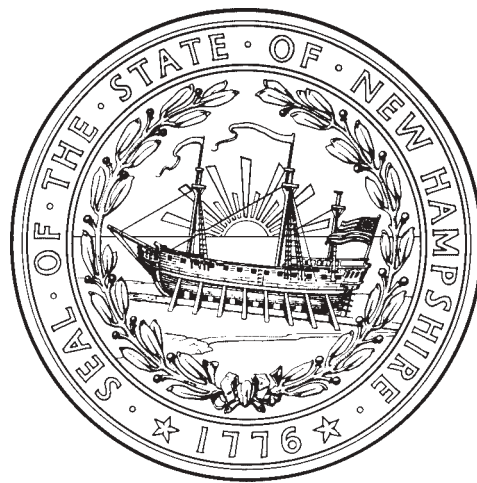


April 8, 2004
Nos. 10 - 11

STATE OF NEW HAMPSHIRE

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



Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 1, 2004 SESSION
COMMENCEMENT – APRIL 8, 2004 SESSION

SENATE JOURNAL 10 (*Cont.*)

April 1, 2004

Out of Recess.

HOUSE MESSAGE

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

HB 264, establishing state representative districts.

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus.

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, House legislation numbered from **264 - 1361**, 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 264, establishing state representative districts. (Internal Affairs)

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus. (Judiciary)

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

SENATE JOURNAL 11

April 8, 2004

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Lord, wrench from my grasping hands the levers of power today, lest I seek to create the world as I want it to be, for that is Your prerogative. And pull me back today from the precipice self reputation idolatry, for our calling to serve involves giving prestige to others, not seeking it for ourselves. Amen

Senate Guest Kaycee Sawyer led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

MOTION TO VACATE

Senator Kenney moved to vacate **HB 2004**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds, from the Transportation Committee to the Capital Budget Committee.

Adopted.

HB 2004 is vacated to the Capital Budget Committee.

COMMITTEE REPORTS

HB 1352-FN, requiring school districts to recommend daily physical activity to pupils. Education Committee. Ought to Pass, Vote 3-0. Senator Foster for the committee.

Adopted.

Ordered to third reading.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-1. Senator Estabrook for the committee.

Senate Executive Departments and Administration
March 31, 2004
2004-0993s
06/04

Amendment to HB 1298

Amend the bill by replacing section 2 with the following:

2 Membership and Compensation.

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

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

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

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1355, changing the name of the sweepstakes commission to the lottery commission. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Executive Departments and Administration
April 1, 2004
2004-1006s
08/09

Amendment to HB 1355

Amend the bill by replacing section 9 with the following:

9 Transition.

I. All existing rules, regulations and procedures in effect, in operation or adopted by the former sweepstakes commission are declared in effect and shall continue in effect until rescinded, revised, or amended by the lottery commission.

II. The change of name from the sweepstakes commission to the lottery commission shall not affect the terms or appointments of current members of the commission.

III. Current documents, forms, or any other supplies with the name sweepstakes commission may be used until exhausted.

IV. After all documents, forms, or any other supplies with the name sweepstakes commission have been exhausted, the official name of the commission shall be the New Hampshire lottery commission for the purposes of all correspondence and advertising.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1414, establishing a commission to study issues regarding the women's prison facility. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Peterson for the committee.

Senate Executive Departments and Administration

April 1, 2004

2004-1002s

09/10

Amendment to HB 1414

Amend subparagraph II(b) of section 2 of the bill by replacing it with the following:

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

Amend the bill by replacing section 4 with the following:

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

2004-1002s

AMENDED ANALYSIS

This bill establishes a commission to study issues regarding the women's prison facility.

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

April 8, 2004

2004-1104s

09/10

Floor Amendment to HB 1414

Amend subparagraph II(a) of section 2 of the bill by replacing it with the following:

(a) Four members of the house of representatives, at least one of whom shall be a member of the criminal justice and public safety committee, one of whom shall be a member of the public works and highways committee, and one of whom shall be from the Goffstown house delegation; appointed by the speaker of the house.

Question is on the adoption of the floor amendment.

A division vote was requested.

Yeas: 10 - Nays: 13

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment. Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Estabrook for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 697-FN, relative to the sale of motor fuel. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Transportation

April 1, 2004

2004-1008s

03/05

Amendment to HB 697-FN

Amend the bill by replacing section 7 with the following:

7 New Section; Road Tolls; Retention of Records by Retail Dealers. Amend RSA 260 by inserting after section 43 the following new section:

260:43-a Retention of Records by Retail Dealers, and Transporters. Each retail dealer shall maintain and keep for a period of 3 years records of motor fuel and petroleum products, including purchases of product, opening and closing inventory readings, and pump meter readings.

Amendment adopted.

Referred to the Finance Committee (Rule #26).

HB 812, relative to state acquisition of privately-owned airports. Transportation Committee. Ought to Pass, Vote 5-0. Senator Morse for the committee.

Adopted.

Ordered to third reading.

HB 1179-FN, relative to driver education training reimbursement. Transportation Committee. Inexpedient to Legislate, Vote 4-1. Senator Kenney for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Transportation
April 1, 2004
2004-1009s
03/05

Amendment to HB 1276-FN

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

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

- (a) Four members of the house, appointed by the speaker of the house of representatives.
- (b) One member of the senate, appointed by the president of the senate.

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

VI. 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, the senate clerk, the governor, and the state library on or before November 30, 2004.

MOTION TO TABLE

Senator Kenney moved to have **HB 1276-FN** laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

HB 1293, relative to emission control equipment for certain vehicles. Transportation Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

MOTION TO TABLE

Senator Clegg moved to have **HB 1293** laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1293, relative to emission control equipment for certain vehicles.

HB 1227, relative to land assessed for current use which is taken by eminent domain. Ways and Means Committee. Ought to pass with amendment, Vote 3-0. Senator Clegg for the committee.

Senate Ways and Means
March 31, 2004
2004-0994s
10/01

Amendment to HB 1227

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

1 Current Use Taxation; Exceptions to Land Use Change Tax; Application of Taking by Eminent Domain. Amend RSA 79-A:7, VI(a) to read as follows:

(a) Land under current use is taken by eminent domain or any other type of governmental taking which would cause the use change penalty to be invoked because, by reason of an actual physical change or by reason of size, the site no longer conforms to criteria established by the board under RSA 79-A:4, I. ***Such remaining land, regardless of size, may continue in current use until a subsequent change in use of the remaining land occurs. No tax or penalty under this chapter shall be applied to a landowner or to a governmental entity when land is taken by eminent domain.***

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. Ways and Means Committee. Ought to pass with amendment, Vote 3-0. Senator D'Allesandro for the committee.

Senate Ways and Means
April 1, 2004
2004-0995s
05/03

Amendment to HB 1411-FN-A

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

AN ACT establishing a committee to study funding sources for the state laboratories; relative to laboratory fees and services; and extending the appropriation to the department of corrections for the prison automation system.

Amend the bill by replacing all after section 7 with the following:

8 Office of Information Technology; Oversight and Reporting Required. The office of information technology shall provide a report every 30 days to the fiscal committee of the general court and to the house and senate ways and means committees on the progress of the prison automation project beginning September 30, 2004, until the funds appropriated and extended for such purpose in section 6 of this act are fully expended. The reports shall include the current total project cost, funds encumbered, actual expenditures, and the estimated completion date for the project.

9 State Laboratory Committee Established. The general court recognizes that certain functions of state government may directly or indirectly compete with services and products otherwise provided by the private sector. State government has a responsibility to consider very carefully any decision to provide products and services to the public at large, particularly where the products and services to be provided may compete with similar products or services offered by the private sector. Therefore, there is hereby established the state laboratory committee, a study committee to examine the current structure of the state laboratory to identify those services which compete directly with the private sector and to examine the true costs of providing such services where private market-priced services are concerned.

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

(a) Three members of the senate, appointed by the president of the senate, one of whom shall be a member of the senate environment committee, one of whom shall be a member of the senate ways and means committee, and one of whom shall be a member of the senate finance committee.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the house environment and agriculture committee, one of whom shall be a member of the house ways and means committee, and one of whom shall be a member of the house finance committee.

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

III. The committee shall:

(a) Determine the extent to which the state laboratory competes against the private sector in offering its products and services to the general public.

(b) Examine the benefits and true cost savings to the state associated with the possibility of phasing out those services in which the state unfairly competes against the private sector today.

(c) Review similar operations and the competitive position in the marketplace of similarly-provided laboratory services of other states.

(d) Evaluate the need to refocus the role and responsibilities of the state laboratory services to provide necessary services available in the private sector, such as those related to homeland security.

(e) Develop recommendations and legislative proposals for reorganization and implementation of changes based on the findings of this committee.

(f) Study other issues deemed relevant to the committee's purpose.

(g) Solicit relevant information and testimony from the following individuals and organizations:

(1) The New Hampshire Municipal Association.

(2) The New Hampshire Waterworks Association.

(3) The Business and Industry Association of New Hampshire.

(4) The Lab Association of New Hampshire.

(5) American Council of Engineering Companies-New Hampshire Chapter.

(6) The commissioner of the department of health and human services, or designee.

(7) The commissioner of the department of environmental services, or designee.

(8) The commissioner of the department of safety, or designee.

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 45 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 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, 2004.

10 Public Health; Laboratory of Hygiene; Fee Required; Fees Changed. RSA 131:3-a, I-III is repealed and reenacted to read as follows:

I. Fees for analyses required by the federal Safe Drinking Water Act or offered as a service shall be set by following the cost allocation method established for reimbursements to the state from grants funded by the United States Environmental Protection Agency (EPA).

(a) Inorganic chemicals	\$360/400
(b) Synthetic organic chemicals	\$750
(c) Volatile organic chemicals	\$130
(d) Radiologicals	
(1) Analytical gross alpha	\$ 60
(2) Uranium (activity)	\$150

(3) Uranium (mass)	\$ 15
(4) Radium 226	\$150
(5) Radon	\$ 25
(e) Standard analysis	\$115
(f) Bacteria as CTS/100ml	\$ 25
(g) Bacteria as P-A/100ml	\$ 20
(h) Lead and copper	\$ 30
(i) Total trihalomethanes	\$ 75
(j) Total organic carbon	\$ 50
(k) Haloacetic acids	\$100
(l) Nitrate/Nitrite	\$ 13
(m) Specific ultraviolet absorbance	\$150
(n) Water quality parameters	\$ 40

II. Fees for analyses of the following special parameters not required by the federal Safe Drinking Water Act shall be:

(a) Asbestos	\$ 35
(b) Bacteria as MPN/100ml	\$ 35
(c) Biosuitability	\$150
(d) Fluoride	\$ 13
(e) Individual metals	\$ 15
(f) Iron bacteria	\$ 30
(g) Methyl tertiary butyl ether	\$ 75
(h) Standard plate count	\$ 30
(i) Thermometer calibration	\$ 15
(j) Total petroleum hydrocarbons	\$115
(k) Total phosphorous	\$ 15
(l) Non-specific analytical investigation	\$ 70 per hour
(m) Other tests	at calculated cost
(n) Expedited service	2 times list price

III. Fees for analysis of the following parameters in support of the department's private homeowner initiative shall be:

(a) Bacteria, chloride, nitrate	\$ 35
(b) Drinking water bacteria	\$ 20
(c) Radiological analysis	\$ 90
(d) Standard analysis	\$ 90
(e) Suspected sewage	\$ 60

IV. Unless otherwise prohibited by the Safe Drinking Water Act or the EPA grants referenced in paragraph I, the commissioner of environmental services may adopt rules to change the fees established in paragraphs I-III. Rules adopted under this paragraph shall be exempt from RSA 541-A, and may be amended or superseded annually based on market conditions and trends as is the common practice in private industry.

Fees established under this paragraph shall be designed to reflect the rate of inflation as measured by the most recent available northeast region consumer price index and to be comparable with fees for similar services offered by other laboratories in the state. Any rule adopted by the commissioner of environmental services under this paragraph shall be filed with the fiscal committee of the general court and with the office of legislative services within 7 days of adoption, amendment, or repeal.

V. All fees collected by the commissioner of environmental services under this section shall be deposited with the state treasurer as unrestricted revenue, with the exception that 50 percent of every analysis fee shall be deposited with the state treasurer and reserved in a special nonlapsing fund to be used by the commissioner of environmental services for the purchase of replacement or new laboratory equipment designed to improve service. The commissioner may, with prior approval of the governor and council, use funds in the nonlapsing account for unanticipated personnel or supply expenditures made necessary by unexpected changes in or additions to federal or state required laboratory analyses, or unusual volume of samples.

11 Effective Date.

I. Section 10 of this act shall take effect September 1, 2004.

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

2004-0995s

AMENDED ANALYSIS

This bill:

I. Establishes a study committee to consider implementing a facility fee to fund the maintenance and renovation of the state laboratories.

II. Prevents the lapse of a prior appropriation to the department of corrections for a prison automation system.

III. Establishes a study committee to determine the extent to which the state laboratory competes against the private sector in offering its products and services to the general public.

IV. Amends fees charged by the state laboratory of hygiene.

Amendment adopted.

Sen. O'Hearn, Dist. 12

April 8, 2004

2004-1097s

03/04

Floor Amendment to HB 1411-FN-A

Amend RSA 131:3-a, III as inserted by section 10 of the bill by inserting after subparagraph (e) the following new subparagraph:

(f) Volatile organic chemicals

\$130

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Foster rule #42 on HB 1411.

TAKEN OFF THE TABLE

Senator Gatsas moved to have **HB 1293** taken of the table.

Adopted.

HB 1293, relative to emission control equipment for certain vehicles.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16
April 8, 2004
2004-1106s
03/01

Floor Amendment to HB 1293

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

AN ACT relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 New Paragraph; Unfair Insurance Trade Practices; Coercion in Requiring Certain Automobile Rental.
Amend RSA 417:4 by inserting after paragraph XXI the following new paragraph:

XXII. Coercion In Requiring Certain Automobile Rental.

(a) No insurance company, and no agent or adjuster for such insurance company, that issues or renews in this state any policy of insurance covering, in whole or in part, motor vehicles shall require any insured person or entity under that policy to use a particular company or location for the providing of rental automobile services insured in whole or in part by that policy.

(b) No such insurance company, agent, or adjuster shall engage in any act or practice of intimidation, coercion, threat, for or against any such insured person or entity to use such a particular company or location to provide such services or products.

(c) Nothing shall prohibit any insurance company, agent, or adjuster from providing to such insured person or entity the name of an automobile rental company with which arrangements may have been made with respect to automobile rental services. If a name is provided, there must be disclosure by the insurance company, agent, or adjuster to the insured person or entity that any other automobile rental company or location may be used at the discretion of the insured person or entity. However, the insurer may limit payment for such work based on the fair and reasonable price in the area by companies providing similar services. If an independent rental company or facility and an insured are unable to agree on a price, then for the purposes of this section "fair and reasonable price" shall mean the price available from a recognized, competent, and conveniently located, independent rental company or facility which is willing and able to provide automobile rental services within a reasonable time.

2004-1106s

AMENDED ANALYSIS

This bill modifies the exemptions from the emission control equipment requirements for motor vehicles. This bill also limits certain insurance practices relating to automobile rentals.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Kenney moved to have **HB 1276-FN** taken off the table.

Adopted.

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

Question is on the adoption of the committee amendment (1009).

Amendment adopted.

Senator Kenney offered a floor amendment.

Sen. Kenney, Dist. 3
 Sen. Morse, Dist. 22
 Sen. Below, Dist. 5
 Sen. Flanders, Dist. 7
 Sen. Martel, Dist. 18
 April 8, 2004
 2004-1108s
 03/04

Floor Amendment to HB 1276-FN

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

AN ACT relative to special number plates for veterans, establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star, and authorizing rules relating to certain commemorative license plates.

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

3 New Section; Commemorative License Plates. Amend RSA 261 by inserting after section 91 the following new section:

261:91-a Commemorative License Plates. The director is authorized to adopt rules pursuant to RSA 541-A for the design, sale, and distribution by towns and cities celebrating the centennial, bicentennial, tricentennial, or sesquicentennial of the founding of the town or city or similar special occasion in the history of the town or city, and the display of said plates in place of the front license plate on vehicles for a period not to exceed one year, during which the celebration is taking place.

2004-1108s

AMENDED ANALYSIS

This bill:

I. Makes certain veterans of World War II eligible for special number plates for veterans.

II. Establishes a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

III. Authorizes the director of the division of motor vehicles to adopt rules relating to commemorative license plates.

Floor amendment adopted.

Senator Clegg offered a floor amendment.

Sen. Kenney, Dist. 3
 Sen. Morse, Dist. 22
 Sen. Martel, Dist. 18
 Sen. Flanders, Dist. 7
 April 8, 2004
 2004-1109s
 03/04

Floor Amendment to HB 1276-FN

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

AN ACT relative to special number plates for veterans, establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star, authorizing rules relating to certain commemorative license plates, and requiring an additional fee for certain motor vehicle registrations.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Section; Registration Fees; Convenience Fee to be Collected. Amend RSA 261 by inserting after section 141-a the following new section:

261:141-b Convenience Fee to be Collected. The department shall collect an additional convenience fee for each registration processed by electronic means, including Internet or facsimile, by adding 2 percent to the total registration fee.

2004-1109s

AMENDED ANALYSIS

This bill:

I. Makes certain veterans of World War II eligible for special number plates for veterans.

II. Establishes a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

III. Authorizes the director of the division of motor vehicles to adopt rules relating to commemorative license plates.

IV. Requires the department of safety to collect an additional fee for motor vehicle registrations processed by electronic means.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Clegg moved that the Senate now 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.

LATE SESSION**Third Reading and Final Passage**

HB 812, relative to state acquisition of privately-owned airports.

HB 1227, relative to land assessed for current use which is taken by eminent domain.

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

HB 1293, relative to emission control equipment for certain vehicles.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations.

HB 1352-FN, requiring school districts to recommend daily physical activity to pupils.

HB 1355, changing the name of the sweepstakes commission to the lottery commission.

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

HB 1414, establishing a commission to study issues regarding the women's prison facility.

ANNOUNCEMENTS**RESOLUTION**

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving Messages, and processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.