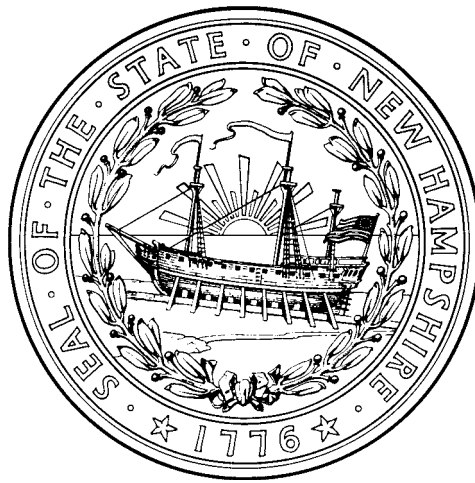


January 19, 2011  
Nos. 2-3

# STATE OF NEW HAMPSHIRE

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**162<sup>nd</sup> Session of the New Hampshire General Court**  
**Legislative Proceedings**

## SENATE JOURNAL

**ADJOURNMENT – JANUARY 6, 2011 SESSION**  
**COMMENCEMENT – JANUARY 19, 2011 SESSION**

# SENATE JOURNAL 2 *(continued)*

*January 6, 2011*

## INTRODUCTION OF SENATE BILLS

Sen. Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following Senate legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

**Adopted.**

## First and Second Reading and Referral

11-0947

**CACR 5**, Relating to: the governor's power to reduce appropriations. providing that: the governor shall have line item reduction power of items in any bill making appropriations of money. (Sen. Morse, Dist 22: Internal Affairs)

11-0195

**SB 24-FN-LOCAL**, exempting the Unity school district from the moratorium on school building aid. (Odell, Dist 8; Kelly, Dist 10; Larsen, Dist 15; Stiles, Dist 24; Cloutier, Sull 4; Gagnon, Sull 4; Osgood, Sull 4; Lovett, Sull 4; LaCasse, Sull 4: Education)

11-0198

**SB 25**, relative to the Connecticut River Valley resource commission. (Odell, Dist 8; Gallus, Dist 1; Kelly, Dist 10; Houde, Dist 5; Foose, Merr 1; Lovett, Sull 4; R. Moore, Ches 1; Laware, Sull 5; Cunningham, Sull 2: Executive Departments and Administration)

11-0423

**SB 26**, establishing a committee to study the classification of motor vehicles. (Carson, Dist 14; Rausch, Dist 19; Boutin, Dist 16; Packard, Rock 3; Hikel, Hills 7: Transportation)

11-0918

**SB 28**, establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions. (Boutin, Dist 16; Bradley, Dist 3; Sanborn, Dist 7; De Blois, Dist 18; Gallus, Dist 1; Hunt, Ches 7; Dowling, Rock 5; Warden, Hills 7: Commerce)

11-0934

**SB 29**, relative to the definition of "moped." (Rausch, Dist 19; Packard, Rock 3; Waterhouse, Rock 4: Transportation)

11-0949

**SB 30**, relative to including a parent's residence in the parenting plan. (Boutin, Dist 16; De Blois, Dist 18; D'Allesandro, Dist 20; Kotowski, Merr 9; Duarte, Rock 1; T. Smith, Merr 9: Judiciary)

11-0954

**SB 31**, relative to revocation or denial of a driver's license for drug or alcohol involvement by persons under 21 years of age. (Houde, Dist 5; Sorg, Graf 3: Transportation)

11-0984

**SB 32**, relative to water withdrawals for snow making. (Gallus, Dist 1: Energy and Natural Resources)

**Out of Recess.**

## MOTION TO ADJOURN FROM LATE SESSION

Sen. Bradley moved that the Senate adjourn from the Late Session.

**Adopted.**

**Adjournment from the Late Session.**

# SENATE JOURNAL 3

*January 19, 2011*

The Senate reconvened at 1 p.m., a quorum being present.

Sen. Forsythe led the Pledge of Allegiance.

Senator Prescott offered the following meditation and prayer:

*Dear Lord, we come before you today knowing that we have the business of the State at hand. We want to have you on our mind as we do go through this procedure, and we are working for the benefit of the people. And, we pray this in Your Lord, Jesus' name.* *Amen*

## INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Merrill introduced Landon Kowalszyk, an intern with Conservation New Hampshire.

Sen. Odell introduced Mark Kaplan, longtime friend and Selectman in the Town of New London, New Hampshire.

## FINANCE REPORT

Sen. Morse reported that SB 1-FN will not go to Finance Committee.

## COMMITTEE REPORTS

**SB 1-FN**, eliminating the automatic continuation requirement for public employee collective bargaining agreements. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-1. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 1-FN.**

**A roll call was requested by Sen. Odell, seconded by Sen. Barnes.**

**The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, Odell, White, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.**

**The following Senators voted No: Houde, Kelly, Larsen, D'Allesandro, Merrill.**

**Yeas: 19 – Nays: 5**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**SB 11-L**, relative to the police commission in the town of Hooksett. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Boutin for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 11-L.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**SB 15**, relative to the duties of tax collectors and clerks. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Forrester for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on SB 15.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**SB 16**, relative to amendments to warrant articles. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

**Public and Municipal Affairs**

**January 12, 2011**

**2011-0014s**

**06/09**

## Amendment to SB 16

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.

**The question is on the adoption of Committee Amendment 0014s.**

**Committee Amendment 0014s adopted.**

**The question is on the motion of Ought to Pass as Amended on SB 16.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

#### **MOTION TO VACATE**

Sen. Bradley moved to vacate SB 17 from Health and Human Services Committee to Judiciary Committee.

**SB 17**, relative to evidence of admissions in medical injury actions.

**Adopted.**

**SB 17 vacated to Judiciary Committee.**

#### **AMENDMENTS TO SENATE RULES**

Sen. Bradley moved to amend the Senate Rules.

##### **Amendment to Senate Rule 4-1**

Amend Senate Rule 4-1 by replacing with the following:

##### **4-1 Public hearings to be held and advertised.**

A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least 4 days before hearing in the Senate Calendar. The Senate Calendar shall be available on the Internet for viewing as soon as it has been released for printing.

(a) All bills in the possession of committees shall be reported out with one of the following recommendations: ought to pass, ought to pass with amendment, rerefer to committee, inexpedient to legislate, or refer for interim study. Re-refer to committee shall be a committee report only in the first year session. All rereferred bills shall be acted on by the fourth legislative day of the second year session. Refer for interim study shall be a committee report only in the second year session. In the event a committee is unable to reach a majority vote in favor of any recommendation, the bill shall be reported out of committee with a recommendation of inexpedient to legislate.

(b) Any legislation creating a chapter study committee shall have membership limited to members of the General Court.

##### **Amendment to Senate Rule 4**

Amend Senate Rule 4 by inserting 4-8:

##### **4-8 Consent Calendar.**

Beginning January 1, 2012, the Senate Calendar may have a Consent Calendar section containing reports on bills and resolutions believed to be non-controversial. No bill or resolution shall appear on the Consent Calendar unless all of the following conditions are met:

(a) All members of the committee to which the bill or resolution was referred vote in favor of the final committee recommendation in executive session.

(b) All members of the committee to which the bill or resolution was referred vote in favor of placing it on the Consent Calendar.

(c) The bill or resolution, if recommended for passage, does not appropriate money and is not accompanied by a fiscal note, pursuant to RSA 14:44.

(d) A short explanation of the committee's recommendation, approved by the chairperson of the committee appears with the bill or resolution in the Consent Calendar.

Any member may request removal of any bill or resolution listed on the Consent Calendar. Any item removed from the Consent Calendar shall be taken up at the conclusion of the Regular Calendar. All items remaining on the Consent Calendar shall be acted upon without debate.

The following shall not appear on a Consent Calendar: Committee of Conference reports and Constitutional Amendment Concurrent Resolutions.

Notwithstanding Senate Rule 2-14, this rule may be rescinded by a majority vote after two days' notice of the motion to rescind.

## PART FIVE COMMITTEES OF CONFERENCE

### Amendment to Senate Rule 5

Amend Senate Rule 5 by replacing with the following:

#### **5-1 Formation of Committees of Conference.**

~~Committees of Conference:~~

(a) Whenever there ~~be~~ is any disagreement between the Senate and the House on the content of any bill or resolution, and whenever both bodies, voting separately, have agreed to establish a committee of conference, the President of the Senate shall appoint three members to the Senate committee of conference on the bill or resolution ~~committee on the bill~~ and the Speaker of the House shall appoint four members to the House committee of conference ~~committee~~. Exceptions: (1) the House committee of conference on the operating budget shall consist of five members; (2) the number of ~~the~~ members of ~~the~~ any committees of conference ~~on any bill~~ may increase or decrease if the President and the Speaker both agree.

#### **5-2 Operation of Committees of Conference.**

The two committees of conference on a bill or resolution shall meet jointly but vote separately while in conference. A unanimous vote by both committees of conference shall be necessary for an agreed report to the Senate and the House by the committees of conference.

~~(b) The first-named person from the body where the bill or resolution in disagreement originated shall have the authority to call the time and place for the first meeting of the committees of conference on said bill.~~

#### **5-3 Chairperson of Committees of Conference.**

~~(c) The first-named person on a Senate committee of conference shall be the chairman of that conference chair the committee. The chairman of the committee of conference of the body where the bill or resolution in disagreement originated shall chair the joint meeting of the committees of conference and shall have the authority to call the time and place for their first meeting.~~

#### **5-4 Action on Committees of Conference Reports.**

~~(d) No action shall be taken in either body by the Senate on any committee of conference report earlier than some subsequent day to the filing of the report, and after the report has been delivered to the seats or placed on a member's desk.~~

#### **5-5 Non-Germane Amendments Prohibited.**

A committee of conference may neither change the title of ~~any bill submitted to it~~ nor add any non-germane amendments to ~~which are not germane to the subject matter of the bill or resolution as originally submitted to it~~. For the purpose of this rule, a non-germane amendment is an amendment containing any subject matter not contained in either the House or Senate version of the bill.

#### **5-6 Committees of Conference on Budget Bills.**

~~(e) Conference Committees on Budget Bills.~~ The report of ~~each~~ the committee of conference on either the general appropriation bill or the capital improvements bill shall be printed in the journal or a supplement thereto ~~of the appropriate body~~ before action on said report is taken on the floor. Non-germane amendments, sections and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under

any circumstances. Notwithstanding the general provisions of paragraph ~~(h)~~ 5-9 of this section, the Conference Committee on general appropriations bill may propose new items for inclusion in said bill but no such item may be so included unless and until it shall have been returned to both the Senate and the House and adopted in identical form by a majority vote in each body.

#### **5-7 Committees of Conference on CACRs.**

~~(f)~~ When both committees of conference on a concurrent resolution proposing an amendment to the constitution have agreed, the committee of conference from the body which acceded to a request for committees of conference shall file its report with the clerk of that body who shall print it in full in the journal or supplement of that body. The report shall be made a special order of business at the late session of a subsequent day. After said report has been adopted by the first body, a message shall be transmitted to the second body which shall then act upon the report of its committee of conference.

#### **5-8 Bill Sponsor Granted a Hearing.**

~~(g)~~ The prime sponsor of any bill or joint resolution referred to committees of conference shall, upon his or her request, be granted a hearing before said committees prior to action thereon.

#### **5-9 Prohibitions.**

~~(h)~~ No member of a committee of conference shall sign any report that contains non-germane amendments or subject matter that has been indefinitely postponed in either body. For the purposes of this rule, a non-germane amendment would be any subject matter not contained in either the House or the Senate version of the bill.

**Recess. Out of recess.**

**Sen. D'Allesandro moved to divide the question.**

**The Chair ruled the question divisible.**

**The question is on the motion to amend Senate Rules 4-1 and 5-1 through 5-9.**

**Adopted.**

**The question is on the motion to amend Senate Rule 4 by inserting Senate Rule 4-8.**

**Adopted.**

### **MOTION TO ADJOURN FROM EARLY SESSION**

Sen. Bradley moved that the Senate 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.**

**Adjournment from the Early Session.**

### **LATE SESSION**

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

**SB 1-FN**, eliminating the automatic continuation requirement for public employee collective bargaining agreements.

**SB 11-L**, relative to the police commission in the town of Hooksett.

**SB 15**, relative to the duties of tax collectors and clerks.

**SB 16**, relative to amendments to warrant articles.

### **ANNOUNCEMENTS**

#### **Rule 2-17 Tribute to Lance Corporal Michael Geary**

SENATOR RAUSCH: Thank you, Mister President. On December 8, 2010, Lance Corporal Michael Geary was killed in combat while serving with Fox Company in Helmand Province, Afghanistan. I would like to take this opportunity to honor Michael.

I want to start by offering my deepest condolences to his family for their terrible loss. Michael Geary was only 20 years old, and a 2009 graduate of Pinkerton Academy. He had determined when he was 14 years of age that he wanted to be a Marine. Through hard work, dedication, and determination, he made his dream come true. He believed in serving his country.

Not all of us had the honor of knowing Michael personally, but by all accounts, he was a good son, a true friend, and a man who was dedicated to the U.S. Marine Corps. His death is a loss to all of us, especially to those in the community of Derry who knew him well.

Michael Geary made the ultimate sacrifice defending his country; we must never take this sacrifice for granted. I want to tell his family that their son will not be forgotten, not by the Town of Derry, and not by the State of New Hampshire.

Thank you, Lance Corporal Michael Geary. You are a New Hampshire hero.

**Without objection President Bragdon moved that all Rule 2-17's shall be entered into the permanent *Journal of the Senate*.**

#### **MOTION TO RECESS TO CALL OF THE CHAIR**

Sen. Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and when we recess, we recess to the call of the Chair.

**Adopted.**

**The Senate is in recess to the Call of the Chair.**