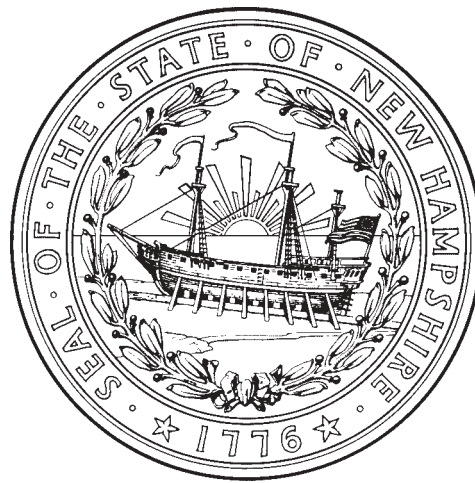


May 19, 2005
Nos. 17 - 18

STATE OF NEW HAMPSHIRE

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



Legislative

SENATE JOURNAL

ADJOURNMENT – MAY 12, 2005 SESSION
COMMENCEMENT – MAY 19, 2005 SESSION

SENATE JOURNAL 17 (*Cont.*)

May 12, 2005

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 12, relative to contracts with non-profit public academies.

SB 18, relative to sales of tickets for pure lotteries by those not employed by the lottery commission.

SB 68, establishing a commission to study the state park system.

SB 169, relative to access to confidential court records.

SB 210-FN, relative to a declaratory judgment to adjudicate constitutional nexus.

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 229, establishing a committee to study the establishment of a farm viability program.

HB 447-FN, relative to black bear license and tag fees.

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

HOUSE MESSAGE

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

SB 20-FN, relative to an increase in lottery ticket prices.

SB 40, permitting special school district meetings to be held in conjunction with the biennial election in certain school districts.

SB 45-L, relative to the Hanover school district tax stabilization fund.

SB 58-FN, making certain changes in the workers' compensation law.

SB 65, ratifying changes to the state building code adopted by the state building code review board.

SB 87, relative to extension of tax liens by the department of revenue administration.

SB 117-FN, relative to utility property tax appeals.

SB 120, relative to the purchase of rail properties.

SB 138-L, relative to motor vehicle liability for municipal workers.

SB 141-L, authorizing the establishment of certain reserve funds by the Gorham, Randolph, and Shelburne school districts.

SB 164-FN, relative to the disposal of real property purchased with highway or turnpike funds.

SB 167, relative to extension of guardianship.

SB 189, authorizing the use of interest rate swap agreements and other similar agreements by the cities of Manchester and Nashua.

SB 202, relative to property taxable as utility property.

SB 208-FN, relative to certification of driver education instructors.

SB 212, relative to the railroad tax.

SB 219-FN, relative to examinations under workers' compensation.

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 86, relative to property held in police department property rooms.

HB 97, relative to replacing school budget committee members.

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

HB 263, relative to the use of design build and construction management methods for state capital projects.

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

HB 268-FN, increasing certain motor vehicle fees.

HB 280, relative to the manner of service in divorce and child custody proceedings.

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

HB 386, relative to agricultural best management practices.

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

HB 480, relative to innovative land use controls.

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

HB 512, expanding the study committee on property tax relief to include reverse mortgages.

SB 41, relative to penalties for certain OHRV violations.

SB 49-FN, including multiple sclerosis in the catastrophic illness program.

SB 55, relative to the New Hampshire film and television commission and state promotional initiatives.

SB 59, relative to the general powers and duties of guardianship.

SB 60, clarifying probate court procedures in cases involving the Uniform Transfers to Minors Act.

SB 98-FN, relative to issuing duplicate registrations for off highway recreational vehicles.

SB 106-FN, making unauthorized recording in a motion picture theater a crime.

SB 182-FN, relative to electronic issuance of warrants.

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 18

May 19, 2005

The Senate met at 10:00 a.m.

A quorum was present.

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

Bless, O Lord, this group of saints – and remind them, each one, in carrying out the vital work they do, that is what they are, and to enjoy and handle one another accordingly. Amen

Senator Letourneau led the Pledge of Allegiance.

INTRODUCTION OF GUESTS MOTION OF RECONSIDERATION

Senator Johnson, having voted with the prevailing side, moved reconsideration of **HB 472**, relative to the definition of recreational program, whereby we ordered it to third reading.

Adopted.

HB 472, relative to the definition of recreational program.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 2

Sen. Clegg, Dist. 14

Sen. Larsen, Dist. 15

May 16, 2005

2005-1426s

05/01

Floor Amendment to HB 472

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraph; Child Day Care Licensing; Definition of Recreational Program Added. Amend RSA 170-E:2 by inserting after paragraph XI the following new paragraph:

XI-a. "Recreational program" means any before and/or after school, vacation, or summer youth program for children 6 years of age or older offered by a school or religious group, the Boys and Girls Clubs of America, Girls, Incorporated, the YMCA, or the YWCA, provided that the program:

- (a) Does not operate in a private home;
- (b) Notifies parents or guardians that the program is not subject to licensure under RSA 170-E:4;
- (c) Has policies and procedures to address the filing of grievances by parents and guardians; and
- (d) Is a member in good standing and in compliance with the national organization's minimum standards and procedures.

2 Recreational Programs Exempt from Definition of Child Day Care Agency. Amend RSA 170-E:3, I(g) to read as follows:

(g) ~~[Any recreation program offered by the Boys and Girls Club; Girls, Inc.; YMCA; YWCA; and any school or church group]~~ **Any recreational program as defined in RSA 170-E:2, XI-a.**

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

COMMITTEE REPORTS

HB 153-FN, relative to the collection of debts owed to the state. Banks and Insurance Committee. Re-refer to committee, Vote 6-0. Senator Flanders for the committee.

Adopted.

HB 153-FN is re-referred to the Committee on Banks and Insurance.

HB 329, establishing the crime victim employment leave act. Banks and Insurance Committee. Ought to Pass, Vote 5-0. Senator Gottesman for the committee.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

May 16, 2005

2005-1429s

06/09

FLOOR AMENDMENT TO HB 329

Amend RSA 275:65 as inserted by section 1 of the bill by replacing it with the following:

275:65 Penalty. Any employer violating any provision of this subdivision shall be subject to a civil penalty, to be imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a. An employer aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-c.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 561, relative to reasonable accommodation by employers under the state law against discrimination. Banks and Insurance Committee. Ought to Pass, Vote 4-1. Senator Foster for the committee.

The question is on the motion of ought to pass.

A roll call was requested by Senator Hassan.

Seconded by Senator Foster.

The following Senators voted Yes: Burling, Green, Flanders, Odell, Gottesman, Foster, Larsen, Gatsas, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Roberge, Eaton, Bragdon, Clegg, Barnes, Martel, Letourneau, Morse.

Yeas: 12 - Nays: 12

Motion failed.

Senator Clegg moved inexpedient to legislate.

MOTION TO TABLE

Senator Larsen moved to have HB 561 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 561, relative to reasonable accommodation by employers under the state law against discrimination.

HB 594-FN, relative to retirement system classification for department of corrections correctional line personnel. Banks and Insurance Committee. Inexpedient to Legislate, Vote 5-1. Senator Gottesman for the committee.

Committee report of inexpedient to legislate is adopted.

Senator Martel is in opposition to the motion of inexpedient to legislate on HB 594.

HB 623-FN, relative to licensing requirements in the insurance and financial services industries. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 651-FN-L, relative to federal lien registration. Banks and Insurance Committee. Ought to Pass, Vote 6-0. Senator Barnes for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 132, relative to grounds for dismissal of a teacher. Education Committee. Ought to pass with amendment, Vote 4-2. Senator Bragdon for the committee.

Senate Education

May 10, 2005

2005-1379s

04/10

Amendment to HB 132

Amend RSA 189:13 as inserted by section 1 of the bill by replacing it with the following:

189:13 Dismissal of Teacher. The school board may dismiss any teacher found by them to be immoral [~~or incompetent~~], ***or who has not satisfactorily maintained the competency standards established by the school district***, or one who ~~shall~~ ***does*** not conform to regulations prescribed; provided, that no teacher shall be so dismissed before the expiration of the period for which said teacher was engaged without having previously been notified of the cause of such dismissal, nor without having previously been granted a full and fair hearing.

MOTION TO TABLE

Senator Bragdon moved to have HB 132 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 132, relative to grounds for dismissal of a teacher.

HB 151, requiring school districts to develop a school age nutrition and physical activity committee. Education Committee. Inexpedient to Legislate, Vote 4-2. Senator Bragdon for the committee.

The question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Barnes.

Seconded by Senator Gatsas.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Clegg, Gatsas, Barnes Martel, Letourneau, Morse.

The following Senators voted No: Burling, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 17 Nays: 7

Committee report of inexpedient to legislate is adopted.

HB 240-FN, relative to psychotropic drugs and child protection. Education Committee. Inexpedient to Legislate, Vote 5-0. Senator Estabrook for the committee.

A roll call was requested.

The roll call request was withdrawn.

Committee report of inexpedient to legislate is adopted.

HB 301-L, relative to parent advisory councils for pupils with educational disabilities. Education Committee. Inexpedient to Legislate, Vote 6-0. Senator Bragdon for the committee.

MOTION TO TABLE

Senator Bragdon moved to have HB 301-L laid on the table.

Adopted.

LAID ON THE TABLE

HB 301-L, relative to parent advisory councils for pupils with educational disabilities.

HB 346-L, relative to the procedure for withdrawal from a cooperative school district. Education Committee. Ought to Pass, Vote 5-1. Senator Foster for the committee.

Adopted.

Ordered to third reading.

HB 456-FN, relative to inhaling toxic vapors. Education Committee. Ought to Pass, Vote 5-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

HB 174, relative to renewable energy transition service, extending a portion of the system benefits charge, and repealing laws relating to information provided to electric service consumers. Energy and Economic Development Committee. Ought to Pass, Vote 4-0. Senator Burling for the committee.

Adopted.

Ordered to third reading.

HB 215-FN, relative to water management. Energy and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Boyce for the committee.

Energy and Economic Development

May 11, 2005

2005-1404s

06/09

Amendment to HB 215-FN

Amend RSA 488:7 as inserted by section 1 of the bill by replacing it with the following:

488:7 Compliance.

I. Registration and withdrawal of water under RSA 488:3 shall be deemed to grant permission to the department to enter onto the registered property to review compliance with the provisions of the registration.

II. Upon obtaining credible information that any person is not registered in accordance with RSA 488:3, I and is withdrawing, discharging, or transferring a cumulative amount of more than 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of water over any 30-day period, at a single real property or place of business, the department may obtain an administrative inspection warrant in accordance with RSA 595-B to determine compliance with the registration requirements.

Amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule #26).

HB 288-FN, establishing a commission to effect the process for the town of Killington, Vermont to become part of the state of New Hampshire. Energy and Economic Development Committee. Ought to Pass, Vote 3-0. Senator Bragdon for the committee.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14
May 17, 2005
2005-1462s
05/04

Floor Amendment to HB 288-FN

Amend the bill by replacing section 2 with the following:

2 Composition of Commission; Terms. The commission shall be composed of 3 members, one of whom shall be appointed by the governor, one of whom shall be appointed by the senate president, and one of whom shall be appointed by the speaker of the house of representatives. Commission members shall be residents and voters of New Hampshire, and shall serve until their successors are appointed. Members of the commission shall serve without compensation.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Barnes is in opposition to HB 288-FN.

HB 315, relative to best available technology for air pollution control. Energy and Economic Development Committee. Ought to Pass, Vote 4-1. Senator Odell for the committee.

Adopted.

Ordered to third reading.

Senator Foster rule #42 on HB 315.

HB 460-FN, relative to the reimbursement to certain providers by the bureau of emergency communications. Energy and Economic Development Committee. Re-refer to committee, Vote 3-2. Senator Bragdon for the committee.

A division vote was requested.

Yeas: 9 - Nays: 14

Motion failed.

Senator Odell moved ought to pass.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 421, relative to effective dates. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Executive Departments and Administration
May 11, 2005
2005-1405s
03/09

Amendment to HB 421

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

1 Effective Dates. RSA 14:9-a is repealed and reenacted to read as follows:

14:9-a Effective Dates.

I. Except as provided in paragraphs II and III, and except for resolutions, which shall take effect upon their passage, each law passed by the general court shall take effect 60 calendar days following passage, excluding the date on which it is signed by the governor, or the last date on which the general court acts on the matter, as the case may be.

II. The office of legislative services shall include a section in each bill drafted for introduction specifying the act's effective date, if passed. The effective date section shall indicate that the law shall take effect as follows:

(a) Each law affecting judicial practice and procedure, or establishing or eliminating criminal prohibitions, civil causes of action or remedies, or limitations of actions, shall take effect on the January 1 following passage.

(b) Each law affecting local property taxes shall take effect on the April 1 following passage.

(c) Each law affecting state tax laws and statutory fees shall take effect on the July 1 following passage.

(d) If the law affects only one particular person, town, city, or political subdivision, it shall take effect upon its passage.

(e) Each law making appropriations shall take effect on the July 1 following passage.

(f) Each law establishing a legislative committee shall take effect upon its passage.

(g) All other laws shall take effect 60 days after the bill's passage or at such other time as the bill's prime sponsor shall indicate in writing.

III. A law may be repealed in the bill enacting the law, with the repeal taking effect at a prospective date specified in the bill.

IV. Unless specifically provided otherwise, each law enacted by the general court shall take effect at midnight, 12:00 a.m., on the date the law becomes effective.

V. The secretary of state shall record the date each law was enacted and its effective date on all enrolled and printed copies of such law, and such record shall be conclusive.

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

Amendment adopted.

Senator Kenney offered a floor amendment.

Sen. Kenney, Dist. 3

May 19, 2005

2005-1504s

03/04

Floor Amendment to HB 421

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

1 Effective Dates. RSA 14:9-a is repealed and reenacted to read as follows:

14:9-a Effective Dates.

I. Except as provided in paragraphs II and III, and except for resolutions, which shall take effect upon their passage, each law passed by the general court shall take effect 60 calendar days following passage, excluding the date on which it is signed by the governor, or the last date on which the general court acts on the matter, as the case may be.

II. The office of legislative services shall include a section in each bill drafted for introduction specifying the act's effective date, if passed. The effective date section shall indicate that the law shall take effect as follows or at such other time as the bill's prime sponsor shall indicate in writing:

(a) Each law affecting judicial practice and procedure, or establishing or eliminating criminal prohibitions, civil causes of action or remedies, or limitations of actions, shall take effect on the January 1 following passage.

(b) Each law affecting local property taxes shall take effect on the April 1 following passage.

(c) Each law affecting state tax laws and statutory fees shall take effect on the July 1 following passage.

(d) If the law affects only one particular person, town, city, or political subdivision, it shall take effect upon its passage.

(e) Each law making appropriations shall take effect on the July 1 following passage.

(f) Each law establishing a legislative committee shall take effect upon its passage.

(g) All other laws shall take effect 60 days after the bill's passage.

III. A law may be repealed in the bill enacting the law, with the repeal taking effect at a prospective date specified in the bill.

IV. The office of legislative services shall, at the request of the sponsor of an amendment, include in the amendment the effective date requested by the sponsor of the amendment.

V. Unless specifically provided otherwise, each law enacted by the general court shall take effect at midnight, 12:00 a.m., on the date the law becomes effective.

VI. The secretary of state shall record the date each law was enacted and its effective date on all enrolled and printed copies of such law, and such record shall be conclusive.

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

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Executive Departments and Administration

May 11, 2005

2005-1403s

05/03

Amendment to HB 428

Amend the bill by replacing section 10 with the following:

10 Pease Development Authority; Additional Powers and Duties; Power to Set and Collect Fees for Mooring Permits, Not Slips. Amend RSA 12-G:42, VI and VII to read as follows:

VI. Administer and enforce permit programs for the placement and use of moorings [~~and slips~~] in state tidal waters, including waiting lists for such permits.

VII. Set and collect fees for mooring [~~and slip~~] permits and waiting lists for such permits. [~~The authority shall establish fees for slips in ports, harbors, and state tidal waters. Fees shall not be charged for slips at industrial piers along the Piscataqua River or at state-owned piers in harbors. The fees for slips shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46.~~]

Amend the bill by replacing sections 13 and 14 with the following:

13 Pease Development Authority; Additional Powers and Duties; Power to Adopt Rules Relative to the Setting and Collecting of Fees. Amend RSA 12-G:42, XI to read as follows:

XI. Adopt rules, after obtaining prior approval by the fiscal committee of the general court and the board, relative to the setting and collecting of fees authorized under RSA 12-G:38, relating to foreign trade zones; RSA 12-G:42, IV and V, relating to wharfage, dockage, and other marine terminal operations; RSA 12-G:42, VI, relating to moorings[~~slips~~], and wait lists; RSA 12-G:42, IX, relating to **state-owned** commercial piers [~~identified in paragraph IX and other division property~~] **and associated facilities**; RSA 12-G:49-a, relating to pilotage; and any other matter necessary for the proper administration of the division with respect to the setting and collecting of fees. The rules adopted under this paragraph shall not be subject to the provisions of RSA 541-A, so as to provide the authority with the ability to maximize revenues and to adjust fees according to market conditions and trends as is the common practice in private industry. Fees established pursuant to this paragraph shall be consistent with the following criteria:

(a) Fees relating to the establishment and operation of foreign trade zones shall be designed to recover a reasonable portion of budget expenses consistent with the purposes of RSA 12-G:38. The general court does not intend that such fees cover all of the budget expenses associated with the implementation of RSA 12-G:38.

(b) Fees relating to wharfage, dockage, and other marine terminal operations shall be comparable with the fees for wharfage, dockage, and other marine terminal operations assessed by other port authorities and other marine terminal operators and stevedores in the United States.

(c) Fees relating to the mooring permits and mooring wait lists shall be designed to recover all of the budget expenses associated with implementation of the mooring permit and wait list system as well as a reasonable portion of the budget expenses consistent with the purposes of RSA 12-G:42, III, VI, and VII; RSA 12-G:43, I(a) and (c); and RSA 12-G:50.

~~[(d) Fees relating to slips shall be designed to be proportional to the fees for moorings established under subparagraph (c).]~~

~~(e)]~~ **(d)** Fees relating to **state-owned** commercial piers and ~~[use of other division property]~~ **associated facilities** shall be established giving due consideration to the fees for use of similar privately-owned facilities.

~~[(f)]~~ **(e)** Fees relating to pilotage shall be comparable with the pilotage fees assessed by other port authorities in the United States.

14 Administrative Rules Relative to Permits; Reference to Slips Deleted. Amend RSA 12-G:42, X(c) to read as follows:

(c) The terms, conditions, and procedures under which the division shall issue, suspend, revoke, deny, or approve permits required under this chapter for moorings ~~[and slips]~~.

Amend the bill by inserting after section 16 the following and renumbering the original 17 to read as 18:

17 Repeal. RSA 12-G:2, XXII-a, relative to definition of "slip," is repealed.

2005-1403s

AMENDED ANALYSIS

This bill:

I. Defines "state-owned commercial pier," "associated facilities," "business-use pier," and "recreational-use pier," and clarifies references to these terms.

II. Clarifies references in RSA 12-G to piers, wharves, and docks and to the Foreign Trade Zones Act.

III. Removes the Pease development authority's authority to establish slip fees in state tidal waters.

IV. Clarifies the Pease development authority's authority to establish permit programs for vessels securing to or berthing at and for vehicles parking at state-owned piers and associated facilities and to adopt rules to implement such programs.

V. Grants Pease development authority the authority to remove abandoned or illegally parked vehicles, trailers, and other equipment.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 687-FN, relative to free tuition at New Hampshire public institutions of higher education for children of veterans who die while on active duty or from a service-connected disability. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Clegg for the committee.

Senate Finance
May 18, 2005
2005-1473s
05/09

Amendment to HB 687-FN

Amend RSA 193:19 as inserted by section 1 of the bill by replacing it with the following:

193:19 Purpose of Appropriations. The sums appropriated under the provisions of this section shall be used for the sole purpose of contributing to the payment of board, room rent, books and supplies, at a New Hampshire public institution of higher education, for veteran's natural or adopted children between the ages of 16 and 25 years, who are legal residents of the state at the time of application, whose parent served on active duty in the armed services of the United States from December 7, 1941 to December 31, 1946; or from June 27, 1950 to January 31, 1955; or from February 28, 1961 to May 7, 1975; or from August 2, 1990 through a final date of the Gulf War conflict to be prescribed by Presidential proclamation or law; or in any operation not otherwise covered by this section for which the armed forces expeditionary medal or a theater of operations service medal, as defined in RSA 72:29, has been awarded to the veteran, and the veteran, who was a New Hampshire resident at the time of his or her death, died while on active duty during the service described above. Not more than \$2,500 shall be paid under this section to any one student in any one year, provided that no individual shall be eligible to receive such benefits for a period of more than 4 years.

Amendment failed.

The question is on the motion of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator Green.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 43, relative to state employees appearing before the legislature. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

HB 270, relative to procedures of the legislative ethics committee. Internal Affairs Committee. Re-refer to committee, Vote 5-0. Senator Hassan for the committee.

Adopted.

HB 270 is re-referred to the Committee on Internal Affairs.

HB 351, relative to the time for counting absentee ballots. Internal Affairs Committee. Inexpedient to Legislate, Vote 4-1. Senator Boyce for the committee.

Committee report of inexpedient to legislate is adopted.

HB 362, relative to statutes to be posted at polling places. Internal Affairs Committee. Ought to Pass, Vote 5-0. Senator Bragdon for the committee.

Adopted.

Ordered to third reading.

HB 363, relative to parking at polling places. Internal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator Roberge for the committee.

Committee report of inexpedient to legislate is adopted.

HB 365, relative to recount fees. Internal Affairs Committee. Re-refer to committee, Vote 5-0. Senator Hassan for the committee.

Adopted.

HB 365 is re-referred to the Committee on Internal Affairs.

HB 214, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. Judiciary Committee. Ought to pass with amendment, Vote 6-0. Senator Foster for the committee.

Senate Judiciary

May 11, 2005

2005-1396s

09/10

Amendment to HB 214

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

AN ACT permitting the parents of a sexual assault victim to remain with the victim during trial proceedings.

Amend RSA 632-A:6, V as inserted by section 1 of the bill by replacing it with the following:

V. In any sexual assault case under RSA 632-A where the victim is 16 years of age or younger, and the defense has listed as a witness or subpoenaed a parent or parents to testify in the case and requested that the parent or parents be sequestered, the court shall appoint a guardian ad litem to determine the best interests of the minor victim. The guardian ad litem shall make a recommendation to the court, based on the preferences and best interests of the victim, as to whether the parent or parents should be permitted to sit with the victim in the court room during the duration of the trial.

2005-1396s

AMENDED ANALYSIS

This bill permits the parents of a sexual assault victim who is 16 years of age or younger to remain with the victim during the trial, upon recommendation of a court-appointed guardian ad litem.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 584, relative to evidence of admissions of liability in medical injury actions. Judiciary Committee. Ought to Pass, Vote 6-0. Senator Green for the committee.

Adopted.

Ordered to third reading.

HB 275, defining farmers' market. Public and Municipal Affairs Committee. Ought to Pass, Vote 3-0. Senator Roberge for the committee.

Adopted.

Ordered to third reading.

HB 118, relative to bicycle helmet use by certain minors. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-2. Senator Martel for the committee.

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19
May 19, 2005
2005-1501s
06/10

Floor Amendment to HB 118

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

1 New Paragraph; Riding on Bicycles; Helmet Required. Amend RSA 265:144 by inserting after paragraph IX the following new paragraph:

X. A town, by vote of a majority of those present and voting at any regular town meeting, acting under an article duly incorporated in the warrant for the meeting, or a city, by vote of its governing body, may require that no person less than 16 years of age may operate or ride upon a bicycle on a public way within the municipality unless he or she wears protective headgear that is certified as meeting the standards established by the United States Consumer Product Safety Commission.

2 Penalty; Failure to Use a Bicycle Helmet. Amend RSA 265:153 to read as follows:

265:153 Penalty.

I. Any person violating the provisions of this subdivision or of any ordinance, bylaw or rule made under the provisions of this subdivision shall be guilty of a violation.

II. The maximum fine for a violation of RSA 265:144, X shall be \$35 for each occurrence.

3 Effective Date. This act shall take effect January 1, 2006.

2005-1501s

AMENDED ANALYSIS

This bill permits municipalities to require bicycle helmet use by persons 16 years of age or less when riding on public ways.

Without objection Senator Letourneau withdrew his floor amendment.

The question is on the motion of ought to pass.

A roll call was requested by Senator Letourneau.

Seconded by Senator Barnes.

The following Senators voted Yes: Kenney, Burling, Green, Flanders, Odell, Roberge, Gottesman, Foster, Larsen, Gatsas, Barnes, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Johnson, Boyce, Eaton, Bragdon, Clegg, Letourneau, Morse.

Yeas: 16 - Nays: 8

Adopted.

Ordered to third reading.

HB 125, relative to ignition interlock devices. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Flanders for the committee.

Transportation and Interstate Cooperation

May 11, 2005
2005-1397s
03/10

Amendment to HB 125

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

1 New Paragraphs; Alcohol Ignition Interlock Program; Driving After Revocation or Suspension; Vehicle Type Exemption. Amend RSA 265:93-a by inserting after paragraph I the following new paragraphs:

I-a. Any person who is convicted of driving while under suspension or revocation resulting from a DWI offense shall be required by the court to install an ignition interlock device in any vehicle registered to that

person or used by that person on a regular basis, for the remaining period of suspension or revocation plus an additional period not less than 6 months nor more than 2 years. The court may order such installation on a temporary basis prior to conviction as a condition of bail.

I-b. To the extent that technology does not exist to permit the installation or safe operation of any particular vehicle type when equipped with an interlock, the court may order that a restraining device which disables the vehicle be placed on any such vehicle registered to or used on a regular basis by a person required to install an ignition interlock device.

2 Alcohol Ignition Interlock Program; Recalibration. Amend RSA 265:93-a, VI(a) to read as follows:

(a) Provide recalibration of each device ~~[monthly]~~ **within 30 days of installation and every 60 days thereafter**, unless otherwise ordered by the court;

3 Alcohol Ignition Interlock Circumvention. Amend RSA 265:93-b, I to read as follows:

I. Any person required by the court to ~~[drive only a motor vehicle equipped with]~~ **install** an ignition interlock device shall not drive any motor vehicle not equipped with this device.

4 Effective Date.

I. Sections 1 and 3 of this act shall take effect July 1, 2006.

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

2005-1397s

AMENDED ANALYSIS

This bill:

I. Requires an ignition interlock device on any vehicle registered to or regularly used by a person who drives after a suspension or revocation resulting from a DWI offense.

II. Enables a court to require the disabling of vehicles that cannot be safely operated with an ignition interlock device.

III. Modifies the recalibration requirements for alcohol ignition interlock devices.

IV. Prohibits persons required to install an ignition interlock device from driving a motor vehicle not equipped with this device.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 244-FN, relative to statutory liens by the department of safety. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 6-0. Senator Flanders for the committee.

Adopted.

Ordered to third reading.

HB 260-FN, relative to motor vehicle equipment and registration. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation

May 11, 2005

2005-1399s

03/09

Amendment to HB 260-FN

Amend the bill by deleting section 7 and renumbering the original sections 8-11 to read as 7-10, respectively.

Amend the bill by replacing section 9 with the following:

9 New Paragraph; Weight on Interstate and Defense Highway System; Additional Weight. Amend RSA 266:18 by inserting after paragraph II the following new paragraph:

III. Notwithstanding paragraphs I and II, for as long as exemptions exist in 23 U.S.C. section 127 that allow maximum gross weights of up to 99,000 pounds on interstate routes 89, 93, and 95 of the interstate and defense highway system, the provisions of RSA 266:18-a regarding weight on the non-interstate and general highway system shall also apply to vehicles or combination vehicles while being operated on any sections of interstate routes 89, 93, or 95 not posted by the commissioner of transportation for lower weights. Such vehicles shall not exceed the weight limits in paragraphs I and II unless they have been certified pursuant to RSA 266:18-d for the higher weights and paid the required fee the same as vehicles operating on the non-interstate highways as provided in RSA 266:18-d.

2005-1399s

AMENDED ANALYSIS

This bill:

- I. Changes the name of the financial responsibility administrator to the financial responsibility supervisor.
- II. Permits certain nonprofit corporations to purchase motor fuel from the motor fuel inventory and to receive road toll refunds.
- III. Prohibits counterfeiting or duplication of number plates.
- IV. Requires inspections for vehicles with dealer plates.
- V. Permits white identification lights on certain vehicles.
- VI. Authorizes additional vehicle weights on certain highways consistent with federal law.

Amendment adopted.

Senator Boyce moved to divide the question.

The chair declared the question devisable.

The question is on removing section seven of the bill.

Motion failed.

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

Adopted.

Ordered to third reading.

HB 286, prohibiting the operation of pocket bikes and motorized scooters upon ways. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Morse for the committee.

Transportation and Interstate Cooperation

May 11, 2005

2005-1398s

03/10

Amendment to HB 286

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

AN ACT prohibiting the operation of pocket bikes upon ways.

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

1 New Section; Motor Vehicles; Words and Phrases Defined; Pocket Bike. Amend RSA 259 by inserting after section 77 the following new section:

259:77-a Pocket Bike. "Pocket bike" shall mean any 2- or 3-wheeled motorized device that has handlebars, is designed to be sat upon by the operator, is smaller in size than a conventional moped, motorcycle, or motor-driven cycle, and is powered by a gasoline or alcohol fueled motor with a piston displacement of less than 100 cubic centimeters. "Pocket bike" includes, but is not limited to, motorized devices commonly known as "mini-cycles," "mini-choppers," and "pocket rockets," but does not include a moped as defined in RSA 259:57, a motorcycle as defined in RSA 259:63, a motor-driven cycle as defined in RSA 259:65, a neighborhood electric vehicle as defined in RSA 259:66-b, or an electric personal assistive mobility device as defined in RSA 269:1.

2 New Section; Number Plates; Registration of Other Motorized Devices. Amend RSA 261 by inserting after section 81 the following new section:

261:81-a Registration of Other Motorized Devices. If other than a motorcycle, motor-driven cycle, or moped, any person seeking to register a motorized 2- or 3-wheeled vehicle or device shall provide proof of manufacture to meet United States Department of Transportation motor vehicle safety standards to the satisfaction of the director.

3 New Subdivision; Rules of the Road; Pocket Bike. Amend RSA 265 by inserting after section 123 the following new subdivision:

Rules of the Road; Pocket Bike

265:123-a Operation Prohibited. No person shall operate a pocket bike upon any way or allow a pocket bike owned by him or her to be operated upon any way. No pocket bike shall be issued a vehicle registration or certificate or title.

265:123-b Disclosure to Purchaser. Every seller of pocket bikes shall provide a written disclosure to buyers at the time of purchase that advises buyers that their existing insurance policies may not provide coverage for these devices and that they should contact their insurance agent or company to determine if coverage is provided. Such disclosure shall also advise buyers that the devices are not legal for operation upon public ways.

4 Effective Date. This act shall take effect January 1, 2006.

2005-1398s

AMENDED ANALYSIS

This bill prohibits the operation of pocket bikes upon ways.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 568, establishing the greater Derry-Salem cooperative alliance for regional transportation. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

Adopted.

Ordered to third reading.

HB 710-FN, relative to the 5-year valuation of municipal assessments, and relative to the total property valuation for the town of Roxbury. Ways and Means Committee. Ought to Pass, Vote 5-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

Senator Burling offered the following resolution:

SR 1, requesting the United States Congress to assure that compensation is provided to the certain United States pilots held as prisoners of war during the 1991 Gulf War. (Sen. Burling, Dist 5; Sen. Barnes, Dist 17; Sen. Boyce, Dist 4; Sen. Clegg, Dist 14; Sen. D'Allesandro, Dist 20; Sen. Estabrook, Dist 21; Sen. Flanders, Dist 7; Sen. Foster, Dist 13; Sen. Fuller Clark, Dist 24; Sen. Gallus, Dist 1; Sen. Gatsas, Dist 16; Sen. Gottesman, Dist 12; Sen. Green, Dist 6; Sen. Hassan, Dist 23; Sen. Kenney, Dist 3; Sen. Larsen, Dist 15; Sen. Letourneau, Dist 19; Sen. Martel, Dist 18; Sen. Morse, Dist 22; Sen. Roberge, Dist 9)

The question is on the adoption of the resolution.

A roll call was requested by Senator Barnes.

Seconded by Senator Martel.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

SUSPENSION OF THE RULES

Senator D'Allesandro moved that the rules of the New Hampshire Senate be so far suspended as to permit the introduction after the filing deadline and Senate action after the crossover deadline on Senate Concurrent Resolution 5.

Adopted by the necessary 2/3 vote.

INTRODUCTION OF SENATE BILL(S)

Senator D'Allesandro offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered from SCR 5, 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

05-1079

SCR 5, recognizing the increasing problem of exotic aquatic weeds and species. (Sen. D'Allesandro, Dist 20; Sen. Flanders, Dist 7; Sen. Odell, Dist 8; Sen. Burling, Dist 5; Sen. Fuller Clark, Dist 24; Sen. Johnson, Dist 2; Sen. Kenney, Dist 3; Sen. Estabrook, Dist 21; Sen. Green, Dist 6; Sen. Larsen, Dist 15; Sen. Gallus, Dist 1; Rep. Patten, Carr 4: Environment and Wildlife)

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 156-FN, relative to criminal trespass.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 156-FN, relative to criminal trespass.

Senator Foster moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 203, relative to leases and contracts for buildings or lands owned by the fish and game department.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 203, relative to leases and contracts for buildings or lands owned by the fish and game department.

Senator Clegg moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 224, relative to the committee on judicial conduct.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 224, relative to the committee on judicial conduct.

Senator Foster moved to concur.

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 43, relative to state employees appearing before the legislature.

HB 118, relative to bicycle helmet use by certain minors.

HB 125, relative to ignition interlock devices.

HB 174, relative to renewable energy transition service, extending a portion of the system benefits charge, and repealing laws relating to information provided to electric service consumers.

HB 214, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

HB 244-FN, relative to statutory liens by the department of safety.

HB 260-FN, relative to motor vehicle equipment and registration.

HB 275, defining farmers' market.

HB 286, prohibiting the operation of pocket bikes and motorized scooters upon ways.

HB 288-FN, establishing a commission to effect the process for the town of Killington, Vermont to become part of the state of New Hampshire.

HB 315, relative to best available technology for air pollution control.

HB 329, establishing the crime victim employment leave act.

HB 346-L, relative to the procedure for withdrawal from a cooperative school district.

HB 362, relative to statutes to be posted at polling places.

HB 421, relative to effective dates.

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors.

HB 456-FN, relative to inhaling toxic vapors.

HB 472, relative to the definition of recreational program.

HB 568, establishing the greater Derry-Salem cooperative alliance for regional transportation.

HB 584, relative to evidence of admissions of liability in medical injury actions.

HB 623-FN, relative to licensing requirements in the insurance and financial services industries.

HB 687-FN, relative to free tuition at New Hampshire public institutions of higher education for children of veterans who die while on active duty or from a service-connected disability.

HB 710-FN, relative to the 5-year valuation of municipal assessments, and relative to the total property valuation for the town of Roxbury.

ANNOUNCEMENTS

Senator Gatsas (Rule #44).

Senator Flanders (Rule #44).

Senator Morse (Rule #44).

Senator Green (Rule #44).

Senator Kenney (Rule #44).

Senator Boyce (Rule #44).

Senator Gatsas (Rule #44).

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.