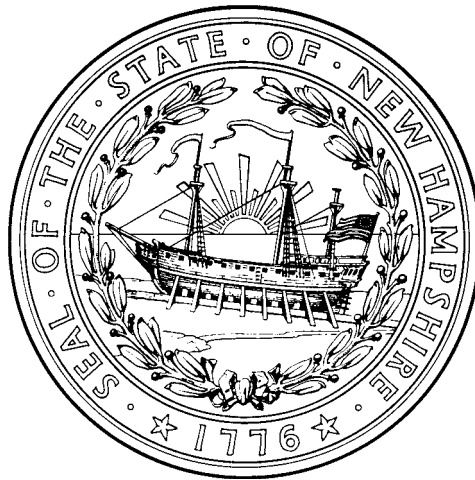


April 29, 2009
Nos. 12-13

STATE OF NEW HAMPSHIRE

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



161st Session of the New Hampshire General Court

Legislative Proceedings

SENATE JOURNAL

ADJOURNMENT – APRIL 22, 2009 SESSION
COMMENCEMENT – APRIL 29, 2009 SESSION

SENATE JOURNAL 12 *(continued)*

April 22, 2009

HOUSE MESSAGE

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

SB 12, relative to increasing the membership of the board of marital mediator certification and renaming marital mediators as family mediators.

SB 24, relative to rulemaking by the board of natural scientists and the board of professional geologists.

SB 25-FN, relative to the operation of the Hillsborough county domestic violence unit in the Manchester district court.

SB 28-FN, relative to annual dam registration fees for non-menace dams and notification to dam owners of downstream development.

SB 32, relative to notice to a defendant of the availability of sentence review.

SB 36, relative to the inspection of electrologist offices.

SB 37, relative to release of a defendant pending trial.

SB 47, relative to surface water.

SB 48, relative to preventing contamination of groundwater from certain geothermal processes.

SB 93, relative to the exemption from subsequent local land use regulation where substantial development has begun on an approved plan.

SB 109, relative to certification of excess weight vehicles.

SB 122, relative to membership and the quorum of the commission to oversee and negotiate issues relative to NAFTA and the WTO and relative to the quorum of the real estate appraiser board.

SB 183-FN, relative to the number of daily journals printed by the house and senate clerks.

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 62, establishing a commission to study creating a statewide plan for addressing Alzheimer's disease and related dementias in New Hampshire.

SB 163-FN-L, establishing a committee to study the powers of justices of the peace.

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:

SB 12, relative to increasing the membership of the board of marital mediator certification and renaming marital mediators as family mediators.

SB 24, relative to rulemaking by the board of natural scientists and the board of professional geologists.

SB 25, relative to the operation of the Hillsborough county domestic violence unit in the Manchester district court.

SB 32, relative to notice to a defendant of the availability of sentence review.

SB 36, relative to the inspection of electrologist offices.

SB 47, relative to surface water.

SB 48, relative to preventing contamination of groundwater from certain geothermal processes.

SB 109, relative to certification of excess weight vehicles.

SB 122, relative to membership and the quorum of the commission to oversee and negotiate issues relative to NAFTA and the WTO and relative to the quorum of the real estate appraiser board.

SB 183, relative to the number of daily journals printed by the house and senate clerks.

HB 56, renaming a bridge to honor U. S. Navy Seal Daniel Healy.

Sen. D'Allesandro moved adoption of the Report of Committee on Enrolled Bills.

Report of Committee on Enrolled Bills adopted.

Out of Recess.

MOTION TO ADJOURN FROM LATE SESSION

Sen. Hassan moved that the Senate adjourn from the Late Session.

Motion adopted.

Adjournment from the Late Session.

SENATE JOURNAL 13

April 29, 2009

The Senate reconvened at 10 a.m., a quorum being present.

The Reverend Canon Charles Lafond, chaplain to the Senate, offered the following meditative thoughts and prayer:

With so many agenda items and so much passion for decisions on both sides in the administration of government, something like the lengthening shadow of flu pandemics call us to a certain center of what's real and what's important. I remember while I was still a monk being called down to Louisiana the day after Katrina hit; I was called there to be the director of disaster response and to be the chaplain for the morgue, the disaster morgue. And this atmosphere of energy and flu headline called me back to that time, reliving those days. But I find that in every crisis there is lined in those fears a sense of optimism and hope. And so the call I think to all of us is to remove ourselves from certainty and bring ourselves to that sense of hope which all of our faiths direct us towards. Because in the end ... the opposite of faith is not doubt; in the end the opposite of faith is certainty. Let us pray:

God of all healing, listen to the groaning of a people made mostly of water and calcium. May that human vulnerability be present with us in our changes and chances of life, so ground us in the assurance of Your love, for Your creation; that we have the ability to love each other. Amen

Sen. Carson led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Kelly introduced Caite Ayers and Ashley McCormick from Keene High School serving as Senate Pages for today's session.

Sen. Gallus welcomed Edith Tucker, Coos County Democrat newspaper reporter.

Sen. Roberge introduced former Sen. Burt Cohen from New Castle.

Sen. Janeway welcomed his wife, Betsy, as a visitor to the Senate floor.

SENATE BRADLEY ASSUMES DISTRICT 3 SENATE SEAT

President Larsen recognized that Sen. Jeb Bradley, representing Senate District 3, has taken his seat today as a member of the Honorable Senate, having been sworn into office by the Honorable John H. Lynch, Governor, and the Honorable Executive Council, on Monday, April 27th, 2009.

COMMITTEE REPORTS FINANCE REPORT

Sen. D'Allesandro reported that the following bill shall be reviewed by Finance Committee: HB 570; that the following bills shall not be reviewed by Finance Committee: HB 84, HB 120, HB 282, HB 556, HB 599, HB 648, HB 674. Finance review is also waived on HB 391, not on today's Calendar.

HB 120-FN-L, relative to the installation of carbon monoxide detectors in single and multi-family dwellings. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 4-1. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 120-FN-L.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

(Sen. Roberge welcomed Shannon McGinley and Anne Marie Banfield as guests in the Senate Gallery.)

HB 527, repealing the coordinated school health committee and relative to health education in kindergarten through grade 12. Education Committee. Ought to Pass with Amendment, Vote 6-0. Senator Kelly for the committee.

Senate Education

April 21, 2009

2009-1372s

04/05

Amendment to HB 527

Amend RSA 186:11, IX(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Submit a report no later than December 1, 2010, and biennially thereafter, prepared in conjunction with the commissioner of the department of education, to the chairpersons of the house and senate education committees, the house health, human services and elderly affairs committee, and the senate health and human services committee, detailing the state's efforts in fulfilling the policies relating to health education in kindergarten through grade 12 as set forth in subparagraphs (a)-(d).

Amend the bill by replacing section 3 with the following:

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

The question is on the adoption of Committee Amendment 1372s.

Committee Amendment 1372s adopted.

The question is on the motion Ought to Pass with Amendment on HB 527.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 387, relative to observation of voter registration. Election Law and Veterans' Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

Election Law and Veterans' Affairs

April 22, 2009

2009-1388s

03/04

Amendment to HB 387

Amend the bill by replacing section 1 with the following:

1 New Section; Observation of Voter Registration. Amend RSA 654 by inserting after section 7-b the following new section:

654:7-c Observation to Voter Registration. Any person shall have a right, as safety, welfare, and rights of voters permit, to observe in-person voter registration, wherever it is conducted, provided however, that the person may not be positioned within 5 feet of the voter registration table where the exchange of nonpublic information between the applicant for registration and the election official receiving the application may be heard or seen. When a person registers to vote on election day, the ballot clerk, upon adding the person's name to the checklist at the check-in table, shall publicly announce the person's name 2 times and shall publicly announce the address the person has registered as his or her domicile one time. These announcements shall be made in a manner that allows any person appointed as a challenger to hear the announcement. Where the physical layout of a polling place makes it impractical to position challengers or interested voters who are registered at that polling place where they can hear the announcement at the check-in table, the moderator shall arrange an alternative means for challengers or interested voters who are registered to vote at that polling place to be informed of the new voter's name and domicile address and be afforded an opportunity to challenge the voter at the check-in table.

The question is on the adoption of Committee Amendment 1388s.

Committee Amendment 1388s adopted.

The question is on the motion of Ought to Pass as Amended on HB 387.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SPECIAL ORDER

Without objection, President Larsen moved to Special-Order HJR 3 to the end of today's Executive Departments and Administration Committee Calendar.

Election Law and Veterans' Affairs

HJR3, recognizing the historic milestone represented by the New Hampshire senate being the first legislative body in the United States with women as the majority of its members.

HB 58, designating segments of the Cocheco River as protected under the rivers management and protection program. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 5-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 58.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 674-FN-A, relative to eliminating the water resources council, relative to dams, and authorizing the Connecticut lakes headwaters citizens committee to advise the department of environmental services on the management of Lake Francis and associated property. Energy, Environment and Economic Development Committee. Ought to Pass, Vote 5-0. Senator Merrill for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 674-FN-A.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 84-FN, relative to the regulation of reflexologists, structural integrators, and Asian bodywork therapists. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 84-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 282-FN-A, (New Title) relative to meetings of the medical/vision advisory board. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 282-FN-A.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 570-FN-A, requiring the department of transportation to convey ownership of Skyhaven airport to the Pease development authority. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 570-FN-A.

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26).

HB 599-FN, relative to reclassification of the position of forensic toxicologist in the department of safety. Executive Departments and Administration Committee. Ought to Pass, Vote 2-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 599-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SPECIAL ORDER

HJR 3, recognizing the historic milestone represented by the New Hampshire senate being the first legislative body in the United States with women as the majority of its members. Election Law and Veterans' Affairs Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HJR 3.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 132, relative to access to case records of the department of health and human services. Health & Human Services Committee. Ought to Pass, Vote 4-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 132.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 234, establishing a committee to study the certificate of need process. Health & Human Services Committee. Ought to Pass with Amendment, Vote 4-0. Senator Sgambati for the committee.

Health and Human Services

April 21, 2009

2009-1367s

01/09

Amendment to HB 234

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before February 1, 2010.

The question is on the adoption of Committee Amendment 1367s.

Committee Amendment 1367s adopted.

The question is on the motion of Ought to Pass as Amended on HB 234.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 301, establishing a task force to study access to dental care. Health & Human Services Committee. Ought to Pass, Vote 5-0. Senator Downing for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 301.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 414, establishing a commission to study preventing dental disease among New Hampshire's children. Health & Human Services Committee. Ought to Pass, Vote 5-0. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 414.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 648-FN, relative to the use of marijuana for medicinal purposes. Health & Human Services Committee. Ought to Pass with Amendment, Vote 4-1. Senator Gilmour for the committee.

Health and Human Services

April 26, 2009

2009-1404s

04/10

Amendment to HB 648-FN

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

1 Findings.

I. Modern medical research has discovered beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

II. Subsequent studies since the 1999 National Academy of Sciences' Institute of Medicine report continue to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions, including increasing the chances of patients finishing their treatments for HIV/AIDS and hepatitis C.

III. Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.

IV. Although federal law currently prohibits any use of marijuana except under very limited circumstances, Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island, and Washington have removed state-level criminal penalties from the medical use and cultivation of marijuana. New Hampshire joins in this effort for the health and welfare of its citizens.

V. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of New Hampshire in violation of federal law.

VI. State law should make a distinction between the medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their physicians and designated caregiver, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

VII. The people of the state of New Hampshire declare that they enact this act pursuant to the police power to protect the health of its citizens that is reserved to the state of New Hampshire and its people under the 10th Amendment to the United States Constitution.

2 New Chapter; Use of Marijuana for Medicinal Purposes. Amend RSA by inserting after chapter 126-R the following new chapter:

CHAPTER 126-S USE OF MARIJUANA FOR MEDICINAL PURPOSES

126-S:1 Definitions. In this chapter:

I. "Cardholder" means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card.

II. "Debilitating medical condition" means:

(a) A chronic or terminal disease, or medical condition whose symptoms or result of treatment may include cachexia or wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures for more than 3 months, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

(b) A chronic or terminal disease which may include cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, or multiple sclerosis.

III. "Department" means the department of health and human services.

IV. "Designated caregiver" means an individual who is at least 21 years of age, who is either a member of the qualifying patient's household, a member of the qualifying patient's family, or a licensed health care professional, but who is not a qualifying patient, and who has agreed to assist with a patient's medical use of marijuana, and who has never been convicted of any drug related offense. A designated caregiver may assist no more than one qualifying patient with the medical use of marijuana.

V. "Marijuana" means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plants, fiber produced from such stalks, oil or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.

VI. "Medical use" means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms or results of treatment associated with the patient's debilitating medical condition.

VII. "Physician" means an individual licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances, except that in relation to a visiting qualifying patient, "physician" means an individual licensed to prescribe drugs to humans in the state of the patient's residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances.

VIII. "Qualifying patient" means an individual who has been diagnosed by a physician as having a debilitating medical condition.

IX. "Registry identification card" means a document issued by the department that identifies an individual as a qualifying patient or designated caregiver.

X. "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots. "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter. A seedling shall meet all 3 criteria set forth in this paragraph.

XI. "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

XII. "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for less than 30 days.

XIII. "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship as defined in RSA 329:1-c, the qualifying patient has a debilitating medical condition, and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. The written certification shall specify the qualifying patient's debilitating medical condition, which also shall be noted in the qualifying patient's medical records.

126-S:2 Protections for the Medical Use of Marijuana.

I. A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter, provided that the qualifying patient possess an amount of marijuana that does not exceed 6 marijuana plants and 2 ounces of usable marijuana. The cultivation process shall occur on the qualifying patient's property. A qualifying patient shall remain subject to the provisions of RSA 126-S:5.

II. A designated caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marijuana in accordance with this chapter, provided that the designated caregiver possess an amount of marijuana that does not exceed 6-marijuana plants and 2 ounces of usable marijuana for the qualifying patient to whom he or she is connected through the department's registration process. A designated caregiver shall remain subject to the provisions of RSA 126-S:5.

III. Designated caregivers and qualifying patients shall be allowed to possess a reasonable amount of unusable marijuana, including up to 6 seedlings; which shall not be counted toward the limits in this section.

IV.(a) A qualifying patient is deemed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient possesses a registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(b) A designated caregiver is deemed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the designated caregiver possesses a registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter. A designated caregiver may only act as the caregiver for a qualifying patient when the designated caregiver is in physical possession of the registry identification card.

(c) The presumptions made in subparagraphs (a)-(b) may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this chapter.

V. A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for giving marijuana to another qualifying patient or another qualifying patient's designated caregiver for the other qualifying patient's medical use where noth-

ing of value is transferred in return, or for offering to do the same, or for accepting without consideration marijuana seeds or up to 6 seedlings from a person who is in possession of a valid registry identification card issued under the laws of another state, district, territory, commonwealth or possession of the United States for the medical use of marijuana, provided that the amount of marijuana or marijuana seeds or seedlings so given or received does not exceed the amount of marijuana permitted under paragraphs I and II. The conduct permitted under this paragraph shall not constitute a sale.

VI.(a) No school or landlord may refuse to enroll or lease to, or otherwise penalize, an individual solely for his or her status as a qualifying patient or a designated caregiver, unless failing to do so would put the school or landlord in violation of federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a qualifying patient's authorized use of marijuana in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.

(c) An employer shall not discriminate against an individual in hiring, termination, or any term or condition of employment, or otherwise penalize an individual, if the discrimination is based upon either of the following:

(1) The individual's status as a qualifying patient or designated caregiver; or

(2) A qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

VII. An individual shall not be denied custody of, or visitation or parenting time with, a minor and there shall be no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the individual's behavior is such that it creates an unreasonable danger to the safety or welfare of the minor as established by clear and convincing evidence.

VIII. A designated caregiver who is a licensed health care professional may receive compensation for costs associated with assisting with the medical use of marijuana. Such compensation shall not constitute the sale of controlled substances.

IX. A physician shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

X. Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited.

XI. An individual shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

XII. A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess marijuana for medical purposes, shall have the same force and effect as a registry identification card issued by the department, provided that the same debilitating medical condition as defined in RSA 126-S:1, II exists.

XIII. Any cardholder who sells or transfers marijuana to an individual who is not allowed to use marijuana for medical purposes under this chapter shall be guilty of a class B felony, shall have his or her registry identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26. The department may revoke the registry identification card of any cardholder who violates any provision of this chapter, and the cardholder shall be subject to any other penalties established in law for the violation.

126-S:3 Departmental Administration.

I. The department shall issue registry identification cards to qualifying patients who submit all of the following information:

- (a) Written certification.
- (b) Application or renewal fee.
- (c) Name, residential and mailing address, and date of birth of the qualifying patient, except that if the applicant is homeless, no residential address is required.
- (d) Name, address, and telephone number of the qualifying patient's physician.
- (e) Name, address, and date of birth of the qualifying patient's designated caregiver, if any.
- (f) A statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.
- (g) A signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

II. The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(a) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

- (1) Allow the qualifying patient's medical use of marijuana; and
- (2) Serve as the qualifying patient's designated caregivers; and
- (3) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a registry identification card revoked for violating the provisions of this chapter, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review in the Merrimack county superior court.

IV. The department shall issue a registry identification card to the designated caregiver, if any, who is named in a qualifying patient's approved application. The department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the individual.

V. The department shall issue registry identification cards to qualifying patients and to the designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the physician states in the written certification that he or she believes the qualifying patient would benefit from medical marijuana only until a specified earlier or later date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

- (a) Name, mailing address, and date of birth of the qualifying patient.
- (b) Name, address, and date of birth of the qualifying patient's designated caregiver, if any.
- (c) The date of issuance and expiration date of the registry identification card.
- (d) A random 20-digit identification number, containing at least 4 numbers and at least 4 letters, that is unique to the cardholder.

(e) A photograph, if the department decides to require one.

(f) A statement that the qualifying patient is permitted under state law to possess marijuana pursuant to this chapter for his or her medical use.

VI. The following notifications and department responses are required:

(a) A qualifying patient shall notify the department of any change in his or her name, address, or designated caregiver within 10 days of such change.

(b) A qualifying patient who fails to notify the department of any of these changes is subject to a civil infraction, punishable by a penalty of no more than \$150. If the qualifying patient's certifying physician notifies the department in writing that either the qualifying patient has ceased to suffer from a debilitating medical condition or that the physician no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card is null and void upon notification by the department to the qualifying patient.

(c) A designated caregiver shall notify the department of any change in his or her name or address within 10 days of such change. A designated caregiver who fails to notify the department of any of these changes is subject to a civil infraction, punishable by a penalty of no more than \$150.

(d) When a qualifying patient or designated caregiver notifies the department of any change to a name, address, or designated caregiver, the department shall issue the qualifying patient and the designated caregiver a new registry identification card with new random 20-digit identification numbers within 10 days of receiving the updated information and a \$10 fee.

(e) A qualifying patient who no longer has a debilitating medical condition and the patient's designated caregiver shall return all registry identification cards to the department within 48 hours of receiving the diagnosis by the patient's physician. Upon receiving the diagnosis that the patient is no longer suffering from a debilitating medical condition, all unused marijuana in the possession of the qualifying patient and his or her designated caregiver shall be disposed of within 24 hours and the protections of this chapter shall no longer apply.

(f) If a cardholder loses his or her registry identification card, he or she shall notify the department and submit a \$10 fee within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random identification number.

VII. Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or property of the individual possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

VIII. The department shall create and maintain a confidential registry of qualifying patients and designated caregivers who have applied for and are entitled to receive a registry identification card in accordance with the provisions of this chapter.

(a) No person shall be permitted to gain access to any information about qualifying patients and designated caregivers in the department's confidential registry, or any information otherwise maintained by the department about physicians and primary care-givers, except for authorized employees of the department in the course of their official duties and authorized employees of local and state law enforcement agencies who have stopped or arrested an individual who claims to be engaged in the medical use of marijuana. Authorized employees of local and state law enforcement agencies shall be granted access to the information within the department's confidential registry only for the purpose of verifying that an individual who has presented a registry identification card to the state or local law enforcement official is lawfully in possession of such card.

(b) An individual shall be guilty of a misdemeanor for breaching the confidentiality of information obtained pursuant to this chapter, except that department employees shall be exempt for notifying law enforcement officials about falsified or fraudulent information submitted to the department, provided the employee who suspects that falsified or fraudulent information has been submitted confers with his or her supervisor, and both agree that circumstances exist that warrant reporting.

IX. The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, designated caregivers, or physicians, but does contain, at a minimum, all of the following information:

- (a) The number of applications and renewals filed for registry identification cards.
- (b) The number of qualifying patients and designated caregivers approved in the state.
- (c) The nature of the debilitating medical conditions of the qualifying patients.
- (d) The number of registry identification cards revoked.
- (e) The number of physicians providing written certifications for qualifying patients.

X. Where a state or local law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the individual to any law enforcement authority that does not recognize the protection of this chapter and any prosecution of the individual for a violation of this chapter shall be conducted pursuant to the laws of this state.

XI. The application for qualifying patients' registry identification cards shall include a question asking whether the patient would like the department to notify him or her of any clinical studies regarding marijuana's risk or efficacy that seek human subjects. The department shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in the United States.

126-S:4 Department Rules. Not later than 120 days after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and designated caregivers. The department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department may accept donations from private sources in order to reduce the application and renewal fees.

126-S:5 Prohibitions, Restrictions, and Limitations on the Use of Medical Marijuana.

I. Nothing in this chapter shall exempt any person from arrest or prosecution for:

(a) Being under the influence of marijuana while:

(1) Operating a motor vehicle, commercial vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

(2) In a workplace or place of employment; or

(3) Operating heavy machinery or handling a dangerous instrumentality.

(b) The use or possession of marijuana by a qualified patient or a designated caregiver:

(1) For purposes other than symptom relief as permitted by this chapter; or

(2) In a manner that endangers the health or well-being of another person;

(c) The smoking of marijuana in any public place, including:

(1) A school bus, public bus, or other public vehicle;

(2) A workplace or place of employment;

(3) The grounds of any school or educational institution;

(4) Any correctional facility; or

(5) Any public park, public beach, public recreation center, public field, or youth center.

II. Nothing in this chapter shall be construed to require:

(a) A governmental, private, or any other health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana;

(b) Any individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit an individual or entity in lawful possession of property, or an agent of such individual or entity, from expelling an individual who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property; or

(c) Any accommodation of any medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

III. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of \$500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

126-S:6 Affirmative Defense. Except as provided in RSA 126-S:5, it is an affirmative defense to any prosecution of an offense involving marijuana intended for medical use that:

I. The defendant is a qualifying patient in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating his or her serious or debilitating medical condition; or

II. The defendant is a designated caregiver in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the qualifying patient's serious or debilitating medical condition; and

III. The qualifying patient or the qualifying patient's designated caregiver was engaged in the acquisition, possession, cultivation, preparation, use, or transportation of marijuana, paraphernalia, or both, relating to the administration of marijuana solely to treat or alleviate the qualifying patient's serious or debilitating medical condition or symptoms associated with the qualifying patient's serious or debilitating medical condition.

126-S:7 Enforcement.

I. If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this chapter within 20 days of the department's acknowledgment of its receipt, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.

II. If at any time after the 120 days following the effective date of this chapter the department is not accepting applications, including if it has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to RSA 126-S:3, I together with a written certification shall be deemed a valid registry identification card.

126-S:8 Severability. If any provision of this chapter or the application thereof to any individual or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

3 Committee Established.

I. There is established a committee to study the issues related to creating a statewide system for the cultivation and distribution of medical marijuana. The members of the committee shall be as follows:

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

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

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

III. Duties. The committee shall study:

(a) Whether it is advisable to create a statewide distribution system for the cultivation and distribution of medical marijuana.

(b) Whether and how an agency of the state of New Hampshire or an existing health care facility should be authorized to cultivate and dispense marijuana solely for the medical purposes permitted under RSA 126-S.

(c) The procedures and safeguards that would be required to ensure that marijuana is cultivated and dispensed only in quantities sufficient to meet the needs of qualifying patients in the state and in a manner that protects against the illegal possession, distribution and use of marijuana by unauthorized persons.

(d) Any other issues related to the implementation of the medical use of marijuana permitted under RSA 126-S.

IV. Chairperson and 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 30 days of the effective date of this section. Three members of the committee shall constitute a quorum.

V. Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before May 1, 2010.

4 Effective Date. This act shall take effect on January 1, 2010.

The question is on the adoption of Committee Amendment 1404s.

Committee Amendment 1404s adopted.

The question is on the motion of Ought to Pass with Amendment on HB 648-FN.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, D'Allesandro, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, DeVries, Letourneau, Downing.

Yeas: 14 - Nays: 10

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 415, adding certain terms regarding non-discrimination to the laws. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 415.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.

The following Senators voted No: (None)

Yeas: 24 - Nays: 0

Motion of Inexpedient to Legislate adopted.

Recess/Out of Recess.

AFTERNOON SESSION COMMITTEE REPORTS, RESUMED

HB 436-FN-L, relative to civil marriage and civil unions. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Reynolds for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 436-FN-L.

A roll call was requested by Sen. Barnes, seconded by Sen. Bragdon.

The following Senators voted Yes: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

The following Senators voted No: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, Merrill, Hassan, Fuller Clark.

Yeas: 11 - Nays: 13

Motion of Inexpedient to Legislate failed.

Sen. Janeway moved Ought to Pass.

Sen. Hassan offered a floor amendment.

Sen. Hassan, Dist. 23
 April 29, 2009
 2009-1446s
 09/03

Floor Amendment to HB 436-FN-LOCAL

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

1 Marriage; Marriages Prohibited; Recognition of Out-of-State Marriages. RSA 457:1 – RSA 457:3 are repealed and reenacted to read as follows:

457:1 Purpose and Intent. The purpose of this chapter is to affirm the right of 2 individuals desiring to marry and who otherwise meet the eligibility requirements of this chapter to have their marriage solemnized in a religious or civil ceremony in accordance with the provisions of this chapter.

457:1-a Equal Access to Marriage. Marriage is the legally recognized union of 2 people. Any person who otherwise meets the eligibility requirements of this chapter may marry any other eligible person regardless of gender. Each party to a marriage shall be designated “bride,” “groom,” or “spouse.”

457:2 Marriages Prohibited. No person shall marry his or her father, mother, father’s brother, father’s sister, mother’s brother, mother’s sister, son, daughter, brother, sister, son’s son, son’s daughter, daughter’s son, daughter’s daughter, brother’s son, brother’s daughter, sister’s son, sister’s daughter, father’s brother’s son, father’s brother’s daughter, mother’s brother’s son, mother’s brother’s daughter, father’s sister’s son, father’s sister’s daughter, mother’s sister’s son, or mother’s sister’s daughter. No person shall be allowed to be married to more than one person at any given time.

457:3 Recognition of Out-of-State Marriages. Every marriage legally contracted outside the state of New Hampshire, which would not be prohibited under RSA 457:2 if contracted in New Hampshire, shall be recognized as valid in this state for all purposes if or once the contracting parties are or become permanent residents of this state subsequent to such marriage, and the issue of any such marriage shall be legitimate. Marriages legally contracted outside the state of New Hampshire which would be prohibited under RSA 457:2 if contracted in New Hampshire shall not be legally recognized in this state. Any marriage of New Hampshire residents recognized as valid in the state prior to the effective date of this section shall continue to be recognized as valid on or after the effective date of this section.

2 Marriageable. Amend RSA 457:4 to read as follows:

457:4 Marriageable. No male below the age of 14 years and no female below the age of 13 years shall be capable of contracting a valid marriage ***that is entered into by one male and one female***, and all marriages contracted by such persons shall be null and void. ***No male below the age of 18 and no female below the age of 18 shall be capable of contracting a valid marriage between persons of the same gender, and all marriages contracted by such persons shall be null and void.***

3 Marriage; Solemnization of Marriage. RSA 457:31 is repealed and reenacted to read as follows:

457:31 Solemnization of Marriage. A marriage may be solemnized in the following manner:

I. In a civil ceremony by a justice of the peace as commissioned by the state and by judges of the United States appointed pursuant to Article III of the United States Constitution, by bankruptcy judges appointed pursuant to Article I of the United States Constitution, or by United States magistrate judges appointed pursuant to federal law; or

II. In a religious ceremony by any minister of the gospel in the state who has been ordained according to the usage of his or her denomination, resides in the state, and is in regular standing with the denomination; by any member of the clergy who is not ordained but is engaged in the service of the religious body to which he or she belongs, and who resides in the state, after being licensed therefor by the secretary of state; or within his or her parish, by any minister residing out of the state, but having a pastoral charge wholly or partly in this state.

4 Affirmation of Freedom of Religion in Marriage. RSA 457:37 is repealed and reenacted to read as follows:

457:37 Affirmation of Freedom of Religion in Marriage. Members of the clergy as described in RSA 457:31 or other persons otherwise authorized under law to solemnize a marriage shall not be obligated or otherwise required by law to officiate at any particular civil marriage or religious rite of marriage in violation of their right to free exercise of religion protected by the First Amendment to the United States Constitution or by part I, article 5 of the New Hampshire constitution.

5 New Subdivision; Civil Unions; Other Jurisdictions; Obtaining Legal Status of Marriage. Amend RSA 457 by inserting after section 44 the following new subdivision:

Civil Union Recognition; Obtaining Legal Status of Marriage

457:45 Civil Union Recognition. A civil union legally contracted outside of New Hampshire shall be recognized as a marriage in this state, provided that the relationship does not violate the prohibitions of this chapter.

457:46 Obtaining Legal Status of Marriage.

I. Two consenting persons who are parties to a valid civil union entered into prior to January 1, 2010 pursuant to this chapter may apply and receive a marriage license and have such marriage solemnized pursuant to RSA 457, provided that the parties are otherwise eligible to marry under RSA 457 and the parties to the marriage are the same as the parties to the civil union. Such parties may also apply by January 1, 2011 to the clerk of the town or city in which their civil union is recorded to have their civil union legally designated and recorded as a marriage, without any additional requirements of payment of marriage licensing fees or solemnization contained in RSA 457, provided that such parties' civil union was not previously dissolved or annulled. Upon application, the parties shall be issued a marriage certificate, and such marriage certificate shall be recorded with the division of vital records administration. Any civil union shall be dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

II. Two persons who are parties to a civil union established pursuant to RSA 457-A that has not been dissolved or annulled by the parties or merged into a marriage in accordance with paragraph I by January 1, 2011 shall be deemed to be married under this chapter on January 1, 2011 and such civil union shall be merged into such marriage by operation of law on January 1, 2011.

6 Documents. Town clerks shall make any changes necessary to marriage registration forms and licenses, and the secretary of state shall make any changes necessary to documents issued by their respective offices in order to effectuate the purposes of this act.

7 New Hampshire Retirement System; Civil Unions. RSA 100-A:2-b is repealed and reenacted as follows:

100-A:2-b Marriage. RSA 457 shall not apply to this chapter to the extent that such application will violate the Internal Revenue Code of 1986, as amended, or other federal law.

8 Reference Deleted; Marriage of Step-Children and Adopted Children. Amend RSA 5-C:46, II to read as follows:

II. The division shall issue a marriage certificate to an adopted brother and an adopted sister in the same family, unless they are also related biologically as specified in ~~[RSA 457:1 and]~~ RSA 457:2.

9 Repeal. RSA 457-A, relative to civil unions, is repealed.

10 Effective Date. This act shall take effect January 1, 2010.

The question is on the adoption of Floor Amendment 1446s.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

Yeas: 13 - Nays: 11

Floor Amendment 1446s adopted.

The question is on the motion of Ought to Pass as Amended on HB 436-FN-L.

Recess/Out of Recess.

The question is on the motion of Ought to Pass as Amended on HB 436-FN-L.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

Yeas: 13 - Nays: 11

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

HB 556-FN, repealing the death penalty. Judiciary Committee. Ought to Pass with Amendment, Vote 3-2. Senator Houde for the committee.

Senate Judiciary

April 23, 2009

2009-1405s

10/09

Amendment to HB 556-FN

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

AN ACT establishing a commission to study the death penalty in New Hampshire.

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

1 Commission Established. There is established a commission to study the death penalty in New Hampshire.

2 Membership and Compensation.

I. The commission shall be composed of the following members who shall reflect the diversity of the population of New Hampshire:

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

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

(c) The attorney general, or designee.

(d) One representative of the New Hampshire Public Defender, appointed by such organization.

(e) The president of the New Hampshire Bar Association, or designee.

(f) One representative of the New Hampshire Troopers Association, appointed by such association.

(g) One representative of the New Hampshire Association of Criminal Defense Lawyers, appointed by such association.

(h) One representative of the New Hampshire Association of Chiefs of Police, appointed by such association.

(i) Six public members appointed by the governor, representing families of murder victims, religious and ethical organizations, and associations and organizations with concerns and goals related to the death penalty.

(j) One representative of the New Hampshire Police Association, appointed by such association.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. The purposes to be served by capital punishment and the effectiveness of capital punishment in achieving those purposes.

II. The standards and criteria used to determine whether defendants should be charged with a capital offense.

III. Whether the death penalty should be expanded to include crimes other than those provided for in RSA 630:1, I.

IV. The existence of alternatives to the death penalty that would ensure public safety and address the interests of the families of victims.

V. The costs of prosecuting and defending on appeal a capital offense, including the differences in the cost of prosecution and incarceration in a first degree murder case when the penalty is life without parole as compared with the cost of a death penalty case.

VI. The procedures for bringing and prosecuting a capital murder charge as set forth in RSA 630:5, including, but not limited to, the sufficiency and scope of the aggravating and mitigating factors to be considered by a jury charged with considering the imposition of a death sentence.

VII. Any other issue that the commission deems relevant to an examination of the death penalty in New Hampshire.

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

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 no later than December 1, 2010.

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

2009-1405s

AMENDED ANALYSIS

This bill establishes a commission to study the death penalty in New Hampshire.

The question is on the adoption of Committee Amendment 1405s.

MOTION TO TABLE

Sen. Merrill moved HB 556-FN be laid on the table.

Recess/Out of Recess.

The question is on the motion to table HB 556-FN.

A roll call was requested by Sen. Barnes, seconded by Sen. Bragdon.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, D'Allesandro, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, DeVries, Letourneau, Downing.

Yeas: 13 - Nays: 11

Motion adopted.

LAIID ON THE TABLE

HB 556- FN, repealing the death penalty.

HB 44, relative to the use of alternates by local land use boards. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

Public and Municipal Affairs

April 23, 2009

2009-1397s

03/05

Amendment to HB 44

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Local Land Use Boards; Filling Vacancies in Membership. Amend RSA 673:12 by inserting after paragraph II the following new paragraph:

III. The chairperson of the local land use board may designate an alternate member of the board to fill the vacancy temporarily until the vacancy is filled in the manner set forth in paragraph I or II. If the vacancy is for an ex officio member, the chairperson may only designate the person who has been appointed to serve as the alternate for the ex officio member.

2009-1397s

AMENDED ANALYSIS

This bill authorizes the chairperson of a planning or other local land use board to designate an alternate to fill a vacancy on the board temporarily

The question is on the adoption of Committee Amendment 1397s.

Committee Amendment 1397s adopted.

The question is on the motion of Ought to Pass with Amendment on HB 44.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

(Sen. Roberge introduced Steve Gratton, a visitor in the Senate Gallery.)

HB 210, relative to public access to minutes of local land use boards. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 210.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

HB 178, naming a bridge on U.S. route 4 in Lebanon the Terri Dudley Bridge. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 178.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

(Sen. Barnes introduced Rep. Sally Kelly from Chichester.)

Recess/Out of Recess.

HB 383, relative to passenger restraints. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-2. Senator Gilmour for the committee.

Transportation and Interstate Cooperation

April 23, 2009

2009-1402s

03/05

Amendment to HB 383

Amend RSA 265:107-a as inserted by section 2 of the bill by inserting after paragraph IX the following new paragraph:

X. Enforcement of this section by law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a violation or some other offense; provided, however, that a motor vehicle may be stopped for failure to comply with this section if the seat belt violation is for a person under 18 years of age.

Sen. Gatsas moved the question.

The question is on the adoption of Committee Amendment 1402s.

A roll call was requested by Sen. Bragdon, seconded by Sen. Letourneau.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Janeway, Kelly, Gilmour, Larsen, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Cilley, Odell, Roberge, Bragdon, Lasky, Carson, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Downing.

Yeas: 10 - Nays: 14

Committee Amendment 1402s failed.

MOTION TO TABLE

Sen. Kelly moved that HB 383 be laid on the table.

The question is on the motion to table HB 383.

A roll call was requested by Sen. Bragdon, seconded by Sen. Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Kelly, Gilmour, Lasky, Larsen, DeVries, Merrill, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Bradley, Odell, Roberge, Bragdon, Carson, Gatsas, Barnes, Letourneau, D'Allesandro, Downing.

Yeas: 13 - Nays: 11

Motion adopted.

LAID ON THE TABLE

HB 383, relative to passenger restraints.

HB 552, renaming a bridge across the Connecticut River the Judge Harlan Fisk Stone Bridge. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Fuller Clark for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on HB 552.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

Recess/Out of Recess.

HOUSE MESSAGE

The Clerk read the following Message from the House:

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 204, relative to postsecondary educational assistance for New Hampshire national guard members and excluding certain entities that license software from the definition of private postsecondary career school.

SENATE CONCURRENCE WITH HOUSE AMENDMENT

Sen. Lasky recommends concurrence.

The question is on the concurrence with House Amendment 1371h to SB 204.

Motion of concurrence adopted, SB 204 adopted.

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Hassan moved that the Senate 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.

Motion adopted.

Adjournment from the Early Session.

LATE SESSION

Third Reading and Final Passage

HB 44, relative to the use of alternates by local land use boards.

HB 58, designating segments of the Cocheco River as protected under the rivers management and protection program.

HB 84-FN, relative to the regulation of reflexologists, structural integrators, and Asian bodywork therapists.

HB 120-FN-L, relative to the installation of carbon monoxide detectors in single and multi-family dwellings.

HB 132, relative to access to case records of the department of health and human services.

HB 178, naming a bridge on U.S. route 4 in Lebanon the Terri Dudley Bridge.

HB 210, relative to public access to minutes of local land use boards.

HB 234, establishing a committee to study the certificate of need process.

HB 282-FN-A, (New Title) relative to meetings of the medical/vision advisory board.

HB 301, establishing a task force to study access to dental care.

HB 387, relative to observation of voter registration.

HB 414, establishing a commission to study preventing dental disease among New Hampshire's children.

HB 436-FN-L, relative to civil marriage and civil unions.

HB 527, repealing the coordinated school health committee and relative to health education in kindergarten through grade 12.

HB 552, renaming a bridge across the Connecticut River the Judge Harlan Fisk Stone Bridge.

HB 599-FN, relative to reclassification of the position of forensic toxicologist in the department of safety.

HB 648-FN, relative to the use of marijuana for medicinal purposes.

HB 674-FN-A, relative to eliminating the water resources council, relative to dams, and authorizing the Connecticut lakes headwaters citizens committee to advise the department of environmental services on the management of Lake Francis and associated property.

HJR 3, recognizing the historic milestone represented by the New Hampshire senate being the first legislative body in the United States with women as the majority of its members.

ANNOUNCEMENTS

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Hassan moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments.

Motion adopted.

The Senate is in recess to the Call of the Chair.