

HOUSE RECORD

Second Year of the 159th General Court Calendar and Journal of the 2006 Session

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Concord, N.H.

Wednesday, April 5, 2006

No. 31

HOUSE JOURNAL No. 11 (cont.)

Wednesday, March 22, 2006

RECESS

(Rep. Bergin in the Chair)

RESOLUTION

Rep. Manney offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 107, 230, 232, 267, 268, 273, 298, 304, 306, 314, 317, 324, 339, 341, 342, 345, 352, 354, 364, 367, 369, 373, 374, 380, 384, 391, 394, 395, 397, 403, 407 and Constitutional Amendment Concurrent Resolution numbered 44, shall be by this resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Adopted.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 107-FN, relative to the tax on tobacco products other than cigarettes. (Ways and Means)

SB 230, relative to the qualifications and liability of the medical director responsible for utilization review under the managed care law. (Commerce)

SB 232-FN-A, making a capital appropriation to the department of health and human services for a dental facility in the town of Tamworth. (Public Works and Highways)

SB 267, relative to the definition of employee and clarifying the criteria for exempting workers from employee status. (Labor, Industrial and Rehabilitative Services)

SB 268, raising the age of required attendance of children in school and establishing a 2-year pilot program for increasing vocational education opportunities in the Manchester and Nashua school districts and making an appropriation therefor. (Education)

SB 273, relative to reasonable accommodations for employees with disabilities.) Labor, Industrial and Rehabilitative Services)

SB 298-FN, relative to motor vehicle fines. (Ways and Means)

SB 304, relative to provider payments negotiated by the commissioner of the department of health and human services. (Finance)

SB 306-FN-A, establishing a quality early learning opportunity initiative and making an appropriation therefor. (Education)

SB 314-FN-L, establishing minimum renewable standards for energy portfolios. (Science, Technology and Energy)

SB 317-FN, establishing a screening panel to review complaints to occupational and professional regulatory boards and establishing an appeals board to review decisions by

occupational and professional regulatory boards. (Executive Departments and Administration)

SB 324, requiring notification concerning certain offenders against children. (Criminal Justice and Public Safety)

SB 339, changing certain job titles and responsibilities in the department of transportation. (Executive Departments and Administration)

SB 341, extending by one year the advisory-only period for OBD II testing. (Transportation)

SB 342, relative to the treatment of glaucoma by optometrists. (Executive Departments and Administration)

SB 345, relative to lobbyist registration requirements. (Election Law)

SB 352-FN, relative to the regulation of real estate appraisers. (Executive Departments and Administration)

SB 354-FN, requiring security officers of the New Hampshire hospital security force to be fully certified as police officers and including such security officers in group II of the New Hampshire retirement system. (Executive Departments and Administration)

SB 364-FN-A, relative to funding of the fish and game search and rescue fund and making an appropriation therefor. (Finance)

SB 367-FN, imposing a penalty on Medicaid providers who receive overpayments of state Medicaid funds. (Ways and Means)

SB 369, relative to portability, availability, and renewability of health coverage. (Commerce)

SB 373-FN-A, relative to a public health response to arbovirus. (Health, Human Services and Elderly Affairs)

SB 374-FN, relative to the state children's health insurance program. (Commerce)

SB 380-FN-A, establishing a research and development credit against business taxes. (Ways and Means)

SB 384-FN-A-L, establishing a temporary one-time exemption from the real estate transfer tax for certain transfer of family farm or open space land. (Ways and Means)

SB 391-FN, relative to insurance third party administrators. (Commerce)

SB 394, establishing the Trust Modernization and Competitiveness Act. (Commerce)

SB 395, relative to the number of children in a licensed foster home. (Children and Family Law)

SB 397-FN-A, establishing a temporary energy tax credit against the business enterprise tax. (Ways and Means)

SB 403, relative to verification of identity when a person registers or attempts to vote. (Election Law)

SB 407-FN-A, relative to enforcement of labor statutes under current federal immigration laws. (Criminal Justice and Public Safety)

CACR 44, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. (Judiciary)

SENATE MESSAGE

CONCURRENCE

HB 410, relative to the confidentiality of documents submitted with an application for a property tax credit, exemption, or deferral.

HB 1114, relative to regulation by the board of licensure of interpreters for the deaf and hard of hearing.

HB 1122, relative to special elections.

HB 1152, naming a certain bridge over the Merrimack River.

HB 1226-FN, relative to the New Hampshire Humanities Council.

HB 1370, transferring certain surplus moneys to the revenue stabilization reserve account.

HJR 23, a resolution designating a Purple Heart Trail spur to the New Hampshire state veterans cemetery and providing additional signs for the Purple Heart Trail.

RECESS

(Rep. Bicknell in the Chair)
ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 410, 1114, 1122, 1152, 1226, 1370, and House Joint Resolution 23.

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

RECESS

Rep. Weyler moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 12

Wednesday, April 5, 2006

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

Prayer was offered by House Chaplain, Reverend Jared Rardin, Pastor of the South Congregational Church in Concord.

Speak to us out of the silence, O God. In a world drowning in sounds: the chatter of machinery, the beeping of technology, the ring-tones of cell phones. Still our hearts to listen for a sound we have almost forgotten how to hear: the still, small voice which speaks lovingly and constantly, if we would only hear.

Help the Barker family to hear Your words of comfort and strength as they grieve the death and remember the life of their beloved Robert. Help us in our work today to hear again Your word of affection for all that is precious and good and generous in this fleeting life. Give ears to all who are straining under terrible burdens today to hear the assurance of Your presence which bears and hopes and endures all things. And give Karen Wadsworth, we pray, the ears to hear Your affection and Your healing for her.

And by Your grace, may we, in listening for You, speak to one another and to all we meet, whether friend or foe, a word of kindness and compassion. All this we pray in Your Holy Name. Amen.

Rep. Lawrence C. Ross, member from Peterborough, led the Pledge of Allegiance.

The National Anthem was sung by Cassandra Millett, Miss New England Teen - 2005.

LEAVES OF ABSENCE

Reps. Barry, Brueggemann, Chabot, David Cote, Gibson, Gonzalez, Hunter, Kobel, Putnam, Kimberly Shaw, Snyder and Joy Tilton, the day, illness.

Reps. Adams, Aguiar, Bergin, Biundo, Bridle, C. Pennington Brown, Buhlman, Chris Christensen, Desmarais, Donald Flanders, Giuda, Goley, Hebert, Heon, Kidder, Klose, McRae, Moran, Morneau, Movsesian, O'Connell, O'Neil, Parker, Rochette, Serlin, Sokol and Anna Tilton, the day, important business.

Reps. Baroody, Bishop, MaryAnn Blanchard, Boyce and Norelli, the day, illness in the family.

INTRODUCTION OF GUESTS

Kimberly Irish and Jacob Dole, daughter and guest of Rep. Irish. Hon. William Zolla and wife, Alice, and Matthew Greco, guests and son of Rep. Greco.

INTRODUCTION OF SPECIAL GUESTS

Pauline Barker and Crystal Schaaf, widow and daughter of Hon. Robert R. Barker, guests of the House.

HOUSE RESOLUTION NO. 23

Memorializing State Representative Robert R. Barker of Campton

WHEREAS, we have learned with great sorrow of the death of our friend and colleague Robert R. Barker, who was in his 3rd term of dedicated service in the House of Representatives on behalf of the citizens of District 6 of Grafton County, currently being the towns of Campton, Ellsworth, Orford, Rumney and Wentworth, and previously including Holderness, Thornton and Waterville Valley; and

WHEREAS, Robert R. Barker was known by friends and colleagues as a well-educated man, having attended the University of New Hampshire, Cambridge University, the University of Massachusetts, the Air University Command and Staff College and other specialized military schools, earning him the respect and admiration of those who knew him; and

WHEREAS, Robert R. Barker was a lifelong outdoorsman, having been one of the youngest to hike the Long Trail of Vermont on his own at age 14, he was able to transfer his love of outdoor activities, including skiing, motorcycle riding, benchrest rifle, pistol, trap and skeet shotgun shooting, into his service to the state as a valued member of the Fish and Game Committee; and

WHEREAS, Robert R. Barker did faithfully and honorably serve his country for 22 years as a member of the United States Air Force, attaining the rank of Lieutenant Colonel, while earning the Legion of Merit, Meritorious Service Medal, Joint Service Commendation Medal, Air Force Commendation Medal and Vietnam Service Medal with three Oak Leaf clusters, among other awards; now, therefore, be it

RESOLVED, by the House of Representatives in Regular Session convened, that Robert R. Barker be granted the highest praise and accolades for his dedicated service to his community, his country and his state; and be it further

RESOLVED, that expressions of heartfelt sympathy be extended to his family and that a suitable copy of this Resolution be prepared for presentation to them.

Offered by the House of Representatives

Unanimously adopted by a rising vote of silent prayer.

MOTION TO VACATE

Reps. Major and King moved that the House vacate the reference of ***SB 367-FN***, imposing a penalty on Medicaid providers who receive overpayments of state Medicaid funds, to the Committee on Ways and Means.

Motion adopted.

The Speaker referred ***SB 367-FN*** to the Committee on Finance.

SUSPENSION OF RULES

Reps. Weyler and Craig move that the House Rules be so far suspended as to allow ***SB 286-FN***, relative to notice to defendants in small claims actions, ***SB 374-FN***, relative to the state children's health insurance program, and ***SB 391-FN***, relative to insurance third

party administrators, an extension of the deadline of last day to report on Senate Bills going to a second committee, be moved to Thursday, April 13, 2006.
Adopted by the necessary two-thirds.

SENATE MESSAGES

REQUEST CONCURRENCE WITH AMENDMENTS

HB 1147, relative to the conduct of recounts. (Amendment printed SJ 03/22/06)
Rep. Whalley moved that the House concur and spoke in favor.
Adopted.

HB 544, relative to the land and community heritage program. (Amendment printed SJ 02/23/06)
Rep. Babson moved that the House concur and spoke in favor.
Adopted.
Rep. Mirski declared a conflict of interest and did not participate.

HB 649-FN-A-L, establishing a commission to study the costs and funding of medicolegal investigations and autopsies. (Amendment printed SJ 03/09/06)
Rep. King moved that the House concur and spoke in favor.
Adopted.

HB 1657, establishing a wildlife legacy initiative for gifts and donations for fish and wildlife conservation programs. (Amendments printed SJ 00/00/06)
Rep. Robert L'Heureux moved that the House concur and spoke in favor.
Adopted.

HB 334, relative to the type of notice provided in court proceedings. (Amendments printed SJ 02/02/06)
Rep. Dokmo moved that the House concur and spoke in favor.
Adopted.

HB 413, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices. (Amendment printed SJ 02/02/06)
Rep. Dokmo moved that the House concur.
Rep. James Wheeler spoke in favor.
Adopted.

HB 460-FN, relative to the reimbursement to certain providers by the bureau of emergency communications. (Amendments printed SJ 01/18/06)
Rep. Ross moved that the House concur and spoke in favor.
Adopted.

HB 582, relative to the policy for records management. (Amendment printed SJ 01/18/06)
Rep. Bergin moved that the House nonconcur and request a Committee of Conference.
Rep. Dalrymple spoke in favor.
Adopted.
The Speaker appointed Reps. Pilotte, Fitzgerald, Millham and Irwin.

COMMITTEE REPORTS

CONSENT CALENDAR

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

SB 396, repealing the rulemaking authority of the New Hampshire children's trust fund board. **OUGHT TO PASS**

Rep. Karen K. McRae for Children and Family Law: This bill was brought by the legislative members of the New Hampshire Children's Trust Fund. By-laws and guidelines have covered the criteria enumerated under RSA 169-C:39-h, rule-making authority. Thus, rulemaking authority is no longer needed. Vote 10-1.

SB 251, relative to the enforcement authority of the division of safety services. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl for Criminal Justice and Public Safety: The bill extends the authority of Marine Patrol Officers to islands or the mainland contiguous to inland or coastal waters in the absence of any Law Enforcement Agency with jurisdiction immediately available when immediate action is required. It clarifies the definition of the water where the Marine Patrol has jurisdiction and allows the enforcement of Title XXI violations pertaining to boats and watercraft (DWI). Vote 13-0.

Amendment (1520h)

Amend RSA 270:12-a, I(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Any crime or offense, excluding a violation of title XVIII or a violation of title XXI not involving a boat or watercraft, that occurs on an island or on the mainland contiguous to inland or coastal bodies of water in the absence of any law enforcement agency with jurisdiction immediately available when immediate action is required; and

SB 256, relative to the definition of "harm" for purposes of the crime of improper influence. **OUGHT TO PASS**

Rep. John E. Tholl for Criminal Justice and Public Safety: The bill amends the definition of harm to include injury to person or property of pecuniary interest and makes it clear that harm does not include the exercise of any conduct protected under the First Amendment. Vote 13-0.

SB 379-FN, relative to harm or threats to certain government officials. **OUGHT TO PASS**

Rep. John E. Tholl for Criminal Justice and Public Safety: The bill amends NH RSA 631 by inserting a new paragraph that provides for penalties for causing bodily injury or committing another crime against certain government officials with a purpose to influence such official action or in retaliation for an action taken. It further includes penalties for threatening the officials or their families for the purpose of influencing an official's action or retaliation for such action. Vote 12-1.

SB 350-FN, relative to boarding kennels. **INEXPEDIENT TO LEGISLATE**

Rep. Ronald J. Nowe for Executive Departments and Administration: The committee heard testimony from many that this bill was not needed. The committee could not find that anything was broken, therefore, there was nothing to fix. No sponsor came in support of the bill. Vote 13-0.

SB 289-FN, relative to the brain and spinal cord advisory council. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill reorganizes the New Hampshire Brain and Spinal Cord Injuries Advisory Council. This was done at the request of the Spinal Cord Injury Association and the Brain Injury Association of

New Hampshire. The advisory council will include two members of each of those organizations. The council will also include members from the professional community, survivors and family members. It will also include a member of the house of representatives and the senate. In addition, it will include a vocational rehabilitation instructor and an educator. Several other ex officio members will be non-voting members of the council. The council will operate under broad legislative mandates, including consideration of establishing a brain and spinal cord injury trust fund. The committee voted unanimously to support the ongoing work of this important council. Vote 14-0.

SB 296-FN, relative to recovery of public assistance. **OUGHT TO PASS**

Rep. Joan H. Schulze for Health, Human Services and Elderly Affairs: The state has the option, with this bill, to take a partial recovery for Medicaid when it is in the best interest of all parties to expedite the recovery process and to avoid litigation. Vote 14-0.

SB 349, relative to the HIV/AIDS service delivery system. **OUGHT TO PASS**

Rep. Hilda W. Sokol for Health, Human Services and Elderly Affairs: This bill requires the Health and Human Services Oversight Committee to add to its responsibilities the monitoring of the recommendation proposed by the committee to study the HIV/AIDS services delivery and to determine whether such recommendations have been implemented. The study should include the efficacy of selected programs, target populations, program costs and participation, as well as monitoring the on-going medical modernization plan. Vote 14-0.

SB 274, adding court security to the duties of the New Hampshire court accreditation commission. **OUGHT TO PASS**

Rep. Gregory M. Sorg for Judiciary: This bill adds the single word “security” to RSA 490:5-C, the statute that sets out the authority of the New Hampshire Court accreditation commission to prescribe minimum standards for all court facilities in the state. The committee concluded that it is logical that so vital a concern as courthouse and courtroom security should be included in matters under the purview of the commission. Vote 13-0.

SB 300-FN-A-L, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jim Ryan for Ways and Means: This bill, as amended, removes the possibility of real estate taxes being imposed upon transfers between charitable organizations occasioned by recent policy directives requiring consolidation of area agencies. The bill has been carefully crafted to have minimal effect on revenues and enjoys the support of the DRA, who assisted in preparing the bill. Vote 16-0.

Amendment (1528h)

Amend RSA 78-B:2, XIX as inserted by section 1 of the bill by replacing it with the following:

XIX. To a transfer of title pursuant to a merger, consolidation, or reorganization of 2 or more organizations, each of which is exempt from federal income taxation under section 501(c)(3) or section 501(c)(2) of the United States Internal Revenue Code of 1986, as amended, where all such organizations have certified in advance of the transaction to the satisfaction of the commissioner of the department of revenue administration that, over the 3 fiscal years preceding the transfer, on average, a majority of their collective program service revenues received from third parties have been received from federal, state, and/or local governmental sources.

REGULAR CALENDAR

SB 400-FN, relative to highway welcome signs. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: State highway signs should have the state motto “Live Free or Die” on them. All 24 Senators were in agreement on this bill, the House

Transportation Committee concurs. Vote 10-0.
Rep. Ferland yielded to questions.
Committee report adopted.
Referred to Finance.

RESOLUTION

Rep. Weyler 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, April 12, 2006 at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

SB 396, repealing the rulemaking authority of the New Hampshire children's trust fund board

SB 251, relative to the enforcement authority of the division of safety services.

SB 256, relative to the definition of "harm" for purposes of the crime of improper influence.⁴

SB 379-FN, relative to harm or threats to certain government officials.

SB 289-FN, relative to the brain and spinal cord advisory council.

SB 296-FN, relative to recovery of public assistance.

SB 349, relative to the HIV/AIDS service delivery system.

SB 274, adding court security to the duties of the New Hampshire court accreditation commission.

SB 300-FN-A-L, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax.

UNANIMOUS CONSENT

Reps. Irwin, Kurk and Stone addressed the House.

Rep. Craig moved that the remarks made by Rep. Irwin be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. Irwin: Good morning. Isn't it nice for it still to be morning. I have the very good luck to sit between the oldest woman in the House and the youngest woman in the House. Both of them are very unique, but the one I'd like to talk to you about today is my friend, Angeline Kopka. You know how sometimes, quite by chance, someone just happens to touch your heart and that's the case with Angie.

There are three things I'd like to mention to you about Angie. One is that Angie has an extraordinary sense of grace in the very purest way. Like all of us she has been tossed by life a little bit, but she always seems to feel that it will come out right and grace will see us through. The second thing I'd like to say is Angie has the gift of joy. She really gets a kick out of life. She gets a kick out of us. She enjoys being here. She's interested in what's happening. She wants to learn and she's always very pleased with us. Though she has been known to say, "So what is he talking about now?"

And the third thing is that Angie frequently has chocolate and she shares. So to celebrate Angie's nine (9) decades on this planet, I have 90, more or less, pieces of chocolate. Blessings Angie, Happy Birthday, and please, all, her birthday is actually next week, but let's make it a real celebration. How many of us can sing, "Happy Birthday, dear Angie." Thank you, Mr. Speaker

Rep. Craig moved that the remarks made by Rep. Stone be printed in the Journal.
The Speaker so ordered.

REMARKS

Rep. Stone: Thank you, Mr. Speaker. I wasn't going to speak but I think this will be the last time I'll have this opportunity to address this great House regarding an event that occurred back on last Saturday, April 1st. Those who know me know what I'm probably going to speak about. The last battle before V-J Day was declared back in 1945 occurred on the island of Okinawa. Here in this body we have several men who were there and each year when I spoke, I tried to have them stand so that they may be recognized.

The island of Okinawa, as I said before, was a small island. We had many times heard from our most wonderful representative from New London who spoke about the battle of Saipan and a bloody battle that it was.

The most savage battle that took place in the Pacific, was the island of Okinawa. This battle started on April 1st, April's Fools Day, and didn't end until September. During that period of time there were about 26,000 Americans either killed, wounded or missing, 90,000 Japanese were killed and 150,000 Okinawans lost their lives.

The United States Navy took a terrific loss. They had over 254 ships that were either sunk or damaged. In our group here today, we have a person who was a member of the United States Navy. He was a combat pilot who flew off a carrier, Rep. Rosen had two or three strikes on the island of Okinawa to help us, the ground troops. Also in the Navy, was John Flanders who served during the battle of Okinawa.

Ladies and gentlemen, I would like to have you give them a sound round of applause for all those who participated.

Thank you very much, Mr. Speaker, for allowing me this chance to speak.

RECESS MOTION

Rep. Weyler 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 11:10 a.m.

RECESS