LEGISLATIVE COMMITTEE MINUTES

SB239

Bill as Introduced

SB 239-FN - AS INTRODUCED

2022 SESSION

22-2852
10/11

SENATE BILL *239-FN*

AN ACT relative to noncompliance with municipal audit requirements.

SPONSORS: Sen. Giuda, Dist 2; Rep. Major, Rock. 14; Rep. Umberger, Carr. 2

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill requires notification to the department of revenue administration of a completed municipal or county audit and establishes a fine for failure to complete a required audit.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2852
10/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to noncompliance with municipal audit requirements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Department of Revenue Administration; Municipal and property Division; Audits. Amend RSA 21-J:15, II-IV to read as follows:

II. [~~Performing~~] ***Ensuring the performance of*** general municipal and county audits.

III. Assisting the commissioner in [~~his responsibility for~~] setting municipal tax rates.

IV. Establishing a standard technical assistance manual for municipalities ***and political subdivisions*** on finance and budget matters. This manual shall be available for purchase from the division. The manual shall cover statutory requirements, administrative rules adopted by the commissioner, and advice and information for the use of municipalities ***and political subdivisions***. The manual shall distinguish between those provisions which municipalities ***and political subdivisions*** must comply with and those elements which are advisory in nature.

2 Section; Municipal and Property Division. Amend RSA 21-J by inserting after section 20 the following new section:

21-J:20-a Notification Required; Failure to Complete Audit.

I. Upon completion of an audit made pursuant to RSA 21-J:19 or RSA 21-J:20, each city, town, school district, village district, county, or precinct shall provide notification to the department of the completed audit and a copy such audit shall be sent to the department. If a required audit is not completed by the due date of such audit, the commissioner may levy a fine of up to $250 per day for every day of noncompliance, commencing 90 days after the department has provided written notice to the municipality, political subdivision, or county of the intent to levy such fine.

II. The municipality, political subdivision, or county may petition the commissioner for waiver of the fine in instances where the failure to complete a statutorily required audit by the due date of such audit was due to reasonable cause. If a waiver is granted, the municipality, political subdivision, or county shall within 90 days of receiving the waiver from the department provide the department an executed contract binding the municipality, political subdivision, or county, to conduct the required audit with an entity licensed and certified to do so, and within a time frame approved by the commissioner. Fines collected by the department pursuant to this section shall be deposited in the general fund.

3 Notice by the Department of Revenue Administration. The department of revenue administration shall provide written notice of the provisions of RSA 21-J:20-a as inserted by this act to the governing body of all municipalities, political subdivisions, and counties subject to such

statute within 60 days of the effective date of this section in a manner prescribed by the commissioner of the department of revenue administration.

4 Effective Date. This act shall take effect upon its passage.

LBA
22-2852
Redraft 12/6/21

SB 239-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to noncompliance with municipal audit requirements.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill enacts new RSA 21-J:20-a, which would require each city, town, school district, village district, county, or precinct to provide notification to the Department of Revenue Administration (DRA) upon the completion of an audit made pursuant to RSA 21-J:19 or RSA 21-J:20 and provide a copy of said audit to the DRA. In instances where the required audit is not completed by the due date, the DRA may levy a fine of up to $250 per day for every day of noncompliance, commencing 90 days after the DRA has provided written notice of the intent to levy such fine.

The Department of Revenue Administration states the fiscal impact is an indeterminable increase in General Fund revenue and county and local expenditures as they are unable to determine the amount of fines that will be assessed. DRA also notes they could absorb any administrative cost from the bill into their budget.

It is assumed the fiscal impact of this bill l would not occur until FY 2023.

AGENCIES CONTACTED:

Department of Revenue Administration

CHAPTER 127
SB 239-FN - FINAL VERSION

2022 SESSION

22-2852
10/11

SENATE BILL ***239-FN***

AN ACT relative to noncompliance with municipal audit requirements.

SPONSORS: Sen. Giuda, Dist 2; Rep. Major, Rock. 14; Rep. Umberger, Carr. 2

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill requires notification to the department of revenue administration of a completed municipal or county audit and establishes a fine for failure to complete a required audit.

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CHAPTER 127
SB 239-FN - FINAL VERSION

22-2852
10/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to noncompliance with municipal audit requirements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

127:1 Department of Revenue Administration; Municipal and property Division; Audits. Amend RSA 21-J:15, II-IV to read as follows:

II. [~~Performing~~] ***Ensuring the performance of*** general municipal and county audits.

III. Assisting the commissioner in [~~his responsibility for~~] setting municipal tax rates.

IV. Establishing a standard technical assistance manual for municipalities ***and political subdivisions*** on finance and budget matters. This manual shall be available for purchase from the division. The manual shall cover statutory requirements, administrative rules adopted by the commissioner, and advice and information for the use of municipalities ***and political subdivisions.*** The manual shall distinguish between those provisions which municipalities ***and political subdivisions*** must comply with and those elements which are advisory in nature.

127:2 Section; Municipal and Property Division. Amend RSA 21-J by inserting after section 20 the following new section:

21-J:20-a Notification Required; Failure to Complete Audit.

I. Upon completion of an audit made pursuant to RSA 21-J:19 or RSA 21-J:20, each city, town, school district, village district, county, or precinct shall provide notification to the department of the completed audit and a copy such audit shall be sent to the department. If a required audit is not completed by the due date of such audit, the commissioner may levy a fine of up to $250 per day for every day of noncompliance, commencing 90 days after the department has provided written notice to the municipality, political subdivision, or county of the intent to levy such fine.

II. The municipality, political subdivision, or county may petition the commissioner for waiver of the fine in instances where the failure to complete a statutorily required audit by the due date of such audit was due to reasonable cause. If a waiver is granted, the municipality, political subdivision, or county shall within 90 days of receiving the waiver from the department provide the department an executed contract binding the municipality, political subdivision, or county, to conduct the required audit with an entity licensed and certified to do so, and within a time frame approved by the commissioner. Fines collected by the department pursuant to this section shall be deposited in the general fund.

127:3 Notice by the Department of Revenue Administration. The department of revenue administration shall provide written notice of the provisions of RSA 21-J:20-a as inserted by this act to the governing body of all municipalities, political subdivisions, and counties subject to such statute within 60 days of the effective date of this section in a manner prescribed by the commissioner of the department of revenue administration.

127:4 Effective Date. This act shall take effect upon its passage.

Approved: May 27, 2022
Effective Date: May 27, 2022

Committee Minutes

SENATE CALENDAR NOTICE
Election Law and Municipal Affairs

Sen James Gray, Chair
Sen Regina Birdsell, Vice Chair
Sen Ruth Ward, Member
Sen Donna Soucy, Member
Sen Rebecca Perkins Kwoka, Member

Date: January 5, 2022

HEARINGS

Thursday	01/20/2022

Election Law and Municipal Affairs	State House 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m.	**SB 400-FN**	relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.
1:30 p.m.	**SB 239-FN**	relative to noncompliance with municipal audit requirements.
2:00 p.m.	**SB 405-FN**	relative to fines and penalties for election law violations.
2:30 p.m.	**SB 418-FN**	relative to verification of voter affidavits.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 400-FN			
Sen. Bradley	Sen. Whitley	Sen. Hennessey	Sen. D'Allesandro
Sen. Watters	Sen. Perkins Kwoka	Sen. Rosenwald	Sen. Avard
Sen. Cavanaugh	Sen. Sherman	Sen. Prentiss	Sen. Soucy
Sen. Kahn	Rep. DiLorenzo	Rep. Umberger	Rep. Alexander Jr.
Rep. Sweeney	Rep. Porter		
SB 239-FN			
Sen. Giuda	Rep. Major	Rep. Umberger	
SB 405-FN			
Sen. Giuda	Sen. Avard	Sen. Birdsell	Rep. J. MacDonald
Rep. Lang			
SB 418-FN			
Sen. Giuda	Sen. Bradley	Sen. French	Sen. Gannon
Rep. Howard			

Tricia Melillo 271-3077

James P. Gray
Chairman

Senate Election Law and Municipal Affairs Committee

Tricia Melillo 271-3077

SB 239-FN, relative to noncompliance with municipal audit requirements.

Hearing Date: January 20, 2022

Members of the Committee Present: Senators Gray, Birdsell, Ward, Soucy and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill requires notification to the department of revenue administration of a completed municipal or county audit and establishes a fine for failure to complete a required audit.

Sponsors:

Sen. Giuda Rep. Major Rep. Umberger

Who supports the bill: Senator Bob Giuda, Representative Norm Major, Representative Karen Umberger, Julie Smith, Brigitte Codling, Eric Loveless

Who opposes the bill: Cindy Kudlick, Jeanne Beaudin

Who is neutral on the bill: Carollyn Lear, James Gerry (NHDRA), Margaret Byrns (NHMA)

Summary of testimony presented in support:

Senator Bob Giuda

- SB 239 has come about because of a problem in his district.
- They had to pass a state law to require a community to comply with the required audit of their finances.
- This exposed the fact that while there is a requirement to do so there is no penalty or incentive.
- This community willfully ignored, for decades, the repeated requests to perform an audit as is required by law.
- This bill gives some strength to the Department of Revenue Administration, who drafted this language.
- It makes recommendations ensure the performance of general, municipal and county audits.
- It addresses the problem of statutory authority for the DRA.
- Additionally, it adds political subdivisions.
- The audit that was finally performed in the community produced many irregularities in their finances.
- This bill puts accountability to the public, in the hands of DRA, who has personnel with the technical knowledge to evaluate the audits and make recommendations to the communities.
- Without this bill, there is no reason for a community to perform the audit.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Carollyn Lear and James Gerry – NH DRA

- They have no position on the bill.
- They are able to answer any questions for the committee if needed.

Margaret Byrnes - NHMA

- NHMA has no position on the bill.
- Performing an audit is already required by law and it is a best practice for municipalities.
- They have heard from other municipalities that when
- They are only opposed to the fine provision that is worked into the bill, not the concept of the bill.
- Senator Gray asked if she has worked with Senator Giuda on that provision to see if they can come to an agreement.
    - Ms. Byrnes replied that she had not.

Senator Bob Giuda (in response)

- The problem with taking the fines out is that it reverts us back to where were before, with no accountability or penalty for failure to comply.
- It is not an acceptable outcome for this legislation that there is no consequence for failure to comply with the law.
- Senator Gray commented that he would be willing to sit with Senator Giuda and the NHMA to find a compromise.

TJM
Date Hearing Report completed: January 21, 2022

Speakers

Senate Election Law and Municipal Affairs Committee
SIGN-IN SHEET

Date: January 20, 2022 **Time:** 1:30 p.m.

SB 239-FN AN ACT relative to noncompliance with municipal audit requirements.
PRIME: Senator Giuda

Name/Representing *(please print neatly)*

REP. NORMAN MAJOR ROCK 14	Support ☒	Oppose ☐	Speaking?	Yes ☐ / No ☒
Senator Bob Giuda SD 2	Support ☑	Oppose ☐	Speaking?	Yes ☑ / No ☐
Rep KAREN UMBERGE CARROLL 2	Support ☒	Oppose ☐	Speaking?	Yes ☐ / No ☒
Carollyn Lear/James Gerry NHDRA	Support ☐	Oppose ☐	Speaking?	Yes ☒ / No ☐
M Byrns NHMA	Support ☐	Oppose ☐	Speaking?	Yes ☒ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ / No ☐

Senate Remote Testify

Election Law and Municipal Affairs Committee Testify List for Bill SB239 on 202

Support: 3 Oppose: 2

Name	Title	Representing	Position
Smith, Julie	A Member of the Public	Myself	Support
Kudlik, Cindy	An Elected Official	Myself	Oppose
Codling, Brigitte	A Member of the Public	Town of Haverhill	Support
Beaudin, Jeanne	A Member of the Public	Town of Belmont	Oppose
Loveless, Eric	A Member of the Public	Myself	Support

Voting Sheets

Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2022 Session

Bill SB 239

Hearing date: 1/20/22

Executive Session date: 2-7-22

Motion of: OTP **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	☐	☑	☑	☐
Sen. Birdsell, Vice Chair	X	☑	☐	☑	☐
Sen. Ward	X	☐	☐	☑	☐
Sen. Soucy	X	☐	☐	☑	☐
Sen. Perkins-Kwoka	X	☐	☐	☑	☐

Motion of: Consent **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	☐	☐	☑	☐
Sen. Birdsell, Vice Chair	X	☑	☐	☑	☐
Sen. Ward	X	☐	☑	☑	☐
Sen. Soucy	X	☐	☐	☑	☐
Sen. Perkins-Kwoka	X	☐	☐	☑	☐

Motion of: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	☐	☐	☐	☐
Sen. Birdsell, Vice Chair	X	☐	☐	☐	☐
Sen. Ward	X	☐	☐	☐	☐
Sen. Soucy	X	☐	☐	☐	☐
Sen. Perkins-Kwoka	X	☐	☐	☐	☐

Reported out by: Sen. Ward

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, February 7, 2022

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 239-FN**

AN ACT	relative to noncompliance with municipal audit requirements.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Ruth Ward
For the Committee

This bill requires notification to the Department of Revenue Administration of a completed municipal or county audit and establishes a fine for failure to complete a required audit. It will add accountability for municipalities to ensure the performance of general, municipal and county audits.

Tricia Melillo 271-3077

General Court of New Hampshire - Bill Status System

Docket of SB239

Docket Abbreviations

Bill Title: relative to noncompliance with municipal audit requirements.

Official Docket of **SB239.:**

Date	Body	Description
12/14/2021	S	To Be **Introduced** 01/05/2022 and Referred to Election Law and Municipal Affairs; **SJ 1**
1/5/2022	S	**Hearing:** 01/20/2022, Room 100, SH, 01:30 pm; **SC 2**
2/8/2022	S	Committee Report: Ought to Pass; Vote 5-0; CC **SC 7**
2/16/2022	S	**Ought to Pass**: MA, VV; OT3rdg; 02/16/2022; **SJ 3**
3/23/2022	H	Introduced 03/17/2022 and referred to Municipal and County Government
3/29/2022	H	Public Hearing: 04/07/2022 10:00 am LOB 301-303
4/6/2022	H	Executive Session: 04/18/2022 10:00 am LOB 301-303
4/26/2022	H	Committee Report: Ought to Pass (Vote 18-0; RC)
5/5/2022	H	**Ought to Pass**: MA VV 05/05/2022 **HJ 12**
5/24/2022	S	Enrolled Adopted, VV, (In recess 05/12/2022); **SJ 13**
5/24/2022	H	Enrolled (in recess of) 05/12/2022 **HJ 13**
6/1/2022	S	Signed by the Governor on 05/27/2022; Chapter 0127; Effective 05/27/2022

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 239 **Senate Committee:** EIMA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

✓ Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

✓ Bill version as it came to the committee

✓ All Calendar Notices

✓ Hearing Sign-up sheet(s)

N/A Prepared testimony, presentations, & other submissions handed in at the public hearing

✓ Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # _____ - amendment #_____
- amendment # _____ - amendment #_____

✓ Executive Session Sheet

✓ Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment #_____
- amendment # _____ - amendment #_____

Post Floor Action: (if applicable) (Clerk's Office)

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate as amended by the house

X final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Tricia Merullo
Committee Aide

6/2/22
Date

Senate Clerk's Office ✓