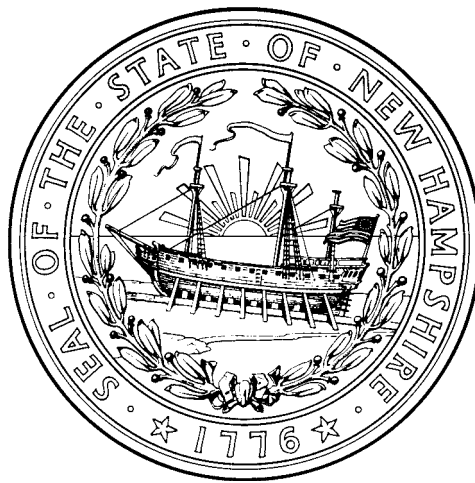


January 27, 2010
Nos. 3-4

STATE OF NEW HAMPSHIRE

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



**Second Year of the 161st Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – JANUARY 21, 2010 SESSION
COMMENCEMENT – JANUARY 27, 2010 SESSION**

SENATE JOURNAL 3 *(continued)*

January 21, 2010

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 herein listed title and referred to the therein designated committee.

Motion adopted.

First and Second Reading and Referral

10-2858

SB 354-FN, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property. (DeVries, Dist 18; Long, Hills 10; Komi, Hills 12: Public and Municipal Affairs)

10-2876

SB 359-FN, requiring the state treasurer to post online certain information regarding payments made by the state. (Bragdon, Dist 11; Barnes, Jr., Dist 17; Bradley, Dist 3; Carson, Dist 14; Downing, Dist 22; Gallus, Dist 1; Letourneau, Dist 19; Odell, Dist 8; Roberge, Dist 9: Executive Departments and Administration)

10-2692

SB 477, relative to driver education school applicants. (Letourneau, Dist 19; Gilmour, Dist 12; Packard, Rock 3; R. Williams, Merr 11; Nedeau, Belk 3: Transportation and Interstate Cooperation)

10-2695

SB 479, relative to administrative review by the commissioner of safety of decisions by the bureau of hearings. (Letourneau, Dist 19; Carson, Dist 14; Packard, Rock 3; R. Williams, Merr 11; Nedeau, Belk 3: Executive Departments and Administration)

10-2780

SB 480, relative to appeals of decisions by the department of environmental services. (Fuller Clark, Dist 24; Merrill, Dist 21; Cilley, Dist 6; Lasky, Dist 13; Bradley, Dist 3; Kappler, Rock 2: Energy, Environment and Economic Development)

10-2895

SB 481, relative to appropriations for certain turnpike system projects. (Hassan, Dist 23; Fuller Clark, Dist 24; A. Perkins, Rock 14; L. Perkins, Rock 14; Weare, Rock 14; Stiles, Rock 15; Cushing, Rock 15: Finance)

10-2745

SB 482, relative to bullying and cyberbullying in schools. (Carson, Dist 14; Bradley, Dist 3; Clarke, Merr 6; O'Neil, Hills 19; Charron, Rock 7; Griffin, Rock 4: Education)

10-2791

SB 483-FN-A, relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax. (D'Allesandro, Dist 20; Gallus, Dist 1; Reynolds, Dist 2; Gilmour, Dist 12; W. Douglas Scamman, Rock 13; Peterson, Hills 3: Ways and Means)

10-2860

SB 485-FN-A, relative to ratification of cost items contained in a collective bargaining agreement for court security officers of the judicial branch, and making an appropriation therefor. (Reynolds, Dist 2: Executive Departments and Administration)

10-2768

SB 486-FN, relative to the school building aid program. (Kelly, Dist 10; Janeway, Dist 7; D'Allesandro, Dist 20: Education)

10-2886

SB 487-LOCAL, relative to charter limitations on the growth of budgets and taxes and to the validity of certain city and town charter provisions. (Bragdon, Dist 11; Barnes, Jr., Dist 17; Bradley, Dist 3; Carson, Dist 14; Downing, Dist 22; Gallus, Dist 1; Letourneau, Dist 19; Roberge, Dist 9: Public and Municipal Affairs)

10-2890

SB 488, relative to the adoption of local spending caps. (Bragdon, Dist 11; Bradley, Dist 3; Carson, Dist 14; Gallus, Dist 1; Letourneau, Dist 19; Odell, Dist 8; Roberge, Dist 9; Barnes, Jr., Dist 17: Public and Municipal Affairs)

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:

HB 450, relative to the state 10-year transportation improvement program.

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 4

January 27, 2010

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

The Reverend Celeste Hemingson from St. Paul's Church, Concord, guest chaplain to the Senate, offered the following meditative thoughts and prayer:

I would speak to you today as one minister to other ministers. We ministers of the Church are constantly harangued: Don't miss politics with religion. Some in our flocks claim that we cross that line if we even mention any injustice that exists in the world today. Now, I am not that restrictive, and the fact that I am here before you today tells me that you are not that restrictive, either. As for your ministry, I would appeal to you not to mix politics into the "sausage" of legislation. Too often these days we hear of decisions being made more to give one party or another a "black eye" than to build up the community. I pray that you may seek solutions that serve the body politic over the merely politic. Let us pray:

O God, You care for even the smallest sparrow. Lead us away from the Babel of partisan interests so that we may work together to build a tower of justice. *Amen*

Sen. Sgambati led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Sen. D'Allesandro introduced today's Senate Pages, Quinton Morrissey and Lindsay Matheos, from Mountain View Middle School in Goffstown.

Sen. Gallus introduced family and friends of Specialist Alan J. Burgess: Karen Moore, mother; sisters Angela, Sarah and Emily; and guests Madison Nichols and Sue Peterson.

COMMITTEE REPORTS

Without objection President Larsen Special-Ordered SB 305 to 10:30 a.m. of today's session and HB 314-L to the end of today's Calendar.

SPECIAL ORDER

Public and Municipal Affairs Committee

SB 305, naming a bridge in Lisbon in honor of Specialist Alan J. Burgess.

Energy, Environment and Economic Development Committee

HB 314-L (New Title) relative to the assessment of certain costs associated with proposed large groundwater withdrawals from wells.

SB 362, relative to giving swimmers and kayakers the right of way. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Odell for the committee.

Energy, Environment and Economic Development

January 20, 2010

2010-0214s

03/10

Amendment to SB 362

Amend the bill by replacing section 1 with the following:

1 General Rules for Vessels Operating on Water; Right-of-Way. Amend RSA 270-D:2, IX to read as follows:

IX. Canoes, *kayaks*, rowboats, [and] sailboats, *and swimmers* shall be given the right-of-way. This requirement shall not be construed to allow deliberate impediment of motorboats by canoes, *kayaks*, rowboats, [or] sailboats, *and swimmers*.

The question is on the adoption of Committee Amendment 0214s.

Committee Amendment 0214s adopted.

The question is on the motion of Ought to Pass as Amended on SB 362.

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

SB 426, relative to the classification of Pleasant Lake. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-0. Senator Cilley for the committee.

Energy, Environment and Economic Development

January 21, 2010

2010-0227s

08/09

Amendment to SB 426

Amend the bill by replacing section 1 with the following:

1 Pleasant Lake in Deerfield, New Hampshire; Classification Changed to Class A. On and after the effective date of this act, the surface waters of Pleasant Lake in Deerfield and its tributaries in New Hampshire shall be classified in accordance with the provisions of RSA 485-A:8, as Class A waters.

The question is on the adoption of Committee Amendment 0227s.

Committee Amendment 0227s adopted.

The question is on the motion of Ought to Pass as Amended on SB 426.

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

SB 307, relative to voting by members of voluntary corporations and associations. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator DeVries for the committee.

The question is on the committee recommendation of Ought to Pass on SB 307.

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

SB 73-FN, requiring the state government to reduce energy consumption in state buildings, to develop an energy conservation plan, and to make an annual report on the state's energy consumption. Finance Committee. Ought to Pass with Amendment, Vote 5-1. Senator D'Allesandro for the committee.

Senate Finance

January 21, 2010

2010-0236s

09/01

Amendment to SB 73-FN

Amend the bill by replacing all after section 1 with the following:

2 New Section; Energy Consumption Reduction Goal; Reports. Amend RSA 21-I by inserting after section 14-b the following new section:

21-I:14-c Energy Consumption Reduction Goal; Reports.

I. Each state department shall use cost-effective measures to achieve an energy consumption reduction goal of 25 percent by 2025.

II. Beginning in calendar year 2012, each state department shall submit an annual report to the commissioner of administrative services on or before September 1 which details the cost-effective measures it is utilizing to comply with the energy consumption reduction goal established in paragraph I and its annual progress in complying with this goal.

III. Beginning in calendar year 2012, the commissioner shall submit an annual report on or before December 1 compiling the annual reports submitted under paragraph II, with findings on the departments' annual progress in complying with the energy consumption reduction goal established in paragraph I and problems which may prevent the departments from achieving this goal, to the energy efficiency and sustainable energy board established under RSA 125-O:5-a, the governor, the senate president, the speaker of the house of representatives, the chairman of the senate energy, environment, and economic development committee and the chairman of the house science, technology and energy committee.

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

The question is on the adoption of Committee Amendment 0236s.

Committee Amendment 0236s failed.

Sen. D'Allesandro offered a floor amendment.

Sen. L. D'Allesandro, Dist. 20

January 27, 2010

2010-0326s

01/09

Floor Amendment to SB 73-FN

Amend the bill by replacing all after section 1 with the following:

2 New Section; Energy Consumption Reduction Goal; Reports. Amend RSA 21-I by inserting after section 14-b the following new section:

21-I:14-c Energy Consumption Reduction Goal; Reports.

I. Each state department may use cost-effective measures to achieve an energy consumption reduction goal of 25 percent by 2025.

II. Beginning in calendar year 2012, each state department shall submit an annual report to the commissioner of administrative services on or before September 1 which details any cost-effective measures it is utilizing to comply with the energy consumption reduction goal established in paragraph I and its annual progress in complying with this goal.

III. Beginning in calendar year 2012, the commissioner shall submit an annual report on or before December 1 compiling the annual reports submitted under paragraph II, with findings on the departments' annual progress in complying with the energy consumption reduction goal established in paragraph I and problems which may prevent the departments from achieving this goal, to the energy efficiency and sustainable energy board established under RSA 125-O:5-a, the governor, the senate president, the speaker of the house of representatives, the chairman of the senate energy, environment, and economic development committee and the chairman of the house science, technology and energy committee.

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

The question is on the adoption of Floor Amendment 0326s.

Floor Amendment 0326s adopted.

The question is on the motion of Ought to Pass as Amended on SB 73-FN.

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

SB 375, relative to the state park system as a self-supporting entity. Finance Committee. Ought to Pass, Vote 6-0. Senator Odell for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 375.

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

SB 120, relative to nonemergency involuntary admissions and permitted condition of conditional discharge from a mental health facility. Judiciary Committee. Interim Study, Vote 5-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Refer to Interim Study on SB 120.

Motion of Refer to Interim Study adopted.

(President Larsen welcomed students and teachers from Beaver Meadow School fourth grade in Concord, visitors in the gallery.)

HB 230, relative to the burden of proof for a finding of abuse in domestic violence cases. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Houde for the committee.

Senate Judiciary

January 20, 2010

2010-0199s

09/04

Amendment to HB 230

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

1 New Subparagraph; Protection From Domestic Violence; Definition of Abuse. Amend RSA 173 B:1, I by inserting after subparagraph (g) the following new subparagraph:

(h) Such conduct by the defendant, regardless of its proximity in time to the filing of the petition, which, combined with recent events, reflects an ongoing pattern of behavior which reasonably causes or has caused the plaintiff to fear for his or her safety and well-being.

2 Effective Date. This act shall take effect January 1, 2011.

2010-0199s

AMENDED ANALYSIS

This bill adds certain conduct by the defendant to the definition of "abuse" in domestic violence cases.

The question is on the adoption of Committee Amendment 0199s.

Committee Amendment 0199s failed.

Sen. Reynolds offered a floor amendment.

Sen. Reynolds, Dist. 2

Sen. Lasky, Dist. 13

Sen. Roberge, Dist. 9

Sen. Houde, Dist. 5

Sen. Letourneau, Dist. 19

January 27, 2010

2010-0328s

09/04

Floor Amendment to HB 230

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

AN ACT relative to the definition of abuse in domestic violence cases.

Amend the bill by replacing section 1 with the following:

1 Protection of Persons From Domestic Violence; Definitions. Amend RSA 173-B:1, I to read as follows:

I. "Abuse" means the commission or attempted commission of one or more of the [following] acts *described in subparagraphs (a) through (g)* by a family or household member or *by a* current or former sexual or intimate partner [and], where such conduct [constitutes a credible threat to the plaintiff's safety] *is determined to constitute a credible present threat to the petitioner's safety. The court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior which reasonably causes or has caused the petitioner to fear for his or her safety or well-being.*

2010-0328s

AMENDED ANALYSIS

This bill changes the definition of abuse in domestic violence cases.

The question is on the adoption of Floor Amendment 0328s,

Floor Amendment 0328s adopted.

The question is on the motion of Ought to Pass as Amended on HB 230.

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

SPECIAL ORDER

SB 305, naming a bridge in Lisbon in honor of Specialist Alan J. Burgess. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

The question is on the committee recommendation of Ought to Pass on SB 305.

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

The following Senators voted Yes: Gallus, Reynolds, Bradley, 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.

Recess/Out of Recess.

HB 621, (New Title) relative to establishing procedures for identifying criminal defendants who may have a mental illness. Judiciary Committee. Ought to Pass, Vote 3-2. Senator Lasky for the committee.

Sen. Lasky offered a floor amendment.

Sen. Lasky, Dist. 13

January 27, 2010

2010-0331s

04/10

Floor Amendment to HB 621

Amend the bill by replacing section 1 with the following:

1 Commitment to Hospitals; Competency. Amend RSA 135:17, I to read as follows:

I.(a) When a person is charged or indicted for any offense, or is bound over by any district or [municipal] **superior** court to await the action of the grand jury, the district or superior court before which he or she is to be tried, if a plea of insanity is made in court, or said court is notified by either party that there is a question as to the competency or sanity of the person, may make such order for a pre-trial examination of such person by a qualified psychiatrist or psychologist on the staff of any public institution or by a private qualified psychiatrist or psychologist as the circumstances of the case may require, which order may include, though without limitation, examination at the secure psychiatric unit on an out-patient basis, the utilization of local mental health clinics on an in- or out-patient basis, or the examination of such person, should he or she be incarcerated for any reason, at his or her place of detention by qualified psychiatrists or psychologists assigned to a state or local mental health facility. Such pre-trial examination shall be completed within [60] **45 days in the case of a person being held at a county correctional facility, otherwise 90** days after the date of the order for such examination, unless either party requests an extension of this period. For the purposes of this paragraph and RSA 135:17-a, III, "qualified" means board-eligible or board-certified in forensic psychiatry or psychology, or demonstrated competence and experience in completing court-ordered forensic criminal evaluations. A licensed out-of-state psychiatrist or psychologist who meets the definition of qualified may also conduct evaluations under this paragraph and RSA 135:17-a, III.

(b) In cases where the person is incarcerated and a pre-trial examination has not been performed within 30 days of the court's order, the court shall, upon request of the person, order an evaluation by a qualified psychiatrist or psychologist. The court shall favorably consider a request that the psychiatrist or psychologist be treated as a defense expert who shall be compensated pursuant to RSA 604-A:6.

2010-0331s

AMENDED ANALYSIS

This bill:

I. Modifies the time frames for conducting a pre-trial examination by a psychiatrist or psychologist.

II. Requires the interbranch criminal and juvenile justice council to establish mental illness screening procedures.

III. Creates new procedures for the appointment of counsel for a person with a mental illness.

The question is on the adoption of Floor Amendment 0331s.

Floor Amendment 0331s adopted.

The question is on the motion of Ought to Pass as Amended on HB 621.

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

Sen. Letourneau is in opposition to the motion of Ought to Pass as Amended on HB 621.

HB 686, relative to complaint procedures in cases before the commission for human rights. Judiciary Committee. Inexpedient to Legislate, Vote 4-1. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 686.

Motion of Inexpedient to Legislate adopted.

SB 128, allowing municipalities to grant a property tax credit for low income persons owning residential property. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator DeVries for the committee.

Public and Municipal Affairs

January 20, 2010

2010-0216s

10/03

Amendment to SB 128

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

AN ACT relative to the community revitalization tax relief incentive.

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

1 Community Revitalization Tax Relief Incentive; Definition; Qualifying Structure. Amend RSA 79-E:2, I to read as follows:

I. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. *Cities or towns may further define "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within applicable districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals.*

2 Community Revitalization Tax Relief Incentive; Definition; Substantial Rehabilitation. Amend RSA 79-E:2, II to read as follows:

II. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. *Cities or towns may further define "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs more than 15 percent of pre-rehabilitation assessed valuation and \$75,000 based on local economic conditions, community character, and local planning and development goals.*

3 Adoption Procedure; Modification. Amend RSA 79-E:3, I to read as follows:

I. Any city or town may adopt **or modify** the provisions of this chapter by voting whether to accept for consideration **or modify requirements for** requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

4 New Paragraph; Duration of Tax Relief Period; Local Guidelines. Amend RSA 79-E:5 by inserting after paragraph III the following new paragraph:

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

5 New Section; Public Benefit Determinations. Amend RSA 79-E by inserting after section 7 the following new section:

79-E:7-a Public Benefit Determinations. Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

6 New Paragraph; Extent of Tax Relief. Amend RSA 79-E:13 by inserting after paragraph II the following new paragraph:

III. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter.

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

2010-0216s

AMENDED ANALYSIS

This bill allows cities and towns to modify certain requirements of the community revitalization tax relief incentive program under RSA 79-E.

The question is on the adoption of Committee Amendment 0216s.

Committee Amendment 0216s adopted.

Sen. Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

January 26, 2010

2010-0308s

10/09

Floor Amendment to SB 128

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

AN ACT relative to the community revitalization tax relief incentive, and clarifying the authority of towns to respond appropriately to the American Recovery and Reinvestment Act of 2009 and similar acts.

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

6 American Recovery and Reinvestment Act of 2009; Local Authority. Amend the introductory paragraph of 2009, 14:2, as amended by 2009, 229:5, to read as follows:

14:2 American Recovery and Reinvestment Act of 2009; Special Meeting; Appropriation and Expenditure of Funds. Notwithstanding any other provision of law, the governing body of any town, village district, or school district, including those towns that have adopted RSA 40:13, may call a special meeting, without court approval, to consider an appropriate response to the American Recovery and Reinvestment Act of 2009 or any similar act adopted by Congress in [2009] **2010 or 2011**. The legislative body at such a meeting may authorize the appropriation and expenditure of any funds allocated to the political subdivision by **or through** the federal act, the appropriation and expenditure of any local matching share, the issuance of bonds for any local share, and the adoption of a warrant article under the provisions of RSA 31:95-b or RSA 198:20-b. Such meetings shall be subject to the following:

2010-0308s

AMENDED ANALYSIS

This bill allows cities and towns to modify certain requirements of the community revitalization tax relief incentive program under RSA 79-E.

This bill also clarifies the authority of towns, village districts, or school districts to respond appropriately to the American Recovery and Reinvestment Act of 2009 and similar acts adopted by Congress.

The question is on the adoption of Floor Amendment 0308s.

Floor Amendment 0308s adopted.

The question is on the motion of Ought to Pass as Amended on SB 128.

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

SB 391-L, relative to the payment of certain amounts from the water fund to the town general fund by the town of Hanover. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

The question is on the committee recommendation of Ought to Pass on SB 391-L.

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

HB 446, defining “unnecessary hardship” for purposes of zoning variances. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 446.

Motion of Inexpedient to Legislate adopted.

SB 303, authorizing revocation and suspension of vehicle dealer licenses. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

Transportation and Interstate Cooperation

January 21, 2010

2010-0228s

03/04

Amendment to SB 303

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

AN ACT relative to motor vehicle dealers, transporters, and repairers.

Amend the bill by replacing section 1 with the following:

1 Dealers, Transporters, and Repairers; Suspension or Revocation. Amend RSA 261:177, I(a) to read as follows:

(a) *After a hearing and upon a finding that a dealer, utility dealer, automotive recycling dealer, transporter, or repairer has violated any provision of this chapter or rules adopted pursuant to this chapter*, suspend or revoke [any] *the* dealer’s, utility dealer’s, automotive recycling dealer’s, transporter’s, or repairer’s registration, license, or privileges *for an appropriate period of time considering the severity of the offense, the number of offenses committed, and whether the dealer, utility dealer, automotive recycling dealer, transporter, or repairer committed prior offenses. If the license is revoked and the director determines after a hearing that an owner, partner, or officer of the dealer, utility dealer, automotive recycling dealer, transporter, or repairer is in violation of any provision of the dealer, utility dealer, automotive recycling dealer, transporter, or repairer laws or rules, the director* [and] may prohibit an owner, partner, or officer from opening any other [type of] dealership for a period of time not to exceed 5 years; or

2010-0228s

AMENDED ANALYSIS

This bill clarifies the authority of the director of the division of motor vehicles to suspend or revoke the registration, license, or privileges of a dealer, utility dealer, automotive recycling dealer, transporter, or repairer.

The question is on the adoption of Committee Amendment 0228s.

Committee Amendment 0228s adopted.

The question is on the motion of Ought to Pass as Amended on SB 303.

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

SB 316, establishing a statewide transportation policy. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 3-2. Senator Kelly for the committee.

Transportation and Interstate Cooperation

January 21, 2010

2010-0231s

06/01

Amendment to SB 316

Amend the chapter heading of RSA 241 as inserted by section 1 of the bill by replacing it with the following:

**CHAPTER 241
STATEWIDE TRANSPORTATION POLICY**

Amend RSA 241:2, II and III as inserted by section 1 of the bill by replacing them with the following:

II. Plans and policies developed under this statewide transportation policy shall be submitted to the director of the office of energy and planning.

III. Nothing in this chapter creates a private right of action against the state or the department of transportation and its divisions, or the transportation advisory commission established under RSA 241:3, regarding any transportation plan or transportation project.

The question is on the adoption of Committee Amendment 0231s.

Committee Amendment 0231s adopted.

The question is on the motion of Ought to Pass as Amended on SB 316.

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

Sen. Bradley is in opposition to the motion of Ought to Pass as Amended on SB 316.

SB 403, relative to motor-driven cycles. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Gilmour for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 403.

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

SPECIAL ORDER

HB 314-L, (New Title) relative to the assessment of certain costs associated with proposed large groundwater withdrawals from wells. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 3-3. Senator Bradley for the committee.

MOTION TO TABLE

Sen. Hassan moved to table.

The question is on the motion to table HB 314-L.

Motion adopted.

LAID ON THE TABLE

HB 314-L, (New Title) relative to the assessment of certain costs associated with proposed large groundwater withdrawals from wells.

Sen. Cilley is in opposition to the motion of Laid on the Table on HB 314-L.

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 73-FN, requiring the state government to reduce energy consumption in state buildings, to develop an energy conservation plan, and to make an annual report on the state's energy consumption.

SB 128, (New title) relative to the community revitalization tax relief incentive, and clarifying the authority of towns to respond appropriately to the American Recovery and Reinvestment Act of 2009 and similar acts.

SB 303, (New title) relative to motor vehicle dealers, transporters, and repairers.

SB 305, naming a bridge in Lisbon in honor of Specialist Alan J. Burgess.

SB 307, relative to voting by members of voluntary corporations and associations.

SB 316, establishing a statewide transportation policy.

SB 362, relative to giving swimmers and kayakers the right of way.

SB 375, relative to the state park system as a self-supporting entity.

SB 391-L, relative to the payment of certain amounts from the water fund to the town general fund by the town of Hanover.

SB 403, relative to motor-driven cycles.

SB 426, relative to the classification of Pleasant Lake.

HB 230, (New Title) relative to the definition of abuse in domestic violence cases.

HB 621, (New Title) relative to establishing procedures for identifying criminal defendants who may have a mental illness.

ANNOUNCEMENTS

Sen. DeVries introduced and welcomed her new intern, Derrick Beckwith, from Seabrook, a junior at UNH.

SENATOR HASSAN (Rule 44): Thank you, Madam President. I rise to offer a Rule 44. New Hampshire lost a wonderful educator last week who was also a dear friend of my family, Susan Coskren, who was the Director of Special Education at the Barnard School in South Hampton. For those of you who don't know South Hampton, it's the smallest town in my district; it's about 900 people, and the Barnard School serves about a hundred students. And Sue Coskren, who grew up in Exeter, and we first met her through her employment at Phillips Exeter Academy, over time started insisting on coming to babysit at the Hassan household, in particular to take care of our son Ben who, as you all know, has a number of different disabilities. And Sue, after a couple of years of continuing her employment at Phillips Exeter and babysitting at our house, announced to our group that she had learned from Ben so much that she wanted to return to UNH, where she had graduated with a bachelor's in Education, to get her master's in Special Education. And to describe her as "sunshine" is an understatement. She was one of the most sunny and delightful and positive people you would ever know. A parent at her funeral on Saturday said to me, you know, introducing me to his son who is now a young adult, before Sue came to work at the Barnard School every interaction about his program felt like an argument or a fight, to be won or to be lost, and when Sue came they just felt like problems that needed to be solved; and in fact she got everybody around the table and she solved the problem. So I just remember her with great affection, with great love and great respect, and honor her and wish she hadn't passed so early and so suddenly. Thank you.

SENATOR REYNOLDS (Rule 44): Madam President, we have wonderful staff in the New Hampshire Senate, and we're so appreciative of what they all do for us. And so it's with some sadness that we say goodbye to Jill Sokness who has been a fantastic Senate aide to me and to many of us here. We're going to miss her. We know that she's going on to fulfill some goals that she has. But I just wanted to note and have it be part of the permanent record of this body that we so appreciate all of her service to us, and to wish her well and to thank her for all she's done. (Standing ovation)

SENATOR LETOURNEAU (Rule 44): Thank you, Madam President. I rise for a Rule 44. I want to talk about a New Hampshire hero, really an American hero: Walter Borowski. And, no, he didn't pass away. Walter Borowski, to quote Richard Holmes, the Derry town historian, "Every hero will deny that he's a hero." Walter Borowski is a man who fits that definition. Walter Borowski's heroism during World War II cannot be denied. However, Walter has said more than several times that he was not a hero, he came home alive. Walter was

born in Manchester, New Hampshire, January 5th, 1920. The family moved to Derry in 1922, and Walter has lived in Derry since with a short visit to Europe during World War II. He graduated from Pinkerton Academy in 1937 and had to forego future education plans and went to work to help support the family. Remember, this was during the Great Depression. After the attack on Pearl Harbor, December 7th, 1941, Walter joined the U.S. Army and was attached to the 82nd Airborne. I'm sure that's close to your heart, Senator. Walter went on to qualify for the U.S. Army Rangers where the motto of the Rangers was they "lead the way." Walter was quoted as saying: "Rangers was so tough that the Marines had to shine our boots." Half the soldiers who started Ranger training did not graduate, and if anybody complained they were told: "You volunteered."

After training, the Rangers were sent to Scotland where they knew they were in England but didn't know why; they were soon to find out. Each day they were to scale the White Cliffs of Dover over and over again, over 200 feet, straight up. On D-Day the Rangers were ordered to scale the Cliffs at Pointe du Hoc on Omaha Beach to silence the 155 guns that the Nazis had positioned there. Those guns had a range of over 14 miles, and unless those guns were neutralized, the American landing force would be decimated. The Rangers would lead the way and the Army would follow. The commander was told before the assault that no commander has ever been given a more desperate mission. Walter recalled that it was a "bad, rainy, miserable day" and everybody was seasick. On the approach to the beach the German machine gun fire was intense, some of the landing craft were ripped open by dragon teeth obstacles that were put there by the Nazis. When they landed, to quote Walter, "All hell broke loose." Machine gun fire was whizzing through the air like angry bees and there was blood and bodies everywhere. It looked like the invasion was about to have failed. The Rangers, however, were not to be stopped. Walter got set to fire the rocket that landed their grapple hooks under heavy fire. Walter had to scale this cliff, over a hundred feet high, carrying three heavy weapons. While the Rangers suffered heavy casualties and needed a relief, a simple message came back: "No reinforcements are available." The scene at the top was utter chaos and each Ranger's life depended on his brother Ranger. By the end of the assault they had suffered 70 percent casualties. Walter suffered gunshot wounds from a sniper and was one of 75 left standing at the end of the third day. Forty years later, on June 6, 1984, President Ronald Reagan spoke at the anniversary of the event and said: "Two hundred and twenty-five came here, after two days of fighting only 90 could still bear arms. These are the boys who took these cliffs, these are the champions that helped free a continent."

Walter received the Silver Star and a Purple Heart doing that particular invasion. And on February 4th of this year, this week – this coming week, Walter is going to receive from the French Consulate General, who's coming from Paris to Derry to present him with the French Legion of Honor Medal. Governor Lynch is going to be in attendance and he's going to honor him with some State honors. I tell everybody here that you're invited if you would like to attend the event, and I think it's an event for a 90-year-old man who's unable to go to Paris at this time because he's on dialysis three days a week and may not be with us much longer, but definitely one of World War II's heroes from New Hampshire. Thank you.

Without objection President Larsen moved that all Rule 44's shall be entered into the permanent *Journal of the Senate*.

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, processing enrolled bill reports and amendments.

Motion adopted.

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