

Bill as
Introduced

HB 282 - AS INTRODUCED

2013 SESSION

13-0465

03/05

HOUSE BILL **282**

AN ACT relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

SPONSORS: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

COMMITTEE: Transportation

ANALYSIS

This bill modifies the definition of mixed use school bus, requires criminal records checks of driver education instructors, and updates references relating to suspending or revoking a school license or driver education certificate.

This bill was requested by the department of safety.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT relative to mixed use school buses and relative to licensing and criminal records of driver education instructors.

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

1 1 Words and Phrases Defined; Mixed Use School Bus. Amend RSA 259:96-a to read as follows:

2 259:96-a Mixed Use School Bus. "Mixed use school bus" shall mean [~~a vehicle, including~~] a
3 station wagon, suburban, **sport utility vehicle**, passenger van, panel body vehicle, or vehicle
4 converted to a school bus, **owned or leased by a public school or private school and driven by**
5 **a school employee**, which bears a valid state inspection sticker and is employed principally in
6 transporting schoolchildren to and from [~~school or~~] school activities.

7 2 New Section; Driver Education Certificate Application. Amend RSA 263 by inserting after
8 section 44-a the following new section:

9 263:44-b Driver Education Certificate Application.

10 I. Every applicant for an initial driver education certificate shall submit to the division of
11 motor vehicles a notarized criminal history record release form, as provided by the New Hampshire
12 division of state police, department of safety, which authorizes the release of his or her criminal
13 history record, if any, to the division of motor vehicles.

14 II. The applicant shall submit with the release form a complete set of fingerprints taken by a
15 qualified law enforcement agency or an authorized employee of the department of safety. If the first
16 set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be
17 necessary in order to complete the criminal history records check. If, after 2 attempts, a set of
18 fingerprints is invalid due to insufficient pattern, the division of motor vehicles may, in lieu of the
19 criminal history records check, accept police clearances from every city, town, or county where the
20 person has lived during the past 5 years.

21 III. The division of motor vehicles shall submit the criminal history records release form and
22 fingerprint form to the division of state police which shall conduct a criminal history records check
23 through its records and through the Federal Bureau of Investigation. Upon completion of the records
24 check, the division of state police shall release copies of the criminal history records to the division of
25 motor vehicles. The division of motor vehicles shall maintain the confidentiality of all criminal
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27 3 Drivers' School; Revocation or Suspension. Amend RSA 263:51, II and III to read as follows:

28 II. The licensee or certificate holder has been convicted of a crime or of any offense under
29 RSA 265:79 [~~through RSA 265:82-a~~] **or RSA 265-A**, or his or her license or privilege to drive a motor
30 vehicle has been suspended or revoked;

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2 ~~[through RSA 265:82-a]~~ or *RSA 265-A*, RSA 630, RSA 631, or RSA 632-A and it appears to the
3 commissioner, after a hearing, that an immediate license suspension pending the outcome of the
4 criminal proceeding is required in the interest of public safety;

5 4 Effective Date. This act shall take effect 60 days after its passage.

HB 282 - AS AMENDED BY THE HOUSE

6Mar2013... 0209h

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HOUSE BILL **282**

AN ACT relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

SPONSORS: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

COMMITTEE: Transportation

AMENDED ANALYSIS

This bill modifies the definition of mixed use school bus, requires criminal records checks of driver education instructors, updates references relating to suspending or revoking a school license or driver education certificate, and authorizes background checks on candidates for employment or promotion at the department of safety.

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4 commissioner, after a hearing, that an immediate license suspension pending the outcome of the
5 criminal proceeding is required in the interest of public safety;

6 4 New Section; Department of Safety; Employee Candidate Background Checks. Amend RSA
7 21-P by inserting after section 15-b the following new section:

8 21-P:15-c Employee Candidate Background Checks.

9 I. The commissioner may require a background investigation and a criminal history records
10 check on any candidate for employment or promotion prior to a final offer of employment. The
11 commissioner may request only a state records check or both a federal and state records check, to be
12 conducted through the division of state police. The department may extend a conditional offer of
13 employment to a candidate, with a final offer of employment subject to a successfully completed
14 criminal history records check.

15 II. A candidate for employment in a position which the commissioner determines requires a
16 background investigation and a criminal history records check shall submit to the department a
17 notarized criminal history records release form, as provided by the division of state police, which
18 authorizes the release of the person's criminal records, if any. The candidate shall submit with the
19 release form a complete set of fingerprints taken by a law enforcement agency as directed by the
20 commissioner. In the event that the first set of fingerprints is invalid due to insufficient pattern and
21 a second set of fingerprints is necessary in order to complete the criminal history records check, the
22 conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is
23 invalid due to insufficient pattern, the department may, in lieu of the criminal history records check,
24 accept police clearances from every city, town, or county where a candidate has lived during the past
25 5 years.

26 III. To obtain a state records check only, the department shall submit a state criminal
27 history records release form to the division of state police. To obtain both the federal and the state
28 records check, the department shall submit the criminal history records release form and applicant
29 fingerprint card to the division of state police, which shall conduct a criminal history records check
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31 background investigation, the division of state police shall report any criminal conviction
32 information to the commissioner. The department may submit fingerprint information
33 electronically, in accordance with procedures established by the division of state police. The
34 department shall maintain the confidentiality and security of all criminal history records
35 information received pursuant to this paragraph.

36 IV. In this section, "candidate for employment" shall include candidates for contract
37 positions, volunteers, or interns.

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1 5 Effective Date. This act shall take effect 60 days after its passage.

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HB 282 - FINAL VERSION

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AMENDED ANALYSIS

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3 IV. In this section, "candidate for employment" shall include candidates for contract
4 positions, volunteers, or interns.

5 176:5 Effective Date. This act shall take effect 60 days after its passage.

6 Approved; July 2, 2013

7 Effective Date: August 31, 2013

Committee Minutes

**SENATE CALENDAR NOTICE
TRANSPORTATION**

Senator Jim Rausch Chairman
 Senator Peggy Gilmour V Chairman
 Senator David Boutin
 Senator Nancy Stiles
 Senator David Watters

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 13, 2013

HEARINGS

Tuesday

3/19/2013

TRANSPORTATION

LOB 103

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

- | | |
|--|---|
| <p>1:00 PM HB282</p> <p>1:15 PM HB383</p> <p>1:30 PM HB444</p> <p>2:00 PM HB543</p> <p>2:15 PM HB112-FN</p> | <p>(New Title) relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.</p> <p>relative to operation of OHRVs on the traveled portion of public highways, where permitted.</p> <p>establishing a committee to study the use of autonomous vehicles in New Hampshire.</p> <p>relative to ascertaining damages to abutting landowners.</p> <p>(New Title) relative to reclamation trust funds.</p> |
|--|---|

Sponsors:

- | | | | |
|---|---|--|---|
| <p>HB282
Rep. Sherman Packard</p> <p>HB383
Rep. Robert Theberge</p> <p>HB444
Rep. John Hikel</p> <p>HB543
Rep. James Aguiar
Rep. Linda Lauer</p> <p>HB112-FN
Rep. James Webb
Rep. Jordan Ulery</p> | <p>Sen. Jim Rausch</p>

<p>Rep. Andrew Renzullo</p>

<p>Rep. Frank Sapareto</p> | <p>Rep. Susan Ford</p>

<p>Rep. Beverly Ferrante</p> | <p>Rep. Lester Bradley</p>

<p>Rep. Christopher Andrews</p> |
|---|---|--|---|

SENATE TRANSPORTATION COMMITTEE

Jennifer Horgan, Legislative Aide

HB 282 – (New Title) relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

Hearing Date: 03/19/2013

Time Opened: 1:00 PM

Time Closed: 1:26 PM

Members of the Committee Present: Senators Rausch, Gilmour, Boutin, Stiles, Watters.

Members of the Committee Absent: No one

Bill Analysis: This bill modifies the definition of mixed use school bus, requires criminal records checks of driver education instructors, updates references relating to suspending or revoking a school license or driver education certificate, and authorizes background checks on candidates for employment or promotion at the department of safety. This bill was requested by the department of safety.

Sponsors: Rep. Packard, Rock 5; Sen. Rausch, Dist 19

Who supports the bill: Senator Jim Rausch, Rick Bailey (Director, Division of Motor Vehicles), Martha Roy (New Hampshire Association of Counties-Human Resources Affiliate), Betsy Miller (New Hampshire Association of Counties)

Who opposes the bill: No one

Summary of testimony presented in support:

Director Bailey (Division of Motor Vehicles) provided a position paper

- This bill was a department request and does three things
- First, a correction in regards to mixed use school bus regulation. In a previous session it was decided there was a problem when school districts were required to hire a full size school bus for small teams(ex: 10-12 members). The legislation that passed allowed for smaller buses and vans to be used for those groups. The problem that arose is there was language missing that required the driver to be an employee of the school district. This bill corrects that and therefore requires that they are employees and consequently are properly vetted and insured through the district.

- The next two sections deal with the Department of Safety and the ability to do multistate background checks. Those checks require cooperation with FBI and they require specific enabling legislation by the state in order to do this. The first section covers driver's education instructors and allows the Department to do multi-state background checks. If it is limited to only NH, which the department can already do, then some vital information could be easily missed if someone had moved from another state.
- The second section, allows for the same authorization for multistate background checks for DOS employees, like employees of the DMV. Feels this is especially important when they are dealing with such sensitive information of NH employees.
- Senator Stiles asked if the smaller buses that drive children with disabilities would also be covered by this.
 - If they are doing home to school or school to home then yes.
- Senator Watters asked if people would be charged a fee for the background checks.
 - Yes there is a fee, around 40 dollars
- Senator Watters asked if that is under rules or statute.
 - Rules, and that is the same for any entity,
- Senator Watters asked how many employees would be subject to this.
 - All of law enforcement already does under a separate statute, and explained the reasons it would cover DMV employees.
- Senator Watters asked if they have had problems in the past in employees abusing authority that might have been prevented by this check.
 - They have had a few in the past couple years and they have had a few instances with candidates they were lucky to catch for some other reason. Described a situation from two years ago in Salem, which resulted in the employee being incarcerated. However, in other states when issues arise, employees could simply get a suspended sentence and without the multi-state background check, it would be extremely difficult to be aware of that.

Martha Roy (New Hampshire Association of Counties-Human Resources Affiliate) presented an amendment

- Presented an amendment that would enable the counties to require an FBI check for all applicants for county employment.
- Described an example from a county that had a person apply for a nursing position and passed the state background check. The county found later that the person had several felonies in another state, even though they had signed a form indicating that they had none.
- This ability is already in place for towns and school districts
- Would also apply to the register of deeds, engineering and maintenance departments.
- Senator Rausch and Senator Watters voiced concerns that this may not be the appropriate bill or committee to review this information. Senator Boutin suggested that it may fall in line with the changes that the House had made.
- Senator Watters asked about the fee for the background checks.

- The counties would pay that charge
- Senator Gilmour voiced concerns that other entities that would build off this and require these checks as well.
 - Believes this closes the loop. There are two other state laws that pertain to towns and school districts respectively, but for some reason counties were overlooked.
- Senator Boutin asked if other state employees go through the background checks.
 - Director Bailey answered that there are other pockets that do, but not all.

Betsy Miller (NH Association of Counties)

- Did not realize counties did not have this authority and there have been a few instances of bad behavior by employees.
- Decided to bring this forward when the amendment for Department of Safety employees was placed on the bill.
- Checked with Earl Sweeney and Trooper Jeff Kellett (Criminal Records Unit) and they are fine with this. Mr. Kellett helped with the language so that it mirrors the town authority.
- Senator Watters asked if maybe it is something that should be taken up next year in order for the proper process to occur.
 - There is no way to know if something may happen between now and next year. Had an employee arrested last month for financial issues.
- Senator Rausch asked Director Bailey for his stance.
 - As long as they have worked with Mr. Kellett and the language is what we know would pass with the Feds, then it should be fine.
- Senator Boutin asked what is utilized for the background checks.
 - Finger prints, name and date of birth
- **Representative Theberge spoke in support.**

Summary of testimony presented in opposition:

None

Fiscal Note: N/A

Future Action: The Committee took the bill under consideration.

JCH

Date hearing report completed: 03/25/13

[file: HB282 report]

Speakers

Testimony



State of New Hampshire

DEPARTMENT OF SAFETY
JAMES H. HAYES BLDG. 33 HAZEN DR.
CONCORD, N.H. 03305
603/271-2559

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

EARL M. SWEENEY
ASSISTANT COMMISSIONER

NH DEPARTMENT OF SAFETY

LEGISLATIVE POSITION PAPER

HB 282 SB__ AS INTRODUCED () AMENDMENT NO. ____

This bill was introduced at the behest of the Department of Safety. It is largely a housekeeping measure, and it amends the definition of "mixed use" school buses and requires criminal record checks of driver education instructors and updates a statutory reference relative to suspending or revoking the license of a driving school or driver education instructor.

Two years ago we supported a bill to change the definition of a mixed school bus in order that school districts could travel small groups such as the golf team or the debate club to another town or place to take part in an event, without having to go to the expense to rent a 66-passenger bus. The concept was the school district would own a small passenger van and the van could be driven by a school district employee such as a teacher, coach, or janitor. These school district employees all have had criminal record checks anyway, and it would be up to the Superintendent to make sure they had clean driving records. They would not need a school bus driver license endorsement for taking these trips.

Unfortunately since that time, a few schools and some individuals have subverted the original intent of that bill, and parents and others who are not employees of the school districts are driving these vans with children in them, to and from these activities. We feel, and the testimony that the Legislature relied on in passing this exemption originally, was that the vans would belong to the school district and the drivers would be district employees, who had undergone criminal and driving record checks and who were overseen and subject to the authority of the principal and the superintendent of schools. Part 1 of the bill simply cleans that up by specifying that to qualify as a mixed use school bus the vehicle must be owned by or leased to the school district, and the driver must be a district employee.

Part 2 of the bill imposes a requirement for a criminal record check for a driver education instructor. Virtually everyone today who has regular contact with school-age children, including teachers, coaches, school bus drivers, substitutes, teacher aides and volunteers, has to have a criminal record check. All, that is, except driver education teachers, who spend more time in cars with other people's kids than almost anyone else. This would simply mirror the law that applies to everyone else that deals with youths in an educational type setting.

Part 3 of the bill is simply a reference change. The DMV has always been able to suspend or revoke the driver education certificate of a driver education instructor or driver education school whose proprietor is convicted of DWI. That law has always been on the books but recently the Legislature re-codified the DWI statutes and they are now in Chapter 265-A instead of Chapter 265. This provision simply updates that requirement by making reference to the new statute number.

Not in the bill but something we would like to see is the ability for the DMV to perform criminal record checks as a condition of hiring our own employees. Those that handle driver licenses, ID cards and vehicle titles particularly have lots of opportunities to commit fraud and other crimes and unfortunately, we have had to arrest some of them in the past 3-4 years. We would need a law similar to the one here on driver education instructors in order for the FBI to release criminal record information to us. If the Committee has time and would entertain an amendment to this bill, we can provide you with one later in the week, before you hold your Executive Session on the bill. We do not believe this would be controversial, since we would be doing it to ourselves and not to the public at large or some other industry.

APPROVED:

Earl M. Sweeney

Assistant Commissioner

NEW HAMPSHIRE ASSOCIATION OF COUNTIES
HUMAN RESOURCES AFFILIATE

March 19, 2013

Chairman Rausch and Honorable Members of the NH Senate Transportation
Committee
107 North Main Street
Concord, New Hampshire, 03301

RE: Support for House Bill 282 and recent amendment- relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

Dear Honorable Committee members,

I am writing on behalf of the NH Association of Counties Human Resources Directors' Affiliate, in favor of Senate Bill 282. We urge you to vote in favor of this legislation for the following reasons:

1. The amendment to this bill allows County employment applicants to be checked through the Federal Bureau of Investigation thus insuring that they do not have felonies in any state.
2. More than half of all County employees are in constant contact with our Nursing Home residents who need to be protected from predators. Currently, State rules only require a State criminal records check of applicants. Without a thorough national check there is no guarantee that an applicant may not have a felony in another state.
3. All other State municipalities i.e. towns, school districts and cities already have similar language in law under RSA 189:39 and RSA 41:9-b. This amendment will add our one remaining State municipality, effectively closing the loop on this critical issue.

Thank you for your attention to this important matter.

Very truly yours,

Martha Roy, Rockingham County HR Director
President, New Hampshire Association of Counties HR Affiliate



PROPOSED AMENDMENT TO HB 282, relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

proposed amendment: *relative to background checks for county employees ---*

This amendment exactly parallels the statutory language already in place for municipalities and school districts giving the counties the authority to pursue criminal background checks through the Division of State Police for both state and federal records checks.

Amend RSA 28 by adding a new section after RSA 28:10-b as follows:

28:10-c Employee Candidate Background Checks.

I. The county commissioners may require a background investigation and a criminal history records check on any candidate for employment, prior to a final offer of employment. A county may request only a state records check or both a federal and state records check, to be conducted through the division of state police. The county may extend a conditional offer of employment to a candidate, with a final offer of employment subject to a successfully completed criminal history records check.

II. A candidate for employment in a position which the county commissioners determine requires a background investigation and a criminal history records check shall submit to the county a notarized criminal history records release form, as provided by the division of state police, which authorizes the release of the person's criminal records, if any. The candidate shall submit with the release form a complete set of fingerprints taken by a law enforcement agency as directed by the governing body or town manager. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the county may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where a candidate has lived during the past 5 years.

III. To obtain a state records check only, the county shall submit a state criminal history records release form to the division of state police. To obtain both the federal and the state records check, the county shall submit the criminal history records release form and applicant finger print card to the division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall report any criminal conviction information to the county commissioners. The county may submit fingerprint information electronically, in accordance with procedures established by the division of state police. The

county shall maintain the confidentiality and security of all criminal history records information received pursuant to this paragraph.

IV. The county commissioners may require the candidate to pay the actual costs of the background investigation and the criminal history records check.

V. In this section, "candidate for employment" shall include candidates for volunteer positions in the county.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Date: 03/27/2013

THE COMMITTEE ON Transportation

to which was referred House Bill 282

AN ACT

(New Title) relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

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

OUGHT TO PASS

BY A VOTE OF: 5-0

CONSENT CALENDAR VOTE: 5-0

Senator Peggy Gilmour for the Committee

This bill was at the request of the Department of Safety and will modify the definition of mixed use school bus so that drivers of small passenger vans used by the school to transport students to and from school events must be school district employees. It will also require criminal records checks of driver education instructors, update references relating to suspending or revoking a school license or driver education certificate, and authorize background checks on candidates for employment or promotion at the Department of Safety.

Jennifer Horgan 271-3091

New Hampshire General Court - Bill Status System

Docket of HB282

Docket Abbreviations

Bill Title: (New Title) relative to mixed use school buses, relative to licensing and criminal records of driver education instructors, and relative to background checks for department of safety employees.

Official Docket of HB282:

Date	Body	Description
1/3/2013	H	Introduced 1/3/2013 and Referred to Transportation; HJ 12 , PG.190
1/23/2013	H	Public Hearing: 1/29/2013 11:30 AM LOB 203
1/29/2013	H	Executive Session: 2/5/2013 10:00 AM LOB 203 ==RECESSED==
2/6/2013	H	Continued Executive Session: 2/19/2013 10:00 AM LOB 203
2/20/2013	H	Committee Report: Ought to Pass with Amendment #0209h(NT) for Mar 6 (Vote 14-0; CC); HC 20 , PG.413-414
2/20/2013	H	Proposed Committee Amendment # 2013-0209h (New Title); HC 20 , PG.447
3/6/2013	H	Amendment #0209h(NT): AA VV; HJ 24 , PG.662-663
3/6/2013	H	Ought to Pass with Amendment #0209h(NT): MA VV; HJ 24 , PG.662-663
3/7/2013	S	Introduced and Referred to Transportation
3/13/2013	S	Hearing: 3/19/13, Room 103; LOB, 1:00 p.m.; SC12
4/8/2013	S	Committee Report: Ought to Pass, 4/18/13; Vote 5-0; CC; SC16
4/18/2013	S	Ought to Pass: MA, VV; OT3rdg;
4/18/2013	S	Enrolled
4/24/2013	H	Enrolled; HJ38 , PG.1257
7/3/2013	H	Signed by Governor 07/02/2013; Effective 08/31/2013; Chapter 0176

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB282 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

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ ____ - AMENDMENT # _____
____ - AMENDMENT # _____ ____ - 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 7/23/13

Jennifer Hagan
BY COMMITTEE AIDE