

HB 1286, relative to fishing and hunting licenses for permanently disabled veterans.

HB 1819-FN, relative to administration of the education tax credit.

Senator Avard moved adoption of the Report of Committee on Enrolled Bills. Adopted.

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

July 25, 2018

SPECIAL SESSION SENATE JOURNAL

Call the Senate to Order.

The Senate convened at 10:00 a.m., a quorum being present.

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

Let's pray.

God, we thank you for this time that we can come together. I'm sure hearts and minds are spinning when people feel like they need the break and want to be on break, but a Special Session has been called. So, we ask you, God, to give us clarity of mind, settle our hearts. With potential new legislation, Father, I just pray that you would give us unity of the issues at hand. Help us to stay focused on what is good for the citizens of New Hampshire. Let us treat each other with respect as we address one another; and let it be done with love and kindness. I just ask that your covering and protection would be over this meeting. Amen.

Senator Giuda led the Pledge of Allegiance.

INTRODUCTION OF PAGES

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I'm honored to introduce one of our two Pages this morning. Max Paganini, a good Irish name. Fifteen years old in the tenth grade out of the Tilton School in Sanbornton. Max welcome here. His favorite subject is history; varsity soccer, varsity hockey, varsity golf are his sports. Max enjoys all things outdoors: fly fishing, mountain biking. He's a Mack Moran Scholar at Tilton School, that's a scholar recognition for students who have demonstrated exceptional academic achievement and habits of mind. His future aspirations are to attend an Ivy League school and eventually pursue a career in world health. Max, on behalf of the Senate and the citizens, welcome to our Senate.

(The Chair recognized Senator French.)

SENATOR FRENCH: Thank you, Mister President. I would like to introduce our other Page, Molly Sottak. Molly is fifteen years old and in the tenth grade. She lives in Belmont and attends Belmont High School. Her favorite subject is English. She plays varsity soccer, varsity basketball and track and field events and while doing all this, she still maintains high enough grades to be on the honor roll. Molly's future plans are to be an English teacher and I'm sure she will succeed. Molly, welcome to the Senate.

PRESIDENT MORSE: You probably are wondering, some of you, why we are here in this room. Well, first let me thank you for coming in the middle of July. But I also want you to know that our chamber is completely torn apart. Stripped right down. The ceiling is gone. So, we won't have it back until probably close to the end of October, but the luxury is we have air conditioning over here and it's a plus, but it doesn't mean we want to stay here all day.

But we do have some research. The Senate has held sessions in other locations spanning the state. In 1973 in celebration of the 190th birthday of the Senate; in addition to two sessions in 1791 in Portsmouth; and in 1792 in Exeter, predating the construction of the State House, nearly two hundred years ago; and the naming of Concord as the state capital in 1808. We are not going to debate that today.

Most of you know we are meeting here today because the Senate Chamber is currently under renovation. As far as the work being done to update the chamber, we are making some updates including new carpeting on the Senate floor and the gallery, and adjoining offices. The Senate gallery is also getting updates with refurbishing the seats and restoring and painting the frames of the chairs. One of the most dramatic changes we are making is to the ceiling. At this point, we have removed the drop ceiling tiles and unfortunately the original ceiling beneath can't be practically salvaged. With input from Senator Watters, where are you? We basically came up with a solution that I think will work. We brought in professionals to make recommendations and we made a decision and we're moving forward with that to try and keep the historical value and keep some common sense in how we get there, and to make sure we get there by October. So, had we chosen a different direction we wouldn't have made it. The murals will be cleaned after the ceiling work is completed and the chamber will also see some electrical and technical upgrades. Not as techy as some of you may want, Senator Bradley, Senator Sanborn. I didn't want to encourage that for any future Senate. But I think you'll see that we are providing much more electrical in there to make sure that you can charge your phones out back. We are looking forward to this whole project coming together and I thank you for bearing with us today.

PRESIDENT MORSE: The Senate will be attentive to the Clerk for a message.

PROCLAMATION MESSAGE FROM THE GOVERNOR AND
EXECUTIVE COUNCIL

The State of New Hampshire
By His Excellency
Christopher T. Sununu, Governor
With the Advice of the
Honorable Executive Council
A Proclamation

In the year of our Lord Two Thousand and Eighteen

WHEREAS, on June 21, 2018, the United States Supreme Court issued its decision in *South Dakota v. Wayfair, Inc., et al*, (the "Wayfair decision") in which the Court overturned 50 years of precedent that a retailer must be physically present in a state before the state could impose its sales and use tax collection requirements; and

WHEREAS, the Wayfair decision has created enormous uncertainty and could require New Hampshire businesses to collect sales and use taxes for over 10,000 state and local jurisdictions where they have no physical presence; and

WHEREAS, the State of New Hampshire has made a fundamental policy decision to not impose a general sales and use tax; and

WHEREAS, the welfare of the people of the State of New Hampshire requires the convening of the General Court in special legislative session for the purpose of enacting legislation to respond to the Wayfair decision; and

WHEREAS, the Executive Department, in calling such a session, intends an agenda limited to passing comprehensive legislation which takes every feasible and legally permissible step to protect New Hampshire citizens and businesses from any and all attempts by foreign state and local taxing jurisdictions to impose sales and use tax collection obligations on New Hampshire businesses in violation of the Due Process Clause and Commerce Clause of the United States Constitution or any other provision of law;

NOW, THEREFORE I, CHRISTOPHER T. SUNUNU, GOVERNOR, with the advice of the Council, on a motion duly seconded, hereby exercise my legislative authority under Part 2, Article 50 of the New Hampshire Constitution and summon the General Court to convene in Special Session on a date to be specified by the Speaker of the House and the President of the Senate, but to occur no later than August 15, 2018.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the State of New Hampshire to be affixed this 11th day of July, 2018.

Christopher T. Sununu
Governor

A roll call was taken by the Clerk of the Senate with 24 Senators in attendance.

Senator Bradley moved, resolved, that the House of Representatives be informed that under the authority of the call of the Special Session by the Governor and Council, the Senate has assembled and is now ready to proceed with the business of the Special Session. Adopted.

ADOPTION OF SPECIAL SESSION SENATE RULES

Senator Bradley moved, resolved, that the Senate adopt the 2018 Special Session Senate Rules as proposed, copies of which are provided in the senate calendar.

SPECIAL SESSION RULES OF THE SENATE July 25, 2018

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5-6 Messages Sent to House

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5-8 Conflict of Interest

5-9 Requests to the Legislative Budget Assistant

5-10 Committee of the Whole

PART ONE

DUTIES OF THE SENATE PRESIDENT

1-1 Determination of Quorum - In the Special Session the President, having taken the chair, shall determine a quorum to be present and shall immediately call the members to order.

1-2 Members, Conduct When Speaking - Any member, wishing to speak, shall notify the President. When recognized to speak, the member shall rise and address the President, and when finished shall then sit down.

1-3 Members Not to Speak More Than Twice - No member shall speak more than twice on the same question on the same day without leave of the Senate President.

1-4 President Shall Recognize Whom - When more than one member wishes to speak at the same time, the President shall decide who shall speak first.

1-5 Questions of Order, Appeal - The President shall preserve decorum and order. If any member transgresses the rules of the Senate, the President shall, or any member may, call said member to order in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the President shall be conclusive.

1-6 Galleries, Clearing of - In case of any disturbance or disorderly conduct in the gallery, the President shall have the power to order the same to be cleared. The Chairman of the Committee of the Whole may restrict attendance to the duly elected Senators.

1-7 President to Sign Bills, etc - All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the President attested by the Clerk.

1-8 President May Name Member to Chair - The President when performing the duties of the Chair may, at any time, name any member to perform the duties of the Chair.

PART TWO

THE SENATE SESSION

DECORUM

2-1 Absence of Members from Session - No member shall absent himself or herself without permission from the Senate.

2-2 Decorum While Another is Speaking - No member shall hold conversation with another while a member is speaking in debate.

2-3 Use of Electronic Devices - The use of electronic devices, with the exception of Senate-issued devices and devices used by members of the media, is prohibited on the Senate floor during session, unless the Senate is in recess or unless otherwise approved by the Senate.

2-4 Recording and Broadcast Devices During Recess - All recording and broadcast devices used on the Senate floor shall be paused or otherwise prevented from recording or broadcasting audio or video of members or staff while the Senate is in recess.

DEBATE

2-5 Motions - Motions during debate shall be considered according to the provisions of Table I, with said motions listed in order of decreasing precedence.

2-6 No Substitution under Color of Amendment - No new motion shall be admitted under color of amendment as a substitute for the motion under debate.

2-7 Reconsideration Restrictions - No vote shall be reconsidered unless the motion for reconsideration is made by a member who voted with the prevailing side and, if the vote applied to a bill, the bill to which the vote applied is in the possession of the Senate.

2-8 Reconsideration Process - A motion to reconsider shall be made in open special session prior to adjournment from the early session on the same day on which the vote to be reconsidered was taken, in which case, unless otherwise ordered by the Senate, the reconsideration vote shall be taken up immediately.

2-9 Division of the Question - Any member may call for the division of the question and when the sense will admit it, as determined by the President, the question shall be divided.

Table I - Motions

Privileged Motions

Motion	Debatable	Amendable	Notes
Adjourn	No	Yes	Amendments limited to the time to which to adjourn.
Recess	No	Yes	Amendments limited to length of the recess.

Incidental Motions (all become main motions if made when no question is pending or when not related to the business at hand)

Motion	Debatable	Amendable	Notes
Appeal	Yes	No	Debate limited to the specific decision of presiding officer from which appeal is made. Presiding officer is allowed to speak. The question to be put is, "Shall the decision of the president stand?" A tie vote also sustains the chair's ruling.
Point of Order	No	No	Calls attention to a violation of rules or order. May be raised when another member is speaking. Not technically a motion, but the presiding officer could submit the question to the Senate, at which point it becomes a motion open for debate, but not amendment.
Parliamentary Inquiry	No	No	Requests information from the presiding officer about parliamentary procedure or Senate rules. May be raised when another member is speaking only if it requires immediate attention. Not technically a motion.

Object to Reading of Papers	No	No	Reading from documents as part of a speech is generally allowed as a courtesy, provided the papers are relevant, short and not used as a delaying tactic. Any member may object during the reading, however, and the body decides whether permission to read is granted.
Suspend the Rules	No	No	Requires a 2/3 vote. See Rule 5-5.

Subsidiary Motions

Motion	Debatable	Amendable	Notes
Lay Upon the Table	No	No	May be applied to a main motion with other pending motions, in which case the main motion, along with all pending motions, is laid on the table.
Previous Question	No	No	If not otherwise specified, ends debate and calls for a vote on the immediately pending question. May be used to end debate and call for votes on all pending questions.
Amend	Yes	Yes	
Postpone Indefinitely	Yes	No	Opens the main question for debate, since it involves the final disposition of the question. No part of a bill postponed indefinitely shall be acted on in any way for the Special Session.

Main Motions (can only have one main motion before the Senate at a time)

Motion	Debatable	Amendable	Notes
Main Motions	Yes	Yes	Ought to Pass, Ought to Pass w/Amendment, Inexpedient to Legislate.
Bills Amended by the House	Yes	No	See Rule 3-10. Any amendment made to a Senate bill by the House shall be returned to the Senate for Concurrence or Nonconcurrence.
Take From Table	No	No	
Special Order	No	No	Moves consideration of a future scheduled item to another time by a simple majority vote prior to adjournment of the early Special Session.
Reconsider	Yes	No	Debatable to the extent the question being reconsidered is debatable. If so, it opens up the original question for debate.

2-10 Personal privilege - A Senator may, as a matter of personal privilege, defend his/her position on a bill, his/her integrity, his/her record, or his/her conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his/her rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal Privilege remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate.

2-11 Other Remarks (Unanimous Consent) - A Senator may, when granted leave by the Senate, speak on other matters of his/her choosing and in such cases may be subject to questioning and/or answer according

to the Rules of the Senate. These remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate.

VOTING

2-12 General Rules on Voting - All questions shall be put by the President, and no member who was absent when the question was put shall be required to vote.

2-13 Abstaining from a Vote - No member who was present when the question was put shall abstain from voting unless by reason of a conflict pursuant to Rule 5-8 or unless excused by the Senate for a special reason.

2-14 Voice Vote - When the question has been put, each member present shall signify assent or dissent by voting yea or nay.

2-15 Division Vote - If the President doubts or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. They shall then be seated and those in the negative on the question shall rise from their seats and stand until they be counted. The President shall rise and state the decision of the Senate.

2-16 Recorded Voice or Division Vote - Any member may, following a voice or division vote, have his or her vote recorded in the Journal by providing a signed notice of said vote to the Clerk, on a form prescribed by the Clerk.

2-17 Roll Call Vote - When the yeas and nays have been moved by a member and duly seconded by another member, each member present shall declare assent or dissent to the question. The names of the persons so making the motion and the second shall be recorded in the Journal. The President shall determine the order of the roll call.

MISCELLANEOUS

2-18 Visitors to the Senate - No person except members of the Senate and its officers, the Governor, Council members, the Secretary of State, the Treasurer, the Speaker of the House of Representatives and its officers and clerks, shall be admitted to the floor of the Senate while the Senate is in Special session, except by the invitation of the President, or some member with the President's consent.

PART THREE

BILLS

DRAFTING

3-1 Enactment of Laws - Enactment of laws, as provided in the Proclamation for the Call for the Special Session, shall be by bill. No bill or bill amendment shall be introduced into the Senate the subject matter of which is not included in the Proclamation issued by the Governor and Executive Council for the Special Session.

3-2 Office of Legislative Services to Prepare Items - All petitions, memorials and other papers addressed to the Senate and all bills to be introduced in the Senate except those procedural and rules resolutions prepared by the Clerk, shall be delivered or caused to be delivered to the Office of Legislative Services, who shall prepare the items in proper form and present them to the sponsor(s) for signature and then to the Clerk.

3-3 Marking and Numbering Bills - Every bill, except those procedural and rules resolutions prepared by the Clerk, shall be numbered serially according to the type of bill or resolution. Each bill shall be marked on the first page "Special Session Senate Bill".

3-4 Draft Provided to Legislative Budget Assistant - If a drafting request for a bill has been filed with the Office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the Legislative Budget Assistant for preparation of the required fiscal note without the specific consent of the sponsor of the proposal, provided that the identity of the sponsor shall not be disclosed.

POST-DRAFTING PROCESS

3-5 Reading of Bills and Resolutions - Every bill, except senate resolutions and those procedural and rules resolutions prepared by the Clerk, shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, and shall be printed as provided in Rule 3-6, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills shall be in the late session unless otherwise ordered by the Senate.

3-6 Printing and Distribution - After every bill shall have been read a second time, the Clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.

AMENDMENTS

3-7 Amendments Only on Second Reading - No amendment shall be made but upon the second reading of a bill; and all such amendments shall be in writing, with the name of the Senator and the district he or she represents.

3-8 Review of Amendments by Office of Legislative Services - Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.

3-9 Non-Germane Amendments Prohibited - No amendment to any bill shall be allowed except it be germane. For the purposes of this rule, an amendment to a bill is germane if the subject matter of the amendment is the same as that of some portion of the bill. The prohibition on non-germane amendments shall not apply in the case of a bill previously found ought-to-pass by the Senate being added to a subsequent bill.

GENERAL RULES ON BILLS

3-10 Bills Amended by the House - Any bill returned from the House with an amendment shall have one of the following recommendations considered by the full Senate: Concur or Nonconcur. Adoption of a motion to Nonconcur kills the bill.

PART FOUR**COMMITTEE**

4-1 Standing Committee - The standing committee of the Senate shall be as follows: the Committee on Rules and Enrolled Bills.

PART FIVE**OTHER RULES****SENATE STAFF**

5-1 Composition and Duties - The staff of the Senate shall be comprised of:

- (1) A Clerk, who shall be elected by the Senate;
- (2) Clerk's office staff, who shall be nominated by the Clerk and appointed by the President; and
- (3) Such other personnel as the President shall appoint.

The President shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.

5-2 Days of Employment - Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.

5-3 Requisition Approval Required - No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay, or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.

SENATE RULES

5-4 Amending Rules - Any rule of the Special Session of the Senate may be amended by two-thirds majority vote.

5-5 Suspending Rules - No standing rule of the Special Session of the Senate shall be suspended unless two-thirds of the members present and voting vote in favor thereof.

MESSAGES

5-6 Messages Sent to House - Messages shall be sent to the House of Representatives by the Clerk of the Senate.

5-7 Messages, When Received - Messages from the Governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.

MISCELLANEOUS

5-8 Conflict of Interest - In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.

5-9 Requests to the Legislative Budget Assistant - Any Senate member may make a request of the Office of the Legislative Budget Assistant Budget Division, for technical staff assistance in the areas of finance, accounting and budgeting. The Budget Division may respond to that request when doing so will not interfere with the Budget Division's principal responsibilities as outlined in RSA 14:31-b, as determined by the Legislative Budget Assistant.

5-10 Committee of the Whole - The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole; the President shall leave the chair, and appoint a chairperson to preside in committee.

PRESIDENT MORSE: At this point, if anyone has any changes to the rules we're going to do this just like we treat legislation. The rules have been proposed, they've been in the calendar. If there's an amendment to the rules, please state your amendment now.

Senator Feltes moved to amend proposed Special Session Senate Rules 5-4 and 5-5, with the following amendment.

AMENDMENT TO SENATE RULE 5-4 AND 5-5

Amend Senate Rule 5-4 and 5-5 by replacing with the following:

5-4 Amending Rules - Any rule of the Special Session of the Senate may be amended by majority vote.

5-5 Suspending Rules - No standing rule of the Special Session of the Senate shall be suspended unless a majority of the members present and voting vote in favor thereof.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. What's being handed out is a modification to the proposed Rule 5-4 and 5-5 to reflect that a suspension of our rules is by a majority vote which is our typical rule process and was our rule process in special session in 2015. Right now the rules are written that a suspension of the rules would be by a two-thirds vote, which in my view could preclude the introduction of further consideration of legislation that is of pressing interest to the state of New Hampshire and to this body. Some may argue that, look we need to limit this to what the Governor and Council has prescribed for us today based on their resolutions, so a two-thirds supermajority makes sense. However, I'll just note that in 2006, the Supreme Court, New Hampshire Supreme Court in *Starr v. Governor* 154 N.H. 174, found that the clause authorizing the Governor to call us, the legislature into special session does not quote, "does not in any way limit the legislature's response to the Governor's call for a special session. We believe..." this is the court talking, "We believe that the state constitution empowers the legislature to enact any laws and statutes for the benefit of the state, whenever it sits in session, general or special session." Unquote.

So, to do a supermajority requirement to preclude the consideration of any other matter before this body, pressing issues before the state of New Hampshire, I think in my view, conflicts with the purpose of our mandate, conflicts with the state constitution, and conflicts with how we've traditionally, at least in 2015 anyways, handled special sessions. So I respectfully encourage the adoption of the modification of the Rule 5.4 and 5.5 so that a majority of Senators can vote on suspending these rules to consider other matters. Thank you very much, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much, Mister President. And I ask that the body vote down the proposed amendment to Rule 5-4 and 5-5 for the following reasons. We always suspend our rules by a two-thirds vote and that's what's at stake here. Under the constitution, we can adopt rules. I think that's clear. But historically we always suspend the rules by a two-thirds vote. What is coming before us today has been fully vetted last week by a task force that you, Mister President and the Speaker of the House, assigned several of us to sit on. Any other matter would be extraneous and should be subject to the two-thirds rule. So on the pending vote of the amendment proposed by my colleague from Senate District 15, I would ask a no vote. Thank you, Mister President.

The question is on the adoption of the motion to amend Special Session Senate Rules 5-4 and 5-5.

A roll call was requested by Senator Avard, seconded by Senator Feltes.

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

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

Roll Call, Yeas: 11 - Nays: 13. Failed.

PRESIDENT MORSE: Are there any other amendments to come before us? Seeing none, the question is on the adoption of Senator Bradley's proposal to the Rules as posted in the calendar.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: I move adoption of the Rule as proposed.

The question is on the adoption of the motion to adopt the 2018 Special Session Senate Rules.

A roll call was requested by Senator Avard, seconded by Senator Sanborn.

The following Senators voted Yes: Giuda, Bradley, Watters, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Hennessey, Lasky, Feltes, Cavanaugh, Soucy, D'Allesandro, Fuller Clark.

Roll Call, Yeas: 16 - Nays: 8. Adopted.

PRESIDENT MORSE: Let me explain what we need to do right now. We're going to take a recess for fifteen minutes to get organized on any amendments to Senate Bill 1; and any legislation that's going to be drafted. I'm assuming that most of you have worked with OLS in all these things. So, I don't believe it will take more than fifteen minutes. So, we'll take a break for fifteen minutes. If the Republicans could meet in 209.

Recess. Out of recess.

HOUSE MESSAGE

The House of Representatives, pursuant to the call from the Governor and Council, has assembled and is now ready to proceed with the business of the 2018 Special Session.

INTRODUCTION OF SPECIAL SESSION SENATE BILL 1-FN

Senator Bradley moved introduction of Special Session Senate Bill 1-FN, and resolve that, in accordance with the list in the possession of the Clerk, legislation numbered Special Session Senate Bill 1-FN shall be by this Resolution read a first and second time by the therein listed title.

First and Second Reading

SSSB 1-FN, requiring notice and approval of certain actions to commence audits of collection liabilities arising under certain sales and use tax statutes and prohibiting New Hampshire remote sellers from disclosing private customer information to foreign taxing authorities in connection with the collection of certain sales and use taxes.

Adopted.

Senator Bradley moved Ought to Pass.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you, Mister President. I want to first start out by congratulating all the staff and all the administrative people that have made what is a very historic morning for all of us. I think this is only the third or fourth time the New Hampshire Senate has ever met outside of our chambers across the street. So thank you all for the hard work that you've done. I want to thank you, Mister President, as well as the Speaker of the House for appointing myself, Senator Carson, Senator Daniels, Senator Giuda, Senator Avard, Senator Feltes and Senator D'Allesandro to the task force that met one day two weeks ago and three days last week in this room and laboriously went through, line by line, comma by comma, Special Session Bill 1 that a number of us have sponsored.

On an overall basis, what is important to note is that this bill was drafted by the Attorney General's Office with the input of the Governor's legal counsel and a seventeen-member task force that as I said, went through every line and every comma.

The purpose of this bill is to make sure that in light of the *Wayfair* United States Supreme Court decision, we are protecting New Hampshire businesses should there be an attempt by an out-of-state taxing jurisdiction. And there's some 10,000 of them around the countries, not just the forty-five other states that have sales taxes, but multiple other taxing jurisdictions to comply with New Hampshire laws, to protect New Hampshire businesses from the cost of that potential collection, and to make sure that there is no consumer fraud and scam going on through the attempt to collect.

So, what this bill does is several things. If you look through the bill, the first two or three pages are all a purpose statement. I'm not going to go through what each and every one of the purpose statement means because it's all pretty apparent what that is but in the definitions we build upon RSA 78-D, which was legislation that came as a result of past incidents with New Hampshire and Massachusetts as the Massachusetts Department of Revenue in the *Town Fair* case in 2009 attempted to collect a sales tax on its residents or from our businesses that Massachusetts residents were shopping in. The Supreme Judicial Court in Massachusetts ruled in favor of not collecting that tax because it ruled that you don't know if you're a merchant, where that product is being used; and that protected New Hampshire businesses.

So, what this measure does is build upon that and it is a new section of law, RSA 78-E. It does several things. First of all, if you are one of those 10,000 out-of-state foreign taxing jurisdictions, you'll have to register with the Department of Justice 120 days prior to attempting any kind of tax collection effort, be it an audit, a request for information, or a request of the business to remit a tax to the out-of-state taxing jurisdiction. The legislation also requires that if there is an attempt to do that, attempt to ask for information, do an audit that also prior to that, the Attorney General's Office will need to be notified 120 days. The Attorney General's Office then must make a determination if a registration has happened, and to make a determination that what the out-of-state taxing jurisdiction is doing is indeed constitutional under the New Hampshire Constitution as well as the United States Constitution. This is designed among other things, to make sure there is no consumer fraud and consumers are protected and businesses are protected from scam artists, quite frankly.

So, if the attorney general makes that determination, then several other things happen in this bill that was worked on extensively. And I have to say, and thank all the members of the task force that voted for introduction of this bill on a bipartisan and unanimous basis. And here's why I think it was bipartisan and unanimous: because we did our homework starting with the Attorney General's Office.

Number one: the bill calls for a safe harbor. So small transactions from small merchants are protected, as well they should be. We cite the fact that there should be no retroactive taxation; that any other foreign taxing jurisdiction be part of what's known as the streamlined sales tax agreement, which we are not part of because we do not have a sales tax. We also stress, and we spent a lot of time talking about this in the task force, that New Hampshire businesses that are potentially going to have significant costs, costs in terms of software, potential hardware for computer systems, training of their employees, the cost of collection, the cost of remittance, the cost of accounting, that there be a mechanism for New Hampshire businesses to recover those costs. And let's remember for all of us that have been here a long time, that's exactly what we do with the rooms and meals tax for New Hampshire merchants collecting the rooms and meals tax for our Department of Revenue.

We also cite in this legislation that the state, or the other jurisdiction, the foreign taxing jurisdiction, make every attempt possible to collect the tax that they feel they're entitled to from their residents before they come to New Hampshire businesses to try to collect that tax.

And lastly, there's a provision that says the foreign taxing entity must comply with all the laws and rules in the state of New Hampshire, something that Senator Carson was very adamant be included in this legislation.

There was concern expressed about the workload on the Attorney General's Office. The task force added an opportunity for the Attorney General's Office to assess a fee— not on any New Hampshire entity, I want to make that crystal clear, for some people that don't like fees, and that's probably most of us— it would be on the out-of-state jurisdiction to pay a fee to defray the collection cost, if you will, that the Attorney General's Office might have to do with the registration and the review of all the documentation. That is to be adopted under emergency rulemaking authority. That is the section of the legislation that determines the minimum protection.

After that, the next major section that's very important is the enforcement section. This legislation allows the attorney general to bring an action in the Merrimack Superior Court or any other court of jurisdiction in New Hampshire, and the court would react as expeditiously as possible. The Attorney General's Office has the power to subpoena documents and demand documents if there is the possibility of those documents being destroyed.

Those, and I may have forgotten a couple of provisions and maybe some of the other task force members, if I have, can highlight some of those other provisions, but I think I've hit the main points except for the fact that we also added a commission at the end of the bill with a number of different state departments; obviously the Attorney General's Office, the Department of Revenue, the Business and Economic Affairs, a member of the BIA, a member of the Retail Merchants Association, an actual merchant, an actual New Hampshire remote seller, a tax attorney or a tax accountant; a broad spectrum as well as legislators on a bipartisan basis. Because I think all of us that sat on the task force understand that this is not a short-term issue for the state of New Hampshire and our

business community. This is a long-term issue that is going to require more clarity from our federal courts because remember the *Wayfair* decision was remanded back to the South Dakota court for clarification on a number of issues. So, a commission will make an interim report and a final report in 2019.

I think it's safe to say that we probably won't be debating this issue in this room in two or three years, we'll be debating it across the street because it is likely to be an issue of great import to our nation and obviously to our state.

Thank you, Mister President. I urge—happy to answer any questions—I urge my colleagues to support this. Remember, it was bipartisan, and we did take public comment, a lot of public comment in fact, on the bill that you see before you. Thank you, Mister President.

Senator Soucy offered a Floor Amendment.

Sen. Soucy, Dist 18
July 25, 2018
2018-2137s
01/06

Floor Amendment to SSSB 1-FN

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

AN ACT requiring notice and approval of certain actions to commence audits of collection liabilities arising under certain sales and use tax statutes and prohibiting New Hampshire remote sellers from disclosing private customer information to foreign taxing authorities in connection with the collection of certain sales and use taxes and requiring the department of justice to consider any legal recourse New Hampshire may have against negative impacts of President Donald J. Trump's tariffs.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Department of Justice. The department of justice shall review and consider any and all possible legal recourse New Hampshire may have against the United States in order to protect and advance the interests of New Hampshire's citizens, businesses, and economy in response to the negative impact of President Donald J. Trump's tariffs. The department of justice shall provide a report on or before October 1, 2018 to the senate commerce committee and the house commerce and consumer affairs committee, including any recommendations or planned remedies for New Hampshire.

2018-2137s

AMENDED ANALYSIS

This bill prohibits foreign taxing jurisdictions from requesting information from, conducting examinations of, or imposing sales and use tax collection obligations on sellers in New Hampshire, unless the foreign taxing jurisdiction registers with and provides notice to the New Hampshire department of justice. This bill also prohibits sellers in New Hampshire from providing private customer information to any foreign taxing authority for purposes of determining liability for collection of certain sales or use taxes unless the seller has provided a written notice of the request for such information to the department of justice. This bill allows sellers to comply with any directive of a foreign taxing authority,

while preserving the seller's rights under the statute, if the seller determines that such compliance is in the seller's best interest. The bill also establishes a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from the United States Supreme Court decision in *South Dakota v. Wayfair*, which changed the long held view of the physical presence rule.

This bill also requires the department of justice to consider any possible legal recourse New Hampshire may have against the United States to protect New Hampshire from negative impacts of President Donald J. Trump's tariffs.

SENATOR SOUCY: Thank you, Mister President, and thank you, colleagues. I think all of us are here today gathered to make sure that we do what we can to protect the citizens of New Hampshire and protect New Hampshire businesses. In that regard, the *Wayfair* decision poses a threat. We do not know yet of any businesses that have been adversely impacted by that decision, but we are considering legislation to take a first step to try to protect business. But what we do know today is that there are New Hampshire businesses currently feeling the impact of tariffs. Tariffs that have been placed by the President on a number of foreign entities, tariffs that are hurting our New Hampshire businesses.

The amendment that I offer, much like the *Wayfair* decision, empowers the attorney general to take a look at this issue and to take action on the behalf of our citizens and our business and action to improve our economy. It doesn't direct the attorney general to take a specific action, it asks him within his judgment to consider the impact, the adverse impact of these tariffs and to report back to the Senate Commerce Committee and House Commerce Committee by October 1st to make recommendations how we might improve this situation.

Let me just say that the immediate impact is being noted by many small businesses, many larger businesses, most notably by the Business and Industry Association that said the impact of the current tariffs have an impact of \$29.2 million to New Hampshire exports. Those are potentially threatened. In addition, the BIA indicated in a recent article that there are concerns about increased prices, lost sales and most importantly lost jobs.

I want to highlight just four businesses quickly that are currently being impacted. Many of you might have heard: Moonlight Meadery; they have suffered a \$750,000 loss to their business. They are impacting other businesses. This meadery purchases honey from McClure's Honey Production in Littleton. This is having a cascading effect on other businesses. The Little Bay Lobster Company was planning on 50 percent of their lobster being exported to China. That's not going to happen because of these tariffs. Comptus, Eco Touch, several other New Hampshire businesses, feeling the immediate impact.

It's important that we start to plan for the potential impact of *Wayfair*, but I suggest that it's more important today that we take action to deal with the immediate impact of tariffs and empower our attorney general to explore any possibilities to protect New Hampshire business. And I would move the amendment. Thank you, Mister President.

The Chair ruled sections of the Floor Amendment non-germane.

Senator Soucy moved to suspend Special Session Senate Rule 3-9.

PRESIDENT MORSE: Senator Soucy moves that we suspend Senate Rule 3-9 to allow the consideration of the non-germane amendment. The motion is to suspend Senate Rule 3-9. Does everyone understand the parliamentary situation? You're voting on suspending the rule.

A roll call was requested by Senator Avard, seconded by Senator Soucy.

PRESIDENT MORSE: Suspension is non-debatable.

PARLIAMENTARY INQUIRY

(The Chair recognized Senator Watters for a parliamentary inquiry.)

SENATOR WATTERS: If I were to want to debate the ruling of the President on the non-germane, may I now do so?

PRESIDENT MORSE: You are debating it, I'm letting you vote on it, Senator. That's the way we set it up. You're voting on whether it's germane or not. The body is. So you're doing that.

SENATOR WATTERS: Further parliamentary inquiry. I thought it was my understanding that in our rules, a ruling on germaneness is in fact debatable as well as voteable.

PRESIDENT MORSE: The ruling on suspension is non-debatable. You're asking to suspend right now, and it's non-debatable.

SENATOR WATTERS: Parliamentary Inquiry. You announced an earlier...a previous ruling that you determined that this was non-germane and that is what I wish to debate under our rules.

PRESIDENT MORSE: Basically you're getting the opportunity right now, I'm giving it to you, to vote on whether it's germane or non-germane. The fact is you can't debate on whether or not about the issue. So, it's pretty clear in our rules.

SENATOR WATTERS: Maybe I am, if I may inquire again, Mister President. Maybe I'm mistaken but I believe that in the initial ruling that something is non-germane was in fact debatable prior to voting on that.

PRESIDENT MORSE: No.

SENATOR WATTERS: Thank you.

PRESIDENT MORSE: The motion is to suspend Senate Rule 3-9.

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

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

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

Senator Feltes offered a Floor Amendment.

Sen. Feltes, Dist 15

July 25, 2018

2018-2136s

01/04

Floor Amendment to SSSB 1-FN

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

AN ACT requiring notice and approval of certain actions to commence audits of collection liabilities arising under certain sales and use tax statutes, prohibiting New Hampshire remote sellers from disclosing private customer information to foreign taxing

authorities in connection with the collection of certain sales and use taxes, and establishing a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the impact and uncertainty created by President Donald J. Trump's tariffs.

Amend RSA 78-E as inserted by section 1 of the bill by inserting the following and renumbering the original RSA 78-E:12 to read as RSA 78-E:13:

78-E:12 Commission Established. There shall be a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the impact and uncertainty created by President Donald J. Trump's tariffs.

I. The commission shall be composed of 13 members, as follows:

(a) The attorney general, or designee.

(b) The commissioner of the department of revenue administration, or designee.

(c) The commissioner of the department of business and economic affairs, or designee.

(d) A member of the Business and Industry Association of New Hampshire, appointed by the governor.

(e) A member of the New Hampshire Retail Association, appointed by the president of the senate.

(f) A New Hampshire manufacturer, appointed by the speaker of the house of representatives.

(g) A New Hampshire small business owner, appointed by the president of the senate.

(h) The chairman of the New Hampshire Canadian Trade Council, or designee.

(i) Three members of the house of representatives, one of whom shall be from the minority party, appointed by the speaker of the house of representatives.

(j) Two members of the senate, one of whom shall be from the minority party, appointed by the president of the senate.

II. The duties of the commission shall include, but are not limited to, review and consideration of the impacts of President Donald J. Trump's tariffs on New Hampshire's citizens, businesses and economy, any and all possible policy solutions New Hampshire may take to support our businesses in response to President Donald J. Trump's tariffs, and any recommended action to be taken against the United States in order to protect and advance the interests of New Hampshire's citizens, businesses and economy in response to the negative impact of President Donald J. Trump's tariffs.

III. The commission may solicit information from any person or entity the commission deems relevant to its duties.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 30 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library, in an initial report on or before November 1, 2018, an interim report on or before March 1, 2019, and a final report on or before November 1, 2019.

Amend the bill by replacing section 2 with the following:

2 Repeal. The following are repealed:

I. RSA 78-E:11, relative to the establishment of a commission.

II. RSA 78-E:12, relative to a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the impact and uncertainty created by President Donald J. Trump's tariffs.

2018-2136s

AMENDED ANALYSIS

This bill prohibits foreign taxing jurisdictions from requesting information from, conducting examinations of, or imposing sales and use tax collection obligations on sellers in New Hampshire, unless the foreign taxing jurisdiction registers with and provides notice to the New Hampshire department of justice. This bill prohibits sellers in New Hampshire from providing private customer information to any foreign taxing authority for purposes of determining liability for collection of certain sales or use taxes unless the seller has provided a written notice of the request for such information to the department of justice. This bill allows sellers to comply with any directive of a foreign taxing authority, while preserving the seller's rights under the statute, if the seller determines that such compliance is in the seller's best interest. The bill establishes a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from the United States Supreme Court decision in *South Dakota v. Wayfair*, which changed the long held view of the physical presence rule.

This bill also establishes a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the impact and uncertainty created by President Donald J. Trump's tariffs.

SENATOR FELTES: Thank you very much, Mister President. As been noted, the Special Session Senate Bill 1 creates a commission to continue to study and look at the issue of online sales tax collections by out-of-state foreign taxing jurisdictions and the impact on New Hampshire and New Hampshire businesses.

This creates a commission to look at and evaluate the impact that President Donald J. Trump's tariffs on the economy of the state of New Hampshire. It specifically says, "there shall be a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the impact and uncertainty created by President Donald J. Trump's tariffs." The commission composition includes basically the same composition as the composition of the commission on *Wayfair*. It does sub in the chairman of the New Hampshire Canadian Trade Council. It also subs in a New Hampshire manufacturer and a New Hampshire small business owner appointed respectively by the Speaker of the House and the President of the Senate.

We've already heard of the importance of this. I will note Jim Roche's comments in a recent article about the importance of looking at this. He doesn't say it with respect to this amendment, to be clear, but these are his comments: "If our trading partners respond in kind with a full set of tariffs of their own, New Hampshire's manufacturing, technology and construction sectors will incur significant harm. There are 184,000 workers in the Granite State whose jobs are supported by exports. Slapping on tariffs is simply the wrong approach for the United States."

And also note that the BIA signed on to a letter with 245 other business organizations, many of which are in the state of New Hampshire, encouraging action at the federal level in the U.S. Senate to deal with this issue of tariffs and the impact on New Hampshire's businesses, our economy and our consumers who are going to feel the brunt of this and are already feeling the brunt of it.

So, it makes good sense in my view, Mister President, and colleagues, to consider this amendment, form this commission. It's much like the other commission we're likely to form today, and look at this direct impact to the state of New Hampshire, our businesses and our economy. Thank you, Mister President.

The Chair ruled sections of the Floor Amendment non-germane.

Senator Feltes moved to suspend Special Session Senate Rule 3-9.

A roll call was requested by Senator Avard, seconded by Senator Soucy.

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

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

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

Senator Feltes offered a Floor Amendment.

Sen. Feltes, Dist 15

July 25, 2018

2018-2138s

01/06

Floor Amendment to SSSB 1-FN

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

AN ACT requiring notice and approval of certain actions to commence audits of collection liabilities arising under certain sales and use tax statutes and prohibiting New Hampshire remote sellers from disclosing private customer information to foreign taxing authorities in connection with the collection of certain sales and use taxes and making an appropriation for the purposes of mental health provider rates.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Appropriation. The sum of \$7,500,000 for the fiscal year ending June 30, 2019 is hereby appropriated to the department of health and human services for the purpose of enhancing provider rates for mental health and substance misuse inpatient and outpatient services consistent with 2018, 342. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. If any portion of said sum is not used for the purpose of this section it shall lapse to the general fund.

2018-2138s

AMENDED ANALYSIS

This bill prohibits foreign taxing jurisdictions from requesting information from, conducting examinations of, or imposing sales and use tax collection obligations on sellers in New Hampshire, unless the foreign taxing jurisdiction registers with and provides notice to the New

Hampshire department of justice. This bill also prohibits sellers in New Hampshire from providing private customer information to any foreign taxing authority for purposes of determining liability for collection of certain sales or use taxes unless the seller has provided a written notice of the request for such information to the department of justice. This bill allows sellers to comply with any directive of a foreign taxing authority, while preserving the seller's rights under the statute, if the seller determines that such compliance is in the seller's best interest. The bill also establishes a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from the United States Supreme Court decision in *South Dakota v. Wayfair*, which changed the long held view of the physical presence rule.

This bill also makes an appropriation to the department of health and human services for the purpose of provider rates for mental health and substance misuse services.

SENATOR FELTES: Thank you very much, Mister President. Mister President, about three weeks ago Governor Sununu signed our bipartisan Medicaid expansion renewal. A key component of that bipartisan compromise was ensuring sufficient behavioral health rates for mental health and opioid substance misuse providers. As we shift to a managed care model, we know that though those rates are going to go down and go down significantly beginning January 1 and this provision of the Medicaid expansion law which was recently signed needs to be effectuated and effectuated soon to provide the certainty to our provider community that they need to continue to keep the capacity that's so essential in combatting our opioid epidemic. That's what this amendment does. It effectuates a law that was recently signed. It sets aside 7.5 million to enhance behavioral health rates consistent with that law, which is chapter law 342, which you can see on line 15. And it protects taxpayers in the sense that if this is not used it lapses back to the general fund.

There's going to be probably a few arguments against this and I'll address them briefly. Number one: someone's going to probably say that as a consequence of Senator Hassan and Senator Shaheen's work to secure 23 million through SAMHSA and opioid related money that we don't need to take action now. The reality is that money can't go to enhance Medicaid rates. So if we don't take action now, and we're enhancing non-Medicaid rates but not Medicaid rates consistent with the new legal requirement, our provider community will have every incentive to give those beds to the non-Medicaid expansion population. That's going to harm our efforts to deal with this crisis.

Second, you'll hear presumably that the rates haven't been set yet by the Department of Health and Human Services and that's true; and that they're waiting to hear from an actuary to give advice and recommendations on where to set that rate. That's also true. However, the response to that is, the rates will, everybody agrees, be higher than the standard Medicaid rate. Will they be as high as the private market rates? I doubt it, based on everything the department's saying. However, everybody agrees the rates will be higher than the standard Medicaid rate effective January 1, which means effective January 1, we need more money.

So, there's two options. It's either found within the Department of Health and Human Services somehow, and then approved at a meeting at Fiscal, or us as a full legislature could take action to provide that certainty right now. That's what this is all about. And anything that's not used,

anything that's not used. You may hear well we don't know how much is going to be used, well, if you look at the last line, "if any portion of said sum is not used for the purposes in this section, it shall lapse to the general fund." We protect taxpayers, we make a reasonable course of action today to deal with a pressing issue of public policy that affects our state that we've worked on in a bipartisan way for years. This effectuates a bipartisan compromise that was recently signed into law. We need to move forward on...regardless of what you think about Medicaid expansion, seven of my colleagues here in the Senate voted no, but even those seven can vote yes here today on this because a law's a law and we need to effectuate it. We need to enhance those rates January 1. Time is of the essence and we need to send that message to our provider community that our capacity needs to remain in place for both mental health and substance misuse providers. And we're protecting taxpayers; we are protecting taxpayers by taking this action today to effectuate an existing law and making sure none of our capacity slips in this state.

So, I respectfully just encourage, I know it's, I'm sure you've been encouraged to vote no on all of this but just think about it. Think about the fact that we're in the middle of these epidemics and we've worked together in a bipartisan way on so many of these issues. This is the law, we need to enhance these rates and in my view now is the time to do it. It's a pressing issue. Thank you, Mister President.

The Chair ruled sections of the Floor Amendment non-germane.

Senator Feltes moved to suspend Special Session Senate Rule 3-9.

A roll call was requested by Senator Avard, seconded by Senator Sanborn.

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

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

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

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I urge my colleagues to support the current legislation and I want to point out a couple of things that I think are very, very important that are contained in this piece of legislation.

One is RSA 78-E:9, reimbursement for sales and the use of tax collection. That was a key element in this bill. Senator Feltes was very strong in bringing this forward. I supported it along with other members of the commission. The key words are to recover or deduct from any taxes collected. Key element, it protects our small businesses. I think it was essential and we voted for it unanimously at the time.

The second provision that I think, again, was important and brought forward by the minority on the committee was RSA 78-E:11, a commission established, and the composition of that commission. And I want to point out one element of that commission that makes it more viable than it was in the discussionary phase of the event and that was Roman III; the commission may solicit information from any person or entity the commission deems relative to its duties. That means you can go and look for experts who will be up to the moment with regard to the federal situation. There is federal legislation that's been offered, but remember

it's 45-5 at the federal level. There are only five states that don't have a sales tax. There are forty-five who do. So, we have got to be in position by virtue of this commission to react to any changes that take place, and I think we have a commission in place that's going to do that.

I think the work done by the task force was bipartisan and was, in my opinion, excellent. The Governor's legal counsel was there to answer every question. And I think he did a superb job. I think the commission itself, in a bipartisan fashion, demonstrated that we can get together and address a problem that affects the most significant aspect of our economy: business, small businesses and large businesses. It would have been nice to add a couple of things to this bill, I realize that's not possible, but indeed our support of this piece of legislation in a bipartisan fashion, demonstrates that we're concerned about our business community, very concerned about our business community, and the items that are in place in this bill make sure that our business community is protected. Key element. Thirty-three percent of the revenue derived by this state comes from business taxes, 33 percent. Very, very significant in our revenue stream. And I'm glad that we were able to get together and put these items in that protect business. Thank you, Mister President.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Mister President I respect and echo the remarks of the Dean and also the majority leader earlier today on this bill. I just want to make a couple things clear to our business community. The state of New Hampshire and the Attorney General's Office is not the business community's de facto attorney, and we wanted to make that very clear throughout this process and I think it's important that New Hampshire businesses, if they do get a notice, they have every opportunity to forward that notice to the Attorney General's Office and the Attorney General's Office can make their determination about how to proceed with an enforcement action. But every New Hampshire business should seek advice on their own with an accountant and/or a lawyer in that not relying specifically on the attorney general to serve as counsel for New Hampshire businesses. That's not the intent of those provisions and that's not how it will operate. In addition, while there is a factor in the analysis that calls for a safe harbor, that's not a safe harbor, it's a factor in the determination that the AG will use to decide for itself whether or not the statute and regulation of an out-of-state taxing jurisdiction meets the requirements under *Wayfair*.

So, I think it was great work by the task force, bipartisan work, and alike the majority leader. Consumer protection provision was added, registration fees were added and registration requirement, and the requirement to recover and deduct for our business community to keep them whole. However, it is important to note as we have the entire time and I think the attorney general's been very clear about this too, that the attorney general does not serve as legal counsel for every business and that's not what this process is designed to do, but this process does set up reasonable process, reasonable procedure, and reasonable protections for New Hampshire's business community. Thank you, Mister President.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President. I too rise to commend the commission's work, the task force work, and I think that the bottom line here, of course, for us was to protect New Hampshire inter-

ests, in particular the interests of our businesses and make sure they're held harmless by whatever goes forward on this as well as our cost to government, as well.

I happened to be in Dover yesterday visiting businesses and went into Nicole's Hallmark and I was talking to the owner and said, hey you heard about this *Wayfair* decision and so and so. Well, I don't know how to explain it. I don't think it will affect us and then she paused for a moment and said, well wait a minute, we have a famous line of jelly beans, and people do order them over the internet. And I said, well the bean counters will be ready; and she said oh my goodness, I'm going to have to talk to my accountant about that?

And so, I think it was particularly important here that we did have provision RSA 78-E: 9, where we say that our businesses will be held harmless. If they have to incur a cost whether for software or for their accounting to collect that tax, they're going to be held harmless. And I like not only that they get to deduct it from the amount of tax collected, but I also like that word recover; because I'm saying, well alright then, if it costs you more to get the software and more cost than you're going to get from the tax you're collecting well let's send a bill to those other states and say that you've got to pay for the cost that went through then.

And secondly, a similar concern for our Department of Justice, Attorney General's Office, I mean I hope that there aren't going to have to be a lot of precedential cases here. I hope that other states will obey our laws, but I think we all know that there are potential costs here and I think it's important to let the Department of Justice through rulemaking to say okay, we're going to hold our taxpayers harmless if we have to charge a fee to these folks coming in, that's the way we're going to do it. Thank you, Mister President.

(The Chair recognized Senator Kahn for a question of Senator Bradley.)

SENATOR KAHN: I have a letter from a small business owner in my district. He owns electronic imaging materials, they do barcode labels. And his concern and, by the way, he's offered some complimentary language on the work of the committee that drafted the legislation, so I think you have hit the mark with this. But in trying to anticipate just how far can this go, that other taxing entities, foreign taxing entities, can go to enact a tax on New Hampshire's businesses, and he raises the question about business registration fees. So, something not covered in the legislation here where we're talking about sales tax and other use taxes. This question is specific to a business registration fee in order for him to continue to do the work that he's doing for businesses out of state. Where would we want to direct this small business owner's question? Would it be to the attorney general, is it yet left to this legislature to make some further determinations or would this go as a question to the study commission?

SENATOR BRADLEY: So, my answer to my friend from Senate District 10 is that this bill, Senate Bill 1 in the Special Session, has no fees or any taxes or changes for New Hampshire businesses. I want to make that crystal clear. The fee that's contemplated is for the out-of-state taxing jurisdiction to defray the costs of the Attorney General's Office. So to the extent that I understand your question about the potential of a business registration, and I'm not sure I do understand it because there's nothing in here that indicates that we're trying to get businesses to register in New Hampshire, that would probably be best addressed to the commission.

SENATOR KAHN: Yes, and so to clarify on that question, this is a business registration fee in the other 10,000 taxing entities, the foreign taxing entities, and if there are required registration fees that New Hampshire businesses have not been paying and they are enacted to be charged to a New Hampshire business to continue to do that work in another state, where can this person and other small businesses direct their concerns about another levy being charged by one of those 10,000 foreign taxing entities on his small business for a registration fee?

SENATOR BRADLEY: I don't think that any, there's anything contemplated and as I'm trying to understand your question; I'm not sure why an out-of-state taxing jurisdiction would force a business to register and then tax them. I think the issue is that they're trying to collect what they deem is a tax that their resident in that foreign jurisdiction is buying from a New Hampshire business and collect their sales tax on that. I don't see any reason why a New Hampshire business would be under any of this that we know to date, and that's all subject to change of course, based on what Congress does, based on further findings of law; I just can't contemplate why a New Hampshire business would have to register in an out-of-state jurisdiction for anything associated to this point with *Wayfair*.

SENATOR KAHN: And should that become a question, is this commission empowered well enough to receive those kinds of inquiries.

SENATOR BRADLEY: Yeah, I mean the commission, as I think Senator D'Allesandro and Senator Feltes indicated, was given the specific duties of the commission. It says, shall include, and it lists all the duties, but not be limited to. So the commission is empowered by this legislation to look at all issues regarding out-of-state taxing jurisdictions that may feel there's an obligation on the part of a New Hampshire business to remit a tax.

SENATOR KAHN: Thank you, Senator.

(The Chair recognized Senator Sanborn for a question of Senator Bradley.)

SENATOR SANBORN: Senator, thank you for taking my question. I appreciate it. As the Chair of Ways and Means this is important to me, right? As I know it is to you.

SENATOR BRADLEY: Well I'm not Chair of Ways and Means, so—

SENATOR SANBORN: So, as Chair of Ways and Means it's very important to me, and you know that. And in full disclosure, even though we have declarations, Mister President, I am a business owner, I am a taxpayer. I can't think off the top of my head when I've shipped a hamburger out of state recently, but it may or may not affect me ultimately, but I'm still participating.

So, Senator, I want to know did the task force consider the tax ramifications that we understand in the state of New Hampshire today: you have business profits tax and business enterprise tax and there's an offset. So one of my concerns as a business owner, and being on Ways and Means is, was there any discussion relative to if a New Hampshire business becomes obligated to pay a tax to one of the 10,000 jurisdictions, is there an offset to the tax they have to pay; so is the potential for New Hampshire revenue to go down on a taxation basis, or would this be solely an increase in taxes on and above where they are today? And my example is let's say a state has a 10 percent sales tax, right? That's a lot of money. And if they're doing a significant amount of their

business in out of New Hampshire states, they couldn't survive, many companies wouldn't be able to survive an increase of 10 percent of their revenue. What do you guys consider in this?

SENATOR BRADLEY: So, let me try to answer the question this way. Obviously when the legislation was drafted, and I think I speak for the task force because we all supported it; but also the Attorney General's Office, the Governor's legal counsel, sought to make sure that there is consumer protection and no scams, and any requests comply with New Hampshire law that they're legit, that they go through the registration process, no retroactivity that whatever safe harbor is established constitutional etcetera, etcetera, etcetera.

We also, and I think there's been a lot of discussion about section 9 of the bill and it also pops up earlier in the bill, that there is an expectation on the part of all of us that worked on the task force that the cost of recovery of the obligation to collect is coming out of the tax proceeds from the foreign jurisdiction. Now, in the example that you raised, that suddenly some point in time in the future, a business as opposed to the customer of that business gets dinged, that's a discussion that will obviously occur in the future as it impacts business profits tax potentially because there could be, there could be that implication but I think we're a long, long ways from that. The commission and all of us, well, you may be in another role, and if you're in that other role, Godspeed on trying to get the other forty-five states to agree to something. But actually, it's in their interest to have a uniform, if there's going to be collections, to make it uniform because different states have different levels of sales taxes and people shop from one state to the other based on the advantage that they have. If there's a 10 percent sales tax in New York versus an 8 percent or a 7 percent, I can't remember what it is, in Connecticut. Those are issues that you may face in Congress, certainly something that was present when I was there. These are issues that are going to play out for a long period of time in my opinion. But for now, we're not aware since 2009 when the Massachusetts Department of Revenue tried to collect taxes on its residents shopping at Town Fair Tire locations in New Hampshire. So, I think that question, while it's important, is very premature. But certainly those of us that remain here in Concord are going to have to watch that carefully.

SENATOR SANBORN: Thank you, Senator. I am just asking for maybe some more clarification for the record. You were talking so much today about our concern that businesses might ultimately become the tax collector for up to 10,000 different jurisdictions. But there may be some confusion out there relative to who is supposed to be paying the tax. Is it the customer or is it the business that's selling the products, and what type of discussions did you guys have when you were crafting the legislation to clearly try to protect everyone from New Hampshire: both the New Hampshire residents buying product or actually the out-of-state residents in the state buying products, from having to pay New Hampshire sales tax; and the New Hampshire businesses that might, might somehow become a forced agent of 10,000 different taxing jurisdictions to collect that tax on behalf of the customer. Is that constitutional and what type of protections have we brought forth to try and defend New Hampshire businesses from becoming the tax men.

SENATOR BRADLEY: Well, I can't answer the constitutionality of it, and I don't know if you're, Senator, looking at the calendar or the bill.

SENATOR SANBORN: I was looking at the calendar.

SENATOR BRADLEY: Okay. So, let me find the section, it is on page 16, I believe, the end of section 1, so it's about two-thirds of the way down that page. And it starts, I don't know, five lines up from the bottom of that paragraph one. "Including whether or not the laws include a use tax and requirement the persons report and pay use tax liability whether or not the foreign taxing jurisdictional authority is actively seeking to enforce its own requirement that persons report and pay tax liability." So what the legislation, and I think it's in another place that is in the bill and I can find it and show it to you afterwards, one of the key provisions of the bill, Senator, is that we expect under New Hampshire law that a foreign taxing jurisdiction is doing everything in its power to collect the tax from its own residents as opposed to coming to a New Hampshire business to collect the tax after the fact.

SENATOR SANBORN: Senator, thank you for taking my question. Quick clarification for the record, in case people listening in. I want to get back to the question that the Senator to my left, Senator Kahn asked you. You know part of this concern that many people have had in the business community is the state of New Hampshire today is the businesses in the state of New Hampshire today are potentially being faced with becoming the tax man for 10,000 different taxing jurisdictions; and that concern is how many of those taxing jurisdictions might say we're going to force you to become our tax agent but we're also going to force you to register so we know who you are and that you're selling stuff. Now the first response you had given to the fine Senator from Keene was, not sure how that happens and maybe the Senator from District 18 or 20 could weigh in at some point. You know for example, we know Manchester, New Hampshire has blue laws that required every single business to register in order to conduct business on Sundays. We know that the Department of Environmental Services, because we're having this issue down in Hampton at one of the gun ranges, is voluntarily providing testing results, but now DES is requiring them to spend 2 or \$3,000 a year to register to give them the data that they're self-collecting. So as business owners, there's clearly this concern. I mean you pick the number, Senator, \$10, \$100, \$1,000 times 10,000 taxing jurisdictions could fundamentally cripple the businesses in this state. And I know you appreciate that.

SENATOR BRADLEY: Oh, absolutely and I think everybody that served on the task force appreciated it and that's why we labored over section 9 and also labored over the provision in section 5 that talks about recovery of cost. We fully expect that if a business is subject to hardware and software cost to purchase the services to be able to comply with the tax ruling, if it happens or the training or the actual collection, the remittance, the legal fees, the accounting fees, all of those things that you know a business owner faces, we're making every attempt that we possibly can to ensure that New Hampshire businesses are whole vis-à-vis any attempt by an out-of-state taxing jurisdiction to do that. Now as I've said, I think repeatedly, this is a first step, and we're going to have to monitor this very carefully. We're going to have to monitor what happens in terms of out-of-state taxing jurisdictions, sending requests for audits or tax requests; we're going to have to monitor whether they in fact register; we're going to have to monitor the *Wayfair* decision and any subsequent decisions coming out of South Dakota and the U.S. Supreme Court. We're even going to have to monitor what the United States Congress may or may not do.

SENATOR SANBORN: Someone might call you on that.

SENATOR BRADLEY: Yeah, well you can call me on that. So this is going to go on for a long, long time. This is a first step, I think it's a good first step. I think all of us that sat on the task force may have wanted to go farther, but I think all of us would agree, the lay of the land is somewhat changeable at this point in time. So this is our best attempt to make sure that we've done everything so New Hampshire businesses are not on the hook for being, as you said, the tax collector for a foreign taxing jurisdiction.

SENATOR SANBORN: Is it your intent from the legislation, and when you talked about cost recovery, that the task force would look at any registration fees and at the hardware software as a recovery cost.

SENATOR BRADLEY: Absolutely. I think this is inclusive of all costs.

SENATOR SANBORN: Great. Thank you, Sir. Thank you, Mister President. (The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. I rise in support of the pending motion and appreciate the good work of the task force. I also am pleased with the work of our mighty minority, our two Senate Democrat leaders who brought some great ideas and great contributions to this process, and wish we had a few more, maybe even better ideas, to add to that as well. I also wish that we could have had some of these ideas to protect...

SENATE CLERK'S NOTE

Due to uncontrollable circumstances there was a loss in audio transmission for the remainder of Senator Woodburn's remarks, subsequent remarks, and the vote.

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

A roll call was requested by Senator Avard, seconded by Senator Sanborn.

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

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

EARLY SPECIAL SESSION

THIRD READING AND FINAL PASSAGE

Senator Bradley moved that, SSSB 1-FN, having been ordered to third reading, be, by this resolution, read a third time, all titles be the same as adopted, and be ordered by the Senate to be passed at the present time in the early Special Session. Adopted.

EARLY SPECIAL SESSION

Third Reading and Final Passage

SSSB 1-FN, requiring notice and approval of certain actions to commence audits of collection liabilities arising under certain sales and use tax statutes and prohibiting New Hampshire remote sellers from disclosing private customer information to foreign taxing authorities in connection with the collection of certain sales and use taxes.

SENATE CLERK'S NOTE

Due to uncontrollable circumstances there was a loss in audio transmission for the beginning of President Morse's remarks.

PRESIDENT MORSE: – over to the House. To all the Senators, I just want to say thank you. In five short weeks you are sending over a piece of legislation to the House that I believe protects the New Hampshire way of life and it protects our New Hampshire businesses. It's a good first start and I thank you all for what you did. With that, we're going to take a two-minute recess to regroup and see what's next.

Recess. Out of recess.

SENATE CLERK'S NOTE

Due to uncontrollable circumstances there was a loss in audio transmission for the Suspension of the Rules, subsequent remarks, and the vote.

SUSPENSION OF THE RULES

Senator Feltes moved that the Senate suspend all Special Session Senate Rules necessary to permit consideration of further legislation at the present time.

Recess. Out of recess.

The question is on the adoption of the motion to suspend all Special Session Senate Rules necessary to permit consideration of further legislation at the present time.

A roll call was requested by Senator Avard, seconded by Senator Birdsell.

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

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

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

Recess. Out of recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SSSB 1-FN, establishing a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from the recent United States Supreme Court decision on the collection of certain sales and use taxes.

Senator Bradley moved Nonconcurrence.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much, Mister President. I didn't think I'd be getting up to actually give this speech. I think it's really unfortunate that we're in the circumstance that we're in. That despite all the good work that the task force did on a bipartisan basis, all six of us from this Senate that were part of the task force worked long and hard with our House colleagues on a unanimous 17-0 recommendation. I think it's unfortunate that what all twenty-four of us did, didn't quite get across the finish line. It was a very close vote in the House.

I think we need to make sure in the short run, and I mean the short run, that we do everything that we possibly can to protect the New Hampshire

businesses. I think all twenty-four of us recognize that. I'm glad that I'm able to stand with my colleagues, all twenty-four of us, recognizing that we have to do that. How the process is going to unfold I think remains in flux right now because of the sort of surprise that happened across the street. That being said, we need to get back, we need to do everything that we can to, I think, come back with legislation that does exactly what the task force recommended; listen to all the sides and all the points of view and maybe reflect that. How that's going to work out in the next several weeks, I don't know at this point in time.

But I urge all of my colleagues as you go back and talk to the businesses in your district that I've already been talking to, you know, some business owners in the state of New Hampshire that are very concerned with the fact that there's no registration from an out-of-state taxing jurisdiction. No opportunity for businesses that are going to have to potentially collect and remit to have a recovery of their cost. Nothing that has an out-of-state taxing jurisdiction complying with New Hampshire law. We have nothing today.

So, let's understand that we're probably coming back pretty soon. Let's stay united. Because all twenty-four of us took a vote to protect New Hampshire businesses today, to protect the New Hampshire advantage. I thank you all for, you know, your courage and your collegiality in that. And I guess we're, you know, this is the session that's never going to end.

So, thank you, Mister President. I move that we non-concur. I think that non-concurring pushes the ball further ahead than just concurring and doing very little except a commission in terms of this issue. We have to protect New Hampshire businesses. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. I rise and join the comments of my colleague from District number 3, that at this point we're facing a challenge of all frosting and no cake. I compliment all the members of the Senate, because we stood united today to fight for the businesses of New Hampshire. We need to recognize the fact that the Governor has been truly out front on this issue. He understands the risks and the ramifications for the business community and all the people of this state, and he has done an amazing job trying to bring it forward to us and try to create a product that we all could vote for. And the truth is we all voted for it. Task force did the work, we trusted what you did, you brought us a product that we could all support, every single one of us came in here and supported it. Because we, the New Hampshire Senate is trying to send a very strong message that we support the businesses of this state. We support what it means to be sales tax and income tax free. And we're trying to do the right thing to protect the people of this state.

By the way, new phone, I can't turn the volume off, my apologies, Mister President.

But the fact of the matter is, look we, the Senate has done the right thing for the people of New Hampshire today. That's what we need to be proud about. Now I understand my colleague in District 3 says that he and the Senate President will get with the Governor and there's a relatively high likelihood we'll be visiting this wonderful chamber again, because I'm assuming that the construction repairs won't be done. But hopefully it's incumbent on all of us to talk to our friends on the other side of the hall and see what we can do to get them to reconsider and help us try to forge some product that works for all of us.

So at the end of the day, I tip my hat to the Governor, I tip my hat to the commission, I tip my hat to everyone that sits in this room today, because you all did the right thing, and the people of New Hampshire should be proud of all of us. Thank you, Mister President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, I rise to support the decision made by the majority leader that he brought forward. What we emphasized was a spirit of a cooperation in a bipartisan fashion. A lot of House members were on that committee. A lot of House members were on that committee and all of their input was taken. We had Norm Major chairing the committee. I think he did a terrific job.

To do what just happened across the street is an insult to the legislative process, and I find that very difficult to accept. We're equal bodies, we work hard for the benefit of the people of the state of New Hampshire. Then you take all of that work and you throw it aside and say, if it isn't my way, it's the highway. That's totally unacceptable. We're a democracy. And indeed if we can't appreciate each other's opinion and can't discuss it, go over it and come up with a conclusion, we're in big trouble. And I'm sure we'll be back, because we have to come back. We have to protect the citizens of the state of New Hampshire.

Therefore I say support the decision of the majority leader, let's move forward and depend upon our leadership to make something positive happen. That's what we're here for. Thank you, Mister President.

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSSELL: Thank you, Mister President. Maybe I've been sitting next to the Senator from District 20 for too long, but I have to agree with him as far as— Most of the Senators that have spoken have been much kinder, but I agree with the good Senator from District 20. This is an absolute insult to our business communities. We had Massachusetts, Vermont and Maine sitting on their borders, waiting to come after our small businesses, and we cannot wait another month and a half until September 13th for them to take the money from our small businesses. So again, I agree with the good Senator from District 3, the majority leader. I will be voting to non-concur. This is an absolute insult to our New Hampshire small businesses and our businesses. Thank you.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. Mister President, I too want to echo the words of the majority leader about the bipartisan work that we did on this task force. I think it was a good product. I think as we move forward, though, and we continue to be collegial and respectful, I think we ought to consider and be open to some of the other issues that we talked about today. Including on tariffs and on behavioral health rates because I think those are pressing problems for the state and we need to have an openness, I think, as we move forward and work with one another. Thank you, Mister President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I worked with colleagues from the House and the Senate on the committee that drafted the legislation. It was a very intense effort. It was an effort that understood that the threat here is to the businesses of our state, and that our job as legislators

is to protect those businesses as well as our citizens and institutions. I'm proud to be a member of this body. I'm proud to have been a member of the body that delivered the legislation for consideration. I'm dismayed at this point that after that much work, facing the threat from 10,000 taxing jurisdictions, our businesses remain utterly unprotected on any front with any legislation, constitutional issues or anything else. That taxing authorities from outside our state can begin the process of turning our businesses into their tax collection agents. I truly hope to be back here to send another message and to establish legislation that will support the businesses that make this state's way of life possible. Thank you, Mister President.

PRESIDENT MORSE: Well with respect, I would like to say one thing. I haven't spoke with the Speaker and I haven't spoke with the Governor. I firmly believe this is a Senate decision whether we concur or non-concur. I certainly support the non-concur motion and the reality of what's to come after this; I think you've made it perfectly clear in the Senate. You can expect to be back here, because my recommendation is that we get back here and get it done. The reality of twenty-four of us sticking together means we can get it done on our way. It's extremely important that the Senate send the message on this one that we're going to fight for the businesses in the state of New Hampshire all across the country quite honestly. And the fact that you're going to come back and do something about it shortly, in my opinion, is going to have to happen. So your job after today, is to look at the eighty-some people in both parties that voted against all the work that that commission did. So as we vote right now, you still need to go and talk to your colleagues in your district because that's what New Hampshire's all about. And the reality of what the businesses are going to do to you tonight, to say that you didn't get it finished, is not the fault of the New Hampshire Senate, and I certainly believe you're going to get called back to straighten it out because that's the right thing to do in this state. And as whether it should be anything else, there was no bigger issue in my mind today then this sales tax issue, period. And I care about every issue that was presented. But there was no bigger issue than the sales tax issue. And that's what we should be coming back and solving. With that, is there any further discussion?

A roll call was requested by Senator Avard, seconded by Senator Birdsell.

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

The following Senators voted No: (None)

The following Senators were excused: Kahn.

Roll Call, Yeas: 23 - Nays: 0. Adopted.

MOTION TO ADJOURN FROM EARLY SPECIAL SESSION

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

LATE SPECIAL SESSION
LIST OF RULE 5-8'S FOR THE DAY

Senator Sanborn: SSSB 1-FN

ANNOUNCEMENTS

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President, members of the Senate. I rise in sadness. To bring to the attention of those who may not know and to recognize the loss of the daughter of Dijit Taylor, the executive director of LCHIP, in an accident over this past weekend. There is no bigger loss to a person than the loss of a child. And so I would ask the Senate's indulgence in allowing me to read a little bit about Hannah Taylor, who was killed in an accident out in Colorado. She's the beloved daughter of Dijit, the Executive Director of LCHIP, and the late Jeff Taylor of Hopkinton.

She was born in Berlin on June 25th of '79 and joined by the two sisters she guided all their lives. She learned to ski at Wildcat. Before the family moved to Hopkinton and she enjoyed championship Nordic ski teams. After graduating from Phillips Exeter in 1998, she attended Middlebury College where she majored in Geography, skied on the Nordic ski team and met her partner, Will Rawstron. She lived in Summit County, Colorado, and worked as a Nordic ski coach and Managing Director of the Summit Huts Association; back-country experience for skiers and hikers alike.

She was a very thoughtful person and a very incandescent spirit. She was a dedicated outdoorswoman and an athlete, who lived to share her experiences with friends, family and the young skiers that she coached. She was much more than a coach. She strove to guide these people and to teach them her values of hard work, integrity, truthfulness, humor and adventure. She believed in making the world better and more beautiful, and her work as a coach was the highest articulation of that belief.

She had taken up both ultramarathon running and Adventure Racing in Colorado. She loved to be out in the mountains, as many of us do. She ran to gain the time in the wild spaces, not for the adrenalin or glory but for what she called "my brand of crazy."

She didn't take unnecessary risks – she loved life too well and knew her worth to those who loved her. She fell to her death when a rock came loose as she reached for it during a steep scramble on the Willow Peak Ridge in the Gore Range in Colorado.

All those who knew and loved her are heartbroken by this tragic accident, and her mother especially, Dijit Taylor, who I consider a personal friend and a colleague, as a member of LCHIP, doing great things for our state and for our communities.

Memorial services for Hannah are being held in Summit County, Colorado Thursday and on Saturday, August 4th at the First Church in Hopkinton NH. Memorial donations can be made to the Summit Nordic Ski Club; her family encourage those who mourn to go for an adventure in the loving, gritty and graceful manner that we find Hannah. Thank you, Mister President.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you, Mister President. A moment of personal privilege. I would just like to discuss another sad passing and that is of a bit of a hero from the Upper Valley by the name of Brian

Walsh. He was a civil servant if ever there was one. He served on the Hanover Planning Board and was part of the integral deal that built the new Dartmouth Hitchcock. He was a visionary, a renaissance man and an extraordinary public servant.

He actually had retired and moved to the seacoast, which he loved and where he loved to paint. And he took his regular, daily bike ride to his favorite bench where he could look out over the ocean and he died sitting on that bench. He was...

SENATE CLERK'S NOTE

Due to uncontrollable circumstances there was a loss in audio transmission in the middle of Senator Hennessey's remarks.

Two people tried to revive him, but unfortunately, they weren't able.

He is survived by his wife, Linda Patchett, and their children.

Brian Walsh was described as an indefatigable public servant in Hanover, beginning when he joined the planning board in 1977 and then when he was elected to the Select Board in 1996. In 1999, he was appointed chairman. One of his signature accomplishments in which he took pride was keeping the tax rate steady.

The town manager said, "He was just an amazing and intense guy. When you talked with Brian, you had his full attention. He was always thinking about how to do things better."

He grew up in Winchester, Mass., and arrived in Hanover to attend Dartmouth College, graduating in 1965 before earning advanced degrees at the Thayer School of Engineering and Columbia University, where he studied city planning. But he wasn't a stranger to the Upper Valley: Walsh's family had a summer home on Lake Sunapee, where his lifelong love of the water and sailing began and eventually figured into him and Linda retiring to the easternmost town in New Hampshire.

He dedicated his life to the region where I live, District 5, in the Upper Valley. He knew how to reach out and connect with people, how to compromise and how to lead humbly. He has been celebrated by people in my area, as just one of those queries finding out he was gone, because he was so alive in everything that he did. And one of the things that became his passion was his artistic side even though he started several interesting technology companies in the Upper Valley. In the end, it was his artistic side that gave him most pleasure.

Our town manager, Julia Griffin said, that the first time she met him it was during a public hearing and he was sketching portraits on a pad of others who were speaking at the meeting. And it was on that bench where he used to like to sit that he would paint pictures of the sea.

So, I'd just like to pay tribute to a very important and dedicated public servant who left us way too early. Thank you.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: I want to talk about a subject that really bothers me as a human being and that's the immigration policy that we are witnessing in this country, where children are taken away from their parents and in some instances never brought back to their parents. I'm the grandson of immigrants to this country. Proud to be an American. They were very proud to come here. To think that at our borders children are being taken away from parents and never restored. We're parents.