



2023 LEGISLATIVE REPORT



June marks the end of the legislative session, when bills that have survived move on to the Governor.



A MESSAGE FROM GARY ABBOTT, EXECUTIVE VICE PRESIDENT

Refreshing and Fun Session – Bet you didn't anticipate anyone saying that about a legislative session.

After so many years of lobbying on behalf of the construction industry and getting into conflicts to fix bad policies and laws, this year wasn't like that. Just ask the many AGC contractor members whom I asked to attend key bills that left the state house wondering if they really needed to show up at all.

From my prospective, I never expected the legislative committees to agree with us as much as they did this year. I'm hoping this was not an exception, but rather the result of all our hard work over the last decade working with legislators on both sides and educating our state leaders on construction & business-related issues. While many would like to give me the credit, the credit really goes out to our association membership.

Let me give you the secret sauce that no one talks about. The education happened even before the November election in 2022 when members:

- Met with legislators one-on-one at the AGC office to discuss construction issues.
- Small groups of industry professionals joined me for meetings at the state house, even when I was on crutches!
- Members attended and speak at hearings, which is so important when legislators are deciding industry issues.

I'm very proud of what we, as an association, have accomplished this year. Even though you may have been just a small part of this, together the AGC has had a major impact on our industry's future.

Let's summarize the major items that got done this year to help our industry:

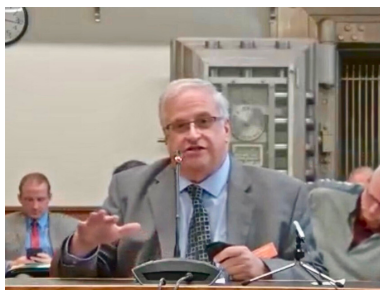
- Fixed the language of the NH Buy America steel requirements that passed last year to make it workable for the construction industry.
- Fully funded school building aid at \$50 million per year. This had not been done since the state school building aid moratorium went into effect in 2011.
- Utilized \$20 million in excess funds for municipal highway infrastructure improvements.
- Funded Fish & Game in the budget for staff processing of AOT permits through 2025. (We did not want a repeat of AOT permits not processed in 2021.)
- Added a state electric vehicle registration fee (\$100 EV & \$50 Hybrid EV) for compensating the loss of revenue to the highway fund.
- Allowed wetland mitigation payments for upland resource losses.
- Limited and provided guidelines on local municipal construction bonds to provide a fair balance with the developer.

Here is a list of major bills that did not pass that could have hurt our industry this year:

- Lowering the gas tax and making the highway fund reliant on the state budget every two years.
- Lowering the number of weeks an individual could collect on unemployment that would hurt seasonal workers.
- Mandating vacation paid time regardless of company policies.
- Adopting the California innovative vehicle emissions standards pursuant to section 177 of the federal Clean Air Act.
- Requiring developers to do a hydrology analysis certifying adequate water capacity and potability on all new subdivisions.

These top bills are just a few that we got involved with this year. A number of other bills are listed in this Annual Legislative Report. Keep in mind, even though this session has ended, legislators will be filing bills this fall for next year and will begin working on many bills that were either retained or sent to study this session. Let's hope this positive trend continues, as I know the association and industry members will continue to educate our elected officials on construction-related issues. I am proud to say our elected officials have come to rely on AGC in this regard.

If you have any questions on any bills or legislation that is not listed in this report, I invite you to contact the association. We are always happy to share our efforts about this session.



Bill	Position	Topic	Status
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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.
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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 was referred to the Public Works and Highways Committee. AGC of NH opposed 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, and by the full House on February 14, 2023.

Bill	Position	Topic	Status
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HB 541 & 546	Support	Relative to increasing school building aid to \$50 million dollars per year.	Passed in the Budget on June 8, 2023
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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 had presented in House Bill 2 (the State Budget) that he wanted the school building aid to be increased an additional \$75 million in a one-time expenditure. The House Finance committee did not agree to leave the additional money in the budget, but did, for the first time since the school building moratorium, fully fund school building aid with the \$50 million per year. that has been proposed over several budget cycles and not adopted in previous legislatures. The Senate concurred with the House in passage of the budget.

Bill	Position	Topic	Status
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SB 78	Support	Relative to subdivision regulations and municipal required bonds and conditions	Passed the Legislature on June 29, 2023.
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This bill, as amended, establishes requirements and limits on security bonds required by municipalities for completion of work, by contractors, under subdivision regulations. These limits require that municipalities release the bonds in a more efficient manner. This will enable builders and contractors to complete projects in a cost effective manner. The amendments made both in the Senate and House further clarifies time frames for completion of inspections and approvals. The NH Home Builders took the lead on this legislation and AGC testified in support of these clarifications.

SB 78, continued

Some of these changes include:

- No bond or other security required under this section shall exceed 15 percent per year. No cost increases shall be allowed for engineering, administration, or other non-construction reasons.
- The planning board limitations under this section shall not require letter of credit, cash, or passbook as the only method securing the completion of the work. A planning board shall allow road and utility construction to start without a bond, however, a bond for the infrastructure, roads, and utilities must be in place prior to the sale of any parcel of land within the subdivision or a request for a building permit for structures for human occupation. The planning board shall not require that forfeiture or automatic call bonds be provided by the developer.
- Inspections required by the municipality for release of a bond shall be completed within 30 business days of written request delivered by hand or sent by courier or service. Any requirements not recognized by the municipality as complete or non-compliant shall require written notification be sent, delivered by hand or sent by courier or service, within 15 business days of the inspection, to the bonded party. The bonded party shall complete the work within 30 days of receipt of notification. The municipality shall inspect for completion of the work cited as incomplete or non-compliant in the first inspection, within 15 business days of written notification delivered by hand or sent by courier or service. All bonds shall be released within 90 days of final sign off.

This legislation went to the Committee of Conference on June 20, 2023, where both the House and Senate members agreed to a minor language change and was passed by the Legislature on June 29, 2023.

Bill	Position	Topic	Status
HB 190	Oppose	Relative to the duration of unemployment benefits.	Voted to Retain in the House Labor 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. This year's 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. It was also noted that NH currently falls within the mainstream of unemployment benefits across the country. 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
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HB 74	Oppose	Relative to an employee's unused earned time.	The full House passed the legislation on April 6, 2023. The full Senate voted Inexpedient to Legislate by a voice vote on May 18, 2023.
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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 voted on April 6th in favor of the legislation by a vote of 205 to 181. The Senate Commerce Committee heard the bill on April 18th in which AGC presented to the committee a position paper in opposition to the proposed legislation. The committee voted 3-2 Inexpedient to Legislate and the full Senate agreed by a voice vote on May 18, 2023.

Bill	Position	Topic	Status
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SB 56	Support with Amendment	Relative to mitigation payments for upland resource losses.	The House Voted Ought to Pass with amendment on March 9, 2023, and the Senate passed this bill on May 18, 2023.
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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, of the Department of Environmental Services. Gary Abbott of AGC testified in opposition because under current statute, if a developer impacted 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 buffer fee on top of the one they already pay.

The Senate Committee asked Associated General Contractors of NH, the Department of Transportation, and the Department of Environmental Services to get together to work out our language interpretation differences. AGC held a meeting with the two state agencies and our AGC Environment Committee and we agreed on an amendment to clarify that it only applies to upland buffers on prime wetlands, undeveloped tidal buffer zones and sand dunes. The Senate adopted the amendment and passed the legislation on March 9, 2023. The full House also passed the bill on May 18, 2023.

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

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 was proposed to increase the 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 the amendment, increasing the surcharge. This bill then went to the Senate Finance Committee for review and subsequently was passed by the full Senate again. In the House Ways and Means Committee, they found the legislation complicated and decided to retain it in committee until next year. The Senate Finance Committee decided to add this language to the State Budget, where they added two surcharges instead of the proposed one in the original legislation. The new surcharge that was added was for plug-in hybrid vehicles for a \$50 annual fee, which passed in the state budget.

Bill	Position	Topic	Status
SB 195	Support	Relative to Buy American steel products	The Legislature passed this legislation on June 1, 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.

The bill was amended in the Senate to use the latest "Code of Standard Practice for Steel Building and Bridges" and was passed by the full Senate on March 16, 2023. The House Commerce Committee heard the bill on March 29, 2023..

Gary Abbott of the Associated General Contractors of NH, Amy Charbonneau of Continental Paving, and Hollie Noveltsky of Novel Iron, testified in support of this bill, as amended. Also in attendance in support of SB 195 were 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), and Steve Chasse (SL Chasse Steel).

At the end of the hearing, the House Commerce Committee immediately voted unanimously to pass the legislation. On the session day in the House one of the representatives wanted to amend the legislation as she felt one section of the legislation dealing with alternative methods was confusing. Upon further review, AGC drafted an amendment that eliminated that line which we feel had no impact on the intent of the legislation. On May 18, 2023, the full House passed the amendment and the bill. On June 1st, the full Senate concurred with the final House version which then passed the legislature.



Bill	Position	Topic	Status
SB 270	Support	Relative to appropriations to the Department of Transportation for additional municipal highway funding.	Added and Passed in the State Budget on June 8, 2023.

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 it in House Bill 2, the State Budget. The Senate Finance Committee amended the budget to include this language but at a reduced level of funding. Instead of the proposed \$40 million dollars in total for the two programs it would be \$20 million. The House concurred with the Senate on the budget, and it passed on June 8, 2023.



Bill	Topic	Status
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HB 1 & 2	State Budget for 2024 and 2025	The Budget Passed on June 8, 2023.
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This year’s budget contains four items that were all important to our industry and three of these items started out as separate legislation contained in this report. They include fully funding school building aid as discussed in House Bill 541 & 546 at the \$50 million per year, funding road & bridge municipal infrastructure program for \$20 million (SB 270) and adding a vehicle registration surcharge of \$100 and \$50 for electric and hybrid cars respectively (SB 191). The fourth item the association supported was adding approximately \$200,000 to the Fish & Game department to fully fund the staff that processes the Alteration of Terrain permit if it has an impact on endangered species. This money was needed as the agency had been funding the staff through federal funds that will end on December 31st of the second year of the budget cycle. The future challenge for Fish & Game is where will they get funding for these individuals in the next budget cycle.

Bill	Topic	Status
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HB 25	Capital Budget	Passed the Legislature on June 15, 2023.
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Every two years, the State puts together their capital projects that reflects the needs of each state agency which include building improvements that will be put out for bid in the next budget cycle. This year the legislation that was passed contained capital needs of over \$105 million. Not all of that is construction related, but a number of these projects are. AGC will do a separate story highlighting those projects that may be of interest to the industry in an upcoming newsletter issue.

