



2010 | Final
Legislative
Bulletin

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A Difficult Biennium Comes to an End

This year felt like another legislative budget year, given the need to make further adjustments to the State's 2010-2011 budget because of poor economic conditions. The conflict between the House and the Senate on how to close the budget gap was contentious and disagreeable. The "deficit reduction" committee of conference (which sounded just like a *budget* committee of conference) ended without agreement, necessitating the unusual procedure of convening a special session to balance the budget. While the budget-balancing efforts included additional cuts, municipalities thankfully did not see further reductions in the meals and rooms distribution beyond the freeze adopted in 2009. Revenue sharing remained suspended and—although threatened—no further reductions were made in the state contribution to municipal retirement costs.

The New Hampshire Municipal Association (NHMA) advocacy staff followed more than 300 bills of municipal interest during the past session. Some were killed, some were sent to study, and 85 became law and are reported here in summary form. You can find all of the chapters which were adopted last session at http://gencourt.state.nh.us/bill_status/misc/chaptered_final_version.aspx. If you have any trouble finding the information you are looking for, please contact the Government Affairs staff for assistance.

Following NHMA policy, staff worked particularly hard in opposition to one bill that was killed. **SB 492** was introduced to extend *once again* the *temporary* property tax exemption for poles and wires owned by telecommunication companies. Because the bill did not pass, the exemption ended as of July 1. That is a very big win for municipalities and taxpayers. Four other NHMA policy positions are carried out in bills passed: **Chapter 69**, Special Meetings for Zoning Changes in SB 2 Towns; **Chapter 90**, Supplemental Budget Hearings Permitted Less Than 25 Days Before Town Meeting; **Chapter 226**, Terms for Appointed Officials and Appointed Land Use Board Members; **Chapter 237**, Current Use Land Use Change Tax Assessments. Not bad for the second year of a biennium—a very difficult biennium from many perspectives!

As always, we cannot stress enough the impact you—our members—had in not only achieving these five policy successes, but in avoiding further state aid cuts to municipalities. The fact that local governments and property taxpayers did not see additional cost burdens shifted their way is due to your actions in discussing your concerns with your legislators.

We offer our heartfelt thanks to all of the local officials who worked with us and their legislators on these and other issues of the past session. We know that many of you were deeply disappointed with the legislative process last year, particularly with activities surrounding the "LGC amendment" filed late in the session. Please know that your involvement in all legislation is critical in making sure legislators understand the workings of local government, and it is critical to producing successful results. We could not do it without the support and guidance you provide to us behind the scenes, as well as your connections with legislators at home and at the State House. Thank you.

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We also urge you to thank your legislators and state officials who listened to and responded to your concerns. Many legislators voted consistently in support of municipal issues, and others sponsored bills of importance to municipalities. While the session was difficult, there are still thanks to convey to many for their support.

We'll need a similar effort next year. The next biennium promises to be at least as difficult as the past two years, if not worse. We hope, however, to renew our working relationship with the legislature and truly work cooperatively to find ways to meet the coming challenges. We will all need to work *together* to find solutions that best serve all citizens of New Hampshire.

Speaking of the next biennium—campaigns for Governor, the Senate, and the House of Representatives are underway. Candidates will be making public appearances in their districts, and you may get a chance to speak with them. If so, seize the opportunity to identify yourself as a local official. Talk to them about the economic situation in your community as well as your priorities for 2011. It is never too early to start the conversation!

The *Final Legislative Bulletin* also provides the opportunity to thank all NHMA/LGC staff for their support and assistance throughout the session. In the Legal Services and Government Affairs Department—which feels the biggest impact from the hectic schedules and elevated stress levels of the advocacy staff—Pam Valley and Joan Clark kept us together with a smile and managed to produce the *Legislative Bulletin* every week amid the Friday morning chaos; David Minnis assisted with *Bulletin* activities, bill tracking and maintaining municipal official contact information for sending out Alerts when needed; Cordell Johnston, Barbara Reid, Susan Olsen and Mike Williams were continually attuned to keeping municipal interests on track at the legislature; and Chris Porter kept us supplied with information in response to every question we asked along the way. Dave Connell, Paul Sanderson, Kim Hallquist and Chris Fillmore answered our legal questions and listened with interest to the issues we faced. We are also grateful for the assistance of various staff from other departments within the organization, including Communications, Finance, IT and HealthTrust. Our thanks to AnnMarie French, Ashley Monier, Audrey Bentley, Billie-Jo Richardson, Jason Levine, Judy Blossom, Judy Glendinning, Judy Pearson, Julie Dietz, Sharon Hazeltine and Stacy Koscielniak for their help with the *Legislative Bulletin*, our reporting requirements, workshops, the details of the Municipal Advocacy Committee meetings, and all the other behind-the-scenes essentials that keep us going.

On behalf of the Government Affairs staff, I wish you a restful and refreshing summer. Please do not hesitate to contact us if you have questions, concerns or suggestions.



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New Hampshire Municipal Association

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I. CLERKS; ELECTIONS; TOWN MEETING; OFFICIAL BALLOT; CHARTERS

Biennial Budget Adjustments. Special Session Chapter 1 (Special Session HB 1) made adjustments to the 2010/2011 biennial state budget enacted in 2009 in order to address a projected general fund deficit of approximately \$295 million. Provisions of **SSHB 1** applicable to municipalities are as follows:

- Changes the schedule for the Department of Environmental Services (DES) to process payments for state aid programs to a “just-in-time” payment schedule, meaning that payments will be issued in July rather than in June.
- Reduced state aid for educational programs by \$8.7 million, the bulk of which is a reduction in catastrophic aid of \$7.8 million.
- Authorizes the governing body of any municipality, school district or village district to call a special meeting without petitioning superior court in order to address 2010 budget concerns resulting from the reduction in state aid.
- Provides a cost-of-living adjustment (COLA) and other supplemental payments to eligible state and local retirees or their beneficiaries costing approximately \$60 million to be paid from the retirement system’s special account.
- Ratifies the actions of several town and school district annual meetings.

Effective Date June 10, 2010. (The words “effective date” are hereafter abbreviated “E.D.”)

Motor Vehicle Registration for Disabled Veterans. Chapter 62 (HB 1592) updates RSA 261:157, which provides for an exemption from the municipal motor vehicle registration fee for veterans who are amputees or otherwise disabled due to service-connected cause. The chapter eliminates the reference to specific wars in which the veteran must have served and adds “any war or armed conflict, as defined in RSA 72:28, V” (the definition for the veteran’s tax credit). The effect is to expand the availability of the exemption to disabled veterans of the Persian Gulf War and of “any other war or armed conflict that has occurred since May 8, 1975, and in which the resident earned an armed forces expeditionary medal or theater of operations service medal.” **E.D. July 17, 2010.**

Special Meetings for Zoning Changes in SB 2 Towns. Chapter 69 (HB 1211) provides that in a town using the official ballot (“SB 2”) form of town meeting, if the sole purpose of a special town meeting is to consider adopting, amending or repealing a zoning ordinance, historic district ordinance or building code, there will not be a deliberative session. There will be only one session, which is for voting by official ballot on the proposed action. This provision does not apply to a special meeting for consideration of the adoption of an emergency temporary zoning and planning ordinance pursuant to RSA 675:4-a. **E.D. July 18, 2010. NHMA POLICY.**

Voter Check-in Observation and Challenged Voter Affidavits. Chapter 103 (HB 1528) prevents any person from standing or sitting within six feet of the ballot clerk for the purpose of observing the check-in of voters unless the person receives express permission from the moderator. The chapter also removes the option of a voter to file a “qualified voter affidavit” to establish his or her qualification to vote after being challenged. Instead, the voter may file only a “challenged voter affidavit,” which was also changed by the legislation to state that the affiant swears under the penalties of voter fraud. **E.D. July 25, 2010.**

Retention Periods Extended for Certain Election Documents. Chapter 172 (HB 1574) extends the period that certain election documents must be retained. Federal election documents must be retained for 22 months after the election or until all appeals have been exhausted, whichever is later. Non-federal election documents must be retained for 60 days after the election or until all appeals have been exhausted, whichever is later. Most other election documents must be retained for seven years. **E.D. August 16, 2010.**

Periodic Verification of Voter Checklists. Chapter 177 (HB 1476) changes the criteria for a voter to be deemed reregistered to (1) a person who voted in any election within the four years preceding a 10-year verification, or (2) any person who registered to vote since the last state general election. **E.D. August 20, 2010.**

Additional Voter Information to Secretary of State. Chapter 182 (HB 1529) requires that information received from absentee ballot applications be included in the Statewide Centralized Voter Registration

Database and changes the procedures for recording absentee voter information and voter participation. **E.D. June 21, 2010.**

Signatures on Petition to Change Size of Board of Selectmen. **Chapter 262 (HB 1448)** changes the number of signatures required on a petitioned warrant article to change the size of the board of selectmen. Under the old law, the petition had to be signed by “not less than 2 percent of the legal voters.” The new law requires “25 or more registered voters or 2 percent of the registered voters in town, whichever is less, although in no event shall fewer than 10 registered voters be sufficient.” See Section III for provisions regarding municipal audits, Department of Revenue Administration (DRA) filings, and notice of village district appropriations. **E.D. September 4, 2010.**

Absentee Voting, Special Elections, etc. **Chapter 317 (HB 1535)** makes a variety of changes to the election laws. Among other things, it make numerous changes relating to absentee voting, changes scheduling requirements for special elections, and modifies the requirements for election returns. Election returns now must be submitted on paper and electronically and must contain very specific information listed in the statute. **E.D. July 18, 2010.**

Special Meetings for ARRA Appropriations and Expenditures. **Chapter 329 (SB 128)** authorizes towns to hold special meetings without court approval to appropriate and expend funds allocated to the town under the American Recovery and Reinvestment Act of 2009 “or any similar act adopted by Congress in 2010 or 2011.” This merely extends for 2010 and 2011 identical legislation that was enacted in response to ARRA in 2009. See Section III for provisions relative to the community revitalization tax relief incentive. **E.D. July 20, 2010.**

Procedure for Listing Candidates on Ballots. **Chapter 330 (SB 157)** establishes a procedure, too intricate to describe here, for determining the order in which candidate names will appear on ballots for both state and local elections. For state elections, the Secretary of State will follow the prescribed procedure to determine the order of the names. For local elections, the city or town clerk will use the same procedure. The new law also establishes a procedure for determining the order of party columns on the general election

ballot in 2010 and a separate procedure for general elections in 2012 and after. Finally, it simplifies the rules for candidates to designate the names, including nicknames, by which they are identified on the ballot. **E.D. January 1, 2011** for ordering of party columns in 2012 and after; **July 20, 2010** for remainder.

Pension Spiking Penalty Assessment. **Chapter 357 (SB 504)** extends from July 1, 2010, to July 1, 2011, the effective date for implementation of the pension penalty assessment resulting from payment of excess benefits (a.k.a. spiking) as enacted in Chapter 300:35, Laws of 2008. **E.D. July 20, 2010.**

Voter Addresses on Checklist; Voter Challenges. **Chapter 366 (HB 1477)** requires voter checklists to include the “domicile address [and] mailing address” of each voter. Previous law referred only to the “address.” The chapter also establishes a new procedure for challenging a voter at a state election. The person asserting the challenge must submit a signed affidavit, under oath administered by an election official, in a form prescribed in the statute. The moderator then must determine whether the challenge is “well grounded.” If the challenge is determined to be well grounded, the challenged voter may vote only if he or she signs and gives to the moderator a sworn challenged-voter affidavit. If the moderator determines that the challenge is not well grounded, the voter may proceed to vote without completing the affidavit. **E.D. July 23, 2010.**

Retiree Medical Trust. **Senate Joint Resolution (SJR) 2** endorses the establishment of a statewide retiree medical trust for public employee healthcare benefits after retirement, as recommended in the final report issued by the Commission to Propose a Retiree Health Care Benefits Funding Model. The trust will be sponsored and administered by public employee associations and/or unions, and will be a defined contribution plan. Participation in the trust will be elective by option of an employee group, such as a bargaining unit, with employee contributions made on a pre-tax basis. Contributions by employers will be *voluntary* as may be negotiated, and may include contributions as a percent of compensation, lump sum payments, or the transfer of the cash equivalent of accumulated leave time.

II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET

Priority for State Aid Environmental Grants. Chapter 63 (HB 1606) requires the Department of Environmental Services to give priority for future grant funding, as such funding becomes available, on a first-in, first-out basis to municipalities that had eligible wastewater projects or public water supply projects that were not funded in fiscal years 2009, 2010 or 2011. **E.D. May 18, 2010.**

Medical Benefits for State Retirees. Chapter 104 (HB 1668) requires group II state employees hired after July 1, 2010, to have 20 years of creditable state service in order to receive state retiree medical benefits. **E.D. July 1, 2010.**

Additional Secretary of State Authority Over Pooled Risk Programs. Chapter 149 (HB 1393) grants the Secretary of State exclusive authority to enforce RSA chapter 5-B, relative to pooled risk programs, and to investigate and impose penalties for violations of chapter 5-B. It authorizes fines of up to \$2,500 for violations of the law, and additionally authorizes the Secretary to order rescission, restitution or disgorgement. The new law also prohibits the payment of compensation to members of the board of directors of a pooled risk program, and requires notice and two public hearings prior to any increases in rates. Finally, it requires the Secretary of State, in consultation with the Insurance Commissioner and a qualified actuary, to make recommendations to the legislature on reserve levels and administrative expenses for pooled risk programs, and to report to the House and Senate Commerce Committees at least every six months about ongoing investigations of any pooled risk program. **E.D. June 14, 2010.**

Clean Water State Revolving Loans. Chapter 151 (HB 1399) prohibits projects that received principal forgiveness on loans from the Clean Water State Revolving Fund, through the American Recovery and Reinvestment Act of 2009 (ARRA), from receiving future state aid grants on those projects. **E.D. August 13, 2010.**

Municipal Purchases through Division of Plant and Property. Chapter 209 (HB 1166) clarifies that

municipal purchases of supplies and services under contracts negotiated by the Division of Plant and Property are separate and distinct purchases for which the state will not assume any liability. The legislation also removes the requirement under RSA 21-I:17 that the local governing body approve purchases made under a state contract. **E.D. August 27, 2010.**

10-Year Transportation Improvement Plan for 2011-2020. Chapter 231 (HB 2010) recognizes the financial constraints faced by New Hampshire's highway fund and the fact that many projects contained in the 10-Year Plan may be delayed or even eliminated. The chapter places a priority on the completion of the I-93 reconstruction and widening; requires approval from the General Court for the expenditure of state or federal money on any passenger rail infrastructure; instructs the Department of Transportation (DOT) to ensure integration of intermodal transport systems when and where practicable; instructs DOT to study the best location for mainline open-road toll lanes on the F.E. Turnpike; and includes the replacement or repair of the Memorial and Mildred Long Bridges in Portsmouth in those projects for which the state is allowed to issue federal highway grant anticipation bonds. **E.D. June 28, 2010.**

District Court Funding. Chapter 235 (HB 1516) allows the Colebrook, Keene, Claremont and Milford district courts to remain open through June 30, 2011, provided the municipalities using those courts absorb the rental costs and non-operational costs of the courts. The chapter also requires the judicial branch to continue funding court security screening costs. **E.D. July 1, 2010.**

III. MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES; RIGHT TO KNOW LAW

Investment in Certain Certificates of Deposit. Chapter 7 (SB 314) amends RSA 41:29, V, by authorizing an alternative to collateralization on investments of public funds. Under current law, any investment in an out-of-state financial institution requires full collateralization of those invested funds. With this change, municipalities may invest funds

in a federally insured bank in New Hampshire, which may then deposit the funds in certificates of deposit in one or more federally insured financial institutions located outside the state, with the FDIC insurance limit (currently \$250,000) protecting that investment rather than some form of collateral. **E.D. July 3, 2010.**

Investment of Capital Reserve Funds. Chapter 52 (HB 1276) amends RSA 35:9 to clarify that capital reserve funds shall be accounted for separately, but that the assets of capital reserve funds may be pooled for investment purposes. Any interest earned on the pooled fund shall be credited to the individual capital reserve funds on a pro rata basis. **E.D. July 17, 2010.**

Legislative Body Approval Not Required to Appropriate Municipal Transportation Improvement Funds. Chapter 85 (HB 1138) removes the limitation in RSA 261:153, VI(a) that amounts contained in a properly established municipal transportation improvement fund may be “appropriated by the legislative body of the municipality for the purposes provided in this paragraph only.” This provision had been read to mean that no one other than the legislative body could authorize an expenditure from such a fund. This was inconsistent with the statement earlier in the section that such a fund is deemed a capital reserve fund governed by the provisions of RSA 34 and 35. If it is a capital reserve fund, the legislative body may name agents (such as the selectmen) to make expenditures without further action of the legislative body. Chapter 85 eliminates that inconsistency. **E.D. July 24, 2010.**

Supplemental Budget Hearings Permitted Less than 25 Days Before Town Meeting. Chapter 90 (HB 1198) clarifies that so long as at least one public hearing on a town budget has been held at least 25 days before town meeting, as required by RSA 32:5 (or before the appropriate dates specified in RSA 40:13 for SB 2 towns), one or more supplemental hearings may be held after that deadline and before the town meeting, subject to the required public notice. If a hearing is recessed to a later date or time, additional notice is not required for the supplemental session if the date, time and location are made known at the original hearing. **E.D. July 24, 2010. NHMA POLICY.**

Limited Liability for Landowner Giving Permission for Bicycling. Chapter 131 (HB 191) provides that

a landowner who allows others to use property for bicycling owes no duty of care to keep the premises safe for entry or use, so long as the landowner does not charge for such use, and with an exception for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. **E.D. January 1, 2011.**

Withholding Wages for Legal Plans and Identity Theft Plans. Chapter 133 (HB 1137) adds “legal plans and identity theft plans without financial advantage to the employer” to the list of items under RSA 275:48 that may be withheld from an employee’s wages with the employee’s written permission. **E.D. August 13, 2010.**

Quarterly Billing for Property Taxes. Chapter 153 (HB 1427) makes a technical correction to RSA 76:15-aa regarding the time for issuing the first quarterly tax bill when converting to the optional fiscal year. The first tax bill must be issued 30 to 45 days following the date of town meeting, rather than on April 1. **E.D. June 14, 2010.**

Liability of Town and City Health Officers and Overseers of Public Welfare. Chapter 214 (HB 1524) adds town and city health officers to RSA 31:104, which provides immunity for the listed officials from civil damages for any vote or decision made by the official acting in his or her official capacity in good faith and within the scope of his or her authority. It also adds town and city health officers and overseers of public welfare to RSA 31:105, which, upon vote of the governing body, indemnifies and holds harmless the listed officials from personal damages for accidental injury to a person or accidental damage to property if the indemnified person was acting in the scope of his or her employment or office. Finally, the chapter adds town and city health officers and overseers of public welfare to RSA 31:106, which indemnifies and holds harmless the listed officials from personal damages for violation of the civil rights of any person under any federal law if the violation was not committed with malice, and if the indemnified person was acting within the scope of employment or office. **E.D. January 1, 2011.**

Energy Efficiency and Clean Energy Districts. Chapter 215 (HB 1554) enacts a new chapter, RSA 53-F, that authorizes a municipality’s legislative

body to establish energy efficiency and clean energy districts, which can encompass all or a portion of the municipality. In towns, the question can be put on the warrant only by the governing body, not by petition, a limitation that reflects the comprehensive nature of the administrative details and responsibilities contained in the statutory scheme. Adoption of the statute allows a municipality to loan money to property owners within the district for energy efficiency and clean energy improvements, incur debt for the purpose of funding those loans, and collect the repayment of those loans through assessments on the property owners' tax bills. A municipality may contract with a public or private entity, or form an intermunicipal agreement, to administer such a program. Interestingly, Fannie Mae and Freddie Mac are raising objections to these programs particularly due to the issue of giving the energy loan assessments a priority position ahead of the mortgage lien on a property, similar to the priority position of a tax lien. This new statute gives a priority position only to that portion of an energy loan that is past due, including interest, charges, and penalties—not to the total amount of the loan to be repaid. However, it also provides that foreclosure by a prior mortgage holder will not extinguish the lien for future payments. These programs, also known as P.A.C.E. (Property Assessed Clean Energy) programs, have grown in popularity across the country as a way to enable citizens to make energy efficiency improvements to their properties, but the extensive and wide-ranging requirements on municipalities may come with a municipal cost. **E.D. August 27, 2010.**

Municipal Exception to Licensing Under S.A.F.E. Mortgage Licensing Act. Chapter 220 (SB 339) affects municipalities that engage in a statutorily authorized program that provides loans in exchange for a lien on residential property (e.g., Community Development Block Grants). Such a municipality is considered to be a mortgage loan banker or mortgage loan broker subject to licensing by the Banking Department under the federally mandated S.A.F.E Act (Secure and Fair Enforcement for Mortgage Licensing Act of 2008). **Chapter 220** exempts a municipality from this licensing requirement if the municipality (1) is authorized by statute or the Banking Commissioner to do mortgage lending; (2) registers as an exempt entity with the National Mortgage Licensing System and Registry; (3) abides by the requirements of the

National Mortgage Licensing System and Registry, including its reporting requirements; (4) files and maintains a surety bond; and (5) licenses its appropriate employees as mortgage loan originators. **E.D. August 27, 2010.**

Terms for Appointed Officials; Park or Recreation Commission Members May Be Paid. Chapter 226 (HB 1174) clarifies that an appointed municipal official's term of office begins upon the official's appointment and qualification for office and ends upon the appointment and qualification of his or her successor. Thus, until a successor is appointed and fulfills the requirements for taking office (such as taking the oath of office), the incumbent is entitled to remain in office. With respect to appointed local land use board members, the new law states that the term of office begins on a date established by the appointing authority, or as soon thereafter as the member is qualified, and ends three years after the date so established. If no successor has been appointed and qualified at the expiration of an appointed member's term, the member is entitled to remain in office until a successor has been appointed and qualified. See section IV regarding the changed definition of "local land use board." **NHMA POLICY.**

Chapter 226 also amends RSA 35-B:4 to eliminate the provision that members of a municipal recreation or park commission must "serve without pay." **E.D. August 27, 2010.**

Alternative to Licensing or Registering Under S.A.F.E. Act. Chapter 234 (HB 1279) is a companion to Chapter 220 (see discussion above) and permits a municipality to avoid licensing or registration under the S.A.F.E. Act by contracting with a licensed mortgage banker or a licensed mortgage broker to conduct all of the municipality's mortgage loan origination. **E.D. August 27, 2010.**

Municipal Audits, DRA Filing Requirements, and Village District Appropriations. Chapter 262 (HB 1448) clarifies that every municipality must have an annual audit conducted either by an independent certified public accountant (CPA) or by one or more locally elected auditor(s). Municipalities with a population of less than 750 may petition the commissioner of the Department of Revenue Administration (DRA) for a waiver from the annual

audit requirement, and instead propose for the commissioner's approval an alternative plan for review of the town's accounts. A copy of the completed audit, conducted by either the independent CPA or the locally elected auditor(s), and associated management letters are required to be filed with DRA within 10 days after acceptance by the governing body. If the governing body does not accept the audit within 45 days after receipt, a copy must be submitted to DRA along with an explanation for the non-acceptance. These procedures also apply to school districts and village districts.

Separately, the chapter requires the tax collector, after resolving a discrepancy between the amount of the selectmen's warrant under RSA 76:10 and the total property tax commitment calculated by DRA, to submit a copy of the signed warrant total page and an actual tax bill to DRA. (It has been suggested that this requirement is intended to apply in *all* cases, not just those involving the resolution of a discrepancy, but that is not evident from the language.) Finally, it extends the filing period from 10 to 20 days for village districts to deliver to the selectmen and to DRA a certified copy of any district vote raising money by taxation or otherwise. See Section I for change regarding a citizen petition to increase the size of the board of selectmen. **E.D. September 4, 2010.**

Regulation of Retail Display of Martial Arts Weapons. Chapter 263 (HB 1461) authorizes towns to adopt ordinances to regulate "the retail display and accessibility of martial arts weapons including throwing stars, throwing darts, nunchaku, blow guns, or any other objects designed for use in the martial arts that are capable of being used as lethal or dangerous weapons." **E.D. July 6, 2010.**

Background Checks for Hawkers and Peddlers. Chapter 298 (HB 1267) authorizes a municipality to require a criminal background check for "persons who go from door to door, place to place within a town, or town to town, who sell, offer to sell, or take orders for merchandise or offer to perform personal services for household repairs or improvements." The municipality may require either a state-only records check, or both a federal and a state records check. The new law specifies the procedure for performing the background check. It also makes it a class B misdemeanor (it was previously a violation)

to violate an ordinance providing for the licensure and regulation of hawkers, peddlers, and itinerant vendors. **E.D. September 11, 2010.**

Municipalities May Limit Community Revitalization Tax Relief Incentive. Chapter 329 (SB 128) allows a municipality that has adopted the community revitalization tax relief incentive under RSA 79-E to impose stricter requirements for qualification than those contained in the statute. A municipality may establish age, occupancy, condition, size, or other criteria for a structure to be a "qualifying structure" under the law. It also may set a threshold for "substantial rehabilitation" of a qualifying structure that is higher than the statutory threshold of 15 percent of assessed value or \$75,000, whichever is less. The chapter further authorizes the governing body to adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period (but it may not exceed the limits stated in the statute). See Section I for provisions on special meetings for ARRA funding. **E.D. July 20, 2010.**

Expanded Whistleblower Protection. Chapter 340 (SB 358) gives the Department of Labor authority, under the Whistleblower Protection Act, RSA 275-E, to investigate complaints by public employees about activities constituting fraud, waste, or abuse in the expenditure of public funds, and protects such employees from retaliation. The chapter also expands the protection of RSA 275-E to any employee who objects to, or refuses to participate in, an activity that the employee, in good faith, believes is a violation of the law. **E.D. July 20, 2010.**

IV. PLANNING AND ZONING

Planning Board Applications Not Delayed Pending Other Approvals. Chapter 39 (SB 328) provides that an application to a planning board may not be deemed incomplete solely because it is dependent on the issuance of permits or approvals from other government bodies, nor may a planning board refuse to take action on such an application solely for that reason. However, any approval by the board may be made conditional upon the receipt of state or federal permits. **E.D. July 17, 2010.**

Special Meetings for Zoning Changes in SB 2 Towns. Chapter 69 (HB 1211) provides that in a town using the official ballot (SB 2) form of town meeting, if the sole purpose of a special town meeting is to consider adopting, amending or repealing a zoning ordinance, historic district ordinance, or building code, there will not be a deliberative session. There will be only one session, which is for voting by official ballot on the proposed action. This provision does not apply to a special meeting for consideration of the adoption of an emergency temporary zoning and planning ordinance pursuant to RSA 675:4-a. **E.D. July 18, 2010. NHMA POLICY.**

Workforce Housing Restrictive Covenants Authorized. Chapter 150 (HB 1395) amends the workforce housing statute, RSA 674:58-61, to authorize a municipality to require that an applicant for the development of workforce housing record restrictive covenants ensuring that the housing will not be rented or sold to a household with income that exceeds limits specified in the statute. The local land use board may adopt regulations specifying the term for such covenants and providing a means to ensure compliance with the covenants. **E.D. June 14, 2010.**

Terms of Appointed Land Use Board Members; Definition of Local Land Use Board. Chapter 226 (HB 1174) provides that the term of office for an appointed local land use board member begins on a date established by the appointing authority, or as soon thereafter as the member is qualified, and ends three years after the date so established. If no successor has been appointed and qualified at the expiration of an appointed member's term, the member is entitled to remain in office until a successor has been appointed and qualified. **NHMA POLICY.**

The chapter also expands the definition of "local land use board" in RSA 672:7 to include any board or commission authorized under RSA 673 and established by a local legislative body. Previously the definition was limited to planning boards, historic district commissions, building inspectors, building code boards of appeals and zoning boards of adjustment, but there appeared to be a legislative understanding that the term included all boards authorized by RSA 673. With the new definition, the term now also includes heritage commissions, agricultural commissions and housing commissions. **E.D. August 27, 2010.**

Alternates May Participate as Non-Voting Members. Chapter 270 (SB 448) resolves a long-running debate among municipal lawyers and land use board members by expressly authorizing alternate members of a local land use board to participate in meetings of the board as non-voting members "pursuant to rules adopted under RSA 676:1." The referenced statute is the law that requires local land use boards to adopt rules of procedures, and chapter 270 amends it to require such rules to "include when and how an alternate may participate in meetings of the land use board." **E.D. July 6, 2010.**

Moratorium on Municipal Fire Sprinkler Requirements. Chapter 282 (HB 1486) places a one-year moratorium on the right of municipalities to adopt requirements for fire sprinklers in detached one- and two-family dwellings. The moratorium does not affect those municipalities that had such a requirement in place prior to July 8, 2010. It also does not prohibit a planning board from finding that a particular subdivision application is "scattered or premature" under RSA 674:36, II(a), for lack of adequate fire protection, and accepting the installation of fire sprinkler systems as a means of addressing the planning board's findings. A legislative study committee will examine the issue of mandating residential fire sprinklers and make a determination as to whether the interests of safety justify such an exercise of municipal authority. The committee is to present its recommendations by November 1, 2010. **E.D. July 8, 2010.**

Zoning Boards May Charge for Consultant Fees. Chapter 303 (HB 1380) authorizes a zoning board of adjustment (ZBA) to "impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications" and to "require the applicant to reimburse the board for expenses reasonably incurred by obtaining third party review and consultation during the review process." This is similar to the authority already given to planning boards to charge for such expenses. As with a planning board, a ZBA that charges an applicant for third-party review must require detailed invoices and, upon request by the applicant, provide "a reasonably detailed accounting of expenses, or corresponding escrow deductions, with copies of supporting documentation." When a planning board

and a zoning board both require the same applicant to pay the expenses of third-party review, each is charged with ensuring that the review does not substantially duplicate the review obtained by the other board, to prevent the applicant from having to pay twice for the same work. **E.D. September 11, 2010.**

Renovation and Replacement of School Buildings. Chapter 327 (SB 59) requires a school district, when considering new construction or substantial renovation of a public school building, to hold at least one public hearing and seek input from municipal boards and departments. The district also must review the municipality's zoning regulations and master plan in order to maximize best planning practices. **E.D. September 18, 2010.**

Involuntary Merger of Lots Prohibited. Chapter 345 (SB 406) prohibits any municipality, county or village district from merging preexisting subdivided lots or parcels except upon the consent of the owner. The purpose is to invalidate provisions, common in local zoning ordinances, that require the automatic merger of contiguous substandard lots that are owned by the same person. The new law does not appear to invalidate involuntary mergers that are deemed to have occurred by operation of law prior to the effective date. It also does not appear to prevent a municipality from requiring the property owner to merge contiguous substandard lots as a condition precedent to developing the lots—it merely states that the municipality itself may not merge them. **E.D. September 18, 2010.**

V. ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE; WATER

Termination of Water District Authority to Contract with DES. Chapter 22 (HB 1155) repeals RSA 52:25, which previously authorized any village district formed for the purpose of impoundment of water to contract with the Department of Environmental Services for the construction, operation, and maintenance of any dam within the district. Any contract in place as of the effective date of the repeal will remain in effect for the term of the contract or until terminated in accordance with its terms. **E.D. July 6, 2010.**

Expansion of Groundwater Commission Duties. Chapter 31 (SB 56) expands the duties of the commission studying issues relative to groundwater withdrawals to include studying the amount of financial responsibility a person seeking approval for a large commercial groundwater withdrawal should be required to demonstrate, including bonding and insurance. In determining that amount, the commission is to consider potential damage to the environment and nearby wells, including unreasonable reductions in well capacity or contaminant migration from off-site contamination sources that affect water quality. **E.D. May 18, 2010.**

Pleasant Lake in Deerfield Reclassified. Chapter 44 (SB 426) reclassifies Pleasant Lake in Deerfield as Class A waters under the provisions of RSA 485-A:8. **E.D. May 18, 2010.**

Underground Storage Tank Permits and Cleanup Fund Coverage Limits. Chapter 55 (HB 1292) updates a number of provisions dealing with liability for oil discharge cleanup and associated costs. First, it repeals the requirement for permit reapplication every five years. Second, it expands eligibility for cleanup funding from facilities *only* to the land on which such facilities are located. Third, it increases the deductible for initial clean-up costs from \$100 to \$500 (but allows the deductible to be reduced from \$500 to the previous \$100 for owners demonstrating “financial need”). **E.D. May 18, 2010.**

Priority for State Aid Environmental Grants. Chapter 63 (HB 1606) requires the Department of Environmental Services to give priority for future grant funding, as such funding becomes available, on a first-in, first-out basis to municipalities that had eligible wastewater projects or public water supply projects that were not funded in fiscal years 2009, 2010 or 2011. **E.D. May 18, 2010.**

Underground Storage Facility Training. Chapter 102 (HB 1294) requires all operators of underground petroleum storage facilities to be trained and certified in accordance with an approved training program. The requirements will take effect as of August 8, 2012, and will apply both to facilities existing at that date and to facilities that begin operation thereafter. Certified operators will be required to conduct monthly visual inspections of all underground storage facilities. The

Department of Environmental Services will provide operator training programs, paid for by federal funds, but will also approve other programs that meet stated requirements, including training programs from other states that meet the New Hampshire criteria. **E.D. May 26, 2010.**

Notification Requirements for Lowering Water Levels of Lakes and Ponds. Chapter 128 (HB 1266) adds an exception to the required notice to local officials prior to lowering the water level in a lake or dam. Under the new law, no notice is required for the lowering of water levels by the Department of Environmental Services to protect instream flows under RSA 483:9-c. Paragraph IV of that statute states, “The protected instream flow levels established under this section shall be maintained at all times, except when inflow is less than the protected instream flow level as a result of natural causes or when the commissioner determines that a public water supply emergency exists which affects public health and safety.” **E.D. August 8, 2010.**

Clean Water State Revolving Loans. Chapter 151 (HB 1399) prohibits projects that received principal forgiveness on loans from the Clean Water State Revolving Fund, through the American Recovery and Reinvestment Act of 2009 (ARRA), from receiving future state aid grants on those projects. **E.D. August 13, 2010.**

Extension of Municipal Exemption for Burning Construction Debris. Chapter 156 (SB 301) extends until January 1, 2014, the exemption for municipal transfer stations from the law prohibiting the burning of construction and demolition debris. The exemption allows the incidental combustion, under the supervision of a solid waste facility operator, of untreated wood at any municipal transfer station that is subject to regulation under RSA 149-M. **E.D. June 17, 2010.**

Effect of Building Permit's Expiration on Groundwater Withdrawal Permit. Chapter 158 (SB 369) authorizes a municipality to require a written finding from the Department of Environmental Services as to the status of a permit for a large groundwater withdrawal when a local building permit related to the groundwater withdrawal activity expires or becomes void. DES is required to determine whether the change in status of the local

building permit affects the department's decision on the application. **E.D. July 17, 2010.**

Cocheco River Protection Designation. Chapter 169 (HB 1450) further refines physical descriptions of the Cocheco River in its status as a protected river. Specifically, the bill declares (1) that the “natural river” portion of the Cocheco River begins “south” of March's Pond in New Durham, as opposed to simply “at the outlet,” and (2) that the rural-community river portion begins “0.7 miles south” of the Cocheco Road Bridge as opposed to simply “south” of the bridge. **E.D. June 17, 2010.**

Hazardous Materials Accident Cost Recovery. Chapter 256 (HB 1334) allows municipalities to recover the costs, including court costs and legal fees needed to collect the same, that they incur during the clean-up of hazardous-materials accidents or spills. **E.D. September 4, 2010.**

Shoreland Advisory Committee. Chapter 306 (HB 1462) establishes a statutory shoreland advisory committee, whose primary focus is “to address residential shorefront owner input and perspective relating to shoreland development regulated under the comprehensive shoreland protection act ... and the regulation of shoreline structures under RSA 482-A.” The committee will meet four times per year and will make suggestions to the Department of Environmental Services relative to the implementation of the shoreland protection act and the regulation of shoreline structures. The committee will be dissolved at the end of 2013. **E.D. July 13, 2010.**

Mineral Extraction, Mining and Reclamation. Chapter 331 (SB 166) adds to and expands current law to define more precisely the terms, technology, and permitting processes for mining activities, and adds the Department of Resources and Economic Development as an authorizing agency for certain activities. Of particular interest to local government is the inclusion of planning board chairs in meetings requested by potential permit applicants prior to the actual submission of any permit to the Department of Environmental Services. Upon filing of a new or amended permit application, applicants will be required to provide a copy of the application to the relevant local governing body and publish notice of the application. Further, DES is required to hold a

public hearing within 30 days of any such application, for which every abutter must be notified by certified mail. Applicants will be required to certify that all required local, state and federal permits and approvals have been obtained prior to any permit's becoming effective. The chapter also makes it clear that the state law does not affect an applicant's obligation to obtain all applicable local approvals required under local ordinances that are not inconsistent with the state law. **E.D. September 18, 2010**

DES Approval Not Required if Development Does Not Increase Sewage Load. Chapter 342 (SB 370) provides that approval of a sewage disposal system by the Department of Environmental Services is not required prior to expanding, relocating or replacing a structure if the project will not increase the load on the sewage disposal system, subject to certain conditions. **E.D. September 18, 2010.**

Municipal Regulation Not Completely Preempted by Groundwater Withdrawal Permit. Chapter 348 (SB 411) clarifies that the issuance by the Department of Environmental Services of a large groundwater withdrawal permit under RSA 485-C does not "abrogate or affect any applicant's obligation to comply with or obtain all applicable and lawful local ordinances, codes, regulations, and approvals not otherwise prohibited by [RSA 485-C]." The chapter also codifies exemptions from the large groundwater withdrawal permit requirement for certain short-term uses and emergency withdrawals. Those exemptions were previously contained in DES regulations. Finally, it exempts geothermal systems from the permit requirement if the volume of groundwater extracted minus the volume returned to the same aquifer does not exceed 57,600 gallons over any 24-hour period. **E.D. September 18, 2010.**

VI. PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION

Requirements for Firefighter Certification. Chapter 3 (HB 1131) directs the New Hampshire Fire Standards and Training Commission to follow nationally accepted training standards for the mandatory training for full-time career firefighters, rather than apply its own standards (which previously

had exceeded national standards). The new law will allow firefighters from states other than New Hampshire to be employed in the state without additional training if they have met the national standards. **E.D. May 24, 2010.**

Universal Design Study Committee. Chapter 110 (HB 1429) creates a committee to study the inclusion of universal design requirements in New Hampshire's state building code. Universal design has been defined as "the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design." The committee, charged with studying design aspects such as "wider doorways, uniform size steps on stairways, [and] lighting on stairways," must report its findings and legislative proposals, if any, by November 1, 2010. **E.D. June 1, 2010.**

Liens for Housing Code Violations; Landlord Agents. Chapter 203 (SB 354) creates a lien in favor of the municipality whenever a court enters a fine against a property owner for violating a municipal housing code or the minimum standards under RSA 48-A:14. The lien may be filed with the registry of deeds 45 days following the entry of the fine. It may be foreclosed if it is not satisfied within 120 days after it is recorded, but it is subordinate to any mortgage, tax lien, or other encumbrance recorded prior to it.

The chapter also requires every owner of property that is rented for residential use (other than certain single-family and owner-occupied properties) to file with the city or town clerk a statement that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the property. **E.D. January 1, 2011.**

Liability of Town and City Health Officers. Chapter 214 (HB 1524) adds town and city health officers to RSA 31:104, which provides immunity for the listed officials from civil damages for any vote or decision made by the official acting in his or her official capacity in good faith and within the scope of his or her authority. It also adds town and city health officers and overseers of public welfare to RSA 31:105, which, upon vote of the governing body, indemnifies and holds harmless the listed officials from personal damages for accidental injury to a person or accidental

damage to property if the indemnified person was acting in the scope of his or her employment or office. Finally, the chapter adds town and city health officers and overseers of public welfare to RSA 31:106, which indemnifies and holds harmless the listed officials from personal damages for violation of the civil rights of any person under any federal law if the violation was not committed with malice, and if the indemnified person was acting within the scope of employment or office. **E.D. January 1, 2011.**

Enforcement of State Park Rules by Municipalities. **Chapter 230 (HB 1520)** permits municipal officials, upon written agreement with the commissioner of Resources and Economic Development, to issue summonses for violations of state park administrative rules and the rules of the Division of Forest and Lands. The municipality may retain 50 percent of any fine collected. **E.D. June 28, 2010.**

Regulation of Retail Display of Martial Arts Weapons. **Chapter 263 (HB 1461)** authorizes towns to adopt ordinances to regulate “the retail display and accessibility of martial arts weapons including throwing stars, throwing darts, nunchaku, blow guns, or any other objects designed for use in the martial arts that are capable of being used as lethal or dangerous weapons.” **E.D. July 6, 2010.**

Statewide Emergency Notification System. **Chapter 271 (HB 213)** requires the Department of Safety’s Bureau of Emergency Communications (BEC) to develop and maintain a statewide emergency notification system. The purpose of the system is to enable the BEC to contact residents quickly in the event of emergencies, statewide or regional. Residents with landline telephone are automatically included in the system but may opt out if they choose; there will also be a method for others to “opt in.” Local emergency response agencies will be provided with the ability to “dial in” to the emergency system in order to notify their own residents in the event of a localized emergency. **E.D August 6, 2010.**

Moratorium on Municipal Fire Sprinkler Requirements. **Chapter 282 (HB 1486)** places a one-year moratorium on the right of municipalities to adopt requirements for fire sprinklers in detached one- and two-family dwellings. The moratorium does not affect those municipalities that had such

a requirement in place prior to July 8, 2010. It also does not prohibit a planning board from finding that a particular subdivision application is “scattered or premature” under RSA 674:36, II(a), for lack of adequate fire protection, and accepting the installation of fire sprinkler systems as a means of addressing the planning board’s findings. A legislative study committee will examine the issue of mandating residential fire sprinklers and make a determination as to whether the interests of safety justify such an exercise of municipal authority. The committee is to present its recommendations by November 1, 2010. **E.D. July 8, 2010.**

VII. PUBLIC WORKS; ROADS AND HIGHWAYS; SPEED LIMITS; AIRPORTS; RAILS

Priority for State Aid Environmental Grants. **Chapter 63 (HB 1606)** requires the Department of Environmental Services to give priority for future grant funding, as such funding becomes available, on a first-in, first-out basis to municipalities that had eligible wastewater projects or public water supply projects that were not funded in fiscal years 2009, 2010 or 2011. **E.D. May 18, 2010.**

Legislative Body Approval Not Required to Appropriate Municipal Transportation Improvement Funds. **Chapter 85 (HB 1138)** removes the limitation in RSA 261:153, VI(a) that amounts contained in a properly established municipal transportation improvement fund may be “appropriated by the legislative body of the municipality for the purposes provided in this paragraph only.” This provision had been read to mean that no one other than the legislative body could authorize an expenditure from such a fund. This was inconsistent with the statement earlier in the section that such a fund is deemed a capital reserve fund governed by the provisions of RSA 34 and 35. If it is a capital reserve fund, the legislative body may name agents (such as the selectmen) to make expenditures without further action of the legislative body. Chapter 85 eliminates that inconsistency. **E.D. July 24, 2010.**

Exclusion from Seasonal Highway Weight Limits. **Chapter 126 (HB 1249)** excludes from the

Department of Transportation's seasonal highway limit regulations any truck that weighs less than half of its permissible weight limit under RSA 266:18-a. However, the exclusion is scheduled to expire two years after it takes effect. **E.D. January 1, 2011.**

Public Works Mutual Aid Agreements. Chapter 159 (SB 378) amends the statute on inter-governmental agreements, RSA 53-A, to add a section specifically addressing public works mutual aid agreements. Among other things, the new section (1) allows the participation of private companies performing services that would otherwise be performed by a public agency (such as a privately owned water or wastewater utility); (2) allows for the creation of a board of directors or other body to govern and administer the agreement and the mutual aid program; (3) allows the agreement to contain indemnification provisions; and (4) states that functions performed under the agreement are governmental functions, and the persons performing those functions are entitled to certain immunities and exemptions. The chapter also ratifies the mutual aid and assistance agreement creating the New Hampshire Public Works Mutual Aid Program, which was entered into in 1998. **E.D. August 16, 2010.**

Placement of Disabled Parking Signs. Chapter 252 (HB 1262) amends current law requiring disabled parking signs by adding a penalty for failure to comply. Such failure will now be subject to a \$250 fine imposed on the property owner, provided that the owner may not be fined more than once every 120 days. **E.D. January 1, 2011.**

Operation of OHRVs and Snowmobiles along State Highways. Chapter 253 (HB 1269) provides that OHRVs and snowmobiles may be operated within the rights-of-ways adjacent and parallel to class I, II, and III highways only when they are on established highway trail crossings or trail connectors approved pursuant under RSA 215-A:3, VI, or 215-C:2, VII. Previous law allowed operation within the right-of-way “[w]henver it is impracticable to gain immediate access to an area adjacent to a public highway where [the] vehicle is to be operated.” The new law also adds prohibitions on the direct crossing of divided highways and removes prohibitions on the direct crossing of limited access highways. **E.D. September 4, 2010.**

VIII. TAXES; ASSESSING AND COLLECTIONS; EXEMPTIONS; CURRENT USE

No Extension for Telephone Pole Tax Exemption. One of the most important legislative developments this year was a bill that did *not* pass. The House killed **SB 492**, which would have extended the property tax exemption under RSA 72:8-b for conduits and wooden poles owned by telecommunication companies. The exemption had been enacted on a temporary basis in 1998 and was extended five times since then. The most recent extension expired on July 1 of this year, so with the failure of **SB 492**, the exemption is now gone. Because the exemption was still in place on April 1, 2010, the conduits and poles cannot be taxed in the current tax year. However, municipalities should be prepared to assess and tax the property for the tax year that begins April 1, 2011. **NHMA POLICY TO OPPOSE.**

Low-Income Housing Tax Credit Clarifications. Chapter 40 (SB 349) clarifies RSA 75:1-a relative to assessing residential property subject to a housing covenant under the low-income housing tax credit program. Originally adopted in 2008, RSA 75:1-a provided a “temporary” process to value low-income housing tax credit property, and left it to the Assessing Standards Board (ASB) to review the subject further and, if appropriate, adopt rules. The ASB spent considerable time and supported amendments to the existing statute rather than rulemaking. **Chapter 40** reflects those changes and repeals a contingent amended version of the statute that is no longer relevant. **E.D. June 30, 2010.**

No Tax Exemption for Sewage Disposal Systems. Chapter 94 (HB 1293) amends RSA 72:12-a, which establishes a property tax exemption for pollution control facilities, to provide that the exemption is not available for sewage disposal systems. However, any exemption for a sewage disposal system that was granted before January 1, 2010, will remain in effect. **E.D. May 25, 2010.**

Quarterly Billing for Property Taxes. Chapter 153 (HB 1427) makes a technical correction to RSA 76:15-aa regarding the time for issuing the first quarterly tax bill when converting to the optional fiscal year. The first tax bill must be issued 30 to 45

days following the date of town meeting, rather than on April 1. **E.D. June 14, 2010.**

Loss of Appeal Rights for Failure to File Inventory Form. Chapter 217 (HB 1571) adds an exception to the loss of appeal rights for failure to file inventory forms under RSA 74:7-a. If a municipality delivers a blank inventory form to the previous owner of a parcel of property that was transferred during the tax year, the subsequent owner will not lose his or her appeal rights for failing to file the form. **E.D. April 1, 2011.**

Utility Property Tax Valuation. Chapter 219 (HB 1615) clarifies that for the utility property tax assessed at the state level, the market value of the property means the property's full and true value as defined under RSA 75:1, which shall be determined based upon generally accepted appraisal methods and techniques. The chapter reiterates the legislative intent that municipalities may assess utility property independently for municipal, school and county taxation purposes. For regulated public utilities, the commissioner of the Department of Revenue Administration is required to hold a public hearing to receive input regarding the state's assessment of such utilities. **E.D. August 27, 2010.**

Current Use Assessments. Chapter 237 (HB 1609) clarifies that the land use change tax (LUCT) is a tax on the change in the use of the land, and not a tax on the land itself. It also clarifies that the exemptions under RSA 72:23 do not apply to the LUCT, and that no person or entity is exempt from payment of the LUCT. **NHMA POLICY.** The chapter also changes the statutory assessment for unproductive land from an amount "equal to" that of the lowest valuation in any other current use category to an amount "not to exceed" the lowest current use value, thereby allowing the Current Use Board to set the rate for unproductive land lower than the rates for other categories. It extends the period for assessment of the LUCT from 12 months to 18 months from the time of written notice regarding the change in use, or from the date the change in use is actually discovered. Finally, it clarifies the amount of land to be disqualified from current use assessment in the case of condominium developments. **E.D. April 1, 2010.**

Agricultural Restricted Grants. Chapter 238 (SB 123) defines "agricultural restricted grants" as grants given by the Department of Agriculture, Markets and Food to landowners for financial or technical assistance in return for guarantees of continued farm use of the property for a minimum specified time period. These grants are included under RSA 432 and treated similarly to the current provisions of law regarding the acquisition of agricultural development rights, which authorize the taxation of such land at current use values. The chapter also removes the authority for the state treasurer to issue bonds to fund any appropriations under RSA 432, and replaces it with the authority for the agricultural lands preservation committee to apply for and accept public or private grants, gifts or donations. **E.D. July 1, 2010.**

Assessing and Equalization Standards Boards. Chapter 257 (HB 1337) amends the powers and duties of the Assessing Standards Board (ASB) by requiring adoption of administrative rules regarding the "decertification" of assessing officials. The chapter also provides the Department of Revenue Administration (DRA) with the authority to "suspend or take other disciplinary action" for failure to comply with the rules of the ASB. These amendments provide consistency in the language in RSA 21-J regarding the rulemaking authority and duties of the ASB and DRA in the area of assessor certification. The chapter also amends the public forum provisions of both the ASB and the Equalization Standards Board to require at least one, instead of three, annual public forums. **E.D. July 1, 2011 for DRA amendment; July 6, 2010 for remainder.**

Amendment of Inventories and Tax Lists. Chapter 301 (HB 1358) makes technical corrections to RSA 76:15, regarding amendment of inventories and tax lists. The previous law stated that inventories and tax lists already delivered to a tax collector shall be amended by the selectmen or assessors to correct errors or to perfect property descriptions, if requested by the tax collector prior to posting the "notice of a tax sale in accordance with the provisions of RSA 80:21." The new law merely adds the words "or tax lien" after "tax sale," and changes the statutory reference to include all of RSA chapter 80. It also makes the language gender-neutral. **E.D. September 11, 2010.**

IX. WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING

Regional Coordination Councils Established. Chapter 38 (SB 321) establishes regional coordination councils to (1) facilitate the implementation of coordinated community transportation in their regions; (2) encourage the development of improved and expanded regional community transportation services; and (3) advise the State Coordinating Council (SCC) on the status of community transportation in their regions. “Community transportation” is defined as “services that address all transit needs of a community, including general and special populations, such as persons with disabilities and seniors.” The regions for each regional council, and the designation as a regional council, must be approved by the SCC. The chapter also expands the SCC’s duties to cover transportation options for the general public, not just senior citizens and the disabled, but with particular emphasis on citizens in need of access to essential services and activities. **E.D. July 17, 2010.**

Burial Expenses for Certain Veterans. Chapter 79 (HB 1568) amends the provisions of RSA 165:17, pertaining to the payment of burial expenses for veterans who do not leave a sufficient estate to cover those charges. The chapter redefines the wars and conflicts in which the veteran must have served for the purpose of determining eligibility for assistance with burial expenses, eliminating older wars such as the Spanish War and the Boxer Rebellion, and including such hostilities as the Persian Gulf War, which began August 2, 1990 and will terminate on the date prescribed by Presidential proclamation or by law. **E.D. July 18, 2010.**

Committee on Housing for Homeless Veterans. Chapter 147 (HB 1387) creates a committee to study the need for supportive housing for homeless veterans. The committee is directed to consider financing methods for such supportive housing, including available federal funding, and is specifically authorized to seek input from, among others, the New Hampshire Municipal Association. The committee will issue its report before November 1, 2010. **E.D. June 14, 2010.**

Liability of Overseers of Public Welfare. Chapter 214 (HB 1524) adds overseers of public welfare and town and city health officers to RSA 31:105, which, upon vote of the governing body, indemnifies and holds harmless the listed officials from personal damages for accidental injury to a person or accidental damage to property if the indemnified person was acting in the scope of his or her employment or office. The chapter also adds overseers of public welfare and town and city health officers to RSA 31:106, which indemnifies and holds harmless the listed officials from personal damages for violation of the civil rights of any person under any federal law if the violation was not committed with malice, and if the indemnified person was acting within the scope of employment or office. **E.D. January 1, 2011.**

X. UTILITIES

No Extension for Telephone Pole Tax Exemption. One of the most important legislative developments this year was a bill that did *not* pass. The House killed **SB 492**, which would have extended the property tax exemption under RSA 72:8-b for conduits and wooden poles owned by telecommunication companies. The exemption had been enacted on a temporary basis in 1998 and was extended five times since then. The most recent extension expired on July 1 of this year, so with the failure of **SB 492**, the exemption is now gone. Because the exemption was still in place on April 1, 2010, the conduits and poles cannot be taxed in the current tax year. However, municipalities should be prepared to assess and tax the property for the tax year that begins April 1, 2011. **NHMA POLICY TO OPPOSE.**

Pressurized Hot Water Pipes. Chapter 49 (HB 1227) authorizes a municipality to excavate and dig ditches and conduits and lay pipes for the transmission of pressurized hot water. **E.D. July 17, 2010.**

Expansion of Net Metering Allowance. Chapter 143 (HB 1353) broadens the definition of a “customer-generator” under the state’s net energy metering law. That law allows electric customers who generate their own renewable energy to sell to the utility company any energy that the customers generate in excess of their own needs. The old law was available only to customers whose facilities had a total peak generating capacity of

100 kilowatts or less. The new law makes net metering available to facilities that begin operation after July 1, 2010, and have a peak capacity of up to one megawatt. The chapter also makes various other changes to the net metering law. **E.D. August 13, 2010.**

Utility Property Tax Valuation. Chapter 219 (HB 1615) clarifies that for the utility property tax assessed at the state level, the market value of the property means the property's full and true value as defined under RSA 75:1, which shall be determined based upon generally accepted appraisal methods and techniques. The chapter reiterates the legislative intent that municipalities may assess utility property independently for municipal, school and county taxation purposes. For regulated public utilities, the commissioner of the Department of Revenue Administration is required to hold a public hearing to receive input regarding the state's assessment of such utilities. **E.D. August 27, 2010.**

XI. EDUCATION FUNDING

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School Building Aid Suspended. Chapter 246 (SB 486) suspends school building aid and alternative school building aid for all projects approved on or after June 30, 2010 and through June 30, 2011. The Commissioner of Education may waive the suspension in particular cases upon the recommendation of the state fire marshal if remediation of conditions or structural deficiencies is necessary to avoid danger to the life or safety of occupants or others. Any building aid provided under such a waiver must be limited to the costs associated with the remediation. **E.D. June 30, 2010.**

XII. SPECIAL ACTS

North Conway Water Precinct Boundaries. Chapter 27 (HB 1199) approves the boundaries of the North Conway Water Precinct as described in the 2007-102 Boundary Ratification Plan for the North Conway Water Precinct by H.E. Bergeron Engineers. **E.D. July 6, 2010.**

Money for Kindergarten in Milford and Dam Repair in Manchester. Chapter 29 (HB 1314) takes \$1,279,529 remaining from the Hillsborough North Courthouse renovation and appropriates that sum, through the Department of Education, to the Milford School District for the purpose of building kindergarten classrooms. The legislation also appropriates up to \$125,000 as a 50 percent matching grant to the City of Manchester to repair and renovate Dorrs Pond Dam. **E.D. May 13, 2010.**

Cemetery Boards of Trustees in Nashua. Chapter 32 (SB 72) consolidates three cemetery boards in Nashua into two boards. The Boards of Trustees for Edgewood, Woodlawn and Suburban Cemeteries are consolidated and reconstituted into a Board of Trustees for the Edgewood and Suburban Cemeteries, and another Board of Trustees for the Woodlawn and Lithuanian Cooperative Cemeteries. **E.D. July 17, 2010.**

Pleasant Lake in Deerfield Reclassified. Chapter 44 (SB 426) reclassifies Pleasant Lake in Deerfield as Class A waters under the provisions of RSA 485-A:8. **E.D. May 18, 2010.**

Ossipee Corner Light and Power Precinct Annual Meeting. Chapter 90 (HB 1198) ratifies warrant article number 6 of the 2010 Ossipee Corner Light and Power Precinct annual meeting, regarding the purchase of a new fire engine. Alternatively, it authorizes the precinct to enter into a lease/purchase agreement for a fire engine, provided the terms are more favorable than a bond. **E.D. May 25, 2010.**

Transfer from Hanover Water Fund to General Fund. Chapter 161 (SB 391) authorizes the Town of Hanover to transfer money from its water fund to its general fund, on June 30 and December 31 of each year, for disbursement to Grafton County and to the Hanover and Dresden School District. The amount to be transferred is the amount that would have been paid as property taxes on certain property that was transferred from the Hanover water works company to the Town of Hanover on July 1, 2010, if the transfer had not occurred. **E.D. July 1, 2010.**

Revision of Concord School District Charter. Chapter 213 (HB 1497) creates a charter commission to recommend a procedure for the Concord School District to revise, amend, or replace its charter.

The procedure recommended by the charter commission will be a ballot question at the November 2011 regular election. If the procedure is approved by the voters, then the school district will be solely responsible for changes to its charter, without further action by the general court. **E.D. June 28, 2010.**

Glossary

E.D. – Effective Date

HB – House Bill

SB – Senate Bill

Where to Obtain Copies of 2010 Laws

Legislators. You should be able to contact your Representative or Senator to secure copies of new laws. There should be no charge for these copies if you request a small number.

General Court Website. Access at: http://www.gencourt.state.nh.us/bill_status/misc/chaptered_final_version.aspx.



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