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## House Republican Leader Comments on House Committee Approval of Gas Tax Increase

CONCORD - House Republican Leader Gene Chandler (R-Bartlett) offered the following comments relative to the vote of the House Ways & Means and Public Works House committees on SB367, a bill that would, in part, raise the gas tax by 23%. The bill was recommended ought to pass by a vote of 26-11.

### House Republican Leader Gene Chandler (R-Bartlett)

"Whether or not you support the concept of a gas tax increase, there are many misconceptions about SB367. With all due respect to the bill and its supporters, before jumping into one of the largest tax increases in recent history, we need to take a hard look at the intricacies of this bill and the system by which the revenue would be used. Republicans offered reasonable amendments to fix some of our concerns, but none were adopted."

"This bill, as written, removes tolls in Merrimack, which results in a loss of revenue to the Turnpike Fund. It also allocates 42% of revenue to the I-93 widening project. The I-93 widening was already allocated \$50 million as part of the 10 Year Highway Plan."

"Folks that were hoping for immediate relief for their local roads will be disappointed. Municipal block grants will not commence until FY2016 and will be just 12% of the prior years' revenue. In FY2016, additional aid to towns and cities resulting from the tax increase will be just \$4 million per year statewide. Once divided up, most NH towns will get <1% of that amount. Larger cities and towns may get 1%-6%. Once they receive the grants, towns are not required to spend their block grant on infrastructure repair."

"In the last 2 budgets alone, \$38 million has been diverted from the highway fund in excess of the allowable amount in RSA 9:9-b. SB367 may state that the new revenue can only be used for specific purposes, but if the legislature can't even follow a reasonable standing law regarding highway funds, how can we say that the provision in SB367 won't be disregarded or suspended for future budget years?"

### Important Dates & Events

- |                   |  |
|-------------------|--|
| <b>04/23/2014</b> | Republican Caucus – 9am LOB 305-307                                  |
| <b>04/23/2014</b> | House Session – 10am   |
| <b>04/24/2014</b> | Last Day to act on Senate Bills going to a 2 <sup>nd</sup> committee |
| <b>06/16/2014</b> | Committee to Elect House Republicans Golf Tournament                 |

# A \$400 Million Hole was Just Blown in the State Budget

By: Charlie Arlinghaus

A Superior Court ruling just created a \$400 million hole in the state's budget. The decision involves a fake tax little understood by most policymakers and almost unknown to the public. The tax started as a scam to leverage more money from the federal government, turned into a clearly unconstitutional real tax, and has created New Hampshire's own fiscal cliff. Lawmakers will deal with it the way they deal with most big problems: put it off until after the next election.

Ironically, the state's Medicaid Enhancement Tax (MET) was created in 1991 to fix a budget hole. Lawmakers learned of and copied other states' efforts to create a pretend hospital tax and, by giving it back to the hospitals, have it matched by the federal government in a way that diverted half of it to the state's general operating budget. Critics on both the right and left called the shell game "Mediscam."

The scheme is best illustrated graphically in a chart Grant Bosse developed for the Josiah Bartlett Center in a paper called "Meet the MET." In the original two decades, hospitals would pay the state let's say \$200 million in MET. The state would give \$100 million to the general fund for other state expenses and spend \$100 million on the same hospitals in an only technically unrelated program called disproportionate share hospital payments (DSH) for unreimbursed Medicaid expenses. Because DSH was "Medicaid spending," the feds would match it with another \$100 million for the hospitals.

The hospitals paid \$200 million and got \$200 million back — usually on the same day. The state, however, got an extra \$100 million to balance the rest of the budget.

Hospitals were content to go along with this because the agency that regulated them, the state HHS department, told them they would be doing the state a favor and the tax would never be real. Then-commissioner Harry Bird assured hospitals that if the federal government ever disallowed the arrangement, the "tax" would go away.

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## ICYMI [In Case You Missed It]

### House votes to further control the employment process for businesses

The House voted 186-153 to pass SB 390 which prohibits discrimination against employees who are victims of domestic violence and establishes a committee to study the protection of employees from domestic violence.

Rep. Gary Daniels (R-Milford) said in the Minority blurb that this bill is another instance where the legislature dictates to employers who they must hire, and then controls the employment practices under which these protected employees can be discharged or disciplined. This bill opens the door to allow rejected applicants to make claims of discrimination against an employer if the applicant had been a victim of domestic violence, harassment, sexual assault or stalking, which in turn results in the employer spending time and money to defend themselves against frivolous allegations.

This bill will go on to House Criminal Justice.

### House votes to prohibit employers from using credit history in hiring

On Wednesday the House voted 192-142 to pass SB 295 which prohibits an employer from using credit history in employment decisions.

Rep. Tracy Emerick (R-Hampton) said in the Minority blurb, the federal fair credit reporting act specifically states that credit history can be used when making employment decisions. This bill contradicts federal law. Employers, especially small business, should be allowed whatever resources that are available to protect the business and the business' customers.

Some jobs require a credit history check. This is something that should be left up to employers to do what is best for their business.

# \$400 Million Hole in State Budget

(continued from page 2)

In the 2009 budget, some tweaks were made to satisfy federal regulators who insisted on some effort at masking the fiction. Hospitals no longer got back penny for penny what they paid, but for most hospitals it was close. In 2011, legislators went further and completely decoupled MET and DSH. The fake tax became a real tax, and most DSH payments were suspended. Rather than a net zero, hospitals lost \$125 million each year.

Under New Hampshire law, taxes can't be discriminatory. It's all right to tax soda if you tax any soda. You can't tax soda bought at the grocery store, but not tax soda bought at the convenience store. The MET is discriminatory. We tax certain procedures if they're done at a hospital, but not if they're done somewhere else. The court, quite rationally, ruled the tax unconstitutional.

The state will appeal the decision, and that appeal will take until after the next election — conveniently. But it's hard to see any hospital come November making its MET payment; why would they pay a tax that has been ruled unconstitutional? The damage isn't just the \$72 million used by the general fund, it is much greater.

The MET raises about \$175 million from hospitals. In rough terms, about \$75 million goes directly to the general fund, about \$75 million supports Medicaid payments that used to be made from the general fund, and about \$25 million of it is given back to hospitals and matched by the federal government (those numbers are not precise and vary year to year). So, in total the state loses the \$175 million and the \$25 million match, about \$200 million each year.

Each hospital has reserved its right to have its October 2013 payment refunded, and no hospital is likely to pay its October 2014 payment, so we will suddenly see a \$400 million budget hole. Given how much fighting happens over \$15 million that may or may not be put in the rainy day fund, I would expect the \$400 million hole to be like an earthquake.

The preferred solution of most "leaders" in Concord is to appeal the sensible and very obvious lower court decision. The advantage of appeal is that it will take a year so the final decision won't occur until after the next election. Sure, we'll have a cash flow problem at some point, but that too won't occur until after the November election.

## Senate Session Action

The Senate met on Thursday in its first session day where they voted on a number of House bills. Below are a list of attention grabbing bills and their outcome.

**HB562**, relative to title loans. Interim Study (15-9)

**HB1244**, disclosure of names of lottery winners. Tabled (Voice Vote)

**HB1411**, restoring moneys to the department of health and human services and depositing the balance of the surplus into the revenue stabilization reserve account. ITL (15-9)

**HB1125**, repealing the crime of adultery. OTP (Voice Vote)

**HB1170**, repealing the death penalty in New Hampshire. Tabled (24-0)

**HB1135**, relative to penalties to driving without a license. OTP (Voice Vote)

**HB1360**, relative to use of certain electronic devices while driving. OTP/A (Voice Vote)

## Note from the Republican Leader:

House Republicans,

Last week, a [second Superior Court decision](#) was issued that ruled that the Medicaid Enhancement Tax (MET) is unconstitutional. While the appeals process moves forward, we must begin to face the fact that we may have a significant revenue problem later this year, when the tax is traditionally collected, to the tune of up to \$200 million.

When situations like this occur, even though we realize it will not cover the whole short fall, it is important to have a reserve account that can significantly offset the impact. [As we mentioned last week](#), NH's rainy day account holds only 0.7% of unrestricted general fund revenue. This is why it is important that we pass SB415 as soon as possible to ensure last year's surplus is saved and not spent, and will be there for us in the event of a revenue emergency. Even if the MET issue is resolved, this is a prime example of why having sufficient funds in reserve is the responsible thing to do.

*Gene G. Chandler*

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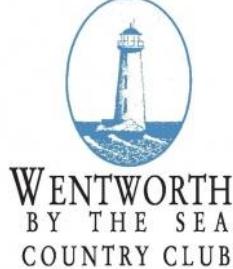
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We are excited to announce that Rep. Gene G. Chandler and the Committee to Elect House Republicans will be hosting their golf tournament on Monday, June 16th at Wentworth by the Sea, Rye, NH.

Registration is at 12noon, tee off is at 1pm, and the cost is \$150 per player. Please stay tuned for additional details on sponsorship opportunities etc.

## House Session Preview

Here's a look at what is coming up in House Session on Wednesday

**SB 215**, authorizing benefit corporations.

**SB 345**, repealing the prospective repeal of the annual public hearing and report on health insurance costs and trends.

**SB 395**, relative to the retirement classification of the director of the division of forests and lands.

**SB 367**, requiring adjustment of the road toll according to changes in the Consumer Price Index, eliminating certain ramp tolls on the Everett turnpike in the town of Merrimack, and establishing a committee to study the effectiveness and efficiency of DOT.

**SB 207**, relative to paycheck equity.

**SB 245**, relative to the siting of energy facilities.

**SB 375**, establishing a committee to study the creation of a flood mitigation fund for private property owners.