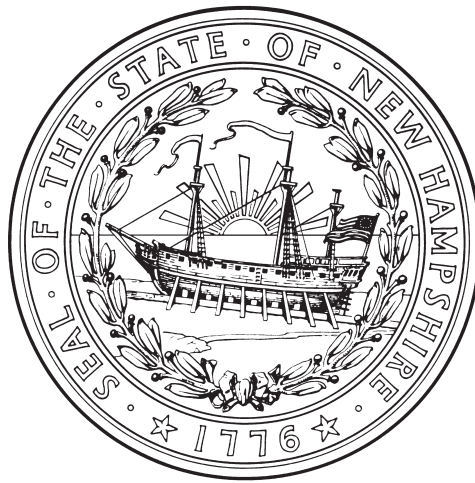


July 25, 2018
Special Session

STATE OF NEW HAMPSHIRE

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



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

Legislative Proceedings

SENATE JOURNAL

SPECIAL SESSION – JULY 25, 2018 SESSION

SENATE JOURNAL

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 that 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 with 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

Senator Giuda introduced Molly Sottak from Belmont High School in Belmont, serving as Senate Page for the day.

Senator French introduced Max Paganini of Sanbornton from Tilton School in Tilton, serving as Senate Page for the day.

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 that we have air conditioning over here and it's a plus, but that 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 in naming Concord 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, in 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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- 1-5 Questions of Order, Appeal
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- 2-5 Motions
- 2-6 No Substitution under Color of Amendment
- 2-7 Reconsideration Restrictions
- 2-8 Reconsideration Process
- 2-9 Division of the Question
- 2-10 Personal Privilege
- 2-11 Other Remarks (Unanimous Consent)

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- 2-12 General Rules on Voting
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- 2-18 Visitors to the Senate

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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.

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 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.

Recess. Out of recess.

HOUSE MESSAGE

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

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.

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.

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.

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

Senator Soucy 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, 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.

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.

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 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.

Recess. Out of recess.

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.

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 that 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 was the Managing Director of the Summit Huts Association, providing backcountry hut experiences for skiers and hikers alike.

She was a very thoughtful person and very incandescent spirit. She was a dedicated outdoorswoman and an athlete, she 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 encouraged those who mourn to go for an adventure in the loving, pretty 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... 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 Selectboard 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 quoters 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 to 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. Many of us are parents. Can you imagine if they ever took a child away from us? We didn't know where that child was? Five thousand of these children, I think 548 have been brought back to their parents. Look at, I believe in legal immigration. My people came here legally. But indeed the American tragedy is taking children from these parents and finding no way to get them back together. I can't believe that. Look at, I'm a historian. Look at what we did in World War II with the internment of the Japanese. That was approved by the Supreme Court; that was said it was okay. Look at what they did to the Germans and the Italians during the war. Do we have to commit the same errors over and over again? This is America. That is not the American way. I'm heartbroken about this. To think that a child, some of them as young as two or three years old, taken from their parents and sent some place. They don't know where they send them. They send them to New York. They send them to California. They send them to New Jersey. And they can't account for them. Who's they? That's our government. Is that what we want from our government? Is that what we believe in? Twenty-four people sitting around this table. Would we sanction that kind of activity? I would hope not. We have got a great country. I believe in our country, it's done wonderful things for me and for people around this table. But what I am witnessing today is a tragedy. It's a tragedy. And we can't let tragedies go on without saying something about it. We have got to believe in something. Thank you, Mister President.

Without objection, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-10 and Rule 2-11). Adopted.

MOTION TO ADJOURN THE SPECIAL SESSION

Senator Bradley moved that the Senate stand in recess for the purposes of sending and receiving messages, and processing enrolled bill reports and amendments for Special Session bills, and at the completion of which the Special Session will stand adjourned.

Adopted. The Senate is in recess.

HOUSE MESSAGE

The House of Representatives has adjourned the 2018 Special Session.

The 2018 Senate Special Session is adjourned.