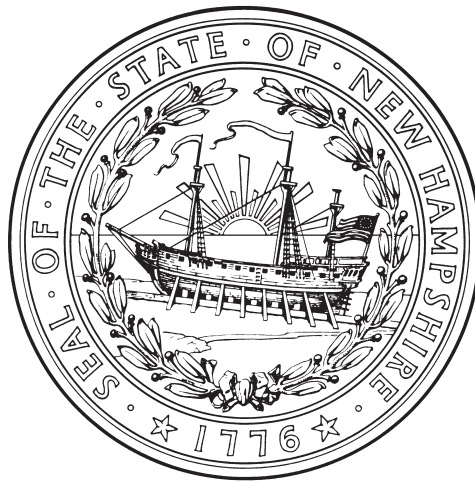


September 15, 2022
Nos. 13-14

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



**Second Year of the 167th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MAY 26, 2022 SESSION
COMMENCEMENT – SEPTEMBER 15, 2022 SESSION**

SENATE JOURNAL 13 *(continued)*

May 26, 2022

Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 14

September 15, 2022

The Senate reconvened at 1:00 p.m., a quorum being present.

PRESIDENT MORSE: I'd like to introduce our Chaplain, Father Francis McCarty, he was just ordained earlier this month so please let's congratulate him.

The Reverend Father Francis McCarty, Chaplain to the Senate, offered the following prayer:

Let us pray.

O God, author of our lives and source of all goodness, we give you thanks for the many blessings you have bestowed upon us. We ask that you look upon these, your servants, the members of the New Hampshire State Senate. Grant them harmony and peace in their discussions. Give them the wisdom, courage, and fortitude they need to lead your people. Give them prudent voices, listening ears, and open hearts as they work together to serve the constituents entrusted to their care. Watch over the people of the great state of New Hampshire. Through your intercession, may we all come to know joy, prosperity and peace, and may we be protected from all evil. We ask all these things in your most holy name. Amen.

Senator Avarad led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

President Morse introduced former Chief of Staff, Kristy Merrill visiting in the gallery.

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

VETO MESSAGE

May 27, 2022

Governor's Veto Message Regarding House Bill 52 and Senate Bill 200

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 27, 2022, I have vetoed House Bill 52 and Senate Bill 200, apportioning congressional districts.

The citizens of New Hampshire will not accept Senate Bill 200, which moves both members of Congress into the same district. Also, by moving Manchester into Congressional District 2 we would be creating a single district dominated by our largest urban areas.

House Bill 52 is not in the best interest of New Hampshire. Granite Staters' expect districts that hold our incumbents accountable so that no one elected official is immune from challengers or constituent services.

Appropriately apportioned congressional districts are vital to a representative government.

For the reasons stated above, I have vetoed House Bill 52 and Senate Bill 200.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall SB 200 become law?

A roll call is required.

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

The following Senators voted No: Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 9. Veto sustained lacking necessary 2/3 vote.

MOTION OF RECONSIDERATION

Senator Bradley, having voted on the prevailing side, moved to reconsider the following action taken by the body on SB 200, apportioning congressional districts. The Governor's Veto. Adopted.

The question is not withstanding the Governor's Veto, shall SB 200 become law?

A roll call is required.

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 10. Veto sustained lacking necessary 2/3 vote.

Recess. Out of recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 2023-FN-A, making appropriations to the department of energy for a state emergency fuel assistance program and a supplemental electric benefit, and relative to the electric low-income program fund.

SUSPENSION OF THE RULES

Senator Bradley moved that the Senate suspend all rules necessary to permit consideration at the present time of HB 2023-FN-A. Adopted by the necessary 2/3 vote.

INTRODUCTION OF LEGISLATION

Senator Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following legislation shall be by this resolution read a first and second time by the therein listed title. Adopted.

First and Second Reading

HB 2023-FN-A, making appropriations to the department of energy for a state emergency fuel assistance program and a supplemental electric benefit, and relative to the electric low-income program fund. (No Committee Assignment)

Senator Bradley moved Ought to Pass.

Senator Soucy moved to divide the question on the motion of Ought to Pass: The first vote on Sections 1 and 5, and then, the second vote on the remainder of the bill.

The Chair ruled the question divisible.

Senator Soucy offered a Floor Amendment.

Sen. Soucy, Dist 18

Sen. Cavanaugh, Dist 16

Sen. D'Allesandro, Dist 20

Sen. Kahn, Dist 10

Sen. Perkins Kwoka, Dist 21

Sen. Prentiss, Dist 5
 Sen. Rosenwald, Dist 13
 Sen. Sherman, Dist 24
 Sen. Watters, Dist 4
 Sen. Whitley, Dist 15
 September 15, 2022
 2022-2134s
 10/07

Floor Amendment to HB 2023-FN-A

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

AN ACT making appropriations to the department of energy for a state emergency fuel assistance program and a supplemental electric benefit, relative to the electric low-income program fund, and relative to net energy metering limits for individual and business customers.

Amend the bill by deleting section 1 and renumbering the original sections 2-5 to read as 1-4, respectively.

Amend the bill by replacing section 4 with the following:

4 Definition; Customer-generator. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" or "customer-generator" means an electric utility customer who owns, operates, or purchases power from an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a ~~[total peak generating]~~ **nameplate or maximum rated** capacity of ~~[up to and including one megawatt,]~~ **less than 5 megawatts and** that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer's own electricity requirements **in the first instance**. Incremental generation added to an existing generation facility, that does not itself qualify for net metering, shall qualify if such incremental generation meets the qualifications of this paragraph and is metered separately from the nonqualifying facility.

5 Net Energy Metering; Net Effects. Amend RSA 362-A:9, VII to read as follows:

VII.(a) A distribution utility may perform an annual calculation to determine the net effect this section had on its default service and distribution revenues and expenses in the prior calendar year. The method of performing the calculation and applying the results, as well as a reconciliation mechanism to collect or credit any such net effects with appropriate carrying charges and credits applied, shall be determined by the commission

(b) For the purposes of accounting for any exports to the distribution grid by customer-generators, such exports shall be treated as reductions to the customer-generator's electricity supplier's wholesale load obligation for energy supply as a load serving entity, net of any applicable line loss adjustments as approved by the commission.

(c) A generator that first becomes operational on or after July 1, 2019 shall only be eligible to participate in net metering as a customer-generator if it does not register as a generator with ISO England, is not considered a "Network Resource" or "Asset" by ISO New England, and does not participate in any other sale of electricity in interstate commerce.

(d) A generator that first became operational before July 1, 2019 and that has outstanding capacity commitments in the forward capacity market administered by ISO New England, is registered as a generator with ISO New England, or is considered a "Network Resource" or "Asset" by ISO New England, may elect to become a customer-generator and participate in net metering upon retirement from all wholesale electric markets administered by ISO New England. A generator in the process of retiring from FERC regulated electric markets may prospectively register as a group host pursuant to paragraph XIV provided that net metering tariffs under this section shall not be effective until such retirement is effective.

(e) Any provisions of settlement agreements or orders that have been approved or issued by the commission that relate to a distribution utility's treatment of the output from qualifying facilities or independent power producers shall not apply to the output from an eligible customer-generator participating in net metering.

6 Net Energy Metering; Transition of Tariffs. Amend RSA 362-A:9, XV to read as follows:

XV. Standard tariffs that are available to eligible customer-generators under this section shall terminate on December 31, 2040 and such customer-generators shall transition to tariffs that are in effect at that time. ***Alternative tariffs shall be applicable and have such grandfathering provisions as may be approved or adopted by the commission under this section. Customer-generators with a nameplate or maximum rated capacity of more than one megawatt and less than 5 megawatts that are eligible for net metering before the commission adopts tariffs specifically for customer-generators with a generating capacity of more than one megawatt shall:***

(a) Be eligible to receive the export credit rate approved by the commission in Order No. 26,029 (DE 16-576) for one megawatt sized customer-generators on default service, namely, the applicable default energy service rate.

(b) Be grandfathered by the terms of currently applicable tariffs for customer-generators with a total peak generating capacity of one megawatt if the customer-generator's electrical generating facility first becomes operational on or after July 1, 2019.

(c) Transition to such new tariffs as are specifically approved by the commission for customer-generators with a nameplate or maximum rated capacity of more than one megawatt if the customer-generator's electrical generating facility first became operational before July 1, 2019.

7 New Subparagraph; Restructuring Policy Principles; System Benefits Charge. Amend RSA 374-F:3, VI-a by inserting after subparagraph (d) the following new subparagraph:

(e) To the portion of energy efficiency funds reserved for low-income energy efficiency programs as approved by the commission via Order No. 26,621 dated April 29, 2022, there shall be added the sum of \$10 million for the Home Energy Assistance program approved at page 30 of Order No. 26,621. Such sum is hereby appropriated to the department of energy for the fiscal year ending June 30, 2023. The governor is authorized to draw his warrant for such sum out of any money in the treasury not otherwise appropriated. These additional funds shall provide additional support of home weatherization for income-eligible customers. Notwithstanding any commission order to the contrary, the maximum amount to be expended on any individual project by the Home Energy Assistance program shall be \$20,000 unless that amount is increased by the commission. Any funds authorized by this subparagraph, if unspent during the current planning cycle, shall not lapse and shall carry forward to subsequent planning cycles.

8 Effective Date. This act shall take effect upon its passage.

2022-2134s

AMENDED ANALYSIS

This bill establishes a state emergency fuel assistance program and a supplemental electric benefit to be administered by the department of energy for the fiscal year ending June 30, 2023, and makes appropriations to the department of energy to fund the programs. The bill makes an appropriation to the department for the electric low-income program fund. This bill also increases the electric generating capacity of customer generators who may participate in net energy metering, modifies the transition of tariffs applicable to certain customer-generators, and appropriates additional moneys for low-income energy efficiency programs.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

Roll Call, Yeas: 10 - Nays: 13. Failed.

The question is on the adoption of the motion of Ought to Pass: Sections 1 and 5.

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

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 10. Adopted.

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

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

The following Senators voted Yes: Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

EARLY SESSION

THIRD READING AND FINAL PASSAGE

Senator Bradley moved that, HB 2023-FN-A, having been ordered to third reading, be, by this resolution, read a third time, its title be the same as adopted, and be ordered by the Senate to be passed at the present time in the early session. Adopted.

MOTION TO REMOVE FROM THE TABLE

Senator Soucy moved to remove SB 436-FN from the Table.

JUDICIARY

SB 436-FN, relative to access to abortion care.

Recess. Out of recess.

The question is on the adoption of the motion to remove SB 436-FN from the Table.

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

The following Senators voted Yes: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

Roll Call, Yeas: 10 - Nays: 13. Failed.

Recess. Out of recess.

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

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's veto on the following entitled Bill(s):

HB 52, apportioning congressional districts.

HB 275, (New Title) relative to the declaration of a state of emergency.

HB 319, requiring students in the university and community college systems of New Hampshire to pass the United States Citizenship and Immigration Services civics naturalization test.

HB 1022, (New Title) permitting pharmacists to dispense the drug Ivermectin by means of a standing order and establishing a commission to study the use of Ivermectin to treat Covid-19.

HB 1131, relative to facial covering policies for schools.

HB 1625, repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

HB 1454-FN, relative to permits for the siting of new landfills.

VETO MESSAGE

June 24, 2022

Governor's Veto Message Regarding House Bill 1454

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 24, 2022, I have vetoed House Bill 1454, relative to permits for the siting of new landfills.

I agree with the experts at the Department of Environmental Services (DES) that this bill would have been better suited as a study. It is extremely likely this bill would curtail landfill development in the state and lead to New Hampshire's waste to be transported out of state, creating higher costs and property taxes for our citizens.

New Hampshire's landfill regulations are already rigorous and robust. According to the DES, there is no data indicating that the lined landfills currently operating and adhering to our regulations in the state are adversely affecting our state's waterways. Therefore, while the intent of this bill is good, it is ultimately a solution in search of a problem. The requirements in HB 1454 would have likely prevented construction of some of the seven lined landfills operating in the state.

Acknowledging the desire to strengthen the state's requirements, I signed a reasonable bill (SB 396) earlier this year enabling the DES to require a landfill applicant to hire an independent engineer or hydrogeologist to ensure their proposed landfill meets our permitting requirements. I am open to further changes to our landfill requirements, but these changes must be based on data. Now is not the time to raise additional fees and taxes on our citizens as a result of asking other states to manage our trash.

For the reasons stated above, I have vetoed House Bill 1454.

Respectfully submitted,

Christopher T. Sununu
Governor

The question is not withstanding the Governor's Veto, shall HB 1454-FN become law?

A roll call is required.

The following Senators voted Yes: Bradley, Watters, Prentiss, Ricciardi, Kahn, Rosenwald, Whitley, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

Roll Call, Yeas: 11 - Nays: 12. Veto sustained lacking necessary 2/3 vote.

Recess. Out of recess.

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted. Adjournment from the Early Session.

LATE SESSION

ANNOUNCEMENTS

RESIGNATION OF SENATOR HENNESSEY

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you, Mister President. I want to read a letter from our former colleague, Senator Hennessey, and the letter dated June 7, 2022, directed to you, Mister President, states:

Dear President Morse,

Please accept this letter of resignation, effective today, June 7, at 3:30 p.m.

As you know, I am submitting this resignation shortly before being sworn-in to continue serving this great state of New Hampshire as the Deputy Secretary of State.

Although I am looking forward to this exciting new opportunity, I am sad to leave the Senate. It has been my sincere honor to work with my twenty-three wonderful Senate colleagues representing the people of Senate District 1. Under your leadership, we were able to accomplish many great things for Granite Staters during the extremely challenging pandemic.

Thank you for your mentorship and thank you to all the hardworking Senate staff members.

Sincerely,
Senator Erin Hennessey

ANNOUNCEMENTS

PRESIDENT MORSE: Today is Veto Day. Unlike any other session day, it brings down the curtain on two years of extraordinary legislative accomplishment, something that everyone in our chamber today should take tremendous pride in. Veto Day is also a time for some Senators to say goodbye while others begin to look ahead. As your Senate President, I want to thank our departing colleagues for their service, your sacrifice, your contributions to this institution, and to this great state that we all love so much.

I'd like the aides to come forward. I'd like to recognize...we have engraved clocks so that you can't forget us here in New Hampshire, for the Senators that are leaving, and we've asked your aides to present them to you.

Senator Bob Giuda. Senator Harold French. Senator Jay Kahn. Senator Kevin Cavanaugh. Senator John Reagan. Senator Tom Sherman.

When our Clerk, Tammy Wright calls the roll in January, new Senators take your seats, but be assured, all of you will be missed and remembered, because each one of you has left your own special mark.

I want to just say one short thing about the Presidency. It's truly been an honor. Thank you.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I want to make it brief. It. It has been an honor and a pleasure to serve with you. I thank you for your service to the state. I thank you for your friendship. Life is all about relationships. We'll continue that relationship as long as we live. Thank you.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. I too want to say goodbye to someone today. An extraordinary member of our staff, Jessica Eskeland, who is already getting teary, and I haven't even said anything yet. Jessica is an extraordinary person. Very resourceful, very articulate, an amazing, amazing person, lifting us all up and supporting all of us with an enormous respect for the institution, and we are all going to miss her very much. So, thank you, Jessie.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I want to, like Senator Soucy, talk about our great press person, Carole Alfano, who has served in this role twice now. She is leaving tomorrow. We wish her well. She's done a great job. Godspeed in your next adventure. Thank you.

And you didn't think I was going to let you off the hook, did you, Senator Morse? It has, I think, been an honor for all twenty-four of us to have served under your leadership, your mentorship, your friendship. You have brought dignity, honor, integrity. Those are words that are not often associated with the likes of us. But you have brought dignity, honor, integrity, hard work, bipartisanship, and courage of convictions to this job.

So, on Tuesday morning before the polls opened I shared a sunrise picture with you, you remember. It's a gorgeous sunrise. There will be many, many gorgeous sunrises in your future. All of us wish you well. Godspeed. We love you, man we love you.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. It has been a great honor to call you, Mister President. I have known you for over forty years and you are probably one of the most honorable men that I have ever met in my life.

You have provided the leadership that we needed in order to move our state forward, especially during a very, very troubling time. I'd like to thank you, but I'd also like to thank your family, because we in this room all know that we can't do this job without the support and love of our family. And we all know how precious Susan and Emma are to you and the sacrifices they've made so you could be here with us, and you could serve the state and the Senate. So, thank you very much, Mister President.

PRESIDENT MORSE: Enough. Besides my wife Susan and Emma, some pretty special women are in this room. Kristy Merrill, Shannon Girard, Deb Vanderbeek, and I did get presented with a photo this morning and Tammy wasn't smiling, but Tammy Wright. I said I want to leave this with what I told you. I believe in the honor of this institution. It has been an honor to serve with you, so thank you.

Without objection, all Personal Privileges and Unanimous Consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17). Adopted.

LATE SESSION

Third Reading and Final Passage

HB 2023-FN-A, making appropriations to the department of energy for a state emergency fuel assistance program and a supplemental electric benefit, and relative to the electric low-income program fund.

MOTION TO ADJOURN TO CALL OF THE CHAIR

Senator Bradley moved that the business of the day being completed, that the Senate recess for the purposes of sending and receiving messages, processing enrolled bill reports and amendments, upon completion, the Senate will stand adjourned to the Call of the Chair.

Adopted. The Senate Adjourned to the Call of the Chair.

SENATE CLERK'S NOTE

The information below reflects the work that was processed in recess September 15, 2022.

REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 2023-FN-A, making appropriations to the department of energy for a state emergency fuel assistance program and a supplemental electric benefit, and relative to the electric low-income program fund.

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

The Senate is adjourned to the Call of the Chair.

SENATE CLERK'S NOTE

The below list of bills was inadvertently left out of the original Daily Journal and has been entered below.

OUTSTANDING BILLS

Pursuant to Senate Rule 3-23, all bills or resolutions remaining on the table upon adjournment of the first-year and at the end of session shall be made Inexpedient to Legislate at that time.

SB 70-FN, relative to insurance coverage for emergency behavioral health services for children and young adults.

SB 253, apportioning state senate districts.

SB 280, relative to meetings of the state health assessment and health improvement plan advisory council and the therapeutic cannabis medical oversight board.

SB 315-LOCAL, directing that a portion of revenue distributions from the meals and rooms municipal revenue fund be used by municipalities to reduce the local property tax rate.

SB 320, relative to health care provider contract standards.

SB 322, relative to remote meetings under the right-to-know law.

SB 341-LOCAL, relative to treatment of PFAS contaminants in the drinking water of the Merrimack Village Water District.

SB 384-FN, requiring notice of the hands-free law at the point of sale for cell phones.

SB 415-FN-A, making an appropriation to the department of health and human services for the purpose of increasing rates paid to homeless shelters.

SB 436-FN, relative to access to abortion care.

HB 238, prohibiting provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

HB 412, making an appropriation to the department of environmental services for the purpose of funding public water system projects.

HB 1020, relative to additional lights on emergency vehicles.

HB 1170, limiting the authority of New Hampshire delegates to policymaking conventions.

HB 1187, relative to milk pasteurization.

HB 1375, relative to the definition of veteran.

HB 1417-FN-LOCAL, relative to payment by the state of a portion of retirement system contributions of political subdivision employers.

HB 1476-FN, relative to release of a defendant pending trial.

CACR 36, residency for the purpose of voting. Providing that only residents of the state may vote in elections