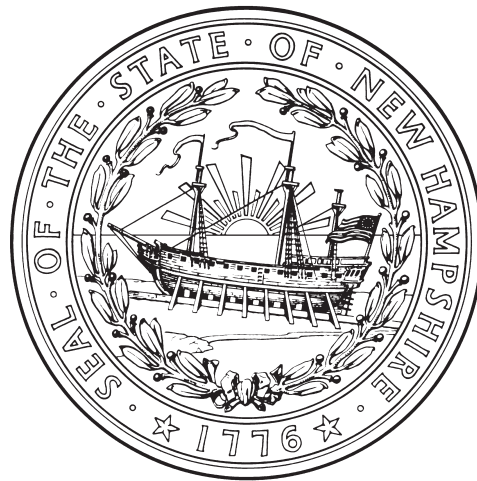


September 13, 2018
Nos. 18-19

STATE OF NEW HAMPSHIRE

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**Second Year of the 165th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MAY 23, 2018 SESSION
COMMENCEMENT – SEPTEMBER 13, 2018 SESSION**

SENATE JOURNAL 18 *(continued)*

May 23, 2018

Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 19

September 13, 2018

The Senate reconvened at 11:00 a.m., a quorum being present.

The Reverend, Pastor Mark Warren, chaplain to the Senate, offered the following prayer:

Good morning, Senators. Let's pray.

Lord, we come to you today with a heart that's open to receive from you; your wisdom, your guidance, your knowledge, discernment. We're mindful that there is a person missing in this room with Tammy Wright, our Clerk, not being here, and we just pray for a speedy recovery for her.

As each of our Senators have probably been busy campaigning, and their families have given up time, and yet they come here today to continue to serve our great state. I pray that you would just bless them; give them back the time that they have committed to serving the people of New Hampshire. I'm so grateful for this time. This might be the last session that these people are together; our Senators are together, who have worked tirelessly over these last two years. They maybe sat on different sides and opposed each other, but they've had one heart, which is to serve the people of New Hampshire, and we're grateful. So today, Lord, we are thankful for this time that we can gather. In your name we pray. Amen.

Senator Bradley led the Pledge of Allegiance.

INTRODUCTION OF PAGES

Senator Watters introduced Molly Morin of Barrington from Oyster River High School in Durham, serving as Senate Page for the day. Senator Watters also introduced her proud grandfather, the Senate Sergeant-At-Arms, Frank Drociak.

Senator Fuller Clark introduced Jack Dalton from Oyster River High School in Durham, serving as Senate Page for the day.

INTRODUCTION OF GUESTS

Senator Bradley introduced his bride, Karen.

PRESIDENT MORSE: Well, we're very happy to have Jack filling in today as Senate Clerk. I know he's going to do a great job. Right Jack? But of course we will miss Tammy. And I was texting with her yesterday and today, and I wanted to take a moment to tell Tammy that we're all thinking about her, and we're all praying for her. I know she's watching the session this morning, so we all need to be on our best behavior. And on behalf of the Senate, we wish her a restful and speedy recovery.

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

VETO MESSAGE

June 19, 2018

Governor's Veto Message Regarding Senate Bill 365 and Senate Bill 446

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 19th, 2018, I have vetoed Senate Bill 365, relative to the use of renewable generation to provide fuel diversity and Senate Bill 446, relative to net energy metering limits for customer-generators.

Senate Bills 365 and 446 combined would cost New Hampshire electric ratepayers approximately \$100 million over the next three years. New Hampshire has some of the highest electric rates in the country, placing financial strain on the elderly, those on fixed incomes and the business community. These bills send our state in exactly the wrong direction. We need to be taking steps to lower electric rates, not passing legislation that would cause massive increases.

Senate Bill 365 creates another immense subsidy for New Hampshire's six independent biomass plants. It would cost New Hampshire ratepayers approximately \$25 million a year over the next 3 years, on top of the subsidy for these plants that already became law last year through Senate Bill 129. Furthermore, Senate Bill 365 doesn't even guarantee solvency of these facilities and in fact, those who supply the wood product have confirmed that the maximum impact to their revenue would be a mere 3.5%. It harms our most vulnerable ratepayers and our job creators for the benefit of a select few.

While I agree that expanding net metering could be a benefit to our state, Senate Bill 446 would cost ratepayers at least \$5 to 10 million annually and is a handout to large scale energy developers. These immense projects should use incentives already available and compete on their own merits. The businesses and working families of our state should not have to provide additional unjust taxation through higher electric bills. We should take the time necessary to study the effects of the recent Public Utilities Commission order on net metering before massively increasing the scale of projects that rely on ratepayer subsidies.

Consistent with our state's 10 Year Energy Strategy, I am committed to working to encourage and advance renewable energy generation and fuel diversity without unjustly burdening the ratepayers of New Hampshire.

For the reasons stated above, I have vetoed Senate Bill 365 and Senate Bill 466.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is notwithstanding the Governor's Veto, shall SB 365 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Avard, Lasky, Carson, Feltes, Cavanaugh, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis.

The following Senators voted No: Daniels, Reagan, Morse.

Roll Call, Yeas: 21 - Nays: 3. Veto overridden by necessary 2/3 vote.

VETO MESSAGE

June 19, 2018

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By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 19th, 2018, I have vetoed Senate Bill 365, relative to the use of renewable generation to provide fuel diversity and Senate Bill 446, relative to net energy metering limits for customer-generators.

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Consistent with our state's 10 Year Energy Strategy, I am committed to working to encourage and advance renewable energy generation and fuel diversity without unjustly burdening the ratepayers of New Hampshire.

For the reasons stated above, I have vetoed Senate Bill 365 and Senate Bill 466.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall SB 446 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Avard, Lasky, Carson, Feltes, Cavanaugh, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis.

The following Senators voted No: Daniels, Reagan, Morse.

Roll Call, Yeas: 21 - Nays: 3. Veto overridden by necessary 2/3 vote.

VETO MESSAGE

June 21, 2018

Governor's Veto Message Regarding Senate Bill 593

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 21st, 2018, I have vetoed Senate Bill 593, relative to the penalty for capital murder.

Senate Bill 593 would abolish the death penalty in New Hampshire. While I respect the arguments made by proponents of Senate Bill 593, I stand with crime victims, members of the law enforcement community, and advocates for justice in opposing this bill. New Hampshire does not take the death penalty lightly, and we use it only sparingly. No one has been executed in New Hampshire since 1939, and we currently have only one person on death row.

In the most heinous cases where the death penalty may be imposed, New Hampshire is second to none when it comes to protecting defendants' rights and ensuring a fair process. While opponents of the death penalty cite cases from other states where individuals were either wrongfully convicted or did not receive an adequate defense, such cases have not occurred in this State. Our public defender program is among the best in the country. In addition, a defendant cannot receive the death penalty unless a jury of twelve citizens, in a separate sentencing phase, unanimously votes to recommend a sentence of death. I have confidence in the judgement of our citizens and in our criminal justice system, and believe that New Hampshire can continue to apply the death penalty in a sparing, fair and just manner.

During the past thirty years, governors of both parties have either opposed the repeal of the death penalty or expanded its scope. In 2000, Governor Jeanne Shaheen vetoed a death penalty repeal bill, stating "I believe that there are some murders that are so brutal and heinous that the death penalty is the only appropriate penalty." In 2011, Governor John Lynch signed a bill expanding the application of the death penalty to home invasions. This expansion came in the wake of one of the most heinous crimes ever committed in our State, the Cates murder. This crime was a home invasion that resulted

in the murder of a mother and the severe injury of her daughter. Kimberly Cates was stabbed 32 times and her twelve year old daughter was stabbed 18 times. David Cates, Kimberly's husband, testified in favor of expanding the death penalty in 2011. To repeal the death penalty in its entirety today would deprive the Cates' and other crime victims of the justice they deserve.

Abolishing the death penalty in New Hampshire would send the wrong message to those who commit the most heinous offenses within our State's borders, namely that New Hampshire is a place where a person who commits an unthinkable crime is guaranteed leniency. New Hampshire is not and will never be a safe haven for those who would murder a police officer, cause a death during the commission of an aggravated sexual assault or home invasion, or commit any other capital offense. If a person chooses to commit such an unspeakable act in our State, that person should know that a jury of their peers may elect to impose the ultimate justice.

The arguments made by the proponents of this bill must give way to our obligation to support our law enforcement community, deliver justice for crime victims, and protect New Hampshire's citizens by preserving the death penalty as the ultimate legal deterrent to the commission of heinous crimes.

For the reasons stated above, I have vetoed Senate Bill 593.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall SB 593-FN become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Giuda, Watters, Hennessey, French, Ward, Kahn, Daniels, Avard, Lasky, Feltes, Reagan, Soucy, Fuller Clark.

The following Senators voted No: Bradley, Gray, Sanborn, Carson, Cavanaugh, Birdsell, D'Allesandro, Gannon, Innis, Morse.

Roll Call, Yeas: 14 - Nays: 10. Veto sustained lacking necessary 2/3 vote.

Without objection, the Clerk is instructed to enter all House Messages into the Senate Journal. Adopted.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):
HB 143, relative to recommitment of a prisoner by the parole board.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):
HB 314, relative to licensing requirements for autonomous vehicle testing and establishing an automated and connected vehicle testing and deployment commission.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):
HB 1736, relative to increasing the threshold required for governor and council approval of expenditures from the dam maintenance fund.

Recess. Out of recess.

VETO MESSAGE

April 2, 2018

Governor's Veto Message Regarding House Bill 143

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on March 30th, 2018, I have vetoed House Bill 143, relative to recommitment of a prisoner by the Parole Board.

Current law provides that when a prisoner who is out on parole has their parole revoked, that prisoner must be recommitted for at least 90 days. RSA 651-A:19, VII allows the Parole Board to impose a term of recommitment of less than 90 days under certain conditions, including situations where the Parole Board determines that a lesser period of recommitment will aid in the rehabilitation of the parolee. House Bill 143 would expand these conditions by allowing the Parole Board to impose a recommitment period of less than 90 days for a prisoner who enters and successfully completes a residential substance abuse treatment program deemed acceptable by the Board.

While based on good intentions, this bill will have concerning consequences. It does not distinguish between individuals who have committed a crime related to substance abuse and those who have committed an unrelated crime. The bill also does not require the Parole Board to determine that a shorter recommitment period is necessary to assist a prisoner with their recovery efforts.

I fully support efforts to reduce recidivism among those suffering from substance abuse disorders by ensuring that such individuals have access to treatment. However, current law already gives the Parole Board the option of imposing shorter recommitment periods if they determine it will aid in the parolee's rehabilitation. Importantly, those who are incarcerated have access to many of the same treatment programs as those who are not.

It is concerning that there is strong opposition to this bill by law enforcement and at the same time, there are members of the recovery community who still have questions about its impacts. This only reinforces the conclusion that more due diligence is needed before we change current law.

For the reasons stated above, I have vetoed House Bill 143.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is notwithstanding the Governor's Veto, shall HB 143 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: D'Allesandro.

Roll Call, Yeas: 23 - Nays: 1. Veto overridden by necessary 2/3 vote.

VETO MESSAGE

July 2, 2018

Governor's Veto Message Regarding House Bill 314

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 2nd, 2018, I have vetoed House Bill HB 314, relative to licensing requirements for autonomous vehicle testing and establishing an automated and connected vehicle testing and deployment commission.

While well-intentioned, House Bill 314 fails to address a number of issues related to automated vehicle technology. The bill only addresses "SAE level 5 full automation technology", which represents just a small portion of the testing being conducted on public roadways. The bill fails to address level 3 or level 4 technology, which are equivalent to those being tested in a fatal Arizona accident this past March. This bill would allow for testing of any technology below level 5 without testers having to obtain a license or even notify the state, a lack of oversight which is not acceptable here in New Hampshire. This issue is just too serious to allow a bill to give the appearance of responsible oversight, when in fact little would change on the ground. In addition, there are no clear definitions as to what is and is not an "autonomous vehicle," creating loopholes which may compromise the safety of drivers in this state.

House Bill 314 is a flawed bill that does not adequately account for public safety. This legislation may attract less responsible actors to New Hampshire to develop autonomous vehicle technology and could result in a more dangerous testing environment on New Hampshire's roads. I hope that the House and Senate will work together next session to pass a bill that will encourage development of autonomous vehicle technologies while ensuring the safety of our citizens. By only addressing level 5 technology, House Bill 314 failed on both accounts.

For the reasons stated above, I have vetoed House Bill 314.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall HB 314 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Hennessey, French, Sanborn, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Watters, Gray, Ward, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Gannon, Innis, Morse.

Roll Call, Yeas: 5 - Nays: 19. Veto sustained lacking necessary 2/3 vote.

VETO MESSAGE

May 29, 2018

Governor's Veto Message Regarding House Bill 1736

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 29th, 2018, I have vetoed House Bill 1736, relative to increasing the threshold required for governor and council approval of expenditures from the dam maintenance fund.

Under current law, governor and council approval is required for all expenditures from the dam maintenance fund that are made for repair projects. RSA 482:54, VI currently defines repair as "performance of intermediate amounts of work on a portion of a structure or associated property on an occasional basis with costs not exceeding \$75,000." House Bill 1736 would amend the definition of repair so that it only includes work with a cost in excess of \$150,000, thus increasing the threshold for governor and council approval from \$75,000 to \$150,000.

The governor and council, the only popularly elected executive branch officials, play a key role in overseeing the fiscal management of the executive branch and expenditure of taxpayer dollars. Because increasing the threshold for governor and council approval directly affects the governor and council's ability to discharge their fiscal management and oversight duties delegated by Part II, Article 56 of the New Hampshire Constitution, I am concerned that councilors were not consulted as this bill went through the legislative process. In addition, I have seen no compelling evidence that the current thresholds, and the need to seek governor and council approval, has created any administrative difficulties for the department of environmental services. New Hampshire's proud tradition of careful fiscal management counsels against reducing popularly elected officials' oversight of expenditures of taxpayer dollars absent a compelling justification.

For the reasons stated above, I have vetoed House Bill 1736.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall HB 1736 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Watters, Sanborn, Kahn, Lasky, Feltes, Cavanaugh, Reagan, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Hennessey, Gray, French, Ward, Daniels, Avard, Carson, Birdsell, Gannon, Innis, Morse.

Roll Call, Yeas: 11 - Nays: 13. Veto sustained lacking necessary 2/3 vote.

MOTION OF RECONSIDERATION

Senator Hennessey, having voted on the prevailing side, moved to reconsider the following action taken by the body on HB 1736, relative to increasing the threshold required for governor and council approval of expenditures from the dam maintenance fund: the vote on the Governor's Veto to HB 1736. Adopted.

The question is not withstanding the Governor's Veto, shall HB 1736 become law?

A roll call is required.

The following Senators voted Yes: Woodburn, Watters, Hennessey, Sanborn, Kahn, Lasky, Feltes, Cavanaugh, Reagan, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Gray, French, Ward, Daniels, Avard, Carson, Birdsell, Gannon, Innis, Morse.

Roll Call, Yeas: 12 - Nays: 12. Veto sustained lacking necessary 2/3 vote.

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time.

Adopted. Adjournment from the Early Session.

LATE SESSION

LIST OF RULE 6-25'S FOR THE DAY

Senator Feltes: SB 365

Senator Sanborn: SB 365, SB 446, SB 593-FN, HB 143, HB 314, HB 1736

ANNOUNCEMENTS

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. A point of personal privilege, please. The class of 1961 at the University of New Hampshire sponsored three representatives to this body: Representative Norm Major, Senator Dick Green, and myself. Senator Dick Green was a distinguished member of the Senate, serving as Senate Finance Chairman, and in the leadership. Senator Green's wife passed away last week. Dick Green was not only a classmate of mine at the University, and a friend of mine of longstanding, but a very decent and honorable human being. I spoke with Dick— thank you, Senator Gray, for getting me the phone number so that I could speak to Dick. His wife had been very ill; had been very ill for about four years, and Dick was with her and really out of communication for that period of time. They were a great couple. Dick was Mayor of Rochester for a time as well as Senator, and he served in the Senate in 19...he was elected in 1972, served in the Senate in 1973 when they had the one-hundred vote marathon before they selected a President; a hundred votes, and finally the most honorable, and the late David Nixon was elected President, and Harry Spanos was elected Vice President. And for the first time, I believe, in the history of the Senate we had a Republican President and a Democrat Vice President; a distinguished body; a distinguished people. Dick served in that body, and served his community well, served his family well, and served the state well; a very honorable human being who gave a lot of public service, and devastated by the loss of his wife as all of would be in a case like that. I think they were married sixty years from what I understand. So, we remember his service, we, obviously, give our deepest sympathy to Dick on his loss, and as I said, thank him for the many good things he did for his community and for the state. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise to thank the body for the manner in which you deliberated today. It's truly an honor to be here. I don't think I've ever seen a finer day in the two years that I've had in this august body. I'm proud to be part of you. Thank you.

(The Chair recognized Senator Lasky.)

SENATOR LASKY: Thank you, Mister President.

PRESIDENT MORSE: Be careful or you may come back!

SENATOR LASKY: I don't bounce that hard. Again, I just want to say my time here has been amazing. Through changes, or whatever, serving in this body has been certainly one of the joys of my life. I want to thank all of you, and clearly thank my constituents who helped me get here; my family who put up with me

for all these years; and to each and every one of you all the kindnesses you've shown me, even when disagree, it's been relatively nice. And I wish each and every one of you good luck in your elections, and certainly all the best as you go forward. Thank you. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I just want to thank each and every one of you for the graciousness with which you allowed myself, and Senator Giuda, Senator Woodburn, and all of us have worked so hard on the biomass issue. The vote in the House was 226-113, the veto has been overridden, and honest to God, I feel like the day the BRAC Commission voted to spare 5,000 jobs at the Portsmouth Naval Shipyard. Bless you all. Thank you very much.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: A question for the Senator from District 3. My one infer from your remarks are that you're buying?

SENATOR BRADLEY: You'll have to go to the House beer caucus!

PRESIDENT MORSE: I've got two things, but let me start with one. You know, during a time of transition many people start to move on. So as we go through another election many of you probably know, and many of you probably don't, that Kate Spiner is moving on. Most of you know by now that Kate has decided to pursue another opportunity in the Attorney General's Office, and today is the last day with us. While we are very happy for her in what comes next, we will miss her greatly.

Thank you, Kate, for your dedication and your hard work on behalf of the New Hampshire Senate. I know every Senator has benefited from your work, and we have each shined a little brighter because of you. We will miss your positive attitude and what you brought to work every day, but I do have to admit, thank God you're retiring today so I don't get a Friday afternoon phone call to deal with the press. I'll miss you greatly, Kate. Congratulations.

I would like to say this: I respect this body greatly. I think what you've done today is what we're all about; I firmly believe in it. I do believe in bipartisan politics. I do believe everyone in this room has something to offer, and you showed that today; and you did it with courtesy; and you did it with the honor that we've served in the Senate.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: I've been here a long time. I want to thank you for your leadership in a bipartisan fashion. I appreciate it very, very much having been with you when you chaired the Finance Committee and I served on it, and now when you're the President. So, I think all of us recognize the fact that it ain't easy being at the top. It ain't easy being at the top having been there a few times! I might say congratulations on a job well done and the best.

Without objection, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17). Adopted.

MOTION TO RECESS TO CALL OF THE CHAIR

Senator 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 and when we recess, we recess to the Call of the Chair.

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

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s): SB 365, relative to the use of renewable generation to provide fuel diversity.

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's veto on the following entitled Bill(s): SB 446, relative to net energy metering limits for customer-generators.

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