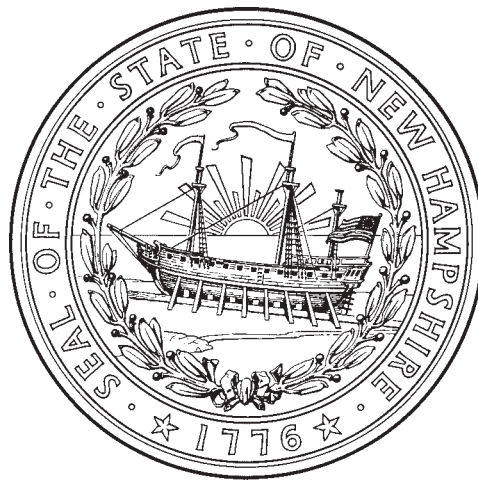


April 22, 2004
Nos. 12 - 13

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 15, 2004 SESSION
COMMENCEMENT – APRIL 22, 2004 SESSION

SENATE JOURNAL 12 (*Cont.*)

April 8, 2004

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

HB 503, relative to septic system construction permits.

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

SB 340, relative to the release of information on fish stocking by the executive director of fish and game.

Senator D'Allesandro moved adoption.

Adopted.

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 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

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 **1428 to HJR 26**, 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 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Public Affairs)

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. (Transportation)

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). (Executive Departments and Administration)

HOUSE MESSAGE

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

SB 311, relative to civil penalties for unlawful campaign practices.

SB 330-FN, relative to creditable service of retirement system members reemployed after qualifying military service.

SB 337, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals.

SB 340, relative to the release of information on fish stocking by the executive director of fish and game.

SB 345, exempting payroll accounts from trustee process.

SB 346, relative to prohibiting the operation of snowmobiles on open water.

SB 347-FN, relative to financial responsibility and conduct after an OHRV accident.

SB 358, relative to incompatibility of municipal offices.

SB 379, relative to safety inspection and certification of certain equipment of vehicles.

SB 412, extending a public trust grant for the Gunstock Area ski resort's snowmaking.

SB 416, relative to membership of the advisory committee on child care.

SB 424-FN, relative to boating and carnival-amusement regulation by the department of safety.

SB 438, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.

SB 450-FN, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

SB 456, relative to record books maintained by registers of deeds.

SB 457, relative to animal population control.

SB 466, relative to records management services of a municipality.

SB 497-FN, relative to renewal of electrician's licenses.

SB 499, making a change to the electrician licensing exemption.

SCR 6, designating January as stalking awareness month.

HOUSE MESSAGE

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

SB 126-FN-A, exempting transfers of title between spouses from the real estate transfer tax.

SB 325-FN-L, relative to penalties for a false report to a law enforcement officer.

SB 332-FN, relative to tolls for disabled veterans.

SB 339-FN, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses.

SB 360, requiring written notification concerning certain offenders against children.

SB 364, increasing the penalties for littering.

SB 384, relative to drugs paid for by the state.

SB 400, relative to real estate appraisals conducted for mortgage loan applicants.

SB 401-FN, relative to funeral processions to the state veterans cemetery using the New Hampshire turn-pike system.

SB 408, relative to a civil liability exemption for claims resulting from weight gain and obesity.

SB 428, establishing a committee to study the protection of consumers from unfair lending practices.

SB 489, relative to requests for special elections.

SB 510-FN, relative to simple assault.

SB 512-FN, establishing a Lake Sunapee public access commission .

SB 517, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions.

SB 527, relative to sessions for correction of checklists.

HOUSE MESSAGE

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

HB 133-L, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

HB 403, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.

HB 440, relative to prohibited methods of taking wildlife in certain fish and game laws.

HB 444, relative to summoning witnesses from another state in certain actions involving children.

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing.

HB 622-FN, clarifying certain exemptions from the right-to-know law.

HB 652-FN, relative to qualified wellness or disease management programs.

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners.

HB 1161, relative to solicitation and marketing of insurance products.

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

HOUSE MESSAGE

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

SB 205-FN, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

SB 336-L, relative to certain costs in the development of a high school in the town of Bedford.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

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

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 13

April 22, 2004

The Senate met at 10:00 a.m.

A quorum was present.

Senate Guest Chaplain, Rabbi Richard L. Klein, from the Temple Beth Jacob in Concord, New Hampshire led the Senate in prayer.

The Christian and Jewish communities have recently finished celebration of Easter and Passover. They brought with them their messages of birth, rebirth and new life. The trees and grass that surround us carry with them that same message. In my tradition, we have a number of ancient rabbinic comments on the Exodus and the

Crossing of the Sea of Reeds that emphasize turning opportunity into reality. As the Israelites stand between the Sea and the approaching Egyptian army, Moses Prays. God says to Moses, "Enough already, you've prayed as much as you can. The Sea is ready to part. Are you ready to enter it?" Opportunities for birth, rebirth and new life surround us. May we have the courage and strength to take advantage of them. Amen

Senator Clegg led the Pledge of Allegiance.

Senators Flanders and Sapareto are excused for the day.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. Banks Committee. Ought to Pass, Vote 3-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information. Banks Committee. Ought to Pass, Vote 2-0. Senator Odell for the committee.

Adopted.

Ordered to third reading.

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system. Education Committee. Ought to pass with amendment, Vote 2-1. Senator Green for the committee.

Senate Education

April 20, 2004

2004-1309s

04/09

Amendment to HB 727-FN-LOCAL

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

AN ACT establishing a school choice certificate program.

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

1 Statement of Purpose. It is the purpose of this act to maintain and improve the quality of education in all schools in the state by providing to all parents or legal guardians in the state enhanced opportunity for the exercise of parental choice in the education of their school-age children.

2 New Chapter; School Choice Certificate Program. Amend RSA by inserting after chapter 193-H the following new chapter:

CHAPTER 193-I SCHOOL CHOICE CERTIFICATE PROGRAM

193-I:1 Program Established. A school choice certificate program is hereby established for the purpose of allowing the parent or legal guardian of a child to receive, on request, a certificate that shall be used for tuition at a nonpublic school in New Hampshire selected by the child's parent or legal guardian.

193-I:2 Eligibility and Funding.

I.(a) School choice certificates shall be available as set forth in this section for payment of tuition at an eligible approved nonpublic school up to the value of the certificate. Funding of school choice certificates shall be made through the education trust fund established in RSA 198:39.

(b) Entry into the program shall be limited to those pupils entering the first grade or pupils enrolled in a New Hampshire public school for the full academic year preceding the year of entry into the program, and whose family income does not exceed 300 percent of the federal poverty guidelines, as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2). The superintendent of the school administrative unit where the pupil resides shall require proof that a pupil is a legal resident of this state as a prerequisite to participation in this program and shall annually verify the income eligibility of each program participant.

(c) Applications for the program shall be submitted to the superintendent of the school administrative unit where the pupil resides, on a form provided by the department of education, not earlier than December 1 and not later than June 30 of the academic year preceding the year of participation. The superintendent shall notify applicants of decisions therein during the month of July.

II. Certificates shall be made available as follows:

(a) In the first year of the program, to children entering grades 1-2, up to a maximum of 1,200 certificates statewide.

(b) In the second year of the program, to children entering grades 1-3, up to a maximum of 4,000 certificates statewide.

(c) In the third year of the program, to children entering grades 1-4, up to a maximum of 6,000 certificates statewide.

(d) In the fourth year of the program, to children entering grades 1-5, up to a maximum of 8,000 certificates statewide.

(e) In the fifth year of the program, to children entering grades 1-6, up to a maximum of 10,000 certificates statewide.

(f) In the sixth year of the program, to children entering grades 1-7, up to a maximum of 12,000 certificates statewide.

(g) In the seventh year of the program, to children entering grades 1-8, up to a maximum of 14,000 certificates statewide.

III. The number of certificates allocated to a school district in a given year shall be a percentage of the total number of certificates available in that year. Such percentage shall be calculated by dividing the most recently available average daily membership in residence in the school district by the most recently available total statewide average daily membership in residence as calculated by the department of education.

IV. In any school district where there are more applicants for certificates than certificates available in a given year as determined under paragraph III, a lottery shall be held and certificates shall be allocated according to the following criteria:

(a) First, to pupils who were awarded certificates in the immediately preceding year.

(b) Second, to pupils from families where the family income is below 200 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

(c) Third, to pupils from families where the family income is below 300 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

V. Pupils enrolled in the school choice certificate program shall reapply each school year.

193-I:3 Value of Certificate. The value of a school choice certificate for any individual pupil shall be 100 percent of the per pupil amount established in RSA 198:40-a, I, excluding the calculations required under subparagraphs (a)-(d) of that section, subject to the following provisions:

I. No parent shall receive a school choice certificate whose total household adjusted gross income for federal income tax purposes is greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services.

II. Parents whose total household adjusted gross income for federal income tax purposes is not greater than 200 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 100 percent of the school choice certificate amount established in this section.

III. Parents whose total household adjusted gross income for federal income tax purposes is greater than 200 percent but not greater than 250 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 75 percent of the school choice certificate amount established in this section.

IV. Parents whose total household adjusted gross income for federal income tax purposes is greater than 250 percent but not greater than 275 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 50 percent of the school choice certificate amount established in this section.

V. Parents whose total household adjusted gross income for federal income tax purposes is greater than 275 percent but not greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 25 percent of the school choice certificate amount established in this section

193-I:4 Participating Schools.

I. The appropriate official for each nonpublic school shall decide whether to participate in the certificate program.

II. A nonpublic school may admit a child with a certificate, up to the limit of the school's capacity, after reserving places for children admitted in accordance with the school's regular admissions practices.

III. Nonpublic schools shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

IV. Participating schools shall be permitted flexibility to educate pupils in accordance with the school's educational mission.

V. Only nonpublic schools approved by the state of New Hampshire shall be eligible to participate in this program.

193-I:5 Redeeming Certificates.

I. The appropriate official in the pupil's resident school district shall administer the certificate program for each pupil in that district who participates in the program. Each nonpublic school which participates in this program shall, no later than June 30 of each year, submit verification of each student in attendance for the full school year under this program on a form provided by the department of education. Such verification shall list the name, address, dates of attendance, and the tuition cost for each student attending under this program.

II. The value of the certificate shall be issued by the state treasurer to the pupil's parent or legal guardian for payment to the nonpublic school of choice. ***The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund.*** Distributions made under this section shall coincide with the schedule set forth in RSA 198:42, I. A parent or legal guardian shall endorse the check for redemption by an official of the nonpublic school.

III. The value of a school choice certificate shall be prorated on a per diem basis for pupils attending a nonpublic school for less than a full school year.

193-I:6 Transportation. Any transportation costs for transporting a child to a nonpublic school outside of the local school district shall be borne by the child's parent or legal guardian.

193-I:7 Testing. Each nonpublic school which accepts a pupil who is a participant in the school choice certificate program shall submit to the pupil's resident school district office, no later than June 30 of each year, the test scores of any standardized test taken while such pupil was enrolled in the nonpublic school. No personally identifiable information shall be released with the test scores. This provision shall apply only to pupils in the third and sixth grades. The standardized test shall be a test that is nationally accredited or recognized and which offers an objective, comprehensive estimate of a pupil's educational development in areas such as language arts, reading, mathematics, and social studies.

193-I:8 Liability Limited.

I. Except as specifically provided in this chapter, nonpublic schools shall not be required to comply with additional laws or rules as a result of attendance by pupils whose parents receive school choice certificates.

II. No nonpublic school shall be required to accept pupils whose parents receive school choice certificates.

III. No school district shall be held liable for damages in an action to recover for bodily injury, personal injury, property damage as defined in RSA 507-B:1, or failure to educate pupils, where the action arises out of a parent's exercise of options under the provisions of this chapter.

193-I:9 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A for the development of forms necessary to implement this chapter.

193-I:10 Legislative Oversight Committee. An oversight committee is established consisting of the following members:

- I. The chairperson of the house education committee, or a designee.
- II. The chairperson of the senate education committee, or a designee.
- III. One member of the house of representatives, appointed by the speaker of the house.
- IV. One member of the senate, appointed by the senate president.
- V. One member of the house finance committee, appointed by the speaker of the house.
- VI. One member of the senate finance committee, appointed by the senate president.

193-I:11 Duties of the Legislative Oversight Committee.

I. The oversight committee shall review the development and implementation of the school choice certificate program established in this chapter to ensure compliance with legislative policy.

II. In the third, fifth, and seventh years of the program, the oversight committee shall conduct a review of the school choice certificate program and submit a report, in each year of review, to the speaker of the house of representatives and the president of the senate detailing the status of the program.

193-I:12 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

3 Targeted Per Pupil Aid; State Enhanced Education Aid. Amend RSA 198:40-a to read as follows:

198:40-a Targeted Per Pupil Aid.

I. A municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to [200] **150** percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be eligible to receive targeted per pupil aid for such municipality's transportation costs as reported on the DOE-25 form, and for such municipality's educationally disabled pupils, pupils eligible for free or reduced-price meals, and English for speakers of other languages which shall be determined by multiplying the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, by the calculated rate. The product shall be divided by 1,000 resulting in a per pupil amount which shall be available to a municipality as follows:

(a) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence of educationally disabled pupils in the municipality. This amount shall be available as targeted aid for educationally disabled pupils in the municipality.

(b)(1) For the 2005 fiscal year, the per pupil amount calculated in paragraph I[, less \$300,] shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.

(2) For the 2006 fiscal year and every fiscal year thereafter, the per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.

(c) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in attendance receiving English for speakers of other languages services in the municipality. This amount shall be available as targeted aid for pupils in the municipality receiving English for speakers of other languages. In this subparagraph "average daily membership in attendance" shall be as defined in RSA 189:1-d, III.

(d) A municipality eligible to receive targeted per pupil aid under this paragraph shall also receive 100 percent of transportation costs in such municipality.

II. A municipality with a local equalized valuation per pupil, as calculated in RSA 198:40, II, which is greater than [200] **150** percent of the statewide average equalized valuation per pupil as calculated in RSA 198:40, I shall not receive targeted per pupil aid under this section.

4 School Money; Education Trust Fund. Amend the introductory paragraph in RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42, [and] to provide statewide enhanced education tax hardship relief under RSA 198:61, **and to provide funding for school choice certificates pursuant to RSA 193-I:5**. The state treasurer shall deposit into this fund immediately upon receipt:

5 Effective Date. This act shall take effect July 1, 2004 at 12:01 a.m.

2004-1309s

AMENDED ANALYSIS

This bill establishes a school choice certificate program.

Question is on the adoption of the committee amendment.

A roll call was requested by Senator Estabrook.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Roberge, Clegg, Gatsas, Barnes, Martel, Prescott.

The following Senators voted No: Below, Odell, Peterson, O'Hearn, Foster, Larsen, D'Allesandro, Estabrook, Morse, Cohen.

Yeas: 11 - Nays: 10

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1162, relative to school district policies on bullying. Education Committee. Ought to pass with amendment, Vote 2-0. Senator O'Hearn for the committee.

Senate Education

April 15, 2004

2004-1226s

04/10

Amendment to HB 1162

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

1 Pupil Safety and Violence Prevention. RSA 193-F:3 is repealed and reenacted to read as follows:

193-F:3 Pupil Safety and Violence Prevention.

I.(a) Each local school board shall adopt a pupil safety and violence prevention policy which addresses pupil harassment, also known as "bullying", and which is consistent with the provisions of this chapter. Such policy shall include language which details the action to be taken by the local school board to resolve and remediate occurrences of pupil harassment.

(b) At the beginning of each school year, school districts shall, in writing, inform the parent, legal guardian, or other person responsible for the welfare of the pupil of the district's pupil safety and violence prevention policy and the appeals process available at the local and state levels.

II.(a) Any school employee, or employee of a company under contract with a school or school district, who has witnessed or has reliable information that a pupil has been subjected to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response shall report such incident to the principal, or designee who shall in turn report the incident to the superintendent and the school board.

(b) If the principal determines it is in the best interest of the child, the principal, or designee, shall by telephone and in writing by first-class mail, report the occurrence of any incident described in this paragraph to the parent or legal guardian of all pupils involved within 48 hours of the occurrence of such incident. The notice shall advise the individuals involved of their due process rights including the right to appeal to the state board of education.

III. The remedy required in paragraph I shall be defined by the local school board and the local school board shall, in writing, notify all parties involved of its decision. If the remedies outlined in the school board's policy are exhausted, the aggrieved party shall have the right to appeal the decision to the state board of education. The state board of education shall, in writing, notify all parties involved of its decision. The local school board may provide opportunities for educators to have the knowledge and skills to prevent and respond to acts covered by this chapter.

IV. A school employee, or employee of a company under contract with a school or school district, who has reported violations under this chapter to the principal, or designee or who has intervened under paragraph II, shall be immune from any cause of action which may arise from the failure to remedy the reported incident.

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

2004-1226s

AMENDED ANALYSIS

This bill requires school districts to notify the parents or legal guardians of the district's policies on bullying and requires that a written report of any bullying incidents be reported by telephone and sent by mail to the parent or legal guardian of the pupils involved.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. Education Committee. Ought to pass with amendment, Vote 4-0. Senator Green for the committee.

Senate Education

April 14, 2004

2004-1213s

04/09

Amendment to HB 1188

Amend the introductory paragraph to RSA 198:15-b, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. A school district, or other entity listed in paragraph I of this section, shall be entitled to receive an additional amount equal to 1.5 percent of the total school building aid grant amount for which such school district or other entity may be eligible under paragraph I of this section. In any fiscal year, the aggregate amount of additional moneys available under this paragraph shall not exceed \$100,000. If in any fiscal year, this amount is insufficient, the amount shall be prorated proportionally among the school districts or other entities eligible to receive additional moneys. To be eligible for additional moneys, construction projects, as built, shall comply with all of the following requirements:

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district. Education Committee. Ought to pass with amendment, Vote 4-0. Senator O'Hearn for the committee.

Senate Education
April 14, 2004
2004-1214s
04/05

Amendment to HB 1226-LOCAL

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

1 Governor Wentworth Regional School District; Debt Retirement Fund. Notwithstanding RSA 33:2, the Governor Wentworth regional school district is authorized to create a debt retirement fund for the purpose of satisfying any indebtedness incurred as a result of the construction of school buildings, including the purchase of sites and any additions or renovations of school buildings. Such debt retirement fund shall be funded with proceeds derived from the sale of school district property, gifts, donations, or bequests made to and accepted by the school district, and any other moneys so designated by majority vote at an annual school district meeting. This act ratifies the school district's vote on article IV of the ballot at the March 2003 annual meeting to establish and make appropriations to this fund. The school district may make additional appropriations to, and withdrawals from, the debt retirement fund as authorized by the legislative body of the school district.

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 1134, relative to appointment of the chief justice of the supreme court. Executive Departments and Administration Committee. Ought to Pass, Vote 2-1. Senator Peterson for the committee.

MOTION TO TABLE

Senator Below moved to have **HB 1134** laid on the table.

Question is on the tabling motion.

A division vote was requested.

Yeas: 7 - Nays: 14

Motion failed.

Question is on the committee report of ought to pass.

A division vote was requested.

Yeas: 14 - Nays: 7

Adopted.

Ordered to third reading.

HB 1135, relative to appointment of the chief justice of the superior court. Executive Departments and Administration Committee. Ought to Pass, Vote 3-1. Senator Kenney for the committee.

Adopted.

Ordered to third reading.

HB 1159, relative to prohibited employment for state liquor commission employees. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Insurance
April 14, 2004
2004-1181s
05/09

Amendment to HB 1202

Amend the introductory paragraph of RSA 415:18-p as inserted by section 1 of the bill by replacing it with the following:

415:18-p Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-A:15-a as inserted by section 2 of the bill by replacing it with the following:

420-A:15-a Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-B:8-o as inserted by section 3 of the bill by replacing it with the following:

420-B:8-o Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's repre-

sentative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-J:6-c as inserted by section 4 of the bill by replacing it with the following:

420-J:6-c Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 176, relative to listing candidates on ballots. Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Boyce for the committee.

Internal Affairs
April 14, 2004
2004-1221s
03/01

Amendment to HB 176

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

AN ACT relative to listing candidates on ballots and relative to instructions to voters.

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

4 Marking the Ballot; Instructions to Voters. RSA 659:17 is repealed and reenacted to read as follows:

659:17 Marking the Ballot; Instructions to Voters. The secretary of state shall provide on the top of the general election ballot the following voting instructions. The secretary of state is authorized to replace the phrase "Make the appropriate mark" with an appropriate description and example of the mark to be made for the type of ballot in use, such as "Make a cross (X) in the box," "Completely fill in the oval," or "Complete the arrow":

1) To Vote

Make the appropriate mark to the right of your choice. For each office vote for not more than the number of candidates stated in the sentence: "Vote for not more than ____." If you vote for more than the stated number of candidates, your vote for that office will not be counted.

2) To Vote a Straight Ticket

To vote for all candidates running in the same political party (straight ticket), make the appropriate mark to the right of the party name in the straight ticket section of the ballot. You may vote a straight ticket and also vote for individual candidates from any party. If you vote for an individual candidate, the straight ticket vote for only that office is canceled. If more than one candidate is to be elected for an office, you must mark each of your choices for that office. If you vote a straight ticket and do not make the appropriate mark to the right of any candidate for an office, your straight ticket vote will count for that office.

3) To Vote by Write-In

To vote for a person whose name is not printed on the ballot, write in the name of the person in the "write-in" space. Make the appropriate mark to the right of your choice.

5 Repeal. RSA 659:18, relative to instructions for write-in voting, is repealed.

6 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 2005.

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

2004-1221s

AMENDED ANALYSIS

This bill requires the names of candidates to be listed in party columns on the state general election ballot. This bill also revises the instructions to voters to be placed on general election ballots.

Amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Below.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 15 - Nays: 6

Adopted.

Ordered to third reading.

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Senate Insurance

April 13, 2004

2004-1157s

10/05

Amendment to HB 651-FN

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

AN ACT relative to the purchase of prior service credit by certain political subdivision employee members.

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

2 Effective Date. This act shall take effect July 1, 2004.

2004-1157s

AMENDED ANALYSIS

This bill allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan.

MOTION TO TABLE

Senator Peterson moved to have **HB 651** laid on the table.

Adopted.

LAID ON THE TABLE

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act. Internal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator O'Hearn for the committee.

Internal Affairs
April 14, 2004
2004-1209s
05/03

Amendment to HB 230

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) Five members of the house of representatives, 2 of whom shall serve as alternates, appointed by the speaker of the house of representatives, including at least one member of the legislative administration committee, one member of the executive departments and administration committee, and one member from the joint legislative committee on administrative rules.

(b) Five members of the senate, 2 of whom shall serve as alternates, 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 236, relative to recount application deadlines. Internal Affairs Committee. Inexpedient to Legislate, Vote 2-1. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

HB 285, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Kenney for the committee.

Adopted.

Ordered to third reading.

HB 559, relative to grounds for termination of employment. Internal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

HB 729-FN, relative to the regulation of tanning facilities. Internal Affairs Committee. Ought to pass with amendment, Vote 3-1. Senator Larsen for the committee.

Internal Affairs
April 13, 2004
2004-1169s
10/01

Amendment to HB 729-FN

Amend RSA 313-A:8, X-a (d) as inserted by section 8 of the bill by replacing it with the following:

(d) Standards for the inspection of tanning devices.

Amend RSA 313-A:31, I as inserted by section 13 of the bill by replacing it with the following:

I. No person under the age of 18 shall be allowed to utilize a tanning device at a tanning facility without the written consent of that person's parent or legal guardian and without an operator present. Proof of age shall be satisfied with a driver license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device; the responsible adult signs a document declaring that they are the parent or legal guardian of the minor and attesting to the age of the minor. The consent of the parent or legal guardian shall be valid for 12 subsequent uses of the tanning device by the minor.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 767-FN, relative to political advertising not authorized by the candidate. Internal Affairs Committee. Ought to Pass, Vote 4-1. Senator Kenney for the committee.

Senator Boyce moved to divide the question.

The question was divided without objection.

Question is on the adoption of sections one and two.

Adopted.

Question is on the adoption of section three.

Adopted.

Question is on the adoption of section four.

Adopted.

Ordered to third reading.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Internal Affairs

April 13, 2004

2004-1164s

08/09

Amendment to HB 1299

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

1 Removal of Town Clerk. Amend RSA 41:16-c, I and II to read as follows:

I. The governing body shall notify the town clerk ***by certified mail with return receipt*** and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II. **(a)** Within 20 days of receiving the notification provided in paragraph I, the town clerk shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the town clerk fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the town clerk from office as provided in paragraph V.

2 Removal of Tax Collector. Amend RSA 41:40, I and II to read as follows:

I. The governing body shall notify the tax collector ***by certified mail with return receipt*** and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II. **(a)** Within 20 days of receiving the notification provided in paragraph I, the tax collector shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the tax collector fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the tax collector from office as provided in paragraph V.

3 New Section; Candidate Notification to Selectman. Amend RSA 669 by inserting after section 17-b the following new section:

669:17-c Candidate Notification to Selectman. Any person who has been removed from any position in the state which requires bonding and who subsequently becomes a candidate for any elected office that requires bonding under RSA 41:6, shall inform the governing body in that town of all facts relevant to the removal from office no later than the last day of the filing period for candidates. The board of selectmen shall then inform the town's bonding agent who shall determine the candidate's ability to be bonded under RSA 41:6.

4 Removal of Treasurer. Amend RSA 41:26-d, I and II to read as follows:

I. The governing body shall notify the treasurer ***by certified mail with return receipt*** and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II. **(a)** Within 20 days of receiving the notification provided in paragraph I, the treasurer shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the treasurer fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the treasurer from office as provided in paragraph V.

5 Effective Date. This act shall take effect January 1, 2005.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1308-FN, relative to lobbying activities by state employees. Internal Affairs Committee. Ought to Pass, Vote 4-1. Senator Boyce for the committee.

MOTION TO TABLE

Senator Below moved to have **HB 1308-FN**, laid on the table.

Motion failed.

Senator Below moved to divide the question.

The question was divided without objection.

Question is on the adoption of sections one and three.

Adopted.

Question is on the adoption of section two.

Adopted.

Ordered to third reading.

HB 1336, relative to the procedures for the legislative ethics committee. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator O'Hearn for the committee.

Adopted.

Ordered to third reading.

HB 1364-FN, establishing a statutory joint commission to review and propose changes to state unclassified officers' salaries. Internal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

Senators Barnes, Green and Prescott are in opposition to the motion of inexpedient to legislate on HB 1364-FN.

HB 366, relative to mercury reduction. Interstate Cooperation Committee. Inexpedient to Legislate, Vote 3-1. Senator Johnson for the committee.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Larsen.

Seconded by Senator Cohen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 15 - Nays: 6

Committee report of inexpedient to legislate is adopted.

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. Interstate Cooperation Committee. Inexpedient to Legislate, Vote 3-1. Senator Clegg for the committee.

MOTION TO TABLE

Senator Green moved to have **HB 1424-FN-A**, laid on the table.

Question is on the tabling motion.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Boyce, Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 14 - Nays: 7

Adopted.

LAIID ON THE TABLE

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Senate Judiciary
April 15, 2004
2004-1234s
09/01

Amendment to HB 422

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

1 Supreme Court Justices; Method for Choosing Replacement Justices for Disqualified Justices.

Amend RSA 490:3 to read as follows:

490:3 Disqualification; Temporary Justices.

I. The provisions as to the disqualification of justices of the superior court apply to justices of the supreme court. Whenever a justice of the supreme court shall be disqualified or otherwise unable to sit in any cause or matter pending before such court, the chief or senior associate justice of the supreme court may assign another justice to sit according to the provisions of paragraph II of this section.

II. Upon the retirement, disqualification, or inability to sit of any justice of the supreme court, the chief justice or senior associate justice of the supreme court may assign a justice of the supreme court who has retired from regular active service *or, if a retired supreme court justice is unavailable, shall assign a justice of the superior court who has retired from regular active service* to sit during supreme court sessions while the vacancy continues~~[-, or he may notify the chief justice or senior associate justice of the superior court of such vacancy. Upon such notification, the chief justice or senior associate justice of the superior court shall provide the supreme court for each day of sitting during a session while the vacancy shall continue with the names of 2 or more superior court justices in regular active service or who are retired and are not otherwise disqualified. The chief justice or senior associate justice of the supreme court may then assign a justice to sit temporarily on the court from among those superior court justices whose names have been provided].~~ *The selection of a retired supreme or superior court justice shall be on a random basis. However if no retired supreme or superior court justice is available, then the selection of a replacement justice shall be made on a random basis from a pool of full-time justices of the superior court. In the event that no superior court justices are available, then the selection of a replacement justice shall be made on a random basis from a pool of full-time justices of the district and probate courts. The clerk of the supreme court shall maintain a list of superior, probate, and district court judges who are willing to serve as temporary supreme court judges.*

II-a. If a vacancy occurs within 7 days of the scheduled oral argument of a case, the chief justice of the supreme court may assign to the case a temporary justice on a non-random basis if the assigned justice was assigned randomly to another case scheduled at the same monthly argument session or if the assigned justice is the chief justice of the superior court.

III. A justice assigned to sit temporarily on the supreme court pursuant to paragraph II of this section shall have all the authority of a supreme court justice to hear arguments, render decisions, and file opinions. No justice shall be assigned to sit on the supreme court in the determination of any cause or matter upon which [he] *the justice* has previously sat or for which [he] *such justice* is otherwise disqualified nor without [his] *such justice's* consent.

2 Effective Date. This act shall take effect January 1, 2005.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 640-FN, relative to post-conviction DNA testing. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

Senate Judiciary
April 13, 2004
2004-1175s
04/10

Amendment to HB 640-FN

Amend RSA 651-D:2, III as inserted by section 1 of the bill by deleting RSA 651-D:2, III (c) and renumbering the original RSA 651-D:2, III (d)-(j) to read as RSA 651-D:2, III (c)-(i), respectively.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 643-FN, relative to the family division of the courts. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Peterson for the committee.

Senate Judiciary
April 13, 2004
2004-1172s
09/04

Amendment to HB 643-FN

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

AN ACT relative to the family division of the courts and reducing the number of superior court justices.

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

2 New Subdivision; Family Division Established. Amend RSA 490 by inserting after section 32 the following new subdivision:

Family Division

490:33 Family Division. The family division of the courts shall become a permanent component of the judicial branch on the effective date of this subdivision.

490:34 Jurisdiction. Notwithstanding any law to the contrary, jurisdiction over the following matters in Rockingham and Grafton counties and in such other counties as the family division is made operational by order of the supreme court may be exercised exclusively through the family division as may be ordered by the supreme court:

I. Petitions and libels of divorce, and petitions of nullity of marriage, alimony, custody of children, support, and to establish paternity.

II. Actions for support or custody for children of unwed parties.

III. Actions under RSA 169-B, relating to delinquent children.

IV. Actions under RSA 169-C, relating to abused and neglected children.

V. Actions under RSA 169-D, relating to children in need of services.

VI. Actions under RSA 173-B, relating to protection of persons from domestic violence except for concurrent jurisdiction with the superior and district courts to enter temporary protective orders under RSA 173-B:4.

VII. The adoption of children.

VIII. The guardianship of the person of minors.

IX. The termination of parental rights.

X. The change of names of persons who apply therefor in matters relating to jurisdiction in paragraphs I-IX.

490:35 Equity. Notwithstanding any law to the contrary, the family divisions in Grafton county and Rockingham county and in such other counties as the family division is made operational by order of the supreme court shall have the powers of courts of equity in cases where subject matter jurisdiction lies with the family division. Suits in equity where subject matter jurisdiction lies with the family division including, but not limited to, petitions and libels of divorce, and petition of nullity of marriage, alimony, custody of children, support, and other similar proceedings may be heard upon oral testimony or depositions, or both, or when both parties consent, or service having been made and a notice of the time and place of the hearing having been given, when both parties appear. Such suits may be heard by any justice of the family division at any time, but nothing contained in this section shall be construed as limiting the power of the family division to have issues of fact framed and tried by a jury, according to the rules in equity, or the course of such proceedings at common law.

3 Supreme Court to Appoint Committee. The supreme court shall appoint a committee whose duty it shall be to make recommendations for the expansion of the family division of the courts statewide and for changes in the operation of the family division in Rockingham and Grafton counties. In developing its recommendations, the committee shall consider the recommendations in the Report of the Resolution of Family Issues in the Courts Study Committee, dated January 15, 1995. The committee shall also consider any more recent studies and reports on the family division, including recommendations made by any commission established to study the operations of the family division in Grafton county. The committee shall report its findings and recommendations to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on or before December 1, 2004.

4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. For fiscal year [~~1992~~] **2005** and succeeding years, the superior court shall consist of a chief justice and [~~28~~] **21** associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

5 Applicability; Contingency. Any superior court justice appointed prior to July 1, 2004 shall retain his or her position until resignation, retirement, or removal pursuant to the New Hampshire constitution. As vacancies occur in superior court justice positions, the vacancies shall remain unfilled until the number of superior court justices is reduced to 22. Section 4 of this act shall take effect on the date on which the number of superior court justices is reduced from 23 to 22.

6 Effective Date.

I. Section 3 of this act shall take effect upon its passage.

II. Section 4 of this act shall take effect as provided in section 5 of this act.

III. The remainder of this act shall take effect July 1, 2005.

2004-1172s

AMENDED ANALYSIS

This bill makes the family division of the courts currently operating as a pilot program in Grafton and Rockingham counties a permanent component of the judicial branch. The bill requires the supreme court to appoint a committee to make recommendations for the expansion of the family division statewide and for changes in the operation of the family division in Rockingham and Grafton counties.

This bill also reduces the number of superior court justices from 29 to 22.

Amendment adopted.

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11

April 22, 2004

2004-1350s

09/01

Floor Amendment to HB 643-FN

Amend the bill by replacing all after section 5 with the following:

6 Savings Realized From Unfilled Superior Court Justice Vacancies. Any savings realized from unfilled superior court justice vacancies in the superior court shall be used by the judicial branch toward the goal of providing enhanced services to parties involved in cases relating to divorce, custody, children, domestic violence, and other family matters.

7 Effective Date.

I. Section 3, 5, and 6 of this act shall take effect upon its passage.

II. Section 4 of this act shall take effect as provided in section 5 of this act.

III. The remainder of this act shall take effect January 1, 2005.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 656-FN, establishing a commission to study the operations of the family division court in Grafton county. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Clegg for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1165, relative to extending domestic violence protection orders. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary
April 15, 2004
2004-1235s
09/01

Amendment to HB 1165

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

1 Domestic Violence Protection Orders; Motions for Extensions. Amend RSA 173-B:5, VI to read as follows:

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. ***The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension.*** The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

2 New Paragraph; Domestic Violence Protection Orders; Communications. Amend RSA 173-B:5 by inserting after paragraph X the following new paragraph:

XI. Upon a motion, which may be made and granted on an ex parte basis, the court may authorize an attorney for the defendant to engage in communication with the plaintiff.

3 Effective Date. This act shall take effect January 1, 2005.

2004-1235s

AMENDED ANALYSIS

This bill requires a court granting an extension of a domestic violence order to state in writing, at the respondent's request, the reason or reasons for granting the extension.

The bill also permits the court to authorize an attorney for the defendant to engage in communications with the plaintiff.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1169, relative to child support calculations based on one-time or irregular income. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

Adopted.

Ordered to third reading.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Senate Judiciary
April 15, 2004
2004-1230s
03/04

Amendment to HB 1257-FN

Amend the introductory subparagraph of RSA 265:82-a, II as inserted by section 2 of the bill by replacing it with the following:

II. While having an alcohol concentration of 0.08 or more ***or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more or, in the case of a person driving a commercial motor vehicle and licensed pursuant to RSA 263:86 at the time of the offense and notwithstanding the provisions of RSA 263:94, 0.04 or more*** and, at the time alleged:

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1295, relative to certain court records. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Judiciary
April 14, 2004
2004-1195s
01/10

Amendment to HB 1295

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

AN ACT relative to certain court records and exempting certain documents from the right-to-know law.

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

2 New Paragraph; Right-to-Know; Agreements Available for Public Inspection. Amend RSA 91-A:4 by inserting after paragraph V the following new paragraph:

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

3 Right-to-Know; Exemptions. Amend the introductory paragraph and paragraphs I and II of RSA 91-A:5 to read as follows:

The **following** records [~~of the following bodies~~] are exempted from the provisions of this chapter:

I. **Records of** grand and petit juries.

II. **Records of** parole and pardon boards.

4 New Paragraph; Exemptions; Certain Documents. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Preliminary drafts, notes, and memoranda and other documents not in their final form.

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

2004-1195s

AMENDED ANALYSIS

This bill declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A.

This bill also exempts preliminary drafts, notes, and memoranda and other documents not in their final form from the right-to-know law.

MOTION TO TABLE

Senator Estabrook moved to have **HB 1295**, laid on the table.

Motion failed.

Question is on the motion to divide the question.

The Chair announced that if there were no objections it would be divisible.

There were objections.

Question is on the motion to divide the question by removing section four.

Motion failed.

Question is on the adoption of the committee amendment.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1312, relative to the court's discretion to extend child support obligations. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Judiciary
April 15, 2004
2004-1231s
05/10

Amendment to HB 1312

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 4-5, respectively:

3 Annulment, Divorce & Separation; Property Settlement; College Savings Account. Amend RSA 458:16-a, III to read as follows:

III. *If either or both parties retain an ownership interest in an education savings account held on behalf of a child of the marriage, including a qualified tuition program under 26 U.S.C. section 529, the court may, in its discretion, preserve the account for its original purpose or may treat the account as property of the marriage subject to equitable division under this section.*

IV. The court shall specify written reasons for the division of property which it orders.

2004-1231s

AMENDED ANALYSIS

This bill removes the court's discretion to order child support, or payment of educational expenses, for adult children. It also provides the court with discretion to preserve an education savings account or to divide the account as a marital asset.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Foster Rule #42 on HB 1312.

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus. Judiciary Committee. Ought to Pass, Vote 4-1. Senator Foster for the committee.

Adopted.

Ordered to third reading.

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

Public Affairs
April 14, 2004
2004-1186s
04/10

Amendment to HB 85-FN-LOCAL

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

1 Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX. (a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) “Default budget” as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year; reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget authorized for the previous year. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision, or by the budget committee if authorized by the legislative body.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved ~~[the same appropriations as contained in the operating budget authorized for the previous year; reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one-time expenditures contained in the operating budget,]~~ **the default budget** or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. ~~[For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision].~~

XI. The ~~[amount of the previous year’s operating budget, as adjusted pursuant to paragraph X,]~~ **default budget** shall be disclosed ~~[to the voters at the first session]~~ **at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, or the budget committee if authorized by the legislative body, shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases made pursuant to paragraph IX(b) on a default budget form created by the department of revenue administration.** This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, **or by the budget committee if authorized by the legislative body**, acting on relevant new information at any time before the ballots are printed, **provided the governing body, or the budget committee if authorized by the legislative body, completes an amended default budget form.** The wording of the second session ballot question concerning the operating budget shall be as follows:

“Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$____? Should this article be defeated, the ~~[operating]~~ **default** budget shall be \$____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.”

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII. **(a)** The governing body **or the budget committee if authorized by the legislative body**, shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district’s voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) The governing body, or the budget committee if authorized by the legislative body, in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.

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

MOTION TO TABLE

Senator Roberge moved to have **HB 85-FN-L**, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Larsen for the committee.

Public Affairs
April 14, 2004
2004-1190s
06/01

Amendment to HB 713-FN

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

AN ACT relative to the penalty for violating a zoning ordinance.

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

2 Effective Date. This act shall take effect January 1, 2005.

2004-1190s

AMENDED ANALYSIS

This bill establishes a higher civil penalty for second and subsequent violations of a zoning ordinance and provides that a prevailing municipality shall recover the costs and attorney's fees it incurred in pursuing the violation.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1210, relative to self-service storage facility liens. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

Senator Clegg rule #42 on HB 1210.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Larsen for the committee.

Public Affairs
April 14, 2004
2004-1197s
05/04

Amendment to HB 1326

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

(b) Two members 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.

Amend the bill by replacing section 4 with the following:

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

MOTION TO TABLE

Senator Roberge moved to have **HB 1326**, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

HB 1372, defining certain terms relating to military service. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Green for the committee.

Adopted.

Ordered to third reading.

HB 1374, relative to lightning protection systems. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

HB 1380-FN, relative to unauthorized video surveillance. Public Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Larsen for the committee.

Public Affairs

April 14, 2004

2004-1187s

04/10

Amendment to HB 1380-FN

Amend RSA 644:9, I as inserted by section 1 of the bill by replacing it with the following:

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or a person's body underneath that person's clothing; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Peterson moved to have **HB 1326**, taken of the table.

Adopted.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

Question is on the adoption of the committee amendment (1197).

Amendment adopted.

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11
April 22, 2004
2004-1349s
05/10

Floor Amendment to HB 1326

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

AN ACT relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

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

1 Permissible Fireworks; Requirements for the Sale of Permissible Fireworks. Amend RSA 160-C:3 to read as follows:

160-C:3 Requirements for the Sale of Permissible Fireworks.

I. Any person who desires to sell permissible fireworks shall apply to the municipality in which the permissible fireworks are to be sold. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell permissible fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell permissible fireworks shall be issued by the governing body without the prior approval of the police chief, fire chief, and building inspector, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

II. After the person has obtained a municipal permit to sell permissible fireworks, the person may apply for a state license to sell permissible fireworks. ~~[Such application shall be in a form prescribed by the commissioner.]~~ Upon application of any person, the commissioner or designee may issue a license authorizing the applicant to sell or market permissible fireworks in this state for not more than one year from the date of issue, provided the person has first obtained a permit to sell fireworks pursuant to RSA 160-C:3, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business.

II-a. Persons seeking a state license shall file an application with the commissioner which is in such form and contains such information as the commissioner may establish by rule, consistent with the purposes of this chapter.

II-b. Only individuals lawfully residing in the United States, or partnerships or limited liability companies organized under the laws of this state or authorized to transact business within the state, or corporations organized under the laws of one of the United States and currently registered to do business in New Hampshire shall be licensed under this chapter.

II-c. All license applications shall be made in the name of the proposed licensee and shall be signed and sworn to by the proposed licensee. In the case of a partnership, limited liability company, or corporate applicant, the application shall be signed and sworn to by all partners or an officer of the proposed licensee, or in the case of a limited liability company by each member if a natural person, or by a duly appointed representative of the membership if any other person, or by the manager of the limited liability company who must submit a copy of the written authorization of the limited liability company membership to sign the application.

II-d. An applicant intending to employ a trade name in the proposed business shall submit evidence with its application which demonstrates that the trade name is currently registered in New Hampshire.

II-e. A separate license application shall be filed with respect to each place of business sought by a single licensee.

II-f. The commissioner shall receive and evaluate sufficient information to identify and to evaluate the qualification of all persons with the de jure or de facto right to control the operations and policies of the proposed licensee. Among other things, license applications shall disclose fully and accurately:

(a) The applicant's identity, the applicant's permanent residence address in the case of an individual, and the applicant's principal place of business.

(b) The names and addresses of any persons who own or have the right to control an interest in the proposed licensee.

(c) Any agency agreement or other contract between the applicant and third persons intended to affect the operation of the proposed business, and the identity of the third party involved.

(d) The applicant's other business interests.

(e) The name, location, physical layout and nature of the proposed business.

(f) All licenses issued to and all other license applications filed by the applicant and its principal owners pursuant to this title during the previous 5 years.

(g) The name and address of the actual manager of the proposed business and his qualifications to perform such work.

II-g. Corporate applicants shall disclose the names and permanent addresses of all directors, officers and shareholders, except that corporations with more than 20 shareholders may disclose only those persons owning or controlling 5 percent or more of the outstanding shares. Limited liability company applicants shall disclose the names and permanent addresses of all members. Partnership applicants shall disclose the names and addresses of all partners, except that partnerships with more than 20 partners may disclose only those persons who are managing partners and those persons who own or control a partnership share of 5 percent or more. If the principal controlling shareholders, members, or partners are themselves owned or controlled by other persons, then the information required by this paragraph shall also be furnished for each such person until the person or persons with the ultimate legal right to control the applicant's proposed business have been fully identified. No license shall be issued under this section to any person who has been convicted of a felony, or to any partnership, limited liability company, or corporation when a partner, director, officer, member or any other person with a controlling interest in the operation of the business has been convicted of a felony.

II-h. The commissioner shall not issue a license under this section unless the commissioner is satisfied that:

(a) The application is complete in all respects.

(b) The applicant, and any principal controlling owners, directors, natural persons who are members of any business entity, or officers disclosed pursuant to paragraphs II-f and II-g, are at least 21 years of age.

(c) In the case of corporate, limited liability company, or partnership applicants controlled by persons who do not reside in the United States, the proposed business would not be managed in a manner which would unduly hinder the commissioner from exercising the commissioner's regulatory responsibilities. Inaccessibility of relevant records or unresponsiveness to inquiries which result from foreign control shall be grounds for revoking or suspending a license which has already been granted.

III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of Title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-C:3, I. No license shall be issued for the sale of permissible fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of permissible fireworks shall be issued to any person who has been convicted of any offense involving fireworks or explosives within the 2-years prior to the application or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the 2 years prior to the application. No license shall be issued to any person under 21 years of age.

IV. Buildings used for the sale of permissible fireworks shall be dedicated solely to the sale and storage of permissible fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

V. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, at which the permissible fireworks are to be sold or stored.

VI. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

VI-a. Any applicant denied a license under this chapter shall be granted a hearing by the commissioner, upon the applicant's request.

VII. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the general fund.

VIII. No person under the age of 21 shall be engaged in the business of handling or selling any permissible fireworks; provided, however, that a person less than 21 years of age but at least 18-years of age may handle and sell permissible fireworks at a licensed sales location if he or she is under the direct supervision of a person 21 years of age or older.

IX. Any person who knowingly provides false information to the department on an application for the sale of permissible fireworks as provided in this section shall be guilty of a misdemeanor.

X. No licensee shall employ a person to handle or sell fireworks who has been convicted of any offense involving fireworks or explosives within the past 2 years or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the past 2 years.

2 New Sections; Retail Sale of Fireworks and Bottle Rockets Prohibited; Penalty. Amend RSA 160-B by inserting after section 16-a the following new sections:

160-B:16-b Retail Sale of Firecrackers Prohibited; Penalty. The retail sale of firecrackers is prohibited. In this section, "firecracker" means a small, paper-wrapped or cardboard tube that contains not more than 50 milligrams of explosive composition, unless an aerial device, in which case it shall contain not more than 130 milligrams of explosive composition, that, upon ignition, produces noise and a flash of light. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:16-c Retail Sale of Bottle Rockets Prohibited; Penalty. The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a cylindrical tube that contains not more than 20 grams of chemical composition with a wooden stick attached for guidance and stability, that rises into the air upon ignition, and that may result in a burst of color, sound, or both at or near the height of flight. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

3 New Paragraph; Department of Safety; Rulemaking Authority; Commissioner of Safety; Regulation of Special Effects for Entertainment. Amend RSA 21-P:14 by inserting after paragraph VII the following new paragraph:

VIII. The commissioner of safety shall adopt rules, under RSA 541-A, for the licensing of persons responsible for the use of flame, pyrotechnics, or other means of special effects for entertainment, exhibition, demonstration, or simulation before a proximate audience as regulated by the state fire code adopted under RSA 153:5 and for establishing fees for such licenses.

4 Permissible Fireworks Review Committee; Meetings. Amend RSA 160-C:13, II to read as follows:

II. The committee shall meet at least once per calendar year, prior to October 1, and 30 days prior to any testing and approval conducted pursuant to RSA 160-C:13, II, or earlier at the discretion of the chairperson, to ensure that testing and approval guidelines are finalized, safety preparations are complete, and issues relative to the division of labor are addressed. In addition, the committee shall meet at the request of 3 or more members of the committee.

5 Effective Date. This act shall take effect July 5, 2005.

2004-1349s

AMENDED ANALYSIS

This bill:

- I. Changes the requirements for obtaining a state license to sell permissible fireworks.
- II. Prohibits the retail sale of firecrackers and bottle rockets.

III. Provides the commissioner of the department of safety with rulemaking authority relative to the licensing of persons responsible for the use of flame, pyrotechnics, or special effects before an audience.

IV. Changes the meeting requirements of the permissible fireworks review committee.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 712-FN, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Kenney for the committee.

Adopted.

Ordered to third reading.

HB 1241, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. Public Institutions, Health and Human Services Committee. Inexpedient to Legislate, Vote 4-0. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1266, relative to the long-term care ombudsman. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Public Institutions, Health and Human Services

April 12, 2004

2004-1140s

01/09

Amendment to HB 1266

Amend RSA 161-F:12 as inserted by section 1 of the bill by replacing it with the following:

161-F:12 Long-Term Care Ombudsman. The commissioner, in consultation with the attorney general, shall designate a person as the administrator and chief executive officer of the office who shall be called the long-term care ombudsman and who shall be a person with expertise and experience in the field of long-term care advocacy. The long-term care ombudsman shall designate such other qualified persons needed to perform the functions of this office. The long-term care ombudsman shall devote his or her entire time to the duties of the position. The long-term care ombudsman shall receive such salary as shall be provided in a classified position as determined by the division of personnel, unless administered on a contract basis.

Amend RSA 161-F:13, I(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Provide information as appropriate to facilities, other agencies, and the public regarding the problems and concerns of residents of facilities.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 698-FN, relative to electronic toll collections. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation

April 15, 2004

2004-1225s

06/09

Amendment to HB 698-FN

Amend the bill by replacing section 5 with the following:

5 Toll Criteria; Discounts. RSA 237:11, V is repealed and reenacted to read as follows:

V. In establishing tolls or charges pursuant to RSA 237:9, RSA 237:24, or RSA 237:40, the governor and council may discount or reduce the established tolls on any of the turnpikes in the system. In determining which vehicles shall receive a discount and the amount of the discount, the governor and council may consider criteria including, but not limited to:

- (a) Use of tokens.
- (b) Use of the regional electronic toll collection system.
- (c) Time of day.
- (d) Use of certain entrance or exit ramps.
- (e) Commercial or non-commercial registration.
- (f) Public transit use.

(g) In-state or out-of-state account status for participants in the regional electronic toll collection system.

- (h) Congestion management.

2004-1225s

AMENDED ANALYSIS

This bill establishes a procedure for violations of the electronic toll collection system.

This bill also establishes criteria that the governor and council may consider if they establish toll discounts.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1183, relative to transporting manufactured housing or modular buildings. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation

April 15, 2004

2004-1220s

06/01

Amendment to HB 1183

Amend RSA 21-L:12-a, XVII as inserted by section 4 of the bill by replacing it with the following:

XVII. Establishing criteria to determine the need for police escort vehicles for the transport of manufactured housing or modular buildings as authorized by RSA 266. In determining such criteria, the commissioner shall consider the anticipated road, traffic, and weather conditions that indicate that the safety of the public will be increased or the likelihood of damage to roadside objects will be reduced by providing a police escort.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 New Subdivision; Special Rules for Manufactured or Modular Building Transportation. Amend RSA 265 by inserting after section 158 the following new subdivision:

Special Rules for Manufactured or Modular Building Transportation

265:159 Manufactured or Modular Building Transportation. Transporters of manufactured or modular housing shall be responsible for causing the least possible inconvenience to other traffic by using every opportunity to allow following traffic to pass. If traffic buildup behind the transporting unit becomes 6 or more vehicles, the entire transporting unit shall pull off of the traveled way to allow traffic to pass. The transporter shall locate a safe place, which allows the towing load to clear from the roadway, so that traffic following the load can safely pass.

2004-1220s

AMENDED ANALYSIS

This bill:

I. Establishes the maximum height and length of manufactured homes or modular buildings that can be transported on the highways of New Hampshire.

II. Grants the commissioner of transportation certain rulemaking authority relative to the transport of manufactured housing.

III. Requires a transporter of manufactured housing to pull off the traveled way to allow traffic to pass if traffic buildup exceeds 5 vehicles.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1243, prohibiting the collection of biometric data. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Morse for the committee.

Senate Transportation
April 14, 2004
2004-1210s
03/05

Amendment to HB 1243

Amend RSA 260:10-b, II as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraph:

(c) The taking of fingerprints for the purpose of performing criminal records checks required under federal regulations governing the issuance of hazardous materials endorsements on drivers' licenses.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Odell for the committee.

Senate Ways and Means
April 14, 2004
2004-1180s
10/03

Amendment to HB 1230-FN

Amend the bill by replacing section 7 with the following:

7 Effective Date.

I. Sections 3-5 of this act shall take effect July 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

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 176, relative to listing candidates on ballots.

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

HB 285, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.

HB 643-FN, relative to the family division of the courts.

HB 712-FN, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

HB 729-FN, relative to the regulation of tanning facilities.

HB 767-FN, relative to political advertising not authorized by the candidate.

HB 1134, relative to appointment of the chief justice of the supreme court.

HB 1135, relative to appointment of the chief justice of the superior court.

HB 1159, relative to prohibited employment for state liquor commission employees.

HB 1162, relative to school district policies on bullying.

HB 1165, relative to extending domestic violence protection orders.

HB 1169, relative to child support calculations based on one-time or irregular income.

HB 1183, relative to transporting manufactured housing or modular buildings.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court.

HB 1210, relative to self-service storage facility liens.

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

HB 1243, prohibiting the collection of biometric data.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle.

HB 1266, relative to the long-term care ombudsman.

HB 1295, relative to certain court records.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

HB 1308-FN, relative to lobbying activities by state employees.

HB 1312, relative to the court's discretion to extend child support obligations.

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information.

HB 1336, relative to the procedures for the legislative ethics committee.

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

HB 1372, defining certain terms relating to military service.

HB 1374, relative to lightning protection systems.

HB 1380-FN, relative to unauthorized video surveillance.

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.