## LEGISLATIVE COMMITTEE MINUTES



## Bill as Introduced

HB 42-FN - AS AMENDED BY THE HOUSE

22Mar2023... 0286h

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#### 2023 SESSION

23-0033 09/05

HOUSE BILL	42-FN
AN ACT	relative to the operation of certain homeowners' associations.
SPONSORS:	Rep. Stavis, Graf. 13; Rep. Mangipudi, Hills. 11; Rep. Gallager, Merr. 20
COMMITTEE:	Commerce and Consumer Affairs

### ANALYSIS

This bill limits the voting power of individuals who own more than half of the properties in a homeowners' association organized under RSA 292. The bill also requires a hearing before the municipal planning board before dissolution of the association.

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Explanation:

Matter added to current law appears in *bold italics.* Matter removed from current law appears [<del>in brackets and struckthrough.</del>] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Three

AN ACT relative to the operation of certain homeowners' associations.

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

1 1 New Section; Voluntary Corporations and Associations; Homeowners' Associations. Amend 2 RSA 292 by inserting after section 8-1 the following new section:

3 292:8-m Homeowners' Associations.

I. For any homeowners' association established under this chapter, except those associations that include ownership through timeshare, if more than 50 percent of the votes are acquired by a single person after developer control is terminated, a 2/3 majority shall be required to amend bylaws, budgets, and any contracted property management service.

8 II. No homeowners' association constituted under this chapter and approved by the planning 9 board or similar land use body that has jurisdiction in the town or city in which the homeowners' 10 association is located, shall be dissolved pursuant to the procedure in RSA 292:9 or RSA 292:10-a,

11 prior to a hearing under RSA 676:2 before that same planning board or land use body.

12 2 Effective Date. This act shall take effect January 1, 2024.

LBA 23-0033 10/21/22

## HB 42-FN- FISCAL NOTE AS INTRODUCED

AN ACT relative to the operation of certain homeowners' associations.

## FISCAL IMPACT:

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The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2024 through 2026.

## AGENCIES CONTACTED:

New Hampshire Association of Counties

LBA 23-0033 Amended 3/31/23

## HB 42-FN FISCAL NOTE AS AMENDED BY THE HOUSE (AMENDMENT #2023-0286h)

AN ACT relative to the operation of certain homeowners' associations.

## FISCAL IMPACT:

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The Legislative Budget Assistant has determined that this legislation, as amended, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2023 through 2026.

## **AGENCIES CONTACTED:**

New Hampshire Municipal Association

## **HB 42-FN - VERSION ADOPTED BY BOTH BODIES**

22Mar2023... 0286h

#### 2023 SESSION

23-0033 09/05

HOUSE BILL	42-FN
AN ACT	relative to the operation of certain homeowners' associations.
SPONSORS:	Rep. Stavis, Graf. 13; Rep. Mangipudi, Hills. 11; Rep. Gallager, Merr. 20
COMMITTEE:	Commerce and Consumer Affairs

## ANALYSIS

This bill limits the voting power of individuals who own more than half of the properties in a homeowners' association organized under RSA 292. The bill also requires a hearing before the municipal planning board before dissolution of the association.

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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.

## **HB 42-FN - VERSION ADOPTED BY BOTH BODIES**

#### STATE OF NEW HAMPSHIRE

#### In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the operation of certain homeowners' associations.

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

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RSA 292 by inserting after section 8-l the following new section:

3 292:8-m Homeowners' Associations.

I. For any homeowners' association established under this chapter, except those associations that include ownership through timeshare, if more than 50 percent of the votes are acquired by a single person after developer control is terminated, a 2/3 majority shall be required to amend bylaws, budgets, and any contracted property management service.

8 II. No homeowners' association constituted under this chapter and approved by the planning 9 board or similar land use body that has jurisdiction in the town or city in which the homeowners' 10 association is located, shall be dissolved pursuant to the procedure in RSA 292:9 or RSA 292:10-a, 11 prior to a hearing under RSA 676:2 before that same planning board or land use body.

12 2 Effective Date. This act shall take effect January 1, 2024.

LBA 23-0033 Amended 3/31/23

## HB 42-FN- FISCAL NOTE AS AMENDED BY THE HOUSE (AMENDMENT #2023-0286h)

AN ACT relative to the operation of certain homeowners' associations.

## FISCAL IMPACT:

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The Legislative Budget Assistant has determined that this legislation, as amended, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2023 through 2026.

## AGENCIES CONTACTED:

New Hampshire Municipal Association

### CHAPTER 114 HB 42-FN - FINAL VERSION

22Mar2023... 0286h

#### 2023 SESSION

23-0033 09/05

HOUSE BILL 42-FN

AN ACT relative to the operation of certain homeowners' associations.

SPONSORS: Rep. Stavis, Graf. 13; Rep. Mangipudi, Hills. 11; Rep. Gallager, Merr. 20

COMMITTEE: Commerce and Consumer Affairs

#### ANALYSIS

This bill limits the voting power of individuals who own more than half of the properties in a homeowners' association organized under RSA 292. The bill also requires a hearing before the municipal planning board before dissolution of the association.

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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.

### CHAPTER 114 HB 42-FN - FINAL VERSION

22Mar2023... 0286h

23-0033 09/05

#### STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT

ACT relative to the operation of certain homeowners' associations.

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

1 114:1 New Section; Voluntary Corporations and Associations; Homeowners' Associations.
2 Amend RSA 292 by inserting after section 8-1 the following new section:

3 292:8-m Homeowners' Associations.

I. For any homeowners' association established under this chapter, except those associations that include ownership through timeshare, if more than 50 percent of the votes are acquired by a single person after developer control is terminated, a 2/3 majority shall be required to amend bylaws, budgets, and any contracted property management service.

8 II. No homeowners' association constituted under this chapter and approved by the planning 9 board or similar land use body that has jurisdiction in the town or city in which the homeowners' 10 association is located, shall be dissolved pursuant to the procedure in RSA 292:9 or RSA 292:10-a,

11 prior to a hearing under RSA 676:2 before that same planning board or land use body.

12 114:2 Effective Date. This act shall take effect January 1, 2024.

Approved: June 30, 2023 Effective Date: January 01, 2024

## Committee Minutes

## SENATE CALENDAR NOTICE Commerce

Sen Bill Gannon, Chair Sen Denise Ricciardi, Vice Chair Sen Daniel Innis, Member Sen Donna Soucy, Member Sen Shannon Chandley, Member

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Date: April 4, 2023

## HEARINGS

	Tuesday	04/11/2023			
	(Day)	(Date)			
Commerce		State House 100	9:00 a.m.		
(Name of C	Committee)	(Place)	(Time)		
9:00 a.m.	HB 584	relative to the Uniform Commercial Code's article electronic records.	e on controllable		
9:10 a.m.	HB 210	relative to fire insurance contracts.			
9:20 a.m.	HB 479	relative to administrative hearings, automation of to insurance licensees, and insurance producer ad			
9:30 a.m.	HB 249	establishing regulatory standards for the pet insurance industry and allowing restaurant owners to keep their dog on the premises.			
9:40 a.m.	HB 150	relative to the certification of a collective bargain	ing unit.		
9:50 a.m.	HB 42-FN	relative to the operation of certain homeowners' a	associations.		
10:00 a.m.	HB 261	authorizing residential tenants to terminate thei of domestic violence or following a disabling illne			

EXECUTIVE SESSION MAY FOLLOW

Sponsors: HB 584 Rep. Ammon Rep. Bernardy HB 210 Rep. Infantine HB 479	Rep. Potucek Rep. Hunt	Rep. Edwards Sen. Watters	Rep. Osborne
Rep. Infantine	Rep. Ammon	' Sen. Gannon	Sen. Perkins Kwoka
HB 249			
Rep. Edwards	Rep. Burroughs	Sen. Gannon	
HB 150			
Rep. Bordes	Rep. Read	Rep. Coker	Rep. Wolf
Rep. Schultz	Rep. Trottier		
HB 42-FN			
Rep. Stavis	Rep. Mangipudi	Rep. Grassie	Rep. Gallager
HB 261			
Rep. Read	Rep. Levesque	Rep. Newell	Rep. Seibert
Rep. Staub	Rep. Veilleux	Rep. Kenney	Sen. Perkins Kwoka
Sen. Altschiller			

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Aaron Jones 271-2609

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<u>Bill M. Gannon</u> Chairman

## Senate Commerce Committee

Aaron Jones 271-2609

HB 42-FN, relative to the operation of certain homeowners' associations.

Hearing Date: April 11, 2023

Time Opened: 9:58 a.m. Time Closed: 10:06 a.m.

Members of the Committee Present: Senators Ricciardi, Innis and Chandley

Members of the Committee Absent : Senators Gannon and Soucy

**Bill Analysis:** This bill limits the voting power of individuals who own more than half of the properties in a homeowners' association organized under RSA 292. The bill also requires a hearing before the municipal planning board before dissolution of the association.

## Sponsors:

Rep. Stavis Rep. Mangipudi Rep. Grassie Rep. Gallager

Who supports the bill: Representative Laurel Stavis, Representative Ellen Read, Tom DeRosa (NH Planners Association)

Who opposes the bill: Julie Smith, Megan Schmitt

Who is neutral on the bill: No one

Summary of testimony presented in support:

## **Representative Laurel Stavis**

- The House Commerce Committee unanimously voted Ought to Pass with Amendment on HB 42-FN. On March 22nd, it was adopted on the consent calendar.
- This bill would make two changes to RSA 292, which is the statute governing voluntary associations.
  - First, the threshold when voting on bylaws and articles of incorporation would be increased to a two-thirds majority if one owner has acquired more than 50 percent of units in a homeowners' association (HOA).
  - Second, if approval from a planning board was required to establish an association, then any vote to dissolve it would also require planning board approval.

- In New Hampshire, Representative Stavis said 20 percent of residents live in an HOA.
- HOAs are formed under RSA 292 because members enter into a voluntary agreement to operate for the mutual benefit of members.
- Representative Stavis said HOAs provide benefits to the public through access to walking trails and maintenance of community structures, sewer and waste system infrastructure, roads and sidewalks, and trash removal. Since maintenance is funded by individual homeowners, municipalities are relieved of considerable expenses.
- Many HOAs contribute to conservation activities because some municipalities require that 50 percent of the land of the development remain open in perpetuity and free of development.
- As HOAs continue to proliferate, Representative Stavis said this bill would provide a commonsense mechanism to protect individual homeowners and local municipalities, while preserving the purposes for which they were created.
- Senator Chandley asked about the current procedure, and if an HOA could be dissolved without any hearing before a planning board.
  - Under current law, Representative Stavis said it is a one member, one vote situation. Membership is made of individual homeowners. If one owner acquired more than 50 percent of units in a development, they would have a majority vote by default. Subsequently, they could hold special meetings to change the bylaws or to dissolve the HOA. These meetings are for homeowners, not the general public.
- Senator Chandley asked about the current requirement for a hearing before the planning board or land use body.
  - Representative Stavis, who was a member of the Lebanon Planning Board, said a developer would have to present plans for the development to the board before an HOA could be formed. For most municipalities, those plans must comply with their regulations, and there needs to be a transition of control from a developer to individual unit owners. Control is vested in a board of directors, which is made up of members of the HOA. If someone owned 75 homes within a 100 home development, they would have 75 percent control. In the original formulation of an HOA, it is one member and one vote. While this is how HOAs are currently approved by a local planning board, there is no approval required for an HOA to be dissolved.

## Tom DeRosa, NH Planners Association

• The Association supported this bill; however, they recommended Line 11 be changed from "land use body" to "land use board" because boards, committees, and commissions are what make decisions at the local level.

## Summary of testimony presented in opposition: None

## Neutral Information Presented: None

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AJ Date Hearing Report completed: April 14, 2023

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s. I Speakers



Date: 04/11/2023

Time: 9:50 a.m.

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HB 42-FN An ACT relative to the operation of certain homeowners' associations. PRIME: Rep. Laurel Stavis

i	NAME (PLEASE PRINT NEATLY)	REPRESENTING	SUBMITTED TESTIMONY					
Ą	TOM DEROSA	NHPlanners Asia	Yes	Support	Neutral	Oppose	Speaking?	Yes I
0	Caval Sert	NAB House	Yes	Support	Neutral	Oppose	Speaking?	Yes D
•		· · · · · · · · · · · · · · · · · · ·	Yes	Support	Neutral	Oppose.	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes
			Yes	Support	Neutral	Oppose	Speaking?	Yes



Date: 04/11/2023

Time: 9:50 a.m.

HB 42-FN An ACT relative to the operation of certain homeowners' associations. PRIME: Rep. Laurel Stavis

NAME (PLEASE PRINT NEATLY)	REPRESENTING	SUBMITTED TESTIMONY					
Rep Ellen Real		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
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		Yes	Support	Neutral	Oppose	Speaking?	$\mathbf{Pes}$
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes
		Yes	Support	Neutral	Oppose	Speaking?	Yes

## Senate Remote Testify

## Commerce Committee Testify List for Bill HB42 on 2023-04-11 Support: 0 Oppose: 2

Name Smith, Julie Schmitt, Megan <u>Title</u>

A Member of the Public A Member of the Public Representing

Myself Myself

### **Position**

Oppose Oppose

## Testimony



## State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

## April 11, 2023

To the Honorable Members of the Senate Commerce Committee:

I am pleased to offer the following description of HB42, Relative to Certain Homeowners' Associations, which was heard in the House Commerce Committee and sent to the floor with a unanimous OTP/A recommendation. It was subsequently adopted by the House on the March 22 Consent Calendar. I thank you for your consideration of this legislation.

## **Description of Bill:**

- HB42 makes two changes to RSA292 by adding new sections after Section 8-1, the section that deals with the powers of the Association. One of the new sections governs voting on bylaws and articles of incorporation by increasing the threshold to a 2/3 majority if one owner acquires more than 50% of units in an Association.
- The other ensures that, if Planning Board approval was required to establish the Association, any vote to dissolve it must be heard before that same Planning Board.

## **Rationale for these Changes:**

- Almost 20% of NH residents live in some type of Homeowners Association.
- The statute that governs HOA formation and operation is 292-a (voluntary associations). It is there because HOA members enter into a voluntary agreement to operate for the mutual benefit of their members.
- HOA's also provide other benefits to the general public, such as public access to walking trails and maintenance of the community infrastructure, funded by homeowners thereby relieving the municipality of considerable expense that would otherwise have to be raised in taxes. HOA's also fund upkeep of other infrastructure such as sewer and waste systems, roads and sidewalks, and trash removal.
- Many HOA's also contribute to the State's conservation activities by some municipalities' requirement that 50% of the development's land remain open space in perpetuity.

## Discussion:

As HOA's of all kinds continue to proliferate throughout New Hampshire, HB42 provides two common sense mechanisms that protect individual homeowners and local municipalities, while preserving the purposes for which the community was created in the first place – providing opportunities for home ownership in a communities where it is in the owners' best interests to maintain the structural wellbeing of the development,

and creating new and badly needed housing in a municipality without raising tax rates to support the costs associated with these developments.

The Boards that govern HOA's rely on 292's provisions such as one vote per member and the foundational philosophy that the community exists to provide benefits to its members and be financially self-sustaining. In the case of an HOA, those members are individual homeowners and their elected Boards of Directors.

HB42 will protect owners' rights in the event of one owner or corporation acquiring a majority of homes by increasing the threshold needed to change bylaws and by requiring Planning Board approval for a vote to dissolve the Association if such approval was required for its formation.

HB42 also protects municipalities from unexpected cost increases should the majority of homes in an HOA be purchased by one owner for the purpose of converting the community into short-term rentals. While said corporation could include in its rental rates the funds needed to support these considerable infrastructure costs, it could also, given its majority powers, vote to dissolve the HOA, thus lowering operating costs and increasing its profits.

Those costs would not go away, and a municipality could find itself suddenly having to fund them, especially if the community's roads were not built to municipal standards or if the HOA funded upkeep of the wastewater systems.

HB42 provides a twofold remedy for that eventuality by requiring a 2/3 majority for any changes to bylaws and Planning Board approval for any vote to dissolve the Association (if PB approval was required in its formation). HB42 enhances local control, helps to avoid increases in municipal costs that would be borne by all taxpayers in the community, and preserves open space and intact neighborhoods.

#### A Note About the Fiscal Note:

The Legislative Budget Assistant has anticipated that HB42, if passed, would result in a fiscal impact of less than \$10,000 per year from 2023 to 2026. It is not clear from the FN what those costs would be since no action would be required of current HOA's or municipalities.

Respectfully Submitted,

Laurel Stavis, NH House of Representatives, Grafton 13 (Lebanon) Ranking Member, Municipal and County Government Committee.

# Voting Sheets

## Senate Commerce Committee EXECUTIVE SESSION RECORD 2023-2024 Session

11/1/22	Bill # HB 42-FN
Hearing date: $4/11/23$	•
Executive Session date: 4/18/23	
Motion of: OTP	Vote:4-0
Committee MemberMade bySecondSen. Gannon, Chair	$\begin{array}{c ccccccccccccccccccccccccccccccccccc$
Motion of:	Vote:
Committee Member   Made by   Second     Sen. Gannon, Chair	d Yes No
Motion of:	Vote:
Committee Member   Made by   Second     Sen. Gannon, Chair	d Yes No
Reported out by: <u>SEN.</u> SOUCY Notes:	

# Committee Report

## STATE OF NEW HAMPSHIRE

## SENATE

## **REPORT OF THE COMMITTEE**

Tuesday, April 18, 2023

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## THE COMMITTEE ON Commerce

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to which was referred HB 42-FN

AN ACT

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relative to the operation of certain homeowners' associations.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 4-0

Senator Donna Soucy For the Committee

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Aaron Jones 271-2609

## **COMMERCE**

HB 42-FN, relative to the operation of certain homeowners' associations. Ought to Pass, Vote 4-0. Senator Donna Soucy for the committee.

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## General Court of New Hampshire - Bill Status System

## **Docket of HB42**

**Docket Abbreviations** 

Bill Title: relative to the operation of certain homeowners' associations.

Date	Body	Description
12/23/2022	Н	Introduced 01/04/2023 and referred to Commerce and Consumer Affairs
1/11/2023	Н	Public Hearing: 01/18/2023 11:15 am LOB 302-304
1/25/2023	н	Subcommittee Work Session: 02/01/2023 10:00 am LOB 302-304
1/26/2023	н	Executive Session: 02/02/2023 01:30 pm LOB 302-304
2/23/2023	н	Subcommittee Work Session: 03/07/2023 10:00 am LOB210-211
2/23/2023	Н	Executive Session: 03/08/2023 01:15 pm LOB 302-304
3/14/2023	Н	Committee Report: Ought to Pass with Amendment <b>#2023-0286h</b> 03/08/2023 (Vote 19-0; CC) HC 16 P. 3
3/22/2023	н	Amendment <b>#2023-0286h</b> : AA VV 03/22/2023 HJ 10 P. 2
3/22/2023	Н	Ought to Pass with Amendment 2023-0286h: MA VV 03/22/2023 HJ 10 P. 2
3/24/2023	S	Introduced 03/23/2023 and Referred to Commerce; SJ 12
4/4/2023	S	Hearing: 04/11/2023, Room 100, SH, 09:50 am; SC 17
4/18/2023	S	Committee Report: Ought to Pass, 05/11/2023; SC 21
5/11/2023	S	Ought to Pass: MA, VV; OT3rdg; 05/11/2023; SJ 14
6/20/2023	S	Enrolled Adopted, VV, (In recess 06/15/2023); <b>SJ 20</b>
6/20/2023	Н	Enrolled (in recess of) 06/15/2023
7/12/2023	н	Signed by Governor Sununu 06/30/2023; Chapter 114; Eff: 01/01/2024 HJ 17

Official Docket of HB42.:

NH House

NH Senate

## Other Referrals

## Senate Inventory Checklist for Archives Bill Number: Senate Committee:

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

X Final docket found on Bill Status

## **Bill Hearing Documents: {Legislative Aides}**

- Bill version as it came to the committee
- **All Calendar Notices**
- X X 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):

<u>NA</u>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

## <u>All available versions of the bill: {Clerk's Office}</u>

as amended by the senate

as amended by the house

B final version

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

**Committee Aide** 

Senate Clerk's Office