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162nd Session of the New Hampshire General Court
Legislative Proceedings

SENATE JOURNAL

ADJOURNMENT – JUNE 22, 2011 SESSION
COMMENCEMENT – SEPTEMBER 7, 2011 SESSION

SENATE JOURNAL 21 *(continued)*

June 22, 2011

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 22

September 7, 2011

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

The Reverend Kate Atkinson, guest chaplain to the Senate, offered the following meditative thoughts and prayer.

Good afternoon. Well, it's just a few days before we mark the tenth anniversary of 9/11, and I know that everyone is remembering the events of that day and all of the emotions that we experienced as individuals and as a nation and as citizens of the world; we remember the loss and the fear and the anguish. And, we also call to mind some other things: the courage and the selflessness and the dedication to duty that we witnessed in our fellow human beings, and many of them made the ultimate sacrifice. So, I invite you to join with me in a moment of silence as we remember them now.

Reverend Atkinson led the Senate in a moment of silence in remembrance of September 11, 2001.

I'm going to share with you a meditation with a response, written by Sylvia Kamens and Rabbi Jack Riemer. The response is: "We remember them." I invite you to join with me in saying those words at the end of each line.

At the rising of the sun and its going down, we remember them.

At the blowing of the wind and the chill of winter, we remember them.

At the opening of the buds and in the rebirth of spring, we remember them.

At the blueness of the skies and in the warmth of summer, we remember them.

At the rustling of the leaves and in the beauty of autumn, we remember them.

At the beginning of the year and when it ends, we remember them.

As long as we live, they too will live; for they are now a part of us as we remember them.

When we are weary and in need of strength, we remember them.

When we are lost and sick at heart, we remember them.

When we have joy we crave to share, we remember them.

When we have decisions that are difficult to make, we remember them.

When we have achievements that are based on theirs, we remember them.

As long as we live, they too will live; for they are now a part of us as we remember them.

God of love and healing and hope, even as we recall the tragedy of the past, help us to move faithfully into the future, determined to be the people you call us to be and to make a difference in this city, this country, and your world.

Amen.

Sen. Prescott led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Boutin introduced Ashlie Tucker and Sarah Carlson, students from Bow High School, serving as Senate Pages today.

Sen. White introduced Tammy Dargie and Tina Daniels, guests in the Senate gallery today.

Sen. Luther introduced Representatives Richard Drisko and James Belanger, guests in the Senate gallery today.

Sen. Carson introduced Representative Alfred Baldasaro, a guest in the Senate gallery today.

Sen. Sanborn introduced Representative Daniel Donovan, a guest in the Senate gallery today.

Sen. Forsythe introduced Representative Robert Kingsbury, a guest in the Senate gallery today.

Sen. Merrill introduced former Representative Barbara French, a guest in the Senate gallery today.

Without objection, President Bragdon authorized Senator Luther to use electronic devices on the floor of the Senate.

SUSPENSION OF SENATE RULES

Sen. Bradley moved that all Rules of the Senate be so far suspended as to allow late drafting and introduction, and dispense referral to committee, notice of hearing, a committee hearing, a committee report, and a notice of the report in the Senate Calendar on a bill that will amend RSA 167:3-c and RSA 167:79 that will make technical corrections to HB 2 from the 2011 Session and if passed, ordered to Third Reading and Final Passage at the present time.

The question is on the motion to suspend all rules. Adopted by necessary 2/3 vote.

Without objection, the Clerk shall read the title of the Veto Messages only.

VETO

Governor's Veto Message Regarding SB 3

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 15, 2011, I vetoed SB 3, making comprehensive changes to the state retirement system.

Even as this bill sits on my desk with a deadline of today, members of the ongoing conference committee on HB 1 and HB 2 have publicly announced that they will consider substantive changes to this legislation, a version of which is already included in HB 2. Those changes include potentially addressing decisions made yesterday by the Board of the Retirement System that could impact the budgets of the state and local communities.

Given the legislature's stated intent to change this legislation further, and my responsibility to review the legislation in its full and final form, I am vetoing Senate Bill 3 and will assess the legislature's final product.

Respectfully submitted,

John H. Lynch
Governor

Date: June 15, 2011

The question is, notwithstanding the Governor's Veto, shall SB 3 become law?

A roll call is required.

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

Veto overridden by necessary 2/3 vote.

Governor Lynch's Veto Message Regarding SB 57

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 6, 2011, I vetoed SB 57, relative to regulation of title loan lenders.

I am vetoing this legislation because legalizing excessive interest rates for title loans – rates of 300 percent APR – would be detrimental to our families, our communities, and to our economy.

Thirty-one other states – including all the other New England states – ban these types of excessive interest rates. In 2006, Congress passed and former President George W. Bush signed federal legislation capping the interest rate on title loans to members of the military at 36 percent APR. In addition, SB 57 was strongly opposed by large numbers of Republicans and Democrats in the legislature, the New Hampshire Local Welfare Administrator's Association, AARP, the Banking Department, the Department of Justice, the New Hampshire Community Loan Fund and New Hampshire Legal Assistance.

In 2008, bipartisan legislation supported by the Banking Department, the former Attorney General, communities and many others, capped interest rates on title and payday loans at 36 percent APR. That change was reasonable and well thought-out. There is no evidence that reversing that law would benefit New Hampshire. On the contrary, there is significant evidence that it would harm our state and families.

New Hampshire currently caps interest rates for title loans at 36 percent APR. This legislation would have allowed significantly higher interest rates for loans made against the title of a car. For example, under this bill, a family who took out a \$500 loan against their car would pay \$1,187 in principal and interest over the maximum 10-month life of the loan. At the same time, companies would be allowed to loan without any inquiry into a borrower's ability to repay the loan and would even be allowed to loan to people receiving local welfare assistance.

Failure to repay a loan could lead to seizure of the family car, which is often essential for family members to maintain employment.

For vulnerable families, these excessive interest charges could force them further into a cycle of debt, and potentially onto public assistance. The New Hampshire Local Welfare Administrator's Association said the "temporary relief" that may come from a title loan "often comes at the cost of enslaving recipients in a cycle of increasing debt for basic needs, causing an ultimate crash and the need to come to the legal welfare office." Frequently, the welfare administrators said, families end up worse off than before they took out the loan.

That cycle of debt hurts our families, hurts our local communities, and ultimately our economy. Therefore, I am vetoing SB 57.

Respectfully submitted,

John H. Lynch
Governor

Date: July 6, 2011

The question is, notwithstanding the Governor's Veto, shall SB 57 become law?

A roll call is required.

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

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

Yeas: 17- Nays: 7

Veto overridden by necessary 2/3 vote.

Governor Lynch's Veto Message Regarding SB 88

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 13, 2011, I vetoed SB 88, relative to physical force in defense of a person.

In 2006, I vetoed legislation with identical provisions because the New Hampshire Chiefs of Police, the New Hampshire Sheriffs Association, the New Hampshire State Police, representatives of over 40 local law enforcement departments and the former Attorney General warned it would jeopardize public safety. Many of those same organizations and the current Attorney General have asked me to veto this bill because it contains the identical provision governing the use of deadly force. This legislation would permit the use of deadly force anywhere a person has a right to be, even if the person could easily remove himself or herself from an encounter without exposing himself or herself, or anyone else, to danger.

SB 88, like the earlier bill, is a dramatic and unwarranted change in New Hampshire law that would legalize the inappropriate use of deadly force and jeopardize public safety.

"The current law governing the use of deadly force in self-defense establishes a careful balance between the right to use deadly force in self-defense on the one side, and the sanctity of human life and the safety of innocent members of the public, on the other," wrote the New Hampshire Association of Chiefs of Police and the New Hampshire Sheriffs Association. "SB 88 would dramatically alter that balance and increase the potential for deadly encounters erupting in public places."

There are times when deadly force may be the only alternative, and existing law already makes provisions for those cases. Existing New Hampshire law already allows citizens to stand their ground and use deadly

force – in any location – to protect themselves or another person in response to another’s use of deadly force or to prevent a kidnapping or sexual assault no matter where those offenses take place. Current law also allows citizens to use deadly force to protect themselves against an intruder in their own home, regardless of whether the intruder has used deadly force. And current law puts the burden on the state to disprove beyond reasonable doubt claims of self-defense in other cases.

SB 88 would unleash the potential for increasing deadly violence in our communities. It would allow the use of deadly force on street corners, in shopping malls, public parks, and in retail stores. Drug dealers and other felons who brandish weapons will be further emboldened to use their weapons, while prosecution of those criminals will be made more difficult because of this bill’s expansion of the right to use deadly force.

Given that the current law is working well and is widely supported by law enforcement, I have vetoed SB 88.

SB 88 also contains changes to the state’s criminal law on mandatory minimum sentences for offenses involving a firearm, as well as changes to the definition of “non-deadly force. I am prepared to sign these provisions into law if they are subsequently enacted in separate legislation.

Respectfully submitted,

John H. Lynch
Governor

July 13, 2011

The question is, notwithstanding the Governor’s Veto, shall SB 88 become law?

A roll call is required.

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

The following Senators voted No: Houde, Odell, Kelly, Larsen, D’Allesandro, Merrill, Stiles.

Yeas: 17- Nays: 7

Veto overridden by necessary 2/3 vote.

Governor Lynch’s Veto Message Regarding SB 91

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 13, 2011, I vetoed SB 91, an act relative to residential fire sprinklers.

SB 91 prohibits local governing bodies from requiring the installation of a fire suppression sprinkler system in proposed one or two-family residences as a condition of approval for a local permit. While it preserves existing local ordinances requiring automatic sprinkler systems in the communities that have adopted such ordinances, it would eliminate enforcement of any existing ordinance that requires sprinklers in manufactured housing units that are situated in a manufactured housing park.

The State Fire Marshal and numerous local fire departments across the State believe that local officials should continue to have the ability to require automatic sprinkler systems as an option when evaluating new residential construction.

This bill will limit the choices available to communities in meeting local fire control requirements. Instead of providing a range of options, communities will now have to revert to requiring what may be more costly options: fire ponds, cisterns, wider road widths, increasing the size of building lots and increasing the size of distance between buildings.

The decision of whether or not to require automatic sprinkler systems for new or renovated residential development has been, and should remain, a local one. The State should not preempt local decision-making. That is why I vetoed HB 109, a related bill that prohibits local planning boards from adopting regulations requiring sprinklers for one and two family homes in new subdivisions. SB 91, like HB 109, will remove local control over an important issue.

For these reasons, I am vetoing SB 91.

Respectfully submitted,

John H. Lynch
Governor

Date: July 13, 2011

The question is, notwithstanding the Governor's Veto, shall SB 91 become law?

A roll call is required.

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

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

Yeas: 17- Nays: 6

Veto overridden by necessary 2/3 vote.

Sen. Prescott asserts Rule 2-15 on SB 91.

Governor's Veto Message Regarding SB 129

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 27, 2011, I vetoed SB 129.

The right to vote is a fundamental right that is guaranteed to all citizens of this State under the United States and New Hampshire Constitutions. An eligible voter who goes to the polls to vote on Election Day should be able to have his or her vote count on Election Day. SB 129 creates a real risk that New Hampshire voters will be denied their right to vote.

Voter turnout in New Hampshire is among the highest in the nation, election after election. There is no voter fraud problem in New Hampshire. We already have strong elections laws that are effective in regulating our elections.

SB 129 requires a voter to present photo identification in order to cast a ballot in any municipal, state or federal election in New Hampshire. The photo identification must be one that is issued by the United States government or the State of New Hampshire, or a driver's license from another state. Without that type of photo identification, the voter can only cast a "provisional" ballot, requiring the voter to return to their city or town clerk's office no later than 2 ½ days after the election with a valid photo ID, a waiver from the Secretary of State, or an affidavit of religious exemption.

Seniors, students, those who are disabled or do not drive, and those who do not already have a state-issued or federal-issued photo ID, may not be able to arrange to obtain a valid photo ID within the tight 2 ½ day timeframe. Many town offices are closed or have only limited hours on Wednesday, Thursday and Friday, when those voters who received a provisional ballot would be expected to return to produce a photo ID and have their vote counted. Voters in areas of the state where DMV offices have been consolidated will also be disadvantaged. Traveling to Concord or Manchester is not an option for everyone. These circumstances will present real hardships, especially for our seniors and disabled voters.

The New Hampshire City and Town Clerks Association, AARP, the League of Women Voters, and the Secretary of State have all opposed provisions of this bill. The bill's provisions for the length of time to produce a valid photo ID after an election and the types of photo IDs allowed are among the most restrictive voter identification provisions in the nation despite any evidence that current law is insufficient protection against voter fraud.

If SB 129 were to take effect, New Hampshire would have a different and more lenient standard to register to vote than to cast a vote. Under current law, a person registering to vote prior to Election Day can execute an affidavit and does not need to produce a photo ID. When a voter chooses to use a photo ID to register, he or she may use any photo ID deemed to be legitimate by the local official, not just a State of New Hampshire or US Government issued ID.

But SB 129 goes even further and actually discriminates between state and federal workers on one hand and municipal and private employees on the other. Under SB 129, a State Trooper can use his or her state photo ID to vote, but a municipal police officer cannot use his or her municipal issued photo ID. State employees can use their agency-issued photo ID's to vote, but employees at private companies may not use their company-issued photo IDs. SB 129 would also allow a person to use a Massachusetts or Maine driver's license as a valid photo ID to vote, even though a municipal photo ID issued by Raymond or Londonderry would not be a valid photo ID. Creating a two-tiered system of photo IDs for registering and voting makes no sense. It will only cause confusion and frustration at the polls that is bound to result in preventing some voters from casting their vote on Election Day.

There is also no provision made in SB 129 to guarantee the confidentiality of those that cast a provisional ballot. Unlike current election law, which protects from public disclosure the names of those persons who

request and cast an absentee ballot during the election process, there is no comparable provision guaranteeing confidentiality to those who are issued and cast a provisional ballot. Ballot secrecy is fundamental to our voting system, and SB 129 fails to preserve ballot secrecy for all voters.

The provisional ballot provision of SB 129 may also impact the State's responsibility to conclude its state primary elections in a timeframe that will allow the general election ballots to be prepared and sent to military and other overseas voters in compliance with federal law. Many of the states that have adopted the use of provisional ballots with photo ID have primaries in the spring or early summer months, much earlier than New Hampshire's state primary. There is also a risk that challenges to election results over the validity of provisional ballots will impact the Secretary of State's ability to meet federal requirements for supplying general election ballots to overseas voters.

For all these reasons, I am vetoing SB 129.

Respectfully submitted,

John H. Lynch
Governor

Date: June 27, 2011

The question is, notwithstanding the Governor's Veto, shall SB 129 become law?

A roll call is required.

The following Senators voted Yes: Groen, Luther, Lambert, Carson, Barnes, Rausch, Morse.

The following Senators voted No: Gallus, Forrester, Bradley, Forsythe, Houde, Sanborn, Odell, White, Kelly, Larsen, Boutin, De Blois, D'Allesandro, Merrill, Prescott, Stiles, Bragdon.

Yeas: 7- Nays: 17

Veto sustained lacking necessary 2/3 vote.

Governor Lynch's Veto Message Regarding SB 154

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 6, 2011, I vetoed SB154, repealing New Hampshire's participation in the Regional Greenhouse Gas Initiative.

RGGI was created as a bipartisan initiative in New Hampshire, and across the Northeast, to address shared economic and environmental concerns. Here in New Hampshire, Republicans, Democrats and Independents worked together to develop a two-part strategy: help families and businesses reduce their energy use through RGGI and increase our supplies of homegrown renewable energy through the Renewable Portfolio Standard.

I am vetoing this legislation because it will cost our citizens jobs, both now and into the future, hinder our economic recovery, and damage our state's long-term economic competitiveness.

According to an independent assessment of the program conducted by the University of New Hampshire, the cumulative impact of the initiative through the end of 2010 has been a net benefit of over \$16 million in allowance revenue. These are funds that have been invested directly in helping New Hampshire families, businesses and local governments become more energy efficient, reduce costs, and create jobs.

This bill would have ended those energy efficiency efforts – eliminating jobs today and eliminating efforts to help businesses and families cut their energy use. Given that energy is a major cost factor for businesses, ending our energy efficiency programs would also hurt our efforts to bring new companies and jobs to New Hampshire.

In addition, because New Hampshire is part of a regional electricity system, if this legislation were to become law, New Hampshire ratepayers would continue to pay part of the cost of the Regional Greenhouse Gas Initiative, but would no longer receive any benefit from the allowance auction revenue. SB 154 would effectively cause New Hampshire ratepayers to pay higher electric rates to subsidize efforts to reduce energy costs in other states.

RGGI continues to have bipartisan support today because it is helping to reduce our dependence on foreign oil, creating jobs, and helping our businesses save money and become more competitive. I believe that we should continue that progress. Therefore, I am vetoing this legislation.

As originally drafted, this legislation also contained important changes to New Hampshire's Comprehensive Shoreland Protection Law. These changes, which enjoyed widespread support among stakeholders and bipartisan support in the legislature, were ultimately included in HB 2 and have already become law.

Respectfully submitted,

John H. Lynch
Governor

Date: July 6, 2011

The question is, notwithstanding the Governor's Veto, shall SB 154 become law?

A roll call is required.

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

The following Senators voted No: Houde, Odell, Kelly, Lambert, Larsen, D'Allesandro, Merrill, Stiles, Bragdon.

Yeas: 15- Nays: 9

Sen. Bradley asserts Rule 2-15 on SB 154.

Veto sustained lacking necessary 2/3 vote.

INTRODUCTION OF A SENATE BILL

Sen. Bradley moved to introduce SB 198 and RESOLVED, that in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered Senate Bill 198 shall be by this Resolution read a first and second time by the therein listed title.

Adopted.

FIRST AND SECOND READING AND REFERRAL

11-1115

SB 198-FN, relative to the calculation of aid to the permanently and totally disabled and temporary assistance to needy families (TANF). (Morse, Dist. 22)

Sen. Morse moved Ought to Pass.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Sen. White, seconded by Sen. Sanborn.

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

Adopted, bill ordered to Third Reading.

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 198-FN, relative to the calculation of aid to the permanently and totally disabled and temporary assistance to needy families (TANF).

LIST OF RULE 2-15'S FOR THE DAY

Sen. Bradley: SB 154.
Sen. Prescott: SB 91.

ANNOUNCEMENTS

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 sending and receiving messages, processing enrolled bill reports and amendments and when we recess, we recess to the Call of the Chair.

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