

HOUSE RECORD

First Year of the 159th General Court Calendar and Journal of the 2005 Session

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Tuesday, February 15, 2005

No. 18

HOUSE JOURNAL No. 5 (cont.)

Wednesday, February 9, 2005

Rep. ONeil moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 6

Tuesday, February 15, 2005

The House assembled at 10:00 a. m, the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by Guest Chaplain, The Reverend Jared Rardin from the South Congregational Church in Concord.

Today, O God, this body, together with Governor Lynch, takes up a new chapter in an old story. There is great eagerness to find ways of funding the many needs of this state, particularly the educational needs of our children. But as with all things, there are likewise old fears: fears that funding burdens will not feel fairly distributed.

Take away our fears of coming up short. Take away our territorial priorities. Help us not only to speak, but to listen, not only on behalf of the towns we represent, but the towns we do not represent. Infuse these, your servants here today, with willing spirit to seek new answers. This is not the first time in history when your people have looked at what was on hand and made the mistake of thinking it wasn't enough. Turn our loaves and fishes into an abundance for everyone. For in the final analysis, we are not parents and children of Derry or Manchester, Bow or Berlin. We are parents and children of New Hampshire. We are Your children and as such we remember that everything we do for our neighbor, we do for You. Amen.

Rep. Paul A. Brassard led the Pledge of Allegiance.

The National Anthem was sung by Carly Champagne, an eighth grade student at Mountain View Middle School in Goffstown and stepdaughter of Rep. Stephen A. Baines.

LEAVES OF ABSENCE

Reps. Janet Allen, Callaghan, Cilley, Ferland, Foote, Headd, Keans, McRae and Plifka, the day, illness.

Reps. Asselin, Bishop, Richard Cooney, Daniuk, Domingo, Stephanie Eaton, Donald Flanders, Gonzales, Bonnie Ham, Hebert, Hilliard, Hollinger, Irish, Irwin, Paula Johnson, Kelly, Klose, Manning, Mary Ellen Martin, Maybeck, Michon, Phinizy, Russell, Scanlon, Serlin, Tahir and Tholl, the day, important business.

Reps. Mark Clark, Gile, Hutchinson and Jean, the day, illness in the family.

INTRODUCTION OF GUESTS

Martin Bradie, guest of Rep. Gale. MaryAnn Baines, Al and Diane Baines, mother and grandparents of the day's singer, guests of the House. Participants in the Vesta Roy Excellence in Public Service Series, guests of Reps. Sheila Francoeur and Patten. Michael Swartz, guest of Rep. Langley. Debra Blore and Ann Heffernon, guests of Rep. Daniel Eaton.

RESOLUTION

Reps. O'Neil and Craig offered the following:

RESOLVED, that the House inform the honorable Senate it is ready to meet in Joint Convention for the purpose of hearing the Budget Address given by His Excellency, Governor John H. Lynch.

Adopted.

SENATE MESSAGE

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

JOINT CONVENTION (Speaker Scamman presiding)

The Sergeant-at-Arms introduced the Honorable Senate and Senate President, Thomas R. Eaton from Keene.

INTRODUCTION OF SPECIAL GUESTS

The Sergeant-at-Arms introduced Associate Justices of the Supreme Court and Chief Justice of the Supreme Court, Hon. John T. Broderick, Jr.

His Excellency, Governor John Lynch, addressed the Joint Convention.

Mr. Speaker, Mr. Senate President, Mr. Chief Justice, Honorable members of the House, Senate, Supreme Court, and Governor's Council, and my fellow citizens:

I promised the people of New Hampshire an honest and balanced budget that reflects our values and priorities. I promised not bigger government, but better government. The budget I present today keeps those promises. This budget is balanced. It is honest, fiscally conservative and responsible. I've said you can keep an eye on the bottom line and still look out for people. That is just what this budget does.

As you all know, we faced a large challenge. The loss of \$185 million in federal revenues.

The loss of \$28 million in revenue from changes in the federal estate tax. Millions in regular maintenance costs were deferred during the last biennium -- basic equipment, including snowplows and computers, was not replaced. We met this challenge by making tough choices and demanding accountability for every tax dollar. We zero-based state agency budgets -- requiring agencies to justify every dollar they spend. We cut more than \$70 million from agency budget requests. We eliminated more than 150 vacant positions, but not front-line employees who directly serve our citizens. I made hard choices so we could invest in our priorities as a state. I made cuts and I made investments to improve efficiency and effectiveness -- putting the needs of our citizens first.

This budget does not include a host of new programs. Instead I focused on making sure we are meeting our existing priorities and commitments. The growth in general fund spending in this budget is largely driven by non-discretionary spending including a 28 percent increase in state employees' health insurance costs; an increase in meals and rooms distribution to communities; and an increase in catastrophic and building aid to schools, which were not adequately funded in the last biennium.

This budget is helped by a growing economy. The revenue estimates in this budget are prudent and realistic, reflecting that revenues will be higher than first estimated last fall. Through zero-base budgeting, we identified a number of ways we could make state government work more effectively. For example: the Department of Resources and Economic Development had two separate marketing divisions -- one for state parks and one for travel and tourism. We directed the department to combine those divisions and invest the savings in marketing our state. Another agency requested a \$500,000 database to track information that could just as easily be tracked on a spreadsheet. We cut that \$500,000 from their budget.

At the Department of Revenue Administration, we invested in auditors to investigate fraud and abuse, which will help increase revenues. As a state we own millions of dollars worth of surplus property, but we do not have a good system for tracking it. Do you all know that the state is the proud owner of a condo complex in Conway? This budget adds a real estate manager position to assess what we own, and sell those properties that we don't need and those properties we shouldn't own.

The rising cost of energy is one of the biggest cost drivers for state government. This budget funds the position of state energy manager to track all state energy costs, lower energy use, and save our taxpayers money.

Zero-based budgeting is an ongoing exercise because protecting taxpayer dollars is an ongoing responsibility, and we must continue to look for better ways to improve services and operate more efficiently to make the best use of every taxpayer dollar.

We've made smart choices with this budget. As a result, we can make some smart investments -- in our economy, in our environment, and in our people. We know that business, not state government, creates jobs. But we also know that when the state partners wisely with the private sector we can grow our economy and attract good-paying jobs for our citizens. This budget continues support for the Small Business Development Centers and the Industrial Research Center. It invests in the International Trade Resource Center to help our businesses sell their products and services to countries around the world. We know that investing in tourism pays off, generating jobs for our people, and revenues for our businesses and for our government. That is why this budget increases funding for tourism advertising by \$100,000. And later this week, I will be announcing a new public-private partnership to help attract and create new jobs for New Hampshire.

A quality and safe transportation system is essential to our economic development. This budget includes the state match required to obtain all possible federal highway aid. It will help remove more bridges from the Red List and it supports critical projects to facilitate the widening of Interstate 93.

Our state's beautiful natural environment is part of why we all love and live in New Hampshire. It is also one of our state's most important economic assets. New Hampshire's Land and Community Heritage Investment Program helps protect the natural and historic landmarks that make New Hampshire special. Bringing together state, local and private resources, LCHIP is also a wonderful example of what we can accomplish working together. This budget provides \$4 million for LCHIP in 2006 and fully funds LCHIP at \$6 million in 2007.

One of the most important things we can do for our economy and our families is to invest in education. The demands of a changing economy require a highly skilled and educated workforce. Most new jobs require a college education. We must take steps to make college more affordable for our children and for families. With this budget, the University System has committed to keeping tuition increases low, and the community technical college system has committed to no tuition increases for the next two years. And I am proud to say that with this budget, for the very first time, New Hampshire students who receive the maximum Pell Grant will be able to attend UNH, Plymouth or Keene for no additional tuition cost in their first year.

We value our good schools, and we recognize as a state we have a responsibility to make sure our children receive a quality education. To do that, we must keep our promises to our communities and our children, and demand accountability. Last year, New Hampshire only funded 70 percent of its commitment to communities for special education students. This budget increases that aid by more than 50 percent over the next two years. This budget also increases building aid by \$11 million and funds student assessment tests.

This budget also funds a fair and lasting solution to school funding. I am proud that I have been joined by a bipartisan group of legislators – Deputy Speaker Ken Weyler, Rep. Liz Hager, Rep. Jim Craig, Rep. Sharon Nordgren, Sen. Bob Odell, Sen. John Gallus, Sen. Lou D'Allesandro, and Sen. Joe Foster – to present to you a new school funding plan. This bipartisan proposal meets our responsibility to ensure every child the opportunity for a quality education. It gives more aid to communities with the greatest need; provides stability and predictability; and allows us to at last focus on quality and accountability. And this plan eliminates the statewide property tax and donor towns once and for all.

The sponsors of this proposal have put partisanship aside to focus on what is best for our children and what is best for our state. As this plan moves through the legislature, I recognize there will be other ideas and I welcome an open and honest discussion. We all agree that it doesn't matter who gets the credit. What matters is that we get it done. We have a responsibility to put in place a lasting school funding solution – and I ask you to join with us. We can and we must solve school funding this year.

To pay for education and for eliminating the statewide property tax, this budget includes a 28-cent increase in the tobacco tax. New Hampshire has never dedicated the revenue we need to responsibly grow state aid to education year to year. That is why this budget dedicates the revenue from the tobacco tax increase to the Education Trust Fund. This will help ensure that we have the revenues in place to meet our responsibility for education now and into the future. This proposal keeps the rate of our tobacco tax well below those of our

neighboring states. It also allows us to accomplish an important public health goal – reducing the number of children who start smoking. I ask you to join me in supporting this common-sense proposal.

We have a responsibility as a state to protect our most vulnerable citizens: our children, our seniors, people with disabilities. That is our moral obligation. But there is an economic justification too – we all pay when the basic needs of our citizens are unmet. That is why this budget preserves and strengthens our commitment to those with the greatest needs.

Many of our seniors live on fixed incomes, struggling to make ends meet. We must do what we can to help them live their lives with dignity. That is why this budget funds Meals on Wheels, wheelchair van transportation, and gives more seniors the option to stay in their own homes and stay in their communities. People with disabilities should be given the opportunity to live their lives to the fullest. This budget cuts in half the waiting list for people with developmental disabilities.

Children with access to quality health care do better in school and better later on in life. As a state, we've recognized that investing in children's health insurance is not just the right thing to do; it's the smart thing to do. New Hampshire's Healthy Kids Children's Health Insurance Program is a unique public-private partnership –hailed as a national model. This budget invests in Healthy Kids and will allow us to provide health insurance to another 6,000 New Hampshire children.

With a growing and aging population, the demand on our Medicaid system is also growing. We must reform Medicaid to meet those demands, but thoughtfully, with full public involvement. My office has held three public conversations with our community partners and our citizens about their ideas for improving Medicaid. We must now take those ideas, along with the work done by the staff of the Department of Health and Human Services, and develop now initiatives that make sense for our citizens. We should reform Medicaid, but we must take the time to do it right and to make sure it's right for New Hampshire. That is what I am committed to doing.

Our veterans sacrificed for all of us and we owe them a debt of gratitude. New veterans are now returning home from service in Iraq and Afghanistan, and I ask you to join with me in thanking them. This budget allows us to hire the staff necessary to open the new wing of the Veterans Home and to add a new staff member at the Veterans Council to help the veterans get the services they need.

The most fundamental duty of state government is to protect the safety of our citizens. In recent years, we've seen a reduction in the number of state troopers. At the same time, the number of fatal accidents is increasing. I've heard too many reports of insufficient backup for local police departments and large stretches of our highways with no trooper on duty. That's not safe for our troopers or for our citizens. That is why I've asked the Department of Safety to re-allocate its resources to strengthen our state police force, restoring 14 trooper positions by the end of the biennium.

As I travel across New Hampshire, I hear from the citizens of our great state a new sense of optimism that together we can and we will address the challenges facing our state, from the budget to education funding to reducing health care costs. I've seen that same sense of optimism right here in this building.

I thank you so much for your willingness to work with me, and I look forward to continuing to work with you to make real progress for our state. Working together, Democrats and

Republicans, we will enact an honest and balanced budget – a budget that invests in our future and a budget that puts the needs of our people first. Thank you.

Sen. Clegg and Rep. O’Neil moved that the Joint Convention arise.

Adopted.

The Joint Convention adjourned.

HOUSE SESSION

(Speaker Scamman in the Chair)

The Speaker reconvened the House session.

REMARKS

Rep. Weyler moved that the Speaker’s remarks in remembrance of the Honorable Susan McLane and the Honorable Channing Brown be printed in the Permanent Journal.
Adopted.

Speaker Scamman: Over the past few days we have been saddened with the passing of two former long-time legislators and friends, Susan McLane of Concord and Channing Brown of Lebanon.

Without question, these were two of the most influential legislators of our time. While you may not have always agreed with Susan and Channing on all issues, you always respected each of them as dedicated lawmakers who were passionate about their beliefs, and who cared deeply about the people of this state.

Channing Brown became a close personal friend over the years that we served together.

Channing, his wife, Barbara and Stella and I would often vacation together. As many legislators do, we would both frequently stay in Concord during the busy House session and we often spent many hours together debating and discussing issues over a friendly game of cards. You always knew where Representative Brown stood on the issues – there was never any question with Channing. He was well-informed on the issues and always had the best interests of his constituents in mind. He was an extremely talented individual who chose to stay in his home town and raise his family after graduating from Lebanon High School and the University of New Hampshire. He easily could have left the state and brought his talents elsewhere, but he chose to dedicate his life to the people of New Hampshire, both through his service as Mayor of Lebanon and as a member of this body.

State Senator Susan McLane began her career as a legislator in this House. She and I were freshmen together and also good friends. She was a champion of tax reform and helped to reform the mental health care system in New Hampshire. Susan was a champion of the underprivileged. Through her dedicated service, she helped pave the way for women to take an active role in the New Hampshire legislature. In 1970, there were only 68 women serving in this House. Today there are 125. Susan McLane was a pioneer who led the way for others. She, too, became a close friend over the years – someone whom you could count on for a lively, yet respectful, debate.

We will miss Channing Brown and Susan McLane. They both left us as they served – with dignity. As Speaker, I would like to extend our heartfelt condolences to their spouses, Barbara Brown and Malcom McLane, and also to their families in their time of sorrow. Will you please join me for a moment of silence for these two respected New Hampshire citizens who did so much to help make this the great state that it is today. Thank you.

COMMITTEE REPORTS

CONSENT CALENDAR

Rep. O'Neil moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

HB 136-FN, removing increased penalties for crimes substantially motivated by hostility toward the victim's religion, race, creed, sexual orientation, national origin, or sex, removed by Rep. Bicknell

HB 290-FN, relative to participation in health savings accounts, removed by Rep. Wendelboe.

HB 158, relative to the Auburn District Court, removed by Rep. Dokmo.

Consent Calendar adopted.

HB 167, relative to mail-in rebates for merchandise purchased within the state.

INEXPEDIENT TO LEGISLATE

Rep. Stephen B. Stepanek for Commerce: Although well intentioned by the sponsor, the committee and subcommittee heard no testimony that any consumers had complained. Even the sponsor admitted there was no evidence that the consumer was not receiving rebates that were mailed in, or that the advertising did not notify consumers a mail-in rebate was required. The sole purpose of the bill was not to protect the consumer but to make it more convenient for consumers. The unintended consequences, however, would put undue costs on retailers, especially small retailers. By interfering in the manufacturer-retailer-consumer relationship, the committee heard testimony the retailers would, as is their right, refuse to participate in the rebate program and/or the manufacturer would refuse to offer the rebates in New Hampshire. There was no evidence of consumer complaints and the unintended consequences could be the loss of these money saving rebates to the New Hampshire consumer. The committee felt this bill was unnecessary. Vote 16-1.

HB 178, requiring disclosure of documents prior to a residential real estate closing.

INEXPEDIENT TO LEGISLATE

Rep. Donald H. Flanders for Commerce: Ideally this is fine but not as a practical matter. More often than not changes are made and some information is not received until the very last minute before a closing. If the closing has to be delayed for three days after receipt of all the information and preparation of the documents, problems with rate lock commitments and rate increases may be created. Adequate information should be available from the lender/closing company when required. Vote 17-0.

HB 188-FN, restricting the amount of account information on credit card receipts.

INEXPEDIENT TO LEGISLATE

Rep. Marshall Lee Quandt for Commerce: This bill prohibits sellers from printing more than the last 5 digits of the account number or the expiration date on credit card receipts. The prohibition does not apply to receipts that are handwritten or created by an imprint of the card. In 2003, the federal government passed legislation mandating that, in 2006, the electronically generated credit card receipts given to the purchaser only would have the last five credit card digits, while the business would keep a receipt that had the complete number. With the help of the bill's sponsor, a flaw was detected in this bill that should a "charge back" occur, the business that took the credit card in payment may not be able to justify the sale because of not having the full credit card number. It was felt this was a hindrance to businesses accepting credit cards. The issue of security of credit card receipts was addressed and the Attorney General's Office of Consumer Protection is providing education on this issue, as well as the New Hampshire Retailers Association, that will advise their members on better ways to protect their copies of credit card receipts. Vote 17-1.

HB 229, extending the committee to study the establishment of a farm viability program.

OUGHT TO PASS

Rep. Burton W. Williams for Environment and Agriculture: The study of farm viability proved to be very complex. The committee traveled to four locations throughout the state

holding hearings on farm viability. Many issues were discussed resulting in proposed legislation for this session. The study of farm viability was never completed. Therefore, extending this committee is necessary. Vote 18-0.

HB 153-FN, relative to the collection of debts owed to the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ken Hawkins for Executive Departments and Administration: The committee heard testimony that the Attorney General's office will only go to court to collect fines, fees, etc. when they are in excess of \$10,000. In the past, state agencies could go to small claims court to recover these monies. In 2004, the Attorney General's office ruled that this could not be done anymore. This legislation enables state agencies to use a collection firm or law firm that has an approved contract with the Attorney General's office that was approved by the governor and executive council to collect monies owed. In the Department of Environmental Services alone, there is over \$160,000 overdue. Vote 19-0.

Amendment (0082h)

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

1 New Subdivision; The State and its Government; Treasurer and Accounts; Collection of Debts Due the State. Amend RSA 6 by inserting after section 43 the following new subdivision:

Collection of Debts Due the State

6:44 Collection of Public Debts by Collection Agencies or Law Firms.

I.(a) State agencies may retain, by written contract, private collection agencies or law firms for the purpose of collecting debts owned to a state agency by any person. The department of justice shall be responsible for the collection function for all state agencies. There is established in the department of justice a separate, nonlapsing account to be known as the debt recovery fund, into which all debts collected under this section shall be deposited. The department of justice may use the account for expenses associated with managing the collection function. Annually, funds deposited in the account, after all costs have been deducted, shall be credited proportionately to the accounts for which they were collected.

(b) Unless otherwise provided for by law, the amount of the collection fee and the terms and conditions of retention shall be negotiated by the department of justice and the private collection agency or law firm, subject to governor and council approval, and the requirements of this subparagraph. The amount of the collection fee as negotiated between the department of justice and the private collection agency or law firm shall be added to the bill of costs to be paid by the debtor and shall not exceed 35 percent of the amount collected.

II. No debt may be assigned to a collection agency or law firm unless:

(a) There have been at least 3 documented attempts to notify the debtor of the existence of the debt and of the fact that the debt may be assigned to a collection agency or law firm for collection if it is not paid; and

(b) At least 30 days have elapsed from the last notice attempt.

III. Collection agencies or law firms assigned debts under this section shall have only those remedies and powers which would be available to them as assignees of private creditors. The collection agencies or law firms are likewise bound by applicable laws governing unfair collection practices.

IV. For purposes of this section, a private collection agency or law firm shall cease its efforts designed to collect the debt and inform the department of justice and the agency upon the occurrence of any of the following:

(a) Direction from the department of justice.

(b) Bankruptcy of the account debtor.

(c) Determination by the private collection agency or law firm that the debt is non-collectible.

(d) Upon order of a court having jurisdiction over the debtor in a criminal or civil matter.

V. The attorney general shall submit an annual report, on or before June 30, to the speaker of the house of representatives, the president of the senate, and the chairperson of the house standing committee on executive departments and administration, relative to collection activity under this section. The report shall include, for each account: the relevant agency; the amount to be collected; the amount collected and whether it was collected by a collection agency, law firm, or court action initiated by the department of justice; any expenses incurred; and any amount outstanding.

VI. For purposes of this section, the term "debt" shall include fines and other debts, including the fee required under subparagraph I(b) of this section.

2 New Subparagraph; Debt Recovery Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (234) the following new subparagraph:

(235) Moneys deposited in the debt recovery fund, established under RSA 6:44.

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill permits state agencies to retain private collection agencies or law firms to collect debts owed to the state. The bill directs the department of justice to deposit funds collected in a dedicated fund, known as the debt management fund, from which recovered funds shall be distributed annually to the appropriate agency. The bill also requires the department to submit an annual report on the collection activity to the legislature.

HB 253, exempting certified financial planners from requirements for licensure under insurance laws. **INEXPEDIENT TO LEGISLATE**

Rep. Hector M. Velez for Executive Departments and Administration: This bill exempts certified financial planners from the license requirement for insurance producers provided the person does not sell or solicit insurance or receive a commission. Based on testimony, the committee believed that a fee-only certified financial planner had to consult their client on insurance matters. At the present moment, RSA 405:44-a has language regarding requirements for those who consult or advise relating to insurance matters. The same RSA references individuals to RSA 402-J which talks about producer licensing laws as it relates to being an insurance agent or broker. Therefore, the committee came to the conclusion that certified financial planners should meet full requirement for licensure under insurance law. Vote 14-2.

HB 281, requiring certain labels on bottled water. **INEXPEDIENT TO LEGISLATE**

Rep. James B. Coburn for Executive Departments and Administration: This bill would direct the commissioner of health and human services to adopt a rule that would require all bottled water sold in New Hampshire to list on its label the amount of any fluoride or compound of fluorine contained in the water. The labeling would raise consumer awareness of a potentially hazardous material in the water. After hearing testimony and discussion, the committee felt that existing state and federal laws regulating labeling of food products and the amounts of naturally occurring and added fluorine were sufficient. Vote 16-0.

HB 259, relative to medical assistance for home care for children with severe disabilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Rogers J. Johnson for Health, Human Services and Elderly Affairs: The legislature of 2004 passed legislation, which created a commission to study the medical assistance program for home care of children with severe diabetes (HC-CSD) also known as "Katie Beckett." This bill is the product of that commission. This bill will put into statute and thus protect the "Katie Beckett" program. It will also revamp the program to bring it into compliance with federal law as required. The amendment to the bill contains technical changes which do not

affect the nature and purpose of the legislation. Vote 21-0.

Amendment (0187h)

Amend RSA 167:3-f as inserted by section 2 of the bill by replacing it with the following:

167:3-f Home Care for Children With Severe Disabilities; Recipient Eligibility.

I. In this section:

(a) "Active treatment program" means an aggressive, consistent implementation of specialized and generic training, treatment, health and related services directed toward:

(1) The acquisition of the behaviors necessary for the child to function with as much self-determination and independence as possible; and

(2) The prevention or slowing of deterioration of the ability to function.

(b) "Family centered community-based home care" means an organized network of integrated and coordinated services delivered at the local level which promotes normal patterns of living and which recognizes the pivotal role of families with respect to the provision of services for their children.

(c) "Cost effective" means the estimated medicaid cost of care outside an institution is no higher than the estimated medicaid cost of appropriate institutional care.

II. The purpose of family centered community-based home care shall be to support but not supplant the child's family as the primary caregiver.

III. To be eligible for medical assistance for home care of certain children with severe disabilities, the child shall, in addition to the eligibility criteria in RSA 167:3-e:

(a) Reside in a place maintained as the child's home community.

(b) Be able to receive services in the home as defined in 45 CFR 233.90(c)(1)(v)(B).

(c) Meet the program criteria as described in section 1902(e)(3) of the Social Security Act.

(d) Meet the recipient criteria of He-W 641.04, except that, pursuant to the prohibition in section 1614(f)(2)(B) of the Social Security Act, rules requiring the deeming of parental income shall not apply.

(e) Meet the following medical criteria:

(1) Is chronically ill or impaired, whose illness or disability does not require the level of care provided in an inpatient facility, but whose condition requires ongoing and regular medical monitoring and treatment; and

(2) Has a severe disability which includes at least one of the following:

(A) A developmental disability as defined in RSA 171-A:2, V.

(B) A chronic, degenerative, progressive, or life-threatening condition causing impairment of a vital organ function which requires ongoing and regular medical monitoring.

(C) A sensory impairment which is expected to continue indefinitely, including a hearing loss established by audiometry which functionally impacts the child.

(D) A mental illness, emotional disturbance or behavioral disorder which functionally impacts his or her psychosocial adjustment and the diagnosis for which is recognized by the American Psychiatric Association.

(E) An acquired childhood disease which functionally impacts the child.

(F) A genetic disorder or congenital anomaly requiring ongoing medical monitoring.

(f) Require the same degree of care that is typically provided in a hospital, psychiatric hospital, nursing facility, or intermediate care facility for the mentally retarded as specified in RSA 167:3-g.

IV. In addition to the eligibility requirements described in paragraph II, the services proposed for the child shall be:

(a) Medically appropriate, as determined by the joint medical review team in accordance with paragraphs V and VI; and

(b) Cost effective as determined by the department in accordance with RSA 167:3-e, IV.

V. The joint medical review team, upon certification by the child's physician, shall determine if it is medically appropriate, in accordance with paragraph VI, for the child to receive family centered community-based home care as opposed to institutional care.

VI. The joint medical review team shall determine that family centered community-based home care is medically appropriate if each of the following conditions are met:

(a) The care can be provided in the home without jeopardizing the medical needs of the child.

(b) Medical and psychological support services are available in the community.

(c) The child's treating physician recommends home care and certifies the safety of home placement.

(d) The child's family or guardian have expressed a willingness and desire to assume responsibility as the primary caregiver for the child in order to maintain the child at home.

(e) The family and household members have been trained to support the child's needs in the home and have the ability to be primary caregivers.

Amend RSA 167:3-g, IV(a) as inserted by section 2 of the bill by replacing it with the following:

(a) The child meets the definition of a child with a serious emotional disturbance established by Department of Health and Human Services Notice, dated May 20, 1993, 58 Federal Register 29422 (1993).

HB 321, requiring health care providers to furnish a patient with a copy of his or her medical complaint form. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This is a well intentioned bill that deals with the importance of patients' access to their medical records. The committee accepted that it is well established under professional practice acts that individuals have access to their medical records and can have copies made of those records. In addition, it is routine practice that practitioners forward copies of their records to new providers. The records would also include any letters or complaints registered by the patient. In this instance, the sponsor of this bill wanted to convey the importance of the symptomatic complaints being made part of the record. The intent was to provide a record that allows for the best patient treatment possible while protecting the provider. The committee unanimously agreed that the present system already provides the protections that this bill would require. Vote 21-0.

HB 514, establishing the New Hampshire health care quality assurance commission. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill establishing the New Hampshire health care quality assurance commission is one very important step, among many, that is directed at dealing with our ever increasing crisis in the delivery of health care. The quality assurance commission is the product of the work of a highly qualified task force considering remedies for medical errors. The new quality assurance commission provides a confidential opportunity for New Hampshire hospitals professional staff to review and analyze medical errors, unexpected outcomes and potential problems. Every acute care hospital and ambulatory surgical center will be represented on the commission; each member will be responsible to educate his or her institution on the confidential findings of the commission. This provides for a carefully controlled system operating confidentially to disseminate lessons learned about medical errors to help in their eradication and reduction. This bill, endorsed by the task force on medical errors has strong

support including the New Hampshire Medical Society and the New Hampshire Trial Lawyers Association. Vote 18-0.

HB 112, relative to psychiatric evaluations in competency hearings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gregory M. Sorg for Judiciary: This bill addresses a perceived defect in the law governing the holding of competency hearings following a criminal defendant's commitment for treatment aimed at restoring his or her competency to stand trial. Under present law, the psychiatrist treating the patient is required to conduct the follow-up competency evaluation. This dual role creates a conflict of interest that both the mental health care professionals and the Attorney General's office wanted to eliminate. As amended, the bill requires that the psychiatrist conducting competency evaluations not be the treating psychiatrist. Vote 17-0.

Amendment (0221h)

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

1 Competency Hearings; Psychiatric Evaluations. Amend RSA 135:17-a, III to read as follows:

III. ***Except for good cause shown***, a further hearing to determine the defendant's competency shall be held no later than 12 months~~[-except for good cause shown,]~~ after the order committing the defendant for treatment. The hearing may be held earlier if the court is notified that the defendant has ~~[regained]~~ ***been restored to*** competency, or that there is no longer a reasonable likelihood of such restoration. Prior to the scheduled hearing, the ~~[treating]~~ psychiatrist ***who conducted the initial competency evaluation*** shall conduct a further ~~[competency]~~ evaluation ~~[as set forth in]~~ ***pursuant to*** RSA 135:17, and furnish ***a copy of the report of*** such evaluation to the court and the parties. ***If that psychiatrist is unavailable or unable to conduct such further evaluation, the court may order that the evaluation be conducted by another qualified psychiatrist other than the treating psychiatrist.***

2 Competency Evaluations During Involuntary Commitment Period. RSA 135-C:17-a, VI is repealed and reenacted to read as follows:

VI. If the person is ordered to be involuntarily committed following proceedings pursuant to RSA 135-C or RSA 171-B, the court may, for good cause shown upon motion of the attorney general or county attorney at any time during the period of the involuntary commitment and before expiration of the limitations period applicable to the underlying criminal offense, order a further competency evaluation, to be conducted as prescribed in paragraph III.

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill permits a court to order a qualified psychiatrist other than the treating psychiatrist to conduct a psychiatric evaluation of a defendant for purposes of a subsequent hearing to determine competency to stand trial, if the psychiatrist who conducted the initial evaluation is unavailable.

The bill also permits the court, for good cause shown upon motion of the attorney general or county attorney at any time during the involuntary commitment period and before expiration of the limitations period applicable to the underlying offense, to order a further competency evaluation.

HB 376, establishing a statutory joint committee on legislative parking facilities. **INEXPEDIENT TO LEGISLATE**

Rep. Paul C. Smith for Public Works and Highways: The committee unanimously agreed that the issue in the bill is an important one, but one that is already being dealt with. In

years past, several committees were established to study and determine what means could be taken with regard to the parking garage issue, and more often than not, the committee fell apart. However, due to increased staffing and business, the City of Concord and the State have come back together to work on the issue in a committee that includes members of the House, Senate, City of Concord and Administrative Services. The Public Works Committee was assured that not only is their status hopeful, but that we could potentially see a plan this legislative session. With that, the committee voted to ITL the bill because the issue is seemingly being resolved in a timely fashion. Vote 18-0.

HR 10, urging increased consideration and preservation of local authority in international trade and investment agreements. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for State-Federal Relations and Veterans Affairs: While the concern for state and local sovereignty is noteworthy, the committee felt that this issue is too broad in scope and too comprehensive in nature and is beyond our level of responsibility. The federal government makes treaties and sets conditions. Also the committee felt that states and localities are protected by the Eleventh Amendment and that previous decision by international bodies has no teeth in the United States. Vote 14-0.

REGULAR CALENDAR

HB 117, requiring automobile insurance to register a vehicle. **INEXPEDIENT TO LEGISLATE**

Rep. Donald H. Flanders for Commerce: This type of bill has been before the legislature on numerous occasions in the past and always defeated because our New Hampshire system has proven to be very effective. We have one of the lowest rates of uninsured motorists in the country at 9%, and our New Hampshire policy includes uninsured motorist coverage which protects everyone who purchases auto insurance for injuries sustained by someone who is uninsured. In addition to this, New Hampshire law penalizes those uninsured drivers responsible for accidents by requiring them to reimburse the injured party and carry insurance in the future or their licenses will be suspended. Simply stated, our current requirements work. Vote 12-5.

Adopted.

Rep. Infantine declared a conflict of interest and did not participate.

HB 60-FN-A, relative to reimbursement of legal fees of the commissioner of the department of administrative services and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: The committee felt that it was appropriate to reimburse the commissioner of administrative services for legal fees which he incurred as a result of his employment when the Attorney General's office could not represent him. Vote 20-0.

Amendment (0175h)

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

1 Appropriation; Reimbursement of Legal Fees of the Commissioner of the Department of Administrative Services. The sum of \$16,932 is hereby appropriated for the fiscal year ending June 30, 2005, to the department of administrative services, for the purpose of reimbursing the commissioner of the department of administrative services for the legal fees he incurred in the AlphaDirections/Linda Pepin matter. These funds are in addition to any other funds appropriated to the department of administrative services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

Adopted.

Rep. Wheeler yielded to questions.

Report adopted and ordered to third reading.

HB 71-FN-A-L, relative to funding of the school building aid program for the 2005 fiscal year and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert K. Dodge for Finance: As generally happens in the second year of each biennium, appropriations are only estimates and actions taken by town meetings and cities can exceed our estimates. Now that we have the actual amount needed, \$2,730,411.00, the committee recommends that we adjust the appropriation. Vote 21-0.

Amendment (0083h)

Amend the bill by replacing section 1 with the following:

1 School Building Aid; Fiscal Year 2005. The sum of \$2,730,411, for the fiscal year ending June 30, 2005, is hereby appropriated to the department of education for the purpose of providing full funding of all school building aid projects approved for the 2005 fiscal year. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill makes an appropriation of \$2,730,411 to the department of education for the purpose of fully funding all school building aid projects approved in the 2005 fiscal year. Adopted.

Report adopted and ordered to third reading.

HB 102 FN-A, increasing the personal needs allowance of nursing home residents and certain other residents and making an appropriation therefor. **OUGHT TO PASS**

Rep. Lawrence A. Emerton. This bill will increase the personal needs allowance for all medicaid nursing home residents in NH by \$6.00 per month, from \$50.00 to \$56.00. Federal reimbursement will be 50%, counties 25% and the state 25% for \$1.50 per month. The last personal needs increase was over 5 years ago. In addition, this bill requires the commissioner of the Department of Health and Human Services to make adjustments for cost of living increases every 5 years to reflect social security increases. Vote 19-3. Adopted and ordered to third reading.

HB 240-FN, relative to psychotropic drugs and child protection. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Charles E. McMahon for the Majority of Health, Human Services and Elderly Affairs: This bill addresses the use of psychotropic drugs and how they are recommended to the states' school children. According to reliable governmental studies, New Hampshire, for the last six years, has led the nation on a per capita basis on the use of the drug Ritalin. The escalating use of these drugs continues to grow. It has become a major concern to the committee, especially as the testimony has been presented, that in some cases the recommended use of the drug Ritalin is done by school personnel. They do not have the background and or education in the field of medicine, they are on occasion making the recommendation that a child be put on Ritalin for behavioral issues. Any recommendations for the use of psychotropic drugs for our children must be the sole responsibility of those trained in medical care for evaluation, testing and prescribed treatment. No public school personnel without a medical degree shall suggest or recommend the use of psychotropic drugs and no public schools shall require a child to take psychotropic drugs as a condition of attending school. Public testimony indicated that these conditions have occurred and this bill will address that issue. The provisions included in this bill shall not prohibit school health professionals from recommending that a student be evaluated by an appropriate degreed health care professional nor shall it prohibit school health personnel from consulting with such degreed health practitioners with the consent of the child's parent or legal guardian. The committee, by a strong majority, felt that psychotropic drugs are good

medications, but wants to ensure that only trained medical personnel are the ones making the recommendations for their use. This bill would also align with federal regulations and keep New Hampshire eligible for federal funding. Vote 17-4.

Rep. Barbara C. French for the Minority of Health, Human Services and Elderly Affairs: It is wrong and sad that school staff recommend medication such as Ritalin. However, it is not necessary to pass a law that possibly threatens the teacher, or other personnel with a lawsuit. School personnel are professionals who carry out specific duties which are regulated by licensure or certification. There are penalties for performing duties which are not included in their line of expertise. Prescribing medication is the job of a physician. Schools and staff have been adequately put on notice that recommending medication is wrong. There is a procedure now in place in which a parent can complain to the school principal, or use the complaint procedure under the New Hampshire Department of Education rules for the education of handicapped children, allowing the staff person to be dealt with appropriately.

Majority Amendment (0177h)

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

1 New Section; Psychotropic Drugs and Schools. Amend RSA 200 by inserting after section 35 the following new section:

200:35-a Psychotropic Drugs and Schools.

I. Advice regarding the use of psychotropic drugs for any child is the sole responsibility of medical professionals following standard medical practice, testing, and evaluation of the child. No public school personnel shall suggest or recommend use of such medications.

II. No public school shall require a child to take psychotropic drugs as a condition of attending school.

III. The provisions of this section shall not prohibit school personnel from recommending that a child be evaluated by an appropriate health care practitioner, or prohibit school personnel from consulting with such practitioner with the consent of the child's parents or legal guardian.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill prohibits public school personnel from recommending or requiring that a child take a psychotropic medication.

Majority amendment adopted.

Majority report adopted and ordered to third reading.

HB 130, relative to limiting the length of involuntary commitment. INEXPEDIENT TO LEGISLATE

Rep. Bernard E. Buzzell for Judiciary: This bill reduces the maximum involuntary commitment from 5 years to 1 year. Testimony from state hospital administration discussed how this bill would negatively impact the mentally ill and would be detrimental to the state's ability to track those who had been committed as criminally insane. The Attorney General's office states that this measure would negatively impact their job and cause considerable hardship. Vote 16-1.
Adopted.

HB 231, establishing a commission to study issues relating to personal privacy.

MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS

Rep. Gregory M. Sorg for the Majority of Judiciary: This bill would establish a commission to "study issues relating to personal privacy," and to file a report of its findings and any recommendations for proposed legislation by November 1, 2005. While the entire committee is mindful of and concerned about the erosion of privacy resulting from, among other causes,

national security concerns and expanding information technology, the majority concluded that establishment of a study commission is not the proper vehicle to address the problem. The proposed scope of the commission was considered too broad and open-ended; and because privacy erosion is an on-going problem, the majority believed that a more preferable vehicle would be to form an ad hoc committee on the subject. Vote 13-6.

Rep. Bette R. Lasky for the Minority of Judiciary: The minority feels that this is an issue that is too important to simply dismiss with the ITL of this bill. This bill is likely not the appropriate vehicle to study the issues assaulting our personal privacy and we want to be able to explore other options to, in fact, study the issue as it deserves.

Majority report adopted.

SPECIAL ORDER

HB 142, establishing a commission to study changing the local property tax abatement procedures. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: The committee agreed that the form for an abatement may be confusing but the Board of Tax and Land Appeal entertains ideas to change forms. The committee agreed that a study commission is not necessary at this time. Vote 18-0.

Rep. Cady spoke against.

Rep. Patten spoke in favor.

Adopted.

REGULAR CALENDAR (CONT'D.)

HCR 1, urging Congress to withdraw the United States from the United Nations.

MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Kris E. Roberts for the Majority of State-Federal Relations and Veterans Affairs: This concurrent resolution requests that the United States withdraw from the United Nations and all related organizations. The right to enter or withdraw from treaties is a federal, not state, right. While it is understood that the UN has not lived up to the general goals of its founders, it has, through combined action, improved the lives of billions of people world-wide. If one has problems, those concerns should be addressed from within not from the outside. To withdraw from the UN would eliminate any chance of US input. Vote 8-6.

Rep. Russell A. Albert for the Minority of State-Federal Relations and Veterans Affairs: The responsibility of the United States as a member of the United Nations creates immense financial boundaries on the citizens of our country, even though the US provides the largest share of the burden. Many members are not friendly to the US issues and against our interests. By dissolving our membership, we will free the US of this financial burden. The outrageous corruption in the oil, food and medicine program should send a clear message, that the United Nations' only real concerns are in lining their pockets with money, to date \$26 billion dollars, the largest swindle in world history.

The question being adoption of the majority committee report.

Reps. Russell Albert, Boyce, and Bettencourt spoke against.

Rep. Ingbretson spoke against.

Reps. Kris Roberts spoke in favor.

Rep. Twombly spoke in favor and yielded to questions.

Rep. Mirski requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

YEAS 240 NAYS 106			
YEAS 240			
BELKNAP			

Clark, Charles	Fitzgerald, James	Millham, Alida	Morrison, Gail
Pilliod, James	Tobin, William	Veazey, John	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Brown, Carolyn	Buco, Thomas	Dickinson, Howard
Knox, J David	Martin, James	Olimpio, J Lisbeth	Patten, Betsey
Philbrick, Donald	Stevens, Stanley		
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Chase, William
Dexter, Judson	Dunn, J Timothy	Eaton, Daniel	Espiefs, Peter
Hogancamp, Deborah	Mitchell, Bonnie	Parkhurst, Henry	Pratt, John
Richardson, Barbara	Roberts, Kris	Robertson, Timothy	Sawyer, Sheldon
Sinclair, Stephanie	Tilton, Anna	Weed, Charles	
COOS			
King, Frederick	Mears, Edgar	Merrick, Scott	Stohl, Eric
Theberge, Robert			
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Hammond, Lee	Harding, A Laurie	McLeod, Martha
Mulholland, Catherine	Naro, Debra	Nordgren, Sharon	Sokol, Hilda
Solomon, Peter			
HILLSBOROUGH			
Baroody, Benjamin	Batula, Peter	Beaulieu, Jane	Bergin, Peter
Brassard, Paul	Brundige, Robert	Calawa, Leon Jr	Carlson, Donald
Carter, Mark	Chabot, Robert	Chase, Claudia	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	DeVries, Betsi	Dokmo, Cynthia	Drisko, Richard
Egbers, Fran	Emerton, Larry	Essex, David	Foster, Linda
Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth	Golding, William
Goley, Jeffrey	Gorman, Mary	Graham, John	Haley, Robert
Hall, Betty	Harvey, Suzanne	Holden, Randolph	Kopka, Angeline
Kurk, Neal	Lasky, Bette	Lefebvre, Roland	Manney, Pamela
Matarazzo, Anthony Sr	Messier, Irene	Mooney, Maureen	Moran, Edward
Movsesian, Lori	O'Connell, Timothy	Ober, Lynne	Pappas, Christopher
Pepino, Leo	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence	Rowe, Robert
Ryder, Donald	Schulze, Joan	Shaw, Barbara	Shaw, Kimberly
Smith, David	Sullivan, Francis	Sullivan, Peter	Vaillancourt, Steve
Velez, Hector	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Danforth, James	DeJoie, John
DeStefano, Stephen	Foose, Robert	French, Barbara	Greco, Vincent

Hager, Elizabeth	Hamm, Christine	Hess, David	Kidder, David
L'Heureux, Stephen	Lockwood, Priscilla	MacKay, James	Maxfield, Roy
McMahon, Patricia	Oliver, James	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna
Ryan, Jim	Shurtleff, Stephen	Tilton, Joy	Wallner, Mary Jane
Walz, Mary Beth	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell
Cali-Pitts, Jacqueline	Carson, Sharon	Casey, Kimberley	Coburn, James
Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert	Dowd, John
Dowling, Patricia	Doyle, Christopher	Fesh, Bob	Flockhart, Eileen
Forsing, Robert	Francoeur, Sheila	Garrity, James	Gilbert, Karl
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Johnson, Robert
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Major, Norman	Mason, April	McKinney, Betsy	McMahon, Charles
Moody, Marcia	Morris, Richard	Norelli, Terie	Nowe, Ronald
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Parker, Benjamin
Powers, James	Putnam, Ed II	Rausch, James	Robertson, Carl
Rolston, James	Sanders, Elisabeth	Scamman, Stella	Splaine, James
Stiles, Nancy	Stone, Joseph	Waterhouse, Kevin	Winchell, George
Zolla, William			
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Creteau, Irene
Dunlap, Patricia	Goodwin, Earle	Grassie, Anne	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Knowles, William
Miller, Joseph	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Kathleen
Twombly, James	Wall, Janet		
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Prichard, Stephen
Rodeschin, Beverly			
NAYS 106			
BELKNAP			
Boyce, Laurie	Heald, Bruce	Nedeau, Stephen	Rosen, Ralph
Tilton, Franklin	Wendelboe, Fran		
CARROLL			
Babson, David Jr	Chandler, Gene	McConkey, Mark	Merrow, Harry
CHESHIRE			
Emerson, Susan	Pelkey, Stephen		

COOS			
Buzzell, Bernard	Lary, Bruce	Morneau, Renney	Remick, William
Richardson, Herbert			
GRAFTON			
Alger, John	Barker, Robert	Dorsett, Andrew	Gionet, Edmond
Giuda, Robert	Ingbretson, Paul	Mirski, Paul	Sorg, Gregory
Ward, John	Williams, Burton		
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Baines, Stephen	Balboni, Michael
Barry, J Gail	Bergeron, Jean-Guy	Biundo, Michael	Boehm, Ralph
Buhlman, David	Carew, James	Christensen, D L Chris	Christiansen, Lars
Crane, Elenore Casey	Desmarais, Vivian	Dyer, Donald	Elliott, Larry
Elliott, Nancy	Francoeur, Bea	Gibson, John	Goyette, Peter Jr
Hagan, Barbara	Hansen, Ryan	Hawkins, Ken	Hellwig, Steve
Hinkle, Peyton	Hirschmann, Keith	Hunter, Bruce	Infantine, William
Jasper, Shawn	L'Heureux, Robert	Lessard, Rudy	Mead, Robert
O'Brien, William	Renzullo, Andrew	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Ulery, Jordan	Villeneuve, Maurice	Wheeler, James
MERRIMACK			
Field, William	Kennedy, Richard	Langlais, Thomas	Marple, Richard
Soltani, Tony	Whiting, Herbert		
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Bicknell, Elbert	Buxton, Donald
Cady, Harriet	Camm, Kevin	Charron, Gene	Donahue, Richard Ken
Dumaine, Dudley	Flanders, John Sr	Hopfgarten, Paul	Hughes, Daniel
Ingram, Russell	Introne, Robert	Itse, Daniel	Johnson, Rogers
Lund, Howie	Palazzo, Frank	Quandt, Marshall Lee	Quandt, Matthew
Smith, Paul	Weare, E Albert	Welch, David	Weldy, Norman
Wells, Roger	Weyler, Kenneth	Wiley, Robert	
STRAFFORD			
Albert, Russell	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Easson, Timothy	Newton, Clifford		
SULLIVAN			
None			

and the majority report was adopted.

BILLS REMOVED FROM CONSENT CALENDAR

HB 136-FN, removing increased penalties for crimes substantially motivated by hostility toward the victim's religion, race, creed, sexual orientation, national origin, or sex.

INEXPEDIENT TO LEGISLATE

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: The bill, if enacted, would remove the enhanced penalty for crimes substantially motivated by hostility towards the victim's religion, race, creed, sexual orientation, national origin or gender. There was a five hour hearing conducted where 36 people testified. The four sponsors and three citizens were the only ones in favor of the bill. The governor's representative and attorney general were strongly opposed to this legislation. This great country of ours is a heterogeneous group of people. We have men and women from most countries around the world, representing numerous religious organizations, races and sexual orientations. We have always struggled with the rights of various minority groups. We have not always been as open to freedom of expression as our forefathers would have liked. Yet, even as we deplore hateful speech against minority groups, we protect and defend the freedom of expression of all people. Our Constitution provides freedom of expression for blacks and the Ku Klux Klan, gays and gay haters, women's groups and misogynists, Christians, Jews, Muslims and any other religious group. It is not the thought this statute seeks to punish, as testimony suggested. It is the actions of a few hateful people. This law punishes those who would seek to intimidate others in their freedom of expression; who seek to harm others because of the color of their skin, gender, sexual preference or nationality. These individuals need to understand that as a free and democratic society, we thrive on an individual's freedom of expression. We need to encourage and protect this right so that any minority is free from harm or intimidation in the exercise of its rights. In those cases where hate motivates any individual to assault or murder another because of his or her minority status, we must hold these individuals to account for their behavior. Ultimately, we as a democratic society will be judged on our willingness and ability to protect any minority of our citizenry. This law was enacted in the early 90's because crosses were being burned on people's lawns, anti-semitic signs were being painted on synagogues and homes, people were being beaten because of their race, religion, or sexual preferences. This law is only used by a jury after all the facts have been put before them. The committee feels this law should be kept on the books. Vote 19-0.

Rep. Bicknell spoke against and yielded to questions.

Rep. DeJoie spoke in favor.

Rep. Peter Sullivan requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 298 NAYS 48			
YEAS 298			
BELKNAP			
Fitzgerald, James	Heald, Bruce	Millham, Alida	Morrison, Gail
Nedeau, Stephen	Pilliod, James	Tobin, William	Veazey, John
Whalley, Michael			
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Buco, Thomas
Chandler, Gene	Dickinson, Howard	Knox, J David	Martin, James
McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth	Patten, Betsey
Philbrick, Donald	Stevens, Stanley		
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Chase, William
Dexter, Judson	Dunn, J Timothy	Eaton, Daniel	Emerson, Susan
Espiefs, Peter	Hogancamp, Deborah	Mitchell, Bonnie	Parkhurst, Henry

Pelkey, Stephen	Pratt, John	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sinclair, Stephanie	Tilton, Anna	Weed, Charles
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Morneau, Renney	Remick, William	Richardson, Herbert
Stohl, Eric	Theberge, Robert		
GRAFTON			
Alger, John	Almy, Susan	Andersen, Gene	Barker, Robert
Benn, Bernard	Bleyler, Ruth	Cooney, Mary	Gionet, Edmond
Hammond, Lee	Harding, A Laurie	McLeod, Martha	Mulholland, Catherine
Naro, Debra	Nordgren, Sharon	Sokol, Hilda	Solomon, Peter
Ward, John	Williams, Burton		
HILLSBOROUGH			
Allan, Nelson	Baroody, Benjamin	Batula, Peter	Beaulieu, Jane
Bergeron, Jean-Guy	Bergin, Peter	Biundo, Michael	Boehm, Ralph
Brassard, Paul	Brundige, Robert	Calawa, Leon Jr	Carew, James
Carlson, Donald	Carter, Mark	Chabot, Robert	Chase, Claudia
Christensen, D L Chris	Clayton, William	Clemons, Jane	Cote, David
Cote, Peter	Coughlin, Pamela	Craig, James	Crane, Elenore Casey
Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia	Drisko, Richard
Dyer, Donald	Egbers, Fran	Elliott, Larry	Elliott, Nancy
Emerton, Larry	Essex, David	Foster, Linda	Gargasz, Carolyn
Garrity, Patrick	Gibson, John	Ginsburg, Ruth	Golding, William
Goley, Jeffrey	Gorman, Mary	Goyette, Peter Jr	Graham, John
Haley, Robert	Hall, Betty	Hansen, Ryan	Harvey, Suzanne
Hawkins, Ken	Hirschmann, Keith	Holden, Randolph	Hunter, Bruce
Infantine, William	Jasper, Shawn	Kopka, Angeline	L'Heureux, Robert
Lasky, Bette	Lefebvre, Roland	Lessard, Rudy	Manney, Pamela
Matarazzo, Anthony Sr	Mead, Robert	Messier, Irene	Mooney, Maureen
Movsesian, Lori	O'Brien, William	O'Connell, Timothy	Ober, Lynne
Pappas, Christopher	Pepino, Leo	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence
Rowe, Robert	Ryder, Donald	Schulze, Joan	Shaw, Barbara
Shaw, Kimberly	Smith, David	Stepanek, Stephen	Sullivan, Francis
Sullivan, Peter	Ulery, Jordan	Vaillancourt, Steve	Velez, Hector
Villeneuve, Maurice	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Danforth, James	DeJoie, John
DeStefano, Stephen	Foose, Robert	French, Barbara	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Hess, David	Kidder, David
L'Heureux, Stephen	Lockwood, Priscilla	MacKay, James	Maxfield, Roy
McMahon, Patricia	Oliver, James	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna

Ryan, Jim	Shurtleff, Stephen	Tilton, Joy	Wallner, Mary Jane
Walz, Mary Beth	Whiting, Herbert	Williams, Robert	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bettencourt, David
Blanchard, MaryAnn	Bridle, Russell	Buxton, Donald	Cali-Pitts, Jacqueline
Camm, Kevin	Carson, Sharon	Casey, Kimberley	Charron, Gene
Coburn, James	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Dowd, John	Dowling, Patricia	Doyle, Christopher	Fesh, Bob
Flanders, John Sr	Flockhart, Eileen	Forsing, Robert	Francoeur, Sheila
Garrity, James	Gilbert, Karl	Gillick, Thomas	Gould, Kenneth
Griffin, Mary	Hughes, Daniel	Ingram, Russell	Introne, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Major, Norman	Mason, April	McKinney, Betsy
McMahon, Charles	Moody, Marcia	Morris, Richard	Norelli, Terie
Nowe, Ronald	O'Neil, Michael	Packard, Sherman	Pantelakos, Laura
Parker, Benjamin	Powers, James	Putnam, Ed II	Quandt, Marshall Lee
Quandt, Matthew	Rausch, James	Robertson, Carl	Rolston, James
Sanders, Elisabeth	Scamman, Stella	Smith, Paul	Splaine, James
Stiles, Nancy	Stone, Joseph	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weldy, Norman	Wiley, Robert	Winchell, George
Zolla, William			
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Cataldo, Sam
Chaplin, Duncan	Creteau, Irene	Dunlap, Patricia	Goodwin, Earle
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Knowles, William	Rollo, Michael	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Twombly, James	Wall, Janet	
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Prichard, Stephen
Rodeschin, Beverly			
NAYS 48			
BELKNAP			
Boyce, Laurie	Clark, Charles	Rosen, Ralph	Tilton, Franklin
Wendelboe, Fran			
CARROLL			
None			
CHESHIRE			
Sawyer, Sheldon			

COOS			
None			
GRAFTON			
Dorsett, Andrew	Giuda, Robert	Ingbreton, Paul	Mirski, Paul
Sorg, Gregory			
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Baines, Stephen	Balboni, Michael
Barry, J Gail	Buhlman, David	Christiansen, Lars	Francoeur, Bea
Hagan, Barbara	Hellwig, Steve	Hinkle, Peyton	Kurk, Neal
Moran, Edward	Renzullo, Andrew	Slocum, Lee	Souza, Kathleen
Wheeler, James			
MERRIMACK			
Field, William	Kennedy, Richard	Langlais, Thomas	Marple, Richard
Soltani, Tony			
ROCKINGHAM			
Bicknell, Elbert	Cady, Harriet	Donahue, Richard Ken	Dumaine, Dudley
Hopfgarten, Paul	Itse, Daniel	Johnson, Robert	Lund, Howie
Palazzo, Frank	Wells, Roger	Weyler, Kenneth	
STRAFFORD			
Albert, Russell	Campbell, W Packy	Easson, Timothy	Newton, Clifford
SULLIVAN			
None			

and the committee report was adopted.

HB 290-FN, relative to participation in health savings accounts. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The committee heard testimony reminding us that federal law already allows this type of health savings account provided they include a high deductible (\$1,000.00 minimum). The committee has further concerns about the ability of the State of New Hampshire to introduce these accounts absent their inclusion in the state employee negotiated contracts. Vote 16-0.

Rep. Bergin moved Recommit to committee.

Adopted and recommitted to the Committee on Executive Departments and Administration.

HB 158, relative to the Auburn District Court. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald R. Buxton for Judiciary: The committee feels that the time has come to solve the Auburn Court location problem. The issue comes up in every legislative session and will not go away until addressed. The unanimous feeling was that the court needs to be more centrally located so that access to justice is available to all. The burdens on the small towns, along with transportation for the poor, becomes unreasonable. This bill will provide the opportunity to locate a district court that is accessible to the citizens of the district. Vote 21-0.

Amendment (0113h)

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

1 Auburn District Court. Amend RSA 502-A:1, IV to read as follows:

IV. AUBURN DISTRICT. The Auburn district shall consist of the towns of Auburn, Candia, **and** Deerfield, ~~[Nottingham, Raymond, and Northwood]~~. The district court for the district shall be located in Auburn, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Auburn District Court.

2 New Paragraph; Raymond District Court. Amend RSA 502-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. RAYMOND DISTRICT. The Raymond district shall consist of the towns of Raymond, Nottingham, and Northwood. The district court for the district shall be located in Raymond, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Raymond District Court.

3 Contingency. If the department of administrative services and the towns of Raymond, Nottingham, and Northwood reach an agreement on an acceptable courthouse facility and funding for a courthouse facility for the Raymond district on or before June 30, 2008, sections 1 and 2 of this act shall take effect July 1, 2008. If the department of administrative services and the towns of Raymond, Nottingham, and Northwood cannot reach an agreement on an acceptable courthouse facility and funding for a courthouse facility for the Raymond district on or before June 30, 2008, sections 1 and 2 of this act shall not take effect.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect as provided in section 3 of this act.

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

AMENDED ANALYSIS

This bill divides the Auburn district court district into 2 districts, the Auburn district and the Raymond district, if certain conditions are met regarding a court facility for the Raymond district.

Rep. Dokmo moved Recommit to committee.

Adopted and recommitted to the Committee on Judiciary.

SUSPENSION OF RULES

Rep. O'Neil and Craig moved that Rules be so far suspended so March 24, 2005 shall be the deadline for reporting and March 30, 2005 shall be the deadline for acting on the following House Bills:

HB 606-FN-A-L, revising the calculation and distribution of education funding and special education funding.

HB 614-FN-A-L, providing for state funding of the statewide average education cost per pupil.

HB 635-FN-L, relative to education funding.

HB 646-FN-L, proposing a definition of an adequate education.

HB 650-FN-L, revising education funding and distribution and establishing needs-based matching grants.

HB 684-FN-L, relative to education funding and the distribution of targeted aid and transition education grants.

HB 690-FN, relative to medical services for children and pregnant women.

HB 691-FN-L, relative to the medicaid program.

The Governor's education bill, which is still being drafted.

Adopted by the necessary two-thirds vote.

SENATE MESSAGE CONCURRENCE

HB 135-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation

system.

ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered ***HB 135-FN-A***, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

Rep. Currier, Sen. D'Allesandro for the Committee

RESOLUTION

Rep. O'Neil offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, February 23, 2005 at 1:00 p.m.
Adopted.

LATE SESSION

Third reading and final passage

HB 229, extending the committee to study the establishment of a farm viability program.

HB 153-FN, relative to the collection of debts owed to the state.

HB 259, relative to medical assistance for home care for children with severe disabilities.

HB 514, establishing the New Hampshire health care quality assurance commission.

HB 112, relative to psychiatric evaluations in competency hearings.

HB 60-FN-A, relative to reimbursement of legal fees of the commissioner of the department of administrative services and making an appropriation therefore.

HB 71-FN-A-L, relative to funding of the school building aid program for the 2005 fiscal year and making an appropriation therefore.

HB 102 FN-A, increasing the personal needs allowance of nursing home residents and certain other residents and making an appropriation therefore.

HB 240-FN, relative to psychotropic drugs and child protection.

RECESS MOTION

Rep. O'Neil moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.
Adopted.

The House recessed at 12:10 p.m.

RECESS

(Rep. Weyler in the Chair)

RESOLUTION

Rep. Cataldo offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 12, 21, 65, 68, 74, 75, 76, 83, 91, 98, 105, 201 and 203 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.
Adopted.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 12, relative to contracts with non-profit public academies. (Education)

SB 21, relative to voluntary mediated agreements in adoptions. (Children and Family Law)
SB 65, ratifying changes to the state building code adopted by the state building code review board. (Executive Departments and Administration)
SB 68, relative to certain costs for the development of a high school in the town of Bedford. (Education)
SB 74, making certain technical changes in the insurance laws. (Commerce)
SB 75-FN, relative to the statute of limitations for a civil actions based upon a sexual assault case. (Judiciary)
SB 76, relative to the extension of restraining orders under the domestic violence protection act. (Criminal Justice and Public Safety)
SB 83, establishing a commission to study issues relative to the comprehensive shoreland protection act. (Resources, Recreation and Development)
SB 91-FN, relative to an increase in the co-payment for participation in the animal population control program. (Environment and Agriculture)
SB 98-FN, relative to issuing duplicate registrations for off highway recreational vehicles. (Fish and Game)
SB 105, granting the executive director of fish and game authority to promote hunting, fishing, and wildlife-related activities. (Fish and Game)
SB 201, making technical corrections to certain environmental laws and the small business technical assistance program. (Environment and Agriculture)
SB 203, relative to leases and contracts for buildings or lands owned by the fish and game department. (Public Works and Highways)

COMMITTEE ASSIGNMENTS

The Speaker made the following assignments:

Rep. John M. Gibson off Ways and Means; on Resources, Recreation and Development.

Rep. Sharon M. Carson on Ways and Means.

RECESS

(Rep. Price in the Chair)

RESOLUTION

Rep. Babson offered the following: RESOLVED, that the late drafting and introduction having been approved by the Rules Committee in accordance with the list in the possession of the Clerk, House Bill numbered 100 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 100-FN-A-L, establishing an education equity index to provide state education assistance to municipalities. (Weyler, Rock 8; Hager, Merr 12; Craig, Hills 9; Nordgren, Graf 9; Odell, Dist 8; Gallus, Dist 1; D'Allesandro, Dist 20; Foster, Dist 13; Martel, Dist 18: Education)

RECESS

(Rep. Phinizy in the Chair)

RESOLUTION

Rep. Ferland offered the following: RESOLVED, that the late drafting and introduction having been approved by the Rules Committee in accordance with the list in the possession of the Clerk, House Bills numbered 717 and 718 shall be by this resolution read a first and second time by the therein listed titles, sent for printing and referred to the therein

designated committees.
Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 717, prohibiting cancellation of property and liability insurance on the basis of certain political activities. (C. Chase, Hills 2; DeJoie, Merr 11; Butcher, Ches 3; O'Brien, Hills 4; D'Allesandro, Dist 20: Commerce)

HB 718-FN-A, relative to group life insurance for New Hampshire citizens serving in the military reserves or national guard and making an appropriation therefor. (Rowe, Hills 6; L. Elliott, Hills 1; Chandler, Carr 1; Craig, Hills 9; Clegg, Dist 14; Odell, Dist 8; Barnes, Dist 17; Larsen, Dist 15: State-Federal Relations and Veterans Affairs)

RECESS