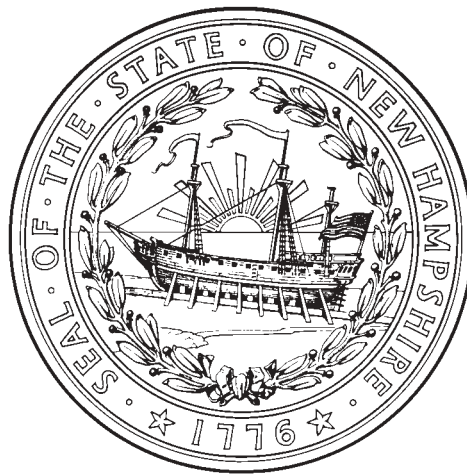


February 17, 2005  
Nos. 5 - 6

# STATE OF NEW HAMPSHIRE

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Legislative

## SENATE JOURNAL

**ADJOURNMENT – FEBRUARY 10, 2005 SESSION**  
**COMMENCEMENT – FEBRUARY 17, 2005 SESSION**

# SENATE JOURNAL 5 (*Cont.*)

*February 10, 2005*

**Out of Recess.**

## **HOUSE MESSAGE**

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

**In recess for Joint Convention.**

**Out of recess.**

## **RESOLUTION**

Senate Clegg moved that the Senate recess to 10:00 a.m. on Thursday, February 17, 2005 for the sole purpose of introducing legislation, receiving messages and processing enrolled bill reports.

**In recess.**

## **INTRODUCTION OF SENATE BILLS**

Senator Flanders offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered 223, shall be by this resolution read a first and second time by the therein listed title and referred to the therein designated committee.

**Adopted.**

## **First and Second Reading and Referral**

05-1045

**SB 223-FN**, relative to licensing nondepository mortgage bankers and brokers. (Flanders, Dist 7: Banks and Insurance)

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**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.

Senator D'Allesandro moved adoption.

**Adopted.**

## **LATE SESSION**

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

# SENATE JOURNAL 6

*February 17, 2005*

The Senate met at 10:00 a.m.

A quorum was present.

Senate Guest Chaplain, The Reverend Janet Lombardo, from Trinity Episcopal Church in Tilton, New Hampshire led the Senate in prayer.

*Holy God creator of all, help us to remember how connected to each other we are, how the things we hold in common are much greater than those that separate us. Help us to remember those who have gone before to show us the way particularly this day Susan McLane, be with those who mourn her passing. Help this body to make the decisions that keep us connected and celebrate what we share in common, always being grateful for the many gifts You have given us.* Amen

Senator Green led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

Senator D'Allesandro (Rule #44).

Senator Barnes (Rule #44).

Senator Roberge (Rule #44).

## COMMITTEE REPORTS

### SPECIAL ORDER

**SB 42**, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. Health and Human Services Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Health and Human Services

February 1, 2005

2005-0128s

01/09

### Amendment to SB 42

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

AN ACT establishing a pharmaceutical commission and making an appropriation therefor.

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

1 New Chapter; Pharmaceutical Commission. Amend RSA by inserting after chapter 126-Q the following new chapter:

## CHAPTER 126-R

### PHARMACEUTICAL COMMISSION

126-R:1 Commission. There shall be a state pharmaceutical commission consisting of 3 members appointed by the governor with the consent of the council. Not more than 2 members shall belong to the same political party. Each member shall hold office for a term of 6 years and until his or her successor has been appointed and qualified. If a vacancy occurs in the commission, it shall be filled for the remainder of the term. Any or all of the commissioners may be removed by the governor and council for cause.

126-R:2 Chairperson; Compensation. The chairperson of the commission shall be appointed and commissioned as such by the governor with the consent of the council, and his or her term shall be coterminous with each term of the governor unless his or her successor shall have been sooner appointed. The expiration or termination of a commission member's term of office as chairperson of the commission shall in no way affect the length of his or her term as a commission member as established under RSA 126-R:1. The annual

salary of each member of the commission shall be as specified in RSA 94:1-a, and the commissioners shall receive their reasonable expenses while traveling in the performance of their duties, provided that they shall not be allowed as expenses, travel between their places of residence and their office in Concord, nor shall they be allowed board or lodging while in Concord.

126-R:3 Duties. The primary duties of the pharmaceutical commission shall be to:

I. Provide the lowest possible cost for wholesale prescription drugs.

II. Maintain proper health and safety controls.

III. Assume responsibility for the effective, efficient, and self-sufficient operation of the commission.

IV. Provide wholesale prescription drug service to the state and customers of the commission, pursuant to this chapter.

126-R:4 Requirements. The members of the commission shall devote their entire time to the service of the commission. No member of the commission shall be directly or indirectly interested in the pharmaceutical business. The compensation and expenses of the commissioners and the expenses of the administration of this chapter shall be paid by the state on the warrant of the governor with the approval of the council.

126-R:5 Offices; Seal. The commission shall be provided with suitable offices in the city of Concord. The commission shall adopt a proper seal.

126-R:6 Assistants and Employees. The commission may employ such assistants as are, in its opinion, necessary for the proper transaction of its business, and fix their compensation, subject to the rules of the director of personnel. The commission may secure any necessary technical or professional assistance.

126-R:7 Personnel, Procedures, and Responsibilities.

I. There shall be a bureau of marketing and sales to be headed by an administrator, who shall have such labor grade as may be determined by the division of personnel. The administrator shall, as directed by the commission, oversee all aspects of the commission's functions relating to marketing, merchandising, purchasing, store operations, warehousing, and distribution, and shall perform such additional duties as the commission shall from time to time assign.

II. There shall be a bureau of administrative services to be headed by an administrator who shall have such labor grade as may be determined by the division of personnel. The administrator shall, as directed by the commission, oversee all aspects of the commission's administrative functions, to include accounting, financial management, data processing, management information systems, human resources, and contracting, and shall perform such additional duties as the commission shall from time to time assign.

126-R:8 Commission to Sell. It shall be the duty of the commission to buy and have in its possession prescription drugs for resale in the manner provided in this chapter. Such prescription drugs shall be free from adulteration and misbranding within the meaning of the provisions of RSA 146. All purchases of prescription drugs shall be made by the commission directly and not through the department of administrative services. The commission may negotiate and purchase prescription drugs from any source. The commission shall be subject to all the provisions so far as applicable of RSA 9, but the commission shall be exempt from the licensing requirements of RSA 318:51-a.

126-R:9 Rulemaking. The commission shall adopt rules, under RSA 541-A, necessary to carry out its powers and duties under this chapter. The commission shall not adopt any rule in conflict with any provision of RSA 541-A.

126-R:10 Insurance. The commission shall have power to insure the state prescription drug warehouse or warehouses and contents against fire and sprinkler damage and such insurance shall be purchased through the department of administrative services.

126-R:11 Purchases by the Pharmaceutical Commission. The commission shall purchase prescription drugs from primary sources. For the purposes of this chapter, "primary source" means the manufacturer or producer. The commission may also purchase prescription drugs from entities within Canada whether a primary source or a wholesaler. If a primary source is not available, the commission may, if it feels it is in the best interests of the state, vote at its regular meeting to allow an exemption and shall explain why such exemption has been allowed.

2 New Subparagraph; Personnel. Amend RSA 94:1-a, I(b) by inserting the following:

- I. GG Pharmaceutical commission commissioner
- II. HH Pharmaceutical commission chairperson

3 Appropriation. The sum of \$1,000,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the pharmaceutical commission for start-up costs associated with the purposes set forth in RSA 126-R as inserted by section 1 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 2005.

2005-0128s

#### AMENDED ANALYSIS

This bill establishes a pharmaceutical commission that is responsible for buying wholesale prescription drugs and reselling to retail pharmacies and state agencies. This bill also makes an appropriation of \$1,000,000 for start-up costs.

**Amendment failed.**

**Senator Barnes offered a floor amendment.**

Sen. Barnes, Dist. 17  
February 10, 2005  
2005-0260s  
01/09

#### Floor Amendment to SB 42

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

AN ACT establishing a pharmaceutical study committee to study direct purchasing of prescription medication by the state.

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

1 Committee Established. There is established a pharmaceutical study committee to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

- (a) Three members of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. The committee shall solicit information from the following:

- (a) The New Hampshire Independent Pharmacist Association.
- (b) The National Association of Chain Drug Stores.
- (c) The American Pharmaceutical Association.
- (d) The Pharmaceutical Research and Manufacturers of America.
- (e) The New Hampshire chapter of the American Association of Retired Persons.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study which drug plans have the greatest potential for savings, the methods for purchasing drugs from manufacturers, the methods of distribution, and any other issue necessary for the state to act as a wholesale distributor of prescription medication.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2005.

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

2005-0260s

#### AMENDED ANALYSIS

This bill establishes a committee to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

#### MOTION TO TABLE

**Senator Larsen moved to have SB 42 laid on the table.**

**Motion failed.**

**A division vote was requested.**

**Yeas: 8 - Nays: 15**

**Motion failed.**

**The question is on the adoption of the floor amendment.**

**Floor amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Boyce is in opposition to SB 42.**

**CACR 8**, relating to the highway fund. Providing that the highway fund may be used for highways and intermodal transportation projects. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-2. Senator Morse for the committee.

**The question is on the committee report of inexpedient to legislate.**

**A division vote was requested.**

**Yeas: 15 - Nays: 8**

**Committee report of inexpedient to legislate is adopted.**

#### COMMITTEE REPORTS

**SB 17**, relative to the definition of educational institution for the purpose of higher education loans. Education Committee. Ought to pass with amendment, Vote 5-0. Senator Estabrook for the committee.

Senate Education

February 8, 2005

2005-0218s

04/05

#### Amendment to SB 17

Amend RSA 195-E:1 as inserted by section 1 of the bill by replacing it with the following:

195-E:1 Declaration of Policy. It is declared to be the policy of this state that for the benefit of the people of the state, the increase of their commerce, welfare, and prosperity and the improvement of their health and living conditions, it is essential that students attending higher educational institutions be given the fullest opportunity to learn and develop their intellectual and mental capacities. It is recognized that the financial costs to obtain an education beyond the high school level are often burdensome or prohibitive, and it is essential that qualified students or their parents be provided with low cost financial assistance in order that the students may attend such schools and to reduce the total amount of loan payments following graduation. ***In order to achieve this policy***, it is essential that state residents be provided with an appropriate source of financing their postsecondary educations and that educational institutions ~~[within the state]~~ ***wherever situ-***

**ated** be provided with appropriate additional means to assist qualified students or their parents financially so that the students might achieve the required levels of learning and development of their intellectual and mental capacities. In order to assure the continued viability of existing loan programs whereby educational loans are made available to qualified students or their parents, it is necessary and desirable to provide an efficient, stable secondary market to which such loans may be sold, transferred, or pledged in exchange for funds with which the original lender will be enabled to continue or increase participation in such loan programs. Therefore, the general court has conferred certain powers on educational institutions, on loan corporations, on the New Hampshire higher education assistance foundation, and on the New Hampshire health and education facilities authority to assure the successful origination, distribution and collection of loans so as to accomplish the purposes of this chapter, all to the public benefit and good. It is further declared that the exercise by the educational institutions, the loan corporations, the New Hampshire higher education assistance foundation and the New Hampshire health and education facilities authority of the powers conferred under this chapter will constitute the performance of an essential governmental function.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as section 2.

2005-0218s

#### AMENDED ANALYSIS

This bill redefines educational institution to allow such institutions to be located outside of the state for the purpose of higher education loans.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 82**, requiring a course in civics for high school graduation. Education Committee. Ought to pass with amendment, Vote 3-2. Senator Estabrook for the committee.

Senate Education  
February 8, 2005  
2005-0215s  
04/10

#### Amendment to SB 82

Amend the introductory paragraph of RSA 189:11, III as inserted by section 1 of the bill by replacing it with the following:

***III. In all high schools in the state, there shall be given a course of instruction in civics. This course shall be a one-half unit of credit required for graduation, and shall replace one-half of the social studies elective unit of credit as set forth in the administrative rules of the department of education. The civics course may be locally developed provided, at a minimum, the course provides exposure to current governmental affairs and covers the following areas:***

**Amendment Adopted.**

**The question is on the adoption of the bill as amended.**

**A division vote was requested.**

**Yeas: 11 – Nays: 12**

**Motion failed.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator D'Allesandro.**

**Seconded by Senator Estabrook.**

**The following Senators voted Yes: Burling, Green, Gottesman, Foster, Larsen, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.**



**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Morse.**

**Yeas: 10 - Nays: 14**

**Motion failed.**

**Senator Bragdon moved inexpedient to legislate.**

**The question is on the motion of inexpedient to legislate.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Estabrook.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Morse.**

**The following Senators voted No: Burling, Green, Gottesman, Foster, Larsen, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 10**

**The motion of inexpedient to legislate is adopted.**

**SB 141-L**, authorizing the establishment of certain reserve funds by the Gorham, Randolph, and Shelburne school districts. Education Committee. Ought to Pass, Vote 5-0. Senator Foster for the committee.

**Adopted.**

**Ordered to third reading.**

**SB 80**, permitting the Emerald Lake village district to enact and enforce regulations to protect its public water supply. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

Environment and Wildlife

February 9, 2005

2005-0239s

06/10

#### **Amendment to SB 80**

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

AN ACT permitting the Emerald Lake village district to enact and enforce regulations to protect its public water supply and to have a health officer.

Amend the bill by replacing sections 2 and 3 with the following:

2 Village District Health Officer. The health officer of the town of Hillsborough may appoint a health officer for the Emerald Lake village district, who shall be subject to the approval of the village district commissioners, the town of Hillsborough selectmen, and the commissioner of the department of health and human services, and who shall, when appointed, be deemed a deputy health officer of the town of Hillsborough, and shall have all powers within the Emerald Lake village district as town health officers have under RSA 128 and RSA 147, subject to the direction of the town health officer and the department of health and human services. The health officer shall receive such compensation for services within the village district as determined by the village district or its commissioners. The voters of the village district shall raise and appropriate funds to compensate the health officer.

3 Adoption by District. The authority set forth in sections 1 and 2 of this act shall not become effective unless the voters of the Emerald Lake village district, acting at the annual district meeting, vote to adopt the provisions of this act.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**



**SB 142**, extending the reporting date of the commission to study issues relative to groundwater withdrawals. Environment and Wildlife Committee. Ought to Pass, Vote 5-0. Senator Johnson for the committee.

**Adopted.**

**Ordered to third reading.**

**SCR 1**, endorsing a farm viability task force. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

Environment and Wildlife  
February 8, 2005  
2005-0233s  
08/04

**Amendment to SCR 1**

Amend the resolution by replacing the 4<sup>th</sup> paragraph after the title with the following:

Whereas, the agricultural interests of the state expressed overwhelming concern that the university of New Hampshire cooperative extension needs to be properly funded, particularly an increased commitment to funding agricultural extension specialist positions, in order to continue serving them properly; and

Amend the resolution by deleting the 5<sup>th</sup> paragraph after the title.

Amend the resolution by replacing all after the resolving clause with the following:

That a farm viability task force be established by the governor, which would include agricultural agencies and all agricultural interests, and to include in its duties:

I. Reviewing and utilizing the 1979 New Hampshire food policy committee report, studying and documenting the role and contributions New Hampshire agriculture plays in a healthy and safe local food supply and in maintaining open space; and

II. Exploring the need and options for funding the University of New Hampshire cooperative extension agriculture positions; and

III. Studying the applicability and benefit of the farm viability programs found in our neighboring states to New Hampshire agriculture; and

IV. Identifying current and potentially burdensome rules and regulations to agriculture and ways the state of New Hampshire can assist; and

V. Promoting and expanding agricultural based tourism, community supported agriculture, farmers' markets, farm stands, and pick-your-own enterprises.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 50**, establishing a committee to study forming an independent board of psychology. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 4-2. Senator Kenney for the committee.

**Committee report of inexpedient to legislate is adopted.**

**Senator Foster rule #42.**

**CACR 7**, relating to restricting the use of all funds deposited into the education trust fund to education funding. Providing that all funds deposited into the education trust fund shall be used exclusively for elementary and secondary education. Finance Committee. Inexpedient to Legislate, Vote 3-1. Senator Morse for the committee.

**The question is on the motion of inexpedient to legislate.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Estabrook.**

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Morse.

The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.

Yeas: 17 - Nays: 7

Committee report of inexpedient to legislate is adopted.

**SB 90-FN-A-L**, relative to kindergarten construction aid. Finance Committee. Ought to Pass, Vote 4-0. Senator Morse for the committee.

The question is on the motion of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator D'Allesandro.

The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.

The following Senators voted No: Boyce.

Yeas: 22 - Nays: 1

Adopted.

Ordered to third reading.

Senator Bragdon rule #42.

#### MOTION TO REMOVE FROM THE TABLE

Senator Boyce moved to take SB 29 off the table.

Adopted.

**SB 29**, relative to processing absentee ballots. Internal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Boyce for the committee.

Internal Affairs  
January 24, 2005  
2005-0064s  
03/10

#### Amendment to SB 29

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

1 Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

659:49 Processing Absentee Ballots.

I. Processing of previously received absentee ballots ~~[shall]~~ **may** begin ~~[at 1:00 p.m.]~~ **no earlier than one hour following the opening of the polls**. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time during the processing of such ballots. Absentee ballots which are received ~~[after 1:00 p.m. and prior]~~ to 5:00 p.m. shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more voters who are present at the polls no later than ~~[1:00 p.m.]~~ **one hour following the opening of the polls**, the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election.

2 Announcement by Moderator. Amend RSA 659:50 to read as follows:

659:50 Announcement by Moderator.

**I.** The moderator shall begin processing absentee ballots by clearly announcing that he **or she** is about to open the envelopes which were delivered to ~~[him]~~ **the moderator**. The moderator shall then remove the affidavit envelope containing the ballots of each absentee voter and shall compare the signature on the affidavit envelope with the signature on the application for the ballot. If:

~~[I:]~~ **(a)** The name of the voter is on the checklist; and

~~[II:]~~ **(b)** The affidavit on the envelope appears to be properly executed; and

~~[III:]~~ **(c)** The signature on the affidavit appears to be executed by the same person who signed the application; and

~~[IV:]~~ **(d)** The signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter.

**II.** If ~~[these]~~ **the** conditions **of paragraph I** are not met, the moderator shall follow the procedure provided in RSA 659:53. ***If the conditions of paragraph I are met, the moderator shall then have a checkmark placed beside the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink. The ballot shall remain in the affidavit envelope subject to challenge until one hour prior to the time the polls are closed, at which time the affidavit envelope shall be opened and the ballot deposited in the ballot box, as provided in RSA 659:52, prior to the counting of the votes.***

3 Challenges. Amend RSA 659:51 to read as follows:

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter ***until one hour prior to the time the polls are closed*** but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the affidavit envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, ~~[he]~~ **the moderator** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. ***The moderator shall then have the word "challenged" placed beside the name of the absentee voter on the checklist in ink.*** If the moderator decides that the challenge is not well grounded, ~~[he]~~ **the ballot shall remain in the affidavit envelope until one hour prior to the time the polls are closed at which time the moderator** shall open the affidavit envelope so the affidavit thereon is not destroyed and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. ~~[He]~~ **The moderator** shall then proceed to deposit the ballot as provided in RSA 659:52.

4 Opening Envelope; Depositing Ballot. Amend RSA 659:52 to read as follows:

659:52 Opening Envelope; Depositing Ballot. If the absentee ballot is not challenged, the moderator shall, ~~[after announcing the name of the voter]~~ ***one hour prior to the time the polls are closed***, open the affidavit envelope containing the ballot so the affidavit on the envelope is not destroyed. ~~[He]~~ **The moderator** shall then take the ballot out of the envelope ~~[without unfolding the ballot or]~~ without permitting the ballot to be examined, and he **or she** shall preserve the affidavit envelope with the ballots cast at the election as provided in RSA 659:101. The moderator ~~[shall then have a checkmark placed beside the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink and]~~ shall then deposit the ballot in the ballot box.

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

2005-0064s

#### AMENDED ANALYSIS

This bill modifies the timing of and procedures for processing and counting absentee ballots.

**Amendment adopted.**

**Senator D'Allesandro offered a floor amendment.**

Sen. D'Allesandro, Dist. 20

February 8, 2005

2005-0228s

03/10

#### Floor Amendment to SB 29

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

1 Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

#### 659:49 Processing Absentee Ballots.

I. Processing of previously received absentee ballots ~~[shall]~~ **may** begin ~~[at 1:00 p.m.]~~ **one hour following the opening of the polls**. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time during the processing of such ballots. Absentee ballots which are received ~~[after 1:00 p.m. and]~~ prior to 5:00 p.m. **on the day of the election** shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more voters who are present at the polls no later than ~~[1:00 p.m.]~~ **one hour following the opening of the polls**, the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election.

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

#### **Floor amendment failed.**

#### **Senator Boyce offered a floor amendment.**

Sen. Boyce, Dist. 4  
 Sen. Larsen, Dist. 15  
 Sen. Hassan, Dist. 23  
 February 8, 2005  
 2005-0227s  
 03/10

#### **Floor Amendment to SB 29**

Amend the bill by replacing section 1 with the following:

1 Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

#### 659:49 Processing Absentee Ballots.

I. Processing of previously received absentee ballots ~~[shall]~~ **may** begin ~~[at 1:00 p.m.]~~ **one hour following the opening of the polls**. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time during the processing of such ballots. Absentee ballots which are received ~~[after 1:00 p.m. and]~~ prior to 5:00 p.m. **on the day of the election** shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more voters who are present at the polls no later than ~~[1:00 p.m.]~~ **one hour following the opening of the polls**, the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election.

#### **MOTION TO TABLE**

**Senator Morse moved to have SB 29 laid on the table.**

**Adopted.**

#### **LAIID ON THE TABLE**

**SB 29**, relative to processing absentee ballots.

**Senator Johnson in the Chair.**

**SB 92-FN**, relative to registering to vote. Internal Affairs Committee. Inexpedient to Legislate, Vote 5-1. Senator Boyce for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 136-L**, relative to curbside voting at polling places by persons with disabilities. Internal Affairs Committee. Inexpedient to Legislate, Vote 5-1. Senator Bragdon for the committee.

**Committee report of inexpedient to legislate is adopted.**

**SB 48-FN**, relative to a prohibition on “peeping Toms.” Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary  
February 8, 2005  
2005-0236s  
04/01

#### **Amendment to SB 48-FN**

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

AN ACT prohibiting unlawful peering into the dwelling place of another.

Amend the bill by replacing section 1 with the following:

1 Breaches of Peace; Violation of Privacy. Amend RSA 644:9 to read as follows:

644:9 Violation of Privacy.

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or a person's body underneath that person's clothing; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting images or sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

II. As used in this section, “private place” means a place where one may reasonably expect to be safe from surveillance including public restrooms, locker rooms, or any place where a person's private body parts including genitalia, buttocks, or female breasts may be exposed.

III. A person is guilty of a class A misdemeanor if that person knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person without the express consent of the other person or persons who appear in the photograph or videotape. In this paragraph, “disseminate” and “sexual activity” shall have the same meaning as in RSA 649-A:2.

***IV. A person is guilty of a class B misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, peers through a window, door, or other similar opening into the interior of another person's dwelling place for the purpose of observing the private body parts of any person therein, including, but not limited to, the genitalia, buttocks, or female breasts of such person. Any person convicted of a second offense under this paragraph shall be guilty of a class A misdemeanor.***

[IV] V. Paragraphs I [~~and~~], II, **and IV** shall not be construed to impair or limit any otherwise lawful activities of law enforcement personnel, nor are paragraphs I [~~and~~], II, **and IV** intended to limit employees of governmental agencies or other entities, public or private, who, in the course and scope of their employment and supported by articulable suspicion, attempt to capture any type of visual image, sound recording, or other physical impression of a person during an investigation, surveillance, or monitoring of conduct to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, a suspected fraudulent insurance claim, or any other suspected fraudulent conduct or activity involving a violation of law, or pattern of business practices adversely affecting the public health or safety.

2005-0236s

#### **AMENDED ANALYSIS**

This bill prohibits a person from peering through a window, door, or other similar opening into the interior of another person's dwelling place for the purpose of observing the private body parts of any person therein, including, but not limited to, the genitalia, buttocks, or female breasts of such person.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 132**, relative to the board of marital mediator certification. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

Senate Judiciary  
February 9, 2005  
2005-0245s  
05/01

**Amendment to SB 132**

Amend the bill by replacing section 4 with the following:

4 Marital Mediators; Board Members; Reference to Judicial Branch Family Division and New Hampshire Conflict Resolution Association Added. Amend RSA 328-C:4, I to read as follows:

I. There shall be a board of marital mediator certification consisting of the following 9 members:

(a) One ~~[superior court]~~ judge *who regularly sits in the judicial branch family division*, appointed by the chief justice of the supreme court.

(b) One full-time marital master, appointed by the ~~[chief justice of the superior court]~~ *administrative judge of the judicial branch family division*.

(c) One attorney licensed to practice law in this state, appointed by the governor with the consent of the council.

(d) Two members of the public, appointed by the governor with the consent of the council.

(e) One mental health professional, appointed by the governor with the consent of the council.

(f) Three *certified* marital mediators, nominated by the New Hampshire ~~[Mediators]~~ *Conflict Resolution* Association and appointed by the governor with the consent of the council.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 126**, establishing a committee to study the appeals process in cases between landlords and tenants. Public and Municipal Affairs Committee. Ought to Pass, Vote 6-0. Senator Roberge for the committee.

**Adopted.**

**Ordered to third reading.**

**Senator Eaton in the Chair.**

**SCR 3**, relative to the Boy Scouts of America. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Public and Municipal Affairs  
February 9, 2005  
2005-0252s  
01/10

**Amendment to SCR 3**

Amend the resolution by replacing the third and fourth paragraphs after the title with the following:

Whereas, the Boy Scouts of America have produced some of our strongest national leaders and role models, including, actor and war hero Brigadier General James Stewart, Nolan Ryan, President John F. Kennedy, Walter Cronkite, Bill Gates, Dan Jansen, and Mark Spitz; and



Whereas, Eagle Scouts including Astronaut James Lovell, Astronaut Neil Armstrong, President Gerald Ford, Sam Walton, John Tesh, Congressman Richard Gephardt, Congressman Thomas Foley, Senator Lamar Alexander, and Hank Aaron have gone on to prove that character does count, by living the Scout Law; and Amend the resolution by replacing the second paragraph after the resolving clause with the following:

That copies of this resolution be sent by the senate clerk to the National Council of the Boy Scouts of America in Irving, Texas and the Daniel Webster Council, Boy Scouts of America in Manchester, New Hampshire.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**SB 85**, relative to expenses of operating bingo games. Ways and Means Committee. Ought to pass with amendment, Vote 3-0. Senator Boyce for the committee.

Senate Ways and Means

February 10, 2005

2005-0261s

08/10

#### **Amendment to SB 85**

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Senior Citizens Bingo. RSA 287-E:11 is repealed and reenacted to read as follows:

287-E:11 Senior Citizens Bingo. Any senior citizens' organization in a city or town which has adopted RSA 287-E may conduct bingo games without a license under the following conditions:

I. The games of bingo shall be open only to persons 60 years of age or older.

II. The price to be paid for a single card or play shall not exceed \$.25.

III. All prizes, tokens, or awards used, given, offered, or awarded during or in connection with the conduct of any game or series of games conducted under this section in any calendar day shall not exceed the total value of \$150.

2005-0261s

#### **AMENDED ANALYSIS**

This bill allows a charitable organization to retain 7 percent of the amount collected from players in a winner take all game.

This bill also eliminates senior citizen special bingo licenses.

**Amendment adopted.**

**Question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

#### **RESOLUTION**

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

**Adopted.**

#### **LATE SESSION**

##### **Third Reading and Final Passage**

**SB 17**, relative to the definition of educational institution for the purpose of higher education loans.

**SB 42**, establishing a pharmaceutical study committee to study direct purchasing of prescription medication by the state.



**SB 48-FN**, prohibiting unlawful peering into the dwelling place of another.

**SB 80**, permitting the Emerald Lake village district to enact and enforce regulations to protect its public water supply and to have a health officer.

**SB 85**, relative to expenses of operating bingo games.

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

**SB 126**, establishing a committee to study the appeals process in cases between landlords and tenants.

**SB 132**, relative to the board of marital mediator certification.

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

**SB 142**, extending the reporting date of the commission to study issues relative to groundwater withdrawals.

**SCR 1**, endorsing a farm viability task force.

**SCR 3**, relative to the Boy Scouts of America.

### **ANNOUNCEMENTS**

#### **RESOLUTION**

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving messages and processing enrolled bill reports.

**Adopted.**

**In recess to the Call of the Chair.**