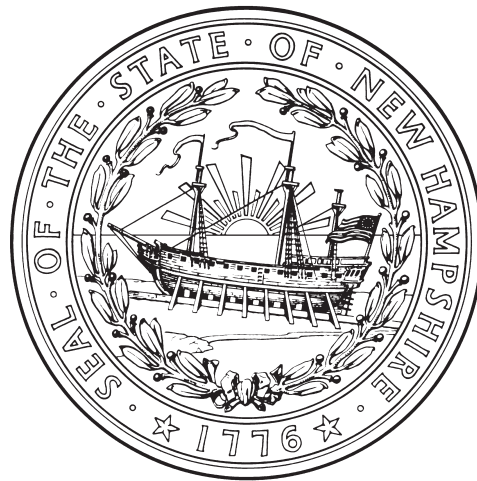


February 16, 2017
Nos. 5-6

STATE OF NEW HAMPSHIRE

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



**First Year of the 165th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – FEBRUARY 9, 2017 SESSION
COMMENCEMENT – FEBRUARY 16, 2017 SESSION**

SENATE JOURNAL 5 *(continued)*

February 9, 2017

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 81, (New Title) establishing a committee to study gold star number plates.

HB 86, relative to voting on variances.

HB 87, relative to vacancies in the office of moderator.

HB 108, relative to municipal record retention and conversion.

HB 123, relative to continuation of a public hearing of the zoning board of adjustment.

HB 127, relative to vacancies in county offices.

HB 144, relative to procedures for adoption of the budget for Rockingham County.

HB 149, prohibiting disclosure of certain information obtained by former employees of the insurance department.

HB 154, relative to interference with traffic devices.

HB 167, relative to audits of county funds.

HB 172, relative to tax anticipation notes in counties.

HB 175, relative to the definition of a cigar bar.

HB 211-FN, relative to temporary OHRV registrations for nonresidents.

HB 219, establishing a demographic study committee.

HB 242, (New Title) relative to the definition and regulation of e-cigarettes.

HB 246, relative to timber trespass.

HB 299, relative to notice by mail for zoning and planning purposes.

HB 340, relative to the sale of the Laconia state school.

HB 368-FN-A, relative to the heating of certain state-owned buildings in Concord and making appropriations therefor.

HB 420-FN, relative to ignition interlock requirements in manslaughter cases involving alcohol.

HB 508, naming the New Hampshire Army National Guard Regional Training Institute and Barracks facility in Pembroke after Colonel Edward Cross.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills: SB 12.

Senator Avard moved adoption of the Report of Committee on Enrolled Bills. Adopted.

LIST OF RULE 6-25'S

Senator Sanborn: SB 12-FN

Out of Recess. Call the Senate to Order.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Good morning. Mister President, maybe if I could be allowed personal privilege for just a moment to thank Nancy and Marlene. I think they're out back, I hope they're out back. I think Nancy and Marlene have gone well above the call of duty in preparing wonderful food for all of us, and I thought this would be appropriate to thank Marlene, and I think Nancy's on her way down, for doing such a wonderful job. Thank you.

MOTION TO ADJOURN FROM LATE SESSION

Senator Bradley moved that the Senate adjourn from the Late Session.

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 6

February 16, 2017

The Senate reconvened at 10:00 a.m., a quorum being present.

Reverend Kate Atkinson, chaplain to the Senate, offered the following meditative thoughts and prayer:

Good morning. And once again I'd like to open with a prayer for Senator Giuda and Christine and the family, so let us pray.

O loving God, God of healing and comfort and love we give you thanks for your abiding presence with Senator Giuda, with Christine, with all the family, and we pray that you would continue to sustain them remembering that you work most powerfully through the care and support of us for one another. Amen.

And a seasonal prayer:

Almighty God, you are the source of energy, productivity, restoration, creativity, and life. When the bitter cold permeates our very bones may the warmth of your Spirit invigorate us. When darkness falls before the day is complete, may the light of your Spirit renew our vision and enhance the work of our hands. When we are surrounded by the bleakness of bare branches and withered plants, may the hope of your Spirit flourish within us and feed our souls. When the earth is frozen and hidden by ice and snow may the wisdom of your Spirit enable us to see beyond what is to what could be; and when the harsh winds overwhelm us and take our breath away, may the power of your Spirit breathe new life into our bodies, minds and spirits. Creator of all that is, inspire us to break free from the bonds of winter and make us your bearers of warmth, light, hope, wisdom, and life-giving power. Amen.

Senator Gray led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President and colleagues. It is my great honor today to introduce the family of Allyn Jennison, whom we are honoring with Senate Bill 175. And we have with us Patricia Maggie Jennison, Allyn's bride of sixty-nine years, and it is her birthday today. And we also have family members Steve and Linda Jennison, Marty and Jean Jennison, and Rich and Benny Dannaka. Welcome.

INTRODUCTION OF PAGES

Senator Kahn introduced Diego Betancourt and Richard Durkee, from Keene High School, serving as Senate Pages for the day.

INTRODUCTION OF GUESTS

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. When we thanked Marlene, Nancy wasn't on the floor. So I think we need to thank Nancy.

SPECIAL ORDER

SB 48 was removed from the consent calendar and without objection, is Special Ordered to the next Senate session.

ENERGY AND NATURAL RESOURCES

SB 48, establishing a commission to study changes to the fish and game commission and department.

Without objection, the following bill is Special Ordered to the next Senate session.

ENERGY AND NATURAL RESOURCES

SB 30, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

FN REPORT FOR FEBRUARY 16, 2017

Senator Gary Daniels recommends the following bills be ordered to the Finance Committee, upon being found Ought to Pass/Ought to Pass with Amendment:

REGULAR CALENDAR:

HEALTH AND HUMAN SERVICES

SB 153-FN-A, making an appropriation for early childhood intervention services.

TRANSPORTATION

SB 203-FN, requiring the department of transportation to alleviate safety issues at an intersection in Ossipee.
 SB 204-FN, relative to Purple Heart number plates.

Senator Gary Daniels recommends the waiver of referral to the Finance Committee, Senate Rule 4-5, for the following bills with a fiscal note or an appropriation of funds:

CONSENT CALENDAR:

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 212-FN, establishing the physical therapy licensure compact.

HEALTH AND HUMAN SERVICES

SB 221-FN, relative to food safety.

JUDICIARY

SB 200-FN, relative to incarceration for nonpayment of an assessment or nonperformance of community service.

REGULAR CALENDAR:

ENERGY AND NATURAL RESOURCES

SB 229-FN-L, relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.

JUDICIARY

SB 66-FN, including a viable fetus in the definition of “another” for purposes of certain criminal offenses.

PUBLIC AND MUNICIPAL AFFAIRS

SB 201-FN, relative to providing pamphlets containing the asbestos regulations to persons engaging in renovation or demolition of structures

Without objection, the FN Report is adopted.

CONSENT CALENDAR

PRESIDENT MORSE: We will be voting on the consent calendar. Please announce your declaration of intent prior to any participation.

Senator Bradley moved that the Consent Calendar, with the relevant amendments as printed in the day's Calendar be adopted and that all such bills found Ought-to-Pass be ordered to Third Reading.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 212-FN, establishing the physical therapy licensure compact.

Ought to Pass, Vote 5-0. Senator Soucy for the committee.

This legislation will adopt the physical therapy licensure compact, which will be implemented by the physical therapy governing board. The purpose of this legislation is to facilitate interstate practice with the goal of improving public access to physical therapy services, protecting the public's health and safety and supporting relocating military members.

HEALTH AND HUMAN SERVICES

SB 221-FN, relative to food safety.

Ought to Pass, Vote 5-0. Senator Fuller Clark for the committee.

This bill makes the focus and frequency of certain food facility inspections at the discretion of the Department of Health and Human Services, and removes certain fees currently required by statute. In order to provide regulatory consistency, the bill also repeals statutes related to inspection of meat, nonresident vendor registration, and cold storage. The department will still have the ability to inspect food facilities when there is an imminent health risk. This bill was a request of the department of health and human services.

JUDICIARY

SB 68, relative to sentencing for violations of probation.

Ought to Pass, Vote 5-0. Senator Hennessey for the committee.

This bill was requested by the Department of Corrections and amends the sentencing and limitations statute to provide the court with additional options for sentencing a probationer who violates his or her probation. These options only occur with that probationer's consent and this is an important tool to help end recidivism and victimization.

SB 98-FN, eliminating the statute of limitations on sexual assault.
Re-refer to Committee, Vote 5-0. Senator Lasky for the committee.

This bill would eliminate the statute of limitations for prosecuting sexual assault and incest cases. The Committee decided to re-refer this bill, along with SB 164, as they both need more study and clarity to ensure there is a cohesive and comprehensive approach to these bills within the existing statute.

SB 164-FN, removing the limitations on actions for sexual assaults on victims under 18 years of age.
Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill would eliminate the limitation on prosecuting sexual assault and incest cases, where the victim was under 18 years of age at the time of the offense. However, this bill, along with SB 98, needs more study and clarity in order to ensure that constitutional muster is met and that there is a cohesive and appropriate approach to this matter throughout the statute before moving forward.

SB 165-FN, authorizing periodic payments as security after a motor vehicle accident.
Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill would authorize the director of the Division of Motor Vehicles to order periodic payments as security after an accident which resulted in death, personal injury or damages to property. This is a complicated issue that needs further examination in terms of rulemaking and clarity before moving forward.

SB 200-FN, relative to incarceration for nonpayment of an assessment or nonperformance of community service.
Ought to Pass, Vote 5-0. Senator Hennessey for the committee.

This bill requires the appointment of counsel for an indigent defendant in cases involving nonpayment of an assessment or non-performance of community service. This is a common sense bill that ensures individuals who are unable to pay a fine have the legal representation they need to fully understand their situation and that their constitutional rights are protected.

The question is on the adoption of the Consent Calendar. Adopted.

REGULAR CALENDAR

TRANSPORTATION

SB 175, naming a certain bridge on Route 9 in Madbury the Allyn Jennison Bridge.
Ought to Pass, Vote 4-0. Senator Watters for the committee.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Watters, seconded by Senator Sanborn.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, McGilvray, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: None.

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

COMMERCE

SB 90-FN, adjusting the minimum employer's contribution rate for unemployment insurance.
Inexpedient to Legislate, Vote 4-0. Senator French for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

ENERGY AND NATURAL RESOURCES

SB 229-FN-L, relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.
Ought to Pass with Amendment, Vote 5-0. Senator Avard for the committee.

Energy and Natural Resources
February 8, 2017
2017-0389s
06/04

Amendment to SB 229-FN-LOCAL

Amend RSA 162-H:10-b, IV as inserted by section 3 of the bill by replacing it with the following:

IV. The committee shall consider [intervention] ***filing as an intervenor*** in Federal Energy Regulatory Commission proceedings involving the siting of high pressure gas pipelines in order to protect the interest of the state of New Hampshire.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

HEALTH AND HUMAN SERVICES

SB 153-FN-A, making an appropriation for early childhood intervention services.

Ought to Pass, Vote 5-0. Senator Avard for the committee.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

JUDICIARY

SB 9, relative to the admissibility of prior consensual sexual activity in sexual assault cases.

Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Senate Judiciary

February 7, 2017

2017-0358s

04/01

Amendment to SB 9

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

AN ACT relative to the admissibility of proffered evidence in sexual assault cases.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Sexual Assault and Related Offenses; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph II the following new paragraph:

II-a.(a) Proffered evidence excluded under this section, and related pleadings, shall remain under seal and exempt from public disclosure unless and until the New Hampshire supreme court overturns the trial court's evidentiary ruling, in which case only the evidence that the supreme court rules admissible would be subject to public disclosure.

(b) For purposes of this section, "sexual activity" includes any conduct or behavior relating to sexual activities of the victim, including but not limited to, previous or subsequent experience of sexual penetration or sexual contact, sexual predisposition, thoughts or expressions related to sexual issues, use of contraceptives, sexual activities reflected in medical and counseling records, living arrangements, and lifestyle.

2017-0358s

AMENDED ANALYSIS

This bill establishes a procedure to determine the admissibility of proffered evidence in sexual assault cases.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SPECIAL ORDER

Without objection, Senator Bradley moved SB 66-FN is special ordered to the end of the Regular Calendar.

SB 66-FN, including a viable fetus in the definition of "another" for purposes of certain criminal offenses.

SB 69, requiring registered sex offenders to report online identifiers.

Ought to Pass with Amendment, Vote 5-0. Senator French for the committee.

Senate Judiciary

February 8, 2017

2017-0382s

04/10

Amendment to SB 69

Amend RSA 651-B:4-a as inserted by section 1 of the bill by replacing it with the following:

651-B:4-a Registration of Online Identifiers. In addition to any other information a person who is required to register is required to provide pursuant to RSA 651-B:4, such person shall report, ***within 5 business days after the first use***, any online identifier [such person] ***he or she*** uses or [intends to use] ***has used***. For purposes of this section, "online identifier" [includes] ***shall mean and include*** all of the following: electronic mail [address] ***addresses***, instant message screen [name] ***names***, [user identification, user profile information, and chat or other Internet communication name or identity information. Such person shall report any changes to an existing online identifier, or the creation of any new online identifier to law enforcement before using the online identifier] ***user profile names on social media websites, and user profile names for Internet websites, gaming or mobile applications that have a primary purpose of engaging in two-way, person-to-person communication over the Internet with persons other than the issuer of the user name. Such person shall report any changes to an existing online identifier or the creation of a new online identifier, to their law enforcement agency within 5 business days after using the online identifier.***

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 70, relative to disclosure of expert testimony in civil cases.

Inexpedient to Legislate, Vote 3-2. Senator Carson for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

PUBLIC AND MUNICIPAL AFFAIRS

SB 201-FN, relative to providing pamphlets containing the asbestos regulations to persons engaging in renovation or demolition of structures.

Ought to Pass, Vote 4-0. Senator Ward for the committee.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

Senator Morse is in opposition to the motion of Ought to Pass on SB 201-FN.

TRANSPORTATION

SB 14, relative to the use of amber lights by plow operators.

Inexpedient to Legislate, Vote 4-0. Senator Ward for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

SB 34, relative to recovery of costs for damage done to highways.

Inexpedient to Legislate, Vote 3-1. Senator Birdsell for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate.

A division vote was requested.

Division, Yeas: 9 - Nays: 9. Failed.

Senator D'Allesandro moved Ought to Pass.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Bradley, seconded by Senator Sanborn.

The following Senators voted Yes: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, McGilvray, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

Roll Call, Yeas: 10 - Nays: 14. Failed.

Senator Bradley moved Inexpedient to Legislate.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

INTRODUCTION OF GUESTS

Senator Morse introduced and welcomed 2017 Leadership of New Hampshire in the Gallery.

SB 176, to officially retain the name of a bridge in the city of Lebanon as Lyman Bridge.

Ought to Pass, Vote 4-0. Senator Ward for the committee.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

SPECIAL ORDER

Without objection, SB 177 is special ordered to after SB 180.

SB 177, naming a bridge in Groveton in honor of George Langley and Lyle Hersom.

SB 180-FN, including low digit number plates as vanity plates.

Inexpedient to Legislate, Vote 4-0. Senator Birdsell for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

Senator Woodburn is in opposition to the motion of Inexpedient to Legislate on SB 180-FN.

SB 177, naming a bridge in Groveton in honor of George Langley and Lyle Hersom.

Ought to Pass, Vote 4-0. Senator Gannon for the committee.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Bradley, seconded by Senator Sanborn.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, McGilvray, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: None.

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 203-FN, requiring the department of transportation to alleviate safety issues at an intersection in Ossipee. Ought to Pass with Amendment, Vote 4-0. Senator Watters for the committee.

Senate Transportation

February 8, 2017

2017-0371s

06/03

Amendment to SB 203-FN

Amend the bill by replacing section 1 with the following:

1 Department of Transportation; Town of Ossipee. The department shall take all practical measures to alleviate safety issues at the intersection of Route 28 and Route 171 in the town of Ossipee. Such measures shall include, but shall not be limited to, speed reduction and the installation of a traffic light or rotary.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

SB 204-FN, relative to Purple Heart number plates.

Ought to Pass with Amendment, Vote 4-0. Senator Birdsell for the committee.

Senate Transportation

February 8, 2017

2017-0363s

08/03

Amendment to SB 204-FN

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

AN ACT relative to Purple Heart and Pearl Harbor survivor number plates.

Amend RSA 261:86, II as inserted by section 1 of the bill by replacing it with the following:

II. Plates furnished pursuant to ~~[subparagraphs I(a)-(c)]~~ **subparagraphs I(a)-I(e)** shall be issued without charge. ~~[Plates furnished pursuant to subparagraphs I(d) and (e) shall be issued without the \$4 per plate fees under RSA 261:75 but shall require payment of the regular registration fee.]~~ Notwithstanding RSA 265:73 or any other law, any person who is issued a plate pursuant to ~~[subparagraphs I(c)-(e)]~~ **subparagraphs I(c)-I(e)** shall not be entitled to free parking privileges for disabled veterans. A person who qualifies for special plates pursuant to subparagraph I(a) ~~[or subparagraph I(d)],~~ **I(c), I(d), or I(e)** may be issued an additional plate for a motorcycle.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 2018.

2017-0363s

AMENDED ANALYSIS

This bill allows Purple Heart and Pearl Harbor number plates to be furnished without charge.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

WAYS AND MEANS

SB 182, relative to meals and rooms tax annual revenue reporting by the department of revenue administration. Inexpedient to Legislate, Vote 4-0. Senator D'Allesandro for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate. Adopted.

Recess. Out of recess.

SB 66-FN, including a viable fetus in the definition of "another" for purposes of certain criminal offenses. Ought to Pass, Vote 3-2. Senator Gannon for the committee.

Senator Daniels offered a floor amendment.

Sen. Daniels, Dist 11
 Sen. Birdsell, Dist 19
 Sen. Avard, Dist 12
 Sen. Giuda, Dist 2
 Sen. Gannon, Dist 23
 Sen. Ward, Dist 8
 Sen. Gray, Dist 6
 Sen. French, Dist 7
 Sen. Morse, Dist 22
 Sen. Carson, Dist 14
 Sen. Sanborn, Dist 9
 February 16, 2017
 2017-0489s
 04/06

Floor Amendment to SB 66-FN

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

AN ACT including a fetus in the definition of "another" for purposes of certain criminal offenses.

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

1 Homicide; Capital Murder; Definition of Another. Amend RSA 630:1, IV to read as follows:

IV. As used in this section [~~and RSA 630:1-a, 1-b, 2, 3 and 4~~], the meaning of "another" [~~does~~] **shall** not include a [~~foetus~~] **fetus**.

2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion. Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4, the meaning of "another" shall include a fetus as defined in paragraph V.

V.(a) Nothing in this section or RSA 630:1-b shall apply to:

- (1) Any act committed by the pregnant woman;
- (2) Any act committed at the request or direction of the pregnant woman or for the benefit of the pregnant woman;
- (3) Any act performed by a physician or other medical professional in the course of such physician's or medical professional's professional duties, including but not limited to, an act that results in the termination of a pregnancy; or
- (4) Any act taken in furtherance of the lawful dispensation or administration of prescription or nonprescription medication.

(b) In this section:

(1) "Fetus" means an unborn offspring, from the embryo stage which is the end of the eighth week after conception or, in the case of in vitro fertilization, the end of the eighth week after implantation, until birth.

(2) "Pregnant" means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

(3) "Pregnancy" means one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

3 Effective Date. This act shall take effect January 1, 2018.

2017-0489s

AMENDED ANALYSIS

This bill provides that a fetus shall be included in the definition of "another" for the purposes of first and second degree murder, manslaughter, negligent homicide, and causing or aiding suicide.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Sanborn, seconded by Senator Avar.

The following Senators voted Yes: Giuda, Gray, French, Ward, Sanborn, Daniels, Avar, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Woodburn, Bradley, Watters, Hennessey, Kahn, Lasky, Feltes, McGilvray, Soucy, D'Allesandro, Fuller Clark, Innis.

Roll Call, Yeas: 12 - Nays: 12. Failed.

Senator Birdsell offered a floor amendment.

Sen. Birdsell, Dist 19

Sen. Avar, Dist 12

Sen. Giuda, Dist 2

Sen. Gannon, Dist 23

Sen. Ward, Dist 8

Sen. Gray, Dist 6

Sen. French, Dist 7

Sen. Bradley, Dist 3

Sen. Carson, Dist 14

February 16, 2017

2017-0490s

04/06

Floor Amendment to SB 66-FN

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

AN ACT including a fetus in the definition of "another" for purposes of certain criminal offenses.

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

1 Homicide; Capital Murder; Definition of Another. Amend RSA 630:1, IV to read as follows:

IV. As used in this section [~~and RSA 630:1-a, 1-b, 2, 3 and 4~~], the meaning of "another" [~~does~~] **shall** not include a [~~fetus~~] **fetus**.

2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion. Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4, the meaning of "another" shall include a fetus as defined in paragraph V.

V.(a) Nothing in this section or RSA 630:1-b shall apply to:

(1) Any act committed by the pregnant woman;

(2) Any act committed at the request or direction of the pregnant woman or for the benefit of the pregnant woman;

(3) Any act performed by a physician or other medical professional in the course of such physician's or medical professional's professional duties, including but not limited to, an act that results in the termination of a pregnancy; or

(4) Any act taken in furtherance of the lawful dispensation or administration of prescription or nonprescription medication.

(b) In this section:

(1) "Fetus" means an unborn offspring, from the embryo stage which is the end of the twentieth week after conception or, in the case of in vitro fertilization, the end of the twentieth week after implantation, until birth.

(2) "Pregnant" means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

(3) "Pregnancy" means one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

3 Effective Date. This act shall take effect January 1, 2018.

2017-0490s

AMENDED ANALYSIS

This bill provides that a fetus shall be included in the definition of "another" for the purposes of first and second degree murder, manslaughter, negligent homicide, and causing or aiding suicide.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Sanborn, seconded by Senator Birdsell.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avar, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, McGilvray, Soucy, D'Allesandro, Fuller Clark.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

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

A roll call was requested by Senator Sanborn, seconded by Senator Birdsell.

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avar, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, McGilvray, Soucy, D'Allesandro, Fuller Clark.

Roll Call, Yeas: 14 - Nays: 10. Adopted, bill ordered to Third Reading.

AMENDMENT TO ETHICS GUIDELINES

Senator Bradley moved adoption of the proposed amendment to the Ethics Guidelines, which was provided in the Senate Calendar.

Proposed Amendment to the Ethics Guidelines

The Legislative Ethics Committee voted 6-1 to propose the following amendment to the Ethics Guidelines. In accordance with RSA 14-B:3, II, the Committee respectfully requests that the Senate and House vote to approve the proposed amendment.

Legislative Ethics Committee

Explanation: Matter added to the current guidelines appears in ***bold italics***.

Matter removed from the current guidelines appears ~~[in brackets and struckthrough.]~~

ETHICS GUIDELINES

2 DEFINITIONS.

XIII. "Special Interest" means any financial or ***non-financial*** personal interest in the outcome of a matter that is the subject of official activity, distinct from and greater than the interests of the public at large.

(a) "financial interest" exists where a legislator or household member could stand to gain or lose anything of ***material*** value as a result of the official activity.

~~[A personal interest exists where a legislator or household member could otherwise be affected by the outcome of such activity, or when a legislator has a responsibility for the welfare of an organization and where that welfare could be affected by the outcome of such activity.]~~

(b) "***non-financial personal interest***" exists where a legislator or household member:

(1) *is a member of a public body as defined in RSA 91-A:1-a, VI; or*

(2) *has a responsibility for the welfare of an organization. A legislator or household member has a responsibility for the welfare of an organization when the legislator or household member holds a position with a fiduciary responsibility, such as a board member, trustee, or director.*

XIV. "***Verbal Advocacy***" means an attempt by a legislator to influence his or her colleagues on a matter that is the subject of official activity in a meeting of the general court or county delegation through public verbal communication. "***Verbal advocacy***" does not include casting a vote in executive session of a committee or in a full session of the House or Senate.

5 ~~[LEGISLATOR'S FINANCIAL DISCLOSURE FORM.]~~ DISCLOSURE FORMS.

I. LEGISLATOR'S FINANCIAL DISCLOSURE FORM.

Every representative, senator, and officer of the House and Senate, shall file with the Legislative Ethics Committee a financial interest disclosure form pursuant to RSA 14-B:8 annually no later than the third Friday in January. If the legislator's or officer's financial circumstances change, he or she shall file a new financial interest disclosure form prior to participation in any official activity which would have been affected by the change.

The form shall ~~[be in]~~ ***read*** substantially ~~[the following form]~~ as ***follows***:

FINANCIAL DISCLOSURE FORM FOR STATE SENATORS, STATE REPRESENTATIVES AND OFFICERS OF THE GENERAL COURT

As prescribed by RSA 14-B:8

Name of Legislator/Officer _____

(CIRCLE ONE)

(PRINT NAME)

Address _____

(STREET)

(TOWN/CITY)

(ZIP CODE)

Office held _____ County/District _____

Telephone Number _____

I. Sources of Income

Identify below the name, address, and type of any business, profession, or other organization (including any unit of government) in which you or a household member served as an employee, ***member***, officer, director, associate, partner, or proprietor, or in any other professional or advisory capacity, from which you or a household member derived any income ~~[(including retirement benefits other than federal retirement and/or disability benefits)]~~ in excess of \$10,000 during the preceding calendar year. ***Sources of retirement benefits from any business, professional, or other organization must be included. Social Security, federal retirement and/or federal disability benefits do not need to be included.***

For purposes of this form a “household member” means any person living in the same domicile as you and who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parent.

1) a) Name of business, profession, or other organization _____

b) Address of organization _____

c) Type of organization _____

2) a) Name of business, profession, or other organization _____

b) Address of organization _____

c) Type of organization _____

3) a) Name of business, profession, or other organization _____

b) Address of organization _____

c) Type of organization _____

(attach additional sheets if necessary)

If you or a household member had no qualifying income, indicate by INSERTING YOUR INITIALS after the following statement.

My or my household member’s income does not qualify _____

II. Disclosure of Financial Interests

Identify and describe below any financial interest you or a household member may have. You have a “financial interest” in a business, profession, occupation, group, or matter listed in this section if a change in law, administrative rule, or other official action by the General Court affecting the listed business, profession, occupation, group, or matter would potentially have a financial effect on you or a household member that is distinct from and greater than the interests of the public at large.

Please note: If your participation in an official activity creates a conflict of interest **not disclosed** by the information on this form, **you must complete and file** a Declaration of Intent Form in accordance with section 6 of the Ethics Guidelines. Also, if such activity could reasonably have a greater benefit or detriment to you or a household member than other members of a group identified in this form, a Declaration of Intent Form is required. See section 6 of the Ethics Guidelines for information regarding particular conflicts of interest you may have.

Do you or a household member have a financial interest, as defined above, in any of the following businesses, professions, occupations, groups, or matters? Check any of the following which apply and describe the nature of your or your household member’s financial interest:

(a) Any profession, occupation, or business licensed or certified by the State of New Hampshire.

List each such profession, occupation, or category of business.

(b) Health Care

Describe: _____

(c) Insurance

Describe: _____

(d) Real estate, including brokers, agents, developers, and landlords

Describe: _____

(e) Banking or financial services

Describe: _____

(f) State of New Hampshire, county or municipal employment

Describe: _____

(g) New Hampshire Retirement System

Describe: _____

(h) Current use land assessment program

Describe: _____

(i) Restaurants and lodging

Describe: _____

(j) Sale and distribution of alcoholic beverages

Describe: _____

(k) Practice of law

Describe: _____

(l) Any business regulated by the Public Utilities Commission

Describe: _____

(m) Legal forms of gambling or charitable gaming

Describe: _____

(n) Education

Describe: _____

(o) Water resources

Describe: _____

(p) Agriculture

Describe: _____

(q) New Hampshire taxes: Business Profits Tax, Business Enterprise Tax, Interest and Dividends Tax

(r) Other

Describe: _____

I hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief.

Notice to electronic filers: Typing your first and last name states your intent to sign this form electronically, in accordance with RSA 294-E:2, VIII.

SIGNATURE OR TYPED FIRST AND LAST NAME OF LEGISLATOR/OFFICER

DATE

RSA 14-B:10 Penalty. Any representative, senator, or officer of the House of Representatives or Senate who knowingly fails to file the form required under RSA 14-B:8 or who knowingly files a false statement on such form shall be guilty of a misdemeanor. (This penalty applies whether the form is signed personally or electronically.)

Complete and return to the Legislative Ethics Committee, State House Room 112, no later than the third Friday in January.

II.LEGISLATOR'S NON-FINANCIAL PERSONAL INTERESTS DISCLOSURE FORM.

A legislator who has a non-financial personal interest may file with the Legislative Ethics Committee a general disclosure of non-financial personal interests form. If participation in an official activity creates a conflict of interest not disclosed by the information on the general disclosure of non-financial personal interests form, a legislator must complete and file a Declaration of Intent Form in accordance with section 6 of the Ethics Guidelines.

The form shall read substantially as follows:

GENERAL DISCLOSURE OF NON-FINANCIAL PERSONAL INTERESTS FORM

A “non-financial personal interest” exists where a legislator or household member is a member of a public body, or has a responsibility for the welfare of an organization. A legislator or household member has a responsibility for the welfare of an organization when the legislator or household member holds a position with a fiduciary responsibility, such as a board member, trustee, or director.

Description of Non-Financial Personal Interest

Identify and describe below the non-financial personal interest you or a household member may have. A “household member” is any person living in the same domicile as you who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parent.

Please identify each “non-financial personal interest.”

NAME OF LEGISLATOR: _____

LIST PUBLIC BODIES AND/OR ORGANIZATIONS AND YOUR POSITION:

NAME OF HOUSEHOLD MEMBER AND RELATIONSHIP TO YOU:

LIST PUBLIC BODIES AND/OR ORGANIZATIONS AND POSITION:

Signature

Date

Printed Name of Legislator

6 CONFLICT OF INTEREST PROCEDURE.

I. No legislator having a conflict of interest shall participate in any official activity associated with the matter without complying with the procedure set forth in this section.

II. A declaration of intent form shall be filed by a legislator whenever a financial interest could reasonably be expected to produce **a materially** greater benefit **or detriment** to the legislator or the legislator’s household member than would accrue to any other member of a business, profession, occupation, or other group listed by the legislator in the Financial Disclosure Form.

III. A declaration of intent form shall also be filed whenever a legislator or a legislator’s household member has a **non-financial** personal interest **distinct from and greater than the public at large** in the outcome of a matter that is the subject of official activity [~~distinct from and greater than the interests of the public at large. A “personal interest” exists where a legislator or household member could otherwise be affected by the outcome of such activity, or when a legislator has a responsibility for the welfare of an organization and where that welfare could be affected by the outcome of such activity]~~ **not disclosed by the legislator in the General Disclosure of Non-Financial Personal Interests Form.**

IV. In such cases, the legislator shall either:

(a) Declare that the legislator will not participate in any official activity associated with the issue; or

(b) Declare that the legislator intends to participate in the official activity and provide a description of the conflict of interest.

V. The declaration required in subparagraphs IV(a) and (b) of this procedure shall be publicly announced prior to any participation by the legislator in the official activity in accordance with section 7 of these Guidelines. The declaration of intent form shall be filed with the clerk of the member's respective body prior to the time of the official activity and be made available for public inspection during normal business hours.

NEW HAMPSHIRE GENERAL COURT

House/Senate Clerk's Office

DECLARATION OF INTENT

Legislators are required to file this form whenever:

1) A legislator or a legislator's household member has a **financial interest** that could reasonably be expected to have a greater financial impact on a legislator or a legislator's household member than would accrue to any other member of the business, profession, occupation, or other group which the legislator listed in the Financial Disclosure Form; or

2) A legislator or a legislator's household member has a ***non-financial personal interest distinct from and greater than the public at large*** in the outcome of a matter that is the subject of official activity [~~distinct from and greater than the interests of the public at large. A "personal interest" exists where a legislator or a legislator's household member could otherwise be affected by the outcome of such activity, or when a legislator or a legislator's household member has a responsibility for the welfare of an organization and where that welfare could be affected by the outcome of such activity.~~] ***not disclosed by the legislator in the General Disclosure of Non-Financial Personal Interests Form.***

Name of Legislator: _____ Date Filed: _____

District/County: _____

Bill or other issue creating conflict of interest: _____

Subject matter of the bill or issue: _____

“ WILL NOT PARTICIPATE

I will not participate in action on the above-mentioned bill or issue.

[Signature: _____]

“ WILL PARTICIPATE

[~~I intend to participate in action on the above-mentioned bill or issue and am providing the following additional information:~~]

Description of Conflict of Interest

Identify and describe below the conflict of interest you or a household member may have with this bill or issue. A household member is any person living in the same domicile as you who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parent.

This bill or issue creates a: “ financial interest ” non-financial personal interest

Nature of effect on [~~E~~] legislator [~~or~~], household member, ***public body, or organization***:

~~[Nature of relationship between Legislator and any affected household member:~~

~~Public or private entities affected:~~

~~Nature of relationship between Legislator or household member and any affected person or entity:~~

~~Additional information:~~

Signature: _____

7 VERBAL DISCLOSURE OF CONFLICTS OF INTEREST.

I. A legislator who ~~[has filed a declaration of intent form and has indicated on the form an intent to participate in an official activity;]~~ ***becomes aware of a financial or non-financial personal interest in the outcome of a matter*** shall ***make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.*** ~~[verbally disclose and describe the nature of the conflict of interest prior to any participation in the official activity.]~~ ***The verbal disclosure shall consist of a short statement that identifies the financial interest or non-financial personal interest.***

II. The disclosures required pursuant to paragraph I of this section shall be made in the following manner:

(a) When testifying before a legislative committee ~~[or state agency]~~ regarding a bill or other matter in which the legislator has a special interest, the legislator shall make the disclosure prior to testifying.

(b) When appointed to a subcommittee working on a bill in which the legislator has a special interest, the disclosure shall be made upon appointment to the subcommittee and at the initial subcommittee work session.

(c) When serving as a member of a committee considering a bill in which the legislator has a special interest, the disclosure shall be made prior to ~~[discussing the bill in executive session and voting]~~ ***engaging in verbal advocacy.***

(d) When addressing a bill in which the legislator has a special interest before the full House or Senate, the disclosure shall be made prior to ~~[speaking]~~ ***engaging in verbal advocacy. If the legislator does not speak on the bill, the legislator is not required to make a verbal disclosure.***

(e) When appointed as a member of a Committee of Conference on a bill in which the legislator has a special interest, the disclosure shall be made ~~[to the Speaker or Senate President upon appointment to the committee and at the first meeting of the Committee of Conference]~~ ***at the initial meeting of the Committee of Conference.***

(f) When ~~[otherwise participating in, influencing, or attempting to influence any decision of the legislature;]~~ ***serving as a member of a county delegation considering a matter*** ~~[county delegation, or any state agency]~~ in which the legislator has a special interest, the disclosure shall be made to all participants prior to engaging in ~~[any official business on the matter]~~ ***verbal advocacy.***

Adopted.

Senator Sanborn is in favor of the motion of Ought to Pass on the Ethics Guidelines.

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley 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.

Adopted. Adjournment from the Early Session.

LIST OF RULE 6-25'S FOR THE DAY

Senator Birdsell: 204-FN

Senator Bradley: SB 30

Senator Carson: SB 180-FN

Senator D'Allesandro: SB 180-FN

Senator Daniels: SB 14, SB 30, SB 34, SB 201-FN, SB 229-FN-L

Senator Giuda: SB 201-FN

Senator Innis: SB 30

Senator Sanborn: SB 9, SB 14, SB 30, SB 34, SB 48, SB 66-FN, SB 68, SB 69, SB 70, SB 90-FN, SB 98-FN, SB 153-FN-A, SB 164-FN, SB 165-FN, SB 175, SB 176, SB 177, SB 180-FN, SB 182, SB 200-FN, SB 201-FN, SB 203-FN, SB 204-FN, SB 212-FN, SB 221-FN, SB 229-FN-L

Senator Soucy: SB 180-FN

ANNOUNCEMENTS

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Personal privilege, Mister President? The 45th annual Snowmobile Association Easter Seals Ride-In occurred recently in Gorham, and the snowmobile clubs competed with each other to raise funds for the Easter Seals Camp Sno-Mo, a camp for children with disabilities and special health care needs based in Gilmanton Iron Works. They raised over \$113,000 which will be used to send over 100 special needs children to summer camp. The Easter Seals child representative was Elliot Perry, son of B.J. and Carrie Perry. The event raised \$42,000 for Camp Sno-Mo. Mister President, the event is always inspiring and emotional, made more so by my personal visit to Camp Sno-Mo, and to see the difference it makes in the lives of children.

The event was a vivid reminder of the remarkable work of the 110 volunteer snowmobile clubs as they build and maintain 7,200 miles of trails from Salem to Pittsburg, Conway to Lebanon. In fact, there are more snowmobile trails than state highways. They are sophisticated organizations that rely almost entirely on the generous property owners who allow the trails to cross their land. Not only do these encourage wholesome outdoor recreation activity but it is a major economic driver generating \$580 million of economic activity annually. All of this is done without general fund dollars since the entire system is self-funded through registration fees and some federal RTP grant funds and the federal gas tax on off highway vehicles.

I want to recognize the Trail Bureau chief Chris Gamache; his small but capable staff; the new executive director of the Snowmobile Association, Monica Pettengill Jerkins; and also the combination of the land owners, the club leadership, and dedicated volunteers who make this all possible. Thank you, Mister President.

Without objection all personal privileges or unanimous consent (other remarks) shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17)

LATE SESSION

Third Reading and Final Passage

SB 9, relative to the admissibility of proffered evidence in sexual assault cases.

SB 66-FN, including a fetus in the definition of "another" for purposes of certain criminal offenses.

SB 68, relative to sentencing for violations of probation.

SB 69, requiring registered sex offenders to report online identifiers.

SB 175, naming a certain bridge on Route 9 in Madbury the Allyn Jennison Bridge.

SB 176, to officially retain the name of a bridge in the city of Lebanon as Lyman Bridge.

SB 177, naming a bridge in Groveton in honor of George Langley and Lyle Hersom.

SB 200-FN, relative to incarceration for nonpayment of an assessment or nonperformance of community service.

SB 201-FN, relative to providing pamphlets containing the asbestos regulations to persons engaging in renovation or demolition of structures.

SB 212-FN, establishing the physical therapy licensure compact.

SB 221-FN, relative to food safety.

SB 229-FN-LOCAL, relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.

MOTION TO RECESS TO CALL OF THE CHAIR

Senator Bradley 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 and when we recess, we recess to the Call of the Chair.

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