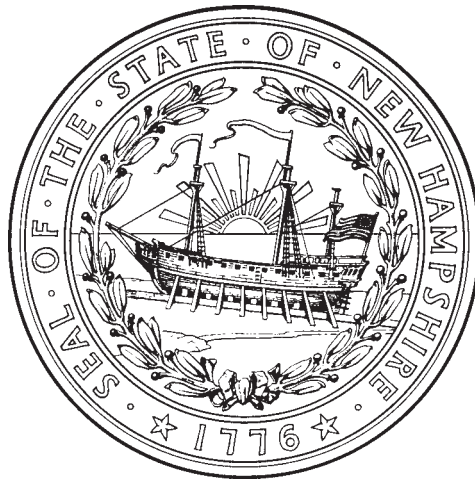


June 2, 2005
Nos. 19 - 20

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – MAY 26, 2005 SESSION
COMMENCEMENT – JUNE 2, 2005 SESSION

SENATE JOURNAL 19 (*Cont.*)

May 26, 2005

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 60-FN-A, relative to reimbursement of legal fees of the commissioner of the department of administrative services and making an appropriation therefor.

HB 206, relative to alcohol education and abuse prevention and treatment programs.

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

HB 311-L, enabling towns to establish revolving funds for certain purposes.

HB 408, relative to the sale of town-owned land.

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

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.

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 57, establishing a commission to study ways to alleviate medical malpractice premiums for high risk specialties.

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

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

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.

SB 227, naming a certain bridge in the town of Enfield the Henry P. Brown, M.D. Bridge, naming the White Mountains Attractions Building the Norman B. Fadden White Mountains Attractions Building, and naming a bridge in the town of Carroll the Kenneth B. Jordan Memorial Bridge.

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 20

June 2, 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.

God, You alone are both the end and the means to the end. Switch on the powerful floodlight of Your desires and prod these legislators, these staffers, these lobbyists, and even these news people, that they might know the end that matters and see the means to get there. Amen

Senator Estabrook led the Pledge of Allegiance.

INTRODUCTION OF GUESTS SPECIAL ORDER

HB 491, relative to the inherent dangers of OHRV operation and limiting landowner liability for certain fish and game related land uses. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Hassan for the committee.

Adopted.

Ordered to third reading.

COMMITTEE REPORTS

HB 603-FN-A, relative to the state's purchase of the Laconia district courthouse building and making an appropriation therefor. Capital Budget Committee. Ought to Pass, Vote 5-0. Senator Boyce for the committee.

Adopted.

Ordered to third reading.

SPECIAL ORDER

Senator Eaton moved that without objection, we Special Order the following Bill(s) to Thursday, June 9, 2005.

HB 170, relative to unemployment compensation.

HB 350, relative to enforcement of the labor protection statutes, permitting certain wage deductions, and increasing the civil penalty in the department of labor.

HB 490, relative to law enforcement access to financial records under the New Hampshire right to privacy act.

HB 542, making technical corrections to the uniform trust code.

There being no objection, HB 170, HB 350, HB 490 and HB 542 are Special Ordered to Thursday, June 9, 2005.

HB 435, establishing a separate high school civics graduation requirement. 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 Estabrook.

Seconded by Senator D'Allesandro.

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

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

Yeas: 14 - Nays: 9

Committee report of inexpedient to legislate is adopted.

Senator Flanders is absent for the vote on HB 435.

HB 557, relative to the submission of data to the department of education. Education Committee. Ought to pass with amendment, Vote 6-0. Senator Green for the committee.

Senate Education

May 24, 2005

2005-1562s

04/09

Amendment to HB 557

Amend RSA 189:28, V as inserted by section 1 of the bill by replacing it with the following:

V. The department of education shall determine the average daily membership in attendance of every school district, city, joint maintenance agreement, charter school, public academy, and private institution that operates an elementary or secondary school, and the average daily membership in residence of each school district, municipality within a cooperative school district, and unincorporated place.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HCR 6, urging Congress to enact legislation to make English the official language of the United States. Education Committee. Ought to Pass, Vote 4-2. Senator Green for the committee.

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, Green, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.

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

Yeas: 15 - Nays: 8

Adopted.

Ordered to third reading.

Senator Flanders is absent for the vote on HCR 6.

HB 69, relative to large groundwater withdrawals. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-1. Senator Bragdon for the committee.

Energy and Economic Development

May 25, 2005

2005-1606s

06/01

Amendment to HB 69

Amend the bill by replacing section 2 with the following:

2 New Paragraphs; Approval for Large Groundwater Withdrawals; Additional Hearing and Basis for Decision. Amend RSA 485-C:21 by inserting after paragraph V the following new paragraphs:

V-a. Upon the request of the governing body of a municipality within the anticipated zone of contribution, the department shall hold a public hearing, after receipt of the final report, and prior to a final decision. The department shall notify the municipalities within 10 days of receiving the final report. The municipalities shall have 15 days within which to request a public hearing. Notice and response to hearing requests shall be the same as that required under paragraph IV.

V-b. The department's decision on the application shall be based on a demonstrated need for the withdrawal after review of:

- (a) A description of the need.
- (b) A conservation management plan.
- (c) A conceptual hydrologic model of the withdrawal.
- (d) A water resource and use inventory.
- (e) The effects of the withdrawal on water resources and uses.
- (f) Completion of a withdrawal testing program.
- (g) Development of an impact monitoring and reporting program.
- (h) Identification of potential mitigation measures.

2005-1606s

AMENDED ANALYSIS

This bill:

I. Requires the department to provide each municipality with a copy of any correspondence sent to an applicant and to provide the applicant with copies of correspondence to an from a municipality.

II. Requires a public hearing prior to the issuance of a decision on an application for a large groundwater withdrawal.

III. Makes the record of a public hearing on a large groundwater withdrawal subject to RSA 91-A.

IV. Establishes a basis for a decision on an application for a large groundwater withdrawal.

Amendment adopted.

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

Adopted.

Ordered to third reading.

Senator Gottesman rule #42 on HB 69.

HB 194, establishing a study committee to examine regulatory practices pertaining to the telecommunications industry. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Energy and Economic Development

May 25, 2005

2005-1602s

09/01

Amendment to HB 194

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

AN ACT establishing a study committee to examine regulatory practices pertaining to the telecommunications industry and establishing procedures for alternative regulation of small incumbent local exchange carriers.

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

1 Purpose and Findings. The general court finds that the growth of unregulated wireless and broadband telecommunications services has provided consumers alternatives to traditional telephone utility services. The policy of this state is to promote competition and the offering of new and alternative telecommunications services while preserving universal access to affordable basic telephone services. The continuation of full utility regulation of small incumbent local exchange carrier telephone utilities is not consistent with these objectives. In light of the rapid changes in the telecommunications industry, these policy objectives will best be achieved by implementing alternative regulation plans for small incumbent local exchange carriers that encourage competition, preserve universal telephone service, and provide incentives for innovation, new technology and new services. With regard to large incumbent local exchange carriers, a study committee is hereby established to determine the appropriate form of regulation in this changing environment.

2 Committee Established. Since incumbent local exchange carriers face competition from services that are not regulated, a committee is established to study regulatory practices pertaining to the telecommunications industry.

3 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) Three 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.

4 Duties. The committee shall examine regulatory practices as they pertain to:

I. The importance of basic telephone services offered by land line telephone companies to households and firms not served by the rapidly evolving unregulated telecommunication industries.

II. The cost of these services to their users and to the regulated telephone companies.

III. Innovative regulatory approaches, which have been implemented in other jurisdictions, which lessen business restrictions of the companies in return for price stability.

IV. The impact of competition and the potential for alternatives other than the typical rate of return regulation that will provide incentives for infrastructure investment and the offering of new and innovative services while preserving universal access to affordable basic telephone services.

5 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.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

7 New Section; Alternative Regulation of Small Incumbent Local Exchange Carriers. Amend RSA 374 by inserting after section 3-a the following new section:

374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers.

I. In this section, "small incumbent local exchange carrier" means an incumbent local exchange carrier serving fewer than 25,000 access lines.

II. A small incumbent local exchange carrier subject to rate of return regulation may petition the public utilities commission for approval of an alternative form of regulation providing for regulation of such carrier's retail operations comparable to the regulation applied to competitive local exchange carriers.

III. The commission shall approve the alternative regulation plan if it finds that:

(a) Competitive wireline, wireless, or broadband service is available to a majority of the retail customers in each of the exchanges served by such small incumbent local exchange carrier;

(b) The plan provides for maximum basic local service rates at levels prevailing throughout the state as of the effective date of this section plus allowances for inflation and adjustments to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

(c) The plan promotes the offering of innovative telecommunications services in the state;

(d) The plan meets intercarrier service obligations under other applicable laws; and

(e) The plan preserves universal access to affordable basic telephone service.

IV. The alternative regulation plan may allow the small incumbent local exchange carrier to offer bundled services that include combinations of telecommunications, data, video, and other services.

V. Following approval of the alternative regulation plan, the small incumbent local exchange carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts or seek prior

commission approval of financings or corporate organizational changes, including, without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities, or the sale, lease, or other transfer of assets or control.

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

2005-1602s

AMENDED ANALYSIS

This bill establishes a committee to study regulatory practices pertaining to the telecommunications industry.

The bill also establishes procedures for alternative regulation of small incumbent local exchange carriers by the public utilities commission.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 383, relative to vital records administration. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Fuller Clark for the committee.

MOTION TO TABLE

Senator Fuller Clark moved to have HB 383 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 383, relative to vital records administration.

HB 415, excepting installation of heating equipment from regulation by the electrician's board. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Barnes for the committee.

Senate Executive Departments and Administration

May 25, 2005

2005-1616s

10/09

Amendment to HB 415

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

AN ACT excepting installation of gas furnace or boiler equipment from regulation by the electrician's board.

Amend the bill by replacing section 1 with the following:

1 Electricians; Exception Added. Amend RSA 319-C:3, IX to read as follows:

IX. Installation of fuel oil, *natural, propane, or other burnable gas furnace, or boiler* equipment and controls connected thereto.

2005-1616s

AMENDED ANALYSIS

This bill adds gas furnace or boiler equipment installation to the exceptions to the regulatory authority of the electrician's board.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 257, relative to emergency medical and trauma service protocols and quality assurance program. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Estabrook for the committee.

Health and Human Services

May 25, 2005

2005-1611s

05/10

Amendment to HB 257

Amend the bill by replacing section 7 with the following:

7 Emergency Medical and Trauma Services; Rulemaking. Amend RSA 153-A:20, II to read as follows:

II. Protocols [~~recommended~~] ***approved and issued*** by the emergency medical services medical control board for provision of emergency medical care, which shall [~~provide for the provision of local options under medical control. The protocols shall~~] address living wills established under RSA 137-H, durable powers of attorney for health care established under RSA 137-J, and patient-requested, physician generated orders relative to resuscitation. ***Notwithstanding RSA 541-A:12, III, the department may incorporate by reference into such rules protocols pertaining solely to medical and pharmaceutical patient care processes issued by the emergency medical services board and approved by the commissioner.***

2005-1611s

AMENDED ANALYSIS

This bill:

I. Directs the commissioner of the department of safety to adopt rules under RSA 541-A relative to protocols for emergency medical care.

II. Removes the reference in current law to the provision of local options under medical control and repeals the definition of "local option."

III. Establishes a quality management program for emergency and trauma service providers.

This bill is a request of the department of safety.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 585, relative to grounds for termination of parental rights. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services

May 25, 2005

2005-1604s

05/03

Amendment to HB 585

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

1 Grounds for Termination of Parental Rights; Based on Criminal Conviction. RSA 170-C:5,VII is repealed and reenacted to read as follows:

VII. The parent has been convicted of one or more of the following offenses:

(a) Murder, pursuant to RSA 630:1-a or 630:1-b, of another child of the parent, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

(b) Manslaughter, pursuant to RSA 630:2, of another child of the parent, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

(c) Attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to RSA 629:3, to commit any of the offenses specified in subparagraphs VII(a) and VII(b).

(d) A felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 which resulted in injury to the child, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

2 Child Protection Act; Petition for Termination of Parental Rights Required for Criminal Conviction. RSA 169-C:24-a, I(c) is repealed and reenacted to read as follows:

(c) Where a court of competent jurisdiction has made any one or more of the following determinations:

(1) That the parent has been convicted of murder, pursuant to RSA 630:1-a or RSA 630:1-b, of another child of the parent, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

(2) That the parent has been convicted of manslaughter, pursuant to RSA 630:2, of another child of the parent.

(3) That the parent has been convicted of attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to RSA 629:3, to commit any of the offenses specified in subparagraphs I(c)(1) or I(c)(2).

(4) That the parent has been convicted of a felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 that resulted in injury to the child, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant

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

2005-1604s

AMENDED ANALYSIS

This bill provides that parental rights may be terminated based on a conviction for felony assault, manslaughter, or murder of certain persons related to the defendant.

MOTION TO TABLE

Senator Martel moved to have HB 585 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 585, relative to grounds for termination of parental rights.

HB 586, relative to the periodic review of child support guidelines. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Health and Human Services

May 25, 2005

2005-1603s

05/03

Amendment to HB 586

Amend RSA 458-C:6 as inserted by section 1 of the bill by replacing it with the following:

458-C:6 Review of Guidelines. The department of health and human services shall review the guidelines provided under this chapter in order to determine whether application of such guidelines results in the determination of appropriate child support award amounts. ***Upon completion of the review, the department of health and human services shall report its findings and recommendations to the president of the senate, the speaker of the house of representatives, and the governor. The review required under this section shall meet the requirements of 42 U.S.C. section 667 and may be conducted in conjunction with a legislative review of the child support guidelines.***

2005-1603s

AMENDED ANALYSIS

This bill directs the department of health and human services to inform the legislature and the governor of its periodic review of child support guidelines and to include the findings of the commission on child support and related child custody issues, established in 2003, 277 (HB 310), in the next review of such guidelines.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 66, regulating mandatory overtime for nurses and assistants. Internal Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator Boyce for the committee.

Motion failed.

Senator Hassan moved to re-refer.

Adopted.

HB 66 is re-referred to the Committee on Internal Affairs.

HB 354, relative to the review, approval, and adoption of agency rules. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Bragdon for the committee.

Internal Affairs

May 25, 2005

2005-1637s

10/01

Amendment to HB 354

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

4 Study Committee on Improving Process of Rulemaking Extended. Amend 2004, 180:6 to read as follows:

180:6 Report. The committee shall report its findings, any recommendations for proposed legislation, and any specific recommendations for implementing procedures designed to improve rulemaking that do not require statutory changes. Such report shall be submitted to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before ~~[November 1, 2004]~~ **December 1, 2005**.

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

2005-1637s

AMENDED ANALYSIS

This bill allows house and senate policy committees to vote for a joint resolution on final agency rules, makes various changes to the adoption procedure for rules, and extends the study committee on improving the rulemaking process.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 366, relative to maintenance of voter checklists. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Internal Affairs

May 25, 2005

2005-1633s

03/10

Amendment to HB 366

Amend the bill by deleting sections 4-5 and renumbering the original sections 6-9 to read as 4-7, respectively.

Amend the bill by replacing section 6 with the following:

6 Sending Absentee Ballots. Amend RSA 657:15 to read as follows:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver or mail to the applicant the

appropriate ballot and materials as described in RSA 657:7 through 657:9 or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of the names and addresses, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Candidates whose names appear on the ballot and persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot may obtain copies of such lists; the lists shall not be available for public inspection at any time without a court order. ***The clerk may charge a fee for copies of such lists of up to \$3 plus \$1 for every 50 names or portion thereof, plus any shipping costs.***

2005-1633s

AMENDED ANALYSIS

This bill:

I. Establishes requirements for the secretary of state to cause the removal of certain names from voter checklists.

II. Changes the 10-year checklist verification to a 4-year checklist verification.

III. Authorizes the secretary of state to assign voter identification numbers.

IV. Establishes fees for absentee voter lists.

MOTION TO TABLE

Senator Boyce moved to have HB 366 laid on the table.

Adopted.

LAID ON THE TABLE

HB 366, relative to maintenance of voter checklists.

SPECIAL ORDER

Senator Eaton moved that without objection, we Special Order the following Bill(s) to Thursday, June 9, 2005.

HB 404, permitting employees to request a wage deduction for contributions to a political action committee.

There being no objection, HB 404 is Special Ordered to Thursday, June 9, 2005.

HCR 8, urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies, and participation are in the best interests of the citizens of the state of New Hampshire and the United States. Internal Affairs Committee. Inexpedient to Legislate, Vote 3-1. Senator Bragdon for the committee.

MOTION TO TABLE

Senator Bragdon moved to have HCR 8 laid on the table.

Adopted.

LAID ON THE TABLE

HCR 8, urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies, and participation are in the best interests of the citizens of the state of New Hampshire and the United States.

HB 61, extending the family law task force. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Foster for the committee.

Committee report of inexpedient to legislate is adopted.

HB 68, relative to the enforcement of disorderly conduct by reason of noise. Judiciary Committee. Re-refer to committee, Vote 4-0. Senator Green for the committee.

MOTION TO TABLE

Senator Gottesman moved to have HB 68 laid on the table.

Adopted.

LAI D ON THE TABLE

HB 68, relative to the enforcement of disorderly conduct by reason of noise.

HB 252, requiring bail hearings for persons arrested for probation violations. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

Senate Judiciary

May 25, 2005

2005-1591s

09/01

Amendment to HB 252

Amend the introductory paragraph of RSA 597:2, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. Except as provided in RSA 597:1-d, a person charged with a probation violation shall be entitled to a bail hearing. The court shall issue an order that, pending a probation violation hearing, the person be:

Amend RSA 597:5-a as inserted by section 2 of the bill by replacing it with the following:

597:5-a When Requirable; Bail and Recognizances for Person Detained for Probation Violation. Upon motion duly made, a court shall schedule a bail hearing. Every court may, when a person is accused of an offense or a probation violation in which said court is authorized to receive bail, release said person on personal recognizance or require him or her to recognize, with sureties, to appear at a future time before the court or any other competent tribunal.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 294, relative to annulment of arrest records. Judiciary Committee. Inexpedient to Legislate, Vote 3-1. Senator Green for the committee.

MOTION TO TABLE

Senator Clegg moved to have HB 294 laid on the table.

Adopted.

LAI D ON THE TABLE

HB 294, relative to annulment of arrest records.

HB 372, relative to notification of interested parties in medical parole cases. Judiciary Committee. Re-refer to committee, Vote 4-0. Senator Foster for the committee.

Adopted.

HB 372 is re-referred to the Committee on Judiciary.

HB 429, relative to representation by nonattorneys before the board of tax and land appeals and relative to condemnation proceedings conducted by the board of tax and land appeals. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Green for the committee.

Adopted.

Ordered to third reading.

HB 443, relative to the statute of limitations for fire code violations. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Gottesman for the committee.

MOTION TO TABLE

Senator Gottesman moved to have HB 443 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 443, relative to the statute of limitations for fire code violations.

HB 468, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff. Judiciary Committee. Ought to pass with amendment, Vote 3-1. Senator Gottesman for the committee.

Senate Judiciary

May 25, 2005

2005-1613s

08/10

Amendment to HB 468

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

1 New Section; Protection of Persons from Domestic Violence; Permissible Contact. Amend RSA 173 by inserting after section 5 the following new section:

173-B:5-a Permissible Contact. A protective order issued pursuant to RSA 173-B:4 or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact.

2 New Paragraph; Stalking; Permissible Contact. Amend RSA 633:3-a by inserting after paragraph III-b the following new paragraph:

III-c. A protective order issued pursuant to this section, RSA 173-B:4, or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact.

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

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 583, establishing an oversight committee to study medical malpractice insurance rates in this state. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Senate Judiciary

May 25, 2005

2005-1590s

01/09

Amendment to HB 583

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

AN ACT establishing an oversight committee to study medical malpractice insurance rates in this state and requiring a hearing when medical malpractice insurance rates change.

Amend RSA 519-A:11, III as inserted by section 1 of the bill by replacing it with the following:

III. The members of the committee shall elect a chairperson from among the members. Four members of the committee shall constitute a quorum; provided, that no quorum is present unless at least one member of each body is present.

Amend RSA 519-A:11, VI(b) and (c) as inserted by section 1 of the bill by replacing it with the following:

(b) The committee shall make an interim report of its findings about medical malpractice insurance rates and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2006.

(c) The committee shall make a final report of its findings about medical malpractice insurance rates and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2008.

Amend RSA 519-A:12, I(c) by inserting after subparagraph (3) the following new subparagraph:

(4) Such other statistical information as the committee may request.

Amend RSA 519-A:12, II as inserted by section 1 of the bill by replacing it with the following:

II.(a) The insurance commissioner shall report to the committee, established in RSA 519-A:11, annually, on or before November 1 of each year, on the medical malpractice market in New Hampshire and the current rate levels and pricing of medical malpractice insurance products in New Hampshire. Such reports shall include, but not be limited to, average rate comparisons of medical liability insurance for categories of medical providers and specialties identified by the insurance commissioner, the frequency and severity of medical injury claims, the time for resolution of medical injury claims from first notice to final resolution, and other factors influencing the pricing of medical malpractice insurance products.

(b) The insurance commissioner is authorized to compel the production of documents from carriers that is required to provide the committee with requested information. To the extent the commissioner collects information from insurers regarding individual claims, loss adjustment and other expenses, reserves, indemnity payments, or other financial information that is not otherwise reported to the commissioner and available to the public, such information shall be treated as examination materials, kept confidential and not be subject to RSA 91-A.

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Rate Filings; Medical Malpractice. Amend RSA 412:16 by inserting after paragraph XIII the following new paragraph:

XIV.(a) For medical malpractice insurance, regardless of whether the market is competitive or noncompetitive, the commissioner shall notify the public of any filing for a rate change when the proposed rate adjustment increases the then applicable rate by more than 15 percent or when the proposed rate adjustment decreases the then applicable rate by more than 15 percent.

(b) The commissioner shall hold a hearing on the rate adjustment upon receipt of a timely request.

(c) The rate change shall be deemed approved under rules established according to the provisions of RSA 412:43 unless the rate filing is disapproved by the commissioner.

(d) Public notice under subparagraph (a) shall be made through distribution to the news media and to any member of the public who requests placement on a mailing list for that purpose.

4 New Paragraphs; Rulemaking Authority. Amend RSA 412:43 by inserting after paragraph II the following new paragraphs:

III. The commissioner shall adopt rules under RSA 541-A relative to the conduct of hearings under RSA 412:16, XIV which shall include the definition of a timely request for a hearing, timelines for scheduling hearings, and procedures to prevent delays in commencing or continuing the hearings.

IV. The commissioner shall adopt rules under RSA 541-A relative to time periods for approvals of filings under RSA 412:16, XIV.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect upon its passage.

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

2005-1590s**AMENDED ANALYSIS**

This bill establishes a statutory oversight committee to study medical malpractice insurance rates in this state.

This bill also requires the commissioner of insurance to hold a public hearing, if requested, when medical malpractice insurance rates change by more than 15 percent from the currently applicable rates.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 126, relative to a public employee right of free speech. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-1. Senator Larsen for the committee.

Public and Municipal Affairs

May 25, 2005

2005-1620s

06/05

Amendment to HB 126

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

AN ACT relative to public employees' right of free speech.

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

1 Freedom of Expression; Public Employees. Amend RSA 98-E:1 to read as follows:

98-E:1 Freedom of Expression. Notwithstanding any other rule or order to the contrary, a [~~person employed by the state~~] **public employee** in any capacity shall have a full right to publicly discuss and give opinions as an individual on all matters concerning [~~the state and its policies~~] **issues of public interest**. It is the intention of this chapter to balance the rights of expression of the employee with the need of the [~~state~~] **public employer** to protect legitimate confidential records, communications, and proceedings.

2 New Section; Definitions. Amend RSA 98-E by inserting after section 1 the following new section:

98-E:1-a Definitions. In this chapter:

I. "Employee" means any person employed by a public employer except:

(a) Persons elected by popular vote.

(b) Persons whose duties imply a confidential relationship to the public employer.

II. "Employer" means the state and any political subdivision thereof, the judicial branch of the state, any quasi-public corporation, council, commission, agency or authority, and the state university system.

3 Interference Prohibited; State Employee Changed to Public Employee. Amend RSA 98-E:2 to read as follows:

98-E:2 Interference Prohibited. No person shall interfere in any way with the right of freedom of speech, full criticism or disclosure by any [~~state~~] **public** employee.

4 New Section; Hearing and Remedies. Amend RSA 98-E by inserting after section 4 the following new section:

98-E:5 Hearing and Remedies. Any employee who alleges a violation of rights under this chapter and who has first made a reasonable effort to maintain or restore his or her rights through any grievance procedure or similar process available at his or her place of employment may obtain a hearing before the superior court. Following the hearing, the court shall render a judgment on the matter, and shall order, as appropriate, reinstatement of the employee, payment of back pay, fringe benefits, and seniority rights, any appropriate injunctive relief, or any combination of these remedies.

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

2005-1620s**AMENDED ANALYSIS**

This bill protects a public employee's right to speak about issues of public interest and provides remedies for a violation of the right.

MOTION TO TABLE

Senator Martel moved to have HB 126 laid on the table.

Adopted.

LAI D ON THE TABLE

HB 126, relative to a public employee right of free speech.

HB 168, relative to the licensure of electrologists and establishing an electrology advisory committee. Public and Municipal Affairs Committee. Ought to Pass, Vote 6-0. Senator Martel for the committee.

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

June 2, 2005

2005-1780s

08/10

Floor Amendment to HB 168

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

AN ACT relative to the licensure of electrologists and establishing an electrology advisory committee, and relative to the definition of tanning device operator.

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

6 Tanning Device Operator; Definition Change. Amend RSA 313-A:1, XI-a to read as follows:

XI-a. "Operator" means a person age [~~18~~] **16** or older who has received training through a program approved by the board in the safe operation of tanning devices, operates the tanning device, controls the length of the exposure to UV light, and instructs the consumer in the proper use of the device.

2005-1780s

AMENDED ANALYSIS

This bill makes various changes to the regulation of electrologists by the commissioner of health and human services and establishes the electrology advisory committee.

This bill also reduces the permissible age of a tanning device operator from 18 years to 16 years.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HB 359, defining "unnecessary hardship" for purposes of zoning variances. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Public and Municipal Affairs

May 25, 2005

2005-1615s

06/09

Amendment to HB 359

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

1 New Paragraph; Powers of Zoning Board of Adjustment; Unnecessary Hardship Defined. Amend RSA 674:33 by inserting after paragraph I the following new paragraph:

I-a.(a) For purposes of this section "unnecessary hardship" shall mean that because of the unique and particular characteristics of a property, its setting, and environment, the board finds that:

(1) The property cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable a reasonable and economically viable use of it; or

(2) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, the proposed use is a reasonable one, and the grant of a variance will not injure the public or private rights of others.

(b) "Unnecessary hardship" as defined in subparagraph (a) shall apply to both use variances and area variances.

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

Amendment adopted.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

June 2, 2005

2005-1793s

06/01

Floor Amendment to HB 359

Amend RSA 674:33, I-a(a)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The property cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable a reasonable and economically viable use of it; and

2005-1793s

AMENDED ANALYSIS

This bill defines an unnecessary hardship for a zoning variance as an application of the ordinance that denies the landowner a reasonable and economically viable use of a property and one that has no fair and substantial relationship between the public purposes of the ordinance and its application to the property. This bill also provides that a variance shall not injure the rights of others.

Floor amendment adopted.

The question is on the motion of ought to pass as amended.

A roll call was requested by Senator Gottesman.

Seconded by Senator Clegg.

The following Senators voted Yes: Johnson, Kenney, Burling, Green, Roberge, Larsen, Barnes, Martel, Estabrook, Fuller Clark.

The following Senators voted No: Gallus, Boyce, Odell, Eaton, Bragdon, Gottesman, Foster, Clegg, Gatsas, Letourneau, D'Allesandro, Morse, Hassan.

Yeas: 10 - Nays: 13

Motion failed.

Senator Clegg moved inexpedient to legislate.

Adopted.

HB 359 is inexpedient to legislate.

Senator Flanders is absent for the vote on HB 539.

HB 437, relative to the disposition of municipal records. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Kenney for the committee.

Public and Municipal Affairs

May 25, 2005

2005-1629s

05/03

Amendment to HB 437

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

AN ACT relative to the disposition of municipal records and relative to rules governing records management.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Department of State; Records Management and Archives, RSA 541-A Exemption. Amend RSA 5:40 to read as follows:

5:40 Rules. The director, under the supervision of the secretary of state, shall establish a manual of uniform rules necessary and proper to effectuate the purpose of this subdivision. Such rules and any subsequent revisions, when approved by the governor and council, shall be binding upon all officers and employees of the state. Any rules adopted pursuant to this section shall be ~~[adopted in accordance with]~~ **exempt from** RSA 541-A.

7 New Subparagraph; Administrative Procedure Act; Exemption; Manual of Rules for Record Management and Archives. Amend RSA 541-A:21, I by inserting after subparagraph (y) the following new subparagraph:

(z) RSA 5:40, relative to the manual of rules for records management and archives.

2005-1629s

AMENDED ANALYSIS

This bill codifies the retention schedule for municipal records, establishes criteria for the retention of electronic records, and makes related technical changes to the law governing the disposition of municipal records. The bill also exempt rules governing records management and archives from the requirements of RSA 541-A, the administrative procedure act.

The bill is a request of the secretary of state.

Amendment failed.

The question is on the motion of ought to pass.

Adopted.

Ordered to third reading.

HB 205, relative to licensing requirements for certain drivers. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-2. Senator Martel for the committee.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Estabrook, Dist. 21

May 26, 2005

2005-1636s

03/09

Floor Amendment to HB 205

Amend the bill by replacing section 2 with the following:

2 Rules of the Road; Possession of Drugs; License Revocation for Youth Operator. Amend RSA 265:80 to read as follows:

265:80 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his **or her** possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and ~~[his]~~ **the person's** license shall be revoked or ~~[his]~~ **the person's** right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years. ***If a person convicted under this section holds a youth operator's license, the court, in its discretion, may increase the period of revocation for any period of time up to the period it will take for the person to reach 21 years of age.***

2005-1636s

AMENDED ANALYSIS

This bill:

I. Restricts the ability of an unlicensed driver convicted of a motor vehicle violation to obtain a license.

II. Establishes restrictions on the reissuance of a youth operator's license to a person convicted of certain drug and alcohol offenses.

III. Permits the court to extend the period of license revocation for youth operators convicted of driving while possessing a controlled drug.

IV. Adds to the class of “at risk” drivers requiring probationary licenses those persons convicted of driving while in possession of drugs.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Burling.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Burling, Gottesman, Foster, Larsen, D’Allesandro, Estabrook, Hassan, Fuller Clark.

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

Yeas: 9 - Nays: 14

Floor amendment failed.

Senator Flanders is absent for the vote on HB 205.

The question is on the motion of ought to pass.

A roll call was requested by Senator Foster.

Seconded by Senator Barnes.

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

The following Senators voted No: Estabrook.

Yeas: 22 - Nays: 1

Adopted.

Ordered to third reading.

Senator Flanders is absent for the vote on HB 205.

HB 261, relative to title to salvage vehicles. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

Adopted.

Ordered to third reading.

HB 302, relative to the mileage rate for service of documents by county sheriffs. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 5-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

HB 357, relative to negligent driving. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 5-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation

May 25, 2005

2005-1608s

03/09

Amendment to HB 357

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

AN ACT relative to negligent driving, relative to driver’s license fees for nonresident aliens, and relative to motor vehicle inspection expiration.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 5:

2 License Expiration; Non-Citizens. Amend RSA 263:10 to read as follows:

263:10 License Expiration. Except as provided in RSA 263:14 *and RSA 263:39-a, III*, all licenses shall expire on the fifth anniversary of the license holder's date of birth following the date of issuance. The department shall notify each holder of a license by mail addressed to the holder's last known address, 30 days prior to the expiration date thereof of a place and time when he or she shall appear for the issuance of a new license.

3 Driver's License Fees; Aliens Temporarily Residing in New Hampshire. Amend RSA 263:42, I to read as follows:

I. For each original driver's license and examination or driver's license renewal, other than for a commercial vehicle or motorcycle- \$50; for each youth operator's license and examination- \$10 per year, not to exceed \$50; *for each license issued to a nonresident alien for less than 5 years- \$10 per year or portion thereof*; for each original commercial driver license and examination or commercial driver license renewal- \$60; for each commercial driver license reexamination in a one-year period- \$20; for each commercial vehicle endorsement, renewal of an endorsement, or removal of a restriction- \$10; for each special motorcycle original license and examination or special motorcycle license renewal- \$50; for each original motorcycle endorsement- \$25; for each motorcycle endorsement renewal- no charge. For each original driver's license issued, \$5 shall be credited to the driver training fund established by RSA 263:52. Except as provided in RSA 263:14 *and RSA 263:39-a, III*, every license shall expire on the licensee's birthdate in the fifth year following the issuance of such license. No fee collected under this paragraph shall be refunded once an examination has been taken or a license issued, except as provided in RSA 263:43.

4 Vehicle Inspection; Expiration. Amend RSA 266:1, IV to read as follows:

IV. Notwithstanding paragraphs II and III, newly registered vehicles, other than [~~OHRV's~~] **OHRVs**, snow traveling vehicles, and mopeds, and vehicles, other than [~~OHRV's~~] **OHRVs**, snow traveling vehicles, and mopeds, the ownership of which has been transferred, shall be inspected not later than 10 days after the registration or transfer of ownership of said vehicle. However, if a vehicle is purchased at retail from a licensed dealer, as defined in RSA 259:18, [~~H,~~] the vehicle shall be inspected not later than 30 days after the date of transfer. A vehicle for which a dealer has issued a 20-day plate pursuant to RSA 261:109 shall be presumed to be capable of meeting the vehicle inspection requirements. *All other expired motor vehicle inspections shall be subject to the 10-day grace period in RSA 266:5.*

2005-1608s

AMENDED ANALYSIS

This bill:

I. Establishes fines for persons guilty of negligent driving.

II. Authorizes the department of safety to prorate drivers' license fees for nonresident aliens.

III. Inserts a reference to the general grace period for motor vehicle inspections into the inspection provision for newly registered and transferred motor vehicles.

Amendment adopted.

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

Adopted.

Ordered to third reading.

HB 573, establishing a commission to study automobile recycling issues, including disposal fees. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 3-2. Senator Martel for the committee.

The question is on the committee report of inexpedient to legislate.

A division vote was requested.

Yeas: 9 - Nays: 13

Motion failed.

Senator Estabrook moved ought to pass.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21
May 25, 2005
2005-1598s
08/09

Floor Amendment to HB 573

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

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

- (a) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (b) The commissioner of the department of environmental services, or designee.
- (c) The commissioner of the department of safety, or designee.
- (d) The commissioner of the department of transportation, or designee.
- (e) One representative from the Auto Recyclers Association of New Hampshire, appointed by said association.
- (f) One representative from the scrap processors industry, appointed by the speaker of the house of representatives.
- (g) One representative from the Alliance of Automobile Manufacturers, appointed by the speaker of the house of representatives.
- (h) One representative from the New Hampshire Auto Dealers Association, appointed by said association.
- (i) One representative from the New Hampshire Municipal Association, appointed by said association.
- (j) One representative from New Hampshire the Beautiful, Inc., appointed by said corporation.
- (k) One representative from the insurance industry, appointed by the speaker of the house of representatives.
- (l) One representative from the New Hampshire chapter of the Sierra Club, appointed by said organization.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall study the adequacy of the state's regulatory system and the industry infrastructure currently used to recycle and dispose of end-of-life motor vehicles and to make recommendations for change, including but not limited to an end-of-life disposal fee, if current practices are determined to be inadequate for assuring sufficient capacity to manage end-of-life vehicles in a manner that protects environmental quality.

Amend the bill by replacing section 5 with the following:

5 Report. The commission 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.

Floor amendment adopted.

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

A roll call was requested by Senator Boyce.

Seconded by Senator Barnes.

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

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

Yeas: 13 - Nays: 10

Adopted.

Ordered to third reading.

Senator Flanders is absent for the vote on HB 573.

HB 522, establishing a committee to study gaming options for New Hampshire. Ways and Means Committee. Ought to Pass, Vote 3-2. Senator D'Allesandro for the committee.

The question is on the motion of ought to pass.

A roll call was requested by Senator Boyce.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Burling, Green, Eaton, Gottesman, Foster, Clegg, Gatsas, Barnes, Martel, D'Allesandro, Morse, Hassan, Fuller Clark.

The following Senators voted No: Kenney, Boyce, Odell, Roberge, Bragdon, Larsen, Letourneau, Estabrook.

Yeas: 15 - Nays: 8

Adopted.

Ordered to third reading.

Senator Flanders is absent for the vote on HB 522.

HB 535-FN-A, increasing the tobacco tax. Ways and Means Committee. Inexpedient to Legislate, Vote 3-2. Senator Gallus for the committee.

MOTION TO TABLE

Senator Gatsas moved to have HB 535-FN-A laid on the table.

The question is on the motion to table.

A roll call was requested by Senator Gatsas.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Burling, Green, Foster, Larsen, Gatsas, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Clegg, Barnes, Martel, Letourneau, D'Allesandro, Morse.

Yeas: 9 - Nays: 15

Motion failed.

The question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Gatsas.

Seconded by Senator Clegg.

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

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

Yeas: 14 - Nays: 10

Committee report of inexpedient to legislate is adopted.

MOTION TO REMOVE FROM THE TABLE

Senator Foster moved to have HB 68 taken off the table.

Adopted.

HB 68, relative to the enforcement of disorderly conduct by reason of noise.

The question is on the committee report of re-refer.

Motion failed.

Senator Foster moved ought to pass.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

June 2, 2005

2005-1798s

06/04

Floor Amendment to HB 68

Amend the bill by deleting section 1 and renumbering the original sections 2-5 to read as 1-4, respectively.

Amend RSA 644:2, IV(c) as inserted by section 1 of the bill by replacing it with the following:

(c) When noise under subparagraph III(a) is emanating from a vehicle's sound system or any portable sound system located within a vehicle, a law enforcement officer shall be considered a person of average sensibilities for purposes of determining whether the volume of such noise constitutes a breach of the peace, public inconvenience, annoyance, or alarm, and the officer may take enforcement action to abate such noise upon detecting the noise, or upon receiving a complaint from another person.

Amend the bill by replacing all after section 2 with the following:

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

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Boyce moved to have HB 366 taken off the table.

Adopted.

HB 366, relative to maintenance of voter checklists.

The question is on the adoption of the committee amendment (1633).

Amendment adopted.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

June 2, 2005

2005-1791s

03/10

Floor Amendment to HB 366

Amend the bill by replacing section 6 with the following:

6 Sending Absentee Ballots. Amend RSA 657:15 to read as follows:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver or mail to the applicant the appropriate ballot and materials as described in RSA 657:7 through 657:9 or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of the names and ad-

dressess, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Candidates whose names appear on the ballot and persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot may obtain copies of such lists; the lists shall not be available for public inspection at any time without a court order. ***The clerk may charge candidates for federal office a fee for copies of such lists of up to \$3 plus \$1 for every 50 names or portion thereof, plus any shipping costs.***

2005-1791s

AMENDED ANALYSIS

This bill:

I. Establishes requirements for the secretary of state to cause the removal of certain names from voter checklists.

II. Changes the 10-year checklist verification to a 4-year checklist verification.

III. Authorizes the secretary of state to assign voter identification numbers.

IV. Establishes fees for absentee voter lists that may be charged to candidates for federal office.

Floor amendment adopted.

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

Adopted.

Ordered to third reading.

HOUSE MESSAGE

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

SB 38-FN, relative to school building aid for certain receiving districts.

SB 54, clarifying the role of a guardian ad litem in guardianship proceedings.

SB 90-FN-A-L, relative to kindergarten construction aid.

SB 137-FN-A, relative to the Conway Branch railroad.

SB 173, relative to exceptions to licensure for electricians.

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 36-FN, assessing a fee on all dogs and cats sold at retail that are not sexually sterilized, to be deposited in the companion animal neutering fund.

SB 44, establishing a study committee on student credit card debt and regulation of credit card solicitation on college campuses.

SB 80, permitting the Emerald Lake village district to enact and enforce regulations to protect its public water supply and to have a health officer.

SB 184-FN, adopting the Uniform Child-Custody Jurisdictional Enforcement Act.

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 23, relative to membership on the public water access advisory board.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 23, relative to membership on the public water access advisory board.

Senator Johnson 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 48-FN, prohibiting unlawful peering into the dwelling place of another.

SENATE NONCONCURS WITH HOUSE AMENDMENT

SB 48-FN, prohibiting unlawful peering into the dwelling place of another.

Senator Foster moved to nonconcur.

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 66, establishing a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 66, establishing a committee to study the creation of a northern New England purchasing alliance for small business health insurance.

Senator Flanders 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 77, relative to the review of proposed health care provider contracts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 77, relative to the review of proposed health care provider contracts.

Senator Flanders 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 78, relative to payment of health care providers by health carriers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 78, relative to payment of health care providers by health carriers.

Senator Flanders 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 83, establishing a commission to study issues relative to the comprehensive shoreland protection act and the public waters of the state.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 83, establishing a commission to study issues relative to the comprehensive shoreland protection act and the public waters of the state.

Senator Johnson 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 88, relative to emergency medical transportation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 88, relative to emergency medical transportation.

Senator Roberge 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 105, granting the executive director of fish and game authority to promote hunting, fishing, and wild-life-related activities.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 105, granting the executive director of fish and game authority to promote hunting, fishing, and wild-life-related activities.

Senator Johnson 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 165-FN, relative to the collection of tax debts from out-of-state debtors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 165-FN, relative to the collection of tax debts from out-of-state debtors.

Senator Kenney 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 187, relative to allowing alternative certified hazardous waste coordinator programs.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 187, relative to allowing alternative certified hazardous waste coordinator programs.

Senator Johnson 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 215-FN, creating a committee to study banning the incineration of construction and demolition debris.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 215-FN, creating a committee to study banning the incineration of construction and demolition debris.

Senator Odell 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 5, establishing a commission to study the state park system.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 5, establishing a commission to study the state park system.

Senator Johnson moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Johnson, Gallus, Larsen

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 37, relative to disclosure of expert testimony.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 37, relative to disclosure of expert testimony.

Senator Clegg moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Clegg, Roberge, Gottesman

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 62-FN, allowing court fees to be paid by credit card.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 62-FN, allowing court fees to be paid by credit card.

Senator D'Allesandro moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: D'Allesandro, Clegg, Odell

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 76, relative to the extension of restraining orders under the domestic violence protection act.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 76, relative to the extension of restraining orders under the domestic violence protection act.

Senator Foster moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Foster, Green, Gottesman

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 142, extending the reporting date of the commission to study issues relative to groundwater withdrawals.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 142, extending the reporting date of the commission to study issues relative to groundwater withdrawals.

Senator Johnson moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Johnson, Odell, D'Allesandro

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 214, permitting the parents of a sexual assault victim to remain with the victim during trial proceedings.

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

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 421, relative to effective dates.

HB 430-FN-A, establishing a one-day resident fishing license.

HB 472, relative to the definition of recreational program.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 83, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Stohl, Dowd, Brundige, Nancy Johnson

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 83, repealing the obligation to provide persons applying for a marriage license with a list of family planning services and with brochures on fetal alcohol syndrome and the human immunodeficiency virus.

Senator Roberge moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Roberge, Barnes, Burling

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 230-L, relative to default budgets.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Brundige, Gillick, Dowd, Nancy Johnson

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 230-L, relative to default budgets.

Senator Boyce moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Boyce, Flanders, Hassan

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

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

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Sheila Francoeur, Charles Clark, Reardon, Jasper

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

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

Senator Kenney moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Kenney, Letourneau, Larsen

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

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

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Graham, Rausch, McConkey, Benn

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

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

Senator Kenney moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Kenney, Letourneau, Fuller Clark

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

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

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Packard, Nedeau, Ferland, O'Neil

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

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

Senator Letourneau moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Letourneau, Flanders, Burling

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

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.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Babson, Phinizy, Hansen, Merrick

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

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.

Senator Odell moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Odell, Bragdon, Burling

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from the Senate:

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Millham, Dalrymple, Houde-Quimby, Irwin

SENATE REFUSES TO ACCEDE TO HOUSE REQUEST

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

Senator Kenney moved to refuse to accede to the request for a Committee of Conference.

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 68, relative to the enforcement of disorderly conduct by reason of noise.

HB 69, relative to large groundwater withdrawals.

HB 168, relative to the licensure of electrologists and establishing an electrology advisory committee.

HB 194, establishing a study committee to examine regulatory practices pertaining to the telecommunications industry.

HB 205, relative to licensing requirements for certain drivers.

HB 252, requiring bail hearings for persons arrested for probation violations.

HB 257, relative to emergency medical and trauma service protocols and quality assurance program.

HB 261, relative to title to salvage vehicles.

HB 354, relative to the review, approval, and adoption of agency rules.

HB 357, relative to negligent driving.

HB 366, relative to maintenance of voter checklists.

HB 415, excepting installation of heating equipment from regulation by the electrician's board.

HB 429, relative to representation by nonattorneys before the board of tax and land appeals and relative to condemnation proceedings conducted by the board of tax and land appeals.

HB 437, relative to the disposition of municipal records.

HB 468, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff.

HB 491, relative to the inherent dangers of OHRV operation and limiting landowner liability for certain fish and game related land uses.

HB 522, establishing a committee to study gaming options for New Hampshire.

HB 557, relative to the submission of data to the department of education.

HB 573, establishing a commission to study automobile recycling issues, including disposal fees.

HB 583, establishing an oversight committee to study medical malpractice insurance rates in this state.

HB 586, relative to the periodic review of child support guidelines.

HB 603-FN-A, relative to the state's purchase of the Laconia district courthouse building and making an appropriation therefor.

HCR 6, urging Congress to enact legislation to make English the official language of the United States.

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.