

# Bill as Introduced

HB 1281-FN - AS INTRODUCED

2010 SESSION

10-2482

08/09

HOUSE BILL            ***1281-FN***  
AN ACT                relative to certain securities laws.  
SPONSORS:            Rep. DeStefano, Merr 13  
COMMITTEE:           Commerce and Consumer Affairs

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ANALYSIS

This bill makes changes to the securities laws.

This bill is a request of the secretary of state.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to certain securities laws.

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

1           1 Licensing Procedures. Amend RSA 421-B:7, VII(d)(1)(E) to read as follows:

2                           (E) Chartered Investment Counselor (CIC) awarded by the Investment [Counsel]  
3 *Advisor* Association [~~of America, Inc.~~]; or

4           2 Post Licensing Provisions; Records, Reports and Replies. Amend RSA 421-B:8, XII(g) to read  
5 as follows:

6                           (g) (1) All books and records required to be made under the provisions of subparagraphs  
7 (a)-(e)(1) and (h) and (i), inclusive of this paragraph (except for books and records required to be  
8 made under the provisions of [~~subparagraph (b)(11) and (b)(15)] *subparagraphs (c)(11) and*~~  
9 *(c)(15)* of this paragraph), shall be maintained and preserved in an easily accessible place for a  
10 period of not less than 5 years from the end of the fiscal year during which the last entry was made  
11 on such record, the first 2 years in an appropriate office of the investment adviser.

12                           (2) Partnership articles and any amendments thereto, articles of incorporation,  
13 charters, minute books, and stock certificate books of the investment adviser and of any predecessor  
14 shall be maintained in the principal office of the investment adviser and preserved until at least 3  
15 years after termination of the enterprise.

16                           (3) Books and records required to be made under the provisions of [~~subparagraphs~~  
17 ~~(b)(11) and (b)(15)] *subparagraphs (c)(11) and (c)(15)* shall be maintained and preserved in an  
18 easily accessible place for a period of not less than 5 years, the first 2 years in an appropriate office of  
19 the investment adviser, from the end of the fiscal year during which the investment adviser last  
20 published or otherwise disseminated, directly or indirectly, any notice, circular~~

21           3 Denial, Revocation, Suspension, Cancellation, and Withdrawal of Application. Amend  
22 RSA 421-B:10, I(b)(7) to read as follows:

23                           (7) Has engaged in dishonest or unethical practices in the securities, *commodities,*  
24 *or insurance* business;

25           4 License Fees. Amend RSA 421-B:31, I(a)(4) to read as follows:

26                           (4) Amended dealer's license *and investment advisor's license* fee \$100

27           5 Effective Date. This act shall take effect July 1, 2010.

**HB 1281-FN - AS INTRODUCED**  
**- Page 2 -**

LBAO  
10-2482  
11/04/09

**HB 1281-FN - FISCAL NOTE**

AN ACT           relative to certain securities laws.

**FISCAL IMPACT:**

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2010 through 2014.

HB 1281-FN - AS AMENDED BY THE HOUSE

10Feb2010... 0318h

2010 SESSION

10-2482  
08/09

HOUSE BILL        ***1281-FN***

AN ACT            relative to certain securities laws.

SPONSORS:        Rep. DeStefano, Merr 13

COMMITTEE:      Commerce and Consumer Affairs

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- 21       3 Denial, Revocation, Suspension, Cancellation, and Withdrawal of Application. Amend
- 22 RSA 421-B:10, I(b)(7) to read as follows:
- 23                       (7) Has engaged in dishonest or unethical practices in the [~~securities business]~~
- 24 **conduct of business in the state of New Hampshire or elsewhere;**
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- 26                       (4) Amended dealer's license **and investment advisor's license** fee \$100
- 27       5 Effective Date. This act shall take effect July 1, 2010.

LBAO  
10-2482  
11/04/09

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**FISCAL IMPACT:**

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2010 through 2014.

1  
2  
3  
4  
5 **HB 1281 FISCAL NOTE**

6  
7 AN ACT relative to certain securities laws.  
8

9  
10 **FISCAL IMPACT:**

11 The Legislative Budget Assistant has determined that this legislation, as amended by the  
12 House (Amendment #2010-0318h), has a total fiscal impact of less than \$10,000 in each of  
13 the fiscal years 2010 through 2014.  
14



CHAPTER 101  
HB 1281-FN - FINAL VERSION

10Feb2010... 0318h  
28Apr2010... 1566eba

2010 SESSION

10-2482  
08/09

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AN ACT                relative to certain securities laws.  
SPONSORS:            Rep. DeStefano, Merr 13  
COMMITTEE:           Commerce and Consumer Affairs

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CHAPTER 101  
HB 1281-FN - FINAL VERSION

10Feb2010... 0318h  
28Apr2010... 1566eba

10-2482  
08/09

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1 101:1 Licensing Procedures. Amend RSA 421-B:7, VII(d)(1)(E) to read as follows:

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19 the investment adviser, from the end of the fiscal year during which the investment adviser last  
20 published or otherwise disseminated, directly or indirectly, any notice, circular, advertisement,  
21 newspaper article, investment letter, bulletin, or other communication.

22 101:3 Denial, Revocation, Suspension, Cancellation, and Withdrawal of Application. Amend  
23 RSA 421-B:10, I(b)(7) to read as follows:

24 (7) Has engaged in dishonest or unethical practices in the [~~securities business~~]  
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26 101:4 License Fees. Amend RSA 421-B:31, I(a)(4) to read as follows:

27 (4) Amended dealer's license *and investment advisor's license* fee \$100

28 101:5 Effective Date. This act shall take effect July 1, 2010.

29 Approved: May 26, 2010

30 Effective Date: July 1, 2010

# Committee Minutes

**SENATE CALENDAR NOTICE  
COMMERCE, LABOR AND CONSUMER PROTECTION**

Senator Margaret Hassan Chairman  
✓ Senator Betsi DeVries V Chairman  
✓ Senator Deborah Reynolds  
✓ Senator Jacalyn Cilley  
Senator Peter Bragdon  
Senator Sheila Roberge

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: April 1, 2010**

**HEARINGS**

**Thursday**

**4/8/2010**

COMMERCE, LABOR AND CONSUMER PROTECTION

SH 103

12:30 PM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** Please note these hearings are scheduled outside of their normal day, time and room.

- 12:30 PM HB660-FN relative to the life settlements act.
- 1:00 PM HB286-FN relative to life insurance form disapproval.
- ✓ 1:30 PM HB1281-FN relative to certain securities laws.
- 2:00 PM HB1613-FN relative to the general banking laws of the state.

**Sponsors:**

- HB286-FN**  
Rep. Tara Reardon
- HB1281-FN**  
Rep. Stephen DeStefano
- HB660-FN**  
Rep. Edward Butler
- HB1613-FN**  
Rep. Edward Butler

*start: 1:49 pm  
end: 1:59 pm*

**Commerce, Labor & Consumer Protection Committee  
Hearing Report**

**To:** Members of the Senate  
**From:** Greg Silverman, *Legislative Aide*  
**Re:** Hearing report on **HB1281-FN** relative to certain securities laws.

**Hearing date:** April 8<sup>th</sup>, 2010

**Members of the Committee Present:** Senator DeVries, District 18; Senator Reynolds, District 2; Senator Cilley, District 6.

**Members of the Committee Absent:** Senator Bragdon, District 11; Senator Hassan, District 23; Senator Roberge, District 9.

**Sponsors:** Rep. Reardon, Merr 11.

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**What the bill does:** This bill makes changes to the securities laws.

This bill is a request of the secretary of state.

**Who supports this bill:** Barry Glennon, Bureau of Securities Regulation

**Who opposes this bill:** None.

**Summary of testimony received:**

Barry Glennon, Bureau of Securities Regulation

- Supports HB1281.
- This bill makes technical changes to RSA 421:B.
  - Investment Counsel of America changed their name to Advisor Association.
    - Reflected in statute.
  - Certain subparagraphs pointed to the wrong statute in a drafting error.
  - Adds investment advisor fee name change.
    - Provides parity with all licenses.
    - Currently in practice.

**Action:** Senator Reynolds moved Ought to Pass. Senator Cilley seconded the motion. The committee voted 3-0 in favor. Senator DeVries takes the bill out.

RP

Date: April 8, 2010  
Time: 1:49 P.M.  
Room: SH 103

The Senate Committee on Commerce, Labor and Consumer Protection held a hearing on the following:

HB1281-FN relative to certain securities laws.

Members of Committee present: Senator DeVries  
Senator Reynolds  
Senator Cilley

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The Vice Chair, Senator Betsi DeVries, opened the hearing on HB1281-FN, and in the absence of the prime sponsor, invited Senator Deborah Reynolds to introduce the legislation.

Senator Deborah R. Reynolds, D. 2: Thank you, Madam Chair. For the record, my name is Deb Reynolds, and I have the honor and privilege of serving as the New Hampshire State Senator for Senate District 2.

House Bill 1281 is a bill that has been filed at the request of the New Hampshire Secretary of State, and it has a few technical changes in the Securities statute. I do believe we have someone signed in to testify about the bill, and I'd ask the Chair to defer questions to other speakers.

Thank you, Madam Chair.

Senator Betsi DeVries, D. 18: Thank you, Senator Reynolds. Calling on Barry Glennon with the Bureau of Securities.

Director Barry Glennon: Good afternoon, Madam Chair. My name is Barry Glennon, and I am the Deputy Director with the New Hampshire Bureau of Securities.

We appreciate your consideration this afternoon on House Bill 1281. This represents a few technical changes and corrections to the New Hampshire Securities Act, RSA 421-B. If I may, Madam Chair, just to review briefly those four changes.

Senator Betsi DeVries, D. 18: I would ask that you would.

Director Glennon: Thank you.

The first change deals with RSA 421-B:7. The Secretary of State is authorized to license broker dealers and investment advisors and their respective agents. And typically, those agents must take an examination that is administered by outside organizations. He also has the opportunity to waive that licensure requirement so long as it's provided that those individuals are chartered by certain organizations. One, in particular, is the Investment Counsel Association; that association changed its name to the Investment Advisory Association recently. So, we are just technically changing the name of that charter-type organization.

The second is an amendment to section B:8, XII (g). These are two technical corrections where certain subparagraphs point to wrong subparagraphs. We've had a variety of changes to the Act over the years and this was purely a drafting error, if anything. It deals with books and records requirements of investment advisors.

The third is the change to 421-B:10, and this deals with the denial, revocation, suspension, cancellation, or withdrawal of an application. What we are seeking here is to allow the Bureau to take into consideration dishonest and unethical practices in the conduct of business, generally, in the State of New Hampshire or elsewhere. The current statute reads that we can only take into consideration dishonest or unethical character or conduct in the course of securities business. So, this would bring us in parity, really, with the Insurance Department, which has similar language so that we could look at other activity when making a decision either to issue or take action on an existing licensee.

And then, the fourth change deals with another technical change dealing with licensing fees or amendment fees on investment advisor registrations. We charge, the State of New Hampshire assesses I should say, a fee of \$100 for any broker dealer or investment advisor or issue a dealer name change. The statute does not specifically state or allow for an assessment of a fee for investment advisors. Again, an oversight that it should be in the statute. We have been all along. However, it was pointed out that that provision was not there. So, it is just to bring parity with all the various licenses that are amended by the Department.

And, that's it, Madam Chair.

Senator Betsi DeVries, D. 18: Questions from the Committee? Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much, Madam Chair. Any of these changes were sort of motivated by the things that are going on there with the Financial Resources Mortgage? I'm just curious.

Director Glennon: Not that I'm aware of. These actually were on our radar well before. Since the last session.

Senator Deborah R. Reynolds, D. 2: Thank you.

Senator Betsi DeVries, D. 18: Senator Cilley.

Senator Jacalyn L. Cilley, D. 6: Thank you, Madam Chair. And, as a follow up to Senator Reynolds question. Would these have helped to prevent some of what happened with, is it FCL? FRM.

Director Glennon: FRM. It's difficult to say. I want to answer your question. That particular entity is not currently licensed with the Bureau of Securities. We're currently reviewing the matter certainly, along with other agencies in the State. But, they were not a licensee, so we wouldn't have necessarily apply this provision to their license because there really was not a license in place.

Senator Jacalyn L. Cilley, D. 6: Follow up, Madam Chair?

Senator Betsi DeVries, D. 18: Please.

Senator Jacalyn L. Cilley, D. 6: One of the things, this is a little off the bill in its current form. But, thinking about the future or now if we could do it, there are entities that act like investment firms or banks that don't fall under traditional banking laws, at least federally, and it is one of Paul Krugman's arguments, as to what happened with our financial system and our economy.

Is it possible to have provisions at the state level that are stronger than at the federal level for such oversight and/or regulation?

Director Glennon: It's possible. We certainly, of course, we would be subject to challenge by industry on those points. But, we believe that the current statute, as written, has sufficient safeguards in there; that's strong. However, as you have probably heard, there are new products being invented every day and it is just a matter of making sure that the legislation keeps up with those particular products, be it banking, or insurance, or securities type



products. So therein lies the challenge. We monitor what is out there and we will appear before you and have when we need to amend or modify the bill to offer greater protections.

Senator Jacalyn L. Cilley, D. 6: Last question, if I might?

Senator Betsi DeVries, D. 18: Senator Cilley with a follow up.

Senator Jacalyn L. Cilley, D. 6: Thank you, Madam Chair. And again, maybe it could be done here; maybe we have to think about it. Is there a way to use sort of a more blanket provision that says as new products, you know, if looks like a duck and quacks like a duck, then we are going to consider it a duck and it gets regulated under this section of the law?

Director Glennon: It's entirely possible to have more broad-brush type. Of course, there is an administrative process, an administrative hearing process, to challenge that, as to our jurisdiction over that area, which we are not shy to challenge. And then, of course, it would appeal to the New Hampshire Supreme Court, which would ultimately decide whether or not jurisdiction is with the Bureau.

But, it is entirely possible to have broader language or more all encompassing language. I am just not sure what that would be. Again, a lot of it is, quite frankly, driven by the product that's being sold. We can only be diligent there and make sure that we are on top of it.

Senator Jacalyn L. Cilley, D. 6: Thank you.

Senator Betsi DeVries, D. 18: Thank you. I have a question myself for you in reference to section 7 on the dishonest or unethical practices. And you indicated that you were wording this in parity with what is already in place within the Insurance Department. But, the language seems like it would be extremely broad to encompass most any situation. Was there any concern that dishonest and unethical doesn't have a parameter on it, and would a DWI-type conviction be a problem or loosely applied?

Director Glennon: Senator, I believe that, although dishonest and unethical could be considered broad, we generally, when making the decision, will really look to whether there is actually even a finding by a court or some other administrative tribunal. So, if there has a judgment or decision made by, let's say, the Banking Department, that they did in fact engage in some form of misrepresentation or unethical conduct, that it's not necessarily just our opinion as to whether we think they did, but an actual finding that that conduct occurred. So, we think that it's narrow enough to the extent that we

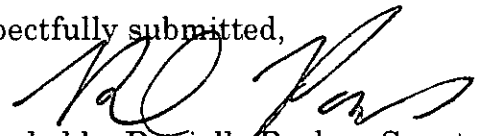
RP

would look to an actual finding in place before deciding that it was actually unethical.

Senator Betsi DeVries, D. 18: And, I thank you for that reassurance. Further questions? Seeing none, I have nobody else that was signed up to speak on this bill. Was there anybody else wishing to offer testimony? Seeing none, we will close the hearing on House Bill 1281-FN.

Hearing closed at 1:59 P.M.

Respectfully submitted,



Recorded by Danielle Barker, Senate Committee Secretary  
Transcribed by Richard Parsons, Senate Committee Secretary

8/17/10

# Speakers



# Voting Sheets

# Senate Commerce, Labor & Consumer Protection Committee EXECUTIVE SESSION

Bill # HB 1281-FN

Hearing date: 4/8/10

Executive session date: 4-8-10

Motion of: OTP

VOTE: 3-0

**Made by** Hassan   
**Senator:** DeVries   
 Reynolds   
 Cilley   
 Bragdon   
 Roberge

**Seconded** Hassan   
**by Senator:** DeVries   
 Reynolds   
 Cilley   
 Bragdon   
 Roberge

**Reported** Hassan   
**by Senator:** DeVries   
 Reynolds   
 Cilley   
 Bragdon   
 Roberge

Motion of: \_\_\_\_\_

VOTE: \_\_\_\_\_

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 Reynolds   
 Cilley   
 Bragdon   
 Roberge

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 Cilley   
 Bragdon   
 Roberge

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**by Senator:** DeVries   
 Reynolds   
 Cilley   
 Bragdon   
 Roberge

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Hassan, Chairman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator DeVries, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Reynolds	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cilley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bragdon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roberge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Amendments: \_\_\_\_\_

Notes: \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 8, 2010

THE COMMITTEE ON Commerce, Labor and Consumer Protection  
to which was referred House Bill 1281-FN

AN ACT                    relative to certain securities laws.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS**

BY A VOTE OF:    3-0

AMENDMENT #        s

Senator Betsi DeVries  
For the Committee

Danielle Barker 271-3093



## New Hampshire General Court - Bill Status System

**Docket of HB1281**

Docket Abbreviations

**Bill Title:** relative to certain securities laws.*Official Docket of HB1281:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
01/06/2010	H	Introduced and Referred to Commerce and Consumer Affairs; <b>HJ 6</b> , PG.234
01/06/2010	H	Public Hearing: 1/7/2010 11:00 AM LOB 302
01/07/2010	H	===CANCELLED=== Work Session: 1/19/2010 10:00 AM LOB 302
01/19/2010	H	Subcommittee Work Session: 1/27/2010 9:45 AM LOB 302 (Members: Reps Keans, Meader, & Hunt)
01/27/2010	H	Executive Session: 2/4/2010 10:00 AM LOB 302
02/04/2010	H	Committee Report: Ought to Pass with Amendment #0318h for Feb 10 CC (vote 16-0); <b>HC 13</b> , PG.522
02/04/2010	H	Proposed Committee Amendment #0318h; <b>HC 13</b> , PG.564
02/10/2010	H	Removed from Consent Calendar (Rep Vaillancourt); <b>HJ 16</b> , PG.748
02/10/2010	H	Amendment #0318h Adopted, VV; <b>HJ 16</b> , PG.771
02/10/2010	H	Ought to Pass with Amendment #0318h: MA VV; <b>HJ 16</b> , PG.771
03/10/2010	S	Introduced and Referred to Commerce, Labor and Consumer Protection
04/01/2010	S	Hearing: April 8, 2010, Room 103, State House, 1:30 p.m.; <b>SC14</b>
04/08/2010	S	Committee Report: Ought to Pass 4/14/10; <b>SC15</b>
04/14/2010	S	Ought to Pass, MA, VV; OT3rdg; <b>SJ 14</b> , Pg.287
04/14/2010	S	Passed by Third Reading Resolution; <b>SJ 14</b> , Pg.295
04/28/2010	H	Enrolled Bill Amendment #1566 Adopted; <b>HJ 36</b> , PG.1730
04/28/2010	S	Enrolled Bill Amendment #1566 Adopted; <b>SJ 16</b> , Pg.358
05/05/2010	S	Enrolled; <b>SJ 17</b> , Pg.411
05/05/2010	H	Enrolled; <b>HJ 38</b> , PG.1914
05/27/2010	H	Signed by the Governor 05/26/2010; Effective 07/01/2010; Chapter 0101

NH House

NH Senate

Contact Us

*New Hampshire General Court Information Systems*  
 107 North Main Street - State House Room 31, Concord NH 03301

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

HB1281-FN ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: \_\_\_\_\_

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED                       AS AMENDED BY THE HOUSE  
 FINAL VERSION                      \_\_\_\_ AS AMENDED BY THE SENATE

\_\_\_\_ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: \_\_\_\_\_

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

AMENDED FISCAL NOTE

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 9/16/10

NO [Signature]  
COMMITTEE SECRETARY