

LEGISLATIVE COMMITTEE MINUTES

SB369

Bill as Introduced

SB 369-FN-A - AS INTRODUCED

2022 SESSION

22-3057
08/11

SENATE BILL ***369-FN-A***

AN ACT relative to organic farming.

SPONSORS: Sen. Kahn, Dist 10; Sen. Whitley, Dist 15; Sen. Watters, Dist 4; Sen. Sherman,
Dist 24; Sen. Prentiss, Dist 5; Rep. Weber, Ches. 1; Rep. Bixby, Straf. 17; Rep.
Wolf, Merr. 5; Rep. Allard, Merr. 21; Rep. Deshaies, Carr. 6

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill requires the department of agriculture, markets, and food to administer an organic certification program and makes an appropriation therefor.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to organic farming.

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

1 1 Organic Certification. Amend RSA 426:6-b to read as follows:

2 426:6-b Certification.

3 I. Any producer, processor, on-farm processor or handler of agricultural plant, animal, food,
4 or fiber commodities that are sold, labeled, or represented as "100 percent organic," "organic," "made
5 with organic," or similar terms, shall be enrolled in a certification program which includes an
6 inspection made no less than annually, by a certifying agency accredited by the United States
7 Department of Agriculture in accordance with the Organic Foods Production Act of 1990, Public Law
8 101-624, and the United States Department of Agriculture's National Organic Program, Final Rule,
9 7 CFR part 205, unless such producer, processor, or handler is exempted therein.

10 II. The commissioner [~~may~~] **shall** enter into a cooperative agreement with the United States
11 Department of Agriculture to become an accredited certifying agency as provided for by the Organic
12 Foods Production Act of 1990, Public Law 101-624, and the United States Department of
13 Agriculture's National Organic Program, Final Rule, 7 CFR part 205, and to implement the
14 provisions thereof.

15 III. The commissioner [~~may~~] **shall** employ, **contract, or make arrangements for**
16 inspectors to certify agricultural producers, processors, on-farm processors and handlers in this
17 state, and to determine whether or not agricultural plant, animal, food, or fiber commodities are
18 marked, branded, or labeled in accordance with the labeling requirements set forth in this chapter
19 and in the Organic Foods Production Act of 1990, Public Law 101-624, and the United States
20 Department of Agriculture's National Organic Program, Final Rule, 7 CFR part 205.

21 IV, V. [Repealed.]

22 VI. For purposes of this chapter "on-farm processor" means a processor who uses products
23 grown or raised on his or her own farm.

24 **VII. The department shall employ, contract, or make arrangements to execute**
25 **organic certification responsibilities consistent with federal requirements. Such**
26 **arrangements may be through a collaboration, contract, or an agreement with another**
27 **nearby state meeting federal organic certification program requirements.**

28 2 Rulemaking. Amend RSA 426:8 to read as follows:

29 426:8 Rulemaking[~~; Fees~~]. The commissioner may adopt rules, pursuant to RSA 541-A, **relative**
30 **to the following:**

1 ***I. Reviewing requests by operations desiring organic certification in accordance***
2 ***with the United States Department of Agriculture National Organic Program.***

3 ***II. Processing requests for certification, including a method for tracking requests.***

4 ***III. Inspecting certified organic operations, including required annual audits and***
5 ***review of processes to determine compliance with federal standards.***

6 ***IV. Issuance of enforcement actions as needed.***

7 ***V. Any other rules necessary*** for carrying out the provisions of this chapter.

8 3 Appropriation; Organic Certification. The sum of \$350,000 for the fiscal year ending June 30,
9 2023 is hereby appropriated to the commissioner of the department of agriculture, markets, and food
10 for the administration of the organic certification program. The governor is authorized to draw a
11 warrant for said sums out of any money in the treasury not otherwise appropriated.

12 4 Effective Date. This act shall take effect July 1, 2022.

**SB 369-FN-A- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to organic farming.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$350,000	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill requires the Department of Agriculture, Markets, and Food to administer an organic certification program and makes an appropriation therefor.

The Department of Agriculture assumes a work unit would be established within the Division of Regulatory Services for the organic certification program. If the Department is not able to inspect an organic operation it would contract or make arrangements for an organic inspector other than a DAMF organic inspector to conduct the inspection. The Department states this cost is indeterminable as it is unknown if a certifying agent would contract with the State to provide inspections, the cost varies among certifying agents, and it is not known how often an agent would be needed.

Regarding the Organic Certification Program, the Department indicates it is currently a certifying agent of behalf of the USDA National Organic Program (NOP), however, the Department has reduced it's certifying agent scope to one certification scope (crops). The Department assumes this bill would include all four scopes: crops, livestock, handling and wild crops. The Department assumes there are 125 certified operations in New Hampshire and six additional staff would be needed to develop and operate a program within the Department that satisfies the USDA, NOP. The Department prepared the following estimates of the cost to establish and maintain a Organic Certification Program.

	FY 2023	FY 2024	FY 2025
Estimated Revenue			

80 Organic Crop Operations (\$150 x 80)	\$12,000	\$12,000	\$12,000
45 Organic Livestock Operations (\$475 X 45)	\$21,375	\$21,375	\$21,375
Total Revenue:	\$33,375	\$33,375	\$33,375
Estimated Expenses			
1 Supervisor (Program Specialist III, LG 23, Step 4)	\$86,000	\$90,100	\$90,100
1 Program Assistant (LG 12, Step 4)	\$61,900	\$64,600	\$64,600
4 Agricultural Inspectors (LG 19, Step 4)	\$302,400	\$316,300	\$316,300
Sub-Total Personnel Costs:	\$450,300	\$471,000	\$471,000
Other Expenses			
4 Vehicles @ \$21,370	\$85,480	\$0	\$0
6 Laptop Computers @ \$1,171	\$7,026	\$0	\$0
Office space for 6 staff (\$1,500 per month)	\$18,000	\$18,000	\$18,000
Current expenses	\$6,000	\$6,000	\$6,000
Vehicle Fuel	\$5,000	\$5,000	\$5,000
Total Expenses	\$571,806	\$500,000	\$500,000

This bill makes a general fund appropriation of \$350,000 for the fiscal year ending June 30, 2023.

AGENCIES CONTACTED:

Department of Agriculture

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avard, Chair
 Sen Bob Giuda, Vice Chair
 Sen James Gray, Member
 Sen David Watters, Member
 Sen Rebecca Perkins Kwoka, Member

Date: December 22, 2021

HEARINGS

Tuesday	01/11/2022
(Day)	(Date)
Energy and Natural Resources	State House 103 9:00 a.m.
(Name of Committee)	(Place) (Time)
9:00 a.m. SB 259	relative to the definition of "municipal host" for purposes of limited electrical energy producers.
9:15 a.m. SB 370-FN	allowing the university system and community college system to be municipal host electric customer generators.
9:30 a.m. SB 346-FN-A	requiring the department of environmental services to conduct feasibility and impact studies for the construction of a pier on Hampton Beach.
9:45 a.m. SB 267-FN-A	establishing the upland invasive species program, program fund, and program coordinator in the department of agriculture, markets, and food.
10:00 a.m. SB 368-FN	relative to animal vending licenses.
10:15 a.m. SB 369-FN-A	relative to organic farming.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 259

Sen. Avard	Sen. Watters	Sen. Bradley	Sen. Sherman
Sen. Perkins Kwoka	Sen. Whitley	Sen. Rosenwald	Sen. Hennessey
Sen. Giuda	Sen. Prentiss	Sen. Soucy	Rep. Egan
Rep. Berry			

SB 370-FN

Sen. Perkins Kwoka	Sen. Watters	Sen. Avard	Sen. Cavanaugh
Sen. Prentiss	Sen. Sherman	Sen. Rosenwald	Sen. Kahn
Sen. Soucy	Sen. Whitley	Sen. D'Allesandro	Rep. M. Smith
Rep. Somssich	Rep. Wall		

SB 346-FN-A

Sen. Avard	Sen. Bradley	Sen. Hennessey	Sen. Perkins Kwoka
Sen. Watters	Sen. Gannon	Sen. Rosenwald	Sen. Sherman
Rep. Lang	Rep. Pearl	Rep. Hill	

SB 368-FN

Sen. Bradley	Sen. Hennessey	Sen. Watters	Sen. Sherman
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Sen. Rosenwald
Sen. Cavanaugh
SB 369-FN-A

Sen. Kahn
Sen. Prentiss
Rep. Allard
SB 267-FN-A

Sen. Giuda
Sen. Sherman
Rep. Suzanne Smith

Sen. D'Allesandro
Sen. Prentiss

Sen. Whitley
Rep. Weber
Rep. Deshaies

Sen. Rosenwald
Sen. Watters
Rep. Weston

Sen. Avard
Rep. Bixby

Sen. Watters
Rep. Bixby

Sen. Carson
Rep. Renzullo

Sen. Gannon

Sen. Sherman
Rep. Wolf

Sen. Gannon
Rep. Pearl

Daley Frenette 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

SB 369-FN-A, relative to organic farming.

Hearing Date: January 11, 2022

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill requires the department of agriculture, markets, and food to administer an organic certification program and makes an appropriation therefor.

Sponsors:

Sen. Kahn

Sen. Sherman

Rep. Bixby

Rep. Deshaies

Sen. Whitley

Sen. Prentiss

Rep. Wolf

Sen. Watters

Rep. Weber

Rep. Allard

Who supports the bill: Senator Jay Kahn, Senate District 10, Rob Werner, League of Conservation Voters, Representative Suzanne Smith, Grafton-District 8, Representative Joyce Weston, Grafton-District 8, Representative Peter Bixby, Strafford-District 17, Tom Beaudry, Robert Johnson, New Hampshire Farm Bureau, Senator David Watters, Senate District 4, Senator Tom Sherman, Senate District 24, Karl Johnson, Northeast Organic Farming.

Who opposes the bill: Shawn Jasper, Department of Agriculture, Alvin See, Howard Curtis

Who is neutral on the bill: Allen Reetz, Hanover Co-op Food Stores

Summary of testimony presented: Senator Jay Kahn, Senate District 10

- Senator Kahn introduced his prime legislation SB 369-FN-A. He comes from western New Hampshire where an agrarian lifestyle has been preserved. New Hampshire's local farms are not large like in other areas of the United States. They must add value to their products.
- Organic foods must be certified as a federal standard. The Department of Agriculture has historically overseen certification. In 2021, the Department

announced they will cease to certify small farm producers. This includes 42 farms in New Hampshire that are affected. There are 124 total organic farms.

- The ceasing of certification is abrupt. The farms options were to go to another state or find a private certifier.
- Senator Khan has worked with Commissioner Jasper to work out the additional cost that will be required under this bill. The new cost will be approximately 350 thousand dollars on top of what the original cost was. The farmers recognize and accept that they will have to pay higher fees to support this program.
- The aim of the bill is to continue to brand New Hampshire farmers. The farmers want to have a New Hampshire brand.
- Senator Giuda asked Senator Khan to clarify the current amount of fees that organic farmers pay. Senator Khan could not clarify the exact amount, but described the fees are based on a sliding scale. Smaller producers would pay a lower rate which Senator Khan believed to be around 500 dollars for certification. This would increase depending on the amount of product produced.
- Senator Watters asked Senator Khan if the Department of Agriculture currently has a few 100 thousand dollars for certification. Senator Khan the total cost of the effort would approximately 550 thousand dollars as well as a budget request of 350 thousand dollars to fund above that if all the staff were hired by the Department of Agriculture. Senator Khan believes that there is 200 thousand dollars in the Departments budget to fund the certification program.
- Senator Watters asked Senator Khan if New Hampshire's neighboring states have certification programs for the programs New Hampshire is no longer certifying. Senator Khan said that Maine and Massachusetts do however Commissioner Jasper is likely to know for sure.
- Senator Watters followed up stating this would make it difficult for producers in New Hampshire to stay in business. Senator Kahn said that the situation causes New Hampshire organic farmers to seek certification in other States.
- Senator Giuda asked if he was correct in stating that the federal government sets the standards for what is considered a marketable organic product. Senator Kahn confirmed this. Senator Giuda followed up by asking if the federal government provides any inspection staff for the certification of organic farms. Senator Kahn does not believe they do. Senator Kahn said there is a program that he believes reimburses local farms for a certain portion of the fees that they must pay to be certified organic.

Commissioner Shawn Jasper, Department of Agriculture- Provided Written Testimony

- Commissioner Jasper spoke in opposition to SB 369-FN-A.
- Commissioner Jasper clarified that once the Department of Agriculture ceased to certify organic farmers, they did notify all those who were involved. The Department of Agriculture did give a six month notice to those who were involved that they would have to seek a new inspection agency. He also clarified

that the Department continued to do inspections months after to make sure no one was left with certification who applied in that time period.

- Of the 42 farmers, 11 of them have elected to not move forward with certification while the others have found new certifiers.
- Due to staffing issues, the Department of Agriculture was unable to continue with the certifications. The Department was not confident in its ability to conduct the inspections to the standard the USDA set and was concerned this would put the farmers at risk.
- Commissioner Jasper also clarified that the Department of Agriculture does not have 200 thousand dollars that the Department devotes to the program that Senator Kahn cited. At best, this could be approximately 100 thousand dollars.
- Commissioner Jasper clarified that the USDA does not like individual states doing the certification. Normally, it is private organizations that handle this. In most states this falls on the Northeast Organic Farming Association (NOFA). Recently, trouble arose because of resource issues within that organization. NOFA worked with the department and the director at that time to have the Department take over the program voluntarily.
- The Department of Agriculture believes they can continue to certify organic vegetables, fruits, and maple syrup as the program currently oversees. However, they cannot at this time handle the livestock aspects. The Department is up for accreditation in April, and they cannot meet compliance standards at this time even if the bill is passed.
- Commissioner Jasper does not believe that this bill spends state funds wisely.
- Senator Giuda asked Commissioner Jasper what the costs are for farms to be certified by another state or private organization. Commissioner Jasper said it depends on the size of the producers. The Department of Agriculture costs are cheaper. Commissioner Jasper reiterated that this bill is not economically sound, and Senator Giuda agreed with him.
- Commissioner Jasper commented that if the Department had 350 thousand more dollars in its budget that it would be better spent on other programs.

Representative Peter Bixby, Strafford-District 17

- Representative Bixby is a cosponsor of SB 369-FN-A and supports the overall goal of the bill. However, after hearing the public testimony from Commissioner Jasper he is questioning his position on the bill.
- According to the audit, the Department of Agriculture does not have the resources to sustain the program.
- After hearing Commissioner Jasper's testimony, he does not believe that the bill should be passed as it is.
- He suggested that the bill be reworked. Specifically, by reworking the fee structure to make it more appropriate.

Tom Beaudry, Member of the Public-Provided written testimony

- Mr. Beaudry has been involved in agriculture in New Hampshire for over 45 years. He currently works as a crop advisor for both conventional and organic farms. He spoke representing himself and other farmers.
- Mr. Beaudry disagreed with Commissioner Jasper's statement that farmers were given enough time to find new certifiers via the notice that was sent out. Mr. Beaudry stated that they received the notices around October 1st and the Department needed an answer by January 1st.
- The farmers are in favor of fees increasing.
- He believes that the Department of Agriculture should continue to be involved in the certification program. He also believes the Department of Agriculture should promote agriculture in all its forms in New Hampshire.
- Most of the farms that this affects are small farms.

Robert Johnson, NH Farm Bureau

- The NH Farm Bureau policy supports a self-sustaining organic marketing certification program within the Department of Agriculture. They see it as agricultural development.
- There are approximately 14 states that have certification programs.
- The NH Farm Bureau has approximately 50 members who are certified organic producers.
- New Hampshire and Rhode Island are the only two state programs in the Northeast that handle certification. Maine, Vermont, and Massachusetts have private entities that handle it.
- NH Farm Bureau producers support the State handling the certification because they believe that when they have an issue and bring it to the State, they have recourse. They believe the private entities will not hear their concerns like the State would.
- Mr. Johnson agreed with Senator Khan's previous statement that NH farmers want to have a NH brand on their products.
- Mr. Johnson also stated that small farms that produce gross sales of 1,500 dollars or less are exempt from the certification process. However, they must still comply.
- RSA 426: 8-A sets the fees.
- He stated that he has never heard a case of a producer being against an increase in fees for this program.
- The NH Farm Bureau wants to know what it will take for the Department of Agriculture to continue handling the certification process. Other States with similar numbers of producers can handle the certifications such as Kentucky, Idaho, New Jersey, and Rhode Island.
- Senator Giuda asked Mr. Johnson how many of New Hampshire's farms are under the 1,500 thresholds. Mr. Johnson did not know, however these small farms do not have to register or report this information

- Senator Giuda asked Mr. Johnson if there are any States with fee structures that New Hampshire could look at to study what may work in this State. Mr. Johnson did not know but offered to find out the information for the committee. Senator Giuda would appreciate this information and stated that the main issues with the bill are financial. Mr. Johnson agreed with Senator Giuda's statement and recognized the times have changed and the program has become more demanding on certifying agencies.
- Senator Giuda asked Mr. Johnson to provide information for the committee regarding the cost of inspections by private providers from other similar states to New Hampshire as well as fee structures.

DF

Date Hearing Report completed: January 18, 2022

Speakers

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill SB369 on 2022-01

Support: 3 Oppose: 1

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Watters, Senator David	An Elected Official	Myself	Support
Howland, Curtis	A Member of the Public	Myself	Oppose
Sherman, Senator	An Elected Official	SD24	Support
Johnson, Karl	A Member of the Public	NOFA-NH	Support
Reetz, Allan	A Member of the Public	Hanover Co-op Food Stores	Neutral

Testimony

New Hampshire
*Department of Agriculture,
Markets & Food*

Shawn N. Jasper, Commissioner

January 10, 2022

The Honorable Kevin Avar, Chair
New Hampshire Senate Energy and Natural Resources Committee
Legislative Office Building, Room 301
Concord, NH 03301

Subject: 2022 Senate Bill 369 – AN ACT relative to organic farming

Dear Honorable Chair Avar and Members of the Committee:

The New Hampshire Department of Agriculture, Markets & Food (the Department) is writing to express its opposition to Senate Bill 369, which seeks to require the Department to fully participate in a voluntary federal program. Although the Department sincerely appreciates the sponsor's concern to address the issue, the expense and complexity of fully running the program would not benefit organic operations impacted by the Department's decision to discontinue organic certification. Since its decision to discontinue certain service, all impacted operations have either begun working with other certifying agents or decided not to participate with the federal program.

The state currently participates in the United States Department of Agriculture National Organic Program as a voluntary participant, not as a mandatory program and identifies the proposal as forced participation in a federal program where the state has little control of changes resulting in increased demands.

A. Increased Complexity and Expectations:

Although the Department has participated with organic agricultural activities for many years preceding the federal program, it began its official participation with the United States Department of Agriculture (USDA) National Organic Program in 2002. When the Department began its participation with the federal program, the program was fledgling and in an infancy stage. Since 2002, the program has increased in complexity at the federal level and expectations of certifying agents, such as the state of New Hampshire, have increased, particularly witnessed by the Department through its periodic and required USDA organic program audits.

B. Certified Agent:

The Department currently has a cooperative agreement with USDA as an accredited certifying agency for all four organic certification scopes: crops, livestock, handler, and wild crops. The Department decided to cease offering its certification service for livestock, handler, and wild crop scopes in October 2021, maintaining its crops scope. This decision is based on twenty years of program experience and an intimate understanding of federal expectations and the state's varied organic livestock and handler operations.

C. Certified Operations:

In the beginning of 2021 there were approximately one hundred and twenty-five (125) organic operations certified by the New Hampshire program. Currently there are approximately eighty (80) crop-scope operations certified by the Department's organic program and, as mentioned, the Department is intending on continuing providing the crop certification service. There were approximately twenty-five (25) handlers and seventeen (17) livestock certified operations, approximately forty-two (42) in total, when the Department decided in 2021 to cease providing certification service for livestock and handler operations. Although some impacted operations expressed disappointment with the Department's decision, a number of impacted operations expressed support for the Department's decision providing encouraging comments, such as protecting integrity of the national program.

D. USDA Concerns:

The USDA National Organic Program has voiced its concern with state-run organic programs particularly given comparison to non-government managed programs that exist and can solely focus on the organic program whereas state programs typically are wrapped into other state responsibilities or programs.

State agricultural departments typically exist, in part, to support agriculture through outreach and assistance. The federal organic program expectation with regard to state program oversight of organically certified operations is strictly regulatory. An organic inspector, and its organic certifying agency, cannot provide outreach and assistance, it is a regulatory role. For example, an organic inspector cannot offer compliance assistance to an organic operation. This includes helping correct a violation. The inability to offer assistance conflicts with an agency that generally supports and promotes agriculture through outreach and assistance.

In addition, state programs typically include personnel that function in many other state programs concurrent with organic program participation. There is a USDA expectation that a certifying agent is solely focused on the National Organic Program and as a regulatory role does not provide certification assistance.

E. Separate Work Unit:

A separate organic work unit is suggested if the state is interested in offering an organic program that offers all four organic scopes. In observing other states there remains caution with a separate work unit model as one state reviewed eventually surrendered its organic certification authority particularly due to continuous loss of inspectors and another is currently turning away requests from organic operations resulting in a state-run program that offers service for some but not all.

The single work unit approach is in line with federal expectations and requirements. For example, an organic inspector cannot solely sign off on their own reports, it must be reviewed by a separate program member with oversight from a supervisory level position. This is a multi-tiered approach and is typically

Kevin Avard, Chair and Senate Energy and Natural Resources Committee Members
Senate Bill 369
New Hampshire Department of Agriculture, Markets & Food Letter Dated January 10, 2022

reviewed by USDA audit to ensure integrity. Complexity includes trace back analysis of organic inputs, some that originate in other countries; medical components relative to livestock management; and review of each component of handler recipes where one change or modification in product preparation warrants comprehensive review. This level of process, as well as other related protocol, has always challenged the Department given its size and the fact that staff are involved with numerous other programs in addition to organic management. There are numerous major programs within the Division of Regulatory Services, organic being one. As mentioned before, it is USDA's expectation that participation be conducted with a focus solely on the organic program. A separate work unit can allow single subject matter focus.

F. Financial Review:

The New Hampshire fees are considerably less than private-run programs and raising fees will not fully address the possibility of running a viable program that includes all four organic scopes. It is important to note that the financial component is not the only barrier, there is also the level of complexity and increased expectations. Training up an inspector for handler operations can take, at a minimum, two years and it is not out of the ordinary for inspectors to leave state service for private industry once trained. The state can recruit experienced individuals to fill positions, however, experienced organic inspectors are difficult to secure and maintain.

G. Specific Concerns with the Bill:

1. RSA 426:6-b Certification II and III propose that the word "may" be replaced with the word "shall". The Department would appreciate that the current language be maintained, again, given that the program is voluntary, private certifying agents exist, the flexibility that "may" provides, and the fact that the level of complexity at the federal level has increased.
2. RSA 426:6-b Certification II with regard to requiring participation with the federal program, the state already has a cooperative agreement as an accredited certifying agency and for flexibility with future activity, the "may" allows continued consideration to maintain participation and growth if desired.
3. RSA 426:6-b Certification VII. The Department already participates with operations seeking certification where the department is not the certifying agent. An example is the recent situation where the livestock and handler operations were notified that the state was no longer offering certification services. The Department directed the operations to a list of other certifying agents and also prepared letters of good standing to support the operation's transition to a new certifying agent. That is, the Department works with operations seeking other certifying agents. In certain situations the Department communicated directly with other certifying agents on behalf of the operation with regard to transitioning from the state-run program to a new certifying agent.
4. RSA 426:8 Rulemaking. The state participates with the federal program voluntarily and federal rules are in play, the state is required to comply with the federal rules. Of particular concern are proposed items II, III, IV and V given that the topics are established in federal rule and shall be

Kevin Avar, Chair and Senate Energy and Natural Resources Committee Members
Senate Bill 369
New Hampshire Department of Agriculture, Markets & Food Letter Dated January 10, 2022

complied with by accredited certifying agents. That is, the state cannot have specific rules that conflict with federal regulations. The current state rules identify that the definitions, standards and requirements for organic processors and handlers and organically produced agricultural plant, animal, food or fiber commodities shall be those established by the United States Department of Agriculture (USDA) in 7 CFR 205, and in accordance with the Organic Foods Production Act, (OFPA) of 1990, as amended, 7 U.S.C. 6501 et seq.

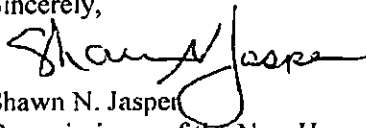
H. Conclusion:

In conclusion, the Department of Agriculture, Markets & Food opposes Senate Bill 369. The statute in its current form is desirable by the Department as it offers flexibility with regard to a program that is voluntary at the federal level. In addition, there are other agents that offer organic certification service to organic operations.

Again, the Department appreciates the thoughtfulness of the bill's sponsors to address the issue.

If you have questions or need further information, please contact me at (603) 271-3551 or Shawn.N.Jasper@agr.nh.gov.

Sincerely,



Shawn N. Jasper
Commissioner of the New Hampshire Department of Agriculture, Markets & Food

cc: Honorable David Watters, Senator, New Hampshire State Senate
Allen Wyman, Director, New Hampshire Division of Regulatory Services

Room 103 Statehouse
Energy + Natural Resources

10:15 SB369-FN-A

I am Tom Beverly. I live in
Walpole NH

I have been involved in agriculture
~~in NH~~ primarily dairy, in NH for over
45 years

I now work as a crop adviser with
both organic and conventional farms.
I stopped dairy farming 3 years ago
and now raise grass fed beef.
I am also involved with the only
fertilizer plant dedicated solely to
organic fertilizer in New England. It
is located in Walpole as well.

I strongly believe the NH Dept of
Ag, Markets + Foods should continue
its organic certification program
that has been ongoing in some
capacity for around 30 years.

I also believe the Dept. of Ag.
should be strongly promoting agriculture
in all forms in the state.

3 months notice

Peter Bexley
Soil Conditions
Statistics



BADGER[®]
CULTIVATE GOOD

WRITTEN TESTIMONY OF W.S. BADGER CO.

ENERGY AND NATURAL RESOURCES COMMITTEE
MEETING ON SB 369

JANUARY 11, 2022

W.S. Badger Co. Position on SB 369

Dear Senator Kahn and members of the committee, thank you very much for the opportunity to speak with you today. W.S. Badger Company is a small, woman-owned, mission driven manufacturer based in rural Gilsum, New Hampshire. Our 2nd generation family-run business has been producing organic balms and personal care products since 1995. Supporting organic, regenerative, and sustainable agriculture is a core guiding principle at Badger as we strive to create a healthier world. **W.S. Badger strongly supports SB 369, which will properly fund and maintain the state's organic certification program and encourage future growth of organic producers.** This bill will enable smaller farmers and processors across the state to easily access local organic brand certification services, and proudly represent the granite state's organic expertise within the agricultural sector. Without this long-standing organic certification option, there will be confusion among consumers, certifications for local producers will be harder to access, and there will be an increase in costs and delays for out of state inspections.

Here at Badger, we have been a USDA certified organic facility since 2008. We pride ourselves on purchasing certified organic ingredients as close to the source as possible, a conviction shared by many consumers. Outsourcing organic certification services in this state not only affects the farmers, processors, and businesses that rely on organic certification to elevate their products. It also affects our residential consumers and tourists (one of our state's largest revenue generators) across the state by limiting their options to purchase NH-certified organic products. **Without funding for New Hampshire's organic certification program as proposed in SB 369, leaders in our state are willfully turning away the opportunity for state-recognized organic branding. We will continue to fall further behind Vermont and Maine as a recognized leader who supports its organic producers.** Stonewall Farm in Keene, for example, will have their New Hampshire produced milk labelled with an out-of-state Maine organic certification. This not only presents confusing labeling for consumers, but also a loss of Stonewall Farm's

ability to bring a distinct New Hampshire product to the market. The additional logistics and time needed to coordinate out-of-state services leads to New Hampshire producers losing valuable time, money, and product. **SB 369 will ensure the integrity and significance of New Hampshire organic certification services are reinstated and readily available for local farmers and producers, alleviating the burden of seeking out-of-state organic certification.**

Here at W.S. Badger, we pride ourselves on being a leader in environmental advocacy to cultivate good in the world. **We fully support SB 369, which exemplifies our core principle of supporting organic and environmentally sustainable agriculture in our home state of New Hampshire.** We hope that by lending our voice, sharing our priorities, and serving as a leader in the business community we can help organic producers seek organic certification from within our great state.

Respectfully yours,

Rebecca Hamilton
Co-CEO
W.S. Badger Co.



January 11, 2022

The Honorable Kevin Avard, Chair
New Hampshire Senate Energy and Natural Resources Committee
Legislative Office Building, Room 301
Concord, NH 03301

Subject: 2022 Senate Bill 369 — An Act relative to organic farming

Dear Chair Avard and Members of the Committee:

Our \$88 million customer-owned grocery stores and our 24,000 member-owners are dependent on a secure source of local food. We strongly support state-funded efforts to foster the viability of organic agriculture and food production in our state. Organic food remains the fastest growing segment of the grocery industry.

Senate Bill 369 represents the full funding of the primary element of organic production: certification. Having New Hampshire's seal of approval on local organic products builds homegrown strength and resiliency.

We are aware of and respect New Hampshire Commissioner of Agriculture Shawn Jasper's opposition to SB 369. We commend Commissioner Jasper for expressing his department's ongoing support for Organic Crop Certification.

With the knowledge that the Commissioner's opposition carries appropriate weight with the committee, I know my views likely hold little sway. Therefore, we will express a neutral position on the bill while encouraging the following:

1. If Senate Bill 369 fails to move out of committee, I strongly encourage you to study its cost, value, and impact for possible future implementation.
2. We ask for your ongoing support of local and organic agriculture across our state. The Hanover Co-op includes four stores, including our largest grocery store in Lebanon (36,000 square feet). Our business purchases over \$15 million worth of food from within a 100-mile radius of the Upper Valley. Unfortunately, most of that food comes from *outside* of New Hampshire. That is *due to fewer options for Granite State farm products*. Regardless, our buyers are committed to buying more local food each year. Like you, they look for the New Hampshire label.

Thank you for considering my views. We fully appreciate your support for all New Hampshire farms.

If you wish to learn more about our business or have questions, please call me at 603-643-2667, extension 2871. You may reach me by email at areetz@coopfoodstore.com.

Respectfully submitted,

Allan Reetz
Director of Public & Government Affairs

Daley Frenette

From: Karl Johnson <kjohnson@nofanh.org>
Sent: Monday, January 17, 2022 10:38 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Daley Frenette
Cc: Jay Kahn
Subject: SB 369

Dear Senators,

Like all small farms, organic farms are struggling to stay afloat. At a time when climate change and economic uncertainty suggest that we should be increasing local food production, New Hampshire's organic farmers are fighting for their lives against large-scale, out-of-state organic farms and processors.

Small organic farms and food processors have the additional costs of initial certification and annual inspection. The cost and fees for these services vary depending on the size and scope of their operation. The state should help make these services as easy and affordable as possible.

Keeping New Hampshire's organic farmers farming will keep their land safe from development. It strengthens the local economy, keeps dollars in New Hampshire and contributes to our tax base.

I urge you to support SB369.

Karl Johnson

Board President

NOFA-NH



Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # 369

Hearing Date: 1/11/22

Executive Session Date: 3/9/22

Motion of: ITL Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Avard

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Thursday, March 10, 2022

THE COMMITTEE ON Energy and Natural Resources

to which was referred **SB 369-FN-A**

AN ACT relative to organic farming.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 4-1

Senator Kevin Avard
For the Committee

Daley Frenette 271-3042

ENERGY AND NATURAL RESOURCES

SB 369-FN-A, relative to organic farming.

Inexpedient to Legislate, Vote 4-1.

Senator Kevin Avard for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB369

Docket Abbreviations

Bill Title: relative to organic farming.*Official Docket of SB369.:*

Date	Body	Description
12/17/2021	S	To Be Introduced 01/05/2022 and Referred to Energy and Natural Resources; SJ 1
12/22/2021	S	Hearing: 01/11/2022, Room 103, SH, 10:15 am; SC 50
3/9/2022	S	Committee Report: Inexpedient to Legislate, 03/17/2022; SC 11
3/17/2022	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 03/17/2022; SJ 5

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 369-FN-A

Senate Committee: Energy

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- NA amendment # _____ - amendment # _____
- _____ - amendment # _____ - amendment # _____
- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- _____ - amendment # _____ - amendment # _____
- _____ - amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- _____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- _____ Enrolled Bill Amendment(s)
- _____ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- _____ as amended by the senate _____ as amended by the house
- _____ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Deely
Committee Aide

6/24/22
Date

Senate Clerk's Office AK