

State of New Hampshire HOUSE RECORD

First Year of the 162nd General Court
Calendar and Journal of the 2011 Session

Vol. 33

Concord, N. H.

Wednesday, January 26, 2011

No. 14

HOUSE JOURNAL No. 3 (cont.)

Wednesday, January 6, 2011

Rep. Tucker moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 4

Wednesday, January 26, 2011

The House assembled at 10:00 a.m. and was called to order by the Speaker.

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

Prayer was offered by House Chaplain, Reverend Roger Boucher of Gilmanton Iron Works. Almighty God, we commend ourselves once again to Your counsel as we engage in our politics. Bless our new tasks with a practical spirit of justice and a genuine compassion toward those we serve. Keep us alert to the false illusion of building perfect utopias or plowing the salt in the sea. We thank You for the tolerance built into our hearts that allows us to address You in the public forum so that we may ask for the discipline of mind and heart we need to promote good order in the community of souls. Help us to recover the permanent things that secure our individual liberties and protect the noble character of this House which lives from its electoral strength to serve the true needs of our people. Give us, then, this day, to work with confidence while keeping Your thoughts in mind. We pray this in Your name. Amen.

Representative Bernard Benn, member from Hanover, led the Pledge of Allegiance.

Representative James Garrity of Atkinson led the National Anthem.

LEAVES OF ABSENCE

Reps. Ronald Belanger, Donovan, Patrick Garrity, McConkey, Mirski, Newton, Pierce, Porter, Scontsas and Soltani, the day, illness.

Reps. Ahlgren, Byrnes, Coughlin, Domingo, Jane Johnson, Levasseur, McKinney, Michael Reed, Rhodes, Serlin, Stroud, Sytek and Taylor, the day, important business.

Rep. Julie Brown, the day, illness in the family.

INTRODUCTION OF GUESTS

Hon. Joy Tilton, former member from Northfield, fiancée of Rep. Butynski. Marc Sawyer, guest of Rep. Okerman. Jennifer Day, daughter of Rep. Day.

Casey Degen, a student from the Wilton-Lyndeborough Cooperative High School, Page for the day.

COMMUNICATION

January 6, 2011

Karen Wadsworth
Clerk of the NH House of Representatives
State House
Concord, N. H. 03301

Dear Karen:

The following representatives-elect were sworn into office by the Governor and Executive Council on this day:

Hillsborough County Dist. 12, Norma Greer Champagne, r, Manchester (233 Tarrytown Road) 03103

Merrimack County Dist. 8, Carol M. McGuire, r, Epsom (700 Suncook Valley Highway) 03234

Merrimack County Dist. 8, Dan McGuire, r, Epsom (700 Suncook Valley Highway) 03234

Merrimack County Dist. 11, Lynne F. Blankenbeker, r, Concord (26 Mulberry Street) 03301

Sincerely,
Karen Ladd, Assistant Secretary of State

COMMUNICATION

January 19, 2011

Karen Wadsworth
Clerk of the NH House of Representatives
State House
Concord, N. H. 03301

Dear Karen:

The following representative-elect was sworn into office by the Governor and Executive Council on this day:

Merrimack County Dist. 4, Christine C. Hamm, d, Hopkinton (14 South Road) 03229.

Sincerely,
Karen Ladd, Assistant Secretary of State

MOMENT OF SILENCE

A moment of silence was observed in honor and in memory of those affected by the tragedy in Tucson, Arizona, the passing of the Honorable John Gleason, former Representative of Derry and the 25th anniversary of the death of Christa McAuliffe, a Concord teacher and one of the crew members killed in the Space Shuttle Challenger disaster.

MOTION TO VACATE

Rep. Comerford moved that the House vacate the reference of **HB 43**, relative to the adoption of forms under the administrative procedures act, to the Committee on Legislative Administration.
Adopted.

The Speaker referred **HB 43** to the Committee on Executive Departments and Administration.

MOTION TO SUSPEND HOUSE RULES

Rep. Bettencourt moved that the last sentence of House Rule 38(e) be suspended to allow a bill to be withdrawn.
Adopted.

MOTION TO WITHDRAW

Pursuant to House Rule 38(e), Reps. Drisko and Russell moved that **HB 547** be withdrawn.
Adopted.

CONSENT CALENDAR

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

HB 88, relative to liquor enforcement and liquor licensing. **OUGHT TO PASS.**

Rep. Kenneth Hawkins for Executive Departments and Administration: This bill was a result of a study committee during the summer of 2010. Originally liquor enforcement, licensing and education were to be transferred to the department of safety on July 1, 2011. The study committee recommended that no transfer take place. This bill accomplishes that recommendation. Vote 12-0.

HB 92, relative to expiration of licenses issued by the board of foresters. **OUGHT TO PASS.**

Rep. Calvin D. Pratt for Executive Departments and Administration: This act brings forester licenses in line with the provisions for licensing similar professions. This eliminates a concentration of license renewals from the new year to year round. Vote 12-0.

HB 119, relative to agency membership on the information technology council. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John J. Sytek for Executive Departments and Administration: This bill permits agency heads who are members of the information technology council to appoint designees to the

council. In this way, agencies can continue to be represented when these agency heads are unable to attend. The amendment addressed a grammatical issue. Vote 12-0.

Amendment (0025h)

Amend RSA 21-R:6, II(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Two heads of other departments, *or their designees*, appointed by the governor.

HB 32, relative to statutory references to the choice and duties of town auditors. **OUGHT TO PASS.**

Rep. Betsey L. Patten for Municipal and County Government: In 2010, RSA 41:31 relative to town auditors was amended to update the financial audits to provide the independent assurance that financial information is reliable. Sections RSA 41:31 – a, b, c and d were amended. Two citations of the original statute were found after the enactment of the 2010 law. This bill fixes those two citations by eliminating the citation in RSA 41:31-a and repealing RSA 669:16,VI-a. Vote 12-0.

HB 77, relative to amendments to warrant articles. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James E. Coffey for Municipal and County Government: It was the consensus of the entire committee that it is important for voters in towns operating under the SB 2 form of government to be able to vote on each article that contains the intent as originally proposed. To eliminate all the subject matter creates confusion and often discourages citizen's participation. Vote 12-0.

Amendment (0021h)

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

1 New Subparagraph; Use of Official Ballot. Amend RSA 40:13, IV by inserting after subparagraph (b) the following new subparagraph:

(c) No warrant article shall be amended to eliminate the subject matter of the article. An amendment that changes the dollar amount of an appropriation in a warrant article shall not be deemed to violate this subparagraph.

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

HB 91, relative to the reporting by state agencies with capital budget projects to the capital budget overview committee. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Candace C. W. Bouchard for Public Works and Highways: This bill requires all state agencies with capital budget projects to report quarterly, in the same format, the status of their capital budget projects to the department of administrative services and bureau of public works. This bill updates RSA 17-J: 4 by replacing the commissioner of transportation with the department of administrative service, bureau of public works to reflect the moving of public works from New Hampshire DOT to administrative services that was done several years ago. Requiring quarterly reports in the same format will allow the General Court and the public to easily follow the progress of capital projects. Requiring a consistent format will also create transparency enabling timely oversight and allow us to be better stewards of the people's money. The amendment changes the 30 day timeline of projects to be provided by administrative services to 90 day, establishing a realistic timeline for the agency to comply with the statute. Vote 13-0.

Amendment (0008h)

Amend RSA 17-J:4 as inserted by section 1 of the bill by replacing it with the following:

17-J:4 Duties. The capital budget overview committee shall review the status of capital budget projects both during and between legislative sessions. Each state agency with capital

budget projects shall ~~[submit to the committee a status report on the projects every 60 days]~~ **report to the department of administrative services, in the format the department of administrative services prescribes, for the quarters ending September 30, December 31, March 31, and June 30. The department of administrative services shall combine these reports and present the summarized report to the capital budget overview committee for review quarterly on the first of November, February, May, and August.** The ~~[commissioner of transportation]~~ **department of administrative services, bureau of public works** shall, within ~~[30]~~ **90** days of the approval of funding for any capital budget project, submit a timeline or schedule for such project to the capital budget overview committee for review.

REGULAR CALENDAR

HB 48, relative to incompatibility of town offices. **INEXPEDIENT TO LEGISLATE.**

Rep. Bruce L. Tatro for Municipal and County Government: The majority of the committee felt the allowing of moderators to also be trustees of the trust funds was a potential conflict of interest and the positions should be held by separate individuals. Vote 10-2.

On a division vote, 300 members having voted in the affirmative and 36 in the negative, the committee report was adopted.

HB 49-FN, relative to toll-free use of the New Hampshire turnpike system by vehicles with purple heart license plates. **INEXPEDIENT TO LEGISLATE.**

Rep. Franklin T. Tilton for Public Works and Highways: The committee has the utmost respect for the unselfish and heroic service to the nation by members of this group. However, it is felt that instituting this privilege for this group would lead to similar requests by other worthy groups and result in the legislature having to choose on the relative worthiness of various groups. Vote 12-1.

Rep. Bergevin spoke against and yielded to questions.

Rep. Tilton spoke in favor and yielded to questions.

Rep. Graham spoke in favor.

Adopted.

RESOLUTION

Rep. Bettencourt offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, February 2, 2011 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 88, relative to liquor enforcement and liquor licensing.

HB 92, relative to expiration of licenses issued by the board of foresters.

HB 119, relative to agency membership on the information technology council.

HB 32, relative to statutory references to the choice and duties of town auditors.

HB 77, relative to amendments to warrant articles.

HB 91, relative to the reporting by state agencies with capital budget projects to the capital budget overview committee.

UNANIMOUS CONSENT

Reps. Haefner and John O'Connor addressed the House.

MOTION TO PRINT REMARKS

Rep. Lynne Ober moved that the remarks made by Rep. Haefner be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. Haefner: Thank you, Mister Speaker. Mister Speaker, fellow members, I rise on behalf of the Committee on Environment and Agriculture with a solemn message. We have lost one of our own. The Honorable Peter Allen, 76, died on Nov. 15, 2010, near his home in the woods that he loved. Peter attended every study committee meeting over the summer and this past fall and then did not run for re-election and died shortly thereafter. He was born July 8, 1934, in Newton, Massachusetts. He graduated from Keene High School and got his bachelor's degree from the University of New Hampshire. Peter later got his master's degree and PhD from Duke University. Peter thought of himself as a forester. He often recounted the purchase of forestland that he made when he was in high school. He had a bit of money left from a summer job and used that to buy some land and he owned that until the day he died. He would often speak very favorably of that land and he put it into a permanent conservation easement. Not surprisingly, Peter chose a career as a forester. He worked as a research forest ecologist for the U.S. Forest Service. He was also an assistant professor at the University of New Hampshire; a State Research Forester for the state's Division of Forests and Lands; and an ecologist with the state's Water Supply and Pollution Control Division. He managed lots of woodland in Harrisville and Nelson as sustainable sources of timber. Peter devoted much of his life to public service as the Chairman of the Kearsarge Regional School Board; Town Moderator in Wilnot; and State Senator, District 7, from 1978 until 1980. He volunteered for numerous environmental and wildlife protection services and organizations. He was a member of the Keene Unitarian Universalist Church. He loved reading, writing, spending time with his grandchildren and being outdoors. He enjoyed playing and watching sports, sailing and camping with his family. Dr. Allen not only served in this House for fourteen years, he was also elected to the State Senate in 1978 where he served just one term. He was a strong advocate for campaign finance reform, standing with Grannie D for her run for U.S. Congress. As part of this campaign, Peter knocked on every single door in his district. His determination and stamina were a big commitment to him. Peter was a staunch environmentalist, and while serving on the Environment and Agriculture Committee, he championed many causes to protect and defend our natural resources. Most of you who are returning members will remember Peter as a slim man, often with a green jacket, standing here at this podium on the floor of this House, stating that New Hampshire was the 8th richest state in the country, but 44th in taking care of its poor, and then would advocate for an income tax. Peter was consistent. For 30 years he supported a broad based tax. If you like the pumpkin as our state fruit, then you should know that Peter was the prime sponsor of that bill suggested by the 4th graders in his town. I will miss Peter and his sage advice to us. Thank you.

MOTION TO PRINT REMARKS

Rep. Sapareto moved that the remarks made by Rep. John O'Connor be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. John O'Connor: Mister Speaker, fellow Representatives and can I have the Derry delegation join me at the podium, please? I stand before you, saddened to report that Lance Corporal Michael E. Geary of Fox Company II, Battalion 9th Marines, paid the ultimate sacrifice while conducting combat operations in Helmand Province, Afghanistan on December 8, 2010. Michael Geary, the son of Nancy and Tim Geary, was born in Malden, Massachusetts on August 6, 1990. At the age of 9, Michael, his mother and his recently deceased grandmother, Louise Buiting, moved to Derry, New Hampshire where Michael eventually attended Pinkerton Academy. At the age of 14, Michael decided he wanted to be a Marine. He became active in a variety of sports, obtaining his black belt in karate and later participating in mixed martial arts competitions. At Pinkerton, Michael also played varsity football. For hobbies, he enjoyed target shooting, running, airsoft and paintball games as well as playing football with his friends. Michael longed to join the Marines throughout his high school career, even writing his senior essay on the topic of what it takes to become a Marine and the honor of being a Marine. Michael worked hard, both before and after school to build himself into optimum shape in preparation for his enlistment. Michael applied himself with equal diligence to his studies, graduating from Pinkerton Academy in June 2009. After graduating from Pinkerton, Michael fulfilled his life long dream to serve his country in the Marines. Upon completion of his Marine duty, he had plans to become a police officer, reflecting Michael's desire to protect and support others. Michael was a devoted son, a loving older brother and cousin, a fun loving friend and most of all, an exemplary Marine. Michael was a true leader. He never shied away from his exemplary role on the front lines. He would volunteer to take the point so those with family would not have to. His Staff Sergeant stated, "Michael pushed all of us to become better as individuals. I demanded a lot from him, not just what he did for himself, but also to lead the individuals who were not as strong as he was. If it was not for Michael's leadership, some of those guys would not be Marines today." In a closing tribute to Michael, his uncle, Angus Douglas stated, "In all of Michael's attributes, his empathy and love for others are the underpinnings of the life choices Michael made, choices which eventually led to the loss of his own life. Michael will be forever missed by those of us who had the blessing of knowing him for the short few years he lived on this earth." Michael, rest in peace.

MOMENT OF SILENCE

A moment of silence was observed in honor and in memory of all those commemorated in the remarks made during unanimous consent.

RECESS MOTION

Rep. Bettencourt moved that the House stand in recess for the purposes of the introduction of bills and receiving Senate messages.

Adopted.

The House recessed at 10:40 a.m.

RECESS

(Rep. Bates in the Chair)

RESOLUTION

Rep. Jasper offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 645 and 646 shall be by this resolution read a first and second time by the therein listed titles, sent for printing and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 645-FN-A-L, eliminating various taxes and fees and tax and fee increases enacted in fiscal years 2007 through 2010. (Hess, Merr 9; Chandler, Carr 1; Tamburello, Rock 3: Ways and Means)

HB 646-FN-A-L, eliminating various taxes and fees and tax and fee increases enacted in fiscal years 2006 through 2010. (Newton, Straf 1; DeLemus, Straf 1; D. McGuire, Merr 8; Forsythe, Dist 4: Ways and Means)

COMMITTEE ASSIGNMENTS

The Speaker made the following changes to committee assignments:

Rep. Whitehead off the Committee on Constitutional Review and Statutory Recodification; on the Committee on Executive Departments and Administration.

Rep. Paul Brown off the Committee on Executive Departments and Administration; on the Committee on Constitutional Review and Statutory Recodification.

RECESS

(Speaker O'Brien in the Chair)

RESOLUTION

Rep. Bettencourt offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 647 shall be by this resolution read a first and second time by the therein listed title, sent for printing and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 647, relative to withholding of wages. (Daniels, Hills 6: Labor, Industrial and Rehabilitative Services)

RECESS

(Rep. Tucker in the Chair)

RESOLUTION

Rep. Matt Quandt offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk and pursuant to House Rule 35(c), House Resolution numbered 11 shall be by this resolution read a first and second time by the therein listed title.

Adopted.

INTRODUCTION OF HOUSE RESOLUTION

First, second reading

HR 11, affirming revenue estimates for fiscal years 2011, 2012, and 2013. (Bettencourt, Rock 4; Stepanek, Hills 6; Weyler, Rock 8)

SENATE MESSAGE

CONCURRENCE

HB 77, relative to amendments to warrant articles.

RECESS

(Rep. Silva in the Chair)
ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 77.

Rep. Cunningham, Sen. Bradley for the Committee

RECESS

(Rep. Daugherty in the Chair)

RESOLUTION

Rep. Matt Quandt offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 19, 26 and 31 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 BILL

First, second reading and referral

SB 19, relative to the definition of “prime wetlands.” (Resources, Recreation and Development)

SB 26, establishing a committee to study the classification of motor vehicles.
(Transportation)

SB 31, relative to revocation or denial of a driver’s license for drug or alcohol involvement by persons under 21 years of age. (Transportation)

RECESS