures and criteria for review of renewable energy facilities, large transmission facilities, and electric generating facilities having a capacity of 100 megawatts or greater, are adequate or could be altered to reflect the size and impact of different sized projects, while assuring that such facilities are in the public interest, that the impacts of such facilities on the state's environment, economic development, and energy resources are comprehensively evaluated, and that all reasonable alternatives to such facilities are fully considered.

(b) Study whether RSA 162-H should be further updated in light of the Energy Policy Act of 2005; the New Hampshire Electric Industry Restructuring Act, RSA 374-F; and recent actions of the Federal Energy Regulatory Commission regarding electric transmission projects.

(c) Determine how the site evaluation committee can assess charges for the costs of its proceedings, including evaluating how costs incurred by public counsel should be assessed.

(d) Solicit testimony from any person or organization with relevant information or expertise, including the members of the site evaluation committee.

(e) Develop recommendations for proposed legislation, if appropriate, to address concerns relative to subparagraphs (a), (b), and (c).

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 30 days of the effective date of this section.

V. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2012.

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

2012-1398s

AMENDED ANALYSIS

This bill establishes a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee.

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 224, relative to lead fishing sinkers and jigs. Ought to Pass with Amendment, Vote 4-1. Senator Odell for the committee.

Energy and Natural Resources

March 19, 2012

2012-1309s

04/09

Amendment to SB 224

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

1 Lead Fishing Sinkers and Jigs. RSA 211:13-b, IV is repealed and reenacted to read as follows:

IV. For purposes of this section, "lead sinker" is defined as any sinker made from lead that weighs one ounce or less. A "lead jig" is defined as a lead weighted hook that measures less than 2 and 1/2 inches along its longest axis. Prohibited tackle includes lead sinkers weighing one ounce or less and lead jigs that measure less than 2 and 1/2 inches along the longest axis, including those painted or coated with another substance, or those with attached skirts. Lead sinkers and lead jigs shall not include lead fishing-related items including, but not limited to, lead core line, spinnerbaits, buzzbaits, spoons, poppers, plugs, or flies.

2 Effective Date. This act shall take effect January 1, 2015.

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

Sen. Odell offered a floor amendment.

Sen. Odell, Dist. 8

March 26, 2012

2012-1440s

04/10

Floor Amendment to SB 224

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

1 Lead Fishing Sinkers and Jigs. RSA 211:13-b, IV is repealed and reenacted to read as follows:

IV. For purposes of this section, "lead sinker" is defined as any sinker made from lead that weighs one ounce or less. A "lead jig" is defined as a lead weighted hook that measures less than 2 and 1/2 inches along its longest axis. Prohibited tackle includes lead sinkers weighing one ounce or less and lead jigs that measure less than 2 and 1/2 inches along the longest axis, including those painted or coated with another substance, or those with attached skirts. Lead sinkers and lead jigs shall not include lead fishing-related items including, but not limited to, lead core line, spinnerbaits, buzzbaits, spoons, poppers, plugs, or flies.

2 Lead Fishing Sinkers and Jigs; Sale Prohibited. Amend RSA 339:77 to read as follows:

339:77 Lead Fishing Sinkers and Jigs; Sale Prohibited. No person shall sell or offer for sale within the state of New Hampshire a lead sinker or lead jig. ~~[The definition of lead sinker and lead jig in RSA 211:13-b, IV shall apply to this section.]~~ ***For purposes of this section, "lead sinker" means any sinker made from lead, the lead portion of which has a mass of one ounce or less, and "lead jig" means a lead weighted hook that measures less than one inch along its longest axis. Lead sinkers and lead jigs shall not include lead fishing related items including but not limited to fishing line, flies, lures, or spoons.*** Any person who violates this section shall be guilty of a violation.

3 Lead Fishing Sinkers and Jigs; Sale Prohibited. RSA 339:77 is repealed and reenacted to read as follows:

339:77 Lead Fishing Sinkers and Jigs; Sale Prohibited. No person shall sell or offer for sale within the state of New Hampshire a lead sinker or lead jig. For purposes of this section, "lead sinker" is defined as any sinker made from lead that weighs one ounce or less. A "lead jig" is defined as a lead weighted hook that measures less than 2 and 1/2 inches along its longest axis. Prohibited tackle includes lead sinkers weighing one ounce or less and lead jigs that measure less than 2 and 1/2 inches along the longest axis, including those painted or coated with another substance, or those with attached skirts. Lead sinkers and lead jigs shall not include lead fishing-related items including, but not limited to, lead core line, spinnerbaits, buzzbaits, spoons, poppers, plugs, or flies. Any person who violates this section shall be guilty of a violation.

4 Effective Date.

I. Section 1 of this act shall take effect January 1, 2015.

II. Section 3 of this act shall take effect January 1, 2018.

III. The remainder of the act shall take effect upon its passage.

2012-1440s

AMENDED ANALYSIS

This bill amends the definitions of "lead sinker" and "lead jig" for the purpose of the sale or use of lead sinkers and lead jigs.

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 224.

SB 258, authorizing group net metering for limited electrical energy producers. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Energy and Natural Resources
 March 22, 2012
 2012-1401s
 06/01

Amendment to SB 258

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

1 Limited Electrical Energy Producers; Definitions. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" ~~or~~, "customer-generator", **or "customer-generator group"** means an electric utility customer **or group of customers** who ~~owns~~ **own** or ~~operates an~~ **operate** electrical generating ~~facility~~ **facilities** either powered by renewable energy or which ~~employs~~ **employ** a heat led combined heat and power system, with a total peak generating capacity of ~~[not more than 100 kilowatts, or that first begins operation after July 1, 2010 and has a total peak generating capacity of 100 kilowatts or more]~~ up to one megawatt, that is located behind a retail meter on the customer's premises ~~[is]~~ **or, in the case of a customer-generator group, on the premises of a customer who is a member of the group, are** interconnected and ~~operates~~ **operate** in parallel with the electric grid, and ~~[is]~~ **are** used in the first instance to offset the customer's own electricity requirements. **A customer generator may be incremental generation added to an existing generation facility, that does not itself qualify for net metering, as long as such incremental generation meets the qualifications of this paragraph and is metered separately from the nonqualifying facility. An eligible customer-generator group shall only include customers located in the same municipality and served by the same electric distribution utility.**

2 Net Energy Metering. Amend RSA 362-A:9, I to read as follows:

I. Standard tariffs providing for net energy metering shall be made available to eligible customer-generators, **or customer-generator groups**, by each electric distribution utility in conformance with net metering rules adopted and orders issued by the commission. Each net energy metering tariff shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a customer-generator would otherwise take default generation supply service from the distribution utility. Such tariffs shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned or operated by eligible customer-generators, **or customer-generator groups**, totals a number equal to 50 megawatts multiplied by each such utility's percentage share of the total 2010 annual coincident peak energy demand distributed by all such utilities as determined by the commission. No more than 2 megawatts of such total rated generating capacity shall be from a combined heat and power system as defined in RSA 362-A:1-a, I-d.

3 Net Energy Metering. Amend RSA 362-A:9, III through VI(a) to read as follows:

III. Metering shall be done in accordance with normal metering practices. A single net meter that shows the customer's net energy usage by measuring both the inflow and outflow of electricity internally shall be the extent of metering that is required at facilities with a total peak generating capacity of not more than 100 kilowatts. A bi-directional metering system that records the total amount of electricity that flows in each direction from the customer premises, either instantaneously or over intervals of an hour or less, shall be required at facilities with a total peak generating capacity of more than 100 kilowatts. Customer-generators **or customer-generator groups** shall not be required to pay for the installation of net meters, but shall pay for the installation of all bi-directional metering systems as outlined in utility interconnection tariffs or rules.

IV.(a) For facilities with a total peak generating capacity of not more than 100 kilowatts, when billing a customer-generator **or customer-generator group** under a net energy metering tariff that is not time-based, the utility shall apply the customer's net energy usage when calculating all charges that are based on kilowatt hour usage. Customer net energy usage shall equal the kilowatt hours supplied to the customer over the electric distribution system minus the kilowatt hours generated by the customer-generator and fed into the electric distribution system over a billing period.

(b) For facilities with a total peak generating capacity of more than 100 kilowatts, the customer-generator shall pay all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system, less a credit on default service charges equal to the metered energy generated by the customer-generator and fed into the electric distribution system over a billing period.

V. When a customer-generator's **or customer-generator group's** net energy usage is negative (more electricity is fed into the distribution system than is received) over a billing period, such surplus shall either:

(a) Be credited to the customer-generator's *or customer-generator group's* account on an equivalent basis for use in subsequent billing cycles as a credit against the customer's net energy usage or bill in a manner consistent with either subparagraph IV(a) or IV(b), as applicable; or

(b) Except as provided in paragraph VI, the customer-generator may elect to be paid or credited by the electric distribution utility for its excess generation at rates that are equal to the utility's avoided costs for energy and capacity to provide default service as determined by the commission consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA). The commission shall determine reasonable conditions for such an election, including the frequency of payment and how often a customer-generator may choose this option versus the option in subparagraph (a).

VI. Instead of the option in subparagraph V(b), an electric distribution utility providing default service to customer-generators may voluntarily elect, annually, on a generic basis, by notification to the commission, to purchase or credit such excess generation from customer-generators at a rate that is equal to the generation supply component of the applicable default service rate, provided that payment is issued at least as often as whenever the value of such credit, in excess of amounts owed by the customer-generator, is greater than \$50.

4 Net Energy Metering. Amend RSA 362-A:9, IX to read as follows:

IX. Renewable energy credits shall remain the property of the customer-generator *or customer-generator groups* until such credits are sold or transferred. If an electric distribution utility acquires renewable energy credits from a customer-generator in conjunction with purchasing excess generation, it may apply such generation and credits to its renewable energy source default service option under RSA 374-F:3, V(f).

5 Effective Date. This act shall take effect July 1, 2012.

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

Recess. Out of recess.

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

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

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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 449-FN, relative to reports on information available on the state website. Ought to Pass, 5-0. Senator White for the committee.

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

HB 458-FN-A, establishing a sunset review process for executive agency and judicial programs and making an appropriation therefor. Inexpedient to Legislate, Vote 5-0. Senator White for the committee.

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

HB 654-FN-L, relative to credit for retirement system employer contribution overpayments. Inexpedient to Legislate, Vote 5-0. Senator Groen for the committee.

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

SB 203-FN-A, relative to limited liability companies. Ought to Pass with Amendment, Vote 7-0. Senator Barnes for the committee.

Senate Finance
March 22, 2012
2012-1411s
03/05

Amendment to SB 203-FN-A

Amend RSA 304-C:28, IV as inserted by section 2 of the bill by replacing it with the following:

IV. The document shall be in the English language. However, a limited liability company name need not be in English if written in English letters or Arabic or Roman numerals.

Amend RSA 304-C:28, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. Documents filed electronically must be accompanied by the correct filing fee, and any franchise tax, license fee, or penalty required by this act or other law.

Amend RSA 304-C:29, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) On the date and at the time it is filed, as evidenced by the secretary of state's date endorsement of the original document; or

Amend RSA 304-C:31, I as inserted by section 2 of the bill by replacing it with the following:

I. In order to form a domestic limited liability company, one or more authorized persons shall deliver a certificate of formation and the certificate required by RSA 421-B:11, II(a) to the secretary of state for filing.

Amend RSA 304-C:32, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Shall contain the words "limited liability company" or the abbreviation "L.L.C." or "LLC" or any other similar abbreviation; and

Amend the introductory paragraph of RSA 304-C:32, III as inserted by section 2 of the bill by replacing it with the following:

III. Except as authorized by paragraph IV, V, or VI, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or not likely to be confused with or mistaken for:

Amend RSA 304-C:32, III(c) as inserted by section 2 of the bill by replacing it with the following:

(c) The fictitious name of another foreign entity authorized to transact business in this state;

Amend RSA 304-C:32, III(e) as inserted by section 2 of the bill by replacing it with the following:

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization; or

Amend RSA 304-C:32, V(a) as inserted by section 2 of the bill by replacing it with the following:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

Amend RSA 304-C:142 as inserted by section 2 of the bill by replacing it with the following:

304-C:142 Certificate of Cancellation of Certificate of Formation.

I. After the dissolution of the limited liability company under RSA 304-C:129, and the completion of its winding-up and liquidation, the limited liability company may file a certificate of cancellation with the secretary of state.

II. This certificate shall set forth:

(a) The name of the limited liability company;

(b) The reason for filing the certificate of cancellation;

(c) The effective date, if it is not to be effective upon the filing; and

(d) Any other information the members or managers filing the certificate shall deem proper.

III. If the certificate specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document becomes effective at the time it is received on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

Amend RSA 304-C:175 as inserted by section 2 of the bill by replacing it with the following:

304-C:175 Requirement of Registration by Foreign Limited Liability Companies; Applications for Registration. Before doing business in New Hampshire, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall pay the fee required by RSA 304-C:191, II(h) and shall file the certificate required by RSA 421-B:11, II(a) and an application for registration as a foreign limited liability company, setting forth:

I. The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in New Hampshire;

II. The state, territory, possession, or other jurisdiction or country where formed, and the date of its formation;

III. The nature of the business or purposes to be conducted or promoted in New Hampshire;

IV. The address of the registered office and name and address of the registered agent for service of process required to be maintained under RSA 304-C:177, IV; and

V. The name and address of any manager or member signing the application.

Amend RSA 304-C:177, V(e) as inserted by section 2 of the bill by replacing it with the following:

(e) If the current registered agent is to be changed, the name of its new registered agent; and

Amend RSA 304-C:197 as inserted by section 2 of the bill by replacing it with the following:

304-C:197 Filing of Certificates, Etc. Online. The secretary shall, with reasonable promptness, adopt and implement comprehensive regulations permitting online filing of certificates of formation and other documents required to be filed under the act.

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 229-FN, 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. Ought to Pass with Amendment, Vote 6-1. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1413s

03/09

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.

Amend the bill by replacing section 2 with the following:

2 Expenditures. 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.

2012-1413s

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 allows the commission to accept and expend private sector grants, gifts, or donations 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 Third Reading.

SB 259, relative to the appointment of the director of ports and harbors. Ought to Pass with Amendment, Vote 7-0. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1417s

05/01

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 and relative to transfer of land within the Pease development authority.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Transfer of Regulatory Authority from Pease Development Authority to Municipalities. Amend RSA 12-G:13, VIII to read as follows:

VIII. In any event, regulatory power over all land use controls at Pease Air Force Base, except for the airport district and all property west of McIntyre Road designated as a wildlife preserve, shall revert exclusively to the municipalities no later than January 1, [2020] **2050**, or sooner at the election of the authority.

2012-1417s

AMENDED ANALYSIS

This bill:

I. Transfers appointment of the director of ports and harbors from the governor to the Pease development authority board of directors.

II. Extends the date by which regulatory authority over certain lands within the Pease development authority is to be transferred to the municipalities.

This 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 Third Reading.

Sen. Sanborn is in opposition to the motion of Ought to Pass as Amended on SB 259.

SB 294-FN, relative to dedicated funds administered by the department of labor, department of environmental services, banking department, and secretary of state. Interim Study, Vote 7-0. Senator D'Allesandro for the committee.

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

Sen. Sanborn is in opposition to the motion of Refer to Interim Study on SB 294-FN.

SB 314-FN, relative to state-owned vehicle fleet management. Ought to Pass with Amendment, Vote 7-0. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1420s

05/10

Amendment to SB 314

Amend RSA 21-I:19-j as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Exemptions under this section may be submitted to and granted by the governor and executive council.

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 326-FN-L, relative to state reimbursement of towns for upkeep of dams under the Merrimack River Flood Control Compact and the Connecticut River Flood Control Compact. Ought to Pass with Amendment, Vote 7-0. Senator Barnes for the committee.

Senate Finance
March 22, 2012
2012-1406s
08/09

Amendment to SB 326-FN-A-LOCAL

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

AN ACT relative to state reimbursement of towns.

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

1 Reimbursement of Towns. Amend RSA 122:4, II to read as follows:

II. Notwithstanding paragraph I, the commissioner of revenue administration shall reduce the amount of reimbursement thus determined by any amount paid or due the state on behalf of a town or city for that year by or from the United States, another state, an interstate flood control agency or other source, because of such loss of taxable valuation. Any subsequent payments received by the state from the United States, another state, an interstate flood control agency, or other source ~~[shall first be applied to outstanding amounts due the state, and any remainder]~~ shall be apportioned to the towns.

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

2012-1406s

AMENDED ANALYSIS

This bill requires payments received from the United States, another state, or interstate flood control agency, or other source, because of loss of taxable valuation to be apportioned directly to the towns involved.

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.

SB 343-FN, establishing an independent board of psychologists. Ought to Pass with Amendment, Vote 4-3. Senator Gallus for the committee.

Senate Finance
March 22, 2012
2012-1410s
05/04

Amendment to SB 343-FN

Amend the bill by replacing section 14 with the following:

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

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

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

SPECIAL ORDER

Without objection President Bragdon moved SB 406 be Special-Ordered to the afternoon session.

SB 383-FN-L, revising the distribution of school building aid grants. Ought to Pass, Vote 7-0. 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.

SB 386-FN-A, authorizing the state treasurer to issue bonds for highway construction. Interim Study, Vote 7-0. Senator Barnes for the committee.

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

SB 407-FN, establishing an office of professional licensure and transferring administrative and clerical operations of certain professional licensing and certification boards to the office. Ought to Pass with Amendment, Vote 7-0. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1415s

04/09

Amendment to SB 407-FN

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

AN ACT relative to the purchasing policy of the department of information technology and relative to the transfer of federal grant funds.

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

1 Department of Information Technology; Duties of Commissioner. Amend RSA 21-R:4, XII to read as follows:

XII. Developing, in concert with the department of administrative services, director of plant and property management, specifications for the procurement of computer ~~[equipment and]~~ **hardware**, software, **related licenses, media, documentation, support and maintenance services, and other related services**.

2 Department of Information Technology; Purchasing Policy. The introductory paragraph of RSA 21-R:8-a, I is repealed and reenacted to read as follows:

I. Purchases of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services that require an expenditure of \$500 or less, or that are included on an approved standards list established by the department and require an expenditure of more than \$500, up to \$5,000, may be made by an agency without the approval of the chief information officer or his or her designee. To ensure that the procurement is consistent with the state information technology plan, no purchase of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services, that requires an expenditure of more than \$5,000, or any such purchase that is not included on an approved standards list established by the department which requires an expenditure of more than \$500, up to \$5,000, shall be made by an agency without the approval of the chief information officer or his or her designee:

3 Department of Administrative Services; Division of Plant and Property Management. Amend RSA 21-I:11, XI-XII to read as follows:

XI. Requiring, prior to an agency's submission of a request for purchase of computer hardware, software, related licenses, media, documentation, ~~[and standard off-site]~~ support and maintenance ~~[generally offered to the public for such computer hardware or software exceeding \$500 in total cost]~~ **services, and other related services that either require an expenditure of more than \$5,000, or involve a purchase that is not on an approved standards list established by the department of information technology which requires an expenditure of more than \$500, up to \$5,000**, that the agency obtain approval of the proposal by the chief information officer **or his or her designee** to ensure that the procurement is consistent with the state information technology plan.

XII. Requiring agencies to submit the approval ~~[from]~~ **issued under RSA 21-R:8-a, I** by the chief information officer **or his or her designee** in support of requests for purchases of ~~[information technology equipment or software in excess of \$500]~~ **computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services that either require an**

expenditure of more than \$5,000, or involve a purchase that is not on an approved standards list established by the department of information technology which requires an expenditure of more than \$500, up to \$5,000.

4 New Section; Budget and Appropriations. Amend RSA 9 by inserting after section 16-b the following new section:

9:16-c Transfer of Federal Grant Funds.

I. In order to maximize the use of federal grant funds and to avoid lapsing such funds where changes in the state or federal accounting systems, changes in federal grant guidelines, or overestimation or underestimation of funds required in various class codes due to program needs or requirements have occurred subsequent to the passage of the budget, every department as defined in RSA 9:1 may, subject to the prior approval of the fiscal committee of the general court and the approval of governor and council, transfer funds in or out of any class code and to create new class codes within federally funded areas of the department's operating budget if such transfers do not result in an over-expenditure of any grant.

II. In order to maximize the use of federal grant funds and not lapse such funds, every department as defined in RSA 9:1 may, subject to the approval of the commissioner of the department of administrative services, carry forward into future state fiscal years any budgeted appropriation balances in class from federal grants for the duration of the federal grant award.

5 Repeal. 2011, 224:203, and 2011, 224:204 relative to the transfer of federal funds are repealed.

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

2012-1415s

AMENDED ANALYSIS

This bill amends the purchasing policy of the department of information technology for computer hardware, software, and related support and maintenance services. The bill also authorizes the transfer of certain federal grant funds.

President Bragdon ruled Committee Amendment 1415s non-germane.

Without objection, President Bragdon moved to suspend Rule 3-7 to allow for the introduction of non-germane Committee Amendment 1415s to SB 407-FN by the necessary 2/3 vote.

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

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

HEALTH AND HUMAN SERVICES

SB 402, relative to the adoption of policies for the management of concussion and head injury in youth sports. Ought to Pass with Amendment, Vote 4-0. Senator Kelly for the committee.

Health and Human Services

March 22, 2012

2012-1408s

04/01

Amendment to SB 402

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

1 Legislative Findings. The general court finds that:

I. Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports-related and recreation-related concussions occur in the United States each year.

II. A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death are significant when a concussion or head injury is not properly evaluated and managed.

III. Concussions are a type of mild brain injury that can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and can result from a

fall or from players colliding with each other, the ground, or obstacles. Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness. When managed properly, the majority of concussions resolve without direct medical intervention in 10-14 days.

IV. Continuing to play with a concussion or symptoms of head injury leaves the young athlete especially vulnerable to greater injury and even death. The general court recognizes that, despite having generally recognized return to play standards for concussion and head injury, some affected youth athletes are prematurely returned to play resulting in actual or potential physical injury or death to youth athletes in the state of New Hampshire.

2 New Subdivision; Health and Sanitation; Head Injury Policies for Youth Sports. Amend RSA 200 by inserting after section 48 the following new subdivision:

Head Injury Policies for Youth Sports

200:49 Head Injury Policies for Youth Sports. Education is the key to identification and appropriate management of all concussions. The school board of each school district shall work in cooperation with the New Hampshire Interscholastic Athletic Association to develop guidelines and other pertinent information and forms to inform and educate coaches, youth athletes, and athletes' parents or guardians of the nature and risk of concussion and head injury including continuing to play after concussion or head injury. Such guidelines should be based on the sports-related concussion consensus statement of the New Hampshire Advisory Council on Sport-Related Concussion. On an annual basis, a concussion and head injury information sheet shall be distributed by the school district to all youth athletes. The form shall be signed by the youth athlete and the athlete's parent or guardian and returned to the school prior to initiating practice or competition.

200:50 Removal of Youth Athlete.

I. A coach, official, licensed athletic trainer, or health care provider who suspects that a youth athlete has sustained a concussion or head injury in a practice or game shall remove the youth athlete from play immediately.

II. A youth athlete who has been removed from play shall not return to play until he or she is evaluated by a health care provider and receives written authorization from that health care provider to return to play.

III. No person who authorizes a youth athlete to return to play shall be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

200:51 School Districts; Limitation of Liability.

I. An employee of a school administrative unit, school, or chartered public school, or a school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the injury or death of a youth athlete provided the action or inaction was in compliance with this subdivision and local school board policies relative to the management of concussions and head injuries. This limitation of liability shall extend to school-sponsored athletic activities and youth programs that take place on school property and during the delivery of services of the youth program.

II. No youth group shall be liable for an injury to or the death of a youth athlete due to the action or inaction of persons employed by, or under contract with, a youth program if:

(a) The action or inaction takes place on school property and during the delivery of services of the youth program; and

(b) The youth program provides to the school district proof of insurance, under an accident and liability policy issued by an insurance company authorized to do business in this state, that covers any injury or damage arising from delivery of its services. Coverage for a policy meeting the requirements of this section shall be at least \$50,000 for the bodily injury or death of one person in any incident, or at least \$100,000 for the bodily injury or death of 2 or more persons in any incident. The youth program shall provide proof of such insurance before the use of any school district facilities; and

(c) The youth program provides to the school district a written statement certifying compliance with school district policies for the management of concussion and head injury in youth sports as set forth in RSA 200:49.

200:52 Definitions. As used in this subdivision:

I.(a) "Youth group" and "youth program" mean any program or service offered by a private, nonprofit entity, that is operated primarily to provide persons under 18 years of age with opportunities to participate in services or programs.

(b) "Health care provider" means a person who is licensed, certified, or otherwise statutorily authorized by the state to provide medical treatment and is trained in the evaluation and management of concussions.

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

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

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

HB 1567, establishing a committee to study the federal Youth Corrections Act. Ought to Pass with Amendment, Vote 4-1. Senator De Blois for the committee.

Health and Human Services

March 15, 2012

2012-1278s

05/04

Amendment to HB 1567

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

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

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

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

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.

INTERNAL AFFAIRS

CACR 33, relating to biennial legislative sessions. Providing that the general court shall meet biennially. Ought to Pass, Vote 3-2. Senator Lambert for the committee.

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

A roll call is required.

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

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

Yeas: 14 - Nays: 10

Failed, lacking necessary 3/5 vote.

Sen. Bradley moved to Lay on the Table CACR 33. Adopted.

JUDICIARY

SB 270, relative to civil commitment of persons found incompetent to stand trial. Ought to Pass with Amendment, Vote 4-0. Senator Forsythe for the committee.

Senate Judiciary

March 22, 2012

2012-1407s

04/01

Amendment to SB 270

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

1 Commitment to Hospitals; Notification Authorized. Amend RSA 135:17-b to read as follows:

135:17-b Notification Authorized.

I. Notwithstanding any provision of law to the contrary, in the event that a person who has been charged with ~~[murder, pursuant to RSA 630:1, I-a, or I-b, manslaughter, or aggravated felonious sexual assault,]~~ **a violent crime**, found incompetent to stand trial pursuant to RSA 135:17-a, and civilly committed pursuant to RSA 135-C **or RSA 171-B, or committed pursuant to RSA 651:9-a, is transferred to another facility or** discharged to the community, either conditionally or absolutely, the department of health and human services shall immediately notify the attorney general, who shall notify the ~~[family of the]~~ victim ~~[, or the victim of aggravated felonious sexual assault if an adult,]~~ **as defined in RSA 21-M:8-k, I(a) and, in the event of a discharge,** the law enforcement agency in the community to which the person is being discharged. For purposes of this section, discharge shall include the initial authorization by the administrative review committee of New Hampshire hospital to allow a person to leave the grounds of the hospital unaccompanied by a hospital staff member.

II. For purposes of this section, the term “violent crime” includes those crimes listed in RSA 651:5, XIII and the following:

- (a) RSA 173-B:9, violation of protective order.**
- (b) RSA 631:2, second degree assault.**
- (c) RSA 631:3, felony reckless conduct.**
- (d) RSA 631:4, criminal threatening involving the use of a deadly weapon.**
- (e) RSA 633:3-a, stalking.**
- (f) RSA 635:1, burglary.**
- (g) RSA 641:5, tampering with witnesses and informants.**
- (h) RSA 650-A:1, felonious use of firearms.**

2 New Section; Commitment to Hospitals; Information Related to Competency Determinations. Amend RSA 135 by inserting after section 17-b the following new section:

135:17-c Information Related to Competency Determinations. All evaluation reports, recommendations, medical records, or other documents related to the court's determinations under RSA 135:17-a, I, II, and III shall be kept separately from the public court file and shall not be disclosed except as follows:

I. The court may order release with the written consent of the parties.

II. The competency report may be provided to the receiving facility or the secure psychiatric unit pursuant to RSA 135:17-a, VII.

III. In any case in which the court finds that the defendant is not competent to stand trial pursuant to RSA 135:17-a, I, or has not been restored to competency pursuant to RSA 135:17-a, IV, the court shall make written findings which describe the evidence which was relied upon to make its determination. Such written findings shall be part of the public court file. The prosecutor shall provide a copy of the written findings to the victim, as defined in RSA 21-M:8-k.

3 New Paragraph; Involuntary Admission for Persons Found Not Competent to Stand Trial; Transfers. Amend RSA 171-B:15 by inserting after paragraph II the following new paragraph:

III. In the event a person is transferred pursuant to this section, the commissioner or designee shall provide notice to the attorney general pursuant to RSA 135:17-b.

4 New Subparagraph; Secure Psychiatric Unit; Discharge. Amend RSA 622:48, I by inserting after subparagraph (c) the following new subparagraph:

(d) When a person is transferred to another facility pursuant to subparagraphs (b) or (c), the commissioner or designee shall provide notice to the attorney general in accordance with RSA 135:17-b.

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

2012-1407s**AMENDED ANALYSIS**

This bill:

I. Amends the notification procedures for persons charged with a violent crime and found incompetent to stand trial.

II. Requires the court to keep all reports, recommendations, medical records, or other documents related to the court's determination of competency separate from the public file, and permits release of such documents in certain circumstances.

III. Requires notice to the attorney general whenever any person who is involuntarily admitted is transferred to another facility.

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 273, relative to vexatious litigants. Ought to Pass, Vote 3-0. Senator Groen for the committee.

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

Sen. Groen asserts Rule 2-15 on SB 273.

SB 276-FN, establishing a criminal offense for vandalizing or defacing state, municipal, or commercial property. Inexpedient to Legislate, Vote 5-0. Senator Houde for the committee.

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

Sen. Stiles moved Ought to Pass.

Sen. Stiles offered a floor amendment.

Sen. Stiles, Dist. 24

March 21, 2012

2012-1370s

04/10

Floor Amendment to SB 276-FN

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

AN ACT establishing the vandalizing or defacing of state or municipal property as criminal mischief.

Amend the bill by replacing section 1 with the following:

1 Destruction of Property; Criminal Mischief. Amend RSA 634:2, VI to read as follows:

VI. Any person who is found guilty of criminal mischief under paragraph III of this section because he or she has vandalized, defaced, or destroyed any part of *state or municipal property*, the "Old Man of the Mountain" or any natural geological formation, site, or rock surface located on public property that has been designated by the state or any of its political subdivisions or the federal government as a natural area or landmark shall be guilty of a class A misdemeanor and shall also make restitution [~~to the state~~] for any damage he or she has caused.

2012-1370s

AMENDED ANALYSIS

This bill establishes the vandalizing or defacing of state or municipal property as criminal mischief.

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.

SB 301, relative to landlord-tenant remedies. Ought to Pass with Amendment, Vote 2-1. Senator Luther for the committee.

Senate Judiciary
March 22, 2012
2012-1409s
05/04

Amendment to SB 301

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

AN ACT relative to the amendment of pleadings in landlord-tenant actions.

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

1 New Section; Landlord-Tenant Actions; Amendment of Pleadings. Amend RSA 540 by inserting after section 13-d the following new section:

540:13-e Amendment. Within 7 days of filing the writ of summons, the landlord may file a motion to amend the writ to correct a procedural or technical defect. The motion shall be granted in matters of form and may be granted in matters of substance under such terms as justice may require; provided, however, that the return day may not be amended.

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

2012-1409s

AMENDED ANALYSIS

This bill allows the landlord to amend a writ of summons to correct minor procedural defects.

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 364, relative to tenant guest practices. Inexpedient to Legislate, Vote 2-1. Senator Groen for the committee.

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

SB 385, relative to police investigations of motor vehicle accidents involving police officers. Inexpedient to Legislate, Vote 3-0. Senator Luther for the committee.

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

PUBLIC AND MUNICIPAL AFFAIRS

SB 393, relative to the definition of "meeting" under the right-to-know law. Inexpedient to Legislate, Vote 4-1. Senator Barnes for the committee.

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

HB 1229, declaring March 30 as Welcome Home Veterans Day to honor veterans of Vietnam. Inexpedient to Legislate, Vote 4-0. Senator Barnes for the committee.

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

HB 1710, establishing a commission to identify issues for legislation related to strengthening the role of fathers in families with divorced or unmarried parents. Inexpedient to Legislate, Vote 4-1. Senator Barnes for the committee.

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

Sen. Groen is in opposition to the motion of Inexpedient to Legislate on HB 1710.

WAYS AND MEANS

HB 1221, relative to the credit for the business enterprise tax against the business profits tax. Ought to Pass, Vote 5-0. Senator Boutin for the committee.

Sen. Odell moved to Lay on the Table HB 1221. Adopted.

HB 1302-FN, relative to underpayment of estimated taxes and equalization of valuations administered by the department of revenue administration. Ought to Pass, Vote 5-0. 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.

Recess. Out of recess.

FINANCE

SB 225-FN-L, relative to fees for vital records. Ought to Pass with Amendment, Vote 6-0. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1422s

09/01

Amendment to SB 225-FN-LOCAL

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

1 Fees for Copies and Verifications of Vital Records. Amend RSA 5-C:10 I and II to read as follows:

I. A town clerk or the registrar shall be paid in advance, by any person requesting any copy or verification as provided in RSA 5-C:9, the sum of [~~\$15~~] **\$12** for making a search, which sum shall include payment for the issuance of such copy or verification, and [~~\$10~~] **\$8** for each subsequent copy, provided that the fee to town clerks for examination of documents and issuance of a delayed birth certificate shall be \$25.

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

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

2012-1422s

AMENDED ANALYSIS

This bill decreases the fees for vital records and eliminates the requirement that a portion of vital records fees be deposited in the general fund.

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

Sen. Morse offered a floor amendment.

Sen. Bradley, Dist. 3

Sen. Morse, Dist. 22

March 28, 2012

2012-1483s

05/03

Floor Amendment to SB 225-FN-LOCAL

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

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

II. The town clerk shall forward \$8 of each search fee collected by the clerk under this section to the department of state for deposit in the vital records improvement fund established under RSA 5-C:15[, and \$3 to the state treasurer for deposit in the general fund,] and shall retain the remaining [~~\$4~~] **\$7** as the clerk's

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

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

2012-1483s

AMENDED ANALYSIS

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

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

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

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

Recess. Out of recess.

FINANCE

SB 311-FN-A, establishing a director of the division of weights and measures and relative to the enforcement of weights and measures rules and statutes. Ought to Pass with Amendment, Vote 7-0. Senator D'Allesandro for the committee.

Senate Finance

March 22, 2012

2012-1412s

08/09

Amendment to SB 311-FN-A

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

AN ACT relative to the authority of the commissioner of the department of agriculture, markets, and food to set certain fees.

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

1 New Subparagraphs; Commissioner of the Department of Agriculture, Markets, and Food; Authority to Set Fees. Amend RSA 438:8, I (h) by inserting after subparagraph (4) the following new subparagraphs:

(5) Testing and certification.

(6) Licenses, including application, initial issuance, replacement and duplication.

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

2012-1412s

AMENDED ANALYSIS

This bill allows the commissioner of the department of agriculture, markets, and food to set fees for testing, certification, and licenses.

The question is on the adoption of the Committee Amendment.

A division vote was requested.

Yeas: 10 - Nays: 14

Failed.

Sen. Carson offered a floor amendment.

Sen. Morse, Dist. 22
Sen. Carson, Dist. 14
March 28, 2012
2012-1484s
08/09

Floor 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 setting of weights and measures fees.

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, I(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 agriculture, markets and food, 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 Authority of Inspectors. RSA 438:15-a is repealed and reenacted to read as follows:

438:15-a Authority of Inspectors. 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.

3 New Subparagraphs; Commissioner of the Department of Agriculture, Markets and Food; Authority to Set Fees. Amend RSA 438:8, I(h) by inserting after subparagraph (4) the following new subparagraph:

(5) With the approval of the joint legislative fiscal committee:

(i) Testing and certification.

(ii) Licenses, including application, initial issuance, replacement and duplication.

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.

2012-1484s

AMENDED ANALYSIS

This bill:

I. Establishes a director of the division of weights and measures.

II. Allows the commissioner of the department of agriculture, markets, and food to set fees for testing, certification, and licenses with the approval of the joint legislative fiscal committee.

III. Allows the commissioner of the department of agriculture, markets and food to enter into agreements to lease vehicles for inspectors.

Recess. Out of recess.

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.

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

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

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

Yeas: 16 - Nays: 8

Adopted, bill ordered to Third Reading.

Sen. Houde moved to remove SB 359 from the table. Adopted.

JUDICIARY

SB 359, relative to civil actions involving accessibility standards for public buildings.

The question is on the adoption of the Floor Amendment.

Sen. Houde withdrew Floor Amendment 1344s to SB 359.

Sen. Forsythe offered a floor amendment.

Sen. Forsythe, Dist.4

March 27, 2012

2012-1460s

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. 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.]~~ ***At the conclusion of the case, the court shall follow the Americans with Disabilities Act of 1990, as amended, and as construed by federal courts, in awarding costs and attorneys fees to the prevailing party.***

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

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.

JUDICIARY

SB 406, establishing an early offer alternative in medical injury claims. Ought to Pass with Amendment, Vote 4-0. Senator Forsythe for the committee.

Senate Judiciary

March 22, 2012

2012-1418s

10/04

Amendment to SB 406

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

1 Findings and Purpose.

I. The general court finds that the legal system for resolving claims for medical injury requires reform to encourage the fast and efficient payment of meritorious claims. Under the current system individuals with meritorious claims wait for an uncertain recovery while medical providers are deprived of a fair and reasonable

opportunity to address and resolve claims in a timely manner. In addition, the general public is adversely affected because significant resources are diverted from health care and spent on litigation costs and defensive medicine. The result is a system that has higher than necessary health care costs, higher liability insurance premiums, higher health insurance premiums, and ultimately reduced access to care.

II. These overarching conclusions are based upon the following factual findings:

(a) Inconsistent Results: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the current medical injury liability system produces inconsistent results with average indemnity payments on similar claims varying substantially from year to year.

(b) Long waits for the parties: The testimony before the general court demonstrates that medical injury cases are highly complex, requiring specialized medical evidence and testimony. This complex medical evidence and testimony requires additional discovery and case preparation that results in a particularly lengthy process for resolving cases.

(c) Costly litigation: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the aggregate administrative and litigation costs for all claims for medical injury nearly exceed the amount that claimants receive for their injuries.

(d) Access to care: The testimony before the general court has established that access to care in New Hampshire can be compromised by the negative aspects of the current medical injury system as physicians and other providers avoid high risk medical specialties and/or high risk treatments in order to avoid exposure to liability.

(e) Defensive medicine: Data from the American Medical Association, Gallup, Harvard School of Public Health, Health Affairs Magazine, and other reliable sources estimate that defensive medicine, practiced in response to the current medical injury system, increases the annual health care expenditures in the United States by billions of dollars. These organizations consider defensive medicine to be diagnostic tests or treatments that have little or no expected benefit to the patient, ordered primarily as a means to guard against claims of liability.

III. The legislature further finds that the slow, inconsistent, and costly nature of the existing medical injury litigation system has a detrimental impact upon injured claimants, whose medical and economic needs require rapid resolution of their claims with less uncertainty, risk, and costs, as well as upon medical providers whose provision of patient care is disrupted by lengthy and costly litigation of medical injury claims.

IV. Therefore, the important governmental objective of this act is to supplement the existing medical injury compensation system with an alternative system that will provide fast and certain results for those who use it, while preserving access to the court system and medical injury screening panels for parties that choose to resolve claims under the current system. The general court further finds that the early offer process set forth in RSA 519-C as inserted by this act to resolve medical injury claims is substantially related to this important governmental objective.

V. The general court further finds that medical injury claimants will benefit from the early offer process set forth in RSA 519-C as inserted by this act as it provides the option of a simple, clear process defined in statute that provides prompt and sure recovery of all economic losses associated with meritorious claims settled pursuant to RSA 519-C. The early offer process, if elected, would be more efficient and cost effective in many cases than the high risk, high cost traditional litigation process.

VI. In exchange for the benefits of the early offer process established in this act, the claimant agrees to participate fully in the process, which may affect the damages the claimant can recover, the fees the claimant's attorney may receive, and other important rights or claims that may exist under the existing system.

VII. The general court finds that the benefits to the public and to the parties to medical injury claims from the process established in this act far exceed the burdens imposed on the general public and medical injury claimants.

2 New Chapter; Early Offers for Medical Injury Claims. Amend RSA by inserting after chapter 519-B the following new chapter:

CHAPTER 519-C
EARLY OFFERS FOR MEDICAL INJURY CLAIMS

519-C:1 Definitions. In this chapter:

I. "Claim for medical injury" means any claim against a medical care provider, whether based in tort, contract, or otherwise, to recover damages on account of a medical injury.

II. "Claimant" means an individual who, in his or her own right, or on behalf of another as otherwise permitted by law, is seeking compensation for a medical injury.

III. "Early offer" means an offer to pay an injured person's economic loss, and a reasonable attorney fee related to a medical injury. No other damages of any kind shall be included in an early offer under this chapter.

IV. "Economic loss" means monetary expenses incurred by or on behalf of a claimant reasonably related to a medical injury, including actual out-of-pocket medical expenses, replacement services, additional payment to the claimant pursuant to RSA 519-C:7, and 100 percent of the claimant's wages or income from self-employment or contract work lost as a result of the medical injury. Economic loss does not include: pain and suffering, punitive damages, enhanced compensatory damages, exemplary damages, hedonic damages, inconvenience, physical impairment, mental anguish, emotional pain and suffering, and loss of the following: earning capacity, consortium, society, companionship, comfort, protection, marital care, parental care, attention, advice, counsel, training, guidance or education, and all other non-economic damages of any kind.

V. "Medical care provider" means a physician, physician's assistant, registered or licensed practical nurse, hospital, clinic, or other health care provider or agency licensed by the state, or otherwise lawfully providing medical care or services, or an officer, employee, or agent thereof acting in the course of and scope of employment.

VI. "Medical injury" or "injury" means any adverse, untoward, or undesired consequences caused by professional services rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

VII. "Notice of injury" means written notice provided to the medical care provider alleged to have caused a medical injury, and containing:

- (a) The name and address of the claimant;
- (b) The date and place of the medical injury;
- (c) The nature of the injury;
- (d) An explanation, if known, as to how the injury is alleged to have been caused;
- (e) The severity of the injury using the National Practitioner Data Bank severity scale;

(f) Medical records and medical bills associated with the injury or a limited authorization allowing the medical care provider to obtain medical records and medical bills associated with the injury;

(g) Evidence of lost wages or income from self-employment or contract work for the individual suffering a medical injury, which may be supplied through income tax returns or paycheck stubs for the year prior to the injury and any subsequent records up to the date of the notice of injury, or a limited authorization allowing the medical care provider to obtain such records;

(h) A demand for economic loss resulting from the injury, that includes only medical expenses, replacement services, reasonable attorney fees, and lost wages, or income from self-employment or contract work; and

- (i) A request that the medical care provider extend an early offer of settlement of the claim.

VIII. "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

IX. "Reasonable attorney fee" means 20 percent of the present value of the claimant's economic loss.

X. "Replacement services" means expenses reasonably incurred in obtaining ordinary and necessary services from others, who are not members of the injured person's household, in lieu of those the injured person would have performed for the benefit of the household, but could not because of the injury.

XI. "Wages" means monetary payment for services rendered, and the reasonable value of board, rent, housing, lodging, fuel, or a similar advantage received from the employer and gratuities received in the course of employment from others than the employer; but "wages" shall not include any sum paid by the employer to the employee to cover any special expenses incurred by the employee because of the nature of the employment. For individuals receiving unemployment benefits pursuant to RSA 282-A:25 at the time of the injury, wages shall equal the wage rate used to determine the unemployed individual's unemployment benefit pursuant to RSA 282-A:25. For a minor who is injured prior to reaching the age of 18 and who is unable to perform any gainful work as a result of the medical injury, upon reaching the age of 18 wages shall equal the mean New Hampshire per capita income as shown by the American Community Survey's 1-year Estimate (inflation adjusted), produced by the United States Census Bureau.

519-C:2 Procedure.

I. After a medical injury, the injured claimant or personal representative may:

- (a) Pursue resolution of a claim for medical injury pursuant to this chapter; or
- (b) Pursue an action for medical injury as provided in RSA 507-E and RSA 519-B.

II. For so long as the claimant and medical provider are proceeding under this chapter, this section shall govern the procedure for resolving the medical injury claim at issue between the 2 parties, notwithstanding any other provision of law.

III. If the claimant elects to pursue a remedy under this chapter, the claimant shall serve a notice of injury to the medical care provider alleged to be responsible for the injury and an executed notification and waiver of rights in the form set forth in RSA 519-C:13, by certified mail, return receipt requested.

IV. Upon the receipt by the medical care provider of a notice of injury and an executed notification and waiver of rights, the medical care provider may elect to:

- (a) Extend an early offer of settlement; or
- (b) Decline to extend an early offer of settlement.

V. A claimant's failure to submit a notice of injury requesting an early offer, or a provider's failure to extend an early offer, shall not be subject to review in any hearing, court, or other proceeding of any kind.

VI. The medical care provider shall respond to the claimant's notice of injury in writing, within 90 days, setting forth the details of its early offer, or indicating that the medical care provider has decided not to extend an early offer of settlement. The medical care provider's written response shall be sent by certified mail, return receipt requested, to the address provided in the claimant's notice of injury.

VII. The medical care provider may request in writing that an individual who alleges a medical injury submit to an examination by a qualified physician chosen by the medical care provider at a time and place reasonably convenient for the claimant. The examining physician shall not be affiliated with the medical care provider alleged to have caused the injury. The cost of the examination, including reasonable travel expenses for the claimant, shall be the responsibility of the medical care provider. Any physician conducting medical examinations under this section shall be certified by the appropriate specialty board as recognized by the American Board of Medical Specialties and in good standing with the New Hampshire board of medicine. The claimant may request a video recording of the examination at his or her own expense.

VIII. If the medical care provider requests that the claimant submit to a physical examination as set forth in paragraph VII, the time allowed for a medical care provider to respond to the claimant's notice of injury shall be extended by 30 days.

IX. If the medical care provider extends an early offer, the claimant shall accept or reject the medical care provider's written offer in writing within 60 days of the offer being made to the claimant. If the claimant requests a hearing pursuant to RSA 519-C:10, to resolve any dispute with respect to the content of an early offer, the timeframe within which the claimant may accept or reject the early offer shall be extended until 10 days after the decision on the disputed issue is issued by the insurance commissioner.

X. If the claimant accepts the medical care provider's early offer, the claimant shall notify the medical care provider in writing by certified mail, return receipt requested, and thereafter, the claimant is barred from pursuing any claim for the same medical injury against any medical care provider.

XI. If the claimant does not accept the medical care provider's early offer as provided by paragraphs IX and X, the early offer shall be considered rejected by the claimant 60 days after the medical care provider made the early offer. When an early offer is rejected, a claimant may pursue an action for medical injury against the medical care provider pursuant to RSA 507-E and RSA 519-B. However, in order to prevail against a medical care provider that extended an early offer pursuant to this chapter, the claimant shall prove by clear and convincing evidence that the medical care provider acted with gross negligence in causing the injury.

519-C:3 Unrepresented Claimant. If the claimant is not represented by legal counsel, upon receiving notice of the claim for medical injury, the medical care provider shall provide a neutral mediator, at the medical care provider's expense, to offer assistance to the claimant and medical care provider under this chapter.

519-C:4 Confidentiality.

I. Proceedings, records, and communications during negotiation of an early offer shall be treated as private and confidential by the claimant and the medical care provider. The outcome and any other writings, evidence, or statements made or offered by a party or a party's representative during negotiation of an early offer are not admissible in court or in a screening panel hearing under RSA 519-B, shall not be submitted or used for any purpose in a subsequent trial, and shall not be publicly disclosed.

II. A notice of injury provided pursuant to RSA 519-C:2, III, and subsequent actions taken pursuant to this chapter shall be exempt from the reporting requirements of RSA 329:17 and administrative rules adopted thereunder, unless the parties reach a settlement under this chapter. Settlements reached pursuant to this chapter are not exempt from the reporting requirements of RSA 329:17 and said administrative rules.

519-C:5 Payment of Early Offer.

I. If an early offer is accepted, economic losses previously incurred by the claimant as a result of the medical injury and the reasonable attorney fee shall be paid by the medical care provider to the claimant within 15 days of the claimant accepting an early offer.

II. If an early offer is accepted, future economic losses incurred by the claimant shall be payable by the medical care provider to the claimant as such losses accrue. If any requested payment is denied, the medical provider shall notify the claimant in writing of the denial and the basis for denial, and inform the claimant that any request for a hearing under RSA 519-C:10 regarding the denial must be made within 30 days of the date of denial.

(a) Payments for medical bills arising after the early offer settlement is reached shall be made within 30 days after the medical care provider receives reasonable proof of the fact and the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof shall be paid within 30 days after such proof is received. Any part or all of the remainder of the claim that is later supported by reasonable proof shall be paid within 30 days after such proof is received by the medical care provider. The medical care provider shall pay any and all fees and charges incurred by the claimant resulting from failure to make timely payment of medical bills.

(b) Payment of lost wages shall be made weekly.

(c) Payment of any other amounts due under an early offer shall be paid within 30 days of the date that the provider receives notice and proof of the fact and amount that is due.

III. Interest shall accrue at the rate of 1-1/2 percent per month on any amounts due under an early offer that are not paid as prescribed by this section.

IV. In lieu of periodic payments, the claimant and medical care provider may agree upon a lump sum payment for any and all potential future economic losses suffered by the claimant.

519-C:6 Compensation for Death. If death results from a medical injury, the amount of an early offer pursuant to this chapter shall include:

I. Any economic loss incurred by the decedent prior to death;

II. The value at the time of death of what would have been the net earnings of the deceased, less living expenses during the period of his or her life expectancy, but for the medical injury;

III. The value of replacement services during the period of the decedent's life expectancy, but for the medical injury;

IV. The additional payment determined pursuant to RSA 519-C:7; and

V. A reasonable attorney fee.

519-C:7 Additional Payment to the Claimant.

I. In addition to the lost wages, medical expenses, and replacement services, economic loss included in any early offer under this chapter shall include an additional payment to the claimant.

II. The additional payment, as adjusted under paragraph V, that must be included in an early offer shall be:

- (a) For a temporary injury involving only emotional harm, without physical injury: \$5,500.
- (b) For a temporary injury involving insignificant harm: \$1,700.
- (c) For a temporary injury involving minor harm: \$6,500.
- (d) For a temporary injury involving major harm: \$26,250.
- (e) For a permanent injury involving minor harm: \$29,750.
- (f) For a permanent injury involving significant harm: \$68,250.
- (g) For a permanent injury involving major harm: \$107,000.
- (h) For a permanent injury involving grave harm: \$117,500.
- (i) For an injury resulting in death: \$57,000.

III. Classification of injuries under paragraph II shall be determined using the National Practitioner Data Bank severity scale.

IV. Either party may request a hearing pursuant to RSA 519-C:10 to resolve a dispute regarding classification of injury severity under this section.

V. The additional payment amounts in paragraph II shall be adjusted annually on July 1 beginning in 2013 by a factor equal to the percentage change in the CPI-U index for medical care for the Northeast Region for the prior 12 months established by the Federal Bureau of Labor Statistics.

519-C:8 Assignments; Certain Claims of Creditors.

I. Payments for economic loss under this chapter shall not be assignable.

II. Claims for child support, spousal support, or combination child and spousal support payments, pursuant to RSA 458-B, may be enforced against economic loss settlements.

519-C:9 Multiple Parties Alleged to have Contributed to Causing Medical Injury.

I. Every early offer to settle a claim under this chapter shall include all of the economic loss, plus a reasonable attorney fee as set forth herein, and shall not be reduced or apportioned based on comparative fault of multiple providers. Any medical care provider, or combination of providers alleged to have contributed to causing an injury may extend an early offer as provided in this chapter, and acceptance of that offer by the claimant shall bar any further lawsuit or other claims for compensation by the claimant against all medical care providers arising as a result of the same medical injury. However, any medical care provider that extends an early offer to a claimant may seek contribution in a separate action against any medical care provider or other party that contributed to causing the medical injury. The injured individual shall not be a party to any action for contribution between medical care providers, however, the injured individual shall reasonably cooperate with the proceedings and provide such reasonable information and testimony as may be necessary to resolve the contribution claim. The parties to the action shall pay the injured individual all reasonable costs associated with such reasonable cooperation and testimony. The parties to the action shall pay the injured individual all reasonable costs associated with such reasonable cooperation and testimony.

II. Nothing in this section shall be regarded as exempting contribution claims from any applicable provisions of RSA 519-B.

III. Nothing in this section shall limit claims by the claimant against any party other than medical care providers who participated in providing medical care which gave rise to the medical injury.

519-C:10 Dispute Resolution.

I. Upon the request of either party, the insurance commissioner shall appoint a qualified hearing officer to resolve a dispute regarding an early offer made under this chapter.

II. Dispute resolution under this chapter shall be limited to the following issues:

(a) Whether an early offer includes all of the economic loss related to the injury that is required by this chapter;

(b) Whether economic loss of any kind, past or future, asserted by the claimant, is reasonably related to an injury that is the subject of an early offer;

(c) Which severity level, pursuant to RSA 519-C:7, most closely describes the injury that is the subject of an early offer; or

(d) What the net present value of an early offer is, for the purposes of calculating the appropriate payment for reasonable attorney fees.

III. No other disputes arising under this chapter may be the subject of, or resolved through a hearing under, this section.

IV. Any request for a hearing pursuant to this section shall contain a complete statement of the issue or issues to be resolved in the hearing, and shall be served upon the opposing party. Any issue not listed in paragraph II shall not be considered. Hearings concerning economic loss that arises after a settlement under this chapter shall be requested within 30 days of the date payment for such economic loss is denied under RSA 519-C:5, II.

V. The medical care provider or, if applicable, the medical care provider's insurer shall pay all reasonable costs associated with a hearing under this section.

VI. Hearings conducted under this chapter shall be governed solely by this section and by any rules specific to this chapter that the commissioner may adopt pursuant to RSA 519-C:15. Hearings under this section shall not be subject to the requirements of RSA 541, RSA 541-A, RSA 400-A, the rules of evidence, or any other statute or rule that is not specific to this chapter.

VII. Any hearing conducted under this chapter shall be conducted within 45 days of the request and a decision shall be issued within 10 days of completion of the hearing. Hearings may be conducted in person or telephonically.

VIII. On a motion from any party, or on his or her own motion, a hearing officer may summarily determine any issue in dispute without a hearing if it appears from the record that there are no material issues of fact in dispute. By agreement of the parties, any dispute may be determined by the hearing officer on the written record without a hearing.

IX. Hearings conducted pursuant to this chapter shall be limited to not more than one day in length, divided equally among the parties, however the hearing length may be extended at the discretion of the hearing officer. A record of the hearing shall be maintained, including an audio recording of all testimony.

X. Parties to a hearing under this section shall exchange exhibits and witness lists at least 3 days prior to the hearing. No exhibit may be introduced or witness called in a hearing unless exchanged with the opposing party pursuant to this paragraph.

XI. The hearing officer shall issue a written decision resolving the issues in dispute. If the hearing officer finds against the medical provider on any issue, the decision shall modify the terms of the early offer. The early offer, as modified by the decision of the hearing officer, shall be binding on the parties.

XII. In a hearing conducted pursuant to paragraph II(b) of this section, if the hearing officer determines the claimant's position to be frivolous, the claimant shall reimburse the medical care provider for its costs related to presenting the dispute to the hearing officer, up to a maximum of \$1,000.

XIII. In a hearing conducted pursuant to paragraph II(b) of this section, if the hearing officer determines the medical care provider's position to be frivolous, the medical care provider shall pay the claimant double the amount that was frivolously disputed or denied.

519-C:11 Limitations of Claims.

I. Except for claims on behalf of deceased individuals, claims for medical injury to a competent adult under this chapter shall be subject to the limitation set forth in RSA 508:4.

II. Except for claims on behalf of deceased individuals, claims for medical injury to a minor or incompetent under this chapter shall be subject to the limitation set forth in RSA 508:8.

III. Claims for medical injuries on behalf of deceased individuals shall be subject to the limitations set forth in RSA 556:7.

IV. Providing a notice of injury to a medical care provider as provided in this chapter shall operate to toll the applicable statute of limitation with respect to that injury from the time such notice is provided to a medical care provider until the expiration of time for a medical care provider to extend an early offer, or if an early offer is extended, until the acceptance or rejection of an early offer by the claimant, whichever occurs later.

519-C:12 Subrogation. Any insurer or third party who has paid or reimbursed economic losses to or for the benefit of the claimant, shall have the right of subrogation against the medical provider entering into an early offer of settlement under this chapter.

519-C:13 Notice and Waiver of Rights.

I. Claimants electing to pursue resolution of a medical injury under this chapter shall execute a notice and waiver of rights which contains the following wording:

WAIVER OF RIGHTS

By agreeing to submit a notice of injury to the medical care provider, I understand that my rights to seek legal remedies and a jury trial for my injuries guaranteed by Part I, Articles 14 and 20 of the New Hampshire Constitution may be affected.

I understand that I have the right to consult and retain an attorney to represent me regarding this matter, and that if an early offer settlement is reached, my attorney will be paid pursuant to RSA 519-C:6, V by the health care provider, in addition to any amount that is paid for my economic loss.

If after submitting a notice of injury, the medical care provider does NOT extend an early offer (RSA 519-C:1 III), I am free to pursue my legal remedies as defined in New Hampshire law without restriction.

If after submitting a notice of injury, the medical care provider does extend an early offer (RSA 519-C:1, III), I may either:

(1) Accept the early offer,

(2) Request a hearing before a hearing officer appointed by the Department of Insurance to determine whether the early offer includes all of the economic loss I am entitled to under the statute, and if necessary, the hearing officer may order the medical care provider to increase the early offer to meet the requirements of the early offer law, or

(3) Reject the early offer and seek legal remedies. However, if I reject the early offer, I may only sue for gross negligence and will be required to prove my case by clear and convincing evidence.

I UNDERSTAND THAT WHEN I SUBMIT A NOTICE OF INJURY AND SUBSEQUENTLY RECEIVE AN EARLY OFFER, I WILL HAVE RELINQUISHED MY RIGHT TO SUE FOR ORDINARY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF WARRANTY OR ANY OTHER CLAIM CONNECTED TO THE INJURY DESCRIBED IN THE NOTICE OF INJURY.

I understand that if an early offer is made by the medical care provider and I accept that offer, disputes regarding the early offer can be resolved only in accordance with RSA 519-C:10 by a hearing officer appointed by the New Hampshire Department of Insurance at my request or the request of the medical care provider. If, after submitting disputes to the Department of Insurance, either party believes that the result is unlawful, that party may seek discretionary review in the New Hampshire court system; however, there is no assurance that the courts will undertake such review.

Date _____ Signature _____

II. A properly executed waiver form by a claimant who is competent at the time the waiver is executed shall be conclusively presumed to be a sufficient, knowing, and voluntary waiver if the waiver form complies with this section.

519-C:14 Other Action for Injury. Except as set forth in RSA 519-C:2, IX, a claimant may only pursue an action for medical injury as provided in RSA 507-E and RSA 519-B when:

I. The claimant elects not to submit a notice of injury pursuant to this chapter; or

II. The medical care provider elects not to extend an early offer pursuant to this chapter in response to the notice of injury.

519-C:15 Rulemaking. The insurance commissioner shall adopt rules, pursuant to RSA 541-A, necessary to carry out this chapter.

3 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 asserts Rule 2-15 on SB 406.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

March 28, 2012

2012-1472s

10/04

Floor Amendment to SB 406

Amend RSA 519-C:7, II as inserted by section 2 of the bill by replacing it with the following:

II. The additional payment, as adjusted under paragraph V, that must be included in an early offer shall be:

- (a) For a temporary injury involving only emotional harm, without physical injury: \$5,500.
- (b) For a temporary injury involving insignificant harm: \$1,700.
- (c) For a temporary injury involving minor harm: \$6,500.
- (d) For a temporary injury involving major harm: \$26,250.
- (e) For a permanent injury involving minor harm: \$29,750.
- (f) For a permanent injury involving significant harm: \$68,250.
- (g) For a permanent injury involving major harm: \$107,000.
- (h) For a permanent injury involving grave harm, or an injury resulting in death: 117,500.

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

Sen. Houde asserts Rule 2-15 on SB 406.

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

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

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

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: Kelly, Lambert, Larsen, D'Allesandro, Merrill.

Yeas: 18 - Nays: 5

Adopted, bill ordered to Third Reading.

Sen. Houde asserts Rule 2-15 on SB 406.

INTERNAL AFFAIRS

SB 202, apportioning congressional districts. Ought to Pass, Vote 5-0. Senator Bradley for the committee.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3
March 28, 2012
2012-1488s
03/05

Floor Amendment to SB 202

Amend RSA 662:1, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) In the county of Belknap, the towns and city of

- (1) Alton,
- (2) Barnstead,
- (3) Belmont,
- (4) Gilford,
- (5) Gilmanton,
- (6) Laconia,
- (7) Meredith,
- (8) New Hampton,
- (9) Sanbornton, and
- (10) Tilton; and

Amend RSA 662:1, I as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraph and renumbering the original subparagraphs (c)-(e) to read as (d)-(f), respectively:

(c) In the county of Grafton, the town of

- (1) Campton; and

Amend RSA 662:1, I(f) as inserted by section 1 of the bill by replacing it with the following:

(f) In the county of Rockingham, the towns and city of

- (1) Auburn,
- (2) Brentwood,
- (3) Candia,
- (4) Chester,
- (5) Danville,
- (6) Derry,
- (7) East Kingston,
- (8) Epping,
- (9) Exeter,
- (10) Fremont,
- (11) Greenland,
- (12) Hampstead,
- (13) Hampton,
- (14) Hampton Falls,
- (15) Kensington,
- (16) Kingston,
- (17) Londonderry,
- (18) New Castle,

- (19) Newfields,
- (20) Newington,
- (21) Newmarket,
- (22) Newton,
- (23) North Hampton,
- (24) Nottingham,
- (25) Plaistow,
- (26) Portsmouth,
- (27) Raymond,
- (28) Rye,
- (29) Sandown,
- (30) Seabrook,
- (31) South Hampton, and
- (32) Stratham.

Amend RSA 662:1, II(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

- (a) The counties of
 - (1) Cheshire,
 - (2) Coos, and
 - (3) Sullivan; and
- (b) In the county of Belknap, the town of
 - (1) Center Harbor; and

Amend RSA 662:1, II as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraph and renumbering the original subparagraphs (c)-(e) to read as (d)-(f), respectively:

- (c) In the county of Grafton, the towns, city, and unincorporated place of
 - (1) Alexandria,
 - (2) Ashland,
 - (3) Bath,
 - (4) Benton,
 - (5) Bethlehem,
 - (6) Bridgewater,
 - (7) Bristol,
 - (8) Canaan,
 - (9) Dorchester,
 - (10) Easton,
 - (11) Ellsworth,
 - (12) Enfield,
 - (13) Franconia,
 - (14) Grafton,
 - (15) Groton,

- (16) Hanover,
- (17) Haverhill,
- (18) Hebron,
- (19) Holderness,
- (20) Landaff,
- (21) Lebanon,
- (22) Lincoln,
- (23) Lisbon,
- (24) Littleton,
- (25) Livermore,
- (26) Lyman,
- (27) Lyme,
- (28) Monroe,
- (29) Orange,
- (30) Orford,
- (31) Piermont,
- (32) Plymouth,
- (33) Rumney,
- (34) Sugar Hill,
- (35) Thornton,
- (36) Warren,
- (37) Waterville Valley,
- (38) Wentworth, and
- (39) Woodstock; and

Amend RSA 662:1, I(f) as inserted by section 1 of the bill by replacing it with the following:

(f) In the county of Rockingham, the towns of

- (1) Atkinson,
- (2) Deerfield,
- (3) Northwood,
- (4) Salem, and
- (5) Windham.

Recess. Out of recess.

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.

FINANCE

SB 372-FN-L, establishing an education tax credit. Interim Study, Vote 4-3. Senator Morse for the committee.

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

Sen. Morse moved Ought to Pass.

Sen. Forsythe offered a floor amendment.

Sen. Morse, Dist. 22

Sen. Forsythe, Dist. 4

Sen. Forrester, Dist. 2

March 28, 2012

2012-1486s

04/10

Floor Amendment to SB 372-FN-LOCAL

Amend RSA 77-G:1, II(b) as inserted by section 4 of the bill by replacing it with the following:

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

Amend RSA 77-G:1, IV as inserted by section 4 of the bill by replacing it with the following:

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 \$3,400,000 for the first program year and \$5,100,000 for the second program year, subject to the provisions of subparagraph (c).

(b) Beginning with the second program year, if the amount of the total donations used for scholarships exceeds 80 percent of the current program year’s tax credits allowed, the aggregate of tax credits allowed for the next program year shall increase by 25 percent, subject to the provisions of subparagraph (c).

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

Amend RSA 77-G:1, V as inserted by section 4 of the bill by inserting after subparagraph (h) the following new subparagraph:

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

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

Amend RSA 77-G:1, IX as inserted by section 4 of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) Provide information about the community development finance authority established in RSA 162-L and the investment tax credit available for contributions made to the authority pursuant to RSA 162-L:10 in its response to any business organization or business enterprise making a contribution to a scholarship organization for the purpose of claiming a tax credit pursuant to this chapter and for which the department of revenue administration has denied the tax credit request based on the fact that the aggregate of tax credits allowed under paragraph IV has been reached.

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

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

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. Forsythe.

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

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

Yeas: 17 - Nays: 7

Adopted, bill ordered to Third Reading.

FINANCE

SB 212-FN, relative to pooled risk management programs. Ought to Pass with Amendment, Vote 2-0. Senator Morse for the committee.

Senate Finance

March 22, 2012

2012-1424s

01/09

Amendment to SB 212-FN

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

IV. The resources of political subdivisions have at times been burdened by the securing of insurance protection through standard carriers.

Amend RSA 5-B:1-a as inserted by section 1 of the bill by deleting paragraph V.

Amend RSA 5-B:2, II as inserted by section 1 of the bill by replacing it with the following:

II. "Department" means the department of state, but shall not include the bureau of securities regulation, except where a clear and specific securities-related infraction has occurred.

Amend RSA 5-B:4-a, VII(a) as inserted by section 3 of the bill by replacing it with the following:

(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.

Amend RSA 5-B:5, I(c) as inserted by section 4 of the bill by replacing it with the following:

(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 35:9. For employee benefit coverage programs, 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 the board. For property-casualty coverage programs, reserves under this chapter shall not exceed 125 percent of any pooled risk management program's total annual average of reserves that would result from an actuarially determined confidence level of 80 percent 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 the board. The board shall determine the amount, if any, of such funds to be used for rate stabilization with the balance, if any, returned by premium reduction for the following year or by check. The choice of receiving a premium reduction or a check shall be made by the governing body of each member political subdivision.

Amend RSA 5-B:5, III-VI as inserted by section 4 of the bill by replacing them with the following:

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 accounting 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 an annual meeting to elect board members. In addition, each pooled risk management program shall conduct 2 public hearings at least 10 days prior to rate setting for each year 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. Notice of the annual meeting and 2 public hearings shall be provided to all members of the pooled risk management program and to the public 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 for 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 or an annual actuarial [evaluation] **accounting**, the department shall perform or cause to be performed the required audit or [evaluation] **actuarial** accounting and shall be reimbursed the [cost] **costs** by the program.*

Amend section 6 of the bill by deleting RSA 5-B:8.

Amend the bill by replacing section 10 with the following:

10 Effective Date.

I. RSA 5-B:5, I(a) as inserted by section 4 of this act shall take effect January 1, 2013.

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

III. The remainder of this act shall take effect July 1, 2012.

2012-1424s

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 which may be used for rate stabilization with the balance, if any, returned by premium reduction or by check to the appropriate political subdivisions.

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

Sen. White offered a floor amendment.

Sen. White, Dist. 9

March 27, 2012

2012-1495s

01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:5, I(c) as inserted by section 4 of the bill by replacing it with the following:

(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 and investment of such funds shall comply with all provisions of RSA 35:9. For employee benefit coverage programs, 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 the board. For property-casualty coverage programs, reserves under this chapter shall not exceed 125 percent of any pooled risk management program's total annual average of reserves that would result from an actuarially determined confidence level of 80 percent 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 the board. Once the calculations for reserves and surplus have been determined, as described, the board shall determine and publicly disclose the amount, if any, of surplus that will be returned to the member political subdivisions through rate stabilization with the balance, if any, returned by premium reduction for the following year or by check. The choice of receiving a premium reduction or a check shall be made by the governing body of each member political subdivision.*

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

Sen. White offered a floor amendment.

Sen. White, Dist. 9

March 27, 2012

2012-1448s

01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:5, I(b) as inserted by section 4 of the bill by replacing it with the following:

(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. Directors may only serve on one board at a time.*

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

Sen. White offered a floor amendment.

Sen. White, Dist. 9

March 28, 2012

2012-1467s

01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:7 as inserted by section 6 of the bill by replacing it with the following:

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.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, White, Luther, Lambert, Carson, Larsen, Boutin, Barnes, De Blois, Rausch, D'Allesandro, Merrill,

The following Senators voted No: Houde, Odell, Kelly, Morse, Prescott, Stiles, Bragdon.

Yeas: 17 - Nays: 7

Adopted.

Sen. Morse offered a floor amendment.

Sen. Morse, Dist. 22

March 27, 2012

2012-1466s

01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:3, V as inserted by section 1 of the bill by replacing it with the following:

V. 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:

(a) Property and casualty coverage:

(1) 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.

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

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

(4) Surety and fidelity.

(5) Environmental impairment.

(6) Third party liability protection.

(7) Public official schedule bonds.

(8) Faithful performance and crime coverage.

(9) Legal fee protection.

(b) Employee benefit coverage:

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

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

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

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

(5) Legal benefits for employees.

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

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

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

Amend the bill by replacing section 10 with the following:

10 Effective Date.

I. RSA 5-B:5, I(a) as inserted by section 4 of this act shall take effect January 1, 2013.

II. The remainder of this act shall take effect July 1, 2012.

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 17 - Nays: 7

Adopted.

Sen. Prescott offered a floor amendment.

Sen. Prescott, Dist. 23
March 28, 2012
2012-1469s
01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:4 as inserted by section 2 of the bill by replacing it with the following:

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~~] **this chapter** 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.

Recess Out of recess.

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 13 - Nays: 11

Adopted.

Sen. Prescott offered a floor amendment.

Sen. Prescott, Dist. 23
March 28, 2012
2012-1474s
01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:5, V as inserted by section 4 of the bill by replacing it with the following:

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 for health pool groups under 51 lives. For all other programs except health, this rule shall not apply.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 9 - Nays: 15

Failed.

Sen. Prescott offered a floor amendment.

Sen. Prescott, Dist. 23
March 28, 2012
2012-1470s
01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:5, I(a) as inserted by section 4 of the bill by replacing it with the following:

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

The question is on the adoption of the Floor Amendment.

A division vote was requested.

Yeas: 2 - Nays: 22

Failed.

Sen. Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

March 28, 2012

2012-1468s

01/09

Floor Amendment to SB 212-FN

Amend RSA 5-B:4-a, VI as inserted by section 3 of the bill by replacing it with the following:

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] **541-A.**

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. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

HEALTH AND HUMAN SERVICES

SB 409-FN, relative to the use of marijuana for medicinal purposes. Ought to Pass with Amendment, Vote 5-0. Senator Sanborn for the committee.

Health and Human Services

March 22, 2012

2012-1416s

04/09

Amendment to SB 409-FN

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

1 New Chapter; Use of Marijuana for Medicinal Purposes. Amend RSA by inserting after chapter 126-U the following new chapter:

CHAPTER 126-V USE OF MARIJUANA FOR MEDICINAL PURPOSES

126-V:1 Definitions. In this chapter:

I. "Cultivation location" means a locked and enclosed site, under the control of the qualifying patient or designated caregiver who has reported the location of the site to the department, where marijuana is cultivated in accordance with the provisions of this chapter.

II. "Debilitating medical condition" means the presence of either:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, multiple sclerosis, or post-traumatic stress disorder; or

(b) Symptoms or treatment results that include at least one of the following: wasting syndrome, severe pain that has not responded to prescribed medication or surgical measures for more than 3 months, or for which other treatment options produced serious side effects, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

III. "Department" means the department of health and human services.

IV. "Designated caregiver" means an individual:

- (a) Who is at least 21 years of age; and
- (b) Who has agreed to assist with a qualifying patient's medical use of marijuana; and
- (c) Who has never been convicted of any drug-related offense; and
- (d) Who possesses a valid registry identification card issued pursuant to RSA 126-V:4

V. "Marijuana" means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.

VI. "Medical use" means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms or results of treatment associated with the qualifying patient's debilitating medical condition. It shall not include the use of marijuana by a designated caregiver who is not a qualifying patient.

VII. "Physician" means an individual licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances, except that in relation to a visiting qualifying patient, "physician" means an individual licensed to prescribe drugs to humans in the state of the patient's residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances. If the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the physician who signs the qualifying patient's written certification shall also be a psychiatrist.

VIII. "Qualifying patient" means an individual who has been diagnosed by a physician as having a debilitating medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-V:4.

IX. "Registry identification card" means a document issued by the department pursuant to RSA 126-V:4 that identifies an individual as a qualifying patient or a designated caregiver.

X. "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

XI. "Unusable marijuana" means any marijuana, other than usable marijuana, including the seeds, stalks, and roots of the plant.

XII. "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

XIII. "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30 days.

XIV. "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship as defined in RSA 329:1-c of at least 3 months in duration, the patient has a debilitating medical condition, and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. If the patient's debilitating medical condition is of recent or sudden onset and the certifying physician is primarily responsible for the patient's care related to his or her debilitating medical condition, the 3-month requirement for the bona-fide physician-patient relationship required in this paragraph shall not apply. The written certification shall be valid for up to one year. The date of expiration and the patient's debilitating medical condition shall be specified on the written certification.

126-V:2 Restrictions on the Possession of Medical Marijuana by a Qualifying Patient or Designated Caregiver.

I. A qualifying patient shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, for the medical use of marijuana in accordance with this chapter, if the qualifying patient possesses or cultivates an amount of marijuana that does not exceed the following:

(a) If the qualifying patient does not have a designated caregiver and the qualifying patient is at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable marijuana; and
- (2) Any amount of unusable marijuana; and
- (3) Six mature marijuana plants and 12 seedlings.

(b) If the qualifying patient is not at the cultivation location reported to the department:

- (1) Two ounces of usable marijuana; and
- (2) Any amount of unusable marijuana.

II. A designated caregiver shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing entity, for the medical use of marijuana in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses or cultivates, or both, an amount of marijuana that does not exceed the following:

(a) If at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable marijuana; and
- (2) Any amount of unusable marijuana; and
- (3) Six mature marijuana plants and 12 seedlings

(b) If not at the cultivation location reported to the department:

- (1) Two ounces of usable marijuana; and
- (2) Any amount of unusable marijuana.

III. A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty for giving marijuana to a qualifying patient or a visiting qualifying patient where nothing of value is transferred in return, or for offering to do the same, if the person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by this section.

IV.(a) A qualifying patient is presumed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(b) A designated caregiver is presumed to be lawfully engaged in assisting with the medical use of marijuana in accordance with this chapter if the designated caregiver possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms or effects of the treatment associated with the debilitating medical condition, in accordance with this chapter.

V. A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied such a right solely for conduct allowed under this chapter and there shall be no presumption of neglect or child endangerment.

VI. Notwithstanding paragraph III, a designated caregiver may receive compensation for costs, not including labor, associated with assisting a qualifying patient who has designated the designated caregiver to assist him or her with the medical use of marijuana. Such compensation shall not constitute the sale of controlled substances.

VII. A physician shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana, provided that nothing shall prevent a professional licensing entity from sanctioning a physician for failing to properly evaluate a patient's medical condition.

VIII. Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or forfeiture is activity related to marijuana that is exempt from state criminal penalties under this chapter.

IX. An individual shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

X. A valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess marijuana for medical purposes, shall have the same force and effect as a valid registry identification card issued by the department in this state, provided that:

(a) The visiting qualifying patient shall also produce a statement from his or her physician stating that the visiting qualifying patient has a debilitating medical condition as defined in RSA 126-V:1, II; and

(b) A visiting qualifying patient shall not cultivate marijuana in New Hampshire.

XI. Any qualifying patient or registered caregiver who sells or transfers marijuana to another person who is not a qualifying patient or registered caregiver under this chapter shall be guilty of a class B felony, shall have his or her registry identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26. The department may revoke the registry identification card of any qualifying patient or registered caregiver who violates any provision of this chapter, and the qualifying patient or registered caregiver shall be subject to any other penalties established in law for the violation.

XII. Where a state or local law enforcement agency encounters an individual who, during the course of an investigation, credibly asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the individual or entity to any law enforcement agency that does not recognize the protection of this chapter, and any prosecution of the individual or entity for a violation of this chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in cases where the state or local law enforcement agency has probable cause to believe the person is distributing marijuana to a person who is not allowed to possess it under this chapter.

126-V:3 Prohibitions and Limitations On the Use of Medical Marijuana.

I. A qualifying patient may use medical marijuana on privately-owned real property only with the permission of the property owner.

II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

(a) Being under the influence of marijuana while:

(1) Operating a motor vehicle, commercial vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power; or

(2) In his or her place of employment, without the written permission of the employer; or

(3) Operating heavy machinery or handling a dangerous instrumentality.

(b) The use or possession of marijuana by a qualified patient or designated caregiver for purposes other than for medical use as permitted by this chapter.

(c) The smoking of marijuana in any public place, including:

(1) A school bus, public bus, or other public vehicle; or

(2) A place of employment, without the written permission of the employer; or

(3) The grounds of any preschool, elementary, or secondary school; or

(4) Any correctional facility; or

(5) Any public park, public beach, public recreation center, public field, or youth center.

III. Nothing in this chapter shall be construed to require:

(a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana;

(b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit an individual or entity in lawful possession of property, or an agent of such individual or entity, from expelling an individual who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property;

(c) Any accommodation of the medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or for working while under the influence of marijuana;

IV. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of \$500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

V. A qualifying patient or designated caregiver who is found to be in possession of marijuana outside of his or her home and is not in possession of his or her registry identification card, may be subject to a \$100 fine.

126-V:4 Departmental Administration.

I. Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a qualifying patient who submits all of the following information:

(a) Written certification as defined in RSA 126-V:1.

(b) An application or renewal fee not to exceed \$200.

(c) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.

(d) Name, address, and telephone number of the applicant's physician.

(e) Name, address, and date of birth of the applicant's designated caregiver, if any.

(f) Street address of the cultivation location, if the qualifying patient does not have a designated caregiver.

(g) A statement signed by the applicant, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that their diversion of marijuana is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of marijuana.

II.(a) Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a designated caregiver who submits all of the following information:

(1) An application or renewal fee not to exceed \$200

(2) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.

(3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver.

(4) A complete set of fingerprints.

(5) Street address of the cultivation location.

(6) A statement indicating the applicant's preference as to whether the applicant requests the department to retain his or her fingerprints on file for any renewal application or whether the applicant requests the department to destroy his or her fingerprints and acknowledges that the applicant shall resubmit fingerprints if the applicant applies for renewal as a designated caregiver.

(7) A signed statement from the applicant agreeing to act as the designated caregiver for the qualifying patient named in the application and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that the diversion of marijuana is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of marijuana.

(b) A person who is applying to be a designated caregiver shall submit to a state and federal criminal records check. The department shall request the department of safety to perform the state and federal criminal records check and the department of safety shall complete such records checks and convey the findings of such checks to the department within 30 days of the request. The department and the department of safety may exchange necessary data including fingerprint data with the Federal Bureau of Investigation without disclosing that the records check is related to the provisions of this chapter and acts permitted by it. Unless the applicant stated that he or she prefers his or her fingerprints to be kept on file for any renewal, the department and the department of safety shall destroy each set of fingerprints obtained pursuant to this chapter after the criminal records check is complete.

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny an application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny an application or renewal to serve as a designated caregiver within 45 days of receipt of the application. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or the applicant previously had a registry identification card revoked for violating the provisions of this chapter, or if the department determines that the information provided was falsified. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

IV. The department shall issue registry identification cards to persons applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the physician states in the written certification that he or she believes the qualifying patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

- (a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.
- (b) The date of issuance and expiration date of the registry identification card.
- (c) A random 10-digit identification number, containing at least 4 numbers and at least 4 letters, that is unique to the qualifying patient and the designated caregiver.
- (d) A designation that the person is either a "qualifying patient" or a "designated caregiver." If the person is a designated caregiver, the identification card shall include the random 10-digit identification number of the qualifying patient for whom he or she is providing care.
- (e) A photograph of the qualifying patient or designated caregiver.
- (f) A statement that the qualifying patient or designated caregiver is permitted under state law to possess marijuana pursuant to this chapter for the medical use of the qualifying patient.
- (g) A statement that either:
 - (1) The person is a qualifying patient who has not designated a caregiver and is therefore exempt from state penalties for cultivating marijuana; or
 - (2) The person is a qualifying patient who has designated a caregiver, and therefore shall not be permitted to cultivate marijuana.

V. The department shall not issue a registry identification card to an applicant under 18 years of age who is applying as a qualifying patient unless:

(a) The applicant's physician has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the applicant; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the applicant consents in writing to:

(1) Allow the applicant's medical use of marijuana; or

(2) Control the acquisition of the marijuana and the frequency of the medical use of marijuana by the applicant; and

(c) The custodial parent or legal guardian completes an application in accordance with the requirements of paragraph I on behalf of the applicant.

VI.(a) A qualifying patient shall notify the department of any change in his or her name, address, or designated caregiver within 10 days of such change. If the qualifying patient's certifying physician notifies the department in writing that either the qualifying patient no longer suffers from a debilitating medical condition or that the physician no longer believes the qualifying patient would receive benefit from the medical use of marijuana, the registry identification card shall become void upon notification by the department to the qualifying patient.

(b) When a qualifying patient or a designated caregiver notifies the department of any change to a name or address, the department shall issue the qualifying patient or designated caregiver a new registry identification card with a new random 10-digit identification number within 15 days of receiving the updated information and a \$10 fee.

(c) If a qualifying patient notifies the department of a change in his or her designated caregiver and the prospective designated caregiver meets the requirements of this chapter, the department shall issue the designated caregiver a registry identification card with a new random 10-digit identification number within 45 days of receiving the designated caregiver's application.

(d) A qualifying patient or designated caregiver who fails to notify the department of any changes to his or her name, address, designated caregiver, or cultivation location shall be guilty of a violation and may be subject to a fine not to exceed \$150.

(e) If a qualifying patient or registered caregiver loses his or her registry identification card, he or she shall notify the department and submit a \$10 fee within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random 10-digit identification number.

VII. Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or property of the individual possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

VIII.(a) The department shall create and maintain a confidential registry of each individual who has applied for and received a registry identification card as a qualifying patient or a designated caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of registry identification card issuance, date of registry identification card expiration, random 10-digit identification number, street address at which the marijuana plants will be cultivated or possessed, and the effective date of any change of cultivation location. The confidential registry and the information contained in it shall be exempt from RSA 91-A.

(b)(1) Except as specifically provided in this chapter, no person shall have access to any information about qualifying patients or designated caregivers in the department's confidential registry, or any information otherwise maintained by the department about physicians, except for authorized employees of the department in the course of their official duties and local and state law enforcement personnel who have detained or arrested an individual who claims to be engaged in the medical use of marijuana.

(2) Local and state law enforcement personnel shall have access to the information within the department's confidential registry only for the purpose of conducting a criminal investigation relating to the medical use of marijuana.

(3) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has made a legal determination that there is probable cause to believe the information is false or falsified.

IX. Within 5 days of learning of the death of a qualifying patient, a surviving family member, caretaker, executor, or the patient's designated caregiver shall notify the department that the qualifying patient has passed away. Within 5 days of learning of the death of a qualifying patient, the surviving family member, caretaker, executor, or the patient's designated caregiver shall either request that the local law enforcement agency remove any remaining marijuana or shall dispose of the marijuana in a manner that is specified by the department by rule.

X. The department shall submit to the legislature an annual report that shall not disclose any identifying information about qualifying patients, designated caregivers, or physicians, but shall contain, at a minimum, the following information:

- (a) The number of applications and renewals filed for registry identification cards.
- (b) The number of qualifying patients and designated caregivers approved in the state.
- (c) The nature of the debilitating medical conditions of the qualifying patients.
- (d) The number of registry identification cards revoked.
- (e) The number of physicians providing written certifications for qualifying patients.

126-V:5 Affirmative Defense.

I. Except as provided in RSA 126-V:3, it is an affirmative defense to any prosecution for an offense involving marijuana intended for medical use that:

(a) The defendant is a qualifying patient in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter, and the qualifying patient was engaged in the medical use of marijuana in accordance with the provisions of this chapter; or

(b)(1) The defendant is a designated caregiver in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter; and

(2) The designated caregiver was engaged in the medical use of marijuana on behalf of a qualifying patient in accordance with the provisions of this chapter.

(c) If a defendant proves the elements of the affirmative defense listed in subparagraph (I)(a) or (b), the charges shall be dismissed with prejudice.

II. A person who is arrested for possession, cultivation, or transportation of marijuana may raise as an affirmative defense that he or she is person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) Prior to the arrest, the person submitted to the department a valid application to become a qualifying patient, complete with a written certification, but the person had not yet received a registry identification card from the department; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; or

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana and is not cultivating more than 6 mature marijuana plants and 12 seedlings, which shall be in a locked and enclosed location on the person's property.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in this paragraph, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

III. A person who is arrested for possession, cultivation, or transportation of marijuana prior to the date on which the department begins accepting registry identification card applications may raise as an affirmative defense that he or she is a person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) The person produces a written statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide physician-patient relationship as defined in RSA 329:1-c of at least 3 months duration, unless the person's debilitating medical condition is of recent or sudden onset in which case the 3-month time requirement shall not apply, the person has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the person; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; and

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana, and does not possess or is not cultivating more than 6 mature marijuana plants and 12 seedlings which shall be in a locked and enclosed location.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in paragraph II, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

126-V:6 Rulemaking.

I. Not later than one year after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing the manner in which it shall consider applications for issuance and renewals of registry identification cards for qualifying patients and designated caregivers.

II. The department may accept gifts, grants, donations, or other funds from private sources without the approval of the governor and council in order to reduce the application and renewal fees.

126-V:7 Registry Identification Card Fund. There is hereby established in the office of the state treasurer a fund to be known as the registry identification card fund which shall be kept separate and distinct from all other funds. The fund is established to pay for the operational expenses of the program for permitting the use of marijuana for medicinal purposes as established in this chapter. The moneys in this fund shall be nonlapsing and continually appropriated to the department. Interest on fund balances shall accrue to the fund. All fees and fines received by the department and all monetary gifts, grants, and donations received by the department pursuant to this chapter shall be deposited in the fund.

2 New Subparagraph; Application of Receipts; Registry Identification Card Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (307) the following new subparagraph:

(308) Moneys deposited in the registry identification card fund established in RSA 126-V:7.

3 Repeal. The following are repealed:

I. RSA 126-V:1 through RSA 126-V:7, relative to use of marijuana for medicinal purposes.

II. RSA 6:12, I(b)(308), relative to the registry identification card fund.

4 Applicability. The provisions of RSA 126-V:1-5 as inserted by section 1 of this act shall take effect on the earlier of July 1, 2013 or certification by the commissioner of the department of health and human services to the secretary of state and the director of the office of legislative services that sufficient funds are available in the registry identification card fund established in RSA 126-V:7 to meet the expenses of the use of marijuana for medicinal purposes program established in RSA 126-V from the effective date of this section until July 1, 2013.

5 Effective Date.

I. RSA 126-V:1-5 as inserted by section 1 of this act shall take effect as provided in section 4 of this act.

II. Section 3 of this act shall take effect July 1, 2015.

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

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

Sen. Forsythe offered a floor amendment.

Sen. Forsythe, Dist. 4
March 28, 2012
2012-1494s
04/10

Floor Amendment to SB 409-FN

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

II.(a) "Debilitating medical condition" means the presence of both:

(1) A chronic or terminal disease; and

(2) Symptoms or treatment results that include at least one of the following: wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures for more than 3 months, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

(b) "Chronic or terminal disease" means cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, multiple sclerosis, inflammatory autoimmune-mediated arthritis, Parkinson's disease, systemic lupus erythematosus, quadriplegia, paraplegia, sickle cell disease, or painful peripheral neuropathy, only if the application is accompanied by medical records that confirm the objective presence of painful peripheral neuropathy that has been refractory to other treatments.

Amend RSA 126-V:2, I(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

Amend RSA 126-V:2, II(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

Amend RSA 126-V:4, I(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Name, address, and date of birth of the applicant's designated caregiver, if any. A qualifying patient shall have only one designated caregiver.

Amend RSA 126-V:4, II(a)(3) as inserted by section 4 of the bill by replacing it with the following:

(3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver. A designated caregiver shall act on behalf of only one qualifying patient.

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.

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

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

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

Yeas: 13 - Nays: 11

Adopted, bill ordered to Third Reading.

EDUCATION

SB 300, relative to special education services in chartered public schools. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

This bill establishes a procedure for the provision of special education and related services to a child with disability who is enrolled in a chartered public school and requires a chartered public school to provide due process. Senate Bill 300 adds clarifying language to the current law to ensure a child with disabilities has access to a free and appropriate public education.

Senate Education
 March 20, 2012
 2012-1363s
 04/09

Amendment to SB 300

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

1 Chartered Public School; Funding. Amend RSA 194-B:11, III to read as follows:

III.(a) In accordance with current department of education standards, the funding and educational decision-making process for children with disabilities attending a chartered public school shall be the responsibility of the [school] **resident** district and shall retain all current options available to the parent and to the school district.

(b) When a child is enrolled by a parent in a chartered public school, the local education agency of the child's resident district shall convene a meeting of the individualized education program (IEP) team and shall invite a representative of the chartered public school to that meeting. At the meeting, the IEP team shall determine how to ensure the provision of a free and appropriate public education in accordance with the child's IEP. The child's special education and related services shall be provided using any or all of the methods listed below starting with the least restrictive environment. In this subparagraph, the chartered public school in which the child is enrolled shall be considered the least restrictive environment:

(1) The resident district may send staff to the chartered public school; or

(2) The resident district may contract with a service provider to provide the services at the chartered public school; or

(3) The resident district may provide the services at the resident district school; or

(4) The resident district may provide the services at the service provider's location; or

(5) The resident district may contract with a chartered public school to provide the services; and

(6) If the child requires transportation to and/or from the chartered public school before, after, or during the school day in order to receive special education and related services as provided in the IEP, the child's resident district shall provide transportation for the child.

(c) Consistent with Section 5210(1) of the Elementary and Secondary Education Act and Section 300.209 of the Individuals With Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. The child's resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services.

2 Chartered Public Schools; Requirements. Amend RSA 194-B:8, I to read as follows:

I. A chartered public school shall not discriminate nor violate individual civil rights in any manner prohibited by law. A chartered public school shall not discriminate against any child with a disability as defined in RSA 186-C. ***A chartered public school shall provide due process in accordance with state and federal laws and rules.***

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

2012-1363s

AMENDED ANALYSIS

This bill establishes a procedure for the provision of special education and related services to a child with a disability who is enrolled in a chartered public school and requires chartered public schools to provide due process in the provision of special education and related services to children with disabilities.

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.

Sens. Bragdon and Morse are in opposition to the motion of Ought to Pass as Amended on SB 300.

ENERGY AND NATURAL RESOURCES

SB 388, setting the natural mean high water mark of Silver Lake in Belmont and Tilton. Ought to Pass with Amendment, Vote 5-0. Senator Merrill for the committee.

This bill permits certain landowners of properties along Silver Lake that have deeds stating their land extends beyond the public trust boundary to use such property. Additionally, the bill requires the department of environmental services to reassess the high water mark of Silver Lake, and report its determination to the committee by November.

Energy and Natural Resources

March 22, 2012

2012-1402s

06/01

Amendment to SB 388

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

AN ACT relative to the use of land along Silver Lake that is below the public trust boundary.

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

1 Silver Lake; Definition. In this act, "Silver Lake" means the body of water located in the towns of Belmont and Tilton bounded on the north and south by the Winnepesaukee River.

2 Use of Land Below the Public Trust Boundary. To the extent that deeds related to certain properties along Silver Lake purport to convey interests in land that may be located below the public trust boundary, the state hereby grants to any owner of such property along Silver Lake, and any successor in interest, the right to use such property to the boundaries as set forth in any pre-existing deeds for any purpose that does not negatively impact public trust uses subject to the restrictions of this section. No new structures shall be constructed on public trust land other than water-related structures. Existing structures may be repaired and replaced in-kind. Nothing in this section shall impact any right of the state to flow water in or near Silver Lake. Nothing in this section shall relieve a property owner of the need to obtain any required state, local, or federal permit or other authorization.

3 Report. The department of environmental services shall reassess the current high water mark for Silver Lake as set by the department, taking into consideration existing structures that are below such high water mark. The department of environmental services shall report its determination to the energy and natural resources committee by November 1, 2012.

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

2012-1402s

AMENDED ANALYSIS

This bill:

I. Permits certain landowners of properties along Silver Lake that are below the public trust boundary to use such property for certain purposes.

II. Prohibits construction of new structures on public trust land.

III. Requires the department of environmental services to reassess the high water mark of Silver Lake, and report its determination to the energy and natural resources committee.

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

Sen. Forsythe offered a floor amendment.

Sen. Forsythe, Dist. 4

March 27, 2012

2012-1453s

06/09

Floor Amendment to SB 388

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

AN ACT relative to the use of land along Silver Lake that is below the public trust boundary.

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

1 Silver Lake; Definition. In this act, "Silver Lake" means the body of water located in the towns of Belmont and Tilton bounded on the north and south by the Winnepesaukee River.

2 Use of Land Below the Public Trust Boundary. To the extent that deeds related to certain properties along Silver Lake purport to convey interests in land that may be located below the public trust boundary, the state hereby grants to any owner of such property along Silver Lake, and any successor in interest, the right to use such property to the boundaries as set forth in any pre-existing deeds for any purpose that does not negatively impact public trust uses subject to the restrictions of this section. No new structures shall be constructed on public trust land other than water-related structures. Existing structures may be repaired and replaced in-kind. Nothing in this section shall impact any right of the state to flow water in or near Silver Lake. Nothing in this section shall relieve a property owner of the need to obtain any required state, local, or federal permit or other authorization.

3 Report. The department of environmental services shall reassess the current high water mark for Silver Lake as set by the department, taking into consideration existing structures that are below such high water mark and evidence given to the senate energy and natural resources committee. The department of environmental services shall report its determination to the senate energy and natural resources committee and the house resources, recreation and development committee by November 1, 2012.

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

2012-1453s

AMENDED ANALYSIS

This bill:

I. Permits certain landowners of properties along Silver Lake that are below the public trust boundary to use such property for certain purposes.

II. Prohibits construction of new structures on public trust land.

III. Requires the department of environmental services to reassess the high water mark of Silver Lake, and report its determination to the senate energy and natural resources committee and the house resources, recreation and development committee.

Recess. Out of recess.

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.

RESOLUTION 12

Sen. Larsen moved Introduction and Ought to Pass on SR 12, supporting the establishment of a National Women's History Museum in Washington, D.C.

INTRODUCTION OF SENATE RESOLUTION 12

12-3077

SR 12, supporting the establishment of a National Women's History Museum in Washington, D.C. (Larsen, Dist 15; Carson, Dist 14; Stiles, Dist 24; Forrester, Dist 2; Merrill, Dist 21; Kelly, Dist 10)

The question is on the adoption of the motion of Introduction and Ought to Pass on SR 12. Adopted.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

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

Without objection, the Clerk shall read the title of the Veto Message only.

Governor Lynch's Veto Message Regarding HB 592

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on March 23, 2012, I vetoed HB 592.

The New Hampshire Constitution provides that the House of Representatives shall be “founded on the principles of equality, and representation therein shall be as equal as circumstances will admit.” Consistent with this provision, in 2006, the citizens of New Hampshire overwhelmingly adopted a constitutional amendment that further enshrined the principle of equal representation by providing each town and city ward a representative with sufficient population to warrant one.

The right to vote is central to our democratic government. But that right is meaningless unless equal representation is assured when citizens vote. I am vetoing HB 592 because it violates the constitutional principle for equal representation and local representation; it is inconsistent in its treatment of similarly situated towns and wards, and it unnecessarily changes the boundaries of existing districts.

The population of New Hampshire based on the 2010 census is 1,316,470. A straight division into 400 districts yields an ideal population per district of 3,291. Under federal and state law, towns and wards that equal or are within 5% of this ideal population are entitled to their own representative. Based on the 2010 census, there are 152 towns and wards in New Hampshire that qualify for their own representative.

HB 592 denies a total of 62 New Hampshire towns and wards their own seats in the House. For example, the towns of Atkinson, Hudson, Meredith, and Pelham all have sufficient population under state and federal constitutional standards to have their own representative, but all are denied their own representative under the House-approved plan. This is completely contrary to what the citizens of New Hampshire called for in the state constitutional amendment adopted in 2006.

Another significant flaw with the House-approved redistricting plan is that it unnecessarily breaks-up cities and wards.

For example, in Manchester, the state’s largest city, HB 592 combines Wards 8 and 9 with the town of Litchfield. Pelham will again share its representatives with Hudson. Strafford will share a representative with New Durham. And Concord’s Ward 5 will now be made part of a district that includes the Town of Hopkinton. The leaders and governing bodies of each of these communities have expressed their strong opposition to HB 592, noting that it unnecessarily and unconstitutionally dilutes local representation, and have asked me to veto this bill.

As the Board of Mayor and Alderman in Manchester has expressed, “this is not a partisan issue.” “Local municipal budgets are separate, schools are in different districts, police officers and firefighters . . . belong to different departments and station houses.” The same is true in Pelham, Concord, Strafford and all of the towns and wards affected in this manner by HB 592.

Supporters of HB 592 have argued that in crafting a redistricting plan, the legislature must balance the one-person-one-vote principle enshrined in the federal constitution with the requirements for local representation as required by the state constitution. But satisfaction of federal requirements does not require abandonment of the principles of the New Hampshire Constitution. The House-passed plan unnecessarily breaks-up towns and wards.

One of the unique advantages to living in New Hampshire is the ability of citizens to encounter his or her state representative in their daily activities – at the grocery store, in a house of worship, or walking main street. HB 592 undermines that very special quality of life in New Hampshire and the critical component of representative local democracy that is expressed in a commonality of interest among a community’s citizens. For all of these reasons, I have vetoed HB 592.

I urge the House to take up my veto quickly in order to allow time for alternative plans to be brought forward, or for litigation in the event of the absence of agreement on a constitutional plan. The House was presented with alternative plans by members of both political parties that would go further to satisfy the requirement for equal representation and fairness. There is still time before the candidate filing period to enact redistricting legislation that will assure equal voting rights of all New Hampshire citizens.

Respectfully submitted,

Governor

Date: March 23, 2012

The question is, notwithstanding the Governor’s Veto, shall HB 592 become law?

A roll call is required.

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

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

Yeas: 17 - Nays: 7

Veto overridden by necessary 2/3 vote.

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 202, apportioning congressional districts.

SB 203-FN-A, relative to limited liability companies.

SB 205, revising the New Hampshire business corporations act, RSA 293-A.

SB 212-FN, relative to pooled risk management programs.

SB 215, establishing a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee.

SB 224, relative to lead fishing sinkers and jigs.

SB 225-FN-L, relative to fees for vital records.

SB 229-FN, 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.

SB 258, authorizing group net metering for limited electrical energy producers.

SB 259, relative to the appointment of the director of ports and harbors and relative to transfer of land within the Pease development authority.

SB 270, relative to civil commitment of persons found incompetent to stand trial.

SB 273, relative to vexatious litigants.

SB 276-FN, establishing the vandalizing or defacing of state or municipal property as criminal mischief.

SB 300, relative to special education services in chartered public schools.

SB 301, relative to the amendment of pleadings in landlord-tenant actions.

SB 311-FN-A, establishing a director of the division of weights and measures and relative to the setting of weights and measures fees.

SB 314-FN, relative to state-owned vehicle fleet management.

SB 326-FN-L, relative to state reimbursement of towns.

SB 343-FN, establishing an independent board of psychologists.

SB 350-FN, relative to the sale of portable electronics insurance.

SB 359, relative to civil actions involving accessibility standards for public buildings.

SB 372-FN-L, establishing an education tax credit.

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

SB 388, relative to the use of land along Silver Lake that is below the public trust boundary.

SB 401, relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants.

SB 402, relative to the adoption of policies for the management of concussion and head injury in youth sports.

SB 406, establishing an early offer alternative in medical injury claims.

SB 407-FN, relative to the purchasing policy of the department of information technology and relative to the transfer of federal grant funds.

SB 409-FN, relative to the use of marijuana for medicinal purposes.

HB 193, relative to the Mount Washington commission.

HB 449-FN, relative to reports on information available on the state website.

HB 624, establishing a committee to study the rulemaking authority of state agencies to establish fees.

HB 1134, establishing a committee to study the construction of a permanent memorial to Governor John Gilbert Winant on state property other than the state house grounds.

HB 1302-FN, relative to underpayment of estimated taxes and equalization of valuations administered by the department of revenue administration.

HB 1349-L, relative to the service of town health officers.

HB 1420, relative to the disposition of the remains of service members.

HB 1567, establishing a committee to study the federal Youth Corrections Act.

HB 1717, apportioning county commissioner districts.

LIST OF RULE 2-15'S FOR THE DAY

Sen. Houde: SB 406.

Sen. Groen: SB 273.

Sen. White: SB 350-FN.

ANNOUNCEMENTS

(The Chair recognized Sen. D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Rule 2-17 if I might, please. Mister President, last week, in Manchester, an officer on our police force was severely wounded in a confrontation with a hardened criminal. As a result, the officer sustained about seven shots, seven wounds; the perpetrator fired a magazine at him and discharged 15 rounds. This happened on the west side of Manchester in my District; it happened on Rimmon Street—some of you may be familiar with Rimmon Street. The Officer is in the Catholic Medical Center; he's being treated. He has a long, long road ahead of him. Had it not been for the magnificent emergency action of some of his colleagues, he wouldn't be alive today; a bullet passed through his femoral artery, and he would have bled to death had they not put the tourniquet on and stopped the bleeding.

But, here's the situation: I've talked with Senator De Blois and I've talked to other Senators about this. This police officer is going to need some financial assistance. A fund has been set up by the Manchester Police Patrolmen's Association. The Members First Credit Union is the first contributor to that fund; they have given \$1,000. I'm asking that each Senator, if possible, could give \$100 to that fund. And, in, really, a tribute to law enforcement and the kind of work that law enforcement does on our behalf, we'll deposit this in the Members First Credit Union, and it'll be part of the Officer Dan Doherty Benefit Fund. He's 25 years of age, he's single; he's got a long way to go. You know, very fortunately, he was in good health, and he was able to sustain an unbelievable situation. He's going to need help as he moves forward. He's had a series of surgeries; he's going to have more surgeries. I don't know what his prognosis is about full recovery, but it's very questionable whether or not he'll be able to resume his duties, certainly as a police officer. But, anything we can do to give our support to this fine young man I think we should do, and we as Senators, we as public servants, recognize that every time one of those guys and women goes out on the street, they put their lives at risk. Now, we talk about it, but in my District, in the last five years, we've had one police officer slain, we've had one murder in terms of the police had to capture an individual in a house and we had a stakeout—that

person ended up being killed—we've had a second police officer shot, we've had numerous shootings in the area, and believe me when I tell you this: Our force is on high alert. I have spoken with our Colonel of State Police, and we are going to do everything we can to support Manchester with funds that are available; we've lost a lot of our federal funds from the Streetsweeper Program, and we're going to do what we can to support this city. But, again, this officer needs our help. He needs our help, and I know that all of you feel the same way. And, again, that contribution will be very, very much appreciated by the Manchester Police Patrolman's Association. Thank you, Mister President.

PRESIDENT BRAGDON: I'll point out that my understanding is that checks can be made out to Officer Dan Doherty Benefit Fund and brought to either Senator D'Allesandro, Senator De Blois, Senator Boutin—the three Manchester Senators—or to the Majority or Minority Offices, and we'll take care of it.

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.