

January 25, 2012
Nos. 2-3

STATE OF NEW HAMPSHIRE

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

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – JANUARY 18, 2012 SESSION
COMMENCEMENT – JANUARY 25, 2012 SESSION**

SENATE JOURNAL 2 *(continued)*

January 18, 2012

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

CACR 13, relating to prohibiting any new tax on personal income. Providing that no new tax on personal income shall be levied by the state of New Hampshire.

HB 228-FN, prohibiting the use of public funds for abortion services.

HB 514, relative to entry on private land.

HB 592, apportioning state representative districts and relative to the boundaries of wards.

INTRODUCTION OF SENATE BILLS

Sen. Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following Senate legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

12-2847

SB 379, relative to insurance fraud. (White, Dist 9; Houde, Dist 5; Hunt, Ches 7; Flanders, Belk 4; Headd, Rock 3; Infantine, Hills 13: Judiciary)

12-2854

SB 380, relative to the study committee on juvenile delinquency and children in need of services. (D'Allesandro, Dist 20; Kappler, Rock 2; DeLemus, Straf 1: Health and Human Services)

12-2859

SB 381-FN, relative to wine manufacturers, relative to auction houses, and relative to wine auctions. (D'Allesandro, Dist 20; Bradley, Dist 3: Ways and Means)

12-2862

SB 382-FN-LOCAL, allowing changes to property assessments for damaged buildings or for new construction. (Forrester, Dist 2; Boutin, Dist 16; Barnes, Jr., Dist 17; Accornero, Belk 4; Chandler, Carr 1; Greemore, Belk 3: Ways and Means)

12-2881

SB 383-FN-LOCAL, revising the distribution of school building aid grants. (Stiles, Dist 24; Morse, Dist 22; Forsythe, Dist 4; Lambert, Dist 13; Ladd, Graf 5; Shaw, Hills 16; Weyler, Rock 8; W. Smith, Rock 18: Education)

12-2911

SB 384-FN, relative to eligibility for child care assistance for individuals pursuing a bachelor's degree. (Lambert, Dist 13; Gallus, Dist 1; Houde, Dist 5; Kelly, Dist 10; Larsen, Dist 15; Luther, Dist 12; Merrill, Dist 21; Odell, Dist 8; Twombly, Hills 25: Finance)

12-2941

SB 385, relative to police investigations of motor vehicle accidents involving police officers. (White, Dist 9; Groen, Dist 6; Manuse, Rock 5; Hawkins, Hills 18: Judiciary)

12-2973

SB 386-FN-A, authorizing the state treasurer to issue bonds for highway construction. (Rausch, Dist 19; Stiles, Dist 24; Carson, Dist 14; D'Allesandro, Dist 20; Packard, Rock 3; Graham, Hills 18; Elliott, Rock 4: Ways and Means)

12-2985

SB 387, allowing schools to develop policies on the distribution of literature of patriotic organizations. (Carson, Dist 14; Barnes, Jr., Dist 17; Haefner, Hills 27: Education)

12-2993

SB 388, setting the natural mean high water mark of Silver Lake in Belmont and Tilton. (Forsythe, Dist 4; Sanborn, Dist 7; Bradley, Dist 3; Fields, Belk 2; Swinford, Belk 5; Comtois, Belk 5; Malone, Belk 5: Energy and Natural Resources)

12-3009

SB 389-LOCAL, relative to sewer commission costs. (Stiles, Dist 24; Boutin, Dist 16; Cali-Pitts, Rock 16; DiPentima, Rock 16; Pantelakos, Rock 16: Public and Municipal Affairs)

INTRODUCTION OF HOUSE BILLS

Sen. Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following House legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 309, relative to certain insurance mandates and establishing a committee to study current insurance mandates. (Health and Human Services)

HB 408, clarifying the exemption for attorneys from licensing requirements for mortgage brokers or bankers. (Commerce)

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

SB 160, relative to the definition and regulation of installment loans.

Sen. Prescott moved adoption of the Report of Committee on Enrolled Bills. Adopted.

Out of Recess. Call Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

Sen. Bradley moved that the Senate adjourn from the Late Session.

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 3

January 25, 2012

The Senate reconvened at 1 p.m., a quorum being present.

The Reverend Canon Charles LaFond, chaplain to the Senate, offered the following meditative thoughts and prayer.

To believe that the laws of our land, with which you're engaged, are un-entwined with the human struggle to go beyond human flesh to human soul is to be deluded. We long for God; whether it's spelled with a capital "G" or a small "g", we long for it. For some, God is Yahweh, for others, Allah, for others, Jesus, for others, the planet, or power, or self importance. But, we long for it, regardless.

The church, since the 6th century, has been battling out whether we humans are made good streaked with evil or made evil streaked with good. If you can see the answer to the second question, you will know the answer to the first, and knowing that answer will illuminate law rather than confine it. Let us pray.

God of all knowing, illuminate our souls so that the light we bring into the world warms not only a Senate chamber, but the powerless, heatless, foodless trailer of a New Hampshire citizen who knows they were made good and merely seeks the dignity of that knowledge. Amen

Sen. Forrester led the Pledge of Allegiance.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Sen. Forrester introduced Jordyn Tierney and Haley Coutu, students from Woodsville High School, serving as Senate Pages today.

Without objection, President Bragdon authorized the Senate to use electronic devices on the floor of the Senate.

CONSENT CALENDAR REPORTS

Sen. Bradley moved that the Consent Calendar with the relevant amendments as printed in the day's Calendar be adopted and that all bills adopted be ordered to Third Reading.

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.

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.

The question is on the adoption of the Consent Calendar. Adopted, bills ordered to Third Reading.

Sen. White asserts Rule 2-15 on SB 253.

REGULAR CALENDAR REPORTS

SPECIAL ORDER

Without objection President Bragdon moved HB 648 be Special-Ordered to the front of the Regular Calendar.

JUDICIARY

HB 648, relative to eminent domain petitions by public utilities. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

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 peti-

tion 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.

Recess. Out of recess.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Carson offered a floor amendment.

Sen. Carson, Dist. 14

January 24, 2012

2012-0350s

01/04

Floor Amendment to HB 648

Amend RSA 371:2-b as inserted by section 3 of the bill by replacing it with the following:

371:2-b Appraisal Required. 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.

Recess. Out of recess.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment. Adopted.

Sen. Forrester offered a floor amendment.

Sen. Bragdon, Dist. 11

Sen. Forrester, Dist. 2

Sen. Barnes, Dist. 17

Sen. Merrill, Dist. 21

January 25, 2012

2012-0367s

09/01

Floor Amendment to HB 648

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

AN ACT relative to eminent domain petitions by public utilities.

Amend the bill by inserting after section 10 the following new section and renumbering the original section 11 to read as 12:

11 Proceedings to Acquire Property or Rights; Petition. Amend RSA 371:1 to read as follows:

371:1 Petition. Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a line, branch line, extension, ~~or a~~ pipeline, conduit, line of poles, towers, or wires across the land of another, or should acquire land, land for an electric substation, or flowage, drainage, or other rights for the necessary construction, extension, or improvement of any water power or other works owned or operated by such public utility, and it cannot agree with the owners of such land or rights as to the necessity or the price to be paid therefor, such public utility may petition the public

utilities commission for such rights and easements or for permission to take such lands or rights as may be needed for said purposes. No public utility may petition for permission to take private land or property rights for the construction or operation of an electric generating plant ***or an electric transmission project not eligible for regional cost allocation, for either local or regional transmission tariffs, by ISO – New England or its successor regional system operator.***

2012-0367s

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.

This bill also prohibits public utilities from petitioning for permission to take private land or property rights for the construction or operation of an electric generating plant or an electric transmission project that is not eligible for regional cost allocation by ISO – New England or its successor regional system operator.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Larsen, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Forrester, Forsythe, Houde, Groen, Sanborn, Odell, White, Kelly, Lambert, Larsen, Boutin, Barnes, Merrill, Prescott, Bragdon.

The following Senators voted No: Bradley, Luther, Carson, De Blois, Rausch, D'Allesandro, Morse, Stiles.

Yeas: 16 - Nays: 8

Adopted.

Recess. Out of recess.

Recess. Out of recess.

Sen. Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

January 25, 2012

2012-0373s

01/09

Floor 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 commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

Amend the bill by replacing all after section 5 with the following:

6 New Section; Commission Established. Amend RSA 371 by inserting after section 16 the following new section:

371:16-a Commission Established.

I. There is established a commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

II. The members of the commission 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.

(c) The commissioner of the department of transportation, or designee.

(d) One commissioner of the public utilities commission, or designee, appointed by the chairperson of the commission.

(e) One member of the office of energy and planning, appointed by the governor.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission 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. The commission shall also develop a framework for the state to provide use rights to transmission developers, formulate policies which, in so far as practicable, encourage the burying of transmission lines along state rights-of-way and base payments on a percent of profitability.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

VI. 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 November 1, 2012.

7 Repeal. RSA 371:16-a, relative to the commission to develop a framework for the state to formulate policies relative to transmission developers, is repealed.

8 Effective Date.

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

II. Section 7 of this act shall take effect November 1, 2012.

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

2012-0373s

AMENDED ANALYSIS

This bill modifies certain requirements pertaining to the taking of land or property rights by a utility. This bill also establishes a commission to investigate procedures for obtaining a hearing for landowners whose property is being considered for eminent domain, develop a framework to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended.

A roll call was requested by Sen. Prescott, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Houde, Groen, Sanborn, Odell, White, Kelly, Luther, Lambert, Carson, Larsen, Boutin, Barnes, De Blois, D'Allesandro, Merrill, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Rausch.

Yeas: 23 - Nays: 1

Adopted, bill ordered to Third Reading.

Recess. Out of recess.

COMMERCE

SB 74-FN, relative to the life settlements act. Inexpedient to Legislate, Vote 3-2. Senator White for the committee.

Sen. White moved to Lay on the Table SB 74-FN. Adopted.

Sen. White asserts Rule 2-15 on SB 74-FN.

SPECIAL ORDER

Without objection President Bragdon moved SB 150-FN be Special-Ordered to February 8, 2012.

SB 175, regulating the commercial use of a person's identity. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

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.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Lambert offered a floor amendment.

Sen. Lambert, Dist. 13

January 20, 2012

2012-0306s

05/03

Floor Amendment to SB 175

Amend RSA 359-M:6, I as inserted by section 2 of the bill by deleting subparagraph (j).

The question is on the adoption of the Floor Amendment. Failed.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

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.

Commerce

January 10, 2012

2012-0165s

01/09

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.

Sen. De Blois moved to Recommit to Committee SB 191. Adopted.

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.

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.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

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.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

SB 369-FN-L, relative to aid to assisted persons. Ought to Pass with Amendment, Vote 6-0.

Senator Odell for the committee.

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.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

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.

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.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SPECIAL ORDER

Without objection President Bragdon moved SB 201 be Special-Ordered to the end of today's Regular Calendar.

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.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sen. Sanborn is in opposition to the motion of Ought to Pass on SB 41.

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.

The question is on the adoption of the Committee recommendation of Ought to Pass.

Recess. Out of recess.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

January 23, 2012

2012-0321s

03/05

Floor Amendment to SB 232

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

3 Nominations; Filing Deadline. Amend RSA 655:14 to read as follows:

655:14 Filing: General Provisions. The name of any person shall not be printed upon the ballot of any party for a primary unless he or she is a registered member of that party, he or she shall have met the age and domicile qualifications for the office he or she seeks at the time of the general election, he or she meets all the other qualifications at the time of filing, and he or she shall file with the appropriate official between the [first] *third* Wednesday in [~~June~~] *May* and the Friday of the following week a declaration of candidacy as provided in RSA 655:17.

The question is on the adoption of the Floor Amendment. Adopted.

Recess. Out of recess.

Senator Prescott is excused for the afternoon.

The question is on the adoption of the motion of Ought to Pass as Amended.

A roll call was requested by Sen. Larsen, seconded by Sen. Barnes.

The following Senators voted Yes: Bradley, Forsythe, Groen, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Stiles, Bragdon.

The following Senators voted No: Gallus, Forrester, Houde, Sanborn, Odell, White, Kelly, Larsen, D'Allesandro, Merrill.

Yeas: 13 - Nays: 10

Adopted, bill ordered to Third Reading.

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.

The question is on the adoption of the Committee recommendation of Ought to Pass. Adopted, bill ordered to Committee on Finance (Rule 4-3).

INTERNAL AFFAIRS

SB 201, apportioning state senate districts. Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

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, Francestown, 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.

Sen. Bradley moved to Lay on the Table SB 201. Adopted.

Recess. Out of recess. (Continued.)

HOUSE MESSAGE

The Clerk read the following House Message:

The House of Representatives is ready to meet with the Senate in Joint Convention for the purpose of hearing the State of the State Address by his Excellency, Governor John H. Lynch.

Sen. Bradley RESOLVED that the Senate is ready to meet in Joint Convention with the House of Representatives for the purpose of hearing the State of the State Address by his Excellency, Governor John H. Lynch. Adopted.

Recess to meet in Joint Convention. Out of Recess.

Recess. Out of recess. (Continued.)

Sen. Kelly is excused for the afternoon.

Sen. Bradley welcomed a group of students from the Kenneth A. Brett School in Tamworth.

President Bragdon rescinded ordering HB 648 to Third Reading.

MOTION OF RECONSIDERATION

Sen. Bradley, having voted on the prevailing side, moved to reconsider HB 648, the bill having been previously adopted. Adopted.

Sen. Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Bradley, Dist. 3

January 26, 2012

2012-0405s

01/09

Floor 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 commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

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. 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.

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 Proceedings to Acquire Property or Rights; Petition. Amend RSA 371:1 to read as follows:

371:1 Petition. Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a line, branch line, extension, ~~[or a]~~ pipeline, conduit, line of poles, towers, or wires across the land of another, or should acquire land, land for an electric substation, or flowage, drainage, or other rights for the necessary construction, extension, or improvement of any water power or other works owned or operated by such public utility, and it cannot agree with the owners of such land or rights as to the necessity or the price to be paid therefor, such public utility may petition the public utilities commission for such rights and easements or for permission to take such lands or rights as may be needed for said purposes. No public utility may petition for permission to take private land or property rights for the construction or operation of an electric generating plant **or an electric transmission project not eligible for regional cost allocation, for either local or regional transmission tariffs, by ISO – New England or its successor regional system operator.**

7 New Section; Commission Established. Amend RSA 371 by inserting after section 16 the following new section:

371:16-a Commission Established.

I. There is established a commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

II. The members of the commission 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.

(c) The commissioner of the department of transportation, or designee.

(d) One commissioner of the public utilities commission, or designee, appointed by the chairperson of the commission.

(e) One member of the office of energy and planning, appointed by the governor.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission 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. The commission shall also develop a framework for the state to provide use rights to transmission developers, formulate policies which, in so far as practicable, encourage the burying of transmission lines along state rights-of-way and base payments on a percent of profitability.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

VI. 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 November 1, 2012.

8 Repeal. RSA 371:16-a, relative to the commission to develop a framework for the state to formulate policies relative to transmission developers, is repealed.

9 Effective Date.

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

II. Section 8 of this act shall take effect November 1, 2012.

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

2012-0405s

AMENDED ANALYSIS

This bill:

I. Modifies certain requirements pertaining to the taking of land or property rights by a utility.

II. Prohibits public utilities from petitioning for permission to take private land or property rights for the construction or operation of an electric generating plant or an electric transmission project that is not eligible for regional cost allocation by ISO – New England or its successor regional system operator.

III. Establishes a commission to investigate procedures for obtaining a hearing for landowners whose property is being considered for eminent domain, develop a framework to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Bradley moved to remove SB 201 from the table. Adopted.

INTERNAL AFFAIRS

SB 201, apportioning state senate districts. Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

**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.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

January 31, 2012

2012-0470s

03/10

Floor 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, Bean's Purchase, 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, Shelburne, 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, Ashland, Bridgewater, Bristol, Campton, Center Harbor, Danbury, Dorchester, Ellsworth, Grafton, Groton, Haverhill, Hebron, Hill, Holderness, Meredith, New Hampton, Orange, Orford, Piermont, Plymouth, Rumney, Sanbornton, Tilton, Warren, Wentworth, and Wilmot.

III. Senatorial district number 3 is constituted of Albany, Bartlett, Brookfield, Chatham, Conway, Eaton, Effingham, Freedom, Hale's Location, Hart's Location, Jackson, Madison, Middleton, Milton, Moultonborough, Ossipee, Sandwich, 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, Barnstead, Farmington, Gilmanton, New Durham, and Rochester.

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

VIII. Senatorial district number 8 is constituted of Acworth, Antrim, Bennington, Bradford, Croydon, Deering, Francestown, Goshen, Grantham, Hillsborough, Langdon, Lempster, Marlow, New London, Newbury, Newport, Springfield, Stoddard, Sunapee, Sutton, Unity, Washington, Weare, 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 Allentown, Chichester, Deerfield, Epsom, Loudon, 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.

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

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the Committee recommendation of Ought to Pass as Amended.

A roll call was requested by Sen. Larsen, seconded by Sen. Barnes.

The following Senators voted Yes: Gallus, Forrester, Bradley, Forsythe, Groen, Sanborn, Odell, White, Luther, Lambert, Carson, Boutin, Barnes, De Blois, Rausch, Morse, Prescott, Stiles, Bragdon.

The following Senators voted No: Houde, Larsen, D'Allesandro, Merrill.

Yeas: 19 - Nays: 4

Adopted, bill ordered to Third Reading.

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted. Adjournment from the Early Session.

LATE SESSION**Third Reading and Final Passage**

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

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

SB 201, apportioning state senate districts.

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

SB 241, relative to expiration and extension of terrain alteration permits and permits for grading or reclamation projects.

SB 253, relative to debt-related mortgage disability and mortgage accidental death insurance.

SB 254, relative to funding and expenditures from certain municipal special revenue funds.

SB 255, relative to liens for land use change tax assessments.

SB 302, 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.

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

SB 363, establishing a commission to study the regulation and licensing of youth camps, including youth skills camps.

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

HB 648, relative to eminent domain by public utilities and establishing a commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

LIST OF RULE 2-15'S FOR THE DAY

Sen. White: SB 74-FN, SB 253.

ANNOUNCEMENTS**MOTION TO RECESS TO CALL OF THE CHAIR**

Sen. Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments and when we recess, we recess to the call of the Chair.

Adopted. The Senate is in recess to the Call of the Chair.