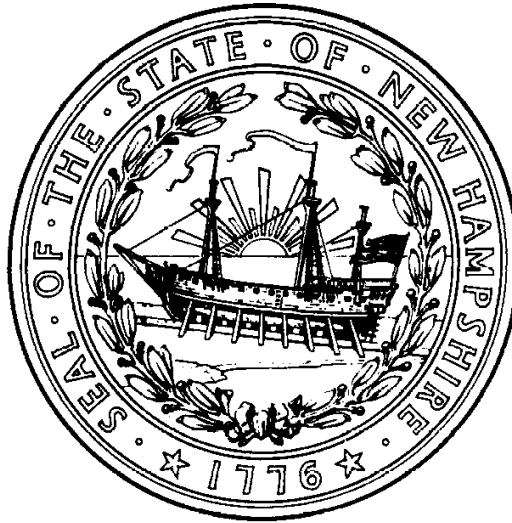


January 19, 2012
No. 4

STATE OF NEW HAMPSHIRE

WEB SITE ADDRESS:
www.gencourt.state.nh.us



Second Year of the 162nd Session of the New Hampshire General
Court Legislative

SENATE CALENDAR

**THE SENATE WILL MEET IN SESSION ON WEDNESDAY, JANUARY 25,
2012, AT 10:00 A.M.**

LAI D ON THE TABLE

SB 163-FN, relative to the New Hampshire health benefit exchange. 01/18/12, **pending motion Committee Amendment (0164s), Commerce, SJ 2, pg. TBA**

CONSENT CALENDAR REPORTS

COMMERCE

SB 253, relative to debt-related mortgage disability and mortgage accidental death insurance. Ought to Pass, Vote 5-0.
Senator White for the committee.

This legislation clarifies that there is statutory permission to allow a group of individuals to be insured under a mortgage disability or mortgage accidental death policy. The policy shall be issued to the creditor to insure debtors of the creditor subject to certain requirements.

PUBLIC AND MUNICIPAL AFFAIRS

SB 242, establishing a commission to study the administration of the Belknap county department of corrections.

Inexpedient to Legislate, Vote 5-0.
Senator Forrester for the committee.

This bill sought to establish a commission to study the administration of the Belknap County Department of Corrections. Upon further discussions with county officials, the prime sponsor requested the bill be found inexpedient to legislate.

SB 254, relative to funding and expenditures from certain municipal special revenue funds. Ought to Pass, Vote 5-0.
Senator Boutin for the committee.

This bill requires municipal appropriations from certain statutorily established funds be made by special warrant article. It also provides that the rescission of special revenue funds, including recreation revolving funds, requires the remaining amounts in the funds to be General Fund-accumulated surplus.

SB 255, relative to liens for land use change tax assessments. Ought to Pass, Vote 5-0.
Senator Stiles for the committee.

This bill increases the time before expiration of the lien created by the assessment of a land use change tax under RSA 79-A from 18 to 24 months.

SB 302, relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces. Ought to Pass with Amendment, Vote 5-0.
Senator Barnes for the committee.

This bill adopts the national Honor and Remember Flag as the official symbol of the state of New Hampshire to recognize and honor fallen members of the armed forces. It also requires the Department of Transportation to properly maintain the flag of the United States, the POW-MIA flag, and the landscaping at the rotary in the town of Epsom.

REGULAR CALENDAR REPORTS

COMMERCE

SB 74-FN, relative to the life settlements act.

Inexpedient to Legislate, Vote 3-2.

Senator White for the committee.

SB 150-FN, authorizing individuals and certain businesses to purchase health insurance from out-of-state insurance companies.

Ought to Pass, Vote 3-2.

Senator Prescott for the committee.

SB 175, regulating the commercial use of a person's identity.

Ought to Pass with Amendment, Vote 4-0.

Senator Houde for the committee.

SB 191, relative to the registration of independent contractors for the purposes of workers' compensation.

Ought to Pass with Amendment, Vote 4-0.

Senator De Blois for the committee.

ENERGY AND NATURAL RESOURCES

SB 241, relative to expiration and extension of terrain alteration permits.

Ought to Pass with Amendment, Vote 5-0.

Senator Lambert for the committee.

FINANCE

SB 362-FN, relative to benefits related to service of certain part-time judges of probate retiring because of permanent disability.

Ought to Pass, Vote 6-0.

Senator D'Allesandro for the committee.

SB 369-FN-L, relative to aid to assisted persons.

Ought to Pass with Amendment, Vote 6-0.

Senator Odell for the committee.

HEALTH AND HUMAN SERVICES

SB 363, relative to criminal background checks for volunteers and employees at youth skill camps.

Ought to Pass with Amendment, Vote 4-0.

Senator Lambert for the committee.

INTERNAL AFFAIRS

SB 201, apportioning state senate districts.

Ought to Pass with Amendment, Vote 4-1.

Senator Bradley for the committee.

JUDICIARY

SB 41, relative to enforcement of the timber tax and excavation tax by the department of revenue administration.

Ought to Pass, Vote 4-0.

Senator Groen for the committee.

HB 648, relative to eminent domain petitions by public utilities.

Ought to Pass with Amendment, Vote 4-0.

Senator Houde for the committee.

PUBLIC AND MUNICIPAL AFFAIRS

SB 232, relative to the date for the state primary election.

Ought to Pass, Vote 4-1.
 Senator Forrester for the committee.

WAYS AND MEANS

SB 303-FN, relative to the penalty assessment on fines for criminal offenses.
 Ought to Pass, Vote 3-0.
 Senator D'Allesandro for the committee.

AMENDMENTS

Commerce
 January 10, 2012
 2012-0168s
 05/03

Amendment to SB 175

Amend the bill by replacing all after section 1 with the following:

2 New Chapter; Commercial Use of Individual Identity. Amend RSA by inserting after chapter 359-L the following new chapter:

CHAPTER 359-M

COMMERCIAL USE OF INDIVIDUAL IDENTITY

359-M:1 Definitions. In this chapter:

- I. "Person" means any natural person.
- II. "Identity" means a person's name, professional name, nickname, signature, photograph, image, likeness, voice, or any other attribute that serves to identify the person to an ordinary, reasonable viewer or listener.

359-M:2 Recognition of the Right to Control Commercial Use of Identity. Every person has the right to control the commercial use of his or her identity.

359-M:3 Transferability. The right to control the commercial use of one's identity is a property right that is freely transferable and descendable, in whole or in part, during and after a person's life by means of (1) a written contract, license, conveyance, or assignment or a will, trust, or other testamentary instrument, executed before or after the enactment of this chapter, and by the original holder or his or her successor-in-interest, or (2) intestate succession occurring before or after the enactment of this chapter. In the absence of an express transfer in a testamentary instrument of the right to control commercial use of a person's identity, a provision in a testamentary instrument that provides for the disposition of the residue of the deceased person's assets shall be effective to transfer that right in accordance with the terms of that provision.

359-M:4 Duration and Termination.

I. The right protected under this chapter endures for a term consisting of the life of the person plus 70 years after his or her death, regardless of whether the person commercially exploits the right during his or her lifetime.

II. A person's right under this chapter shall be deemed to have existed prior to the enactment of this chapter, and at the time of the death of the original holder or his or her successor-in-interest, whether that death occurs before or after the enactment of this chapter, for the purpose of determining entitlement to the right.

III. The right protected under this chapter terminates if its holder dies without having transferred or devised it, either during his or her life or through a will, trust, or other testamentary

instrument, and there are no surviving natural persons to whom the right can pass by intestate succession.

IV. The right protected under this chapter, insofar as it extends beyond a person's death, applies only to any person who died a domiciliary of the state of New Hampshire. With regard to any person still living, this paragraph shall not be construed to alter or expand the in personam jurisdiction or choice of law principles to be applied in an action brought under this chapter.

359-M:5 Authorization For Use Required.

I. Any use of a person's identity during the term of the right protected under this chapter, on or in products, merchandise, or goods, or for the purpose of advertising, marketing, selling, or soliciting purchases of products, merchandise, goods, or services, requires the written authorization, including by electronic means, of that person or his or her successor-in-interest.

II. Any such use without written authorization is prohibited.

359-M:6 Exceptions. This chapter shall not apply to the following:

I. Use of a person's identity in an attempt to portray, describe, impersonate, or refer to that person in any of the following informational or expressive works, regardless of length or format, appearing in any medium now known or hereafter devised, provided that the work does not in and of itself constitute a commercial advertisement for a product, merchandise, goods, or services:

- (a) A news, public affairs, public interest, or sports broadcast or account.
- (b) A play, book, story, graphic novel, article, editorial, commentary, or other similar written or theatrical work.
- (c) A speech.
- (d) A musical composition or musical lyrics.
- (e) A radio program, sound recording, or other similar audio work.
- (f) A documentary, motion picture, television program, or other similar audiovisual work.

- (g) An original work of art.
- (h) Any work used in connection with any political campaign.
- (i) An article, editorial, commentary, magazine, newspaper, periodical, or other work of political or newsworthy value.
- (j) A video game or other similar audio visual work if the use of a person's identity in such game or work is protected by the United States Constitution or federal case law.

II. Use of a person's image in a photograph that does not single the person out as an individual, but rather depicts the person as a member of a group or the public, provided that the person is not named or otherwise identifiable in connection with the use of the photograph.

III. Truthful identification of a person as the author, composer, performer, or creative contributor to or of a work or lawfully recorded performance, under circumstances in which the work or recorded performance is otherwise lawfully reproduced, exhibited, or broadcast.

IV. Promotional materials, advertisements, or commercial announcements for a use described in paragraph I, II, or III, or the facilitation of the same, provided that the use of the person's identity in such promotional materials, advertisements, or announcements is related to the promoted, advertised, or announced use of that same person's identity.

V. Use of a person's identity in promotional material or an advertisement for a news reporting or an entertainment medium that:

- (a) Uses such identity solely as originally contained in all or part of a past or future edition of the medium's own broadcast or publication; and
- (b) Does not convey or reasonably suggest that the person endorses the news reporting or entertainment medium.

VI. Use of a person's identity in promotional material or an advertisement for an aggregator of news reporting and/or entertainment content that:

- (a) Uses such identity solely as originally contained in all or a part of the content of any news medium or entertainment medium available via the aggregator to the aggregator's customers; and

(b) Does not convey or reasonably suggest that the person endorses the news and/or entertainment aggregator. As used in this paragraph, the term “aggregator” means a party who receives content not of its own creation from others which it transmits or otherwise provides to others.

VII. Use of a person’s identity in connection with the efforts of a government agency to promote travel and tourism in this state, portray historical events, or commemorate persons or physical sites that are significant in the history of this state, except where the use is directly connected with commercial use, benefit, or sponsorship by a nongovernmental agency; provided, however, that if a government agency intends to have photographs taken at a public event for use pursuant to this paragraph, the government agency shall, if practical, announce or otherwise inform the public, or request the sponsor of the event to announce or otherwise inform the public, that photographs may be taken that can be used in materials for the promotion of travel and tourism in this state without permission from the person photographed.

VIII. Use of a person’s identity that is merely descriptive and used in good faith solely for the purpose of referring to products, merchandise, goods, or services that have been marketed, advertised, or sold by means of an authorized use of that person’s identity, or the facilitation of the same.

359-M:7 Remedy; Enforcement.

I. The right protected under this chapter may be exercised and enforced by any one person or entity who holds, or persons or entities who together hold, more than a 1/2 interest in the right.

II. Any use of a person’s identity that occurs in violation of this chapter is subject to:

(a) Injunctive relief to prevent or restrain the prohibited use; and

(b) An action at law for any injuries or damages sustained by reason of the prohibited use.

III. In any suit brought to enforce the right protected under this chapter, the plaintiff may recover an amount equal to the greater of \$2,500 or actual damages incurred as a result of the prohibited use and any profits that are attributable to the prohibited use but not otherwise taken into account in computing actual damages. In establishing profits attributable to a prohibited use, the plaintiff shall be required to present proof only of the gross revenue attributable to use, and the defendant shall be required to prove his, her, or its deductible expenses.

IV. Any plaintiff or defendant that prevails in an action to enforce the right protected under this chapter shall be entitled to recover reasonable attorney’s fees, costs, and expenses.

V. No owner, employee, or provider of any medium used for the distribution, transmission, or aggregation of advertising, news reporting, and/or entertainment content is liable pursuant to this chapter for any prohibited use of a person’s identity in an advertisement promoting the goods or services of a third party unless it is established that the owner, employee, or provider had actual knowledge that the use was unauthorized and the owner, employee, or provider did not create the advertisement.

VI. Nothing in this chapter may be construed to impose liability for offering the transmission, routing, or providing of connections for communications, between or among points specified by a user, of material of the user’s choosing, without modification to the content of the material sent or received.

359-M:8 Applicability. The prohibitions set forth in this chapter apply only to unauthorized use of a person’s identity occurring on or after January 1, 2013.

3 Effective Date. This act shall take effect January 1, 2013.

Amendment to SB 191

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

AN ACT permitting registration of independent contractors for the purposes of workers' compensation.

Amend the bill by replacing all after the enacting clause with the following:

1 Workers' Compensation; Definitions; Employee With Respect to Private Employment. Amend the introductory paragraph of RSA 281-A:2, VI(b)(1) to read as follows:

(b)(1) Subject to the preceding subparagraph, any person, other than a direct seller or qualified real estate broker or agent or real estate appraiser, or person providing services as part of a residential placement for individuals with developmental, acquired, or emotional disabilities, who performs services for pay for an employer, is presumed to be an employee. This presumption may be rebutted by proof that an individual meets all of the following criteria ***or has obtained a certificate of registration under RSA 281-A:3-b:***

2 New Section; Registration for Independent Contractors. Amend RSA 281-A by inserting after section 3-a the following new section:

281-A:3-b Registration for Independent Contractors Required for Workers' Compensation.

I. Every person doing business in this state as an independent contractor for the purposes of workers' compensation under RSA 281-A may register in the manner provided in paragraph II.

II. Every person engaged as an independent contractor doing business in this state may file annually with the department a form signed by such person stating the name under which the business is to be conducted and the principal place of said business and stating that such person meets all of the criteria listed in RSA 281-A:2, VI(b)(1). The commissioner may charge a fee for filing of registration and issuance of a certificate of registration. The list of registrants shall be a public document.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to any fee to be charged, which shall not exceed \$50, forms required for the purposes of this section, procedures for the application process, and procedures to verify the identity of registrants.

IV. This section shall not apply to employees, as defined in RSA 281-A:2, VI, who are not working in their capacity as registered independent contractors.

3 Effective Date. This act shall take effect 150 days after its passage.

2012-0165s

AMENDED ANALYSIS

This bill permits an independent contractor to register annually with the department of labor for purposes of workers' compensation. Under this bill, the department shall issue a certificate of registration acknowledging that such person is an independent contractor for purposes of workers' compensation. The independent contractor may present the certificate to the employer and the certificate shall satisfy any audit requirement for purposes of RSA 281-A.

Internal Affairs
January 18, 2012
2012-0271s
03/09

Amendment to SB 201

Amend the bill by replacing section 1 with the following:

1 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Atkinson & Gilmanton Academy Grant, Bath, Bean's Grant, Benton, Berlin, Bethlehem, Cambridge, Carroll, Chandler's Purchase, Clarksville, Colebrook, Columbia, Crawford's Purchase, Cutt's Grant, Dalton, Dix's Grant, Dixville, Dummer, Easton, Errol, Erving's Location, Franconia, Gorham, Green's Grant, Hadley's Purchase, Jefferson, Kilkenny, Lancaster, Landaff, Lincoln, Lisbon, Littleton, Livermore, Low and Burbank's Grant, Lyman, Martin's Location, Milan, Millsfield, Monroe, Northumberland, Odell, Pinkham's Grant, Pittsburg, Randolph, Sargent's Purchase, Second College Grant, Stark, Stewartstown, Stratford, Success, Sugar Hill, Thornton, Thompson and Meserve's Purchase, Wentworth's Location, Whitefield, and Woodstock.

II. Senatorial district number 2 is constituted of Alexandria, Andover, Ashland, Bridgewater, Bristol, Campton, Center Harbor, Danbury, Dorchester, Ellsworth, Grafton, Groton, Haverhill, Hebron, Hill, Meredith, New Hampton, Orange, Orford, Piermont, Plymouth, Rumney, Salisbury, Sanbornton, Tilton, Warren, and Wentworth.

III. Senatorial district number 3 is constituted of Albany, Bartlett, Bean's Purchase, Brookfield, Chatham, Conway, Eaton, Effingham, Freedom, Hale's Location, Hart's Location, Holderness, Jackson, Madison, Middleton, Moultonborough, Ossipee, Sandwich, Shelburne, Tamworth, Tuftonboro, Wakefield, Waterville Valley, and Wolfeboro.

IV. Senatorial district number 4 is constituted of Barrington, Dover, Rollinsford, and Somersworth.

V. Senatorial district number 5 is constituted of Canaan, Charlestown, Claremont, Cornish, Enfield, Hanover, Lebanon, Lyme, and Plainfield.

VI. Senatorial district number 6 is constituted of Alton, Farmington, Gilmanton, Milton, New Durham, and Rochester.

VII. Senatorial district number 7 is constituted of Belmont, Boscawen, Canterbury, Franklin, Gilford, Laconia, Loudon, Northfield, and Webster.

VIII. Senatorial district number 8 is constituted of Acworth, Antrim, Bennington, Bradford, Croydon, Deering, Frankestown, Goshen, Grantham, Hillsborough, Langdon, Lempster, Marlow, New London, Newbury, Newport, Springfield, Stoddard, Sunapee, Sutton, Unity, Washington, Weare, Wilmot, and Windsor.

IX. Senatorial district number 9 is constituted of Bedford, Dublin, Fitzwilliam, Greenfield, Hancock, Jaffrey, Lyndeborough, Mont Vernon, New Boston, Peterborough, Richmond, Sharon, Temple, and Troy.

X. Senatorial district number 10 is constituted of Alstead, Chesterfield, Gilsum, Harrisville, Hinsdale, Keene, Marlborough, Nelson, Roxbury, Sullivan, Surry, Swanzey, Walpole, Westmoreland, and Winchester.

XI. Senatorial district number 11 is constituted of Amherst, Merrimack, Milford, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, and 5 in Nashua, and Brookline, Greenville, Hollis, Mason, New Ipswich, and Rindge.

XIII. Senatorial district number 13 is constituted of wards 3, 4, 6, 7, 8, and 9 in Nashua.

XIV. Senatorial district number 14 is constituted of Auburn, Hudson, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Henniker, Hopkinton, and Warner.

XVI. Senatorial district number 16 is constituted of wards 1, 2, and 12 in Manchester, and Bow, Candia, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Allenstown, Barnstead, Chichester, Deerfield, Epsom, Northwood, Nottingham, Pembroke, Pittsfield, Raymond, and Strafford.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Litchfield.

XIX. Senatorial district number 19 is constituted of Derry, Hampstead, and Windham.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester, and Goffstown.

XXI. Senatorial district number 21 is constituted of Durham, Lee, Madbury, Newfields, Newington, Newmarket, and Portsmouth.

XXII. Senatorial district number 22 is constituted of Atkinson, Pelham, Plaistow, and Salem.

XXIII. Senatorial district number 23 is constituted of Brentwood, Chester, Danville, East Kingston, Epping, Exeter, Fremont, Kingston, and Sandown.

XXIV. Senatorial district number 24 is constituted of Greenland, Hampton, Hampton Falls, Kensington, New Castle, Newton, North Hampton, Rye, Seabrook, South Hampton, and Stratham.

Energy and Natural Resources
January 12, 2012
2012-0204s
03/09

Amendment to SB 241

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

AN ACT relative to expiration and extension of terrain alteration permits and permits for grading or reclamation projects.

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Expiration and Extension of Terrain Alteration Permits; Expiration of Permits for Excavation, Grading, or Reclamation Projects. Amend RSA 485-A:17 by inserting after paragraph II-c the following new paragraphs:

II-d. All permits issued, except for projects covered by paragraph II-e, pursuant to this section shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant an extension of up to 5 additional years, provided the applicant demonstrates all of the following:

(a) The permit for which extension is sought has not expired prior to the date on which a written extension request from the permittee is received by the department.

(b) The permit for which extension is sought has not been revoked or suspended without reinstatement.

(c) Extension would not violate a condition of statute or rule.

(d) Surface water quality will continue to be protected as under the original permit.

(e) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.

(f) If applicable, any inspection reports have been completed and submitted as required by the permit.

(g) The permit has not previously been extended, unless the subdivision plat or site plan associated with the permit has been deemed substantially complete by the governing municipal planning board in accordance with RSA 674:39, II, in which case subsequent extensions of the permit are allowed.

II-e. A permit for an excavation, grading, or reclamation project shall not expire for the life of the project identified in the permit application, provided that the permit holder submits a written update of the project's status every 5 years from the date of the permit issuance using a form obtained from the department as specified in department rules.

2012-0204s

AMENDED ANALYSIS

This bill provides that a terrain alteration permit shall be valid for 5 years and authorizes an extension of the permit if the applicant meets specified criteria. This bill also provides that no permit for an excavation, grading, or reclamation project shall expire during the life of the project if the permit holder submits a written status update to the department of environmental services every 5 years.

Public and Municipal Affairs

January 18, 2012

2012-0257s

01/04

Amendment to SB 302

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

AN ACT relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces and relative to certain maintenance at the rotary in the town of Epsom.

Amend RSA 3:3-d as inserted by section 2 of the bill by replacing it with the following:

3:3-d Display of Honor and Remember Flag. The Honor and Remember Flag shall be displayed above the state house in Concord immediately below the state flag on the following days:

- I. Gold Star Mother's Day, the first Sunday after Easter.
- II. Memorial Day, the last Monday in May.
- III. Independence Day, July 4.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Maintenance of Rotary. The department of transportation shall properly maintain the flag of the United States, the POW-MIA flag, and the landscaping at the rotary in the town of Epsom.

2012-0257s

AMENDED ANALYSIS

This bill adopts the national Honor and Remember Flag as the official symbol of the state of New Hampshire to recognize and honor fallen members of the armed forces.

This bill also requires the department of transportation to properly maintain the flags and landscaping at the rotary in the town of Epsom.

Health and Human Services
January 12, 2012
2012-0207s
08/04

Amendment to SB 363

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

AN ACT establishing a commission to study the regulation and licensing of youth camps, including youth skills camps.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Youth Camp Regulation Study Commission. Amend RSA 198 by inserting after section 15-w the following new section:

198:15-x Youth Camp Regulation Study Commission.

I. Commission Established. There is established a commission to study the regulation and licensing of youth camps, including youth skills camps.

II. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of health and human services, or designee.

(d) The commissioner of the department of environmental services, or designee.

(e) The commissioner of the department of safety, or designee.

(f) A representative of the New Hampshire Camp Directors Association, appointed by that organization.

III. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. Duties. The commission shall:

(a) Make recommendations on the regulation of youth camps, including whether current exemptions for youth skill camps should be maintained.

(b) Review and make recommendations for improving the current regulations governing camps.

(c) Review and make recommendations on the appropriate agency to regulate camps.

(d) Review and make recommendations on the current funding structure for regulating camps.

V. Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2012.

2 Repeal. RSA 198:15-x, relative to the commission to study the regulation and licensing of youth camps, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect December 2, 2012.

II. The remainder of this act shall take effect upon its passage.

2012-0207s

AMENDED ANALYSIS

This bill establishes a commission to study the regulation and licensing of youth camps, including youth skills camps.

Senate Finance
January 12, 2012
2012-0205s
05/04

Amendment to SB 369-FN-LOCAL

Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2, respectively.

2012-0205s

AMENDED ANALYSIS

This bill repeals the temporary suspension of RSA 165:20, relative to the recovery of expenses for assistance between towns.

Senate Judiciary
December 12, 2011
2012-0018s
06/10

Amendment to HB 648

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

AN ACT relative to eminent domain by public utilities and establishing a committee to investigate procedures for obtaining a hearing for landowners whose property is being considered for eminent domain.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Proceedings to Acquire Property or Rights. Amend RSA 371 by inserting after section 1-a the following new section:

371:1-b Acquisition Negotiations; Reference to Eminent Domain Prohibited. No public utility, predecessor development entity, or agent of either, shall refer to the use of eminent domain in any landowner negotiations, unless the commission has first specifically authorized its use under this chapter with respect to the affected landowner. Any landowner may file a complaint with the

commission under RSA 365:1 alleging violation of this section. Upon a finding of violation, after notice and hearing, the public utility or project-sponsoring affiliate shall be fined up to \$25,000 which shall be deposited in the general fund. If a landowner makes an inquiry concerning eminent domain, the public utility, predecessor development entity, or agent of either, may provide the landowner with the commission's contact information without violating this section.

2 Right to Enter. Amend RSA 371:2-a to read as follows:

371:2-a Right to Enter. When ownership of land, upon or over which a public utility desires to erect facilities, cannot be ascertained without entry to do survey work, or, a public utility shall have filed a petition under RSA 371:1 with respect to a particular tract of land, in either case a public utility shall have the right to enter upon such land for the purpose of surveying and making such other investigation as is necessary to determine the locations of the boundaries of such land and of the facilities it desires to erect thereon or thereover, and to determine the title to, description of, or nature of such land. A public utility desiring to enter land in pursuance of this section shall ~~make every reasonable effort to~~ notify **by certified mail** the owner or probable owner or owners thereof of its desire to enter for the purposes aforesaid **at least 30 days** prior to entry. **Notification shall include identification of the utility seeking to enter the land, the time and date of the proposed entry, and the portion or section of land to be surveyed or investigated. Upon the date specified for entry, the persons conducting the survey or investigation shall present themselves to the property owner and show identification.** The public utility shall pay the owner or owners of any land it shall enter in pursuance of the provisions of this section for any actual damage done upon entry.

3 New Section; Appraisal Required. Amend RSA 371 by inserting after section 2-a the following new section:

371:2-b Appraisal Required.

I. A public utility shall have an impartial, qualified appraiser make at least one appraisal of any property proposed to be acquired by eminent domain. The owner shall have a reasonable opportunity to have the property appraised by an independent, qualified appraiser, selected by the owner. The public utility shall reimburse the owner the usual and customary cost of the appraisal up to \$1,500 for each property.

II. No petition to acquire property or any interest in property through eminent domain shall be filed under this chapter unless the owner shall have first refused to voluntarily sell the affected property or interest therein for an amount equal to 200 percent of the public utility's appraised value thereof.

4 New Paragraph; Residential Owner Option. Amend RSA 371:5-a by inserting after paragraph II the following new paragraph:

III. In all cases where residential property is taken pursuant to the provisions of this section, a resident owner shall also be awarded reasonable relocation and housing replacement expenses not to exceed 10 percent of the compensation ordered for the taking. If a residential tenant is also displaced as the result of any taking under this section, the tenant shall be awarded up to 6 months of the actual monthly rent being paid by the tenant prior to the notice given under section RSA 371:4, and reasonable relocation and housing replacement expenses not to exceed an additional 6 months of such monthly rent.

5 New Section; Project Delay; Option to Purchase. Amend RSA 371 by inserting after section 16 the following new section:

371:16-a Project Delay; Option to Purchase. If, after a period of 5 years, the project for which land or property rights were taken has not commenced, the utility shall offer the person from whom such land or rights were taken the first option to buy such land or rights at the current market value.

6 Committee Established. There is established a committee to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain.

7 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

8 Duties. The committee shall investigate the procedures available and potentially available to landowners for obtaining a hearing when their land is the subject of a petition filed with the public utilities commission by a utility seeking to take such property.

9 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

10 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2012.

11 Effective Date.

I. Sections 1 through 5 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

2012-0018s

AMENDED ANALYSIS

This bill modifies certain requirements pertaining to the taking of land or property rights by a utility. This bill also establishes a committee to investigate procedures for obtaining a hearing by owners of land that may be subject to eminent domain.

HEARINGS

TUESDAY, JANUARY 24, 2012

COMMERCE, Room 102, LOB

Sen. Prescott (C), Sen. White (VC), Sen. De Blois, Sen. Houde, Sen. Sanborn

9:00 a.m. **SB 235**, relative to registration of business organizations with the secretary of state.

9:15 a.m. **SB 245**, relative to health care sharing organizations.

9:30 a.m. **SB 251**, prohibiting certain games and contests in premises licensed by the liquor commission.

9:45 a.m. **SB 257**, relative to unemployment compensation.

10:00 a.m. **SB 350-FN**, relative to the sale of portable electronics insurance.

10:15 a.m. **SB 377-FN**, relative to unemployment compensation eligibility for participants in the return to work program.

10:30 a.m. **SB 204**, adopting amendments to Article 9 of the Uniform Commercial Code relative to secured transactions.

EXECUTIVE SESSION MAY FOLLOW

EDUCATION, Room 103, LOB

Sen. Stiles (C), Sen. Forsythe (VC), Sen. Carson, Sen. Kelly, Sen. Prescott

1:00 p.m. **SB 372-FN-L**, establishing an education credit against the business profits tax.

EXECUTIVE SESSION MAY FOLLOW

INTERNAL AFFAIRS, Room 103, SH

Sen. Prescott (C), Sen. Lambert (VC), Sen. Bradley, Sen. Bragdon, Sen. Larsen

1:00 p.m. **SB 202**, apportioning congressional districts.

EXECUTIVE SESSION MAY FOLLOW**PUBLIC AND MUNICIPAL AFFAIRS**, Room 101, LOB

Sen. Barnes (C), Sen. Forrester (VC), Sen. Boutin, Sen. Merrill, Sen. Stiles

9:00 a.m. **SB 308**, proclaiming January 24 of each year as Granny D. Day.9:30 a.m. **SB 289-FN**, relative to presenting photo identification to vote in person.10:30 a.m. **SB 318-FN**, relative to eligibility to vote, voter registration, and verifying identity of voters.**EXECUTIVE SESSION MAY FOLLOW****WAYS AND MEANS**, Room 100, SH

Sen. Odell (C), Sen. Luther (VC), Sen. Boutin, Sen. D'Allesandro, Sen. Morse, Sen. Rausch

1:00 p.m. **SB 292-FN**, relative to property taxation of certain manufactured housing.1:15 p.m. **SB 293-FN**, relative to notice requirements and payment of interest by the department of revenue administration for overpayments and underpayments of tax.1:30 p.m. **SB 304**, relative to the waiver of state fees associated with historic preservation.1:45 p.m. **SB 305-FN-A**, relative to disposition of boat fee revenue.**EXECUTIVE SESSION MAY FOLLOW*****THURSDAY, JANUARY 26, 2012*****ENERGY AND NATURAL RESOURCES**, Room 102, LOB

Sen. Odell (C), Sen. Gallus (VC), Sen. Bradley, Sen. Lambert, Sen. Merrill

9:00 a.m. **SB 252**, increasing the maximum term for energy performance contracts.9:15 a.m. **SB 263**, relative to certified compliant products certified as such by the department of environmental services.9:30 a.m. **SB 312-FN**, prohibiting the cruel confinement of certain farm animals.9:45 a.m. **SB 330-FN**, requiring an independent financial opinion prior to the leasing of any state park property to a private entity.10:00 a.m. **SCR 2**, regarding the White Mountain National Forest.10:15 a.m. **SJR 1**, requesting the governor to enter into an anti-ethanol compact with other northeastern states.**EXECUTIVE SESSION MAY FOLLOW****EXECUTIVE DEPARTMENTS AND ADMINISTRATION**, Room 100, SH

Sen. Carson (C), Sen. Groen (VC), Sen. Larsen, Sen. Luther, Sen. White

10:00 a.m. **SB 230-FN**, relative to the calculation of average final compensation for certain retirement system members.10:15 a.m. **SB 244-FN**, relative to the administration of the New Hampshire retirement system.10:45 a.m. **SB 246-FN**, relative to the calculation of employer assessments for excess retirement system benefits.11:15 a.m. **SB 228-FN-L**, repealing the assessments for excess benefits paid by employers in the retirement system.**EXECUTIVE SESSION MAY FOLLOW****FINANCE**, Room 103, SH

Sen. Morse (C), Sen. Odell (VC), Sen. Barnes, Sen. Bragdon, Sen. D'Allesandro, Sen. Forrester, Sen. Gallus

1:00 p.m. **SB 294-FN**, relative to dedicated funds administered by the department of labor, department of environmental services, banking department, and secretary of state.1:15 p.m. **SB 375-FN**, relative to a prepaid health plan for Medicaid services.**EXECUTIVE SESSION MAY FOLLOW**

HEALTH AND HUMAN SERVICES, Room 102, LOB

Sen. Bradley (C), Sen. De Blois (VC), Sen. Kelly, Sen. Lambert, Sen. Sanborn

- 1:00 p.m. **SB 329-FN-L**, requiring nursing facilities to have at least one automated external defibrillator.
- 1:15 p.m. **SB 281**, authorizing law enforcement officers to share relevant communicable disease information with public health authorities.
- 1:30 p.m. **SB 319**, extending the commission to study the effects of service-connected post-traumatic stress disorder and traumatic brain injury suffered in the line of duty by members of the armed forces and veterans.
- 1:45 p.m. **SB 346**, extending the committee to study the laws relating to electronic prescriptions.

EXECUTIVE SESSION MAY FOLLOW**JUDICIARY**, Room 100, SH

Sen. Houde (C), Sen. Carson (VC), Sen. Groen, Sen. Luther, Sen. Forsythe

- 1:00 p.m. **HB 334**, relative to the state's authority to prohibit or regulate firearms, firearms components, ammunition, firearms supplies, and knives.
- 1:30 p.m. **HB 194**, relative to the prohibition on having or carrying a loaded crossbow, rifle, or shotgun in or on a vehicle.
- 2:00 p.m. **HB 536-FN**, relative to the natural right to carry a firearm, openly or concealed, without a license.

EXECUTIVE SESSION MAY FOLLOW**TRANSPORTATION**, Room 103, LOB

Sen. Rausch (C), Sen. Boutin (VC), Sen. Forsythe, Sen. Kelly, Sen. Stiles

- 9:00 a.m. **SB 291**, relative to the use of currently allowed impact fees by municipalities.
- 9:30 a.m. **SB 296**, relative to including next-of-kin contact information on a driver's license.
- 10:00 a.m. **SB 313-FN**, relative to state photographic identification indicating veteran's status.
- 10:30 a.m. **SB 315**, requiring motorists to give wide berth to highway maintenance vehicles.
- 10:45 a.m. **SB 317**, relative to towable devices permitted to be towed by a motorboat.
- 11:15 a.m. **SB 332**, repealing a prohibition relative to auxiliary state troopers and repealing the law governing motor vehicles carrying property for hire.

EXECUTIVE SESSION MAY FOLLOW***TUESDAY, JANUARY 31, 2012*****EDUCATION**, Room 103, LOB

Sen. Stiles (C), Sen. Forsythe (VC), Sen. Carson, Sen. Kelly, Sen. Prescott

- 1:00 p.m. **SB 373-L**, authorizing the retention of funds by a school district.
- 1:20 p.m. **SB 328**, relative to the procedure for filling a vacancy on a cooperative school board.
- 1:40 p.m. **SB 316**, relative to compliance with school accountability requirements.

EXECUTIVE SESSION MAY FOLLOW**PUBLIC AND MUNICIPAL AFFAIRS**, Room 101, LOB

Sen. Barnes (C), Sen. Forrester (VC), Sen. Boutin, Sen. Merrill, Sen. Stiles

- 8:30 a.m. **SB 338-FN**, relative to residency requirements for national guard positions, establishing the office of state judge advocate, and establishing a military advisory commission.
- 9:00 a.m. **SB 214**, relative to the applicability of the right-to-know law to public libraries.
- 9:20 a.m. **SB 233-L**, relative to special elections of the charter commission.
- 9:40 a.m. **SB 236**, relative to nomination of candidates.

10:10 a.m. **SB 243**, relative to the management of trust funds and capital reserve funds.

EXECUTIVE SESSION MAY FOLLOW

WAYS AND MEANS, Room 100, SH

Sen. Odell (C), Sen. Luther (VC), Sen. Boutin, Sen. D'Allesandro, Sen. Morse, Sen. Rausch

1:00 p.m. **SB 295-FN-A**, increasing the research and development tax credit against the business profits tax.

EXECUTIVE SESSION MAY FOLLOW

WEDNESDAY, FEBRUARY 1, 2012

COMMERCE, Room 102, LOB

Sen. Prescott (C), Sen. White (VC), Sen. De Blois, Sen. Houde, Sen. Sanborn

9:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

SB 203-FN-A, relative to limited liability companies.

SB 205, revising the New Hampshire business corporations act, RSA 293-A.

INTERNAL AFFAIRS, Room 100, SH

Sen. Prescott (C), Sen. Lambert (VC), Sen. Bradley, Sen. Bragdon, Sen. Larsen

1:00 p.m. **SB 356**, limiting the authority of delegates to Article V amendment conventions.

EXECUTIVE SESSION MAY FOLLOW

THURSDAY, FEBRUARY 2, 2012

JUDICIARY, Room 101, LOB

Sen. Houde (C), Sen. Carson (VC), Sen. Groen, Sen. Luther, Sen. Forsythe

1:00 p.m. **SB 272-FN**, relative to truancy.

1:15 p.m. **SB 271-FN**, establishing a criminal offense for failure to report a missing or deceased child.

1:45 p.m. **SB 301**, relative to landlord-tenant remedies.

EXECUTIVE SESSION MAY FOLLOW

TUESDAY, FEBRUARY 7, 2012

EDUCATION, Room 103, LOB

Sen. Stiles (C), Sen. Forsythe (VC), Sen. Carson, Sen. Kelly, Sen. Prescott

1:00 p.m. **SB 300**, relative to special education services in chartered public schools.

EXECUTIVE SESSION MAY FOLLOW

MEETINGS

FRIDAY, JANUARY 20, 2012

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62)

9:00 a.m. Room 205, LOB

Subcommittee Meeting

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)

9:00 a.m. Room 303, LOB

Subcommittee Meeting to Investigate
the Prevalence and Problems
Associated with Bed Bugs and the
Effect on NH

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m. Rooms 305-307, LOB

Regular Meeting

FISCAL COMMITTEE OF THE GENERAL COURT (RSA 14:30-a)

10:00 a.m.	Rooms 210-211, LOB	Regular Business
10:30 a.m.	Rooms 210-211, LOB	Audits
		State of New Hampshire Department of Transportation Turnpike System Comprehensive Annual Financial Report For the Fiscal Year Ended June 30, 3011
		New Hampshire Lottery Commission A Department of the State of New Hampshire, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2011
		The Unique College Investing Plan Annual Report September 30, 3011
		The Fidelity Advisor 529 Plan Annual Report September 30, 2011
		State of New Hampshire Guardian Ad Litem Board Performance Audit January 2012

NH LAND AND COMMUNITY HERITAGE AUTHORITY BOARD OF DIRECTORS (RSA 227-M:4)

10:00 a.m.	Department of Resources and Economic Development 172 Pembroke Road Concord, NH	Annual Meeting
------------	---	----------------

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g)

11:00 a.m.	Upham-Walker House 18 Park Street Concord, NH	Regular Meeting
------------	---	-----------------

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25)

1:00 p.m.	Room 201, LOB	Regular Meeting
-----------	---------------	-----------------

SUNDAY, JANUARY 22, 2012**LEGISLATIVE YOUTH ADVISORY COUNCIL (RSA 19-K:1)**

1:00 p.m.	NHTI Community College Crocker Sweeney Bldg. Room 225 Concord, NH	Regular Meeting
-----------	---	-----------------

MONDAY, JANUARY 23, 2012**ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128)**

9:00 a.m.	NH Employment Security 32 South Main Street Concord, NH	Subcommittee Meeting
-----------	---	----------------------

INTERAGENCY COORDINATING COUNCIL FOR WOMEN OFFENDERS (RSA 21-H:14-c)

9:00 a.m. Room 100, SH Regular Meeting

NH COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2)

9:00 a.m. NH Higher Education Investment Committee Meeting

Assistance Foundation

4 Barrell Court

Concord, NH

10:00 a.m. NH Higher Education Regular Meeting

Assistance Foundation

4 Barrell Court

Concord, NH

OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)

9:00 a.m. Room 305, LOB Regular Meeting

TUESDAY, JANUARY 24, 2012**JOINT COMMITTEE ON EMPLOYEE CLASSIFICATION (RSA 14:14-C)**

8:30 a.m. Room 209, LOB Regular Meeting

SENATE LEGISLATIVE FACILITIES SUBCOMMITTEE (RSA 17-E:1)

9:50 a.m. Room 100, SH Regular Meeting

JOINT COMMITTEE ON LEGISLATIVE FACILITIES (RSA 17-E:1)

10:00 a.m. Room 100, SH Regular Meeting

CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2)

3:00 p.m. Room 201, LOB Regular Business

COMMISSION TO STUDY BUSINESS REGULATIONS IN NEW HAMPSHIRE (RSA 359-L)

4:00 p.m. Room 104, LOB Subcommittee Meeting on the
Definition of Independent Contractor

THURSDAY, JANUARY 26, 2012**COMMISSION TO STUDY BUSINESS REGULATIONS IN NEW HAMPSHIRE (RSA 359-L)**

3:00 p.m. Room 205, LOB Regular Meeting

FRIDAY, JANUARY 27, 2012**ASSESSING STANDARDS BOARD (RSA 21-J:14-a)**

9:30 a.m. Room 301, LOB Regular Board Meeting

COUNTY-STATE FINANCE COMMISSION (RSA 28-B:1)

10:00 a.m. Primex Bldg. Training Room Regular Meeting

46 Donovan Street

Concord, NH

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)

1:00 p.m. Room 205, LOB Children, Youth & Family
Subcommittee Meeting

**CHARTER SCHOOLS AND OPEN ENROLLMENT LEGISLATIVE OVERSIGHT
COMMITTEE (RSA 194-B:21)**

2:30 p.m. Room 103, LOB Regular Meeting

MONDAY, JANUARY 30, 2012

CURRENT USE BOARD (RSA 79-A:3)

9:30 a.m. NH Department of Revenue Administration Rulemaking Hearing
109 Pleasant Street
Concord, NH

TUESDAY, JANUARY 31, 2012

LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE (RSA 17-M:1)

3:30 p.m. Room 201, LOB Regular Business

WEDNESDAY, FEBRUARY 1, 2012

ADVISORY COMMITTEE ON THE EDUCATION OF CHILDREN/STUDENTS WITH DISABILITIES (RSA 186-C:3-b)

4:30 p.m. NH Department of Education Regular Meeting
Londergan Hall, Room 15
101 Pleasant Street
Concord, NH

FRIDAY, FEBRUARY 3, 2012

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m. Rooms 305-307, LOB Continued Meeting

MONDAY, FEBRUARY 6, 2012

STATE COMMITTEE ON AGING (RSA 161-F:7, I)

10:00 a.m. DHHS, Brown Building Regular Meeting
129 Pleasant Street
Concord, NH

THURSDAY, FEBRUARY 9, 2012

COMMISSION TO STUDY BUSINESS REGULATIONS IN NEW HAMPSHIRE (RSA 359-L)

3:00 p.m. Room 104, LOB Subcommittee Meeting
3:00 p.m. Room 303, LOB Subcommittee Meeting

FRIDAY, FEBRUARY 10, 2012

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62)

9:00 a.m. Room 307, LOB Subcommittee Meeting

MONDAY, FEBRUARY 13, 2012

OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)

9:00 a.m. Room 305, LOB Regular Meeting

JOINT LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE (RSA 17-N:1)

10:00 a.m.	Room 212, LOB	Regular Business
EXOTIC AQUATIC WEEDS AND SPECIES COMMITTEE (RSA 487:30)		
10:30 a.m.	Room 308, LOB	Regular Meeting

THURSDAY, FEBRUARY 16, 2012

COMMISSION TO STUDY THE EFFECTS OF SERVICE-CONNECTED POST-TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY SUFFERED IN THE LINE OF DUTY BY MEMBERS OF THE ARMED FORCES AND VETERANS (RSA 115-D:1)

2:30 p.m.	Room 203, LOB	Regular Meeting
-----------	---------------	-----------------

FRIDAY, FEBRUARY 17, 2012

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m.	Rooms 305-307, LOB	Regular Meeting
HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)		

10:00 a.m.	Room 205, LOB	Regular Meeting
------------	---------------	-----------------

GUARDIAN AD LITEM BOARD (RSA 490-C:1)

1:00 p.m.	Room 101, LOB	Regular Meeting
-----------	---------------	-----------------

THURSDAY, FEBRUARY 23, 2012

COMMISSION TO STUDY BUSINESS REGULATIONS IN NEW HAMPSHIRE (RSA 359-L)

3:00 p.m.	Room 303, LOB	Full Committee Meeting
-----------	---------------	------------------------

SENATE BILLS AMENDED BY THE HOUSE

SB 19, relative to the definition of "prime wetlands."

SB 49, relative to tip pooling arrangements.

SB 152-FN, relative to participation in state employees' group insurance by members of the general court.

SB 190, relative to the duties and membership of the executive branch ethics committee.

FISCAL NOTE ADDITIONS AND UPDATES HAVE BEEN AMENDED TO THE BILLS ON THE WEB SITE AND ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR THE FOLLOWING 2011 RE-REFERRED AND RETAINED BILLS:

SENATE BILLS: 71, 74, 83, 84, 132, 142, 152, 153, 155, 159, 160, 163, 168, 185, 186, 188, 198, 212, 217, 219, 225, 227, 271, 275, 276, 279, 289, 294, 309, 312, 320, 324, 343, 372

HOUSE BILLS: 72, 110, 186, 210, 222, 225, 269, 330, 378, 420, 449, 466, 479, 508, 518, 520, 528, 654

NOTICES

LEGISLATIVE ETHICS COMMITTEE

Required Disclosure Filing

Copies of the "2012 Financial Disclosure Form," have recently been mailed to each member of the Senate. All legislators and legislative officers are required to complete and file the form with the Legislative Ethics Committee. Please return your completed form to Rich Lambert in Room 112 of the State House no later than January 20, 2012.

Senator Amanda Merrill
Senator Fenton Groen

STATE HOUSE COMPLEX DISPOSAL BOXES

The General Court is exploring the issue of the disposal of dirty syringes, needles, and any other sharps into the proper disposal boxes.

During the first phase of exploration, we will have a sharps box for collection in the Health Services Department to place all sharps in. This will assist us in planning if there is any viability of placing like containers in the complex.

Senator Jeb Bradley, Senate Majority Leader

TUESDAY, JANUARY 24, 2012

All members of the NH Senate are invited to attend the annual Public Health Policy Luncheon sponsored by the New Hampshire Public Health Association on Tuesday, January 24th, 2012 from 11:45 a.m. – 1:00 p.m. at St. Paul's Church Hall, Centre St., Concord. Keynote speaker, Stephen A. Norton, Executive Director of the NH Center for Public Policy Studies will present Affording the Health of an Aging New Hampshire. A free buffet luncheon will be served. Register by January 17th by email: info@nhpha.org or by phone: 228-2983.

Senator Sylvia B. Larsen, Senate Minority Leader

TUESDAY, JANUARY 24, 2012

Due to inclement weather, the BIA-hosted "Welcome Back Legislators" reception scheduled for January 12, 2012 has been moved to Tuesday, January 24, 2012 from 4:00 p.m. to 6:00 p.m. at the Holiday Inn in Concord (172 N. Main Street). All legislators and State House staff are cordially invited to attend the reception on the new date as guests of the BIA, but please RSVP your attendance by calling the BIA at 224-5388, ext. 116 or by using BIA's online registration at www.nhbia.org and utilizing the "Programs and Events" link. Those who have already provided an RSVP do not need to re-register.

Senator Jeb Bradley, Senate Majority Leader
Senator Sylvia B. Larsen, Senate Minority Leader

THURSDAY, JANUARY 26, 2012

During National Eye Health Month, Health Services will have a local eye care professional (Kristin Bryant, O.D.) back to conduct a "brown bag" seminar on eye health. These eye seminars will occur in the State House Annex in Room 411 on Thursday, January 26th, 2012, in three repeat sessions, each lasting 30 minutes, from 11:30 a.m. – 1:00 p.m. An RSVP would be appreciated at 271-2757 or e-mail: Dianne.bergquist@leg.state.nh.us for each of the three seminars.

Senator Jeb Bradley, Senate Majority Leader

WEDNESDAY, FEBRUARY 1, 2012

All members of the Senate are invited to attend the annual Legislative and Business Breakfast sponsored by Bi-State Primary Care Association and New Hampshire's Community Health Centers on Wednesday, February 1, 2012 (snow date February 2, 2012) from 7:30 a.m. – 9:00 a.m. at the Holiday Inn, 272 North Main Street, Concord. A delicious hot breakfast buffet will be served followed by a short program.

Senator Jeb Bradley, Senate Majority Leader
Senator Molly M. Kelly

MONDAY, FEBRUARY 6, 2012

All Senators are cordially invited to the 4th Annual Homelessness Awareness Banquet being held on Monday, February 6, 2012 from 5:30 p.m. – 8:00 p.m. at South Congregational Church in Concord. Governor Lynch and Mayor Bouley will join legislators and shelter directors to help serve and share a meal with shelter guests. The purpose of the event is to raise awareness of the need to support family shelters in the Concord area. Please RSVP as soon as possible to Mae Murdoch at 224-2521 or mmurdoch@southchurchconcord.org Voluntary donations at the door.

Senator Sylvia B. Larsen, Senate Minority Leader

WEDNESDAY, FEBRUARY 8, 2012

All members of the Senate are invited to attend a luncheon hosted by the NH Center for Nonprofits for the launch of our recent report: New Hampshire's Nonprofit Sector: In Brief. The event will take place on Wednesday, February 8, 2012, at 12:00 p.m. or immediately following the break of the session, and will be held at Sulloway & Hollis Law Offices, 29 School Street, Concord. An RSVP would be appreciated at registration@nhnonprofits.org

Senator Jeb Bradley, Senate Majority Leader
Senator Sylvia B. Larsen, Senate Minority Leader

WEDNESDAY, FEBRUARY 8, 2012

Northeast Delta Dental cordially invites all members of the New Hampshire Senate and the staff to its Thirteenth Annual Legislative Reception to be held Wednesday, February 8, 2012 from 4:00 p.m. to 6:30 p.m. at its corporate office at One Delta Drive in Concord.

Senator Jeb Bradley, Senate Majority Leader

WEDNESDAY, FEBRUARY 8, 2012

The Retail Merchants Association of New Hampshire invites all legislators and staff to its 45th Annual Legislative Reception on Wednesday, February 8th at 4:00 p.m. or following the session, whichever is later, at the Concord Holiday Inn. Please join RMANH members, your colleagues, and others for light fare and conversation as RMANH leadership presents the annual "Law Enforcement Partner of the Year", "Retailer of the Year", and "Legislator of the Year" awards.

Senator Jeb Bradley, Senate Majority Leader
Senator Sylvia B. Larsen, Senate Minority Leader

WEDNESDAY, FEBRUARY 15, 2012

The annual Water Matters Legislative Breakfast is scheduled for Wednesday February 15, 2012 at the Holiday Inn on Main Street in Concord starting at 7:00 am. Legislators and staff are invited to enjoy a hearty complementary breakfast while learning about critical water issues facing the state. New Hampshire's economy, job growth and quality of life are inextricably linked to the quality of our water resources and the condition of our water infrastructure. With the right investment, this infrastructure can provide us with an important competitive advantage in the 21st century economy. At this breakfast, you will learn more about the issues concerning New Hampshire's wastewater treatment systems, drinking water supplies and dams, which were built over the last 150 years and which will require substantial investment in the near future to address aging systems, capacity problems, and federal regulatory issues. The need to develop sustainable funding options to keep the costs for water affordable for taxpayers and rate payers will also be discussed.

Please RSVP to nhwpcalinda@gmail.com by February 8th to reserve your seat at this important breakfast. The breakfast is sponsored by the NH Water Pollution Control Association in conjunction with a wide ranging coalition of other local non-profit water organizations. There is no cost for attending this event.

The 2012 Water Matters Legislative Breakfast event is sponsored by a coalition of non-profit organizations including:

NH Water Pollution Control Association (NHWPCHA), New England Water Environment Association (NEWEA), NH Water Works Association (NHWWA), NH Public Works Association (NHPWA), American Society of Civil Engineers – NH Section (ASCE-NH), American Council of Engineering Companies – NH Section (ACEC-NH), NH Rivers Management Advisory Committee, NH Lakes Management Advisory Committee, NH DES Dam Bureau
Senator John T. Gallus

THURSDAY, FEBRUARY 16, 2012

Please join the NH Association of Regional Planning Commissions and the NH Planners Association for breakfast in the State House cafeteria on February 16th from 8:00 a.m. to 9:30 a.m. Come learn about the Association and enjoy a light breakfast.

Senator Jeb Bradley, Senate Majority Leader

LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee has voted to issue the following advisory opinion, which is printed below in its entirety.

Advisory Opinion 2011-4 Response to a Request for an Advisory Opinion from Representative Edmond D. Gionet (January 13, 2012)

Representative Edmond D. Gionet has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, it would be permissible for him to accept complimentary ski tickets offered by Cannon Mountain Aerial Tramway & Ski Area, either in his capacity as a member of the Cannon Mountain Advisory Commission, established by RSA 12-A:29-b, or as a member of the General Court.

According to information provided to the Committee by Rep. Gionet, he is a legislative member of the Cannon Mountain Advisory Commission (CMAC), a body established under RSA 12-A:29-b. He received a communication from John M. DeVivo, General Manager of Cannon Mountain Aerial Tramway & Ski Area, informing him of the opportunity, as a Commission member, to receive five complimentary ticket vouchers, each valid toward a day ski lift ticket at Cannon on any day during the 2011/12 winter season. The same communication informed Rep. Gionet that as a member of the General Court, he was eligible to receive one ski lift ticket for his own use and one ticket for use by a guest on any day that Cannon Mountain is open during the winter season. Mr. DeVivo's communication stated that the offer to CMAC members was authorized by the "2011/12 Cannon Mountain Winter Special Use Policy, as approved in June [2011] by the Fiscal Committee of the General Court." As to the offer to members of the General Court, the communication asserted that the offer was "set by RSA."

Following receipt of Rep. Gionet's Advisory Opinion request, in response to an information request, Mr. DeVivo sought and obtained from the Department of Resources and Economic Development a memorandum advising that:

"The procedure for approval of Cannon's fee package and special use policy is pursuant to RSA 216-A:3-g. Thus, privileges granted to CMAC members were requested by DRED and approved by legislature"; and

"[G]uidelines for season passes are covered in RSA 218-16.... Thus, privileges may be applied to one pass holder and one guest."

The Committee's Executive Administrator determined from publicly available information that the regular price to the public of a day ski lift ticket at Cannon for adults age 18-64 is \$68.00, and for seniors age 65 and over, \$45.00 any time.

At its meeting of January 5, 2012, the Committee considered Rep. Gionet's request in light of the foregoing information, as well as oral presentations from other members of the House, and review of applicable law.

Relevant provisions of applicable law are RSA 15-B:2 (definition of "gift"), RSA 15-B:3 (prohibition of knowing acceptance of gifts by legislators); RSA 12-A:9-b, IV (compensation of CMAC members); NH Constitution, Part II, Art. 15 (compensation of members of the legislature), RSA 216-A:3-g ((Fees for Park System); and RSA 218:16 (Passes).

We advise as follows: It appears from the facts presented that the value of the lift tickets in question is \$25.00 or more, which would classify them as gifts that RSA 15-B:2 would prohibit legislators from receiving unless the tickets were exempted from that classification by applicable provision of law. We find no provision of law that would provide such an exemption.

No provision of law generally exempts items provided to legislators by the State. Significantly, RSA 15-B:2,V(b)(8) provides only a limited exemption, for "wages, salary, benefits, mileage, or payment for expenses paid to the person by the state... related to performance of official duties." This exemption does not apply because RSA 12-A:29-b, IV states that members of CMAC "shall serve without compensation" except for allowable mileage at the legislative rate. Also, Part II, Art. 15 of the NH Constitution states that compensation in full of members of the legislature (other than the presiding officers) is \$200 for the elected term, plus mileage. These provisions limiting compensation appear to prevent complimentary ski lift tickets from qualifying as allowable "wages, salary... or benefits" related to performance of official duties, within the meaning of the cited exemption.

As to the other sources cited by DRED as authorizing issuance of complimentary lift tickets, none of them specifically authorizes or directs issuance of such tickets to legislators, and so do not override the prohibition subsequently enacted in RSA 15-B:3.

We recognize that complimentary lift tickets at Cannon have been made available to legislators for many years, but this custom cannot overcome the definition and prohibition of gifts enacted into law in 2006. Accordingly, we advise that acceptance of complimentary lift tickets by legislators as described in the Request, would be prohibited by RSA 15-B:3. Of course, the legislature is at liberty to amend RSA 15-B, or adopt other appropriate legislation to permit legislators to accept complimentary ski lift tickets, if it concludes that the present program should continue.

We express no opinion about whether the exemption in RSA 15-B:2,V(b)(8) might apply in other circumstances not described in the present Request.

We appreciate the opportunity to be of assistance.

For the Committee,
Martin L. Gross
Chairman

[Vote 4-0]

SENATE SCHEDULE

Monday, February 20, 2012	President's Day (State Holiday)
Monday, February 27, 2012 - Friday, March 02, 2012	Senate Break
Thursday, March 15, 2012	Deadline for Policy Committees to ACT on all Senate bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-3 (b).
Thursday, March 29, 2012	Last Day to ACT on all Senate bills. (Crossover)
Thursday, May 03, 2012	Deadline for Policy Committees to ACT on all House bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-3 (b).
Thursday, May 17, 2012	Last Day to ACT on all House bills.
Thursday, May 24, 2012	Last Day to FORM Committees of Conference.
Monday, May 28, 2012	Memorial Day (State Holiday)
Thursday, May 31, 2012	Last Day to SIGN Committee of Conference Reports.

Thursday, June 07, 2012	Last Day to ACT on Committee of Conference Reports.
Wednesday, July 04, 2012	Independence Day (State Holiday)
Monday, September 03, 2012	Labor Day (State Holiday)
Monday, November 12, 2012	Veterans' Day (State Holiday)
Thursday, November 22, 2012	Thanksgiving Day (State Holiday)
Friday, November 23, 2012	Day after Thanksgiving (State Holiday)
Tuesday, December 25, 2012	Christmas Day (State Holiday)
Tuesday, January 01, 2013	New Year's Day (State Holiday)

VISITORS' CENTER SCHEDULE – JANUARY & FEBRUARY

State House Visitation Schedule

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in 2012. These listings are to ensure all members be notified in a timely manner of visitors from their district. Our schedule is tightly booked for the school year and subject to changes.

Please contact the Visitors' Center concerning school tour booking information. Legislators planning to meet with students should notify the Visitors' Center. Thank you for your continued participation with your School Visitation Program.

Virginia J. Drew, Director
Deborah Rivers, Public Information Administrator

DATE	TIME	GROUP	Group#/Grade
Jan. 24	10:00/11:30 SH/HM	Ellis School – Fremont	58/4
Jan. 26	10:00	Portsmouth Christian Academy – Dover	43/4
Jan. 27	9:30	Mount Lebanon School	45/4
Jan. 27	10:00/11:30 SH/SC	Stratham Memorial School	90/4
Feb. 1	12:30	KA Brett School – Tamworth	25/4
Feb. 3	9:15	Henry Moore School – Candia	36/4
Feb. 3	11:30	Pembroke Bridge Program	10/5-8th
Feb. 8	11:00	Leadership Greater Concord	25/adults
Feb. 9	9:00	St. John's Regional School – Concord	30/4
Feb. 10	9:00	St. Benedict Academy – Manchester	25/4
Feb. 10	10:30	Peter Woodbury School – Bedford	40/4
Feb. 15	9:45	Haigh School – Salem	34/4
Feb. 15	9:00	UNH Policy group	40/Col
Feb. 16	9:30/11:00 SH/HM	Webster Elementary School – Manchester	90/4

Feb. 17	9:00/10:30 SH/Manse	Peter Woodbury School – Bedford	80/4
Feb. 17	11:30	Sandwich Central School	17/4
Feb. 21	9:45/11:00 SH/HM	Hooksett Elementary School	89/4
Feb. 22	9:45/11:00 SH/HM	Hooksett Elementary School	89/4
Feb. 22	1:00	Kimball Walker School – Concord	46/4
Feb. 23	10:15/11:30 SH/HM	New Searles Elementary School – Nashua	64/4
Feb. 28	2:00	Boy Scout Troop #123- Goffstown	10