

March 16, 2006
No. 11A

STATE OF NEW HAMPSHIRE

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Legislative

SENATE CALENDAR ADDENDUM

REPORTS AND AMENDMENTS

**THE SENATE WILL MEET IN SESSION ON
WEDNESDAY, MARCH 22, 2006 AT 10:00 A.M.**

REPORTS

FINANCE

CACR 43, relating to the cost of education. Providing that the legislature shall determine and define the content, extent, and funding of education.

Ought to pass with amendment, Vote 5-3

Senator Boyce for the committee.

CACR 44, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use.

Ought to Pass, Vote 6-2

Senator Green for the committee.

SB 268, raising the age of required attendance of children in school.

Ought to pass with amendment, Vote 6-2

Senator Green for the committee.

SB 285-FN, equalizing the pay of administrative judges in the judicial branch.

Inexpedient to Legislate, Vote 5-2

Senator Morse for the committee.

SB 314-FN-L, establishing minimum renewable standards for energy portfolios.

Ought to pass with amendment, Vote 7-1

Senator Odell for the committee.

SB 352-FN, relative to the regulation of real estate appraisers.

Ought to Pass, Vote 4-3

Senator Larsen for the committee.

SB 361-FN, (New Title) relative to school district contingency funds.

Inexpedient to Legislate, Vote 6-1

Senator Odell for the committee.

SB 374-FN, relative to the healthy kids corporation.

Ought to pass with amendment, Vote 5-3

Senator Morse for the committee.

SB 380-FN-A, establishing a research and development credit against the business profits tax.

Ought to pass with amendment, Vote 8-0

Senator Odell for the committee.

SB 397-FN-A, establishing a temporary energy tax credit against the business enterprise tax.

Ought to Pass, Vote 5-3

Senator Morse for the committee.

SB 406-FN-A, establishing a manufacturer's tax on cigarettes sold in New Hampshire.

Ought to pass with amendment, Vote 5-3

Senator Clegg for the committee.

SB 407-FN-A, relative to enforcement of labor statutes under current federal immigration laws.

Ought to pass with amendment, Vote 6-2

Senator Boyce for the committee.

AMENDMENTS

Senate Finance
March 20, 2006
2006-1457s
04/10

Amendment to CACR 43

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

RELATING TO: public education.

PROVIDING THAT: the legislature shall have the authority to make reasonable determinations of the content, extent, funding, and delivery of public education.

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

I. That the second part of the constitution be amended by inserting after article 83 the following new article:

[Art.] 83-a. [Content, Extent, Funding, and Delivery of Public Education.] The legislature shall have the authority to make reasonable determinations of the content, extent, funding, and delivery of public education.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2006.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2006 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2006 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

“Are you in favor of amending the second part of the constitution by inserting after article 83 the following new article:

[Art.] 83-a. [Content, Extent, Funding, and Delivery of Public Education.] The legislature shall have the authority to make reasonable determinations of the content, extent, funding, and delivery of public education.”

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2006 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

2006-1457s

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the legislature shall have the authority to make reasonable determinations of the content, extent, funding, and delivery of public education.

Senate Finance
March 20, 2006
2006-1459s
04/05

Amendment to SB 268

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

AN ACT raising the age of required attendance of children in school and establishing a 2-year pilot program for increasing vocational education opportunities in the Manchester and Nashua school districts and making an appropriation therefor.

Amend the bill by replacing all after section 4 with the following:

5 Vocational Education Programs; Manchester and Nashua School Districts; Pilot Program. There is hereby established a 2-year pilot program to be conducted in the Manchester and Nashua school districts to identify pupils in those school districts who are interested in vocational education programs and to establish procedures for increasing opportunities for such pupils to participate in vocational education programs. The commissioner of the department of education, or designee, shall work with the superintendents of the Manchester and Nashua school administrative units, the relevant school principals and teachers, and any other individuals who the commissioner and superintendents jointly determine are necessary for accomplishing the purpose of the pilot program.

6 Appropriation. There is hereby appropriated the sum of \$600,000 for the fiscal year ending June 30, 2007 and the sum of \$600,000 for the fiscal year ending June 30, 2008, to the department of education for the purposes of section 5 of this act. The governor shall draw a warrant for such sums out of any money in the treasury not otherwise appropriated.

7 Repeal. The following are repealed:

I. RSA 193:1, IV, relative to withdrawal from school for children who are at least 16 years of age but under 18 years of age.

II. Section 5 of this act, relative to the pilot project in the Manchester and Nashua school districts.

8 Effective Date.

I. Sections 5, 6, and 8 of this act shall take effect January 1, 2007.

II. Paragraph II of section 7 of this act shall take effect January 1, 2009.

III. The remainder of this act shall take effect July 1, 2008.

2006-1459s

AMENDED ANALYSIS

This bill raises from 16 to 18 the age for compulsory school attendance and provides a procedure for a pupil who is at least 16 years of age to obtain an attendance waiver from school. The bill also establishes a 2-year pilot program in the Manchester and Nashua school districts to increase opportunities for interested pupils in those school districts to attend vocational education programs and making an appropriation therefor.

Senate Finance

March 20, 2006

2006-1460s

06/09

Amendment to SB 314-FN-LOCAL

Amend the bill by deleting section 3 and renumbering the original sections 4-5 to read as 3-4, respectively.

Amend RSA 374-G:2, I as inserted by section 3 of the bill by replacing it with the following:

I. Providers of electricity in this state shall obtain renewable energy certificates from renewable energy resources to meet the minimum renewable standards for its energy portfolio established by this section or make payments as provided in RSA 374-G:6, II, III, and IV.

Amend RSA 374-G:6, II-IV as inserted by section 3 of the bill by replacing them with the following:

II. An electricity provider may discharge any annual class IA or IC portfolio requirements by making a payment into the fund of \$0 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with the statute. The revised rate per megawatt-hour shall be published by the commission by January 31 of each year.

III. An electricity provider may discharge any annual class IB portfolio requirements by making a payment into the fund of \$0 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with this chapter. The commission by January 31 of each year shall publish the revised rate per megawatt-hour.

IV. An electricity provider may discharge any annual class II portfolio requirements by making a payment into the fund of \$0 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with this statute. The commission by January 31 of each year shall publish the revised rate per megawatt-hour.

Senate Finance

March 20, 2006

2006-1465s

05/04

Amendment to SB 374-FN

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

AN ACT relative to the state children's health insurance program.

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

1 Purpose. The purpose of this act is to ensure the best and highest utilization of the state children's health insurance program resources for the benefit of the children of New Hampshire. It is the intent of the general court that every eligible child be given the opportunity to fully utilize the benefits of this program in order to promote the health and well being of our youngest citizens.

2 Department of Health and Human Services; Healthy Kids Silver Program; Fiscal Committee Approval Required for Expenditures Above Budgeted Amounts. Amend 2005, 117:119 to read as follows:

177:119 Department of Health and Human Services; Healthy Kids Silver Program; Cap. Notwithstanding any other provision of law, for the biennium [~~beginning July 1, 2005 and continuing thereafter~~] **ending June 30, 2007**, the department of health and human services shall not increase expenditures in approved budgets for the Healthy Kids Silver Program without prior approval [~~and additional appropriations from~~] **of the fiscal committee of the general court. If the commissioner of the department of health and human services projects that expenditures for the Healthy Kids Silver Program will exceed the department's current appropriation for the Healthy Kids Silver Program, the commissioner may recommend rate reductions in any program and such other program changes elsewhere in the department as deemed necessary to offset the amount of any such deficit. The commissioner shall submit to the fiscal committee of the general court and to the finance committees of the house and the senate any such proposed changes, which shall be subject to the prior approval of the fiscal committee of the general court.**

3 New Paragraph; State Children's Health Insurance Program. Amend RSA 126-A:5 by inserting after paragraph XIII the following new paragraph:

XIV.(a) Notwithstanding any provision of law to the contrary, beginning July 1, 2007, the commissioner shall implement the state children's health insurance program through a contract, which shall be renewed biennially. The commissioner shall have the authority to adopt rules, pursuant to RSA 541-A, to the extent necessary to facilitate the purposes of this paragraph.

(b) The contract shall include the following information, which the commissioner shall submit to the legislature by March 1 of each odd-numbered year for inclusion in the state's biennial operating budget:

(1) The per-member per-month rate for the health and dental insurance to be paid according to the contract; and

(2) Any other costs associated with the contract that will impact the state operating budget.

(c) Notwithstanding any provision of law to the contrary, the commissioner, in consultation with the commissioner of administrative services, may implement a self-insured health plan for children who receive health insurance coverage under the state children's health insurance program.

4 Healthy Kids Corporation. Notwithstanding RSA 126-A:5, XIV, as inserted by section 2 of this act, or any other provision of law to the contrary, the commissioner shall use the healthy kids corporation as the sole source provider of administrative and outreach services for the state children's health insurance program and premium billing and collection services for the Medicaid for Employed Adults with Disabilities (MEAD) program until July 1, 2007. As part of the premium reconciliation process, the commissioner may allow the healthy kids corporation to retain up to the sum of \$100,000 for fiscal year 2006.

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

2006-1465s

AMENDED ANALYSIS

This bill:

I. Requires fiscal committee approval for expenditures above budgeted amounts for the Health Kids Silver Program.

II. Requires the department of health and human services to implement the state children's health insurance program through a contract.

III. Requires use of the healthy kids corporation as the sole provider of administrative and outreach services for the state children's health insurance program and premium billing and collection services for the Medicaid for Employed Adults with Disabilities program until July 1, 2007.

Senate Finance

March 20, 2006

2006-1471s

09/10

Amendment to SB 380-FN-A

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

AN ACT establishing a research and development credit against business taxes.

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

1 New Paragraph; Business Profits Tax; Research and Development Tax Credit. Amend RSA 77-A:5 by inserting after paragraph XII the following new paragraph:

XIII.(a) There shall be allowed a research and development tax credit equal to 15 percent of qualified manufacturing research and development expenditures made or incurred during the taxable period. For purposes of this paragraph the term "qualified manufacturing research and development expenditures" shall mean any wages paid or incurred to an employee of the business organization for services rendered by such employee within this state within the meaning of RSA 77-A:3, I(b), provided that:

(1) Such wages may be treated as research and development expenditures under section 174 of the United States Internal Revenue Code; and

(2) Such services are undertaken for the purpose of discovering information which constitutes qualified research and development as defined in section 41 of the United States Internal Revenue Code and which is limited to the development of a new or improved manufacturing process or business component of the business organization.

(3) In no event shall the credit allowed under this paragraph exceed 5 percent of the tax due under this chapter before any credits under RSA 77-A:5 are taken into account or exceed \$100,000 for each taxpayer for each taxable period, or exceed a total amount of \$1,000,000 for credits claimed under this paragraph by all taxpayers in a taxable period; and provided further that the credit allowed under this paragraph shall be limited so that no more than 50 percent of such credit shall be attributable to wages paid to an employee who is not an "eligible employee" as defined in RSA 77-A:1, XXIII. If the total amount for the credits claimed under this paragraph by all taxpayers in a taxable period exceeds \$1,000,000, the commissioner shall prorate the amount of \$1,000,000 among taxpayers claiming the credit.

(b) For purposes of this paragraph, "employee" shall mean "an employee" as defined in section 3401(c) of the United States Internal Revenue Code and who is an "eligible employee" as defined in RSA 77-A:1, XXIII.

2 New Section; Credit Against Business Enterprise Tax. Amend RSA 77-E by inserting after section 3-a the following new section:

77-E:3-b Research and Development Tax Credit. The research and development tax credit allowed under RSA 77-A:5, XIII may be applied to either the tax imposed under RSA 77-A or the tax imposed under this chapter.

3 Effective Date. This act shall take effect July 1, 2006.

2006-1471s

AMENDED ANALYSIS

This bill establishes a research and development tax credit against the business profits tax and the business enterprise tax.

Senate Finance

March 20, 2006

2006-1473s

09/10

Amendment to SB 406-FN-A

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

AN ACT establishing a manufacturer's tax on cigarettes sold in New Hampshire; relative to the tax on tobacco products other than cigarettes; establishing a committee to study alternatives for funding the operation and maintenance of state-owned dams and making an appropriation to the state dam maintenance fund; raising the age of required attendance of children in school and making an appropriation therefor; making an appropriation for school building aid; relative to a public health response to arbovirus and making an appropriation therefor; and relative to a medical loan repayment pilot program and making an appropriation therefor.

Amend the bill by replacing all after section 3 with the following:

4 New Paragraph; Tobacco Tax; Definitions. Amend RSA 78:1 by inserting after paragraph XX the following new paragraph:

XXI. "Loose tobacco" means granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette manufacturers; cavendish; plug and twist tobacco; loose leaf chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco.

5 Tobacco Tax; Tax Imposed on Tobacco Products Other Than Cigarettes. Amend RSA 78:7-c to read as follows:

78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes. A tax upon the retail consumer is hereby imposed on tobacco products other than cigarettes at a rate of 19 percent of the wholesale sales price ***on loose tobacco products and at the rate of 48 cents per ounce on all other smokeless products. Such tax shall be assessed on the net weight as listed by the manufacturer.*** The tax under this section may be rounded to the nearest cent if the commissioner determines that the amount of tax would not thereby be made materially disproportionate. No such tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

6 Committee Established. There is established a committee to study alternatives for funding the operation and maintenance of state-owned dams.

7 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

8 Duties. The committee shall study the need for the operation and maintenance of state-owned dams, the existing funding sources for the operation and maintenance of state-owned dams including the state's hydro-lease program, established under RSA 481:32, and the state dam maintenance fund, established under RSA 482. The committee shall develop recommendations for the continued operation and maintenance of state-owned dams and options for funding the state dam maintenance fund.

9 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

10 Report. The committee 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 on or before November 1, 2006.

11 Appropriation. The sum of \$1,000,000 is hereby appropriated to the department of environmental services dam maintenance fund, established under RSA 482:55, for the fiscal year ending June 30, 2007. This sum is in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

12 School Attendance; Compulsory Attendance by Pupil. Amend RSA 193:1, I to read as follows:

I. A parent of any child at least 6 years of age and under ~~[16]~~ **18** years of age shall cause such child to attend the public school to which the child is assigned in the child's resident district. Such child shall attend full time when such school is in session unless:

(a) The child is attending a public school outside the district to which the child is assigned or an approved private school for the same time;

(b) The child is receiving home education **and is therefore exempt from this requirement;** ~~[or]~~

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and equitable education grants under RSA 198:41;

(d) The pupil has been exempted from attendance pursuant to RSA 193:5;

(e) The pupil has successfully completed all requirements for graduation and the school district is prepared to issue a diploma or the pupil has successfully achieved the equivalent of a high school diploma;

(f) The pupil has been accepted into an accredited postsecondary education program; or

(g) The pupil obtains a waiver from the superintendent, which shall only be granted upon proof that the pupil is 16 years of age or older and has an alternative learning plan for obtaining either a high school diploma or its equivalent.

(1) Alternative learning plans shall include age-appropriate academic rigor and the flexibility to incorporate the pupil's interests and manner of learning. These plans may include, but are not limited to, such components or combination of components of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses.

(2) Alternative learning plans shall be developed, and amended if necessary, in consultation with the pupil, a school guidance counselor, the school principal and at least one parent or guardian of the pupil, and submitted to the school district superintendent for approval.

(3) If the superintendent does not approve the alternative learning plan, the parent or guardian of the pupil may appeal such decision to the local school board. A parent or guardian may appeal the decision of the local school board to the state board of education consistent with the provisions of RSA 21-N:11, III.

13 School Attendance; Bylaws as to Nonattendance. Amend RSA 193:16 to read as follows:

193:16 Bylaws as to Nonattendance. Districts may make bylaws, not repugnant to law, concerning habitual truants and children between the ages of 6 and ~~[16]~~ **18** years not attending school ~~[and not having a regular and lawful occupation,]~~ **or who are not participating in an alternative learning plan under RSA 193:1, I(g),** and to compel the attendance of such children at school; failure to comply with such bylaws shall constitute a violation for each offense.

14 Home Education; Definitions. Amend RSA 193-A:1, I to read as follows:

I. "Child" means a child or children at least 6 years of age and under ~~[16]~~ **18** years of age who is a resident of New Hampshire.

15 Truant Officers; Duties. Amend RSA 189:36 to read as follows:

189:36 Duties. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of 8 and [16] **18** years not attending school [~~and without any regular and lawful occupation~~] **or who are not participating in an alternative learning plan under RSA 193:1, I(g)**; and the laws relating to the attendance at school of children between the ages of 8 and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to child labor.

16 Repeal. RSA 193:1, IV, relative to withdrawal from school for children who are at least 16 years of age but under 18 years of age, is repealed.

17 Appropriation. The sum of \$5,000,000 for the biennium ending June 30, 2007 is hereby appropriated to the department of education for the purposes of implementing sections 12-16 of this act. This sum is in addition to any other funds appropriated to the department of education and shall not lapse until June 30, 2009. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

18 School Building Aid; Appropriation. The sum of \$1,000,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of education to supplement existing appropriations to the school building aid grant program pursuant to RSA 198:15-a. This sum shall be used to offset any deficit in a school district's building aid grants resulting from changes to school building aid law. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

19 Division of Emergency Management; State of Emergency. Amend RSA 21-P:35, VIII to read as follows:

VIII. "State of emergency" means that condition, situation, or set of circumstances deemed to be so extremely hazardous or dangerous to life or property that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm. **A "state of emergency" shall include an arbovirus public health threat.**

20 New Section; Removal of Standing Water Hazards. Amend RSA 105 by inserting after section 3-a the following new section:

105:3-b Removal of Standing Water Hazards. A local health or law enforcement officer may order removal or covering of standing water hazards on property. If the owner of the property, after notice has been delivered by certified mail or by hand delivery at the property owner's last known address fails to comply within a 72-hour period, such owner may be found guilty of a violation. If an arbovirus public health threat has been declared, local health or law enforcement officers may remove the hazard after one week and the property owner shall bear the expense of the removal of the hazard. In this section, "standing water hazard" means any container left open to rain or snow in a manner that allows water to collect and remain in the container in such a manner as to provide a breeding ground for, or to attract, insects. Containers treated with an adequate prophylactic pesticide treatment to prevent mosquito growth are exempt. "Standing water hazard" shall not include above ground or in ground swimming pools or feed or drinking equipment to include buckets and troughs used for livestock. Agricultural operations found to be in compliance with best management practices with regard to mosquito control by the department of agriculture, markets, and food shall be in compliance with this section.

21 New Sections; Communicable Disease; Mosquito Control Districts; Mosquito Control Fund. Amend RSA 141-C by inserting after section 23 the following new sections:

141-C:24 Mosquito Control Districts; Rulemaking. Contiguous municipalities may establish mosquito control districts for the purposes of applying for moneys from the mosquito control fund established in RSA 141-C:25 and for the purposes of applying for spraying permits. The commissioner, in consultation with the commissioner of the department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to the establishment of such mosquito districts.

141-C:25 Mosquito Control Fund.

I. There is hereby established a mosquito control fund to assist cities, towns, mosquito control districts, and non-profit organizations by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. For the purposes of this section, "non-profit organization" means an organization which has tax-exempt status

under section 501(c)(3) of the Internal Revenue Code and which represents members who own or which owns itself, property actively used for agricultural or recreational use. The purpose of the fund is to provide financial assistance, when needed, to cities, towns, mosquito control districts, and non-profit organizations engaging in mosquito control and abatement activities in response to a declared threat to the public health.

II. In order to be eligible to receive funding, a city, town, mosquito control district, or non-profit organization shall have in place a comprehensive mosquito control plan approved by the commissioner. This plan shall include at a minimum:

(a) A list of the pesticides (active ingredient) and methods by which these pesticides will be applied to ensure that the application is done in a safe and proper manner.

(b) Safeguards that will be taken to protect the health of the public, wildlife and resources within the state including provisions for the measuring and monitoring of residual pesticides in the water and soil.

(c) A comprehensive public awareness campaign geared toward prevention and designed to educate the public about the health risks associated with mosquitoes.

III.(a) The commissioner, in consultation with the Centers for Disease Control and Prevention, may determine that a threat to the public health exists that warrants expedited mosquito control and abatement activities within a city, town, mosquito control district, or non-profit organization. Such determination of an arbovirus public health threat shall be based on local factors which may include:

(1) Historical and current climatic conditions.

(2) Historical and current mosquito population indices.

(3) Historical and current mosquito, veterinary, and human arboviral disease surveillance.

(4) The commissioner must declare in writing to the governor and the commissioner of the department of agriculture that such a threat to the public health exists.

(b) An expedited approval process shall be established for the implementation of mosquito control and abatement activities, as described in this paragraph, including the application of pesticides. The commissioner of the department of agriculture, markets, and food may authorize expedited mosquito control and abatement activities pursuant to this paragraph.

IV. A city, town, mosquito control district, or non-profit organization shall be eligible to receive funds if the commissioner determines that:

(a) The city, town, mosquito control district, or non-profit organization has a comprehensive mosquito control plan approved by the commissioner in accordance with paragraph II;

(b) The city, town, mosquito control district, or non-profit organization has engaged or plans to engage in mosquito control and abatement activities pursuant to paragraph III;

(c) The commissioner, after consultation with the Centers for Disease Control and Prevention, has determined that mosquito control and abatement activities are appropriate to mitigate the public health threat; and

(d) The commissioner has filed written notice of a threat to public health with the governor and the commissioner of agriculture, markets, and food.

V. A city, town's, mosquito control district's, or non-profit organization's receipt of funds, as well as the amount of funding, shall be at the discretion of the commissioner subject to the following criteria:

(a) The nature and degree of the declared threat to the public health.

(b) The nature and degree of the city, town's, mosquito control district's or non-profit organization's mosquito control and abatement activities in response to the declared threat to the public health.

(c) The degree to which the non-profit organization's mosquito control and abatement activities will benefit the general public.

(d) The city, town, mosquito control district, or non-profit organization showing that the funding assistance from the mosquito control fund is necessary.

(e) The city, town, mosquito control district's, or non-profit organization's showing that the requested funding assistance is no more than 50 percent of the entity's mosquito control and abatement activities pursuant to the declared threat to the public health.

(f) Funding is available.

22 New Paragraph; Rulemaking Added. Amend RSA 141-C:6 by inserting after paragraph XXI the following new paragraph:

XXII. Procedures for administration of and disbursement from the mosquito control fund, established in RSA 141-C:25.

23 Appropriation.

I. There is hereby appropriated the sum of \$1 to the department of health and human services for the biennium ending June 30, 2007, for the purposes of funding the mosquito control fund established by section 21 of this act. This appropriation shall be reduced by the amount of any federal funds received by the department. This appropriation shall be in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. If the funds under paragraph I are insufficient to meet the necessary expenditures, the department of health and human services may request approval of the legislative fiscal committee to transfer funds from the general fund to the department of health and human services for the purposes of section 21 of this act.

24 New Paragraph; Exemption Added. Amend RSA 430:46, I by inserting after subparagraph (d) the following new subparagraph:

(e) Expedited mosquito control and abatement activities pursuant to a declared threat to the public health under RSA 141-C:25.

25 Task Force Established. There is established a task force to facilitate a coordinated local, regional, and state response to arboviruses in New Hampshire.

26 Membership and Compensation.

I. The members of the task force shall be as follows:

- (a) Two members of the senate, appointed by the senate president.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The state epidemiologist.
- (d) The state veterinarian.
- (e) The commissioner of the department of health and human services, or designee.
- (f) The commissioner of the department of agriculture, markets, and food, or designee.
- (g) The commissioner of the department of resources and economic development, or designee.
- (h) The executive director of the fish and game department, or designee.
- (i) The commissioner of the department of environmental services, or designee.
- (j) A representative from county government, appointed by the governor.
- (k) An entomologist from the university of New Hampshire, appointed by the governor.
- (l) Three locally-elected officials from towns or cities where arbovirus has been detected in animals or humans, at least one of whom shall be a public health officer, appointed by the governor.
- (m) Two private citizens, each a landowner, officer, one of whom shall be nominated by the New Hampshire Farm Bureau Federation, appointed by the governor.
- (n) Two members at-large, appointed by the commissioner of the department of health and human services.

II. The task force shall serve without compensation and may solicit any information from any person or entity the task force deems relevant to its purpose.

27 Duties. The committee shall:

I. Determine the coordination of and planning for mosquito control efforts, including a method to enable communities throughout the state to form mosquito control districts, or to be able to join together informally to file joint applications to engage in larvaecide or adulticide spraying.

II. Determine who should have certain mosquito control responsibilities according to expertise throughout the state.

III. Review and, if necessary, streamline state governmental processes required to implement mosquito control programs.

IV. Plan and coordinate public education and outreach regarding mosquito-borne illness.

V. Apply for funding from private and public sources for the purposes of responding to arbovirus threats.

VI. Determine a method to enable communities to order the removal of standing water hazards on private property and to levy fines on the property owner if necessary.

VII. Establish a mechanism to work with landowners for determining when a pond, marsh land, or wetland on private property is found to be creating a standing water hazard and a method to permit local communities to receive assistance from the fish and game department and the department of environmental services to determine if the standing water hazard can be removed.

VIII. Establish procedures for determining what, if any, mosquito control efforts will be undertaken in state parks.

IX. Establish a mechanism to protect certified organic farms from being treated with products that would void their certification.

28 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named senate member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Six members of the task force shall constitute a quorum.

29 Report. The task force shall make an interim report on or before November 1, 2006 with a report of its findings and any recommendations for proposed legislation and a final report on or before November 1, 2007 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.

30 Pilot Program; Appropriation; Medical School Loans.

I. The commissioner of health and human services shall establish a program to make payments owed on medical school loans for Dartmouth Medical School graduates and physicians who have performed residency training at Dartmouth-Hitchcock Medical Center who enter into agreements to provide medical services for at least 3 years in the North Country and other areas of New Hampshire which are underrepresented by physicians. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the requirements for and monitoring of participants in the program.

II. The sum of \$1,000,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of health and human services, for purposes of the pilot program established under paragraph I. This sum is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

31 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

32 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 2007.

II. Sections 4-5, 11, 18-24, and 30 of this act shall take effect July 1, 2006.

III. Sections 12-16 of this act shall take effect July 1, 2008.

IV. The remainder of this act shall take effect upon its passage.

2006-1473s

AMENDED ANALYSIS

This bill:

- I. Establishes a manufacturer's tax on cigarettes sold in New Hampshire.
- II. Clarifies and establishes tax rates for loose tobacco products and other smokeless tobacco products.
- III. Establishes a committee to study alternatives for funding the operation and maintenance of state owned dams and makes an appropriation to the department of environmental services dam maintenance fund.
- IV. Raises from 16 to 18 the age for compulsory school attendance, provides a procedure for a pupil who is at least 16 years of age to obtain an attendance waiver from school, and makes an appropriation to the department of education.
- V. Makes a \$1,000,000 appropriation to the department of education to supplement existing appropriations to the school building aid grant program.
- VI.(a) Clarifies that a state of emergency includes an arbovirus public health threat.
 - (b) Establishes a mosquito control fund in the department of health and human services to assist cities, towns, mosquito control districts, and non-profit organizations by providing funding to offset mosquito control activities. The commissioner of the department of health and human services is granted rulemaking authority for the purposes of the bill. The bill also makes an appropriation to the department for the purposes of funding the mosquito control fund.
 - (c) Allows local health or local law enforcement officers to order removal of standing water hazards.
 - (d) Establishes a 2-year task force for the purpose of facilitating a coordinated local, regional, and state response to arboviruses in New Hampshire.
- VII. Requires the department of health and human services to establish a medical school loan repayment pilot program to encourage Dartmouth Medical School graduates and physicians who have performed residency training at Dartmouth-Hitchcock Medical Center to provide services in the North Country and other areas of the state underrepresented by physicians.

Senate Finance

March 20, 2006

2006-1474s

08/09

Amendment to SB 407-FN-A

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

1 Findings and Declaration of Purposes. The general court finds that:

- I. The safety and economic well-being of the state depends on adequate protection of New Hampshire's borders under federal immigration law.
- II. Under current federal immigration law, those who enter the borders of New Hampshire and the United States illegally and commit crimes therein are not held accountable for those crimes before they are deported.
- III. Others who enter the state seeking employment but are undocumented are exploited by unscrupulous employers. These undocumented workers are paid lower wages, are denied benefits, such as health care, that are provided to citizen workers, and do not come forward to report the abuses because of their undocumented status.
- IV. The increased costs to state and local government from the exploitation of employees, and increased noncompliance with laws and rules administered by the commissioner of labor harms both documented and undocumented employees.
- V. The employer cost savings gained by noncompliance act as an economic incentive to even more non-compliance, particularly at worksites where aliens are employed.

VI. State-enacted laws addressing this issue, including those requiring employee verification, prohibiting the employment of illegal aliens, and other federal immigration law enforcement activity, such as the existing provisions of RSA 275-A:4-a, are consistently nullified and thus rendered unenforceable by courts because of constitutional and federal preemption considerations.

VII. The legislature is concerned about the low level of federal enforcement of federal immigration laws and its effect upon compliance with state laws and related adverse economic impact on our state, and wishes to encourage state law enforcement of such laws to whatever extent is permitted under federal law, including the broadened authority provided to state and local law enforcement officials pursuant to agreements with the United States Attorney General.

VIII. Present levels of enforcement of federal immigration law are an economic incentive for increased violations of state labor law, as well as exploitive working conditions for undocumented aliens.

IX. Enforcement of state labor protection and safety laws at worksites where aliens are employed will discourage such illegal activities, enable the department of labor to enforce laws designed to prevent the exploitation of workers, and mitigate other adverse impacts related to inadequate enforcement of federal immigration laws.

2 Inspections. Amend RSA 273:9 to read as follows:

273:9 Inspections. The commissioner shall, at such times as he **or she** shall deem it necessary, and without notice, visit **worksites including but not limited to** the manufacturing, mechanical, and mercantile establishments in the state, so far as practicable, for the purpose of ascertaining whether the laws with reference to employment are complied with, and for the further purpose of ascertaining if reasonable sanitary and hygienic conditions are maintained, calculated to promote the health and welfare of the working people. ***If in the course of such inspections, undocumented aliens as defined in RSA 275-A:4-a are apprehended, the presence of such persons shall be reported to the United States Citizenship and Immigration Services or the Office of the Attorney General, United States Department of Justice, or any successor agencies thereof, established to receive such information.***

3 Employment of Illegal Aliens Prohibited. RSA 275-A:4-a is repealed and reenacted to read as follows:

275-A:4-a Filing of Employer Statement; Alien Employers.

I. All employers shall file a statement with the department of labor declaring whether they employ aliens on premises they own, manage, or otherwise control.

II. Persons required to file under paragraph I shall retain, at the premises where such employment occurs, documentation or other evidence necessary to demonstrate on-premises compliance with the state employee protection laws, including, but not limited to, RSA 275, RSA 275-A, RSA 277, RSA 279, and RSA 281-A.

III. Persons required to file under paragraph I shall be responsible for compliance with this section by all contractors and subcontractors with respect to persons employed directly or indirectly on premises that they own, manage, or control.

IV. For purposes of this section, "person" includes any person, partnership, association, agency, firm, limited liability company, corporation, general contractor, subcontractor, or other entity who employs one or more persons whether in one or more trades, businesses, professions, or occupations and whether in one or more locations.

4 New Section; Severability. Amend RSA 275-A by inserting after section 4-a the following new section:

275-A:4-b Severability. If any provision of this chapter or the application of any provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to any other person or circumstance shall not be affected by that invalidation.

5 Penalties. RSA 275-A:5 is repealed and reenacted to read as follows:

275-A:5 Penalties.

I. Any person, partnership, association, agency, firm, limited liability company, corporation, general contractor, subcontractor, or other entity who employs one or more persons who violates any provision of RSA 275-A shall be subject to a civil penalty of up to \$2,500 for each day of noncompliance, to be imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a. Any person aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-c.

II. Any employer who has filed a statement with the department of labor as required by RSA 275-A:4-a, I and who, in the judgment of the commissioner of the department of labor, has made a good faith effort to comply with the provisions of this chapter, shall not be liable for the penalties under paragraph I.

6 New Section; Rules. Amend RSA 275-A by inserting after section 5 the following new section:

275-A:6 Rules. The commissioner shall adopt rules, pursuant to RSA 541-A, to facilitate the administration and enforcement of this chapter.

7 New Section; Agreements Authorized. Amend RSA 7 by inserting after section 6-d the following new section:

7:6-e Agreements Authorized. Under the direction of the attorney general, and after proper training, state law enforcement agencies are authorized to enter into agreements with the United States Attorney General as provided by section 133 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and such other law enforcement activities as are permitted to state and local officials by constitutional and federal immigration law.

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

2006-1474s

AMENDED ANALYSIS

This bill authorizes state law enforcement agencies to enter into agreements with the United States Attorney General regarding state and local law enforcement activities permitted under federal immigration laws.

This bill also establishes registration requirements for employers of aliens and new penalties for employers of illegal aliens.