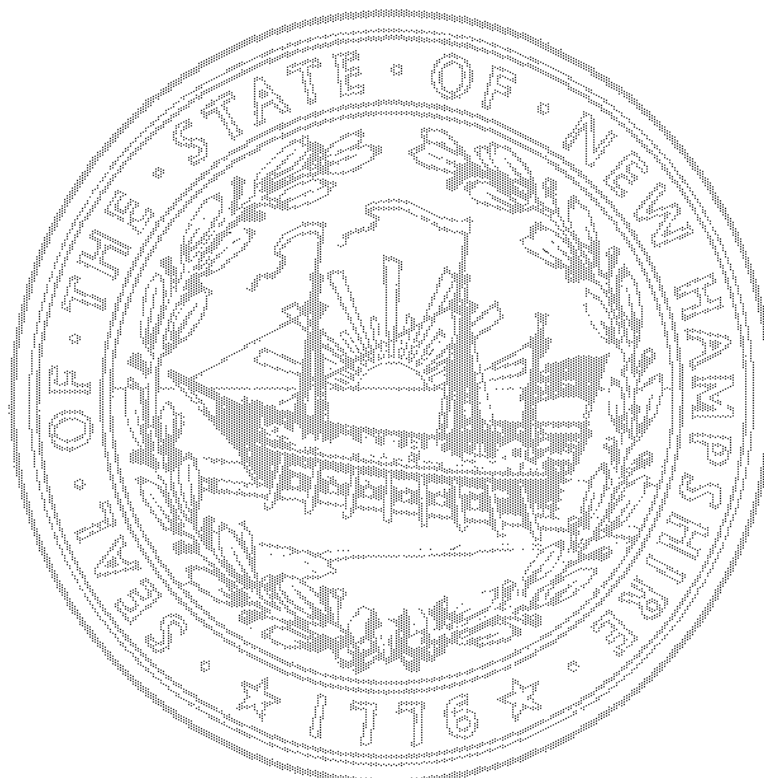


September 24, 2008
Nos. 23 - 24

STATE OF NEW HAMPSHIRE

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160TH SESSION OF THE NEW HAMPSHIRE GENERAL COURT

LEGISLATIVE PROCEEDINGS

SENATE JOURNAL

**ADJOURNMENT – JUNE 5, 2008 SESSION
COMMENCEMENT – SEPTEMBER 24, 2008 SESSION**

SENATE

JOURNAL 23 (CONTINUED)

June 5, 2008

Out of Recess.

LATE SESSION

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

Motion adopted.

Senate adjourned from the Late Session.

SENATE

JOURNAL 24

September 24, 2008

The Senate reconvened at 11 a.m., a quorum being present.

The Rev. Charles H. Clark, guest chaplain, offered the prayer:

Thank you, Madam President, Senators. It's a great privilege and honor to be with you this morning, and I pray -- I presume to pray as one of you this morning. Let us pray:

Almighty God, our heavenly Father, Sovereign, Ruler of all nations and all peoples: Look down upon the Senators of New Hampshire gathered on this beautiful autumn morning to consider important matters at stake. We give You thanks, as always, for the blessings of our freedom and democracy, and the privilege of sharing the great calling and welcomed opportunity to serve our fellow citizens. Help us this day in careful deliberation to fulfill the trust of those who we represent. Guide us with Your Spirit of wisdom, charity and justice. Keep us mindful of the needs of all the people of this Granite State. And help us to make decisions that will benefit their future, preserve their health, guard their freedom, and protect them from every wrong and evil thing. And above all else, give us a sense of Your abiding presence, Your providential care, and the awareness that we are fulfilling Your gracious will for the well-being of all souls and the preservation of justice and peace in our state, our nation, and throughout the world. In all this, we ask for Your loved sake.

Amen

Sen. Gallus led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Amanda Jurta, Senate Secretary, soon leaving for Australia, was recognized by Sen. Fuller Clark for her appreciated service to the NH Senate this Session.

(The Chair recognized the following Senators to speak to the passing of citizens known to members of the Senate:)

SENATOR D'ALLESANDRO: Thank you, Madam President. Just an announcement to all of my colleagues. Sen. Dan O'Neil, a former member of this body, his mother passed away. Her calling hours, or calling hours for Mrs. O'Neil are this afternoon between 2 and 8 in Manchester. Danny was a terrific representative of the New Hampshire State Senate, and the O'Neil family is certainly very well known in our community. Mrs. O'Neil was 80 years of age. So those of you who would like to pay your respects, it's between 2 and 8 in Manchester. Thank you, Madam President.

SENATOR KELLY: And I would ask that as well, take a moment to remember Rep. Irene Pratt, who I believe served almost 16 years in the House. She lived and resided in Winchester, New Hampshire, so she represented the people very close to my heart, and I know that she will be very missed by all those in the community as well as her family. The calling hours are tomorrow evening in Jaffrey at 7, and the funeral is in Winchester 11 o'clock Friday morning. Thank you.

SENATOR BURLING: I would like to rise, for those of us who had the privilege of working with Irene, it is wonderful that this is a year in which attention is paid to so many women in politics. Irene Pratt was the "real deal." She came to the House a quiet-spoken, determined, thoughtful, heart-as-big-as-the-world kind of person, and she gave 16 years to the well-being of the State of New Hampshire and to her citizens. There was never a time in which Irene Pratt did not have something profoundly wise to tell us; there was never a time when her voice was not a wise and helpful light in some of the difficult problems we faced. My particular memory of Irene is after her husband Phil suffered a medical situation which made it very difficult for him to stay home, and if you can imagine on the coldest days, Irene and Phil would wheel into the House and make their way to her committee room, and together they would sit and bear witness and participate in all the doings that this Legislature pursues, always with good will, always with a smile and a joke. For those of us who had a chance to work with her, you know, to describe how much her spirit will be missed is a fruitless task. She was a superb legislator, a great citizen, and a good friend.

(Sen. DeVries requested the remarks of Sen. Burling and Sen. Kelly be entered into the permanent Journal.)

President Larsen, without objection, declared the remarks relative to Rep. Pratt would be entered into the permanent Journal.

PRESIDENT LARSEN: I also want to take a moment to pause and remember a young life that was tragically cut short by cancer last week. Some of you have met Samantha Rotman, better known as "Sammy." She died last week after a two-year battle with osteosarcoma. She was only nine years old and dearly loved by her parents, siblings, and many of us and the others who came to know her. Most of us have already signed a letter of condolence we are sending to her parents, but I wanted to put this on the Senate Record.

We were deeply saddened to learn of Sammy's passing, but we take inspiration from her courage in the face of adversity. It's clear Sammy never lost her ability to care for others even as she battled against cancer. We have, as testimony to that caring, one of the paintings she donated that was auctioned off to benefit the Children's Hospital at Dartmouth. We brought it down to the Senate Floor today, and I invite you to take a moment to look at it and the happy colors that are there. We keep it in a place of honor at the entrance to the Senate President's third-floor offices where it can be seen by anyone who speaks with our receptionist. We want to take this moment to honor Sammy's life today. But Sammy's parents also deserve to be honored for all the love and caring they gave to her during her life and passing. Sammy's spirit lives on in the memory of all who knew her. We send our love and support to her family as they struggle with this terrible loss.

A further announcement: there will be a celebration of her life held this Sunday, September 28th, at 2 p.m., at the Capital Center for the Arts down on 44 South Main Street in Concord. So that's 2 p.m. on Sunday, the 28th. Memorial donations can be made to the Cure for Cancer Foundation [sic], and we have that address for anyone who wishes to make a memorial contribution. [CureSearch National Childhood Cancer Foundation, Development Office, P.O. Box 30375, Bethesda, Maryland, 20824-9906] So we wanted to take this moment to recognize Sammy and all of her courage and inspiration she meant to all of us.

Recess/Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 1653-FN-A-L, relative to providing additional fuel assistance and enhanced weatherization services to income eligible New Hampshire citizens and state matching funds for July - September 2008 disaster assistance grants, and making an appropriation therefor.

SUSPENSION OF RULES

Sen. Foster moved that the Rules of the New Hampshire Senate be so far suspended as to allow introduction and consideration at the present time, and if adopted, to permit Third Reading and final passage of House Bill 1653-FN-A-L.

The question is on the motion to suspend Rules to allow for consideration of HB 1653-FN-A-L.

Motion to Suspend Rules adopted by unanimous vote.

INTRODUCTION OF HOUSE BILL

HB 1653-FN-A-L, relative to providing additional fuel assistance and enhanced weatherization services to income eligible New Hampshire citizens and state matching funds for July - September 2008 disaster assistance grants, and making an appropriation therefor.

Sen. Foster moved ought to pass on House Bill 1653-FN-A-L.

Sen. Gatsas offered an amendment.

Sen. Gatsas, Dist. 16
 Sen. Barnes, Dist. 17
 Sen. Roberge, Dist. 9
 Sen. Letourneau, Dist. 19
 Sen. Gallus, Dist. 1
 Sen. Clegg, Dist. 14
 Sen. Kenney, Dist. 3
 September 24, 2008
 2008-2203s
 10/04

Floor Amendment to HB 1653-FN-A-LOCAL

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

1 Findings. The general court finds that the escalating costs of fuel and the tightening of energy supplies has led to significantly higher and more volatile home heating and electricity prices, requiring action by the state in advance of the 2008-2009 winter to provide additional fuel assistance and enhanced weatherization services to income-eligible New Hampshire citizens.

2 Appropriations; Office of Energy and Planning; Fuel Assistance Programs.

I. The sum of \$10,000,000 for the fiscal year ending June 30, 2009 is hereby appropriated to the office of energy and planning for the state's fuel assistance program. This appropriation is in addition to any other funds appropriated to the office of energy and planning. Notwithstanding the provisions of RSA 9:13-e, this appropriation shall be a charge on the revenue stabilization reserve account. It is the intent of the general court that anticipated federal revenue replace moneys in the revenue stabilization reserve account as the funding source for this appropriation to the extent that federal fuel assistance funding exceeds \$27,500,000 for the fiscal year ending June 30, 2009.

II. The sum of \$9,700,000 for the fiscal year ending June 30, 2009 is hereby appropriated to the office of energy and planning to target fuel assistance to applicants whose income is greater than 60 percent of the state median income amount, but not greater than 75 percent of the state median income amount. This appropriation is in addition to any other funds appropriated to the office of energy and planning. Notwithstanding the provisions of RSA 9:13-e, this appropriation shall be a charge on the revenue stabilization reserve account. Any unexpended funds appropriated in this paragraph shall not lapse to the revenue stabilization reserve account until June 30, 2009.

III. No funds made available by this act shall be used by the office of energy and planning to pay administrative costs. No funds made available in paragraph I of section 2 of this act shall be used by any community action agency to pay administrative costs except those administrative costs associated with providing electric assistance.

3 Appropriation; Office of Energy and Planning; Low Income Weatherization Program.

I. The sum of \$2,000,000 for the fiscal year ending June 30, 2009 is hereby appropriated to the office of energy and planning to accelerate and expand the availability of weatherization services for this upcoming winter. These funds may be used for the state's existing income-eligible weatherization program and for the Stay Warm New Hampshire weatherization initiative. The source of funds for this appropriation shall be a proportionate share of the 2009 commercial and industrial portion of the core energy efficiency programs

being held by the utilities and overseen by the public utilities commission for distribution to the Stay Warm New Hampshire weatherization initiative.

II. The office of energy and planning shall submit by December 1, 2008 and every 60 days thereafter a report on the allocation and use of all federal and state moneys for fuel assistance and weatherization efforts to the speaker of the house of representatives, the senate president, the governor, and the fiscal committee of the general court.

4 Appropriation; State Matching Funds for July-September 2008 Disaster Assistance Grants. In response to tornado and heavy wind damage sustained by communities in July 2008, and the heavy rains and flood damage sustained by communities between July and September 2008, a sum not to exceed \$300,000 is hereby appropriated to the department of safety, division of homeland security and emergency management, as the required state match for federal disaster assistance funds from the Federal Emergency Management Agency (FEMA). Notwithstanding the provisions of RSA 9:13-e, this appropriation shall be a charge on the revenue stabilization reserve account. Any unexpended funds appropriated in this section shall not lapse to the revenue stabilization reserve account until June 30, 2011. The appropriation in this section shall be in addition to any other funds appropriated for such purpose. With prior approval of the fiscal committee of the general court, the department of safety, division of homeland security and emergency management, shall distribute the funds appropriated by this section for payment of claims in the order in which they were filed, to any eligible FEMA applicant that submitted a timely request for such assistance based on the disaster area declaration date. The funds shall be distributed pursuant to the following funding formula: federal funds shall be used for 75 percent of eligible costs and state funds shall be used for the remaining costs, except that the local applicant first shall pay 12.5 percent of its total eligible costs.

5 Effective Date. This act shall take effect upon its passage.
2008-2203s

AMENDED ANALYSIS

This bill makes appropriations to the office of energy and planning for the fuel assistance program and the low income weatherization program.

The bill also makes an appropriation to the department of safety, division of homeland security and emergency management, for state matching funds for disaster assistance grants to communities which sustained tornado, wind, and flood damage between July and September 2008.

The question is on the adoption of Floor Amendment 2203s.

A roll call was requested by Sen. Barnes, seconded by Sen. Gatsas.

The following Senators voted Yes: Gallus, Kenney, Roberge, Clegg, Gatsas, Barnes and Letourneau.

The following Senators voted No: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan and Fuller Clark.

Yeas: 7 - Nays: 17

Floor Amendment 2203s failed.

The question is on the adoption of Ought to Pass on HB 1653-FN-A-L.

Recess/Out of Recess.

Sen. Kenney offered an Amendment.

Sen. Kenney, Dist. 3
 September 24, 2008
 2008-2204s
 10/09

Floor Amendment to HB 1653-FN-A-LOCAL

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

AN ACT relative to providing additional fuel assistance and enhanced weatherization services to income-eligible New Hampshire citizens and state matching funds for July-September 2008 disaster assistance grants, and making appropriations therefore, and repealing the regional greenhouse gas initiative.

Amend the bill by replacing paragraph I of section 3 with the following:

I. The sum of \$1,200,000 for the fiscal year ending June 30, 2009 is hereby appropriated to the office of energy and planning to accelerate and expand the availability of weatherization services for this upcoming winter. These funds may be used for the state's existing income-eligible weatherization program and for the Stay Warm New Hampshire weatherization initiative. The source of funds for this appropriation shall be a proportionate share of the 2009 commercial and industrial portion of the core energy efficiency programs being held by the utilities and overseen by the public utilities commission for distribution to the Stay Warm New Hampshire weatherization initiative.

Amend the bill by replacing section 6 with the following:

6 Repeal. RSA 125-O:19 through RSA 125-O:28, relative to the regional greenhouse gas initiative, are repealed.

7 Effective Date. This act shall take effect upon its passage.
 2008-2204s

AMENDED ANALYSIS

This bill makes appropriations to the office of energy and planning for the fuel assistance program and the low income weatherization program. The bill requires the public utilities commission to make transfers from the Home Energy Solutions program and unused SO2 allowance proceeds held by Public Service Company of New Hampshire to the Home Energy Assistance Program for income-eligible citizens for weatherization services.

The bill makes an appropriation to the department of safety, division of homeland security and emergency management, for state matching funds for disaster assistance grants to communities which sustained tornado, wind, and flood damage between July and September 2008.

The bill also repeals the provisions of the regional greenhouse gas initiative.

The question is on the adoption of Floor Amendment 2204s.

A division vote was requested by Sen. Kenney

Yeas: 2 - Nays: 22

Floor Amendment 2204s failed.

The question is on the adoption of Ought to Pass on HB 1653-FN-A-L.

A roll call was requested by Sen. Bragdon, seconded by Sen. Letourneau.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan and Fuller Clark.

The following Senators voted No: (None)

Yeas: 24 - Nays: 0

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

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's Veto on the following entitled bills:

HB 1220, establishing a commission to study the taxation of alternative fuel and electric-powered motor vehicles for the purpose of funding improvements to the state's highways and bridges.

HB 1333, relative to post-foreclosure eviction actions.

RESOLUTION

Sen. Foster 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, all titles be the same as adopted, and that they be passed at the present time.

Motion adopted.

Senate adjourned from the Early Session.

LATE SESSION

Third Reading and Final Passage

HB 1653-FN-A-L, relative to providing additional fuel assistance and enhanced

weatherization services to income eligible New Hampshire citizens and state matching funds for July - September 2008 disaster assistance grants, and making an appropriation therefor.

ANNOUNCEMENTS

President Larsen, without objection, moved that all Rule 44's will be entered into the permanent record.

RESOLUTION

Sen. Foster moved that the Senate stand in recess for the sole purpose of sending and receiving messages, and the purpose of enrolling House Bill 1653, and at the completion of said House Bill, the Senate will stand adjourned to the Call of the Chair.

Motion adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1653-FN-A-L, relative to providing additional fuel assistance and enhanced weatherization services to income eligible New Hampshire citizens and state matching funds for July - September 2008 disaster assistance grants, and making an appropriation therefor.

The Senate is adjourned to the Call of the Chair.

OUTSTANDING BILLS

At the time of adjournment on September 24, 2008, the following Senate Bills remained on the table in the Senate:

CACR 20, relating to funding of public education. Providing that the local political subdivision shall provide public education and determine curriculum and the amount of funding thereof, and the legislature shall have the authority to make reasonable determinations as to public education, provide supplemental funding, and determine the amount and allocation of such state funds.

CACR 31, relating to the funding of public education. Providing that the legislature shall make a reasonable determination of the content, extent, funding, which shall include targeting, and delivery of public education.

CACR 32, relating to local public education. Providing that the local political subdivision responsible for public education shall have the power to determine curriculum, set standards, and determine funding, and that the legislature may provide supplemental funding.

CACR 33, relating to funding a public education. Providing that the legislature shall define standards for education, determine the level of state funding thereof, establish standards of accountability, and allocate state funds in a manner that mitigates disparities in educational opportunity and fiscal capacity, provided that every school district receives a reasonable share of the state funds on a per pupil basis.

SB 163-FN, relative to housing assistance for families in the Temporary Assistance to Needy Families (TANF) program.

SB 248, relative to ethical standards for volunteers in the executive branch.

SB 302-FN, relative to parental notification.

SB 304-FN-L, repealing a fee charged by the registry of deeds.

SB 306-FN, relative to allowing video gaming in Coos county, building a casino in Berlin, and establishing a fund to assist with the payment of property taxes.

SB 307-FN-L, exempting Purple Heart plate recipients from number plate and registration fees.

SB 330-FN, relative to video lottery machines at certain pari-mutuel facilities.

SB 343-FN, (New Title) making school building aid grants available to charter schools as reimbursement for annual lease costs.

SB 380, relative to petitions for boating rules.

SB 393, allowing dental hygienists to engage in independent practice.

SB 411, relative to the confidentiality of health care records during the investigation of child abuse and neglect cases.

SB 417, relative to changes to the shoreland protection act.

SB 424, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds.

SB 427, requiring hospitals to report on their standards and criteria for organ donations and transplants.

SB 441, relative to collective bargaining by judicial employees.

SB 456, establishing a committee to study the impact of the research and development tax credit and the current cap on the credit on high technology industries and New Hampshire businesses in general.

SB 469, allowing fish and game license agents to collect an additional convenience fee.
1/23/08.

SB 491, excluding the value of a view from property tax assessment.

At the time of adjournment on September 24, 2008, the following House Bills remained on the table in the Senate:

HB 373, relative to unlawful possession of alcohol by a minor.

HB 456, (New Title) limiting liability for town health officers and overseers of public welfare when acting in the course of their official duties.

HB 539-FN, relative to manslaughter.

HB 1133, relative to the age of majority for purposes of pornography-related offenses.

HB 1222, prohibiting writing a text message while driving.

HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds.

HB 1429, relative to private landfills.

HB 1457, (New Title) allowing smoking in cigar bars.

HB 1458, relative to milk producers and hauling and stop charges.

HB 1472, relative to workforce housing.

HB 1477, relative to cellular phone and satellite television records for child support enforcement.

HB 1479-FN, relative to sale of tobacco products and the appeals process concerning the seizure of illegal tobacco products.

HB 1613-FN, making changes to certain statutes relating to crimes against children.

HB 1622-FN-A, allowing counties to implement a first-time offender alcohol and substance treatment program, requiring the department of justice to administer grants to counties for such program, and making an appropriation therefor.

At the time of adjournment on September 24, 2008, the following Senate Bill was not signed off in Committee of Conference:

SB 84, establishing procedural requirements to improve implementation of the 10-year highway plan.

At the time of adjournment on September 24, 2008, the following House Bills were not signed off in Committee of Conference:

HB 358 (New Title) relative to the procedure for listing candidates on election ballots.

HB 581-FN (New Title) relative to the penalty for purposely mistreating service animals.

HB 1219, relative to exempting fish and game department volunteers from financial disclosure requirements.

HB 1237 (New Title) establishing a committee to study liquor advertising by the liquor commission.

HB 1303-FN, relative to limiting games of chance.

HB 1578-FN, relative to insurance fraud.