

# Committee Report

**CONSENT CALENDAR**

**January 28, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Municipal and County Government to  
which was referred HB 146,**

**AN ACT relative to the counting of defective ballots.**

**Having considered the same, report the same with the  
following amendment, and the recommendation that the  
bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. James Belanger**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	Municipal and County Government
Bill Number:	HB 146
Title:	relative to the counting of defective ballots.
Date:	January 28, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2019-0049h

### STATEMENT OF INTENT

This bill is a companion bill to HB 145. Everyone is aware that a moderator conducting an official meeting makes rules for the conduct of the meeting. All also know that these rules are subject to being over-ruled by the legislative body. However, when it comes to counting votes in a recount or regular count, the state statutes are clear that voter intent is primary and cannot be disregarded. The legislative body has no authority to over-rule the moderator in a decision on the results of a recount of a secret ballot vote. Legislative bodies have no authority to amend or modify state law and this bill simply makes that clear. The amendment, 2019-0049h simply corrects a referral in the bill where it mentioned the wrong statute. An OTPA vote is in order on this bill.

Vote 19-0.

Rep. James Belanger  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Municipal and County Government

**HB 146**, relative to the counting of defective ballots. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James Belanger for Municipal and County Government. This bill is a companion bill to HB 145. Everyone is aware that a moderator conducting an official meeting makes rules for the conduct of the meeting. All also know that these rules are subject to being over-ruled by the legislative body. However, when it comes to counting votes in a recount or regular count, the state statutes are clear that voter intent is primary and cannot be disregarded. The legislative body has no authority to over-rule the moderator in a decision on the results of a recount of a secret ballot vote. Legislative bodies have no authority to amend or modify state law and this bill simply makes that clear. The amendment, 2019-0049h simply corrects a referral in the bill where it mentioned the wrong statute. An OTPA vote is in order on this bill. **Vote 19-0.**

Original: House Clerk  
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HB 146

OTP/A

2019-0049h

This bill is a companion bill to HB 145. Everyone is aware that a moderator conducting an official meeting makes rules for the conduct of the meeting. All also know that these rules are subject to being over-ruled by the legislative body. However, when it comes to counting votes in a recount or regular count, the state statutes are clear that voter intent is primary and cannot be disregarded. The legislative body has no authority to over-rule the moderator in a decision on the results of a recount of a secret ballot vote. Legislative bodies have no authority to amend or modify state law and this bill simply makes that clear. The amendment simply corrects a referral in the bill where it mentioned the wrong statute. Amendment 2019-0049h corrects that. An OTP vote is in order on this bill.

Jim Belanger

# COMMITTEE REPORT

COMMITTEE: Mani + County Govt

BILL NUMBER: HB146

TITLE: relative to counting of defective ballots

DATE: 1/23/19 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
0049 h

## STATEMENT OF INTENT:

HB 146 OTP Blurb

OTPA

This bill is a companion bill to HB 145. Everyone is aware that a moderator conducting an official meeting makes rules for the conduct of the meeting. All also know that these rules are subject to being over-ruled by the legislative body. However, when it comes to counting votes in a recount or regular count, the state statutes are clear that voter intent is primary and cannot be disregarded. The legislative body has no authority to over-rule the moderator in a decision on the results of a recount of a secret ballot vote. Legislative bodies have not authority to amend or modify state law and this bill simply makes that clear. The amendment simply corrects a referral in the bill where it mentioned the wrong statute. Amendment 2019-0049h corrects that. An OTP vote is in order on this bill.

COMMITTEE VOTE: 19-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Jim Belanger  
For the Committee

Rep. Belanger, Hills. 27  
January 18, 2019  
2019-0049h  
11/04

Amendment to HB 146

1 Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4  
2 to read as 4-5, respectively:

3

4 3 Government of Town Meeting; Conduct of Voting; Declaration of Results. Amend RSA 40:4-d  
5 to read as follows:

6 40:4-d Declaration of Results. If, in the case of a recount of votes, it shall appear that the result  
7 of the vote on the question was other than as declared by the moderator, the board of recount shall  
8 declare the result found by it and shall, after [5] 10 days from such declaration, if no appeal is taken  
9 to the superior court, certify such declaration to the town clerk and said declaration shall be final,  
10 unless the result is changed upon appeal to the superior court.

# Voting Sheets



HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 146

**BILL TITLE:** relative to the counting of defective ballots.

**DATE:** January 23, 2019

**LOB ROOM:** 301

**MOTIONS:** OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Belanger                      Seconded by Rep. Carson                      AM Vote: 19-0

Amendment # 2019-0049h

Moved by Rep. Belanger                      Seconded by Rep. Tatro                      Vote: 19-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

  
Rep Timothy Josephson, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 146

BILL TITLE: relative to the counting of defective ballots.

DATE: January 23, 2019

LOB ROOM: 301

MOTION: (Please check one box)

OTP  ITL  Retain (1st year)  Adoption of Amendment # 0049h (if offered)
Moved by Rep. Belanger Secoded by Rep. Carson Vote: 19-0

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # (if offered)
Moved by Rep. Belanger Secoded by Rep. Intro Vote: 19-0

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # (if offered)
Moved by Rep. Secoded by Rep. Vote:

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # (if offered)
Moved by Rep. Secoded by Rep. Vote:

CONSENT CALENDAR: X YES NO

Minority Report? Yes No If yes, author, Rep: Motion

Respectfully submitted: [Signature] Rep Timothy Josephson, Clerk



2019 SESSION

Municipal and County Government

Bill #: AB146 Motion: OTP Amendment AM #: 0049h Exec Session Date: 1/23/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Carson, Clyde J. Chairman	19		
Tatro, Bruce L. Vice Chairman	1		
Porter, Marjorie A.	2		
Treleaven, Susan GS	3		
Gilman, Julie D.	4		
Josephson, Timothy Clerk	5		
Meador, David R.	6		
Dargie, Paul P.	7		
Maggiore, Jim V.	8		
Mombourquette, Donna M.	9		
Stavis, Laurel	10		
Belanger, James P.	11		
Migliore, Vincent Paul	12		
Abramson, Max	13		
Dolan, Tom			
Kittredge, Derek MacMillen	14		
MacDonald, John T.	15		
Perreault, Mona	16		
Piemonte, Tony	17		
Pratt, Kevin M.	18		
<b>TOTAL VOTE:</b>	<b>19 - 0</b>		



2019 SESSION

Municipal and County Government

Bill #: HB 146 Motion: OTP - A AM #: \_\_\_\_\_ Exec Session Date: 1/23/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Carson, Clyde J. Chairman	19		
Tatro, Bruce L. Vice Chairman	1		
Porter, Marjorie A.	2		
Treleven, Susan GS	3		
Gilman, Julie D.	4		
Josephson, Timothy Clerk	5		
Meador, David R.	6		
Dargie, Paul P.	7		
Maggiore, Jim V.	8		
Mombourquette, Donna M.	9		
Stavis, Laurel	10		
Belanger, James P.	11		
Migliore, Vincent Paul	12		
Abramson, Max	13		
Dolan, Tom			
Kittredge, Derek MacMillen	14		
MacDonald, John T.	15		
Perreault, Mona	16		
Piemonte, Tony	17		
Pratt, Kevin M.	18		
<b>TOTAL VOTE:</b>	<u>19 - 0</u>		

Rep. Belanger, Hills. 27  
January 18, 2019  
2019-0049h  
11/04

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8 declare the result found by it and shall, after [5] 10 days from such declaration, if no appeal is taken  
9 to the superior court, certify such declaration to the town clerk and said declaration shall be final,  
10 unless the result is changed upon appeal to the superior court.

# Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 146

**BILL TITLE:** relative to the counting of defective ballots.

**DATE:** January 16, 2019

**LOB ROOM:** 301

**Time Public Hearing Called to Order:** 11:20 a.m.

**Time Adjourned:** 11:26 a.m.

**Committee Members:** Reps. Carson, Tatro, Josephson, Porter, Treleaven, Gilman, Meader, Dargie, Maggiore, Mombourquette, Stavis, Belanger, Migliore, Abramson, Dolan, Kittredge, MacDonald, Perreault, Piemonte and Pratt

**Bill Sponsors:**

Rep. Belanger

Rep. Beaulieu

Sen. Gray

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**1. Rep Belanger (Hills 27) - Prime Sponsor**

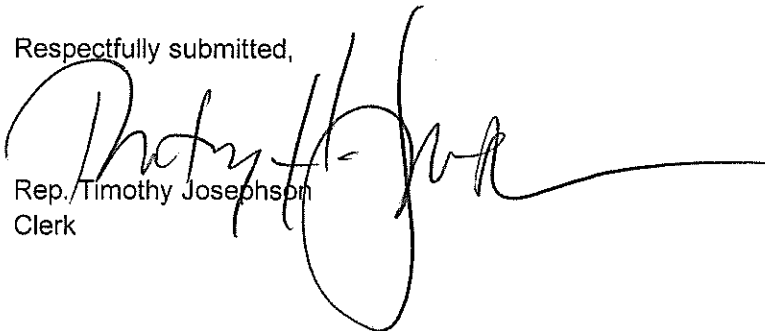
- a. Would provide for inspection of ballots marked as defective -- you must look at them and determine intent, iff possible
- b. Also added an amendment that would extend appeal on recount in town elections to 10 days (to fix a different bill he filed)
- c. Requesting chair to appoint a subcommittee on this bill in order to combine amendment and bill in order to get a clean bill in exec session
- d. Q - Porter: are you talking about torn ballots? (any ballot that's spoiled) what else is considered spoiled? (up to the people counting ballots)

**2. Cordell Johnston, NHMA**

- a. No concern about what Rep Belanger wants to do, but the amendment deals with the appeal period and says within 10 days in RSA 40:4c but there's a separate section 40:4d that sets appeal period at 5 days. Should have changed 40:4d from 5 to 10 days. Either that or repeal 40:4d. Technical issue
- b. Q - Tatro: How does that fit in with for example, state elections are on tuesday and recount request must be by Friday, will this affect that? (this deals with the period AFTER the recount. The appeal of the recount not the initial request for the recount)

Respectfully submitted,

Rep. Timothy Josephson  
Clerk







HB146 - relative to the counting of defective ballots

1. Rep Belanger (Hills 27) - Prime Sponsor
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  - b. Q - Tatro: How does that fit in with for example, state elections are on tuesday and recount request must be by Friday, will this affect that? (this deals with the period AFTER the recount. The appeal of the recount not the initial request for the recount)



Bill as  
Introduced

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HB 146 - AS INTRODUCED

2019 SESSION

19-0081  
11/05

HOUSE BILL            **146**

AN ACT                relative to the counting of defective ballots.

SPONSORS:            Rep. Belanger, Hills. 27; Rep. Beaulieu, Hills. 45; Sen. Gray, Dist 6

COMMITTEE:          Municipal and County Government

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ANALYSIS

This bill modifies recount procedures for towns and village districts.

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Explanation:        Matter added to current law appears in *bold italics*.  
                         Matter removed from current law appears [~~in brackets and struckthrough~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                   relative to the counting of defective ballots.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Subparagraph; Government of Town Meeting; Conduct of Voting; Secret Ballot  
2 Recounts. Amend RSA 40:4-a, II by inserting after subparagraph (b) the following new  
3 subparagraph:

4                   (c) Prior to conducting any recount pursuant to this section, the moderator shall  
5 visually inspect all ballots to identify any that are marked in a way which does not readily admit of  
6 counting or that contain any immaterial addition, omission, or irregularity in the preparation or  
7 execution of the ballot. Any such ballot shall not be excluded from the recount if the intent of the  
8 voter can be readily ascertained by the moderator.

9           2 Government of Town Meeting; Conduct of Voting; Recount. Amend RSA 40:4-c, II to read as  
10 follows:

11                   II. The recount shall be held at the time and place appointed, and the ballots shall be  
12 recounted by the board of recount in accordance with the procedures for recounts of town elections  
13 under RSA 669:30-33[-], *except that prior to recounting cast ballots, the moderator shall*  
14 *visually inspect all ballots to identify any that are marked in a way which does not readily*  
15 *admit of counting or that contain any immaterial addition, omission, or irregularity in*  
16 *the preparation or execution of the ballot. Any such ballot shall not be excluded from the*  
17 *recount if the intent of the voter can be readily ascertained by the moderator.*

18           3 Village Districts; Voting at District Meetings. Amend RSA 52:11-a to read as follows:

19                   52:11-a Voting at District Meetings. Votes at district meetings shall be conducted according to  
20 the procedures established for town meetings in RSA 40:4-a[-4-b<sub>7</sub>] *through 4-f* and 6.

21           4 Effective Date. This act shall take effect 60 days after its passage.