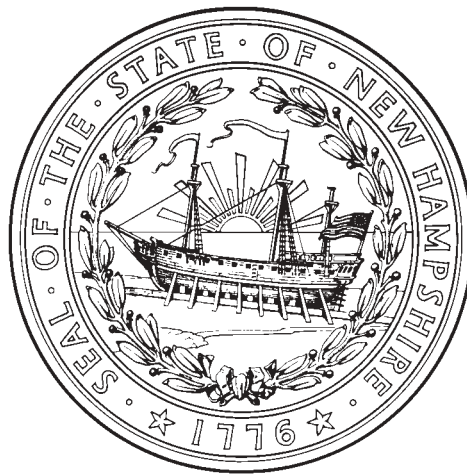


May 5, 2005
Nos. 15 - 16

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 28, 2005 SESSION
COMMENCEMENT – MAY 5, 2005 SESSION

SENATE JOURNAL 15 (*Cont.*)

April 28, 2005

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 158, relative to Auburn, Exeter, and Hampton District Courts.

HB 222-FN, relative to payment of medical benefits costs for disabled group II members of the retirement system.

HB 616-FN-L, relative to the education property tax and the education equity index.

INTRODUCTION OF HOUSE BILL(S)

Senator Flanders offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House legislation numbered 158-616 shall be by this resolution read a first and second time by the therein listed title(s), and referred to the therein designated committee(s).

Adopted.

First and Second Reading and Referral

HB 158, relative to Auburn, Exeter, and Hampton District Courts. Judiciary

HB 222-FN, relative to payment of medical benefits costs for disabled group II members of the retirement system. Banks and Insurance

HB 616-FN-L, relative to the education property tax and the education equity index. Finance

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 41, relative to the right-to-know oversight commission.

HB 74, relative to the sale of permissible fireworks.

HB 95, relative to delegates to state party conventions.

HB 107, relative to the use of artificial light to view moose in Coos County.

HB 150, defining truancy.

HB 181, establishing a committee to study the special account in the New Hampshire retirement system.

HB 223, relative to the procedure for assignment of juvenile probation and parole officers.

HB 308, relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.

HB 445, relative to the taking of certain game birds and fur-bearing animals.

HB 540-FN, relative to the disposal of real property purchased with highway or turnpike funds.

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 40, relative to inspection dates for certain vehicles.

HB 53, repealing a 1901 law relating to the apportionment of library funds in the town of Haverhill.

HB 58, relative to the effective date for the elimination of certain substances from gasoline supplies and removing a certain requirement relative to opting out of the reformulated gasoline program.

HB 87, relative to the authority of the Carroll county public water system.

HB 99, changing the name of the college for lifelong learning to Granite state college.

HB 111, establishing a commission to study the elimination of cervical cancer in the state of New Hampshire.

HB 124, naming a certain portion of New Hampshire Route 125 the Officer Mel Keddy Memorial highway.

HB 148, transferring the New Hampshire estuaries project from the department of environmental services to the university of New Hampshire.

HB 160, naming a certain bridge on New Hampshire Route 3 between Pembroke and Allenstown.

HB 171, relative to nicknames on ballots.

HB 242, relative to falsification of motor vehicle applications filed with the department of safety.

HB 266, relative to the procedure for dismissal or suspension of a police chief.

HB 277, relative to special elections for executive councilor, state senator, and state representative.

HB 340, renaming Jones Brook Wildlife Management Area in Strafford County for former chairman of the fish and game commission, Ellis Hatch, Jr., and naming a building at the Sandy Point Discovery Center in Stratham for former governor Hugh Gregg.

HB 444, relative to the surrender and condemnation of game animals to the fish and game department.

HB 446, relative to applications for resident hunting or fishing licenses.

HB 457, relative to excavating and dredging permit exemptions for water conveyance systems.

HB 462, prohibiting road toll refunds for idling time.

HB 504, relative to the assessment or refund of real estate transfer taxes, and the recording of plans with the register of deeds.

HB 560, relative to timber harvesting.

HB 570, relative to preliminary site plan review and the definition of inclusionary zoning.

Senator D'Allesandro moved adoption.

Adopted.

Out of Recess.

LATE SESSION

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

Adopted.

Adjournment.

SENATE JOURNAL 16

May 5, 2005

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend Jared Rardin, Senior Pastor at the South Congregational Church in Concord, guest chaplain to the Senate, offered the prayer.

Gracious God, here we are at the beginning of a new day. As the sun shines, so may Your will and Your love shine in our hearts and in our minds. May good, healthy debate, passion and openness guide today's debates, and may we find not only that Your will is done, but that the will of the people of New Hampshire is done. In Your name we pray.

Amen

Senator Barnes led the Pledge of Allegiance.

INTRODUCTION OF GUESTS
COMMITTEE REPORTS

HB 195, establishing a committee to study the department of insurance. Banks and Insurance Committee. Ought to pass with amendment, Vote 4-1. Senator Barnes for the committee.

Banks and Insurance

April 25, 2005

2005-1258s

01/09

Amendment to HB 195

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

AN ACT establishing a committee to study the department of insurance and awarding of the bids for health insurance for state employees.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the department of insurance and awarding of the bids for health insurance for state employees.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the department of insurance, including whether it should be combined with any other agency, consumer issues, and efficiency of operation. The committee shall also study the process of awarding the bids for health insurance for state employees, including the awarding of the last bid to CIGNA, and any other matter related to the committee's quest.

2005-1258s

AMENDED ANALYSIS

This bill establishes a committee to study the department of insurance, including whether it should be combined with any other agency. The committee shall also study awarding of the bids for health insurance for state employees.

Amendment adopted.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

May 5, 2005

2005-1352s

09/01

Floor Amendment to HB 195

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

AN ACT establishing a committee to study the department of insurance and awarding of the bids for health insurance for state employees.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the department of insurance and awarding of the bids for health insurance for state employees.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the department of insurance, including whether it should be combined with any other agency, consumer issues, and efficiency of operation. The committee shall also study the process of awarding the bids for health insurance for state employees, including the awarding of the last contract bid, and any other matter related to the committee's quest.

2005-1352s

AMENDED ANALYSIS

This bill establishes a committee to study the department of insurance, including whether it should be combined with any other agency. The committee shall also study awarding of the bids for health insurance for state employees.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 210-FN, relative to the determination of absence and return of contributions of members of the retirement system. Banks and Insurance Committee. Ought to Pass, Vote 5-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 389, relative to the duties of the postsecondary education commission. Education Committee. Ought to Pass, Vote 4-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 293, establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan County. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-2. Senator Burling for the committee.

Energy and Economic Development

April 27, 2005

2005-1278s

08/09

Amendment to HB 293

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

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

(a) One member of the house environment and agriculture committee, appointed by the speaker of the house of representatives.

(b) One member of the house public works and highways committee, appointed by the speaker of the house of representatives.

(c) One member of the senate environment and wildlife committee, appointed by the president of the senate.

(d) One member of the senate energy and economic development committee, appointed by the president of the senate.

(e) A representative from each municipality in Sullivan county, appointed by the governing body of the respective municipality.

Amendment adopted.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Burling, Dist. 5

Sen. Barnes, Dist. 17

Sen. Flanders, Dist. 7

May 5, 2005

2005-1351s

08/05

Floor Amendment to HB 293

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

AN ACT establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county, and relative to exemptions for disposing of leaf and yard waste.

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

6 Leaf and Yard Waste Incineration; Continued Exemption. Amend RSA 149-M:27, III to read as follows:

III. No leaf or yard waste shall be disposed in a solid waste landfill or incinerator including any waste-to-energy facility. This paragraph shall *continue to* not apply to municipalities organized under RSA 53-A, RSA 53-B, or 1986, 139, *or to entities with which said municipalities may contract*, if application of the paragraph would [cause] *have caused* the municipality to violate or incur penalties under legal obligations existing on January 1, 1993. Any person who violates this paragraph shall be subject to the penalties and enforcement provisions of RSA 149-M:15 and 16.

2005-1351s

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county.

This bill also continues an exemption to the ban on the incineration of leaf and yard waste by certain municipalities and extends that exemption to entities with which the municipality may contract.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 414, relative to regulation of municipal waste combustors. Energy and Economic Development Committee. Ought to Pass, Vote 4-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-2. Senator Odell for the committee.

Energy and Economic Development

April 27, 2005

2005-1277s

08/09

Amendment to HB 580

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

AN ACT establishing a committee to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

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

1 Committee Established. There is established a committee to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study:

I. The procedures for the formation and dissolution of a solid waste management district.

II. The benefits of authorizing the formation of a solid waste management district by a single town under RSA 53-B.

III. The effect of withdrawal of a majority of the members from a solid waste management district on the continuing environmental liabilities of the remaining district members.

IV. The procedures for the admission and withdrawal of members from an existing solid waste management district.

V. The procedures for the dissolution of an existing interstate solid waste compact under RSA 53-D.

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 senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, all member municipalities of the New Hampshire/Vermont solid waste district, and the state library on or before November 1, 2005.

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

2005-1277s

AMENDED ANALYSIS

This bill establishes a committee to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 55-FN-A, relative to industrial hemp and establishing an industrial hemp special program fund. Environment and Wildlife Committee. Inexpedient to Legislate, Vote 5-0. Senator Johnson for the committee.

Committee report of inexpedient to legislate is adopted.

HB 386, relative to agricultural best management practices. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Gallus for the committee.

Adopted.

Ordered to third reading.

HB 411, relative to the North Conway water precinct. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

HB 432-FN, relative to the septage handling and treatment facilities grant program and the septage and sludge land application restrictions. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Johnson for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 487-FN, establishing a volunteer lake assessment program in the department of environmental services. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Gatsas for the committee.

Environment and Wildlife**April 27, 2005****2005-1271s****06/01****Amendment to HB 487-FN**

Amend RSA 487:32 as inserted by section 1 of the bill by replacing it with the following:

487:32 Volunteer Lake Assessment Program Coordinator. There is established in the department of environmental services a state volunteer lake assessment program coordinator who shall be a classified employee qualified by reason of education and experience and who shall administer the New Hampshire volunteer lake assessment program.

Amendment adopted.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 2

May 4, 2005**2005-1348s****06/09****Floor Amendment to HB 487-FN**

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

2 Volunteer Lake Assessment Program Coordinator to be Current Employee. The volunteer lake assessment program coordinator position established in RSA 487:32 as inserted by section 1 of this act shall be filled by a biologist I who is currently employed in the department of environmental services. The establishment of the volunteer lake assessment program coordinator position does not create an additional position in the department.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 547-FN, changing the funding limit for on-premise-use fuel oil storage facilities. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 216-FN, relative to the authority of the New Hampshire retirement system to purchase supplies and services. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 313-FN, relative to registration of business entities. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator Kenney for the committee.

MOTION TO TABLE

Senator Kenney moved to have HB 313-FN laid on the table.

Adopted.

LAI D ON THE TABLE

HB 313-FN, relative to registration of business entities.

HB 465-FN, authorizing the board of medicine to take non-disciplinary remedial action against physicians. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Fuller Clark for the committee.

Adopted.

Ordered to third reading.

HB 304-FN-A, relative to federal highway grant anticipation bonds. Finance Committee. Ought to Pass, Vote 4-0. Senator Morse for the committee.

Adopted.

Ordered to third reading.

HB 595-FN, establishing the position of state meat inspector. Finance Committee. Ought to pass with amendment, Vote 4-0. Senator D'Allesandro for the committee.

Senate Finance

April 28, 2005

2005-1292s

08/01

Amendment to HB 595-FN

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

1 Position Established. There is established in the department of agriculture, markets, and food, the position of state meat inspector who shall be a classified state employee. In lieu of filling the position, the commissioner of the department of agriculture, markets, and food may contract with an outside source to provide meat inspection services. The state meat inspector shall enforce the provisions of RSA 427:1 through RSA 427:37. Said position or contractor shall be funded entirely through inspection fees and federal, state, and private grants as authorized by RSA 427:32 as inserted by section 2 of this act.

2 Costs of Inspection; Rulemaking. RSA 427:32 is repealed and reenacted to read as follows:

427:32 Costs of Inspection; Rulemaking. The cost of inspection rendered under the requirements of this subdivision shall be funded through inspection fees adopted by rule under RSA 541-A. The commissioner is also authorized to apply for and receive any federal, state, or private grants for the purposes of the costs of such inspections.

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

2005-1292s

AMENDED ANALYSIS

This bill establishes the position of state meat inspector. The position is funded by government and private grants and inspection fees.

Amendment failed.

The question is on the motion of ought to pass.

Motion failed.

Senator D'Allesandro moved inexpedient to legislate.

Adopted.

HB 595 is inexpedient to legislate.

HB 173, relative to food service and distribution. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services

April 26, 2005

2005-1267s

01/09

Amendment to HB 173

Amend the bill by replacing sections 4 and 5 with the following:

4 Food Service Licensure; Definition. Amend RSA 143-A:3, V to read as follows:

V. "Occasional food service establishment" means any food service establishment ~~operated by a private or public organization or institution, whether profit or nonprofit, which prepares food or drink for sale or for service, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge, no more than 96 hours at no fewer than 3 hours a day during a 30-~~

~~day period~~ *where food is served or provided for the public on the premises of the establishment, whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition.*

V-a. "Occasional food service events" means events which are not regularly scheduled where food is provided to participants such as extracurricular school events, non-profit sporting events, and periodic events sponsored by religious or nonprofit organizations, such as periodic church suppers, bazaars, and bake sales.

5 Exemptions. Amend the introductory paragraph of RSA 143-A:5 to read as follows:

The following establishments **and events** shall be exempt from licensure under this chapter:

6 Exemptions. Amend RSA 143-A:5, III to read as follows:

III. Temporary food service establishments and occasional food service establishments **and occasional food service events** which are not under the jurisdiction of city or town health officers under RSA 147:1 and RSA 47:17.

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

2005-1267s

AMENDED ANALYSIS

This bill:

I. Amends the definition of "shellfish" to be in compliance with the U.S. Food and Drug Administration's model shellfish ordinance.

II. Corrects a reference which is no longer applicable to food safety classes.

III. Clarifies the definition of occasional food service establishment in the food service licensure statute.

IV. Adds an exemption from licensure for occasional food service events.

Senator Martel moved to recommit.

Adopted.

HB 173 is recommitted to Health and Human Services Committee.

HB 247, extending the law regarding receivership of care facilities for a certain length of time. Health and Human Services Committee. Ought to Pass, Vote 6-0. Senator Estabrook for the committee.

Adopted.

Ordered to third reading.

HB 697-FN, establishing a commission to study medicaid reimbursement rates for pharmacy providers. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Health and Human Services

April 27, 2005

2005-1280s

01/04

Amendment to HB 697-FN

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

AN ACT establishing a committee to study medicaid reimbursement rates for pharmacy providers.

Amend the bill by replacing sections 1-4 with the following:

1 Committee Established. There is established a committee to study medicaid reimbursement rates for pharmacy providers and to make recommendations relative to the appropriate methodology to be used to determine such reimbursement rates.

2 Membership and Compensation.

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

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

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

II. The committee shall solicit information from the department of health and human services and from any other person or entity the committee deems relevant to its study.

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

3 Duties. The committee's study shall include, but not be limited to:

I. A review of issues related to medicaid pharmacy reimbursement rates including a study of past methodologies for determining such rates.

II. Making recommendations relative to the appropriate methodology for establishing future medicaid pharmacy reimbursement rates.

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. Four members of the committee shall constitute a quorum.

2005-1280s

AMENDED ANALYSIS

This bill establishes a committee to study medicaid reimbursement rates for pharmacy providers.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 431-FN-L, relative to competing articles and official ballot voting. Internal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Hassan for the committee.

Committee report of inexpedient to legislate is adopted.

HB 483, relative to instructions to be placed on the general election ballot. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

HB 267, relative to requests for services other than counsel for indigent defendants. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

HB 332, relative to harassment by telephone. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Green for the committee.

Senate Judiciary

April 27, 2005

2005-1279s

09/10

Amendment to HB 332

Amend RSA 644:4, I(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Makes a telephone call, whether or not a conversation ensues, *with no legitimate communicative purpose or without disclosing his or her identity and* with a purpose to annoy, *abuse, threaten,* or alarm another; or

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 348, relative to real and personal property conveyances made under powers of attorney. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

Adopted.

Ordered to third reading.

HB 138-FN, requiring medical examiners to inventory and account for property taken from decedents. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-0. Senator Barnes for the committee.

Adopted.

Ordered to third reading.

HB 141-L, relative to the planning board's authority to limit building permits. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 157, establishing a commission to study procurement methods for public works projects by state and local government agencies. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Public and Municipal Affairs

April 27, 2005

2005-1275s

05/10

Amendment to HB 157

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

AN ACT establishing a committee to study procurement methods for public works projects by state and local government agencies.

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

1 Committee Established. There is established a committee to study procurement methods for public works projects by state agencies, municipalities, counties, school districts, and all other political subdivisions.

2 Membership and Compensation.

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

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

(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.

3 Duties. The committee shall study contracting practices for public works projects by state agencies, municipalities, counties, school districts, and all other political subdivisions. The goal of such study shall be to recommend the public procurement policies that promote the best economic and work quality value from public construction and infrastructure investment. The committee shall base its recommendation on consideration of the following: labor law enforcement, workplace safety compliance, worker's compensation compliance, access to workforce and apprenticeship training, in-state job creation and community economic development, communities' uncompensated care burdens and other social welfare costs, and such additional criteria as the committee deems appropriate.

4 Chairperson; Quorum. Members of the 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.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2006.

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

2005-1275s

AMENDED ANALYSIS

The bill establishes a committee to study procurement methods for public works projects by state and local government.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 168, relative to the licensure of electrologists and establishing an electrology advisory committee. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-0. Senator Roberge for the committee.

Senator Roberge moved to recommit.

Adopted.

HB 168 is recommitted to the Public and Municipal Affairs Committee.

MOTION TO REMOVE FROM THE TABLE

Senator Morse moved to take HB 239 off the table.

Adopted.

HB 239, relative to registration of shampoo assistants by the board of barbering, cosmetology and esthetics.

The question is on the motion of ought to pass.

Senator Morse moved recommit.

Adopted.

HB 239 is recommitted to the Public and Municipal Affairs Committee.

HB 236, relative to the time for filing a motion to rehear a zoning decision. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Burling for the committee.

Public and Municipal Affairs

April 27, 2005

2005-1274s

10/04

Amendment to HB 236

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

AN ACT relative to the time period for filing for rehearing or appeal of a zoning or planning decision.

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

1 Motion for Rehearing of Board of Adjustment, Board of Appeals and Local Legislative Body; Method of Calculation Changed. Amend RSA 677:2 to read as follows:

677:2 Motion for Rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions. Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date *following the date* upon which the board

voted to approve or disapprove the application *in accordance with RSA 21:35*; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed. If the decision complained against is that made by a town meeting, the application for rehearing shall be made to the board of selectmen, and, upon receipt of such application, the board of selectmen shall hold a rehearing within 30 days after receipt of the petition. Following the rehearing, if in the judgment of the selectmen the protest warrants action, the selectmen shall call a special town meeting.

2 Court Review of Planning Board Decisions. Amend RSA 677:15, I to read as follows:

I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the petitioner shall have the right to amend the petition within 30 days after the date on which the written decision was actually filed. This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III. ***The 30-day time period shall be counted in calendar days beginning with the date following the date upon which the planning board voted to approve or disapprove the application, in accordance with RSA 21:35.***

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

2005-1274s

AMENDED ANALYSIS

This bill changes the calculation of the period for filing a motion to rehear a zoning decision or to appeal a planning board decision to conform to the general rule for the state by excluding the date of decision from the calculation of the period.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 480, relative to innovative land use controls. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-0. Senator Burling for the committee.

Adopted.

Ordered to third reading.

HB 498, establishing a study committee relative to the sale of fire-safe cigarettes. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Public and Municipal Affairs

April 27, 2005

2005-1273s

05/10

Amendment to HB 498

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2006. The committee also shall issue an interim report on or before November 30, 2005, addressing what, if any, impact the implementation of fire-safe cigarette legislation in New Hampshire would have on state revenues.

MOTION TO TABLE

Senator Flanders moved to have HB 498 laid on the table.

Adopted.

LAID ON THE TABLE

HB 498, establishing a study committee relative to the sale of fire-safe cigarettes.

Senator Barnes is in opposition to the tabling motion on HB 498.

HB 33, relative to the study of state retainage practices. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 6-0. Senator Martel for the committee.

Committee report of inexpedient to legislate is adopted.

HB 128-FN, relative to negligent operation of a carnival or amusement ride. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 6-0. Senator Morse for the committee.

Committee report of inexpedient to legislate is adopted.

HB 268-FN, increasing certain motor vehicle fees. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 6-0. Senator Burling for the committee.

Adopted.

Ordered to third reading.

HB 513, relative to on-board diagnostic system inspections. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation

April 27, 2005

2005-1285s

03/09

Amendment to HB 513

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

1 New Paragraph; Department of Safety; Duties of Commissioner; Complaints. Amend RSA 21-P:4 by inserting after paragraph XI the following new paragraph:

XII. Establish an easily accessible mechanism for citizens to file complaints with the department relating to on-board diagnostic system testing required by RSA 266:59-b. The complaint mechanism shall include either a telephone number reserved exclusively for such complaints or an Internet site for such complaints that may be accessed through links prominently displayed on Internet sites operated by the department or the state.

2 New Paragraph; Inspection Stations; Inspection Data. Amend RSA 266:1 by inserting after paragraph VII the following new paragraph:

VII-a.(a) The director is authorized to require inspection stations to submit inspection data to the department electronically, provided that if electronic submission is required the following inspection stations shall be allowed to submit inspection data electronically or on a designated schedule and form prescribed by the department:

- (1) Inspection stations that are authorized to inspect only motorcycles.
- (2) Inspections stations that inspect less than 200 vehicles in a consecutive 12-month period.
- (3) Fleet motor vehicle inspection stations for non-OBD II vehicles.
- (4) Municipal and county government inspection stations for non-OBD II vehicles.

(b) The department shall not require an inspection station to transfer inspection information electronically for any vehicle of model year 1995 or older.

3 Emission Control Equipment; OBD II Testing Required. Amend RSA 266:59-b, III-V to read as follows:

III. ~~[For all model year 1996 and newer gasoline-powered and model year 1997 and newer diesel-powered motor vehicles equipped with on-board diagnostic systems meeting the federal EPA OBD II standards;]~~

The commissioner, after public hearing and consultation with the commissioner of the department of environmental services and the air pollution advisory committee, and notification of the house science, technology, and energy committee and the senate environment committee, and with the approval of the air pollution advisory committee, shall adopt rules under RSA 541-A, which require ~~[every motor vehicle]~~ **all model year 1996 and newer gasoline-powered and model year 1997 and newer diesel-powered motor vehicles equipped with on-board diagnostic systems meeting the federal EPA OBD II standards** driven on the ways of this state which [is] **are** subject to inspection under this chapter, after a date specified by the commissioner, to be tested for OBD II indications of failures as a component of the inspection. To the extent allowed by EPA OBD II policy, OBD II data may be substituted for visual and functional tests required by paragraph I.

IV. This section shall not apply to vehicles 20 or more model years old which shall be determined by subtracting the model year of the vehicle from the calendar year in which the inspection occurs.

V. If a vehicle fails the EPA OBD II test and it passes all other inspection requirements under this chapter, then it shall be issued a temporary waiver that permits its operation for 60 days from the date of issuance, in order to make required repairs. A vehicle shall be eligible for only one such waiver during its inspection cycle. **The department shall adopt rules, pursuant to RSA 541-A, that have the effect of establishing the broadest possible waivers for consumers consistent with 40 C.F.R. sections 51.350 through 51.373.**

VI. If a vehicle fails the EPA OBD II test and the owner fails to make the required repairs, the owner may not sell the vehicle without informing the purchaser of the OBD II failure. If the owner fails to inform the purchaser of the OBD II failure, the purchaser shall be entitled to a refund of the purchase price and reasonable attorney's fees.

VII.(a) There is established an OBD II testing advisory committee. The committee shall be composed of the following:

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

(2) Three senators, appointed by the president of the senate.

(3) The director of the division of motor vehicles of the department of safety.

(4) The attorney general, or designee.

(5) The commissioner of environmental services, or designee.

(6) One member nominated by the New Hampshire Automobile Dealers Association and appointed by the governor.

(7) One member nominated by the New Hampshire Motor Transport Association and appointed by the governor.

(b) Members' terms shall be coterminous with their terms in office, except that members appointed pursuant to subparagraphs (a)(6) and (a)(7) shall serve at the discretion of the appointing authority.

(c) The committee shall:

(1) Review and make recommendations on any contracts between the state and any private entities relating to OBD II testing.

(2) Review program operations on any contracts between the state and any private entities relating to OBD II testing.

(3) Make recommendations for statutory changes to the amounts and types of repair waivers granted in the OBD II testing program.

(4) Report by May 1, 2006 its recommendation whether to extend the electronic reporting exemption for inspection stations performing less than 200 inspections in a consecutive 12-month period.

(5) Submit an annual report to the governor, senate president, and speaker of the house of representatives on the operation of the motor vehicle inspection and emissions testing program.

4 OBD II Testing; Applicability. Notwithstanding RSA 266:59-b, any EPA OBD II testing required by department of safety rules prior to May 1, 2006 shall be advisory only. No inspection station shall deny an inspection sticker to any vehicle because of OBD II failure prior to May 1, 2006.

5 Emergency Rulemaking. The commissioner is authorized to adopt emergency rules under RSA 541-A to implement changes to the safety and OBD II inspection program needed because of this act. Notwithstanding RSA 541-A:18, II, such emergency rules shall be effective for 180 days. After 180 days the commissioner shall adopt rules pursuant to RSA 541-A.

6 Repeal. The following are repealed:

- I. RSA 266:1, VII-a(b), relative to stations that inspect less than 200 vehicles.
- II. Section 5 of this act, relative to emergency rules.

7 Effective Date.

- I. Section 6 of this act shall take effect January 1, 2007.
- II. The remainder of this act shall take effect upon its passage.

2005-1285s

AMENDED ANALYSIS

This bill:

- I. Modifies the applicability of the OBD II testing requirements.
- II. Requires the department of safety to adopt rules establishing waivers.
- III. Requires notice of an OBD II failure by a motor vehicle seller.
- IV. Establishes an advisory committee to review contracts and recommend legislation relating to OBD II testing.
- V. Exempts certain inspection stations from any electronic data submission requirements.

Amendment adopted.

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19

May 4, 2005

2005-1332s

03/04

Floor Amendment to HB 513

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

AN ACT relative to on-board diagnostic system inspections and relative to motorcycle inspections.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 New Paragraph; "Motorcycle Only" Inspection Stations. Amend RSA 266:1 by inserting after paragraph V the following new paragraph:

V-a. An inspection station may, upon request, be designated a "motorcycle only" inspection station. A "motorcycle only" inspection station may inspect only motorcycles and shall not be required to conduct OBD II emission testing under RSA 266:59-b or to purchase or lease any equipment relating to the OBD II emission testing program.

2005-1332s

AMENDED ANALYSIS

This bill:

- I. Modifies the applicability of the OBD II testing requirements.
- II. Requires the department of safety to adopt rules establishing waivers.
- III. Requires notice of an OBD II failure by a motor vehicle seller.

IV. Establishes an advisory committee to review contracts and recommend legislation relating to OBD II testing.

V. Exempts certain inspection stations from any electronic data submission requirements.

VI. Permits an inspection station to be designated as a "motorcycle only" inspection station.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 90, relative to private driving instruction and exhibition facilities. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-2. Senator Letourneau for the committee.

The question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Green.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Boyce, Flanders, Roberge, Eaton, Bragdon, Foster, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Morse.

The following Senators voted No: Johnson, Kenney, Burling, Green, Odell, Gottesman, Larsen, Estabrook, Hassan, Fuller Clark.

Yeas: 14 - Nays: 10

Committee report of inexpedient to legislate is adopted.

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 138-FN, requiring medical examiners to inventory and account for property taken from decedents.

HB 141, relative to the planning board's authority to limit building permits.

HB 157, establishing a commission to study procurement methods for public works projects by state and local government agencies.

HB 195, establishing a committee to study the department of insurance.

HB 210-FN, relative to the determination of absence and return of contributions of members of the retirement system.

HB 216-FN, relative to the authority of the New Hampshire retirement system to purchase supplies and services.

HB 236, relative to the time for filing a motion to rehear a zoning decision.

HB 247, extending the law regarding receivership of care facilities for a certain length of time.

HB 267, relative to requests for services other than counsel for indigent defendants.

HB 268, increasing certain motor vehicle fees.

HB 293, establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan County.

HB 304-FN-A, relative to federal highway grant anticipation bonds.

HB 332, relative to harassment by telephone.

HB 348, relative to real and personal property conveyances made under powers of attorney.

HB 386, relative to agricultural best management practices.

HB 389, relative to the duties of the postsecondary education commission.

HB 411, relative to the North Conway water precinct.

HB 414, relative to regulation of municipal waste combustors.

HB 465-FN, authorizing the board of medicine to take non-disciplinary remedial action against physicians.

HB 480, relative to innovative land use controls.

HB 483, relative to instructions to be placed on the general election ballot.

HB 487-FN, establishing a volunteer lake assessment program in the department of environmental services.

HB 513, relative to on-board diagnostic system inspections.

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

HB 697-FN, establishing a commission to study medicaid reimbursement rates for pharmacy providers.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, sending and receiving messages, and processing enrolled bill reports.

Adopted.

In recess to the Call of the Chair.