

February 3, 2010  
Nos. 4-5

# **STATE OF NEW HAMPSHIRE**

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**Second Year of the 161<sup>st</sup> Session of the  
New Hampshire General Court**

**Legislative Proceedings**

## **SENATE JOURNAL**

**ADJOURNMENT – JANUARY 27, 2010 SESSION  
COMMENCEMENT – FEBRUARY 3, 2010 SESSION**

# SENATE JOURNAL 4 *(continued)*

*January 27, 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

10-2852

**SB 484**, repealing the New Hampshire children's trust fund. (Gilmour, Dist 12; Lasky, Dist 13; Grassie, Straf 1; McKinney, Rock 3: Health and Human Services)

10-2880

**SB 489-FN-A-LOCAL**, relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing. (D'Allesandro, Dist 20; Gallus, Dist 1; Downing, Dist 22; Lasky, Dist 13; Gilmour, Dist 12; Sgambati, Dist 4; DeVries, Dist 18; Rep Gionet, Graf 3; Ingersoll, Coos 4; Clemons, Hills 24; Rausch, Rock 5; L. Ober, Hills 27: Finance)

10-2709

**SB 490-FN**, allowing historical racing. (Sgambati, Dist 4; Hassan, Dist 23; Lasky, Dist 13; DeJoie, Merr 11; D. Sullivan, Hills 8; Keans, Straf 1: Ways and Means)

10-2738

**SB 491**, relative to in-state preferences on state vendor contracts and criteria for debarment of vendors. (Cilley, Dist 6; DeVries, Dist 18; Carson, Dist 14; Nord, Rock 1; Perry, Straf 3; Keans, Straf 1; Weed, Ches 3: Executive Departments and Administration)

10-2794

**SB 492-FN-LOCAL**, extending the local property tax exemption for wooden poles and conduits. (D'Allesandro, Dist 20; Bragdon, Dist 11; Lasky, Dist 13; Bergin, Hills 6: Public and Municipal Affairs)

10-2830

**SB 493-FN**, establishing best value contracting practices in the state procurement system. (DeVries, Dist 18; Lasky, Dist 13; Houde, Dist 5; P. McMahon, Merr 3; Schlachman, Rock 13: Executive Departments and Administration)

10-2881

**SB 495-FN**, relative to state competitive bidding practices. (Cilley, Dist 6; Nord, Rock 1: Executive Departments and Administration)

10-2887

**SB 496-FN-A**, changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax. (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; Renzullo, Hills 27; Charron, Rock 7; Welch, Rock 8: Ways and Means)

10-2899

**SB 497-FN-A**, changing the business profits tax deduction for reasonable compensation for partnerships, limited liability companies, and sole proprietorships and modifying the interest and dividends tax statute to follow the definitions of interest and dividends used in the United States Internal Revenue Code. (D'Allesandro, Dist 20; Odell, Dist 8; Downing, Dist 22; Gallus, Dist 1; Campbell, Hills 24; W.D. Scamman, Rock 13: Ways and Means)

10-2920

**SB 498-FN-A**, relative to taxation of certain tobacco products and requiring a discount to wholesalers on cash purchases of tobacco tax stamps. (DeVries, Dist 18; Eaton, Ches 2: Ways and Means)

10-2934

**SB 499-FN**, relative to administration support of certain professional regulatory boards by the department of health and human services. (Cilley, Dist 6; D'Allesandro, Dist 20; Downing, Dist 22; DeVries, Dist 18; Irwin, Hills 3; Hardy, Hills 27; Nordgren, Graf 9: Executive Departments and Administration)

**Motion adopted.**

#### HOUSE MESSAGE

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

**SB 193**, relative to the interest rate on small loans and relative to the definition of lender for purposes of regulating such loans.

#### 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 1144**, relative to the definition of a set line used for taking fish.

**HB 1152**, naming a bridge in Wolfeboro in honor of Corporal Matthew J. Stanley.

**HB 1157**, relative to appointment of a deputy treasurer in a school district.

**HB 1158**, changing the name of the institutional review board to the vital records privacy board for health-related research.

**HB 1174**, relative to terms for appointed town officials and relative to pay for members of park or recreation commissions.

**HB 1181**, naming a portion of route 43 after the Honorable Robert A. Johnson.

**HB 1265**, requiring school boards to develop a policy to address air quality issues in schools.

**HB 1289**, relative to air quality in public schools.

**HB 1294**, relative to underground storage facility operator training.

**HB 1314**, relative to approval of changes to a capital budget project.

**HB 1324**, relative to staffing exceptions for geographically isolated small schools.

**HB 1332**, relative to planning board members.

**HB 1398**, allowing a surviving spouse to have access to the deceased spouse's medical records when there is no estate administration.

**HB 1399**, relative to state water pollution control and drinking water revolving loan funds, and state contributions to sewage disposal facilities.

**HB 1425**, relative to the regulation of the processing of lobster tails.

**HB 1446**, naming a bridge in Hopkinton in honor of Officer Sean M. Powers.

**HB 1563**, naming a bridge in Salem in honor of Corporal Nicholas Arvanitis, Staff Sergeant Edmond L. Lo, and Marine Lance Corporal Robert L. Moscillo.

**HB 1687**, relative to the procedure for filling a vacancy among county officers.

#### 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 276**, relative to challenges of voters.

**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 5

*February 3, 2010*

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:

I expect there is occasionally conflict in this chamber, and possibly conflict at your kitchen table, if it's anything like mine. And what I've noticed is that conflict is absolutely a necessary part of the creative living of life, and that the art of managing that conflict is to be hard on issues and soft on people. I'll repeat that: The art of conflict management is to be hard on issues and very soft on people. If the people in conflict are on opposite sides of a table, squared off and staring at each other, then nothing will be accomplished but misery and abuse. But if everyone in a conflict can gather on one side of a table together and stare across the table at the issue and ask what do we want to make happen, then progress can be made. Let us pray:

*God of Peace, You seem to love our creativity. As we live together in Senate chambers and at kitchen tables, infuse us with ferocious determination when helping people, those we serve, and gentle determination when dealing with those with whom we live and work.* Amen

Sen. Houde led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS**

Sen. Cilley introduced Victoria Emily Clark and Mallory Boucher McHugh, students from Tri-City Christian Academy in Somersworth, serving as Senate Pages for today's session.

**RECOGNITION OF SENATE INTERNS**

The following Senators introduced their interns:

Sen. Gallus: Richard Parsons, St. Anselm College.

Sen. Gilmore: Caitlin Costello, St. Anselm College.

Sen. Sgambati: Mariann "Mimi" White, University of New Hampshire.

Sen. Kelly: Bethany Chester, University of New Hampshire.

Sen. Cilley: Michael Palleo, University of New Hampshire.

Sen. DeVries: Derrick Beckwith, University of New Hampshire.

Sen. Fuller Clark: Caroline Clair, University of New Hampshire.

Sen. D'Allesandro (Senate Research): Melissa DeLury, St. Anselm College

Sen. D'Allesandro: Peter Marcouillier, University of New Hampshire.

Sen. Reynolds welcomed Grafton County Sheriff Doug Dutile and Belknap County Sheriff Craig Wiggin, visitors to the Senate today.

**FINANCE REPORT**

Sen. D'Allesandro reported that no bills will be going to Finance; the following are waived from today's Calendar: SB 344-FN, SB 346-FN-L, SB 394-FN.

**COMMITTEE REPORTS**

**SB 312**, conferring degree-granting authority to The American College of History and Legal Studies. Education Committee. Ought to Pass, Vote 4-0. Senator Merrill for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 312.**

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

**SB 373**, relative to approval of alternative schools by the state board of education. Education Committee. Ought to Pass, Vote 4-0. Senator Kelly for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 373.**

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

**SB 344-FN**, relative to employment and retirement benefits of certain non-judicial court employees. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator DeVries for the committee.

**Senate Executive Departments and Administration**

**January 27, 2010**

**2010-0321s**

**10/05**

**Amendment to SB 344-FN**

Amend the bill by replacing paragraph II of section 1 with the following:

II. At such termination of employment, the state shall provide payment of a sum equal to 50 percent of the number of sick leave days remaining to the employee's credit, provided that the total number of days eligible for payment shall not exceed 60 days.

**The question is on the adoption of Committee Amendment 0321s.**

**Committee Amendment 0321s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 344-FN.**

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

**SB 460-FN-A**, relative to the lapse of certain legislative and judicial branch appropriations. Finance Committee. Ought to Pass with Amendment, Vote 5-0. Senator D'Allesandro for the committee.

**Senate Finance**

**January 28, 2010**

**2010-0369s**

**10/05**

**Amendment to SB 460-FN-A**

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

AN ACT relative to the lapse of certain legislative and judicial branch appropriations, budget reductions for the department of health and human services, and voluntary furloughs for judges.

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

3 Department of Health and Human Services; Reduction in Appropriation. Amend 2009, 143:9 to read as follows:

143:9 Department of Health and Human Services; Reduction in Appropriation. The department of health and human services is hereby directed to reduce state general fund appropriations from any line by [~~\$7,359,331 for the fiscal year ending June 30, 2010, and \$12,199,900 for the fiscal year~~] **\$19,559,231 for the biennium** ending June 30, 2011. Any direct services to New Hampshire citizens shall be excluded from these reductions unless expressly approved by the fiscal committee of the general court and the governor and council. The department shall provide a quarterly report of reductions made under this section to the fiscal committee of the general court and the governor and council.

4 Judicial Branch: Voluntary Furloughs for Judges. Judges may volunteer to take unpaid furlough time on or before June 2, 2011, in accordance with the judicial branch furlough plan. Judges who volunteer to take furlough time shall not be deemed by that act to be holding office for other than the full or part-time service to which they were appointed, and the taking of voluntary furlough time shall not be deemed a reduction in salary or service for purposes of the calculation of any retirement or other job-related benefits.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

**2010-0369s**

**AMENDED ANALYSIS**

This bill lapses certain sums appropriated to the legislative branch and the judicial branch to the general fund on or before June 30, 2011 pursuant to required operating budget adjustments.

The bill consolidates the amount to be reduced by the department of health and human services, as required under HB 1-A of the 2009 legislative session, for the biennium instead of for each fiscal year.

The bill also clarifies the effect of the judicial branch furlough plan on judges who take unpaid furlough time.

**The question is on the adoption of Committee Amendment 0369s.**

**Committee Amendment 0369s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 460-FN-A.**

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

**SB 384**, authorizing the department of health and human services to provide private adoption agencies access to founded reports of abuse and neglect maintained by the department. Health and 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 SB 384.**

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

**SB 407**, relative to records maintained by the department of health and human services in abuse and neglect cases. Health and Human Services 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 SB 407.**

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

**SB 330**, relative to the court accreditation commission and the interbranch criminal and juvenile justice council. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

**Senate Judiciary**

**January 27, 2010**

**2010-0343s**

**09/04**

**Amendment to SB 330**

Amend RSA 490:5-a as inserted by section 1 of the bill by replacing it with the following:

490:5-a New Hampshire Court Accreditation Commission. There is hereby established the New Hampshire court accreditation commission consisting of [9] **13** members ~~[to be appointed]~~ as follows: one shall be appointed by the governor, one shall be a member of the house appointed by the speaker, one shall be a member of the senate appointed by the senate president, ***one shall be the commissioner of administrative services or designee, one shall be the commissioner of safety or designee, one shall be the director of security for the administrative office of the courts, one shall be a county sheriff appointed by the president of the New Hampshire Sheriffs' Association,*** and 6 shall be appointed by the supreme court. Of the 6 members appointed by the supreme court, one shall be a justice of the supreme court or a designee of the supreme court, one shall be a justice of the superior court, one shall be a justice of a probate court, one shall be a justice of a district court, one shall be a lawyer of experience in the trial of cases at all court levels, and one shall be a layman. The supreme court shall designate one of the members as chairman.

**The question is on the adoption of Committee Amendment 0343s.**

**Committee Amendment 0343s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 330.**

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

**SB 346-FN-L**, relative to sheriffs' fees for service of civil process. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 346-FN-L.**

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

**SB 394-FN**, relative to dealing in counterfeit goods. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

**Senate Judiciary**  
**January 27, 2010**  
**2010-0336s**  
**04/10**

**Amendment to SB 394-FN**

Amend RSA 638:6-b, IV as inserted by section 1 of the bill by replacing it with the following:

***IV. Any goods that bear or consist of a counterfeit mark used in committing a violation of this section, and any property used in any manner to facilitate a violation of this section shall be subject to forfeiture to the state of New Hampshire and no property right shall exist in such property.***

**The question is on the adoption of Committee Amendment 0336s.**

**Committee Amendment 0336s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 394-FN.**

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

**SB 437**, relative to the authority of district court justices to issue emergency orders in any district court. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 437.**

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

**SB 448**, relative to alternate members of land use boards. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

**Sen. DeVries offered a floor amendment.**

**Sen. DeVries, Dist. 18**  
**January 28, 2010**  
**2010-0372s**  
**03/05**

**Floor Amendment to SB 448**

Amend the bill by replacing section 2 with the following:

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

**The question is on the adoption of Floor Amendment 0372s.**

**Floor Amendment 0372s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 448.**

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

**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 312**, conferring degree-granting authority to The American College of History and Legal Studies.

**SB 330**, relative to the court accreditation commission and the interbranch criminal and juvenile justice council.

**SB 344-FN**, relative to employment and retirement benefits of certain non-judicial court employees.

**SB 346-FN-L**, relative to sheriffs' fees for service of civil process.

**SB 373**, relative to approval of alternative schools by the state board of education.

**SB 384**, authorizing the department of health and human services to provide private adoption agencies access to founded reports of abuse and neglect maintained by the department.

**SB 394-FN**, relative to dealing in counterfeit goods.

**SB 407**, relative to records maintained by the department of health and human services in abuse and neglect cases.

**SB 437**, relative to the authority of district court justices to issue emergency orders in any district court.

**SB 448**, relative to alternate members of land use boards.

**SB 460-FN-A**, (New Title) relative to the lapse of certain legislative and judicial branch appropriations, budget reductions for the department of health and human services, and voluntary furloughs for judges.

**ANNOUNCEMENTS**

The Senate body recognized the birthday of Sen. Janeway with the singing of "Happy Birthday" lead by the "Senate Choir" under the direction of Intern Eva Nagorka.

SENATOR REYNOLDS (Rule 44): Thank you, Madam President. I rise today with sad news from the Plymouth area. On Friday of last week Private First Class Marc Decoteau, a 19-year-old, 2008 graduate of Plymouth Regional High School, was killed in action while serving in Afghanistan. I first learned of Marc's death when I was in a local store and ran into one of the teachers from Plymouth Regional High School who told me about Marc's death. I then got a call from my own 18-year-old who's at UNH who was saddened about Marc's death, who was also friendly with Eva's son Alex. I think it's fair to say that Marc was the type of young man who was well loved in our community; he was involved with Boy Scouts, his church, on the football field at Plymouth Regional High School, and he was a leader and an inspiration to all that knew him. On Saturday at 1 p.m., at Plymouth Regional High School, there will be a memorial service for Marc, and I'd invite any of you here who are interested in coming to attend. I ask my colleagues to join me today in sending condolences to the Decoteau Family and our entire community who lost not only a son but a hero. Thank you, Madam President.

SENATOR LETOURNEAU (Rule 44): I rise today to talk about, and honor, a very close friend and colleague. Rep. George Katsakiores passed away on February 1<sup>st</sup>, 2010. George was a kind and soft-spoken gentleman who was highly intelligent, and he was a graduate of Pinkerton High School, he was valedictorian of his class, and he went on to UNH, he was a graduate of UNH. He ran White's Lunch in Derry for 42 years, and one of the people that used to frequent White's Lunch was Alan Shepard, Sr., and they would get into all kinds of political discussions, and it was a political "grand central station" in Derry, was White's Lunch at George's place. Upon closing White's Lunch, George became a State Representative and served to 28 years in this building. He also was on very many boards and commissions, too many to mention here. George was just the ultimate civic servant and he would just loved to be involved in anything political and anything that would help his state. He loved New Hampshire and he loved Derry in particular.

On a little side-note story of a personal note with George and I, on my very first day here in this building, as I was sworn in as a State Representative, that day we jumped in my car and drove to Washington, D.C., to go to a conference. Now, I've been down to Washington a number of times and I know how to get there. But George and I got into this discussion, as we always did when we were driving, and I drove past my exit on the Mass. Turnpike and ended up in upstate New York and had to drive down the other way to get to Washington, and I couldn't believe I put myself two hours out of my way. But that's just the kind of engagement that George would get you into. He was just a wonderful, intelligent man, and we're going to miss him very dearly in Derry; we're going to miss him here in this building. Thank you very much.



SENATOR FULLER CLARK (Rule 44): I, too, would like to speak on the passing of George Katsakiores. I had the privilege and honor of working with Rep. George Katsakiores in the House for 12 years, often on many transportation issues where we might disagree in terms of how to solve a particular problem. He was always a gentleman and he was one of the most gracious of legislators that I have ever known. We had many wonderful discussions and exchanges, and I've always thought of him as a mentor and a friend. He truly is the type of legislator, was, that we should all, you know, strive to be, and I know that he will be sorely missed by all of us. And I would like especially to recognize the team that George and Phyllis made in the House, and what a joy it was to work with both of them, and I know that all of our condolences go to her today as well. 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.**