

Bill as Introduced

SB 104 - AS INTRODUCED

2011 SESSION

11-0976

08/03

SENATE BILL **104**

AN ACT relative to certain agricultural operations.

SPONSORS: Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7

COMMITTEE: Public and Municipal Affairs

ANALYSIS

This bill:

I. Prohibits a town or city from requiring road maintenance bonds as a prerequisite for signing an intent to cut.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to certain agricultural operations.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Intent to Cut; Road Bond. Amend RSA 79:10 by inserting after paragraph III
2 the following new paragraph:

3 IV. The city or town shall not require a bond for the purposes of road maintenance and
4 repair as a pre-requisite for signing or otherwise approving the intent to cut.

5 2 Agricultural Operations; Zoning Ordinances. Amend RSA 674:17, I(i) to read as follows:

6 (i) To encourage the preservation of agricultural lands and buildings ***and the***
7 ***agricultural operations described in RSA 21:34-a supporting the agricultural lands and***
8 ***buildings***; and

9 3 Duties of the Planning Board. Amend RSA 674:1, VI to read as follows:

10 VI. In general, the planning board may be given such powers by the municipality as may be
11 necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes
12 of this title. ***Such powers shall not include regulating timber harvesting operations that are***
13 ***not part of a subdivision application or a development project subject to site plan review***
14 ***under this chapter.***

15 4 Effective Date. This act shall take effect 60 days after its passage.

SB 104 - AS AMENDED BY THE SENATE

03/09/11 0461s

2011 SESSION

11-0976

08/03

SENATE BILL **104**

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

SPONSORS: Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

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SB 104 – AS AMENDED BY THE SENATE

03/09/11 0461s

11-0976
08/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as follows:
2 236:10 Regulations; Bond. The person or entity giving such written permission may make rules
3 and regulations to govern the excavation and restoration of such highway and may require that a
4 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the
5 satisfactory restoration of the highway. *The bond requirements shall be equitably and*
6 *reasonably applied to other bonded vehicles using the highway. The type of commodity*
7 *being transported shall not be the determining factor for requiring a bond or the dollar*
8 *amount of the bond.* The person or entity providing the bond shall determine the type of bond
9 furnished and it may be in the form of cash, letter of credit from a bank or lending institution
10 licensed in New Hampshire and acceptable to the person giving written permission, or a bond
11 furnished by an insurance company. The person or entity granting permission shall not arbitrarily
12 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to
13 resolve any differences with the contractor doing the excavation or restoration.
- 14 2 Agricultural Operations; Zoning Ordinances. Amend RSA 674:17, I(i) to read as follows:
15 (i) To encourage the preservation of agricultural lands and buildings *and the*
16 *agricultural operations described in RSA 21:34-a supporting the agricultural lands and*
17 *buildings;* and
- 18 3 Duties of the Planning Board. Amend RSA 674:1, VI to read as follows:
19 VI. In general, the planning board may be given such powers by the municipality as may be
20 necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes
21 of this title. *Such powers shall not include regulating timber harvesting operations that are*
22 *not part of a subdivision application or a development project subject to site plan review*
23 *under this chapter.*
- 24 4 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 85
SB 104 - FINAL VERSION

03/09/11 0461s

2011 SESSION

11-0976
08/03

SENATE BILL **104**

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

SPONSORS: Sen. Odell, Dist 8; Rep. Theberge, Coos 4; Rep. Chandler, Carr 1; Rep. Sanders, Rock 7

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

Explanation: Matter added to current law appears in *bold italics*.
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CHAPTER 85
SB 104 - FINAL VERSION

03/09/11 0461s

11-0976
08/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to certain agricultural operations and certain bonds for excavation and driveways.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 85:1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as
2 follows:

3 236:10 Regulations; Bond. The person or entity giving such written permission may make rules
4 and regulations to govern the excavation and restoration of such highway and may require that a
5 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the
6 satisfactory restoration of the highway. *The bond requirements shall be equitably and*
7 *reasonably applied to other bonded vehicles using the highway. The type of commodity*
8 *being transported shall not be the determining factor for requiring a bond or the dollar*
9 *amount of the bond.* The person or entity providing the bond shall determine the type of bond
10 furnished and it may be in the form of cash, letter of credit from a bank or lending institution
11 licensed in New Hampshire and acceptable to the person giving written permission, or a bond
12 furnished by an insurance company. The person or entity granting permission shall not arbitrarily
13 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to
14 resolve any differences with the contractor doing the excavation or restoration.

15 85:2 Agricultural Operations; Zoning Ordinances. Amend RSA 674:17, I(i) to read as follows:

16 (i) To encourage the preservation of agricultural lands and buildings *and the*
17 *agricultural operations described in RSA 21:34-a supporting the agricultural lands and*
18 *buildings;* and

19 85:3 Duties of the Planning Board. Amend RSA 674:1, VI to read as follows:

20 VI. In general, the planning board may be given such powers by the municipality as may be
21 necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes
22 of this title. *Such powers shall not include regulating timber harvesting operations that are*
23 *not part of a subdivision application or a development project subject to site plan review*
24 *under this chapter.*

25 85:4 Effective Date. This act shall take effect 60 days after its passage.

26 Approved: May 16, 2011

27 Effective Date: July 15, 2011

Amendments

Amendment to SB 104

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

2

3 AN ACT relative to certain agricultural operations and certain bonds for excavation and
4 driveways.
5

6 Amend the bill by replacing section 1 with the following:

7

8 1 Bond; Application to Vehicles Carrying Commodities. Amend RSA 236:10 to read as follows:

9 236:10 Regulations; Bond. The person or entity giving such written permission may make rules
10 and regulations to govern the excavation and restoration of such highway and may require that a
11 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the
12 satisfactory restoration of the highway. *The bond requirements shall be equitably and*
13 *reasonably applied to other bonded vehicles using the highway. The type of commodity*
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17 licensed in New Hampshire and acceptable to the person giving written permission, or a bond
18 furnished by an insurance company. The person or entity granting permission shall not arbitrarily
19 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to
20 resolve any differences with the contractor doing the excavation or restoration.

Amendment to SB 104

- Page 2 -

2011-0219s

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.



Amendment to SB 104

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

2

3 AN ACT relative to certain agricultural operations and certain bonds for excavation and
4 driveways.
5

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7

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9 236:10 Regulations; Bond. The person or entity giving such written permission may make rules
10 and regulations to govern the excavation and restoration of such highway and may require that a
11 bond satisfactory to such person or entity be furnished to the state, city, or town providing for the
12 satisfactory restoration of the highway. *The bond requirements shall be equitably and*
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16 furnished and it may be in the form of cash, letter of credit from a bank or lending institution
17 licensed in New Hampshire and acceptable to the person giving written permission, or a bond
18 furnished by an insurance company. The person or entity granting permission shall not arbitrarily
19 withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to
20 resolve any differences with the contractor doing the excavation or restoration.

2011-0461s

AMENDED ANALYSIS

This bill:

I. Requires bonds for restoration of municipal highways after excavations be equitably and reasonably applied to all bonded vehicles using the municipal highway and prohibits the type of commodity carried by a vehicle from being the determining factor in either the requirement of such bond or fixing the dollar amount of such bond.

II. Allows zoning ordinances to be designed to protect agricultural operations.

III. Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

Committee Minutes

**SENATE CALENDAR NOTICE
PUBLIC AND MUNICIPAL AFFAIRS**

ATTENDANCE

- ✓ Senator John Barnes, Jr. Chairman
- ✓ Senator Jeanie Forrester V Chairman
- ✓ Senator David Boutin
- ✓ Senator Amanda Merrill
- ✓ Senator Nancy Stiles

*START: 10:35 AM
STOP: 11:38 AM*

For Use by Senate Clerk's Office ONLY

Bill Status

Docket

Calendar

Proof: Calendar Bill Status

Date: February 1, 2011

HEARINGS

Tuesday

2/8/2011

PUBLIC AND MUNICIPAL AFFAIRS

LOB 101

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB140-FN	relative to the disposition of military justice fines.
9:15 AM	SB94	relative to state certification of community residences in municipalities with zoning ordinances which accommodate certified community residences.
10:00 AM	SB104	relative to certain agricultural operations.
10:15 AM	SB127-FN	relative to the city of Manchester's contributory retirement system.
10:30 AM	SB135-FN-A	relative to election returns and election records.

Sponsors:

SB140-FN Sen. John Barnes, Jr.	Sen. Amanda Merrill	Sen. David Boutin	
SB94 Sen. Jeb Bradley	Rep. Christopher Ahlgren	Rep. J. David Knox	
SB104 Sen. Bob Odell	Rep. Robert Theberge	Rep. Gene Chandler	Rep. Elisabeth Sanders
SB127-FN Sen. Lou D'Allesandro	Rep. Daniel Sullivan	Rep. Benjamin Baroody	Rep. Jeffrey Goley
SB135-FN-A Sen. Sharon Carson	Sen. John Barnes, Jr.	Rep. Kathleen Hoelzel	

Debra Martone 271-3092

Sen. John Barnes, Jr.

Chairman

Public and Municipal Affairs Committee

Hearing Report

TO: Members of the Senate

FROM: Deb Martone, Legislative Aide

RE: Hearing report on SB 104 – relative to certain agricultural operations.

HEARING DATE: February 8, 2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Barnes, Forrester, Merrill, Boutin and Stiles.

MEMBERS OF THE COMMITTEE ABSENT: No one.

Sponsor(s): Senator Odell; Representatives Theberge, Chandler and Sanders.

What the bill does: (1) Prohibits a town or city from requiring road maintenance bonds as a prerequisite for signing an intent to cut; (2) Allows zoning ordinances to be designed to protect agricultural operations; (3) Prohibits planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project subject to a site plan review.

Who supports the bill: Senator Odell; Representatives Theberge, Chandler, and Sanders; Brad Simpkins, DRED-Forest and Lands Division; Jeff Eames, Fort Mountain Companies; Jason Stock, NH Timberland Owners Association; Tom Thomson, Thomson Tree Farm; Jeremy Turnor, Meadowsend Timberlands; Ken Desmarais, DRED-Forest Management Bureau; Paul Morin, NH Home Builders and Remodelers; Robert Sculley, NH Motor Transport Association; Robert Johnson, NH Farm Bureau; David Scanlon.

Who opposes the bill: No one.

Summary of testimony received:

• Senator Odell introduced the bill, relative to certain agricultural operations, and explained how Jason Stock of the NH Timberland Owners

Association and two timber operators came to Unity on a very cold day a few months ago to show him graphically what this bill is all about. And it is community efforts to delay obtaining an intent to cut certificate, and some other issues dealing with logging trucks being treated inequitably versus other trucks that use these roads. The issue shouldn't be complicated; it's become more complicated. He has an amendment, #2011-0219s, that will replace Section 1 of the bill.

- Representative Saunders co-sponsored the bill. She's not a logger, but is involved with the management of Danville's town forest, approximately 500 acres. She reviewed RSA 672:1 III-c, enabling legislation from 1989. Important point: "...forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers."
- Brad Simpkins, Interim Director of the Division of Forests and Lands, spoke in favor. Their agency, under RSA 227-G:3 is the agency statutorily responsible for executing "all matters pertaining to forestry, forest management and forestlands within the jurisdiction of the state". NH forests are vital to the state's economy, and they support a landowner's ability to manage their forests.
- Recent DRED statistics:
 - * NH forests generate \$2.26 billion for the state's economy;
 - * They supply over 19,000 jobs;
 - * Landowners received over \$30 million in revenue from timber sale receipts in the last few years.
- They support the amendment that would replace Section 1 with language that requires road bonds to be equitably and reasonably applied, regardless of the commodity being transported. Want to make sure forest products are not singled out over other commodities through road bonding. Also support prohibiting planning boards from regulating timber harvesting operations that are not in conjunction with a subdivision application or a development project.
- Any type of enforcement or laws should be made equitably across the state. They're aware of at least 16 towns that have adopted ordinances. Need to preserve a landowner's ability to manage their forests.
- Senator Forrester questioned other trucks being bonded, such as gravel or fuel trucks. Who is responsible? How would that happen? The logger's intent to cut sort of kicks off the process and makes towns aware. What would happen with other trucks?

- Simpkins indicated other trucks, heavy trucks, are using the same roads as loggers. And yet the loggers are being singled out. It's kind of discriminatory. These other trucks might be causing damage, but because the bond is attached to the logger, they're the ones held responsible. Not quite sure how the town would be aware if a fuel delivery truck is using that very same road.
- Senator Boutin asked about the definition of "commodity" and "bonded vehicle".
- The road doesn't care what's being carried over it. It's the weight and the type of the truck. It needs to be a fair and level playing field for all heavy trucks that may be damaging the roads.
- Senator Boutin expressed concern about opening up a Pandora's box. Are you going to require a bond for a truck traveling through town with turf, headed to a nursery? For trucks that are pulling tractors? Trailers that are driven to a site? The amendment is far worse than the bill itself. "Be careful what you wish for."
- Senator Merrill questioned Section 2 of the bill, specifically RSA 21:34, which defines agriculture. It appears this section of the bill is subject to timber harvesting operations on farms, correct? Mr. Simpkins indicated that was his understanding.
- Ken Desmarais, Administrator of the Forest Management Bureau described a problem with bonding during a state land timber sale in Annett State Forest in Rindge. The logger was told he didn't need a bond due to the time of year (November) but once he started harvesting, the town of New Ipswich required a \$5,000 bond. The logger obtained a letter of credit rather than the bond, which the Select Board rejected. It then required a \$75,000 surety bond. The logger consulted an attorney, who then met with the town's attorney. They learned no other entity had been required to post a bond. The logger again offered the letter of credit and the town accepted. The situation opened up a host of other issues. The \$75,000 surety bond would have cost the logger an additional \$7,500, which was unnecessary.
- Tom Thomson, a tree farmer from Orford, explained he and his family own 2,600 acres in New Hampshire. He informed the committee that all timber cut in New Hampshire must pay a timber tax to the town. The money goes to pay for the maintenance of roads and bridges. Landowners harvesting timber already have oversight by the Division of Forests and Lands and DRA, once an intent to cut is filed.
- Landowners open and share their lands with the general public and the state of New Hampshire. The state is making billions off the backs of

landowners, who are willing to open and share their lands, for example, with snowmobilers. This industry generates \$1.2 billion every year.

- Mr. Thomson feels log trucks are an easy target for towns to go after. He supports the bill and the amendment. He doesn't want to see planning boards continue to target logging trucks, or continue with the requirement of posting a bond.
- Senator Boutin asked whether or not the amendment by itself would accomplish what the supporters of the bill want. He understands Sections 1 and 3 of the bill, but feels Section 2 doesn't fit.
- Jasen Stock of the NH Timberland Owners Association explained how the bill does 3 things: (1) it deals with an issue they are encountering regarding road bonding and transporting forest products; (2) Section 2 clarifies a point in the zoning ordinances regarding agricultural operations; (3) it talks about planning boards and their authority.
- Mr. Stock doesn't have a problem protecting a town's roads and posting a bond. But what about the other vehicles using the road and putting his bond at risk? Not fair. There are mechanisms the town can take, such as road posting in the spring. A logger may have to post a bond to haul across the town road when the weight is restricted. But what about other trucks who don't file an intent to cut? Section 1 tries to get at this issue. It's trying to put road agents on notice that their role is to protect the road whether it's a log truck or a gravel truck.
- Section 2 is the agricultural operations. When zoning ordinances are developed, there is a provision in statute that they are to encourage the preservation of agricultural lands and buildings. The agricultural operation is really the support for that land and that building. Section 2 tries to make the linkage between just the pastoral view that you get driving down the road, and the operation that's really behind it. It's no different than a factory building. It's really the operation within. It's that building or that operation that allows that building to maintain there. And that is the backbone. Timberland owners' factory, or business, is managing open space, managing land.
- Section 3 gets at the point that you have planning boards at various levels of sophistication that try to regulate timber harvesting. Some towns go as far as requiring a cutting plan be approved by a forester. It may have to be approved or certified by the town before that landowner can begin to cut their wood. This not only adds to the bureaucratic aspects of timber harvesting, it adds to the cost. It's questionable if that level of oversight really adds to the process.

- A planning board's responsibility does not include the management or review of approval of a specific timber harvesting. They look at subdivisions, they do site plan review and develop zoning ordinances. It's not the purview of the board to require a cutting plan and review it and make a determination.
- Often times it's unclear what a town really wants. When you're a timber harvester or own land in several towns, you end up with this patchwork of regulatory hurdles across the landscape. You want consistency across the state, across these town jurisdictions. There needs to be that consistency.
- Senator Merrill referred back to Section 2. Was this language motivated by particular problems with timber harvesting on farms or associated with farms? Mr. Stock indicated it was a good question. Not a farm in the sense that it happens to have woodland associated. But there have been instances with tree farms. The thinking behind this section is that they need to be thinking about the operation, whether it's a tree farm, or a dairy farm that happens to have timberland associated with it. If it's an agricultural operation under RSA 21:34-a, they need to be thinking about how they can preserve that business, that operation, that in turn provides that open space, the land and the buildings.
- Senator Merrill inquired if this provision mostly has to do with tree farms. Mr. Stock indicated that it did, and that is how they view the world. RSA 21:34-a is an agricultural definition. And timber harvesting and agriculture really are one and the same, due in large part to RSA 21:34-a.
- Senator Stiles questioned the amendment and indicated she always stops and thinks whenever she sees the word, "equitably". She wondered if instead of the bolded language, if the language said, "not solely applying to logging trucks". Would this accomplish what supporters want to happen? She is concerned about the enforcement, but it would do the same thing. And not have to consider the fact that it had to be "equitably" done.
- Mr. Stock indicated Sen. Stiles' suggestion would address his concern. But he mentioned that Bob Sculley of the NH Motor Transport Association had relayed that he had instances where he had seen this problem occur with other commodities. The issue gets down to picking favorites. At the end of the day, that road is the town's asset. The road agent's responsibility is to protect it. All commodities need to be treated on an equitable basis. Posting and bonding must be equitable among all.
- Senator Barnes indicated that although towns had put money into roads for years and years, it was now being cut due to the economy and a lack of money. And the roads are getting worse and worse. Might this be a way for

the towns to get their roads fixed up? Mr. Stock commented that he didn't have any documented proof.

- Senator Forrester revisited her earlier question. How does the road agent know when to ask a fuel truck for that bond? How does the enforcement happen with other trucks? Mr. Stock indicated that it becomes the responsibility of the trucker using the road to contact the road agent and file a bond, if there is a weight posting on the road. It's an assurance that the town's asset will not be abused. Forrester questioned the fact that the responsibility is not really on the road agent. It is on the delivery truck to go to the particular town? Mr. Stock indicated it was.

- Senator Boutin indicated he does like logging trucks. Unfortunately, they had a situation in Hooksett that blindsided them. He isn't going to make that mistake twice by supporting this amendment. He thinks the bill could be significantly shortened. He doesn't think it needs the agricultural section in it, as the Department of Safety already has requirements for agricultural vehicles. The larger picture is that all of these vehicles that travel our town roads, state roads or the interstate, they pay fuel taxes, registration fees. They're already paying towards the use of the road. What about all the cars that travel the road everyday? Are you going to bond them? He can support the idea of some municipalities and planning boards not having the right to require bonds for any reason. That's bad policy. That's why he can't support the amendment. He can support the bill if you keep Sections 1 and 3.

- Jeff Eames of Fort Mountain Companies owns a forest-related business with a landowner-assistance program. They have 7 trucks on the road in a harvesting situation. There is an act of discrimination with road bonds. He works very hard with road agents, but he could be responsible for other people's damage, which isn't really fair. He also owns an insurance business with his wife. He indicated to obtain a \$75,000 road bond would probably eliminate approximately 80 percent of the contractors in this state.

- Senator Barnes asked about the cost to obtain a \$75,000 bond. Mr. Eames indicated it was probably 10 percent, \$7,500. But at the same time, the logger would have to pledge some unpledged assets. Many contractors don't have that equity to pledge. That's the problem with town inconsistencies.

- If someone has a hidden agenda on a planning board, it could alter the operations by not granting approval. It can also be a problem time-wise, getting on the agenda of a planning board, sometimes taking up to two months depending upon the time of year.

- Mr. Eames wondered who is going to enforce some of these regulations. Is the Code Enforcer going to do it? Is he going to come out and give you a

"cease and desist"? In such an activity, who's going to be responsible for the down time I incur?

- Towns often ask about wetlands. Mr. Eames can't define wetlands. He has to hire a scientist for such a subject. More regulations and higher expenditures kind of take the spirit out of being an entrepreneur. He encourages support for the bill.

- Jeremy Turner is a Forest Manager for a private company out of New London, NH. The company owns approximately 12,000 acres of land in the state. They also provide a consulting business for forestry to another 29,000 acres in NH. They work in 63 different towns, and engage with municipalities on all levels. The subject of roads repeatedly comes up. Regulations certainly need to be standardized. Local zoning needs to encourage operations and endorse them, whether they are sugar mapping or harvesting timber. These operations need to be supported by the town. He generally supports the bill.

- Judy Silva of the NHMA indicated support for the amendment. They don't believe that logging trucks should be singled out. They worked with Mr. Stock to develop the language so that the concept is out there that if the town is going to require bonds for the protection of the use of its roads, they need to include everybody. What the language doesn't encompass as easily is the through traffic. Everyone needs to be reasonable. Also, bonds are not a way to get poor roads fixed up. There is the obligation to return the road to the condition it was before the road was crossed.

Action: Committee members felt they needed additional time to work with interested parties to develop a compromise.

dam

[file: SB 104 report]

Date: February 11, 2011

Speakers

Testimony

I am in support of SB 104.

Growing concern about timber harvesting and transportation whether for forest management or land development have created a concern about local ordinances. Increased local regulation could threaten the “working forest”.

In 1989, the New Hampshire legislature recognized the importance of forestry through an amendment to the local planning and zoning enabling legislation RSA 672:1, III, c as follows.

**TITLE LXIV
PLANNING AND ZONING**

**CHAPTER 672
GENERAL PROVISIONS 672:1 Declaration of Purpose. –**

III-c. The general court hereby finds and declares that: III-c. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry; and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens.

Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas.

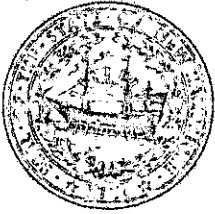
Further, the harvesting of timber often represents the **only income** that can be derived from property without resorting to development of the property for more intensive uses, and,

pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage preservation of open space by conserving forest and other natural resources.

Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;

III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

Submitted by Representative Elisabeth Sanders, Rockingham 7



STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION OF FORESTS AND LANDS
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

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February 8, 2011

The Honorable John S. Barnes, Jr., Chairman
New Hampshire Senate
Public and Municipal Affairs Committee
Legislative Office Building Room 103
Concord, NH 03301

Re: HS 104 – relative to certain agricultural operations

Dear Chairman Barnes and Members of the Committee:

Thank you for the opportunity to testify in support of SB 104, relative to certain agricultural operations with an amendment.

RSA 227-G:3 states that the Department of Resources and Economic Development, Division of Forests and Lands is statutorily responsible to “execute all matters pertaining to forestry, forest management, and forestlands within the jurisdiction of the state.” The forests of New Hampshire are vital to the states economy and supporting a landowner’s ability to manage their forests as working forests is essential to keeping New Hampshire’s forests as forests.

The Division of Forests and Lands supports an amendment to this bill that would replace the proposed new paragraph IV and replace it with language that requires road bonds to be equitably and reasonably applied, regardless of the commodity being transported. Transportation of forest products should not be singled out over the transport of other products.

The Division also supports prohibiting planning boards from regulating timber harvesting operations that are not part of a subdivision application or a development project. The division is the primary agency responsible for enforcement of timber harvest laws. This is accomplished primarily through our state Forest Rangers. In 2010 our forest rangers responded to 575 calls for timber harvest enforcement. This enforcement becomes difficult when individual towns adopt ordinances that are inconsistent with state laws. We believe timber harvest law enforcement should be fair and equitable across the state and should encourage, not hinder a landowner’s ability to sustainably manage their forest land.



Thank you for the opportunity to testify. If we can provide any additional information, please let us know.

Respectfully,

A handwritten signature in black ink, appearing to read "Brad W. Simpkins". The signature is fluid and cursive, with a large initial "B" and "S".

Brad W. Simpkins
Interim Director

cc: George M. Bald, Commissioner, DRED
Ken Desmarais, Forest Management Bureau, DRED

CHAPTER 20 TIMBER CUTTING ORDINANCE

2000 Purpose and Jurisdiction

2001 Purpose

The purpose of this ordinance is to develop minimum standards for forest cutting practices within the Town of Exeter and a process for review of such practices in order to insure that the following values of interest are not jeopardized:

- (a) The protection of landowners and abutting landowner;
- (b) The protection of the aesthetic character of the Town;
- (c) The conservation of water;
- (d) The maintenance of water and air quality;
- (e) The prevention of floods and soil erosion;
- (f) The improvement of conditions for outdoor recreation and wildlife;
- (g) The protection of a continuing and increasing supply of forest products.

This ordinance defines and clarifies the administration of the law by establishing standard definitions and uniform procedures by which landowners, harvesters of forest product, and the Town can carry out their responsibilities.

2002 Jurisdiction

- (a) Areas subject to the Ordinance: All land devoted to forest growth owned or administered by private persons, corporations, or organizations, or by any federal, state, county, municipal or other public agency.
- (b) Activities subject to the ordinance: Any private or commercial cutting of forest products which encompass an area of two (2) acres or more within the Town of Exeter.
- (c) Activities exempt under the ordinance: Any party proposing to cut forest products who believes the operation is exempt under this ordinance may request exemption from the ordinance in writing when the notice of Intent to Cut is filed with the Town pursuant to NH RSA 79:10

2003 General Regulations

- (a) Notice of Intent to Cut: Pursuant to RSA 79:10 a "Notice of Intent to Cut" must be filed with the Town of Exeter prior to the operation commencing.
- (b) Plan to Cut: Every owner or agent responsible for the operation who intends

to cut forest products over an area of two (2) acres or greater must submit a "Plan of Cut" to the Town of Exeter Planning Department. The Plan of Cut must be prepared by a professional forester registered with the Town of Exeter. A list of registered foresters may be found at the Exeter Planning Department office.

The Planning Department will review the Plan of Cut, and, at their discretion, request review by an appropriate person or agency at the expense of the applicant, determine the amount of the bond to be posted, and make its recommendations to the Exeter Board of Selectmen.

- (c) Bond: All cutting operations of two (2) acres or greater will be required to post a bond in the amount sufficient to cover the estimated yield tax due to commencement of the operation.
- (d) Town Cut Permit: All operations in compliance with a, b, and c above will be issued a "Town Cut Permit" to be posted in full view upon the site of the operation. Such permit shall be valid for one (1) year from the date of issuance.
- (e) Report of Cut: Pursuant to RSA 79:11, a "Report of Cut" must be filed with the Town of Exeter immediately upon the completion or termination of the cutting referred to in the "Notice of Intent to Cut."
- (f) Statement of Compliance: The professional forester must file a "Statement of Compliance" upon the completion or termination of cutting which states that the original, or Town-approved amended Plan of Cut, was correctly executed. To insure compliance, the forester should monitor and supervisor the cutting. Any noncompliance should be reported to the Town.
- (g) List of Registered Foresters and Loggers: Any forester and/or logger who wishes to operate within the town limits of Exeter must register with the Planning Department. A record will be kept of each operation by the Town. Any forester or logger found to be in deliberate violation of this ordinance will be removed from the list and shall not be permitted to operate within the town limits for a period of one (1) year. At that time, the offending party may re-apply for inclusion in the list.

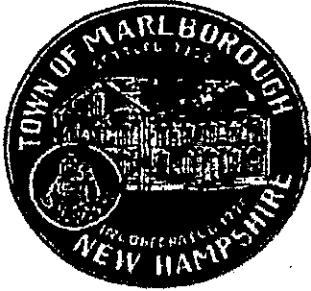
2004 Enforcement

- (a) The Town of Exeter and its agents shall administer and enforce this ordinance, and shall have the right to stop any operation in violation of its provisions.
- (b) Officials responsible for the enforcement of this ordinance may enter upon any lands for which a Town Cut Permit has been issued or upon which they believe may have an operation in violation of this ordinance, for the purposes

of inspection.

2010 Penalties

If any person shall violate the provisions of this ordinance, he shall be guilty of a misdemeanor, and subject to any and all applicable state and local penalties.



OFFICE OF SELECTMEN

Post Office Box 487

Marlborough, New Hampshire 03455-0487

Telephone (603) 876-3751
Fax (603) 876-3313
e-mail: marlborough@monad.net

Office Hours
Monday Nights 7 to 9

July 20, 2004

7-8-04

Mr. Donald Hardwick,
DH Hardwick & Sons Inc.
PO Box 430
Antrim, NH 03440

RE: Intent to Cut for Property located on Laurel Street, Map 3 Lot 017

Dear Mr. Hardwick,

We have received your intent to cut for the above-mentioned property. Because your timber yield will exceed 100,000 feet you are required to appear before the Planning Board for a site plan review. A copy of the site plan regulations is attached. Also, enclosed is an application you will need to complete and return to the Town Clerk's Office with the appropriate fee to get an appointment at the next Planning Board meeting. The fee is \$35 plus \$3.50 for each abutter. Deadlines are as follows:

- To appear on the September 14th agenda – deadline is August 20th
- To appear on the October 12th agenda - deadline is September 17th

Additional information may be obtained from the Town Clerk's Officer or from Ken Kerber, the Chairman of the Planning Board.

Sincerely,

John Northcott
John Northcott
Chairman, Board of Selectmen

TOWN OF MARLBOROUGH
P.O. Box 487, 236 East Main Street
Marlborough, NH 03455-0487

SITE PLAN REVIEW REGULATIONS

Effective June 11th, 1996

SECTION 1: GENERAL INFORMATION

A. Intent: The purpose of this regulation is to provide for the safe and attractive development of a site and guard against such conditions as would involve danger or injury to health, safety, or prosperity of the community. It also provides for the harmonious and aesthetically pleasing development of the community and its environs. This includes such aspects as groundwater protection, all types of pollution, site configuration and layout, and the need for on site sanitary facilities.

B. When Required: Site Plan Review is required for-

1. The development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. Change or expansion is defined as any project that has an estimated total cost over \$5,000.00.

2. Major subdivisions (four or more lots) even if not multi-family or nonresidential.

3. All uses allowed in the Zoning Ordinance as special exceptions after approval by the Zoning Board of Adjustment.

4. The cutting and removal of timber, for other than personal use, yielding more than 100,000 board feet or more than 100 cords of cordwood or involving the harvesting of more than fifty (50) acres during any twelve month period. Appendix V contains specific requirements for timber cutting and removal.

5. The cutting or removal of trees, or the tearing down or destruction of stone walls, or portion thereof, on any road designated as Scenic Roads listed in Appendix VII.

APPENDIX V

REQUIREMENTS FOR TIMBER CUTTING AND REMOVAL

Pursuant to Section I, paragraph (B)(4) of this Regulation, the Planning board requires that the following information be included as part of your application to cut and remove timber from your property, for other than personal use and yielding more than 100,000 board feet or more than 100 cords of cordwood or involving the harvesting of more than fifty acres, during any twelve month period. The Planning Board may, at its discretion, waive any of the following requirements.

1. A copy of the intent-to-cut application filed with the Board of Selectmen.
2. A black-on-white map or sketch showing the lot or lots on which the proposed cuttings will occur with detail indicating:
 - a. Tax map and lot number(s).
 - b. Owner(s) of record, per Town of Marlborough records.
 - c. Name and address of person/firm who prepared map/sketch and date of preparation.
 - d. Total acreage of lot(s), the scale of the map, north arrow and vicinity of Town.
 - e. Within the lot(s), identify wetland areas; slopes of 15% grade or more; intermittent and perennial streams, marshes, lakes and ponds; existing boundary stone walls; existing buildings; existing roadways; timber stand boundaries; proposed cutting and no-cut areas; existing and proposed skid trails, haul roads, log landings and wetland crossings; existing power lines and utility rights-of-way; and proposed buffer zones along the property boundaries.
 - f. Names and mailing addresses of abutting property owners.
3. The name, mailing address, and telephone number of the District Forest Ranger, supervising forester, and the logger will be provided.
4. Identification of areas of potential erosion problems and soil and erosion control plan to assure that erosion will be minimized.
5. Your objectives for the property, e.g., "to improve the stand", "thin out trees", "upgrade the property" or some other reason.

APPENDIX V (CONTINUED)

6. Your schedule of operations, to include:
 - a. Approximate starting and ending dates. Note: Project shall be completed within 1 year from the date of approval or the applicant must file for an extension regardless of intent-to-cut requirements.
 - b. Days of week: such as Monday to Friday and Saturday morning.
 - c. Hours of cutting, hauling and trucking operations. Note: Operating between the hours of 8:00 P.M. and 7:00 A.M. is prohibited.
 - d. Conditions under which operations will be suspended. Note: Skidding and hauling on rainy days or during wet period is prohibited.
 - e. Inspection schedule of supervising forester.
7. Type of cutting proposed: clear or selective (indicate percent of existing stand to be cut.)
8. Equipment to be used, such as skidder, horse, etc.
9. Restoration plans, including the rebuilding of any boundary stone walls disturbed by the logging operations.
10. Copy of driveway permit from either the NH Department of Transportation (DOT #4) for State roads or from Town of Marlborough Road Agent for Town roads.
11. Copy of wetlands permit, if applicable.
12. Plans for treatment and/or disposal of slash.
13. The Planning Board may, at its discretion, require that the applicant submit documentation providing ownership of the property to be logged.
14. A bond or irrevocable letter of credit to assure compliance with these Regulations and the conditions of approval of the application may be required.

**TOWN OF MARLBOROUGH
236 East Main Street
P.O. Box 487
Marlborough, N.H. 03455-0487**

APPLICATION FOR PLANNING/ZONING BOARD ACTION

SECTION I: BASIC INFORMATION.

Date: _____

Applicant's Name: _____ Phone #: _____

Address: _____

Legal Owner of Property: Same as above Other (as stated below)

(Note: If you are not the legal owner of this property, a statement is required from the owner indicating their awareness of this application.)

Property address or location: _____

Tax Map #: _____ Lot #: _____ Zone: _____ Flood Plain: Yes No

Abutter List: The name(s) and mailing address of all abutters (legal owners only), all professionals whose seal appears on any plan submitted to the Board (i.e., engineers, architects, surveyors, soil scientists, etc.) and all holders of conservation, preservation, or agricultural preservation restrictions must be listed on the reverse side of this sheet or by separate attachment to this application.

Application is for: Zoning Board of Adjustment (Complete Section II and IV)

Planning Board (Complete Section III and IV)

Joint hearing of both Boards (Complete all Sections)

FOR TOWN CLERK'S USE ONLY

Date Received: _____ Check No. _____ Initials _____

Time Received: _____ Amount: _____

FOR LAND USE BOARD OFFICIAL ONLY

Date Received by Planning or Zoning Board _____ Initials _____

SECTION II: ZONING BOARD OF ADJUSTMENT ACTION

Request is for: Consultation (no fee) _____ Special Exception _____ Variance _____
Rehearing _____ Equitable Waiver _____ Appeal: (A special form is required to be
completed and submitted if an appeal is that of a decision of an
administrative official.)

What is the section/paragraph of the Ordinance that applies to this request?

Describe the conflict and indicate what sections of the Ordinance require action:

What is the justification for your request? (See considerations indicated in Section
11.3 of the Zoning Ordinance as criteria applicable to this response)

SECTION III: PLANNING BOARD ACTION

- Conceptual consultation with the Board (no fee)**
- Boundary Line Adjustment or Merger of Lots**
- Subdivision: Preliminary Final**
(See Subdivision Regulations for rules)
- Site Plan Review (See Site Plan Review Regulations for rules)**
 - Preliminary Review Phase**
 - Design Review Phase**
 - Final Site Plan Review**
 - Excavation Permit (See Excavation Regulation for rules)**

What do you propose to do with this property? _____

Please describe any structures on this property? _____

Does the owner of record own or have any interest in a partnership or corporation on the abutting property? Yes ___ No ___ If yes, please describe: _____

If applicable, have plans been submitted to the N.H. Water Supply and Pollution Control Commission: Yes ___ No ___, or Wetland Board: Yes ___ No ___

Please provide the following information as it applies to your case:

Name of Sanitary Engineer: _____

Name of N.H. Licensed Surveyor: _____

Name of N.H. Licensed Soil Scientist: _____

SECTION IV: _____ **Date:** _____

(Signature of Applicant)

- Attachments are:**
- Attorney/Agent/Owner Proof**
 - List of Abutters**
 - At least 3 copies of plot plan**
 - Waiver request - if any**
 - Mylar of plot plan**
 - Reclamation Plan**
 - Other (list on reverse)**
 - List holders of any conservation and preservation restrictions**

3.17 Forestry:

- (1). Purpose: The Town of Auburn acknowledges the statement by the New Hampshire Legislature that forestry, when practiced in accord with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. The Town of Auburn also acknowledges the importance of its forested area and wetlands in preserving the rural and open character of the Town. Poor forestry practices can damage wetlands and degrade the quality of the watershed.
- (2). Planning Board Review: Prior to the commencement of timber harvesting, the landowner or designated agent shall submit a written plan to the Town of Auburn Planning Board identifying any wetlands that will be impacted by the timber harvesting and outlining any site restoration and wetlands protection that will be necessary in order to protect the impacted wetlands. The owner or designated agent shall then meet with the Planning Board for the purpose of reviewing and discussing site restoration and wetlands protection. The meeting shall take place prior to the commencement of timber harvesting activity.
- (3). The Building Inspector shall be authorized to enforce this provision, to issue cease and desist orders, and to pursue all available legal remedies in the event the applicant fails to honor the site restoration and wetlands protection plan.
- (4). The provisions of the section shall not apply to timber harvesting activities of two (2) acres or less.

3.18 Excavation and Soil Removal

Excavation and soil removal is permissible as a commercial and industrial activity provided that a permit is issued pursuant to the Town of Auburn Excavation Regulations and that site plan approval is secured from the Planning Board. No permit or site plan approval shall be issued without independent studies confirming that the activity will have no negative impact on the surrounding area, which may be evidenced by, but not limited to: diminution in surrounding property values; unreasonable change in the character of the neighborhood; unreasonable acceleration in the deterioration of highways; creation of health or safety hazards; negative impact on water supplies, (including aquifers and aquifer recharge areas); and/or negative impact on wetlands or other natural environmental conditions. In addition, no permit or site plan approval shall be issued where the activity would create a general nuisance.

3.19 The Use and Disposal of Sewage Sludge and Septage

(1). Purpose and Intent

The purpose of this Ordinance is to promote the public health and safety of the citizens of the Town by imposing additional requirements for the land application and surface disposal of sewage sludge, as well as requirements which are more stringent than the requirements set forth in 40 United States Code of Federal Regulations 503.1, et seq. See 40 C.F.R. 503.5(b). If at any time the Federal Government, State of New Hampshire, or the County of Rockingham adopts a more stringent requirement than the corresponding requirement of this Ordinance, the more stringent requirement shall control. The words and terms of this Ordinance shall be defined as set forth in the 1994 edition of 40 C.F.R. 503.1, et seq.

20. Enforcement of Approved, Recorded Subdivisions and Site Plans

20.01 Purpose

The purpose of this part is to enact locally, the administrative and enforcement procedures set forth in RSA 676 of the existing planning and land use statutes.

20.02 Penalties and Remedies for Enforcement

- 1) Any violation of the requirements of this Regulation, or of plans approved hereunder, shall be subject to the enforcement procedures detailed in RSA 676. RSA 676 authorizes the following penalties and remedies for enforcement of the provisions of this Regulation:
 - a) Injunctive relief in accordance with RSA 676:15;
 - b) Fines and penalties in accordance with RSA 676:17;
 - c) Issuance of a cease and desist order in accordance with RSA 676:17-a; and
 - d) Pleas by mail for local land use citations in accordance with RSA 676:17-b.

20.03 Responsible Officer

Unless otherwise noted, the Code Enforcement Officer shall be responsible for the enforcement of the provisions of this Regulation.

20.04 Enforcement Procedures

- 1) **Written Notice of Violation** – A written notice of violation shall be issued to the property owner by registered mail from the Code Enforcement Officer, if the Planning Board's Consulting Engineer determines that conditions at the site are in violation of any of the requirements of this Regulation or plans approved under this Regulation and that the violation is not an immediate threat to public health or safety.

This notice of violation shall:

- a) Specify the actions or conditions, which violate the requirements of this Regulation or plans, approved under this Regulation.
 - b) Identify what needs to be done to correct the violation(s).
 - c) Specify a reasonable time frame within which the violation(s) will be corrected.
 - d) Be provided to the property owner with a copy to be kept in the official records of the Planning Board.
- 2) **Cease and Desist Order** – A cease and desist order may be issued to the property owner by the Code Enforcement Officer, if the Code Enforcement Officer, Town Planner, or the DPW Director determine that conditions at the

Town of Unity
August 25, 2006

Office of the Board of Selectmen

13 Center Rd. Unit #3 Office Hours:
Charlestown, NH 03603 Mon Evenings
Tel: 603-543-3102 Tues & Wed: 9-5
Fax: 603-542-5922 Thurs-Sun: Closed
E-Mail: unitynh@valley.net

Ross D'elia, President
HHP Inc.
PO Box 489
Henniker NH 03242

Mr. D'Elia,

We are returning your Intent to Cut. We need two Intents, one for each lot. We also need a Road Bond. The forms are enclosed. The cost of the Road Bond is \$5 per foot. If you have any questions, don't hesitate to contact us.

Sincerely,
Mary 'L Gere, Chair
Willard M Hathaway
Jason A LeMere
Board of Selectmen, Town of Unity

LOGGING OPERATION AGREEMENT CLASS VI ROAD BOND

Agreement made this _____ by and between the Town of Unity, a municipal corporation with a mailing address of 13 Center Road, Charlestown, NH 03603 (hereinafter "Town") and _____ address of _____ (hereinafter "user").

Whereas the Selectmen have authority to regulate the use of all public highways pursuant to RSA 41:11 and RSA 47:17, VII concerning transportation of certain loads on town highways(hereinafter "regulated hauling").

Whereas the landowners, _____ have filed an intent to cut wood and timber on map and lot _____.

Whereas the user has requested permission to engage in regulated hauling operations on Town roads as follows: _____

Whereas the road in question, which has adequate strength and stability for normal traffic experienced to date including occasional use by heavily loaded trucks, is vulnerable to damage by intensive traffic of heavily loaded trucks, especially when the roadbed is thawed or water-saturated.

Whereas the Selectmen are willing to grant permission to the User to utilize the Town road referred to above in accordance with Town regulations and with the agreement:

It is hereby agreed as follows:

1. The User is granted permission to use the Town road referred to above.
2. To guarantee discharge of the User's responsibilities detailed in RSA 236:39, the User shall maintain liability insurance in full force and effect with an insurance carrier licensed to do business in the State of New Hampshire in an amount of not less that \$300,000.00 throughout the term of this agreement. The User shall provide the Town with a certificate of insurance to verify that the insurance is in effect.
3. The User shall immediately repair and restore all roads, drainage structures, bridges and other structures which may be damaged as a result of User's operations covered by this agreement as shall not at any time interfere with the right of the public to safe use of Town roads. To secure then obligation to repair and restore the road and structures referred to above the User shall file with the Board of Selectmen prior to the commencement of hauling security in the amount of \$ _____ Security shall be a bank check or a Surety Restoration Bond in substantially the following form:

KNOW ALL MEN BE THESE PRESENTS that _____ of _____ in the county of _____ and State of _____, hereinafter referred to as "Surety" are held firmly bound unto the Town of Unity, NH, a municipal corporation, the county of Sullivan and State of New Hampshire, hereinafter referred to as "Town", in the sum of \$ _____ lawful money of the United States payment of which is made herewith to be held by said Town upon the following conditions.

The condition of this obligation is such that whereas principal has undertaken hauling operations within said Town, and in accordance with Town regulations, has agreed to repair and damage to Town roads including

Class VI, Class V and seasonal resulting from such operations, as determined by the Town's Road Agent, said obligation to be completed on or before the last day of March.

NOW THEREFORE, if said principal shall well and truly perform in all respects its obligations hereunder in strict accordance with the requirements of its agreement herein, and shall save said Town harmless from all loss, costs or damage by reason of its failure to complete its agreement herein, then this obligation shall be void and fully terminated and all payments hereunder shall be returned to Principal. Upon failure of Principal to perform its agreements herein, payment hereunder shall be retained by said Town.

IN WITNESS WHEREOF the parties have hereunto caused their hands and seal to be affixed this _____ day of _____, 2006.

Witness

Principal

Witness

Surety

The User's permission to use the Town road listed above pursuant to this agreement shall expire March 31, 2006, unless it is extended by agreement of both parties. The road shall be inspected by the Town's Road Agent before monies secured by this agreement are released. **NO USE OF LOG SKIDDERS ON TOWN ROADS.** IN WITNESS WHEREOF, the parties set their hands this _____ day of _____ 2006.

Witness

Town of Unity

Road Bonding Statutes Relative to SB 104

Section 236:3-a

236:3-a Exclusion From Seasonal Highway Weight Limit for Certain Vehicles. – Notwithstanding any provision of law or rule to the contrary, the following vehicles shall be excluded from the seasonal highway weight limit regulations with the approval of the district engineer, department of transportation:

- I. Heating fuel delivery vehicles.
- II. Trucks delivering processed milk products.

[Paragraph III added by 2010, 126:1, effective January 1, 2011, is repealed by 2010, 126:2, effective January 1, 2013.]

- III. Any truck weighing less than 1/2 of its permissible limit under RSA 266:18-a.

Section 236:9

236:9 Excavation; Permit; Emergency. – It shall be unlawful to excavate or disturb the shoulders, ditches, embankments or the surface improved for travel of any class I or class III highway or state-maintained portion of any class II highway for any purpose whatever without written permission from the commissioner of transportation or his district engineer, or any other highway without written permission from the selectmen or highway agent of the town, or the mayor and aldermen or street commissioner of the city; provided that in cases of emergency where the public health or safety is endangered such immediate action as may be necessary may be taken without such permission, but in such cases the person directing or taking such action shall at once notify the official empowered to give written permission.

Source. 1917, 96:1. PL 91:1. RL 107:1. 1945, 188:1, part 19:8. 1950, 5:1, part 9:1, par. 2. RSA 249:13. 1981, 87:1. 1985, 402:6, I(b)(7). 1990, 39:1, eff. May 22, 1990.

Section 236:10

236:10 Regulations; Bond. – The person or entity giving such written permission may make rules and regulations to govern the excavation and restoration of such highway and may require that a bond satisfactory to such person or entity be furnished to the state, city, or town providing for the satisfactory restoration of the highway. The person or entity providing the bond shall determine the type of bond furnished and it may be in the form of cash, letter of credit from a bank or lending institution licensed in New

Hampshire and acceptable to the person giving written permission, or a bond furnished by an insurance company. The person or entity granting permission shall not arbitrarily withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to resolve any differences with the contractor doing the excavation or restoration.

Source. 1917, 96:2. PL 91:2. RL 107:3. 1945, 188:1, part 19:9. RSA 249:14. 1981, 87:1. 2006, 177:1, eff. July 24, 2006.

Section 236:11

236:11 Restoration. – Any person, entity, or corporation who excavates or disturbs the shoulders, ditches, embankments, or the surface improved for travel of any highway shall restore such highway to a condition at least equal to the condition that was present before the excavation or disturbance.

Source. 1945, 188:1, part 19:10. RSA 249:15. 1981, 87:1. 2006, 177:2, eff. July 24, 2006.

Section 236:12

236:12 Exception. – The foregoing provisions shall not apply to railroads when making necessary repairs or improvements within their rights-of-way at points where the same are crossed by a highway; but no such repairs or improvements, if they involve excavating or disturbing the surface of any highway, shall be made without written permission from the department of transportation.

Source. 1917, 96:4. PL 91:4. RL 107:6. 1945, 188:1, part 19:11. RSA 249:16. 1981, 87:1. 1990, 39:2, eff. May 22, 1990.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: February 22, 2011

THE COMMITTEE ON Public and Municipal Affairs

to which was referred Senate Bill 104

AN ACT relative to certain agricultural operations.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0461s

Senator David R. Boutin
For the Committee

Debra Martone 271-3092

New Hampshire General Court - Bill Status System

Docket of SB104

Docket Abbreviations

Bill Title: (New Title) relative to certain agricultural operations and certain bonds for excavation and driveways.

Official Docket of SB104:

Date	Body	Description
1/19/2011	S	Introduced and Referred to Public and Municipal Affairs, SJ 3 , Pg.36
2/1/2011	S	Hearing: 2/8/2011, Room 101, LOB, 10:00 a.m.; SC10
2/23/2011	S	Committee Report: Ought to Pass with Amendment # 2011-0461s , NT, 3/9/11; SC14
3/9/2011	S	Committee Amendment 0461s, NT, AA, VV; SJ 8 , Pg.92
3/9/2011	S	Ought to Pass with Amendment 0461s, NT, MA, VV; OT3rdg; SJ 8 , Pg.92
3/9/2011	S	Passed by Third Reading Resolution; SJ 8 , Pg.99
3/16/2011	H	Introduced and Referred to Municipal and County Government; HJ 28 , Pg.882
4/6/2011	H	Public Hearing: 4/19/2011 10:00 AM LOB 301
4/6/2011	H	Executive Session: 4/21/2011 10:00 AM LOB 301
4/21/2011	H	Committee Report: Ought to Pass for April 27 (Vote 17-0; CC); HC 33 , PG.1067
4/27/2011	H	Ought to Pass: MA VV; HJ 40 , PG.1354
5/4/2011	H	Enrolled; HJ 42 , PG.1490
5/4/2011	S	Enrolled; SJ 16 , Pg.318
5/19/2011	S	Signed by the Governor on 05/16/2011; Effective 07/15/2011; Chapter 0085

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 104 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 2011-0219s _____ - AMENDMENT # _____
- AMENDMENT # 2011-0461s _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

- AS INTRODUCED _____ AS AMENDED BY THE HOUSE
- FINAL VERSION _____ AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

07/29/11

BY:

Debra A. Martore
COMMITTEE AIDE