

# Committee Report

# CONSENT CALENDAR

May 13, 2021

## HOUSE OF REPRESENTATIVES

### REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to which was referred SB 138,**

**AN ACT (New Title) relative to the definition of an "investment metal contract". Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.**

**Rep. Keith Ammon**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>SB 138</b>
Title:	<b>(New Title) relative to the definition of an "investment metal contract".</b>
Date:	<b>May 13, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

Under the current law, any New Hampshire investor who is investing in investment metals or investment gems must have them here in New Hampshire. This legislation allows New Hampshire investors to hold their investment metals and/or gems in another state

Vote 19-0.

Rep. Keith Ammon  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Commerce and Consumer Affairs

**SB 138**, (New Title) relative to the definition of an "investment metal contract". **OUGHT TO PASS.**

Rep. Keith Ammon for Commerce and Consumer Affairs. Under the current law, any New Hampshire investor who is investing in investment metals or investment gems must have them here in New Hampshire. This legislation allows New Hampshire investors to hold their investment metals and/or gems in another state **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

**Archived:** Thursday, June 3, 2021 12:31:28 PM  
**From:** JOHN HUNT  
**Sent:** Wednesday, May 26, 2021 9:50:25 AM  
**To:** Carrie Morris  
**Cc:** Pam Smarling  
**Subject:** Re: Outstanding Senate Bills  
**Importance:** Normal

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#### SB 124

This bill adopts legislation relative to Travel insurance, Domestic insurance company investments, Self-service storage insurance, Medicare supplemental insurance. The sections on travel and storage facilities are to allow these entities to offer insurance products. The section on domestic insurance companies is to allow them to take advantage of new investment opportunities. Finally the Medicare section that upon a Medicare eligible disabled member attaining the age of 65, no issuer shall continue to charge that member the under age 65 premium.

#### SB 125

This bill makes changes to the requirements for serving samples for beverage manufacturers and nano breweries; provides for contract brewing arrangements for nano breweries and brew pubs; and allows for intrastate direct shippers by beverage manufacturer, nano brewery, brew pub, wine manufacturer, importer, wholesaler, or retailer. The intent of this was to even the playing field for all beer producers and also to allow for them to ship in state. The majority of the committee felt this legislation was timely and address the inequities among the varies producers.

#### SB138

Under the current law, any New Hampshire investor who is investing in investment metals or investment gems must have them here in New Hampshire. This legislation allows New Hampshire investors to hold their investment metals and/or gems in another stat

On May 25, 2021, at 6:50 PM, Carrie Morris <[carrie.morris@leg.state.nh.us](mailto:carrie.morris@leg.state.nh.us)> wrote:

After all the emails today, we have only 3 left to submit –

SB124 – Majority – Hunt  
Minority – Abramson

SB125 – Majority – Hunt

SB138 – Committee Report – Ammon

If any more pop up, I will call tomorrow. I would like to be done tomorrow but we do have Thursday until 12 or 3 (I can't remember).

Carrie

# Voting Sheets

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on SB 138**

**BILL TITLE:** (New Title) relative to the definition of an "investment metal contract".

**DATE:** May 13, 2021

**LOB ROOM:** 302

**MOTIONS: OUGHT TO PASS**

Moved by Rep. Ammon

Seconded by Rep. Potucek

Vote: 19-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

**HOUSE COMMITTEE ON COMMERCE**

**EXECUTIVE SESSION ON SB138\_\_\_\_\_**

**BILL TITLE:** relative to the definition of an “investment metal contract”.

**DATE:** 5/13/21

**LOB ROOM:** 306-308

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**MOTION: (Please check one box)**

- OTP       ITL       Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. Ammon      Seconded by Rep. Potucek      Vote: 19-0

**MOTION: (Please check one box)**

- OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

- OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

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Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

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**CONSENT CALENDAR?**        X   Yes      \_\_\_\_\_ No

**Minority Report?**      \_\_\_\_\_ Yes      \_\_\_\_\_ No      If yes, author, Rep.: \_\_\_\_\_      Motion: \_\_\_\_\_

Respectfully submitted, Rep. AMMON, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



1/22/2021 9:55:55 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Commerce and Consumer Affairs

Bill #: SB138 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 5/13/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	19		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
Van Houten, Constance	13		
Fargo, Kristina M.	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.	18		
<b>TOTAL VOTE:</b>	19	0	

# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 138

**BILL TITLE:** (New Title) relative to the definition of an "investment metal contract".

**DATE:** April 27, 2021

**LOB ROOM:** Zoom                      **Time Public Hearing Called to Order:** 10:04 a.m.

**Time Adjourned:** 10:26 a.m.

**Committee Members:** Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

**Bill Sponsors:**

Sen. Sherman  
Sen. Carson  
Sen. Watters  
Sen. Hennessey  
Rep. M. Pearson

Sen. D'Allesandro  
Sen. Perkins Kwoka  
Sen. Bradley  
Rep. Knirk

Sen. Gannon  
Sen. Rosenwald  
Sen. Giuda  
Rep. Grote

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

Sen Watters

Constituent bill regarding investment metals contracts. Bill came out Senate unanimously. Existing statute states that physical delivery of metals must be made in 20 days and only in NH. This made it difficult for NH people to make their trades. 15 other states have done this. I wanted to maintain NH strong consumer protection laws as well as allow NH folks to participate in markets they want to participate in. Bill provides consumer protection while allowing NH people to participate in these markets.

Rep Hunt: The only thing that piqued my interest is the bill is in uniform securities act. This language is in other states but it isn't actually in the outfit out of Chicago. The original language was adopted in 1985. The Uniform Securities Act allows states to create their own statutes. This is a relatively minor fix to our statutes. The others states that have gone down this road have had this in place for several years.

Rep McAleer

Q: This would allow me to hold metal contracts in my IRA and the physical metals wouldn't have to be in NH.

A: That was the bottle neck that you had to have them here. And it makes it difficult for people to make trades.

Rep Johnson

Q: The bill says 7 day period, but you mentioned 20 day period.

A: Originally we had 21 days, but Barry Glennon said he thought it would be more appropriate to have 7 days.

Q: 20 days seems more reasonable.

A: 7 days is really the consumer protection of it. You ought to have possession of the metals.

Rep Van Houten

Q: Are you talking about physical location of the metals and a certificate to prove they're there?

A: Yes. We're saying the possession could be to you personally or you can designate a depository where they'll be held.

Q: Are there certain depositories that are certified as safe.

A: We'll let Mr. Dakota address that. (Reads the language of the bill.) Those sections of the bill make sure you're dealing with places are on the up and up.

Rep Beaulieu

Q: I'm ignorant when it comes to Bitcoin. Does this have anything to do with Bitcoin?

A: That's a different statute.

Rep Johnson

Q: What are the other 15 states that also have this legislation?

A: I don't have the complete list, but I did look at Maine statutes.

George Kotta

I have bought and sold precious metals with a dealer and they mail me the metals. When I want to sell them, they send me a box with a label. I have to pack them, send them back. When they receive them, I can sell them, but only for the price at that time. I also have to pay the cost of shipping and insurance. My broker told me about this program where they could store them in a depository, and I could sell immediately. I filled out the application and he told me there are five states where it's illegal to use this option, and NH is one of them. This bill fixes that problem for me.

Rep Hunt: What are the metals and what is DR?

A: Platinum. The entity is in California.

Rep Bartlett

Q: I didn't catch your firm's name?

A: I'm an individual. I'm not representing any one.

Q: You purchase these metals from a broker, correct?

A: Yes.

Rep McAleer.

Q: Are you dealing with non-qualified or qualified accounts?

A: I don't know what that means.

Q: I have an IRA account.

A: It's not an IRA.

Rep Terry

Q: What's the rationale for the other states for keeping these restrictions?

Sen Watters: We just haven't caught up. 1985 is a long time ago and a lot has changed. It's similar with a lot of other areas. This is just NH catching up with the markets.

Kotta: I would have to pay a small monthly storage fee. I call them up and say buy metals and put them into deposit for me.

Rep Ammon

Q: Which is safer for you as a consumer, to store the platinum in your house or in the depository?

A: Depository.

Rep Van Houten

Q: Is it always investment metal or could the metal become jewelry?

Sen Watters: It would be in its raw form.

Rep Hunt: It's investment. If you're a jeweler, your changing it's form and it would no longer be an investment.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

**PUBLIC HEARING on Bill # SB138**  
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# House Remote Testify

## Commerce and Consumer Affairs Committee Testify List for Bill SB138 on 2021-04-27

Support: 6 Oppose: 0 Neutral: 0 Total to Testify: 1

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Watters, Senator David	Dover, NH david.watters@leg.state.nh.us	An Elected Official	Myself (SD 4)	Support	Yes (5m)	No	4/22/2021 8:02 AM
Bradley, Jeb	Concord, NH jeb.bradley@leg.state.nh.us	An Elected Official	SD3	Support	No	No	4/21/2021 11:58 AM
Hennessey, Erin	Concord, NH erin.hennessey@leg.state.nh.us	An Elected Official	SD1	Support	No	No	4/21/2021 12:01 PM
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	4/23/2021 2:03 PM
Perkins Kwoka, Senator Rebecca	Portsmouth, NH rebecca.perkinskwoka@leg.state.nh.us	An Elected Official	Myself (SD 21)	Support	No	No	4/23/2021 9:29 AM
Sherman, Senator Tom	SD24, NH jennifer.horgan@leg.state.nh.us	An Elected Official	SD24	Support	No	No	4/27/2021 9:34 AM

# Testimony

Bill as  
Introduced

SB 138 - AS INTRODUCED

2021 SESSION

21-1077

11/10

SENATE BILL **138**

AN ACT relative to consumer protections against profiteering in necessities.

SPONSORS: Sen. Sherman, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Sen. Carson, Dist 14; Sen. Perkins Kwoka, Dist 21; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Bradley, Dist 3; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Rep. Knirk, Carr. 3; Rep. Grote, Rock. 24; Rep. M. Pearson, Rock. 34

COMMITTEE: Commerce

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ANALYSIS

This bill prohibits profiteering in necessities during a declared abnormal market disruption.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
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 Twenty One*

AN ACT relative to consumer protections against profiteering in necessities.

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

1 1 New Section; Consumer Protection; Profiteering in Necessities. Amend RSA 358-A by  
2 inserting after section 2 the following new section:

3 358-A:2-a Profiteering in Necessities.

4 I. For purposes of this section, the following terms shall have the following meaning:

5 (a) "Abnormal market disruption" means a significant disruption to the production,  
6 distribution, supply, sale, or availability of a commodity or commodities that:

7 (1) Is caused by an event such as a natural or man-made emergency or disaster,  
8 whether local or remote; and

9 (2) Causes ordinary competitive market forces to cease to function normally.

10 (b) "Cost" means the expense associated with the acquisition, production, distribution, or  
11 sale of necessities and may include, among other things, replacement costs, taxes, and  
12 transportation costs.

13 (c) "Necessities" means food for human or animal consumption, potable water,  
14 pharmaceutical products including prescription medications, wearing apparel, shoes, building  
15 materials, gas and electricity for light, heat, and power, ice, fuel of all kinds, and fertilizer and  
16 fertilizer ingredients, together with tools, utensils, implements, machinery, and equipment required  
17 for the actual production or manufacture of the same. "Necessities" shall include any other vital or  
18 necessary good or service except those:

19 (1) Subject to continuous maximum price regulation under the provisions of any  
20 state or federal law;

21 (2) As to which the state's authority is preempted; or

22 (3) Furnished or provided by:

23 A. Insurers; or

24 B. Nonprofit hospitals, medical service organizations, or health maintenance  
25 organizations authorized to transact business within the state.

26 (d) "Unconscionable price" means a price that is actionable under this section. There is  
27 a rebuttable presumption that a price is unconscionable when it exceeds by more than 15 percent the  
28 sum of:

29 (1) The price at which similar goods or services were offered for sale or sold by that  
30 person immediately prior to the beginning date of the abnormal market disruption. If that person  
31 did not offer such goods or services immediately prior to the abnormal market disruption, then the

**SB 138 - AS INTRODUCED**  
**- Page 2 -**

1 prices is the price at which similar goods or services were offered for sale or sold by another person  
2 similarly situated prior to the abnormal market disruption; and

3 (2) The increased cost to the person of providing the goods or services following the  
4 abnormal market disruption, calculated according to the method used by that person prior to the  
5 abnormal market disruption.

6 II.(a) Whenever it appears upon due inquiry and consultation with the attorney general that  
7 an abnormal market disruption exists or that there is a substantial likelihood that an abnormal  
8 market disruption is imminent, the governor may, in the governor's sole discretion and after  
9 considering whether the declaration of an abnormal market disruption itself will disrupt supplies for  
10 affected necessities, declare an abnormal market disruption.

11 (b) A declaration made pursuant to this paragraph section shall specify:

12 (1) The beginning date of the abnormal market disruption;

13 (2) The particular necessity, necessities, or categories of necessities that are affected  
14 by the abnormal market disruption and made subject to the provisions of paragraphs III and IV; and

15 (3) The levels of trade or commerce that are affected by the abnormal market  
16 disruption and made subject to the provisions of paragraphs III and IV.

17 (c) A declaration of abnormal market disruption made pursuant to this section expires  
18 when the governor declares it expired or 60 days from the date of its issuance, which ever is sooner.  
19 The declaration of abnormal market disruption may be modified by the governor at any time.

20 (d) The governor shall publish decisions made pursuant to this section in a manner  
21 reasonably calculated to give affected persons adequate notice.

22 (e) Any person may petition the governor regarding the governor's decisions under this  
23 section.

24 III. After the governor has declared an abnormal market disruption and before the  
25 declaration of the abnormal market disruption expires, a person may not sell or offer for sale  
26 necessities at an unconscionable price.

27 IV. Any violation of this section shall constitute an unfair or deceptive act or practice within  
28 the meaning of RSA 358-A:2. Any right, remedy, or power set forth in RSA 358-A may be used to  
29 enforce the provisions of this section.

30 2 Effective Date. This act shall take effect January 1, 2022.