



## CROSS-OVER TIME

*April marks the halfway point of the legislative session, when bills that have survived their respective committees move on to the opposite body.*



### **A MESSAGE FROM GARY ABBOTT, EXECUTIVE VICE PRESIDENT**

*Something happened this year and although I really can't explain it, I'm going to try.*

It's like somebody turned ON the light switch. This year has been like no other. I am inclined to think it is because the election was so controversial because many candidates clearly had varying opinions on many of the major topics heading into this session.

When I look back at the first three months of this legislative session I knew, coming in, that the House was close to a 50/50 split between Republicans and Democrats, and that a few committees were going to end up voting in a tie; ending with no recommendations on bills sent to the House floor. It would then be up to the 400 member House to vote on these issues.

So why is this important? Every year, many bills return to be considered again from previous years. Since the House is so evenly split, many of these bills would face a much tougher time passing so some representatives have chosen not to refile them this year. What I didn't expect this was how all of the hard work AGC of NH and its members did paid off when it comes to:

- Promoting school building aid over the years while there was a moratorium.
- Promoting the need for increased highway funding.
- Finding a balance when it comes to all of these new alternative/electric vehicles.
- Working with former Representative Norm Major for many years, trying to come up with a system to maintain a user fee of some type for electric vehicles that would guarantee the longevity of funding our highway system.

This year it doesn't matter which side you're on. Both sides agree that we need to support our schools with school building aid and fix the inequities of gasoline powered vehicles vs electric vehicles. This is a major breakthrough and I feel proud that the association did the work to promote these issues, even when legislators couldn't come together, we continued to advocate, educate and support the need for solutions. A case in point; just look at what happened in the beginning of this year. A bill came in to add an additional registration fee for owners of electric vehicles to help pay their fair share of the building and maintenance of highways. The Senate immediately doubled the amount proposed to get the funds closer to the average annual costs which were included in former Representative Norm Major's original bills.

When it comes to school building aid, legislation was filed to guarantee \$50 million per cycle as the minimum amount in the State budget. In the process of the governor developing his budget, he has presented that he wants the school building aid to be raised to \$75 million. It appears that the House Finance committee agrees with this amount so that is very positive.

These are two major topics that the association has been supporting for years; testifying about the facts and figures and I am encouraged that it all seems to be coming together. I believe this is a direct result from companies supporting the Safer Road to Tomorrow coalition for many years and the AGC of NH continuing to be there to promote both building and highway infrastructure. I would also like to make sure I recognize the many contractors who have continually supported our efforts who testified at the state house and speak to our elected officials. All these efforts have culminated into what I see happening with this unprecedented year. However, I recognize we're only halfway through the session.

Let's not forget about all the other bills that we're working on this year. AGC of NH has played an integral role with some of the environmental bills presented this session by questioning the language and working with the state agency and our committees to help provide clarification on such things such as wetland mitigation and water quality. The Department of Environmental Services has been very open to these discussions on the changes we have requested.

The association has been an active participant on another major legislative proposal that is still working its way through the legislature and has passed the Senate, pertaining to the clarification of the Buy America Steel provision passed last year. As many of you know, the original language was very vague, leaving it to the courts to decide if projects have met the requirement. The AGC of NH has taken a proactive stance and submitted legislation to clarify this so it will work for both building and highway contractors. There was no opposition to our recommendations in the Senate. We will work closely with the House to get those clarifications passed to help contractors when bidding on future state projects.

Many of the bills we opposed in this session have already been voted Inexpedient to Legislate and a number of others have been retained by their respective committees to discuss again in the 2024 legislative session.

The following list highlights some of the bills the association has been working on, but is, by no means, the complete list of bills we have been following. If you have any questions on any bills or legislation that is not listed, I invite you to contact the association. We are always happy to share our efforts about this session.



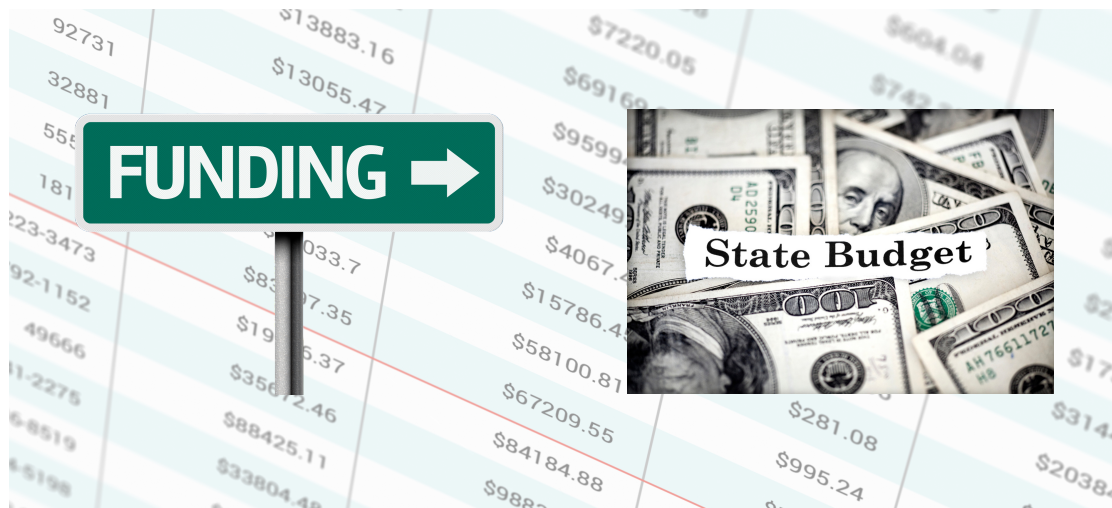
Bill	Position	Topic	Status
HB 62	Oppose	Relative to adjusting the road toll from the Highway Fund to General Fund	Voted Inexpedient to Legislate by the full house on February 14, 2023.

This bill reduces the total road toll from 22 cents per gallon to 18 cents per gallon. The bill was introduced on January 4, 2023 and then referred to the Public Works and Highways Committee. AGC of NH opposes this bill because the 4.2 cents per gallon reduction would be replaced from the General Fund which is subject to the budgetary process every two years, and there is no guarantee that the replaced funds would be allocated back to the highway fund. The Public Works Committee voted Inexpedient To Legislate 19-0 on February 3, 2023.

Bill	Position	Topic	Status
HB 541 & 546	Support	Relative to increase in school building aid to \$50 million dollars.	House Finance Committee Retained
HB 2		State Budget	Expected to Pass on April 6, 2023

On January 24, 2023, both House Bills 541 and 546 were heard before the House Finance Committee. AGC of NH supported both bills because they allocate at least \$50 million dollars per year (\$100 million biennial) to school building aid. A total of about \$49 million for this next biennium could possibly be available if building aid is fully funded, considering the debt currently outstanding.

Governor Sununu has presented in House Bill 2 (State Budget) that he wants the school building aid to be raised to \$75 million. It appears that the House Finance committee agrees with this amount. Both of these House bills have been retained and the House will increase school building aid in the budget.



Bill	Position	Topic	Status
HB 190	<b>Oppose, if not at least 17 weeks</b>	Relative to the duration of unemployment benefits.	Voted to Retain in Committee

The House Labor, Industrial and Rehabilitative Services Committee met for a public hearing on House Bill 190, which specifies the duration of unemployment benefits based on the state's average unemployment rate.



Representative Leonard Turcotte introduced similar legislation that passed last year but failed in a committee of conference. The bill reduces the minimum number of weeks from 26 to 14 and adjusts the unemployment rate by 0.5 percent annually based on the level of unemployment. Additionally, the bill creates an exception in a state of emergency. Deputy Commissioner of Employment Security Richard Lavers walked the committee through the Commission's opposition to the legislation, and further expressed their opposition last year as well. It was also noted that NH currently falls within the mainstream of unemployment benefits across the country. On this same previous legislation, AGC of NH opposed reducing the number of weeks to any lower than 16 weeks because of the impact on seasonal employers. While the position of the association agrees that the bill has good intent, the limit of 14 weeks doesn't help those workers in the construction industry who are routinely laid off in the winter months when the cold weather prevents certain construction activities. The average length of these layoffs are closer to 16 to 20 weeks so AGC of NH recommended 17 weeks to be the minimum. On March 15, 2023, The House Labor Committee voted to retain this bill for the next session.

Bill	Position	Topic	Status
HB 74	<b>Oppose</b>	Relative to an employee's unused earned time.	<b>The House will vote on April 6, 2023</b>

The House Executive Departments and Administration Committee met for a public hearing on House Bill 74, which requires an employer to pay an employee for unused earned time. Deputy Commissioner of the NH Department of Labor, Rudy Ogden, provided informational testimony and indicated that under current law if an employer has a standing or written policy, that policy prevails. Dave Juvet, from the Business and Industry Association, testified in opposition to the bill, but suggested that there may be situations where an employee is laid off who may not be paid for their time off. As a result, he suggested the bill could potentially be limited to that type of situation and considered this a "fair idea and worthy of discussion." However, he indicated that the bill as drafted is too broad, and employers should have the ability to determine which benefits serve their businesses the best. AGC of NH also opposed this bill. The House passed the legislation and referred the bill to the House Finance Committee. After review by House Finance, they recommended Inexpedient to Legislate by a vote of 13-11. The full House will vote on April 6th which is the final day before cross-over.

Bill	Position	Topic	Status
SB 56	Support with Amendment	Relative to mitigation payments for upland resource losses.	Voted Ought to Pass with amendment on March 9, 2023

Senate Bill 56 establishes a method for the Department of Environmental Services to determine the compensatory payments for upland resource losses. The bill's prime sponsor is Senator David Watters. When Senator Watters introduced the bill to the Finance Committee, he noted that in SB 56, when a contractor needs to alter wetlands as part of a project, they must enter into mitigation to preserve the upland resources connected to the wetlands being altered or complete a payment in lieu of direct mitigation into a fund that can be used to preserve upland resources at another site. He stated that this bill also broadens the definition of what resources can be supported by the "in lieu of mitigation fund." Senator Watters also stated that the mitigation fund helps facilitate protected areas but allows for development in or around these protected areas.

Testifying in support of this bill were Kevin Nyhan of the Department of Transportation and Darlene Forst, Wetlands Bureau Administrator of the Department of Environmental Services. Gary Abbott testified that under current statute, if a developer must impact a wetland as part of a project, they must mitigate the resources being altered or pay in lieu of mitigation into a fund. He also stated that contractors and developers should have to compensate for the wetlands being altered, not the setback or buffer. Gary Abbott further stated that this bill would make contractors pay an additional fee on top of the one they already pay for buffers and setbacks, noting that there is no language in the bill that states that money paid for wetland alteration goes to wetlands in another area.

Associated General Contractors of NH, the Department of Transportation and the Department of Environmental Services agreed on an amendment (0404s) to clarify that it only applies to upland buffers on prime wetlands, undeveloped tidal buffer zones and sand dunes.

Bill	Position	Topic	Status
SB 191	Support	Relative to road toll registration surcharges for electric vehicles. (Senate Committee raised registration fee to \$100.)	Voted Ought to Pass with Amendment on February 22, 2023

This bill establishes a registration surcharge for electric vehicles and requires the division of motor vehicles and Department of Transportation to report annually on the surcharge revenue and use of funds. SB 191 was first presented before the Senate Ways and Means Committee on February 1, 2023. Senator David Watters (D) presented the bill as the prime sponsor of the bill. SB 191 proposes a surcharge of \$50, where \$40 would go to the Highway Fund and the remaining \$10 would be used to construct charging stations. The Department of Safety states there are approximately 8,000 registered electric and plug-in hybrid vehicles that would be subject to the \$50 surcharge, therefore generating an estimated \$400,000 per year in new revenue, beginning in FY 2024.

After committee discussion and testimony, an amendment proposed to increase the proposed registration surcharge from \$50 to \$100, to be deposited into the Highway Fund. The Department of Transportation would be authorized to dedicate no more than 20 percent annually of collected fees for the construction of electric vehicle service equipment on New Hampshire transportation corridors, utilizing plans developed by the department in consultation with the Department of Environmental Services, the New Hampshire transportation council, and Drive Electric NH. The Department of Safety, division of motor vehicles would determine necessary procedures for determining vehicles subject to this surcharge.

On February 9, 2023, the full Senate voted Ought to Pass with Amendment. This bill then went to the Senate Finance Committee for review and subsequently was passed by the full Senate.

Supporters of this bill include Sen. Watters, Alex Koutroubas (American Council of Engineering Co's), Gary Abbott (Associated General Contractors of NH), Sam Evans Brown (Clean Energy NH), Andre Briere (NHDOT), Bob Scully (NHMTA), Rep. George Sykes

Bill	Position	Topic	Status
SB 195	Support	Relative to Buy American steel products	Voted Ought to Pass and Adopted with Amendment on March 16, 2023

This bill revises made in America contract requirements for certain state steel contracts. This bill modifies RSA 21-I:11, which went into effect January 1, 2023, requiring the use of American made steel products in all public works projects where the state administers the contract. This bill adds provisions to the RSA making it only applicable to State funded contracts of at least \$1,000,000. It includes a requirement for affected state agencies to specify in the contract documents which steel products "need Buy America certification." It also includes a process by which affected state agencies may request a waiver of the requirements of the bill in certain circumstances. Lastly, this bill also clarifies excluded products such as nuts, bolts, washers, etc. Senate Bill 195 was referred to the Commerce Committee. This bill was requested by AGC of NH.

On February 7, 2023, Senate Bill 195 was presented in front of the Senate Commerce Committee by Senator Sharon Carson (R). Senator Carson testified that this bill would make changes to the state requirements for certain steel contracts with the Buy America certification. Last year, similar legislation had been signed into law; however, some provisions needed clarification that steel manufacturers and contractors felt were important.



This bill would make four changes that were not previously addressed in the current law:

- Applicable to large, fabricated items instead of small items, such as nuts, bolts, or hinges.
- Only applicable to state projects, not maintenance projects, that are \$1 million or more.
- State-funded contracts would have to identify steel products in the project documents, so that all bidders are aware of the requirements.
- A procedure would be set up for NH Administrative Services to allow for waivers when there are supply chain or availability issues.

Senate Bill 195 was amended to use the latest "Code of Standard Practice for Steel Building and Bridges" and was passed by the full Senate on March 16th. The House Commerce Committee heard the bill on March 29th.

Gary Abbott, Executive Vice President, Associated General Contractors of NH testified in support of this bill, as amended. Also in attendance in support of SB 195 were Amy Charbonneau (Continental Paving), Natasha Michelson (Hutter Construction), Adam Bates (Weaver Brothers Construction Co.), Wendy Hunt (Greater Nashua Chamber of Commerce), Patrick L'Heureux (Severino Trucking), Dale Sackett (Beck & Bellucci), Hollie Noveletsky (Novel Iron), Steve Chasse (SL Chasse Steel).

Bill	Position	Topic	Status
SB 270	Support	Relative to appropriations to the Department of Transportation for additional municipal highway funding.	Voted Ought to Pass on 3/23/2023, then Laid on Table

Senate Bill 270, relative to appropriations to the Department of Transportation, was introduced to the Senate on February 14, 2023 by prime sponsor Senator Lou D'Allesandro. The bill was referred to the Senate Finance Committee. A similar bill, Senate Bill 401, was passed in 2022.

This bill appropriates \$40,000,000 in FY 2024 of highway funds to the Department of Transportation for the distribution of aid to municipalities. Of this amount, \$20,000,000 will be distributed as bridge aid (\$10,000,000 based on bridge deck area and \$10,000,000 based on population), and \$20,000,000 as additional "apportionment A" (highway block grants) distributions under RSA 235:23, I.



For the Department of Transportation; Municipal Bridges, one half of the funds (\$10,000,000) shall be distributed to municipalities with municipally-owned bridges based on each municipality's total bridge deck area per department inventory, as of January 1, 2023. The other half of the funds (\$10,000,000) shall be distributed to municipalities with municipally-owned bridges based on each municipality's share of total state population based on the Office of Planning and Development's population estimate with each municipal population in proportion to the total population of the state as of July 1, 2022. The funds to be distributed under this section shall be in addition to all other state and federal aid specifically authorized by statute. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated and such warrant shall be a charge against the highway fund. No funds appropriated under this section shall be used to supplant locally budgeted and approved funds for bridge maintenance or construction. The funds appropriated in this section may be considered unanticipated money under RSA 31:95-b and may be accepted and expended pursuant to RSA 31:95-b, II through IV, whether or not a political subdivision has adopted the provisions of RSA 31:95-b.

For the Department of Transportation; "Apportionment A" Distributions; a sum of \$20,000,000 for the fiscal year ending June 30, 2024, which shall be non-lapsing and expended as additional "Apportionment A" distributions under RSA 235:23, I. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated and such warrant shall be a charge against the highway fund. No funds appropriated under this section shall be used to supplant locally budgeted and approved funds for road maintenance or construction. The funds appropriated in this section may be considered unanticipated money under RSA 31:95-b and may be accepted and expended pursuant to RSA 31:95-b, II through IV, whether or not a political subdivision has adopted the provisions of RSA 31:95-b.

The full Senate tabled the legislation as they have agreed to place this language in House Bill 2, which is the State Budget bill that will be sent from the House to the Senate after April 6th,

