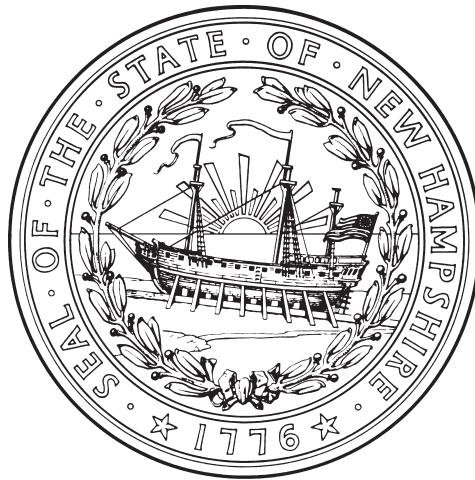


February 12, 2009
Nos. 3 - 4

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 – FEBRUARY 4, 2009 SESSION
COMMENCEMENT – FEBRUARY 12, 2009 SESSION

SENATE JOURNAL 3 *(continued)*

February 4, 2009

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 30-FN-A-L, requiring operating budget reductions for fiscal year 2009.

HB 36, relative to the purchase of information technology by state agencies.

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

HB 74, relative to student membership on a school board.

HB 77, relative to continuing education requirements for licensed architects.

HB 80, requiring at least one member of the pharmacy board to be a hospital pharmacist, and relative to the consecutive years of service of pharmacy board members.

HB 88, prohibiting filing with the registry of deeds a document that includes an individual's armed forces service number.

HB 96, correcting certain references relating to municipal growth management.

HB 106, relative to penalties for land use violations.

HB 115, relative to licenses for the operation of motor vehicle recycling yards and junk yards.

HB 141, authorizing towns and cities to accept any form of electronic payment.

HB 169, relative to the counting of charter school pupils in the definition of average daily membership in residence.

INTRODUCTION OF HOUSE BILL

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following House legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committees.

Resolution adopted.

First and Second Reading and Referral

HB 30-FN-A-L, requiring operating budget reductions for fiscal year 2009. (Finance)

INTRODUCTION OF SENATE BILLS

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following Senate legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Resolution adopted.

First and Second Reading and Referral

09-0872

SB 66-FN, relative to repealing the joint health council and changing the title of ARNPs. (D'Allesandro, Dist 20: Executive Departments and Administration)

09-0991

SB 74-FN, requiring mediation for small claims actions. (Fuller Clark, Dist 24: Judiciary)

09-0720

SB 99-FN-LOCAL, authorizing licensed new and used vehicle dealers to act as agents of the division of motor vehicles in the issuance of vehicle titles and registrations. (Letourneau, Dist 19; Gatsas, Dist 16; Downing, Dist 22; Packard, Rock 3; Nedean, Belk 3; M. O'Brien, Hills 26; G. Katsakiores, Rock 5: Commerce, Labor and Consumer Protection)

9-0898

SB 103-FN, relative to prohibited sales of alcoholic beverages. (Fuller Clark, Dist 24; Reynolds, Dist 2; Bragdon, Dist 11; Hunt, Ches 7; Butler, Carr 1; Clemons, Hills 24: Judiciary)

09-0936

SB 106-FN, establishing a program for mediation of civil writs in the district court and funding the program with a surcharge on the filing fee for civil writs. (Reynolds, Dist 2; Cote, Hills 23: Judiciary)

09-0906

SB 138-FN, relative to insurance coverage for telemedicine services. (Sgambati, Dist 4; Houde, Dist 5; Gallus, Dist 1; Nordgren, Graf 9; Merry, Belk 2; Donovan, Sull 4; Millham, Belk 5; Batula, Hills 19: Commerce, Labor and Consumer Protection)

09-0916

SB 139-FN, establishing a moratorium on the shoreland protection act and establishing a commission to study revision of the shoreland protection act. (Gallus, Dist 1; Denley, Dist 3; Gatsas, Dist 16; Letourneau, Dist 19; Ingersoll, Coos 4; Sapareto, Rock 5: Energy, Environment and Economic Development)

09-0918

SB 140-FN, relative to the practice of animal chiropractic care. (Gallus, Dist 1; Roberge, Dist 9; Gatsas, Dist 16; Theberge, Coos 4; Remick, Coos 2: Executive Departments and Administration)

09-0980

SB 146-FN-A, relative to liquor profits deposited into the alcohol abuse prevention and treatment fund. (Odell, Dist 8; Harding, Graf 11; Butynski, Ches 4; P. McMahon, Merr 3; S. Harvey, Hills 21; Taylor, Graf 2: Ways and Means)

09-0863

SB 163-FN-LOCAL, relative to powers of justices of the peace. (Gallus, Dist 1; Barnes, Jr., Dist 17; Carson, Dist 14; H. Richardson, Coos 2: Executive Departments and Administration)

09-0924

SB 167-FN, relative to employee leasing companies. (Cilley, Dist 6: Commerce, Labor and Consumer Protection)

09-0927

SB 169-FN, relative to games of chance and establishing a gaming oversight authority and video lottery gaming. (Gatsas, Dist 16: Ways and Means)

09-1018

SB 171-FN, relative to competency evaluations. (D'Allesandro, Dist 20: Health and Human Services)

09-1014

SB 174-FN, relative to state recoveries of public assistance caused by fraud. (D'Allesandro, Dist 20: Judiciary)

09-1015

SB 175-FN, increasing the fee for investigating the annulment of a criminal record. (D'Allesandro, Dist 20: Judiciary)

09-1019

SB 176-FN, establishing a fee for probationers and parolees who apply to be supervised in another state. (D'Allesandro, Dist 20: Judiciary)

09-1022

SB 177-FN-LOCAL, relative to the cost of lodging of persons sentenced to a county correctional facility. (D'Allesandro, Dist 20: Judiciary)

09-0860

SB 179-FN-A-LOCAL, providing for the recovery of horse racing, and expanding gaming operations in the north country and at pari-mutuel locations. (D'Allesandro, Dist 20; Gallus, Dist 1; Downing, Dist 22; Lasky, Dist 13; Gionet, Graf 3; Ingersoll, Coos 4; Ingram, Rock 4; Wells, Rock 8; Thomas, Coos 4: Ways and Means)

09-0853

SB 181-FN-A, relative to the liquor commission and alcoholic beverages. (D'Allesandro, Dist 20; Barnes, Jr., Dist 17; Downing, Dist 22; Kelly, Dist 10; Campbell, Hills 24; Hunt, Ches 7; Lerandeau, Ches 6; Ramsey, Hills 8: Ways and Means)

09-0889

SB 182-FN-A, establishing a job creation credit against the business profits tax and the business enterprise tax for businesses manufacturing energy efficient products. (Kelly, Dist 10; Fuller Clark, Dist 24; Odell, Dist 8: Ways and Means)

09-1012

SB 183-FN, relative to the number of daily journals printed by the house and senate clerks. (Bragdon, Dist 11: Election Law and Veterans' Affairs)

09-1017

SB 184-FN, relative to establishing the position of administrative director of the division of medical and forensic services in the department of corrections. (D'Allesandro, Dist 20: Executive Departments and Administration)

09-1020

SB 185-FN, relative to rates and charges for medical services to state prisoners. (D'Allesandro, Dist 20: Health and Human Services)

09-0873

SB 186, relative to the establishment of a statewide transportation policy and a transportation advisory commission. (Kelly, Dist 10; Janeway, Dist 7; Gilmour, Dist 12: Transportation and Interstate Cooperation)

09-1024

SB 187, relative to the administrative changes to the Nashua public works retirement system. (Lasky, Dist 13: Public and Municipal Affairs)

09-0926

CACR 11, Relating To: funding of public education. Providing That: the general court shall define an adequate education and distribute state funds for public education in a manner that alleviates local disparities. (Gatsas, Dist 16; Barnes, Jr., Dist 17; Bragdon, Dist 11; Denley, Dist 3; Downing, Dist 22; Gallus, Dist 1; Odell, Dist 8; Roberge, Dist 9: Education)

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 4

February 12, 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:

Today we celebrate the 200th anniversary of Charles Darwin's life and work. He was brilliant, and yet of course he was the one who, in deciding whether to be married or not, wrote that "having a wife would be better than having a dog." And yet at the end of his life's work there was a certain awareness on his part of the existential beauty of the world, even though he was questioning his faith. And so I think that it's important, as we do our work of leadership that we do it in the context of those core beliefs, whatever core beliefs we have, rather than in the context of the reports and the memos that land on our desks. And it's my belief that we're desperately loved by our Creator, and it seems to me that this world is far too beautiful to be accidental. Let us pray.

God of all love, guide us in our work in the leadership of this beautiful State of New Hampshire. May its natural beauty be an icon to its human beauty, its communal kindness, and its wondrous creation of the place in which to love each other. Amen

Sen. Houde led the Pledge of Allegiance.

Sen. Gatsas is excused from today's session.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Rev. David Yasenka, Pastor of Lutheran Church, Salem.

Russell Thibeault, Economist.

Kim Spaulding, Woodsville High School educator/JAG Advisor.

Senate Page: Jessica Laundry, Woodsville High School.

Senate Page: Kiri Veillette, Woodsville High School.

HOUSE MESSAGE

The Clerk read the following Message from the House:

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of hearing the Budget Address by his Excellency, the Governor, John H. Lynch.

MOTION TO MEET IN JOINT CONVENTION

Sen. Hassan moved that the Senate meet in Joint Convention for the purpose of hearing Governor John Lynch deliver his budget address.

Recess for Joint Convention/Out of Recess.

FURTHER INTRODUCTIONS

Sen. Odell introduced David Simpson of Peterborough; Kaisa and Sandy Killams; wife Sandy Odell.

COMMITTEE REPORTS

SB 20, adding a member to the statewide trail system advisory committee. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 5-0. Senator Merrill for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 20.

Motion of Inexpedient to Legislate adopted.

SB 77, renaming the Christa McAuliffe planetarium the McAuliffe-Shepard discovery center.

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 SB 77.

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

Sen. D'Allesandro reported that SB 133-FN had been waived from Finance Committee.

SB 122, relative to the quorum of the commission to oversee and negotiate issues relative to NAFTA and the WTO. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 3-0. Senator Cilley for the committee.

Senate Executive Departments and Administration

February 4, 2009

2009-0184s

06/09

Amendment to SB 122

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

AN ACT 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.

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

1 Commission Established. Amend RSA 19-L:1, II(a) to read as follows:

(a) ~~[Two]~~ **Four** members of the house of representatives, appointed by the speaker of the house of representatives, including one member of the commerce committee and one member of the labor, industrial and rehabilitative services committee.

2 Chairperson; Quorum. Amend RSA 19-L:3 to read as follows:

19-L:3 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 senate member. ***Nine members of the commission, or a majority of those appointed, whichever is less, shall constitute a quorum.***

3 Real Estate Appraiser Board. Amend RSA 310-B:4, VI to read as follows:

VI. The board shall meet at least once each calendar quarter to conduct its business and more often on call of the chair, or when the chair is requested to do so by 4 or more members of the board. The action of the majority of the members of the board present and voting shall be deemed the action of the board, and at least ~~[5]~~ **4** members shall be present and voting on every vote of the board. Places of future meetings shall be decided by the vote of members at meetings or, in the event of a special meeting, by the chair. Written notice shall be given by the chair to each member of the time and place of each meeting of the board at least 10 days in advance.

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

2009-0184s

AMENDED ANALYSIS

This bill:

I. Adds the requirement of a quorum to the commission to oversee and negotiate issues relative to NAFTA and the WTO.

II. Decreases the quorum requirement for the real estate appraiser board.

The question is on the adoption of Committee Amendment 0184s.

Committee Amendment 0184s adopted.

The question is on the adoption of Ought to Pass with Amendment on SB 122.

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

SB 42, establishing a committee to study the cost and feasibility of implementing a hospice benefit under Medicaid. Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Gilmour for the committee.

The question is on the committee recommendation of Ought to Pass on SB 42.

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

SB 95, relative to criminal records checks for volunteers and other persons having direct contact with a client. Health and Human Services Committee. Ought to Pass with Amendment, Vote 4-0. Senator Gallus for the committee.

Health and Human Services

February 3, 2009

2009-0151s

01/09

Amendment to SB 95

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

AN ACT relative to criminal records checks for volunteers.

Amend RSA 151:2-d, II as inserted by section 1 of the bill by replacing it with the following:

II. For the duration of licensure or certification every individual selected for employment with any facility or entity required to be licensed or certified under this chapter shall submit to the employer a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the facility pursuant to RSA 106-B:14. This shall apply to any employee, including volunteers, whose scope of employment will involve direct contact with

a client, client records or client tissue, body fluids, or other biological material. *For the purposes of this paragraph “volunteers” shall not include individuals who reside in the facility or entity required to be licensed or certified under this chapter or in an affiliated corporate entity that is an integral part of the same community.*

2009-0151s

AMENDED ANALYSIS

This bill adds a definition of “volunteers” for the purposes of the criminal record check required for potential employees in health care facilities.

The question is on the adoption of Committee Amendment 0151s.

Committee Amendment 0151s adopted.

The question is on the adoption of Ought to Pass with Amendment on SB 95.

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

SB 71, establishing a commission to study the feasibility of regional transit. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Letourneau for the committee.

The question is on the committee recommendation of Inexpedient to Legislate on SB 71.

Motion of Inexpedient to Legislate adopted.

Sen. DeVries is in opposition to Motion of Inexpedient to Legislate on SB 71.

SB 133-FN, authorizing purple heart special number plates for veterans still on active duty. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Letourneau for the committee.

The question is on the committee recommendation of Ought to Pass on SB 133-FN.

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

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

The following Senators voted No: None.

Yeas: 23 - Nays: 0

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

FURTHER INTRODUCTION AND ANNOUNCEMENTS

Sen. Janeway introduced his wife Betsy Janeway.

SENATOR KELLY (Rule 44): Thank you, Madam President. I just rise under Rule 44. I just want to take a moment and recognize a young man who served in the U.S. Army and died on January the 23rd. This is Pvt. 2nd Class Chipper Rogers, and he lived in Keene, New Hampshire. This young man was 21 years old, and he died while he was serving in the Army in active duty in Germany. However, prior to his active duty in Germany, Pvt. Rogers served in Iraq, and while in Iraq a bomb went off very close to him and injured his eardrum. He had surgery on that ear, but incurred constant pain. So at this time it’s unclear as to the exact cause of his death, but it appears as though it is complications to the medication caused by the injury in Iraq. And we’ve probably all attended these funerals, and I did last week and it’s very, very sad when a casket comes in with that flag, and it broke my heart to see him and his family. He was a young man who I don’t think had the same kind of secure and stable beginning that we all want for all of our children. His grandmother adopted him. The young woman I was sitting next to at the funeral, I didn’t know, she was probably 13 or 14 years old, and I said, “How did you know Chipper?” And she said, “Our families lived at the shelter together,” at one time. So this was a young man who grew up with hard times, worked hard to overcome them. And what I heard at the funeral about him was that he had a lot of kindness for others and always did things for someone who asked for help from him. And I didn’t know him, but I can tell you from everything I heard that day that he loved many people in that community and they knew it, and I think most important of all, the community loved him, and he will surely be missed by all of us. Thank you.

President Larsen, without objection, moved that the Rule 44 will be entered into the permanent record.

Recess/Out of Recess.

HOUSE MESSAGE

The Clerk read the following Message from the House:

The House of Representatives is ready to reconvene the Joint Convention for the purpose of the New Hampshire celebration of the Bicentennial of the birth of Abraham Lincoln.

MOTION TO MEET IN JOINT CONVENTION

Sen. Hassan moved that the Senate meet in Joint Convention for the purpose of celebrating the 200th Anniversary of the birth of President Lincoln.

Recess for Joint Convention/Out of Recess.

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**

SB 77, renaming the Christa McAuliffe planetarium the McAuliffe-Shepard discovery center.

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 42, establishing a committee to study the cost and feasibility of implementing a hospice benefit under Medicaid.

SB 95, relative to criminal records checks for volunteers.

SB 133, authorizing purple heart special number plates for veterans still on active duty.

ANNOUNCEMENTS

(Sen. Odell extended an invitation to the Senate and staff to participate in the New Hampshire Historical Society's exhibit, "Lincoln in New Hampshire" at the Tuck Library presently underway.)

SENATOR D'ALLESANDRO (Rule 44): And we commend Sen. Odell for his great work. (Applause)

PRESIDENT LARSEN (Rule 44): We would enter under Rule 44. And I would also like to say that I applaud Sen. Odell for the very significant work that went into making this day memorable in historic recognition of the 200 years of a very great President. So many similar analogies to today's world, as we heard in the statement he made in our Joint Session. So thank you so much for making this day possible. It's a very ... that's my "Rule 44," by the way. (Laughter) And I would say I'm not sure it's the day to say "Let them eat cake," but there's some cake across the street.

President Larsen, without objection, moved that the Rule 44's are to be entered into the permanent record.

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 when we recess, we recess to the call of the Chair.

Motion adopted.

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