

HOUSE RECORD

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

Vol. 27

Concord, N.H.

Wednesday, May 11, 2005

No. 42

HOUSE JOURNAL No. 14 (cont.)

Wednesday, May 4, 2005

RECESS

(Speaker Scamman in the Chair)
COMMITTEE ASSIGNMENTS

Rep. Howard C. Dickinson off Committee on Resources, Recreation and Development, on Committee on Fish and Game.

Rep. Peter B. Schmidt off Committee on Municipal and County Government, on Committee on Environment and Agriculture.

RECESS

(Rep. Batula in the Chair)
ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 38, 71, 144, 147, 265, 499, 521, 532 and 546.

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

SENATE MESSAGES
CONCURRENCES

HB 138-FN, requiring medical examiners to inventory and account for property taken from decedents.

HB 141-L, relative to the planning board's authority to limit building permits.

HB 210-FN, relative to the determination of absence and return of contributions of members of the retirement system.

HB 216-FN, relative to the authority of the New Hampshire retirement system to purchase supplies and services.

HB 247, extending the law regarding receivership of care facilities for a certain length of time.

HB 267, relative to requests for services other than counsel for indigent defendants.

HB 268-FN, increasing certain motor vehicle fees.

HB 304-FN-A, relative to federal highway grant anticipation bonds.

HB 348, relative to real and personal property conveyances made under powers of attorney.

HB 386, relative to agricultural best management practices.

HB 389, relative to the duties of the postsecondary education commission.

HB 411, relative to the North Conway water precinct.
HB 414, relative to regulation of municipal waste combustors.
HB 465-FN, authorizing the board of medicine to take non-disciplinary remedial action against physicians.
HB 480, relative to innovative land use controls.
HB 483, relative to instructions to be placed on the general election ballot.

NONCONCURRENCES

HB 33, relative to the study of state retainage practices.
HB 55-FN-A, relative to industrial hemp and establishing an industrial hemp special program fund.
HB 90, relative to private driving instruction and exhibition facilities.
HB 128-FN, relative to negligent operation of a carnival or amusement ride.
HB 431-FN-L, relative to competing articles and official ballot voting.
HB 595-FN, establishing the position of state meat inspector

RECESS

(Rep. Weyler in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 401 and Senate Bills numbered 112, 126, and 171.

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

Rep. O'Neil moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 15

Wednesday, May 11, 2005

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

His Excellency, Governor John Lynch, joined the Speaker on the podium for the day's opening ceremonies.

Prayer was offered by Guest Chaplain, The Reverend We Chang, Associate Pastor of the Wesley United Methodist Church in Concord.

O God, the giver of life and the creator of all human kind, we give You thanks for the beauty of this day and the gift of life that You give to us each day. We praise You for our nation, especially for our state, for the riches it has for us and the gifts it showers on us. We especially give You thanks for Your peoples in our state, the hard works that they put each day, the gift of diversity, the different languages and faces and cultural and individual heritages that they bring to us. And for their love for their country and their neighbors and citizens of our state.

Today we pray for those who are called to be leaders in our state. Give them the gift of vision to seek Your justice in the issues of their times, the gift of wisdom to discern the good will for all people, not just for some, the gift of integrity in their words and actions and the gift of

courage to stand for what is right in Your sight, not what is popular among people. Bless their hearts with Your compassion that they may see and feel the sufferings of Your people in every corner of our communities. Let their good will and faithful service be Your hands that lift up the weak, protect the poor and free the oppressed. And help them to be the voice for the voiceless, the strength for the powerless and the hope for the hopeless. Keep them and their families in Your care and help them not to lose their higher calling that their politics and policies may be transformed into the genuine service for all people in Your state. Bless the opening of this session and let all the doings, and dealings and discussions and decisions be made in the spirit of cooperation and toward the welfare of all people. Amen.

Reps. Peter F. Bergin and Irene M. Messier led the Pledge of Allegiance.

The National Anthem was sung by Alysia Willey, a Gorham High School senior and New Hampshire Jazz and Classical All-State vocalist.

LEAVES OF ABSENCE

Reps. Albert, Alger, Peter Cote, Lessard, Palangas, Palazzo, Schulze and Solomon, the day, illness.

Reps. Abbott, Ahlgren, Janet Allen, Gene Andersen, Baines, Larry Brown, Buhlman, Richard Chaplin, Cooney, Donahue, Dumaine, Gorman, Grassie, Hebert, Hess, Hollinger, Introne, Manning, Matarazzo, Philbrick, Scanlon, Serlin, Paul Smith, Twombly and Wallner, the day, important business.

Reps. Espieffs, Irish, Knox and Kobel, the day, illness in the family.

INTRODUCTION OF GUESTS

Jeffrey and Lisa Willey parents of the day's singer, guests of the House. Fifth grade students from the Bow Memorial School REACH Program, guests of the Bow delegation. Sharon and Patricia Hall, guests of Rep. Carolyn Brown. Chichester Central School Student Council members and advisors, Terry Yeaton and Karen Olsen, guests of the Pembroke and Chichester delegations. Cindy Read, Breda Miles, Willie, Connie and Eoin Gannon of Galway, Ireland, guests of Rep. Hager.

INTRODUCTION OF SPECIAL GUEST

Laurie Stephens, a junior at University of New Hampshire, who is a member of the United States Disabled Alpine Ski Team. She is currently the overall World Cup sit-ski Champion, as well as holding World Cup titles in Giant Slalom, Super G and Slalom and is preparing for the 2006 Paralympic Winter Games in Italy. Thomas Carr, UNH Northeast Passage Program Coordinator, accompanied her. Laurie addressed the House and was presented a declaration by the Speaker.

INTRODUCTION OF SPECIAL GUESTS

Raymond High School Band and Chorus members recently participated in the 2005 Myrtle Beach Heritage Festival where the Spirit Award was received for their school representation, the Silver Award won by the Band, and the Gold Award presented to the Chorus. Members in the gallery and graduating seniors Heather Weghorst, Alicia Priebe, Matthew Priebe, Vinnie DiTommaso, Ryleigh Simms, James Shipley, Dave Denyou, Meghan Boucher, Ory Felch and Dianne Hanson, and Music Director, Randy LaCasse were presented a declaration by the Speaker.

SENATE MESSAGES REQUESTS CONCURRENCE WITH AMENDMENTS

HB 229, extending the committee to study the establishment of a farm viability program. (Amendment printed SJ 4/14/05)

Rep. Babson moved that the House concur and spoke in favor.

Adopted.

HB 447-FN, relative to black bear license and tag fees . (Amendment printed SJ 4/28/05)

Rep. Robert L'Heureux moved that the House concur and spoke in favor.

Adopted.

HB 697-FN, establishing a commission to study medicaid reimbursement rates for pharmacy providers. (Amendment printed SJ 5/05/05)

Rep. Batula moved that the House concur and spoke in favor.

Adopted.

HB 513, relative to on-board diagnostic system inspections. (Amendments printed SJ 05/05/05)

Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted

The Speaker appointed Reps. Packard, Nedeau, Ferland and O'Neil.

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.

SB 68, relative to certain costs for the development of a high school in the town of Bedford, removed by Rep. Graham.

SB 219-FN, relative to examinations under workers' compensation, removed by Rep. Infantine.

SB 222-FN, relative to cumulative trauma under workers' compensation, removed by Rep. Infantine.

Consent Calendar adopted.

SB 21, relative to voluntary mediated agreements in adoptions. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This bill establishes criteria for the adoption and enforcement of voluntary mediated agreements between birth parents, adoptive parents, and DCYF, in adoptions involving a child who is in the custody or guardianship of the department. The amendment clarifies the intent and purpose of this exception to adoption procedures. The department must state its reasons in writing if it is unwilling to participate in mediation. Vote 15-0.

Amendment (1343h)

Amend the introductory paragraph of RSA 170-B:14, II and RSA 170-B:14, II(a) as inserted by section 2 of the bill by replacing them with the following:

II. In adoptions involving a child who is under either the legal custody or guardianship of the department, a voluntarily mediated agreement shall be enforceable as provided in this paragraph. The purpose of this paragraph is to facilitate the timely achievement of permanency for children who are in the custody or guardianship of the department by providing an option for the parties to enter into a voluntarily mediated agreement for ongoing communication or contact that is in the best interests of the child, that recognizes the parties' interests and desires for ongoing communication or contact, that

is appropriate given the role of the parties in the child's life, and that is legally enforceable by the courts.

(a) Prior to the entry of any adoption decree, the department, prospective adoptive parents, and birth parents may voluntarily participate in a court-approved mediation program in order to reach a voluntarily mediated agreement. If the department is the only party unwilling to participate in mediation, the department shall provide a written explanation of its position to the court, the birth parents, and the prospective adoptive parents. Venue for approval and enforcement of such agreement shall lie in a court of competent jurisdiction that would otherwise issue the termination decree under RSA 170-C. Any breach, modification, or invalidation of the agreement, or any part of it, shall not affect the validity of any surrender of parental rights or the interlocutory or final decree of adoption.

SB 86, permitting on-site samples and retail sales by liquor manufacturer licensees. **OUGHT TO PASS**

Rep. Jane S. Langley for Commerce: This bill will permit on-site samples and retail sales by New Hampshire micro distilleries as New Hampshire law currently allows for beer and wine. It would permit the micro distilleries to allow tasting and sales on-site, limited to ½ ounce samples, and also limit sales to twelve 9 liter cases of liquor to any one customer in a calendar year. The bill has the support of the NH Liquor Commission, promotes tourism, keeps a rural agricultural scene for the fruits (apple and potatoes) needed to produce the liquor. The licensees will be required to report the sales to the commission and pay a tax on the sales. Vote 17-1.

Referred to the Committee on Ways and Means.

SB 12, relative to contracts with non-profit public academies. **INEXPEDIENT TO LEGISLATE**

Rep. Emma L. Rous for Education: This bill addressed a particular funding situation in Bedford and was rendered moot when Bedford passed a bond to build a new high school. Vote 12-1.

SB 40, permitting special school district meetings to be held in conjunction with the biennial election in certain school districts. **OUGHT TO PASS**

Rep. Stephen H. L'Heureux for Education: This enabling legislation allows a special meeting of a school district to be held in conjunction with a biennial election. It includes language for this exception to current law only when approved by the court and when a school district has adopted the official ballot referendum form of meeting pursuant to RSA 40:14. Vote 15-0.

SB 45-L, relative to the Hanover school district tax stabilization fund. **OUGHT TO PASS**

Rep. W. Packy Campbell for Education: The committee felt this bill was a housekeeping measure and wanted to support the good people of Hanover in their responsible tax stabilization efforts. Vote 15-0.

SB 141-L, authorizing the establishment of certain reserve funds by the Gorham, Randolph, and Shelburne school districts. **OUGHT TO PASS**

Rep. Nancy F. Stiles for Education: All testimony heard by the committee supported SB 141-L which enables the individual districts within the newly formed cooperative to establish and fund reserve accounts for this previously directed purpose. Vote 14-0.

SB 52, establishing the state suggestion and extraordinary service award program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ken Hawkins for Executive Departments and Administration: The committee felt that there needed to be a program in state statute that would authorize funds for employee

suggestions that save the state money. Current statute has the monies coming from each agency budget and no guidelines on how to approve awards. Testimony was given that one agency saved over \$1.5 million because of a suggestion and the employee got a \$100 award. This bill establishes a committee and the criteria for making an award. It also establishes that the \$10,000 will be included as part of the governor's budget and will not come from the agencies' budget. Vote 10-4.

Amendment (1270h)

Amend RSA 99-E:7 as inserted by section 1 of the bill by replacing it with the following:

99-E:7 Amount of Monetary Awards.

I. The amount of any monetary award recommended by a committee in regard to any one suggestion or service shall not be greater than \$5,000.

II. If an award evaluation committee determines, in its discretion, that an appropriate measure of award would be the amount of any savings or increase in revenue realized by the state as the result of a service performed by an employee, or as the result of a suggestion which has been implemented, the amount of a monetary award recommended by the committee may not exceed 10 percent of the amount of the savings or increase in revenue to the state during the first fiscal year of the implementation of the suggestion, or the fiscal year in which the service was performed, nor may it exceed the amount of \$5,000.

III. If a monetary award is issued by the governor and council based upon the amount of savings or increase under paragraph II, an amount equal to the monetary award may, in the discretion of the governor and council, be paid from the budget of the specific department or the departments believed to have received the benefit of the suggestion or service during the first fiscal year of implementation of a suggestion, or during the fiscal year in which the service was performed. Any remaining savings or increases resulting from the suggestion or service shall lapse to the general fund. If the unit from which the award is paid is self-funding, the award shall be paid from the unit's operating budget. The commissioner of a department from which an award is to be paid under this paragraph, shall certify any amounts so appropriated to the director of personnel for transfer and payment to the employee.

IV. If a suggestion which has previously been submitted or nominated for award is again submitted or nominated under RSA 99-E:4, X as the result of larger-scale implementation, the amount of any additional monetary award recommended shall be in such amount as the committee, in its discretion, believes is proper, but shall not, in any event, exceed \$5,000.

V. The total amount of monetary awards recommended by the state suggestion and extraordinary service award evaluation committee between October 1 of one year and September 30 of the following year shall not exceed \$10,000.

VI. There is hereby established in the office of the governor a special fund in the amount of \$10,000, which shall be used for employee suggestion and extraordinary service awards, if any. If the entire appropriation is not used for employee suggestion and extraordinary service awards in any fiscal year, the amount appropriated for the fund in the next fiscal year shall be only such amount as is necessary to bring the total amount of the fund to \$10,000.

VII. This chapter shall not be construed to limit the availability of any employee award or recognition not arising pursuant to this chapter

VIII. The governor, with the consent of council, is hereby authorized to draw a warrant for monetary awards under this chapter out of any money contained in the fund established under paragraph VI. The governor and council shall not approve expenditures from the fund in excess of \$10,000 in any fiscal year, shall not issue any single award in excess of the amount indicated in paragraph I, or, in case of additional awards under paragraph IV, shall not issue any award in excess of the amount set forth in paragraph IV. In issuing awards or recognition, the governor and council shall not be limited by any

recommendation of the state suggestion and extraordinary service award evaluation committee. The decision of whether to issue a monetary award for suggestions and services under this chapter, and the amount thereof, if any, shall, with the foregoing limitations, be solely within the discretion of the governor and council.

IX. Award evaluation committees recommending monetary awards may consider, but shall not be required to make recommendations according to, the following suggested ranges of award for the following types of suggestions or services:

(a) For suggestions to improve government cost savings, \$500 to \$2,500, or a percentage of the amount of savings as specified under paragraph II.

(b) For suggestions to improve government efficiency, \$250 to \$1,500, or a percentage of the amount of savings or revenue increase as specified under paragraph II.

(c) For suggestions to increase revenue to the state by a means other than the establishment of a new, or an increase in an existing, tax, \$250 to \$1,500 or a percentage of the amount of increase as specified under subparagraph II.

(d) For services outside of or beyond the scope of an employee's regular job responsibilities or functions involving circumstances where only immediate action by the employee could avoid or avert probable harm to an individual, to property, or to the financial interests of the state, \$500 to \$2,500, or a percentage of the amount of increase or savings as specified under subparagraph II above.

(e) For services within the scope of an employee's regular job responsibilities or functions involving the demonstration of abilities or efforts greatly above and beyond any standard of performance expected of the employee, \$250 to \$1,500 or a percentage of the amount of increase or savings as specified under subparagraph II above.

SB 65, ratifying changes to the state building code adopted by the state building code review board. **OUGHT TO PASS**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The committee agrees with this bill which ratifies the changes or updates to the codes included in the state building code adopted by the State Building Review Board during 2003 and 2004 in Administrative Rules BCR300. The testimony received unanimously supported this bill. Vote 14-0.

SB 167, relative to extension of guardianship. **OUGHT TO PASS**

Rep. Bette R. Lasky for Judiciary: This bill was introduced as a result of a Probate Court audit to amend the timeframe for the Probate Court to act on an extension of guardianship petition. According to testimony, these extensions are a rare occurrence, but SB 167 gives those who may object to such an extension additional time to do so. Vote 18-0.

SB 168, relative to administration of estates. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Wheeler for Judiciary: This bill makes simpler the process for administering small estates. Currently if someone petitions for administration of a small estate and later discovers another asset, he or she must file a new petition and if the new asset raises the value of the estate over the \$10,000 threshold for small estates, the petitioner must drop the small estate administration and petition for regular administration. This bill eliminates the separate track for small estates but incorporates the benefits of small estate administration, such as not requiring newspaper notice or a bond for those small estates, into full estate administration. The amendment reduces the amount under which newspaper notice is required from \$25,000 in the original bill to \$10,000 in the current law. Vote 18-0.

Amendment (1227h)

Amend RSA 553:16 as inserted by section 2 of the bill by replacing it with the following:

553:16 Publication of Notice of Appointment. Upon appointment of an administrator ~~or executor~~, the register of probate shall, within 15 days of such appointment, cause notice

thereof to be published in accordance with the provisions of RSA 550:10. Notwithstanding the foregoing, no publication of notice shall be required ~~[in the administration of small estates under RSA 553:31]~~ **when the estate has a gross value of \$10,000 or less.**

SB 169, relative to access to confidential court records. **INEXPEDIENT TO LEGISLATE**
Rep. John B. Hunt for Judiciary: This bill allows the Supreme Court to grant access to confidential court records to any person conducting a “bona fide research or evaluation project.” The Supreme Court requested this bill and testified that Health and Human Services has a similar statute. The committee was very concerned about the lack of guidelines for who may be conducting the research project. There were no limits to how many or which cases may be looked at. The only rights for individuals to have their names redacted would be if the researcher wants to use their names in the final report. Because of privacy concerns, the committee voted unanimously inexpedient to legislate. Vote 16-0.

SB 58-FN, making certain changes in the workers' compensation law. **OUGHT TO PASS**
Rep. Sharon M. Carson for Labor, Industrial and Rehabilitative Services: This bill makes four basic changes to existing workers' compensation law. It changes the amount insurance carriers and self-insurers pay to the special fund for second injures, clarifies when a decision of the commissioner or the compensation appeals board becomes final, allows the commissioner to suspend a board member who fails to render a decision in a timely manner as required by statute, and lastly, requires First Reports of Injury to be filed electronically unless it causes a carrier or self-insured employer undue hardship. The committee was unanimous in its decision to support these changes. Vote 15-0.

SB 117-FN, relative to utility property tax appeals. **OUGHT TO PASS**
Rep. Harry S. Gale for Municipal and County Government: Currently appeals of valuations and assessments of the utilities tax have been directed to the Board of Tax and Land Appeals (BTLA) or to the Superior Court. Under this bill, initial appeals will be made to the Department of Revenue Administration (DRA) where there is more technical expertise and understanding of assessing procedures. The insertion of an appeal to DRA prior to going to BTLA or Superior Court could reduce the number of such appeals to the Superior Court. It could also reduce the number of issues within appeals. This bill proposes that appeals occur pursuant to the procedure in RSA 21-J, which provides for a petition to DRA for reconsideration, hearing and decision prior to appealing to either the BTLA or Superior Court. It is assumed that this bill will result in approximately half of the appeals being resolved at the DRA level. This bill has widespread support among all the parties involved and strong bipartisan committee support. Vote 10-2.

SB 189, authorizing the use of interest rate swap agreements and other similar agreements by the cities of Manchester and Nashua. **OUGHT TO PASS**
Rep. Robert L. Theberge for Municipal and County Government: This bill authorizes the cities of Manchester and Nashua to enter into certain agreements for managing interest rates, investments, and other payments for bonded indebtedness. The purpose of a swap is to refinance a city's debt, thereby obtaining a better interest rate and as a consequence saving the municipality millions of dollars. The city of Manchester, with the authorization of the legislature, entered into a swap agreement during the early 1990's for the Manchester Airport, which resulted in a savings of \$6.0 million for the taxpayers. A swap agreement as proposed in this bill will not affect the State of New Hampshire's bonding rate. Both the U.S. Government Accounting Board (GASB) and the National and Municipal Analyst have a derivative task force/working group overseeing the best practices for directive financial updating and disclosure law. Currently 43 or 50 states have utilized swap agreements to refinance their indebtedness. Some municipalities have taken advantage of the efficient pricing of “swaps” to convert fixed rate bonds into variable rate debt. Express statutory

authority to establish an interest rate swap agreement, such as set forth in SB 189, is preferable as it establishes legal certainty and avoids extensive research and analyses necessary to determine whether the authority to enter into an agreement exists. In summary, this legislation, as presented, would provide the cities of Manchester and Nashua with additional methods and increased flexibility in the future when addressing specific risk management situations. With careful planning and policies in place, the cities of Manchester and Nashua may use interest rate swaps to successfully modernize their respective bond indentures, regain financial flexibility and better match their respective debts to finance assets. Vote 12-0.

SB 120, relative to the purchase of rail properties. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: Currently all rail properties that are offered for sale to the state are in writing to the commissioner. This bill amends that practice requiring the commissioner to promptly notify the Governor and Council when an offer has been accepted. The Governor will schedule the offer for consideration by the Council within 90 days of the date on the notice. Vote 11-0.

SB 138-L, relative to motor vehicle liability for municipal workers. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: This bill adds municipal workers to current liability law for permanent, call and volunteer fire fighters and police officers. The law exempts a worker from having his or her insurance rates raised if involved in an accident when operating a municipal vehicle. Vote 12-0.

SB 208-FN, relative to certification of driver education instructors. **OUGHT TO PASS**

Rep. Robert W. Williams for Transportation: In New Hampshire all driving instructors have the same training. This bill allows persons who are not certified secondary school teachers to teach driver education in school programs. There are two kinds of driver education training schools: privately owned and operated driver education schools and publicly operated driving schools. The only difference is that in the secondary school setting the instructors are required to be certified as secondary school teachers. The proposed change in RSA 186:11 is that the driver education instructors in the secondary school setting shall not be required to be certified as secondary school teachers. Vote 13-0.

SB 62-FN, allowing court fees to be paid by credit card. **OUGHT TO PASS WITH AMENDMENT**

Rep. John M. Pratt for Ways and Means: This bill allows court fees and fines paid into any court to be paid by credit card. The committee amended the bill by removing a proposed \$5 processing fee for each credit card payment. The majority believed that the benefits of credit card payments would more than offset the additional revenues which the processing fee might engender. Vote 22-0.

Amendment (1325h)

Amend RSA 490:26-a as inserted by section 2 of the bill by replacing it with the following:

490:26-a Court Fees ***and Fines; Credit Card Payments***. The supreme court shall establish by rule an equitable fee schedule for all courts in the state ~~[by January 1, 1982]~~. ***All court fees and all fines paid into any court may be paid by credit card in lieu of cash payment.***

AMENDED ANALYSIS

This bill allows court fees and fines paid into any court to be paid by credit card.

SB 87, relative to extension of tax liens by the department of revenue administration.

OUGHT TO PASS

Rep. Sharon M. Carson for Ways and Means: This bill is at the request of the Department of

Revenue Administration. It permits the department to extend an existing lien by an additional six years in order to collect all monies due if the amount owed is not satisfied by the end of the existing lien. The committee felt this was a reasonable request. Vote 21-0.

SB 202, relative to property taxable as utility property. **OUGHT TO PASS**

Rep. Susan W. Almy for Ways and Means: When a property converts to utility status (such as a generating plant that comes out of PILOT status or starts up), it is taxed by the state Utility Property Tax at \$6.60 and, for the first two years, by the state Education Property Tax, because the latter's formula refers to two-year-old assessment data. The residents of the town end up paying for the double taxation. This bill eliminates the utility's value from the town assessment for Education Property Tax purposes after it is taxable by the Utility Property Tax, wherever this problem makes a significant difference to the taxpayers. Vote 22-0.

SB 212, relative to the railroad tax. **OUGHT TO PASS**

Rep. Sharon M. Carson for Ways and Means: This bill was requested by the Department of Revenue Administration and simply puts into statute an existing practice. It allows the Commissioner of Revenue Administration to appraise property held by the railroads and their corporations, establishes a tax collection process, and creates an appeal procedure. Vote 21-0.

REGULAR CALENDAR

SB 38-FN, relative to school building aid for certain receiving districts. **OUGHT TO PASS**

Rep. Mark S. Carter for Education: This bill allows receiving districts providing education to pupils from sending districts to receive annual school building aid under certain conditions. Certain "tuition agreements" are not covered by the multi-district school building aid statute. This bill rectifies this inequity, and was carefully amended in the Senate in cooperation with the Department of Education to address issues that arose with the original bill text. Vote 14-1.

Committee report adopted.

Referred to the Committee on Finance.

SB 90-FN-A-L, relative to kindergarten construction aid. **OUGHT TO PASS**

Rep. Emma L. Rous for Education: This bill continues the opportunity for towns to implement kindergarten programs by extending the kindergarten construction program and authority to bond for one year to June 30, 2006. Vote 15-0.

Committee report adopted.

Referred to the Committee on Finance.

SB 61, relative to judges giving notice of intent to retire, and relative to retired status for judges and assignment of judicial referees. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Gregory M. Sorg for the Majority of Judiciary: This bill, as amended, clarifies the procedure by which full-time judges give notice of their intention to retire. It also authorizes and establishes the rules by which retired full-time judges under the age of 70 may continue to serve on an as-needed basis, as senior active judges, and by which those over the age of 70 may continue to serve, on an as-needed basis, as judicial referees. Vote 16-2.

Rep. Robert H. Rowe for the Minority of Judiciary: New Hampshire has an asset in its full-time judges who retire between the age of 60 to 70 years. Under the former retirement system the retirement pay was substantial and they were expected to sit temporarily as requested. The new judicial retirement is a contributory plan and results in a smaller income. With this bill as passed, the judges under the new retirement system will not be compensated on a per diem basis if they sit. As such, there will not be an incentive for these

judges to sit. We will lose a trained cadre of professional judges. For the sake of a per diem income, there would be an incentive for them to sit as requested and a court backlog reduced. The minority amendment will allow full time retired judges to be compensated for their time.

Majority Amendment (1223h)

Amend the bill by replacing section 1 with the following:

1 Tenure of Judges; Optional Retirement. RSA 493:3 is repealed and reenacted to read as follows:

493:3 Optional Retirement. Any supreme or superior court judge, full-time district court judge, or full-time probate court judge who is eligible to retire pursuant to the provisions of RSA 100-C may retire. The judge shall give not less than 30 days' notice nor more than 90 days' notice of the judge's intention to retire to the chief justice of the supreme court or the administrative judge of the judge's court and to the governor and council and the board of trustees of the judicial retirement plan under RSA 100-C. If a chief justice wishes to retire, the chief justice shall give not less than 30 days' notice nor more than 90 days' notice of the chief justice's intention to retire to the senior associate justice of the chief justice's court and to the governor and council and the board of trustees of the judicial retirement plan under RSA 100-C. If an administrative judge wishes to retire, the administrative judge shall give not less than 30 days' notice nor more than 90 days' notice of the administrative judge's intention to retire to the chief justice of the supreme court and to the governor and council and the board of trustees of the judicial retirement plan under RSA 100-C. Retirement shall be effective upon acceptance by the governor and council. The vacancy created by the retirement of a judge shall be filled according to law.

Amend the bill by replacing sections 4 and 5 with the following:

4 New Section; Judicial Referees; Assignment. Amend RSA 493-A by inserting after section 1 the following new section:

493-A:1-a Judicial Referees.

I. Any full-time justice of the supreme, superior, district, or probate court who is mandatorily retired from either regular active service or senior active service upon reaching age 70, and any part-time district or probate court justice who is mandatorily retired upon reaching age 70, shall thereafter be eligible to serve as a judicial referee on the court from which he or she retired or on any other court in which his or her service as a referee is authorized by law.

II. A judicial referee may be assigned to take testimony, receive and review evidence, and make recommendations for findings of fact and conclusions of law in any court specified in paragraph I by the chief justice of the supreme court or superior court, from which the referee retired, or the administrative justice of any other court from which the referee retired. All recommendations of judicial referees shall be approved by a justice in regular active service or senior active service of the court to which the referee is assigned. A judicial referee shall not preside over jury trials and shall not enter final orders in any case.

III. Nothing in this section shall prevent a retired justice of the supreme, superior, district, or probate courts from sitting as a temporary justice of the supreme court when selected to do so pursuant to the procedures specified in RSA 490:3.

IV. A retired part-time district or probate court justice appointed as a referee under this section shall be allowed his or her expenses and a per diem compensation determined by the supreme court upon recommendation by the judicial branch administrative council, established pursuant to supreme court rule.

5 Repeal. The following are repealed:

I. RSA 491:23, relative to appointment of former judges as referees, auditors and masters.

II. RSA 502-A:6-b, relative to retired justices of the district court.

III. RSA 547:19-c, relative to retired justices of the probate court.

Rep. Rowe spoke against the majority amendment and yielded to questions.

Rep. Soltani spoke in favor and yielded to questions.

On a division vote, 288 members having voted in the affirmative and 50 in the negative, the majority amendment was adopted.

Committee report adopted.

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

Ordered to third reading.

SB 63-FN-A, establishing a court mediation fund to pay the costs of a mediation program in the district courts. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Peter S. Espie for the Majority of Judiciary: This bill authorizes the establishment of a voluntary mediation program for small claims filed in the district courts and funding to pay the costs of mediation. Small claims are the lowest level of civil case jurisdiction in the district courts. They include claims that do not exceed \$5000 and the title to real estate is not involved. In recent years, there has been a great increase in small claims cases. Over 18,000 were filed in 2004. This has created a tremendous strain on the courts' judicial and administrative time and resources and threatens the court's ability to properly handle its heavy dockets of criminal, civil, traffic, and juvenile matters. The mediation program is needed to relieve the growing pressure on the district court trial docket. It will give the litigants who opt for mediation an expeditious, less technical and less stressful solution of their dispute while reserving their right to a trial if not satisfied. It should be noted that a mediated resolution submitted to the court becomes a court order and is legally enforceable. The program will be funded through an increase of \$5 to the small claim filing fee (now \$55) collected by the court. The resulting fund will be a dedicated fund out of which mediators will be paid a flat fee of \$60 per case, regardless of the time involved. Mediation, funded by a filing fee increase, has been used by the NH probate court system for several years and has worked well in reducing the overload in its jurisdiction. Mediation has proven to be a most effective and expeditious alternative in many states. The need for it in the district court system is clear, the funding cost is minimal to the users, and the ultimate savings to the district court system will be substantial. Vote 12-6.

Rep. Tony F. Soltani for the Minority of Judiciary: The minority agrees that mediation is an effective and speedy method of resolving disputes. However, this bill unnecessarily imposes a mandatory \$5 fee on those who can least afford it. The mediation program has been successfully operated at superior court through the use of volunteer attorneys who pay to attend the mediation training. Cases involving large sums of money are currently mediated at superior court without charge to the litigants because the mediators volunteer their time. It makes no sense to impose a fee and hire paid mediators for small claims; while a volunteer system is working well for large cases. This is simply an unjustifiable and regressive tax which would enrich only a few who refuse to volunteer.

Rep. Soltani spoke against and yielded to questions.

Rep. Hunt spoke in favor and yielded to questions.

Rep. Dokmo spoke in favor.

Rep. Bettencourt requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

YEAS 206 NAYS 144			
YEAS 206			
BELKNAP			
Clark, Charles	Flanders, Donald	Heald, Bruce	Morrison, Gail
Pilliod, James	Rosen, Ralph	Russell, David	Tilton, Franklin

CARROLL			
Dickinson, Howard	Martin, James	McConkey, Mark	Olimpio, J Lisbeth
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Chase, William
Dexter, Judson	Dunn, J Timothy	Eaton, Daniel	Foote, Sheila
Hunt, John	Mitchell, Bonnie	Parkhurst, Henry	Pelkey, Stephen
Plifka, Stanley Jr	Pratt, John	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna	Weed, Charles
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Stohl, Eric	Theberge, Robert	
GRAFTON			
Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Dorsett, Andrew	Eaton, Stephanie	Gionet, Edmond	Hammond, Lee
Harding, A Laurie	McLeod, Martha	Mulholland, Catherine	Naro, Debra
Nordgren, Sharon	Sokol, Hilda	Williams, Burton	
HILLSBOROUGH			
Baroody, Benjamin	Barry, J Gail	Beaulieu, Jane	Bergin, Peter
Brundige, Robert	Campbell, David	Carlson, Donald	Chabot, Robert
Chase, Claudia	Clayton, William	Cote, David	Craig, James
Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia
Egbers, Fran	Essex, David	Foster, Linda	Gargasz, Carolyn
Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey	Graham, John
Haley, Robert	Hall, Betty	Harvey, Suzanne	Holden, Randolph
Irwin, Anne-Marie	Jean, Claudette	Johnson, Paula	L'Heureux, Robert
Lasky, Bette	Lawrence, James	Lefebvre, Roland	Martin, Mary Ellen
Messier, Irene	Michon, Stephen	Mooney, Maureen	Movsesian, Lori
O'Connell, Timothy	Pappas, Christopher	Pilotte, Maurice	Rochette, Eric
Rosenwald, Cindy	Ross, Lawrence	Rowe, Robert	Ryder, Donald
Shaw, Barbara	Shaw, Kimberly	Smith, David	Stepanek, Stephen
Sullivan, Francis	Sullivan, Peter	Wheeler, Robert	
MERRIMACK			
Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Danforth, James	DeJoie, John	DeStefano, Stephen	Foose, Robert
French, Barbara	Gile, Mary	Greco, Vincent	Hager, Elizabeth
Hamm, Christine	Kidder, David	Lockwood, Priscilla	MacKay, James
Osborne, Jessie	Owen, Derek	Potter, Frances	Reardon, Tara
Rush, Deanna	Ryan, Jim	Shurtleff, Stephen	Tilton, Joy
Tupper, Frank	Walz, Mary Beth	Whiting, Herbert	Williams, Robert
Yeaton, Charles			
ROCKINGHAM			
Asselin, Michael	Belanger, Ronald	Blanchard, MaryAnn	Buxton, Donald
Cali-Pitts, Jacqueline	Casey, Kimberley	Coburn, James	DiFruscia, Anthony
Dowd, John	Doyle, Christopher	Flockhart, Eileen	Gould, Kenneth

Ingram, Russell	Johnson, Robert	Langley, Jane	Major, Norman
Mason, April	Moody, Marcia	Norelli, Terie	Pantelakos, Laura
Parker, Benjamin	Powers, James	Priestley, Anne	Rausch, James
Sanders, Elisabeth	Scamman, Stella	Splaine, James	Stone, Joseph
Waterhouse, Kevin	Weldy, Norman	Wells, Roger	Zolla, William
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene	Dunlap, Patricia
Goodwin, Earle	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Wall, Janet			
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	
NAYS 144			
BELKNAP			
Boyce, Laurie	Fitzgerald, James	Millham, Alida	Nedeau, Stephen
Thomas, John	Tobin, William	Veazey, John	Wendelboe, Fran
Whalley, Michael			
CARROLL			
Babson, David Jr	Brown, Carolyn	Chandler, Gene	Merrow, Harry
Patten, Betsey	Stevens, Stanley		
CHESHIRE			
Emerson, Susan	Hogancamp, Deborah		
COOS			
Morneau, Renney	Remick, William	Richardson, Herbert	Tholl, John Jr
GRAFTON			
Barker, Robert	Giuda, Robert	Ingbretson, Paul	Maybeck, Margie
Mirski, Paul	Sorg, Gregory		
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Allan, Nelson	Balboni, Michael
Batula, Peter	Bergeron, Jean-Guy	Biundo, Michael	Boehm, Ralph
Brassard, Paul	Calawa, Leon Jr	Carew, James	Carter, Mark
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Clemons, Jane

Coughlin, Pamela	Crane, Elenore Casey	Drisko, Richard	Dyer, Donald
Elliott, Nancy	Emerton, Larry	Francoeur, Bea	Golding, William
Gonzalez, Carlos	Goyette, Peter Jr	Hagan, Barbara	Hansen, Ryan
Hawkins, Ken	Hellwig, Steve	Hinkle, Peyton	Hirschmann, Keith
Hunter, Bruce	Infantine, William	Jasper, Shawn	Kurk, Neal
Manney, Pamela	McRae, Karen	Mead, Robert	O'Brien, William
Ober, Lynne	Pepino, Leo	Price, Pamela	Reeves, Sandra
Renzullo, Andrew	Slocum, Lee	Souza, Kathleen	Tahir, Saghir
Ulery, Jordan	Vaillancourt, Steve	Velez, Hector	Villeneuve, Maurice
Wheeler, James			
MERRIMACK			
Anderson, Eric	Currier, David	Field, William	Kennedy, Richard
Klose, John	L'Heureux, Stephen	Langlais, Thomas	Marple, Richard
Maxfield, Roy	Oliver, James	Reed, Dennis	Soltani, Tony
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Bicknell, Elbert	Bishop, Franklin
Bridle, Russell	Cady, Harriet	Camm, Kevin	Carson, Sharon
Charron, Gene	Dalrymple, Janeen	Dodge, Robert	Dowling, Patricia
Fesh, Bob	Flanders, John Sr	Forsing, Robert	Francoeur, Sheila
Garrity, James	Gilbert, Karl	Gillick, Thomas	Griffin, Mary
Headd, James	Hopfgarten, Paul	Hughes, Daniel	Hutchinson, Karen
Itse, Daniel	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Lund, Howie	McKinney, Betsy	McMahon, Charles	Moore, Benjamin
Morris, Richard	Nowe, Ronald	O'Neil, Michael	Packard, Sherman
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Robertson, Carl
Rolston, James	Stiles, Nancy	Weare, E Albert	Welch, David
Weyler, Kenneth	Wiley, Robert	Winchell, George	
STRAFFORD			
Cataldo, Sam	Domingo, Baldwin	Easson, Timothy	Newton, Clifford
SULLIVAN			
Rodeschin, Beverly			

and the majority committee report adopted.

Referred to the Committee on Ways and Means.

(Deputy Speaker Weyler in the Chair)

SB 75-FN, relative to the statute of limitations for a civil actions based upon a sexual assault case. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maureen C. Mooney for Judiciary: This bill extends the statute of limitations for civil actions involving sexual assault on minors. Many victims suffer extensive psychological, mental, physical and emotional anguish that is not always apparent or discoverable until years after the alleged incident occurs. After careful consideration, the majority of the committee felt this bill incorporates into law a reasonable filing extension in order to justly compensate victims and deter child predators. Vote 12-6.

Amendment (1248h)

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

1 New Section; Limitation of Actions; Sexual Assault and Related Offenses. Amend RSA 508 by inserting after section 4-f the following new section:

508:4-g Actions Based on Sexual Assault and Related Offenses. A person, alleging to have been subjected to any offense under RSA 632-A or an offense under RSA 639:2, who was under 18 years of age when the alleged offense occurred, may commence a personal action based on the incident within the later of:

- I. Ten years of the person's eighteenth birthday; or
- II. Three years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of.

2 Effective Date. This act shall take effect July 1, 2005.
Amendment adopted.

Rep. James Wheeler requested a roll call; sufficiently seconded.
The question being adoption of the committee report.

YEAS 319 NAYS 30			
YEAS 319			
BELKNAP			
Boyce, Laurie	Clark, Charles	Fitzgerald, James	Flanders, Donald
Heald, Bruce	Millham, Alida	Morrison, Gail	Nedeau, Stephen
Pilliod, James	Rosen, Ralph	Russell, David	Thomas, John
Tilton, Franklin	Tobin, William	Veazey, John	Wendelboe, Fran
Whalley, Michael			
CARROLL			
Babson, David Jr	Brown, Carolyn	Buco, Thomas	Chandler, Gene
Dickinson, Howard	McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth
Patten, Betsey			
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Chase, William
Dexter, Judson	Dunn, J Timothy	Eaton, Daniel	Emerson, Susan
Foote, Sheila	Hogancamp, Deborah	Hunt, John	Mitchell, Bonnie
Parkhurst, Henry	Plifka, Stanley Jr	Pratt, John	Richardson, Barbara
Roberts, Kris	Robertson, Timothy	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	Tholl, John Jr	
GRAFTON			
Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Dorsett, Andrew	Eaton, Stephanie	Hammond, Lee	Harding, A Laurie
Ingretson, Paul	Maybeck, Margie	McLeod, Martha	Mulholland, Catherine
Naro, Debra	Nordgren, Sharon	Sokol, Hilda	Sorg, Gregory
Williams, Burton			

HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Balboni, Michael	Baroody, Benjamin
Barry, J Gail	Batula, Peter	Beaulieu, Jane	Bergeron, Jean-Guy
Bergin, Peter	Biundo, Michael	Boehm, Ralph	Brassard, Paul
Brundige, Robert	Calawa, Leon Jr	Campbell, David	Carew, James
Carlson, Donald	Carter, Mark	Chabot, Robert	Chase, Claudia
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Clayton, William
Clemons, Jane	Cote, David	Coughlin, Pamela	Craig, James
Crane, Elenore Casey	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Dokmo, Cynthia	Drisko, Richard	Dyer, Donald	Egbers, Fran
Elliott, Nancy	Emerton, Larry	Essex, David	Foster, Linda
Francoeur, Bea	Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth
Goley, Jeffrey	Gonzalez, Carlos	Graham, John	Haley, Robert
Hall, Betty	Hansen, Ryan	Harvey, Suzanne	Hellwig, Steve
Hinkle, Peyton	Hirschmann, Keith	Holden, Randolph	Hunter, Bruce
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Johnson, Paula	Kurk, Neal	L'Heureux, Robert	Lasky, Bette
Lawrence, James	Lefebvre, Roland	Manney, Pamela	Martin, Mary Ellen
McRae, Karen	Messier, Irene	Michon, Stephen	Mooney, Maureen
Movsesian, Lori	O'Connell, Timothy	Ober, Lynne	Pappas, Christopher
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Rochette, Eric
Rosenwald, Cindy	Ross, Lawrence	Ryder, Donald	Shaw, Barbara
Shaw, Kimberly	Slocum, Lee	Smith, David	Souza, Kathleen
Stepanek, Stephen	Sullivan, Francis	Sullivan, Peter	Tahir, Saghir
Ulery, Jordan	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	Field, William	Foose, Robert	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Hamm, Christine	Kennedy, Richard
Klose, John	L'Heureux, Stephen	Langlais, Thomas	Lockwood, Priscilla
Maxfield, Roy	Oliver, James	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna
Ryan, Jim	Shurtleff, Stephen	Tilton, Joy	Tupper, Frank
Walz, Mary Beth	Whiting, Herbert	Williams, Robert	Yeaton, Charles
ROCKINGHAM			
Allen, Mary	Asselin, Michael	Belanger, Ronald	Bettencourt, David
Bicknell, Elbert	Bishop, Franklin	Blanchard, MaryAnn	Bridle, Russell
Buxton, Donald	Cady, Harriet	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
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Headd, James
Hughes, Daniel	Hutchinson, Karen	Ingram, Russell	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Langley, Jane
Lund, Howie	Major, Norman	Mason, April	McKinney, Betsy
McMahon, Charles	Moody, Marcia	Moore, Benjamin	Morris, Richard

Norelli, Terie	Nowe, Ronald	O'Neil, Michael	Packard, Sherman
Pantelakos, Laura	Parker, Benjamin	Powers, James	Priestley, Anne
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Rausch, James
Robertson, Carl	Rolston, James	Sanders, Elisabeth	Scamman, Stella
Scamman, W Douglas	Splaine, James	Stiles, Nancy	Stone, Joseph
Welch, David	Weldy, Norman	Wells, Roger	Wiley, Robert
Winchell, George	Zolla, William		
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Callaghan, Frank
Cataldo, Sam	Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin
Dunlap, Patricia	Easson, Timothy	Goodwin, Earle	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Miller, Joseph	Newton, Clifford	Rollo, Michael	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Katherine	Taylor, Kathleen	Wall, Janet	
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	Rodeschin, Beverly
NAYS 30			
BELKNAP			
None			
CARROLL			
Martin, James	Stevens, Stanley		
CHESHIRE			
Pelkey, Stephen	Sawyer, Sheldon		
COOS			
None			
GRAFTON			
Barker, Robert	Gionet, Edmond	Giuda, Robert	Mirski, Paul
HILLSBOROUGH			
Golding, William	Goyette, Peter Jr	Hagan, Barbara	Hawkins, Ken
Mead, Robert	O'Brien, William	Pepino, Leo	Renzullo, Andrew
Rowe, Robert	Vaillancourt, Steve	Wheeler, James	
MERRIMACK			
Kidder, David	MacKay, James	Marple, Richard	Soltani, Tony

ROCKINGHAM			
Gilbert, Karl	Hopfgarten, Paul	Itse, Daniel	Waterhouse, Kevin
Weare, E Albert			
STRAFFORD			
Bickford, David	Knowles, William		
SULLIVAN			
None			

and the committee report was adopted.
Ordered to third reading.

SB 210-FN, relative to a declaratory judgment to adjudicate constitutional nexus.
INEXPEDIENT TO LEGISLATE

Rep. Gregory M. Sorg for Judiciary: This bill would add to the statutes a short new chapter, which would confer jurisdiction upon the superior courts to make declaratory judgments on the issue of whether a plaintiff New Hampshire business's contacts with another state were insufficient to justify that state's taxing authorities requiring it to collect and remit sales and use taxes on that state's behalf. The committee majority concluded that the superior courts already have such jurisdiction under their general declaratory judgment authority of RSA 491:22 and that the effect of enacting this bill would be to mislead New Hampshire businesses into believing that they were no longer subject to, and therefore did not have to respond to, suits brought in another state seeking either to enforce collection or to obtain similar declaratory relief, should its taxing authorities "win the race to the courthouse" and file suit in their home state first. No statute passed by the State of New Hampshire can deprive another state of its own jurisdiction over this subject. Moreover, the judicial branch indicated that specifying this authority in a separate statute would invite additional proceedings on this subject at considerable cost in court time, while the Department of Revenue Administration stated that it would invite retaliatory statutes in other states at considerable eventual cost in reduced tax revenues from out-of-state businesses. Vote 12-6. Committee report adopted.

SB 113-FN, relative to the use of federal funds for technology improvements within the department of employment security. **OUGHT TO PASS**

Rep. William J. Infantine for Labor, Industrial and Rehabilitative Services: The computer system used by the Department of Employment Security is in serious need of upgrade and replacement. This bill allows the department to use funds provided by the federal government through the REED Act funds. Vote 9-6.
Committee report adopted.
Referred to the Committee on Finance.

SB 172, establishing a committee to study a medical fee schedule for workers' compensation.
OUGHT TO PASS

Rep. Anthony R. DiFruscia for Labor, Industrial and Rehabilitative Services: The bill is simply a feasibility study concerning a medical fee schedule for workers' compensation cases. Presently, all New England states, except New Hampshire, and forty-one other states have a medical fee schedule. Vote 8-7.
Rep. Holden moved recommit and spoke in favor.
Recommitted to the Committee on Labor, Industrial and Rehabilitative Services.
Rep. Greco declared a conflict of interest and did not participate.

SB 164-FN, relative to the disposal of real property purchased with highway or turnpike funds. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James B. Rausch for the Majority of Public Works and Highways: This bill requires the Department of Transportation to contract with licensed real estate professionals to sell excess surplus commercial and industrial real estate owned by the department. All requests for disposal of surplus commercial and industrial property owned by the Department of Transportation must be reviewed and approved by the Long Range Capital Planning and Utilization Committee prior to submission to the Governor and Council for approval. This bill further requires the proceeds from the sale of the properties to be deposited into either the highway or turnpike fund, depending on which fund was used to originally purchase the property. The legislation additionally makes the state comply with Article 6-a of the NH Constitution by eliminating the approval by the Council on Resources and Development (CORD) for disposal of property that was purchased with state or federal highway funds. Article 6-a states "No part of such revenues shall by transfer of funds, or otherwise, be diverted to any other purpose whatsoever." The CORD process has previously allowed for such diversion of property in violation of Article 6-a resulting in diminishing the funds available for highway and turnpike maintenance and construction. The CORD process is unchanged for all other state owned property, only the property purchased with highway, or turnpike funds is affected. Other agencies, counties, cities or towns have right of first refusal for the property, but must reimburse the highway or turnpike funds for the property value. The House has already passed HB 540 which was identical to SB 164 except it dealt with the disposal of residential property. This legislation, as well as HB 540, is a result of recommendations of the bipartisan committee established in Chapter 262:3, Laws of 2004 charged with reviewing funding of the state's transportation plan. Vote 11-5.

Rep. Bernard L. Benn for the Minority of Public Works and Highways: The minority agrees that non-essential surplus land bought with highway funds must and should be sold at fair market value and the proceeds returned to the Highway Trust Fund. However, the minority has concern about removing the Council on Resources and Economic Development (CORD) from the review process. In the bill, the review and approval is left solely to the Long Range Capital Planning and Utilization Committee prior to its submittal to Governor and Council. Limiting oversight in this way could result in a diminished range of input that might have important environmental or economic consequences to the state and/or communities. No compelling reason was brought forth to remove CORD from the process, although the minority understands that the CORD process may need some improvements to make it more efficient. In addition, some members feel that to save significant money for the Highway Trust Fund, the state should establish a professional real estate office to dispose of these properties rather than contracting with private real estate brokers. One former commercial broker dubbed SB 164 the "Real Estate Broker's Full Employment Act."

Majority committee report adopted.

Ordered to third reading.

SB 145-FN, establishing a medical/vision advisory board. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jennifer M. Brown for Transportation: This bill establishes a medical/vision advisory board to advise the Director of the Division of Motor Vehicles of the Department of Safety. We felt that instead of having the Division of Motor Vehicles make decisions alone on medical issues, they will have advice from the medical community which will consist of an advisory board made up of two licensed physicians and one licensed optometrist. This bill will sunset in two years. Vote 9-4.

Amendment (1346h)

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

2 Repeal. RSA 263:6-b, relative to the medical/vision advisory board, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

Amendment adopted.

Committee report adopted and ordered to third reading.

SB 18, relative to sales of tickets for pure lotteries by those not employed by the lottery commission. **INEXPEDIENT TO LEGISLATE**

Rep. Benjamin E. Parker for Ways and Means: This bill eliminates the restriction on lottery ticket sales by non-employees. Currently, licensed agents of the lottery can offer lottery tickets for sale from licensed locations and lottery employees can offer tickets at unlicensed locations. The Lottery Commission estimated the annual net profit for allowing non-lottery employees to sell lottery tickets at unlicensed locations at \$75,000 before any overhead expense allocation or supervision costs. The majority of the committee believes that extending the right to sell lottery tickets by non-lottery employees to unlicensed locations was not justified by the additional net profit it would generate and would not be an appropriate extension of the retail sale of lottery tickets. Vote 12-8.

Committee report adopted.

SB 20-FN, relative to an increase in lottery ticket prices. **OUGHT TO PASS**

Rep. Benjamin E. Parker for Ways and Means: This bill allows the Lottery Commission to sell tickets at a price not to exceed \$20. Estimated net profits from an offer of a \$20 ticket are: \$2,125,200 in FY 06 and \$2,721,600 in FY 07. These estimates include the effect on sales of existing tickets. The majority of the committee believes that this request for a higher lottery ticket price is an appropriate incremental increase which will enhance the lottery as a revenue source for the state. Vote 12-9.

Reps. Vaillancourt and Pratt spoke against and yielded to questions.

Rep. Parker spoke in favor.

Rep. Camm spoke in favor and yielded to questions.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 196 NAYS 154			
YEAS 196			
BELKNAP			
Fitzgerald, James	Flanders, Donald	Heald, Bruce	Nedeau, Stephen
Pilliod, James	Rosen, Ralph	Russell, David	Thomas, John
Tobin, William	Veazey, John	Wendelboe, Fran	
CARROLL			
Brown, Carolyn	Buco, Thomas	Dickinson, Howard	McConkey, Mark
Merrow, Harry			
CHESHIRE			
Butcher, Suzanne	Butynski, William	Dexter, Judson	Eaton, Daniel
Emerson, Susan	Hogancamp, Deborah	Hunt, John	
COOS			

Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Remick, William	Richardson, Herbert	Theberge, Robert	Tholl, John Jr
GRAFTON			
Barker, Robert	Bleyler, Ruth	Dorsett, Andrew	Eaton, Stephanie
Gionet, Edmond	Ham, Bonnie	McLeod, Martha	Mulholland, Catherine
Nordgren, Sharon	Williams, Burton		
HILLSBOROUGH			
Allan, Nelson	Baroody, Benjamin	Batula, Peter	Beaulieu, Jane
Bergeron, Jean-Guy	Bergin, Peter	Biundo, Michael	Boehm, Ralph
Calawa, Leon Jr	Campbell, David	Carew, James	Carlson, Donald
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Clark, Mark
Clayton, William	Clemons, Jane	Cote, David	Craig, James
Crane, Elenore Casey	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Dokmo, Cynthia	Dyer, Donald	Emerton, Larry	Essex, David
Foster, Linda	Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth
Graham, John	Hall, Betty	Hawkins, Ken	Holden, Randolph
Irwin, Anne-Marie	Jean, Claudette	Johnson, Paula	Kurk, Neal
L'Heureux, Robert	Lasky, Bette	Lawrence, James	Manney, Pamela
Messier, Irene	Michon, Stephen	Pappas, Christopher	Reeves, Sandra
Renzullo, Andrew	Rochette, Eric	Rosenwald, Cindy	Shaw, Barbara
Shaw, Kimberly	Smith, David	Souza, Kathleen	Stepanek, Stephen
Tahir, Saghir	Velez, Hector	Wheeler, Robert	
MERRIMACK			
Anderson, Eric	Bouchard, Candace	Currier, David	DeJoie, John
DeStefano, Stephen	Foose, Robert	Gile, Mary	Hager, Elizabeth
Kennedy, Richard	Langlais, Thomas	Lockwood, Priscilla	MacKay, James
McMahon, Patricia	Oliver, James	Osborne, Jessie	Reed, Dennis
Ryan, Jim	Shurtleff, Stephen	Tilton, Joy	Whiting, Herbert
Williams, Robert			
ROCKINGHAM			
Asselin, Michael	Belanger, Ronald	Bettencourt, David	Bicknell, Elbert
Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet	Camm, Kevin
Carson, Sharon	Coburn, James	DiFruscia, Anthony	Dodge, Robert
Dowd, John	Doyle, Christopher	Fesh, Bob	Flanders, John Sr
Forsing, Robert	Gillick, Thomas	Griffin, Mary	Headd, James
Hughes, Daniel	Hutchinson, Karen	Ingram, Russell	Johnson, Robert
Katsakiores, George	Katsakiores, Phyllis	Langley, Jane	Major, Norman
Mason, April	McKinney, Betsy	McMahon, Charles	Moody, Marcia
Moore, Benjamin	Nowe, Ronald	O'Neil, Michael	Packard, Sherman
Parker, Benjamin	Priestley, Anne	Putnam, Ed II	Rausch, James
Rolston, James	Sanders, Elisabeth	Scamman, Stella	Scamman, W Douglas
Stiles, Nancy	Stone, Joseph	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weldy, Norman	Wells, Roger	Winchell, George

Zolla, William			
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Callaghan, Frank
Cataldo, Sam	Cilley, Jacalyn	Domingo, Baldwin	Goodwin, Earle
Heon, Richard	Hofemann, Roland	Kaen, Naida	Keans, Sandra
Knowles, William	Newton, Clifford	Rollo, Michael	Rous, Emma
Spang, Judith	Taylor, Katherine		
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Gale, Harry
NAYS 154			
BELKNAP			
Boyce, Laurie	Clark, Charles	Millham, Alida	Morrison, Gail
Tilton, Franklin	Whalley, Michael		
CARROLL			
Babson, David Jr	Chandler, Gene	Martin, James	Olimpio, J Lisbeth
Patten, Betsey	Stevens, Stanley		
CHESHIRE			
Allen, Peter	Chase, William	Dunn, J Timothy	Foote, Sheila
Mitchell, Bonnie	Parkhurst, Henry	Pelkey, Stephen	Plifka, Stanley Jr
Pratt, John	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sawyer, Sheldon	Tilton, Anna	Weed, Charles	
COOS			
Merrick, Scott	Morneau, Renney	Stohl, Eric	
GRAFTON			
Almy, Susan	Benn, Bernard	Cooney, Mary	Giuda, Robert
Hammond, Lee	Harding, A Laurie	Ingbretson, Paul	Maybeck, Margie
Mirski, Paul	Naro, Debra	Sokol, Hilda	Sorg, Gregory
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Balboni, Michael	Barry, J Gail
Brassard, Paul	Brundige, Robert	Chase, Claudia	Coughlin, Pamela
Drisko, Richard	Egbers, Fran	Elliott, Nancy	Francoeur, Bea
Gibson, John	Golding, William	Goley, Jeffrey	Gonzalez, Carlos
Goyette, Peter Jr	Hagan, Barbara	Haley, Robert	Hansen, Ryan
Harvey, Suzanne	Hellwig, Steve	Hinkle, Peyton	Hirschmann, Keith
Hunter, Bruce	Infantine, William	Jasper, Shawn	Lefebvre, Roland
Martin, Mary Ellen	McRae, Karen	Mead, Robert	Mooney, Maureen
Movsesian, Lori	O'Brien, William	O'Connell, Timothy	Ober, Lynne
Pepino, Leo	Pilotte, Maurice	Price, Pamela	Ross, Lawrence
Rowe, Robert	Ryder, Donald	Slocum, Lee	Sullivan, Francis
Sullivan, Peter	Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice

Wheeler, James			
MERRIMACK			
Blanchard, Elizabeth	Brueggemann, Donald	Clarke, Claire	Danforth, James
Field, William	French, Barbara	Greco, Vincent	Hamm, Christine
Kidder, David	Marple, Richard	Owen, Derek	Potter, Frances
Reardon, Tara	Rush, Deanna	Soltani, Tony	Tupper, Frank
Walz, Mary Beth	Yeaton, Charles		
ROCKINGHAM			
Allen, Mary	Bishop, Franklin	Buxton, Donald	Cali-Pitts, Jacqueline
Casey, Kimberley	Charron, Gene	Dalrymple, Janeen	Dowling, Patricia
Flockhart, Eileen	Francoeur, Sheila	Garrity, James	Gilbert, Karl
Gould, Kenneth	Hopfgarten, Paul	Itse, Daniel	Johnson, Rogers
Lund, Howie	Morris, Richard	Norelli, Terie	Pantelakos, Laura
Powers, James	Quandt, Marshall Lee	Quandt, Matthew	Robertson, Carl
Splaine, James	Wiley, Robert		
STRAFFORD			
Bickford, David	Creteau, Irene	Dunlap, Patricia	Easson, Timothy
Johnson, Nancy	Miller, Joseph	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Taylor, Kathleen	Wall, Janet	
SULLIVAN			
Donovan, Thomas	Franklin, Peter	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	Rodeschin, Beverly

and the committee report was adopted.

Ordered to third reading.

BILLS REMOVED FROM CONSENT CALENDAR

SB 68, relative to certain costs for the development of a high school in the town of Bedford.
INEXPEDIENT TO LEGISLATE

Rep. Kimberly S. Casey for Education: The passage of the high school bond in Bedford makes this legislation unnecessary. Vote 13-0.

Committee report adopted.

SB 219-FN, relative to examinations under workers' compensation. **OUGHT TO PASS**

Rep. William J. Infantine for Labor, Industrial and Rehabilitative Services: This bill requires employees receiving medical benefits to submit to a medical examination if requested to do so by the employer or Commissioner of Labor. Current law only requires such an examination if the employee is receiving weekly compensation payments. This bill also declares that if medical bills for workers' compensation cases are in dispute, the employee must submit to an examination if requested to do so by the employer. If the employee does not comply, his or her right to a hearing shall be suspended until an examination has taken place. Vote 15-0.

Committee report adopted and ordered to third reading.

SB 222-FN, relative to cumulative trauma under workers' compensation. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard Ken Donahue for Labor, Industrial and Rehabilitative Services: This is a

housekeeping bill that clears up the date of injury by establishing the date of injury to be the date of first medical treatment. The bill and amendment were supported by the Department of Labor and unanimously supported by the committee. Vote 15-0.

Amendment (1115h)

Amend the bill by replacing section 1 with the following:

1 Workers' Compensation; Cumulative Trauma. Amend RSA 281-A:16 to read as follows:

281-A:16 Determining Date of Injury for Occupational Disease ***and Cumulative Trauma.*** For the purpose of determining the date of injury for an occupational disease, the date of injury shall be taken to be the last date of injurious exposure to the hazards of such disease or the date on which the employee first knew or reasonably should have known of the condition and its relationship to the employee's employment, whichever is the later. ***For an injury caused by cumulative trauma, the date of injury shall be the date of first medical treatment. For an injury or condition aggravated by cumulative trauma, the date of injury shall be the date of first medical treatment for the aggravation.***

AMENDED ANALYSIS

This bill establishes the date of injury for cumulative trauma to be the date of first medical treatment for the purposes of workers' compensation. The bill also establishes a date of injury for injuries or conditions aggravated by cumulative trauma.

Rep. Infantine spoke in favor.

Amendment adopted.

Committee report adopted and ordered to third reading.

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, May 25, 2005 at 1:00 p.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 21, relative to voluntary mediated agreements in adoptions.

SB 40, permitting special school district meetings to be held in conjunction with the biennial election in certain school districts.

SB 45-L, relative to the Hanover school district tax stabilization fund..

SB 141-L, authorizing the establishment of certain reserve funds by the Gorham, Randolph, and Shelburne school districts.

SB 52, establishing the state suggestion and extraordinary service award program.

SB 65, ratifying changes to the state building code adopted by the state building code review board.

SB 167, relative to extension of guardianship.

SB 168, relative to administration of estates.

SB 58-FN, making certain changes in the workers' compensation law.

SB 117-FN, relative to utility property tax appeals..

SB 189, authorizing the use of interest rate swap agreements and other similar agreements by the cities of Manchester and Nashua.

SB 120, relative to the purchase of rail properties.

SB 138-L, relative to motor vehicle liability for municipal workers.

SB 208-FN, relative to certification of driver education instructors.

SB 62-FN, allowing court fees to be paid by credit card.

SB 87, relative to extension of tax liens by the department of revenue administration.

SB 202, relative to property taxable as utility property.

SB 212, relative to the railroad tax.

SB 61, relative to judges giving notice of intent to retire, and relative to retired status for judges and assignment of judicial referees.

SB 75-FN, relative to the statute of limitations for a civil actions based upon a sexual assault case.

SB 164-FN, relative to the disposal of real property purchased with highway or turnpike funds.

SB 145-FN, establishing a medical/vision advisory board.

SB 20-FN, relative to an increase in lottery ticket prices.

SB 219-FN, relative to examinations under workers' compensation.

SB 222-FN, relative to cumulative trauma under workers' compensation.

UNANIMOUS CONSENT

Reps. Wendelboe and Morris addressed the House:

Rep. Giuda moved that the remarks of Rep. Wendelboe be printed in the Permanent Journal.

Without objection, the Chair so ordered.

REMARKS

Rep. Wendelboe: Thank you, Mr. Speaker. This past week we commemorated the 60th anniversary of Victory in Europe Day. In just a few weeks I'm sure one of our members will speak to remember D-Day. I'm sure many of you remember Alf Jacobson joining us again this year to honor those who served on Iwo Jima. However, recently there was a very bittersweet anniversary that affected the war of my generation and I think it would be somewhat remiss not to make mention of that milestone. This is the third time I've made this address, once every five years, and I will continue to do so as long as I am here. The anniversary I refer to happened 30 years ago in the fall of Saigon. Even today I can vividly remember watching the news coverage and seeing that last helicopter lift off from the American embassy. And in light of this milestone, I think we should recognize the service and sacrifice of the men and women who did serve in Southeast Asia. In 1975, after the fall of Saigon, there was no joyous victory celebration. There were no tickertape parades. There was no outpouring of national pride and celebration. The honor of one's service and sacrifice should never be diminished by the outcome or the political opinion about any war — past, present or future.

I ask this body to join me in reiterating that our Vietnam veterans are welcome home and that we appreciated the service and sacrifice that they gave, just as their fathers gave in the wars that came before that we often do talk about. I wanted to make sure that this one does not get forgotten. Thank you, Mr. Speaker.

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. Carter in the Chair)

ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled Senate Bill numbered 132.

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

RECESS