

# Bill as Introduced

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HB 1363 – AS INTRODUCED

2010 SESSION

10-2400  
01/10

HOUSE BILL           **1363**  
AN ACT                relative to continuing care communities.  
SPONSORS:           Rep. Hammond, Hills 3  
COMMITTEE:          Health, Human Services and Elderly Affairs

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ANALYSIS

This bill clarifies the law regulating continuing care communities when a person has not yet moved into the facility, but is receiving continuing care services at home.

This bill is a request of the insurance department.

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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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 continuing care communities.

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

1           1 Continuing Care Communities; Definitions. Amend RSA 420-D:1, III to read as follows:

2           III. "Continuing care" or "life care" means furnishing to a person, other than one who is  
3 related by consanguinity or affinity up to, but not including, the third degree, services ***provided in***  
4 ***the person's home or in the facility*** that shall include board or lodging, or both, and may include  
5 nursing services, medical services, or other health related services, irrespective of whether the  
6 lodging and services are provided at the same location or provided by a third party, pursuant to a  
7 contractual agreement extending for the life of such person or for a period of a year or more in  
8 consideration of payment of an entrance fee which may also include additional periodic charges for  
9 the services provided and including contracts which are terminable by either party.

10          2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V to read as follows:

11          V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial or deferred  
12 payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider  
13 in return for acceptance as a resident [~~in a facility~~]. This definition shall not apply to the payment of  
14 a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for  
15 one year or \$10,000.

16          3 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X-XII to read as follows:

17          X. "Periodic payments" or "monthly care fees" means those payments in addition to the  
18 entrance fee [~~and~~] made by a resident to a provider for continuing care during the entire period [~~of~~  
19 ~~residence in a facility~~] ***that the contractual agreement for continuing care is in effect.***

20          XI. "Provider" means a person contracting to provide continuing care at ***the resident's***  
21 ***home or at*** a facility. This may be a natural person, partnership, or any other type of business  
22 organization, whether organized for profit or not.

23          XII. "Resident" means a person entitled, pursuant to a contract with the provider, to receive  
24 continuing care in [~~a~~] ***the person's home or*** facility.

25          4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read as follows:

26          XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance fee which a  
27 provider contracts to return to a resident should the resident [~~decide to leave a facility~~] ***cancel the***  
28 ***contract for continuing care.*** This may be nothing, or the contract may call for the provider to  
29 "earn" a specific percentage of the entrance fee per month.

30          5 New Paragraph; Certificate of Authority Required. Amend RSA 420-D:2 by inserting after  
31 paragraph III the following new paragraph:

1 IV. A provider may contract to provide continuing care to a resident who remains at home  
2 and has not moved into a living unit or other room or area within the facility, provided the provider:

3 (a) Holds a certificate of authority under this chapter and is in good standing, not  
4 subject to action by the commissioner pursuant to RSA 420-D:5.

5 (b) Has direct control and oversight over the provision of services to the resident in the  
6 resident's own home and does not delegate this control and oversight to any third party. Any person  
7 employed by the provider to assist the provider in providing control or oversight over provision of  
8 services in the resident's home shall be physically present in the state and available to the resident  
9 to address any questions or concerns.

10 (c) Has procedures in place to ensure that any third party that contracts with the  
11 provider to provide services to the resident in the resident's home is trustworthy and certified,  
12 licensed, or otherwise qualified under state law to provide those services.

13 (d) Provides information satisfactory to the commissioner that any contract to provide  
14 continuing care services in the resident's home will not place the provider in an unsound financial  
15 condition and will not be injurious or hazardous to the resident receiving services at home.

16 6 Continuing Care Communities; Entrance Fee Escrow Account. Amend RSA 420-D:10, I to  
17 read as follows:

18 I. An escrow account for entrance fees shall be established and approved by the  
19 commissioner before a certificate of authority under this chapter shall be issued. Entrance fees *from*  
20 *any prospective resident* paid by *the* prospective [residents] *resident* before occupancy of a facility  
21 living unit [~~and which total~~], *or if services are provided in the resident's home, before the*  
22 *resident begins to receive services under the contractual agreement, and totaling* over  
23 \$1,000 shall be placed in this account. All entrance fees subject to this section shall be placed in the  
24 account on the first working day after receipt. Interest on such fees shall be paid at the current  
25 market rate as established by the commissioner to the prospective resident if the resident is not  
26 allowed by the provider, for any reason, to enter the facility.

27 7 New Subparagraph; Entrance Fees. Amend RSA 420-D:10, III by inserting after  
28 subparagraph (b) the following new subparagraph:

29 (c) If the resident does not move into a living unit or other area within the facility but  
30 receives services at home, when the resident is eligible to receive or begin to receive services under  
31 the contractual agreement.

32 8 Continuing Care Communities; Contracts With Residents. Amend RSA 420-D:12, I to read as  
33 follows:

34 I. Each contract between a provider and a resident shall:

35 (a) Be written in plain, non-technical language.

36 (b) Cover only one resident, or 2 if sharing the same unit, and shall include the total  
37 amount transferred by the resident, or on behalf of the resident, to the provider. If securities or real

1 or personal property are transferred to the provider instead of cash, the provider shall describe  
2 exactly the securities, property, or other goods transferred and the market value of securities or the  
3 professional appraised value of property or goods as of the date they were tendered.

4 (c) State specifically and in full detail all services and items to be provided to the  
5 resident including the locations where services and items will be provided, the duration of such  
6 services, and how often they are to be provided. The contract shall also describe which services or  
7 items are included in the agreement for continuing care and which services or items will be made  
8 available by the provider at an extra cost to the resident.

9 (d) State the conditions upon which the provider may evict a resident and the conditions  
10 upon which a resident may terminate his *or her* residency. A statement as to what portion of the  
11 entrance fee shall be returned under each condition shall also be included in accordance with RSA  
12 420-D:12, II.

13 (e) *State the conditions upon which the provider or resident may terminate the*  
14 *contractual agreement. A statement as to what portion of the entrance fee shall be*  
15 *returned and under what conditions shall also be included in accordance with RSA 420-*  
16 *D:12, II.*

17 [(e)] (f) Describe conditions required for a person to continue as a resident.

18 [(f)] (g) Describe any conditions under which a person delinquent in his *or her* periodic  
19 payments may remain and if there is a specific time limit.

20 [(g)] (h) State the entrance fees and periodic payment changes that may occur if a  
21 resident marries or if a spouse joins a resident *in a living unit*. It shall also state the fee changes  
22 that may occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves  
23 that living unit.

24 [(h)] (i) Describe the terms and conditions under which a provider or a resident may  
25 cancel an agreement for continuing care. The contract shall also state that a minimum of 30 days'  
26 notice of cancellation must be given, except that a written medical finding by 2 doctors that a  
27 resident is a danger to himself or others shall require only reasonable notice.

28 [(i)] (j) Describe in clear detail all the terms under which a contract is cancelled upon  
29 the departure or death of a resident.

30 [(j)] (k) State the basis upon which the entrance fees are earned by the provider at the  
31 death of a resident, what portion, if any, shall be turned over to the estate of the resident, and the  
32 formula for calculating all amounts earned by the provider.

33 [(k)] (l) Describe the conditions under which periodic payments may change. The  
34 contract shall state that a 60-day notice is required before a change in periodic payments shall take  
35 effect, except those periodic payments required by federal or state assistance programs.

1            ~~[(h)]~~ **(m)** State that periodic payments for care paid in a lump sum shall not be changed  
2 during the period covered, unless the resident is receiving federal or state assistance and the change  
3 is mandated by those programs.

4            ~~[(m)]~~ **(n)** Provide a period of 10 days during which a prospective resident may cancel a  
5 contract and have his *or her* deposit returned and that there is no requirement to move in during  
6 those 10 days.

7            ~~[(n)]~~ **(o)** Provide that, within the 10 days under subparagraph ~~[(m)]~~ **(n)**, the provider  
8 shall make a full refund of all money, securities, goods, or property tendered by the prospective  
9 resident, except for any non-refundable initial application fee that does not exceed one month's  
10 periodic charges and any payments for actual services or goods provided to the prospective resident.

11           ~~[(o)]~~ **(p)** Describe under what conditions a resident may be transferred to another living  
12 unit or another part of the facility together with the financial adjustments to be made as a result of  
13 such changes.

14           ~~[(p)]~~ **(q)** Provide for full refund, except any initial non-refundable application fee of less  
15 than one month's periodic payment, if, before occupancy, death occurs or if there is a medically  
16 certified incapacity to move in.

17           9 Effective Date. This act shall take effect January 1, 2011.

HB 1363 - AS AMENDED BY THE HOUSE

17Feb2010... 0463h

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1 1 Continuing Care Communities; Definitions. Amend RSA 420-D:1, III to read as follows:

2 III. "Continuing care" or "life care" means furnishing *or promising to furnish* to a person,  
3 other than one who is related by consanguinity or affinity up to, but not including, the third degree,  
4 services that shall include board or lodging, or both, and may include nursing services, medical  
5 services, or other health related services, irrespective of whether the *board*, lodging, and services  
6 are provided at the same location or provided by a third party, pursuant to a contractual agreement  
7 extending for the life of such person or for a period of a year or more in consideration of payment of  
8 an entrance fee which may also include additional periodic charges for the services provided and  
9 including contracts which are terminable by either party. *Continuing care or life care includes*  
10 *contracts with residents meeting the requirements in this paragraph, where the resident*  
11 *contracts to receive board or lodging or both in the future and does not move immediately*  
12 *into the facility.*

13 2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V and VI to read as follows:

14 V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial or deferred  
15 payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider  
16 in return for acceptance as a resident [~~in a facility~~]. This definition shall not apply to the payment of  
17 a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for  
18 one year or \$10,000.

19 VI. "Facility" means any facility or institution [~~offering continuing care to an individual~~]  
20 *providing board, lodging, or other services under a contract for continuing care.*

21 3 Continuing Care Communities; Definitions. Amend RSA 420-D:1, VIII to read as follows:

22 VIII. "Living unit" means a room, apartment, or other area within a facility used exclusively  
23 by one or more, but usually no more than 2[~~5~~] residents *living independently and does not*  
24 *include a nursing home unit, skilled nursing facility, hospital room, assisted living unit,*  
25 *or any other similar units or facility licensed under RSA 151.* [~~This definition of living unit~~  
26 ~~shall not mean shelter care, a personal care unit, nursing home, or infirmary bed.~~]

27 4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X to read as follows:

28 X. "Periodic payments" or "monthly care fees" means those payments in addition to the  
29 entrance fee [~~and~~] made by a resident to a provider for continuing care during the entire period [~~of~~  
30 ~~residence in a facility~~] *that the contractual agreement for continuing care is in effect.*



1 5 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read as follows:

2 XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance fee which a  
3 provider contracts to return to a resident should the resident [~~decide to leave a facility~~] **cancel the**  
4 **contract for continuing care**. This may be nothing, or the contract may call for the provider to  
5 "earn" a specific percentage of the entrance fee per month.

6 6 New Section; Continuing Care at Home Contracts. Amend RSA 420-D by inserting after  
7 section 3 the following new section:

8 420-D:3-a Continuing Care at Home Contracts.

9 I. A provider may contract to provide continuing care to a resident who remains at home and  
10 does not move immediately into a facility if the provider:

11 (a) Holds a certificate of authority issued under this chapter to provide continuing care;

12 (b) Owns and operates a facility located in New Hampshire where the resident has the  
13 right to receive board, lodging, or both, and other services.

14 (c) Satisfies the commissioner or that the proposal to offer continuing care contracts to  
15 residents who do not move immediately into the facility will not place the provider in an unsound  
16 financial condition and will not be injurious or hazardous to any resident contracting with the  
17 provider for continuing care.

18 (d) Otherwise complies with all requirements of this section and RSA 420-D.

19 II. Any provider that issues contracts under this section shall:

20 (a) Be in good standing with the commissioner, not subject to action pursuant to RSA  
21 420-D:5.

22 (b) Be responsible for all services the provider or any third party provides to the resident  
23 in the resident's home pursuant to the contract, and shall exercise direct control and oversight over  
24 any individual or entity providing those services.

25 (c) Have procedures to ensure that any third party providing services to the resident in  
26 the resident's home pursuant to the contract, is trustworthy and certified, licensed, or otherwise  
27 qualified under state law to provide those services.

28 III. The provider and any person employed by the provider that assists in delivery of  
29 services to the resident in the resident's home shall have a business location within the state of New  
30 Hampshire, hold appropriate licenses and shall be available to address complaints, questions and  
31 concerns of residents.

32 7 Continuing Care Communities; Revocation or Suspension of Certificate of Authority. Amend  
33 RSA 420-D:5, I(j) to read as follows:

34 (j) Such unsound financial condition or any other practice which may be hazardous or  
35 injurious to ~~the~~ residents ~~[of the facility]~~ or to the general public.

36 8 Continuing Care Communities; Annual Reports. Amend RSA 420-D:7, II(c) to read as follows:

37 (c) An estimated financial statement for the new fiscal year with an estimate in case of

1 all major changes expected during the year. The commissioner shall adopt rules under RSA 541-A  
 2 relative to the definition of major changes. Reports containing the information under this  
 3 subparagraph shall not be distributed to residents [~~of a facility~~] unless prior approval has been  
 4 obtained from the commissioner.

5 9 continuing Care Communities; Lien on Behalf of Residents. Amend RSA 420-D:9 to read as  
 6 follows:

7 420-D:9 Lien on Behalf of Residents. The commissioner shall file a lien on all real and personal  
 8 property of a provider if he deems it necessary to protect the interests of the residents [~~of a facility~~].  
 9 Such lien shall be effective for the period determined necessary by the commissioner and may be  
 10 renewed if the circumstances warrant it. A lien shall only be foreclosed to protect the investment of  
 11 residents, and the proceeds shall be distributed in a manner to satisfy any continuing care contracts  
 12 in effect at that time.

13 10 Continuing Care Communities; Entrance Fee Escrow Account. Amend RSA 420-D:10, I to  
 14 read as follows:

15 I. An escrow account for entrance fees shall be established and approved by the  
 16 commissioner before a certificate of authority under this chapter shall be issued. Entrance fees paid  
 17 by prospective residents before occupancy of a facility living unit *or by prospective residents*  
 18 *under a contract issued pursuant to RSA 420-D:3-a*, and which total over \$1,000 shall be placed  
 19 in this account. All entrance fees subject to this section shall be placed in the account on the first  
 20 working day after receipt. Interest on such fees shall be paid at the current market rate as  
 21 established by the commissioner to the prospective resident if the resident is not allowed by the  
 22 provider, for any reason, to enter the facility, *provided however if the entrance fee is paid*  
 23 *pursuant to a contract under RSA 420-D:3-a, the entrance fee shall be returned to the*  
 24 *consumer with interest, if the contract is not signed or the consumer exercises the right of*  
 25 *rescission under RSA 420-D:12, I(m).*

26 11 New Subparagraph; Continuing Care Communities; Entrance Fees. Amend RSA 420-D:1, III  
 27 by inserting after subparagraph (b) the following new subparagraph:

28 (c) For a resident that has not moved into the facility pursuant to RSA 420-D:3-a, 10  
 29 days after the contract is fully executed by all parties.

30 12 Continuing Care Communities; Contracts With Residents. Amend RSA 420-D:12, I(d)-(g) to  
 31 read as follows:

32 (d) State the conditions upon which the provider may evict a resident *or terminate the*  
 33 *contract for continuing care* and the conditions upon which a resident may terminate his *or her*  
 34 *residency or terminate the contract for continuing care*. A statement as to what portion of the  
 35 entrance fee shall be returned under each condition shall also be included in accordance with RSA  
 36 420-D:12, II.

37 (e) Describe conditions required for a person to continue as a resident.

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**- Page 4 -**

1           (f) Describe any conditions under which a person delinquent in his *or her* periodic  
2 payments may remain and if there is a specific time limit.

3           (g) State the entrance fees and periodic payment changes that may occur if a resident  
4 marries or if a spouse joins a resident *in a living unit*. It shall also state the fee changes that may  
5 occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves that living  
6 unit.

7           2 Effective Date. This act shall take effect January 1, 2011.

CHAPTER 144  
HB 1363 - FINAL VERSION

17Feb2010... 0463h  
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3 other than one who is related by consanguinity or affinity up to, but not including, the third degree,  
4 services that shall include board or lodging, or both, and may include nursing services, medical  
5 services, or other health related services, irrespective of whether the *board*, lodging, and services  
6 are provided at the same location or provided by a third party, pursuant to a contractual agreement  
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10 *contracts with residents meeting the requirements in this paragraph, where the resident*  
11 *contracts to receive board or lodging or both in the future and does not move immediately*  
12 *into the facility.*

13           144:2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V and VI to read as  
14 follows:

15           V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial or deferred  
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26 *or any other similar units or facility licensed under RSA 151.* [~~This definition of living unit~~  
27 ~~shall not mean shelter care, a personal care unit, nursing home, or infirmary bed.]~~

28           144:4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X to read as follows:

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HB 1363 - FINAL VERSION  
- Page 2 -

1 X. "Periodic payments" or "monthly care fees" means those payments in addition to the  
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4 144:5 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read as  
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18 (c) Satisfies the commissioner that the proposal to offer continuing care contracts to  
19 residents who do not move immediately into the facility will not place the provider in an unsound  
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23 II. Any provider that issues contracts under this section shall:

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32 III. The provider and any person employed by the provider that assists in delivery of  
33 services to the resident in the resident's home shall have a business location within the state of  
34 New Hampshire, hold appropriate licenses and shall be available to address complaints, questions,  
35 and concerns of residents.

36 144:7 Continuing Care Communities; Revocation or Suspension of Certificate of Authority.

CHAPTER 144  
HB 1363 – FINAL VERSION  
- Page 3 -

1 Amend RSA 420-D:5, I(j) to read as follows:

2 (j) Such unsound financial condition or any other practice which may be hazardous or  
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4 144:8 Continuing Care Communities; Annual Reports. Amend RSA 420-D:7, II(c) to read as  
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34 (c) For a resident that has not moved into the facility pursuant to RSA 420-D:3-a, 10  
35 days after the contract is fully executed by all parties.

36 144:12 Continuing Care Communities; Contracts With Residents. Amend RSA 420-D:12, I(d)-(g)

CHAPTER 144  
HB 1363 – FINAL VERSION  
- Page 4 -

1 to read as follows:

2 (d) State the conditions upon which the provider may evict a resident *or terminate the*  
3 *contract for continuing care* and the conditions upon which a resident may terminate his *or her*  
4 residency *or terminate the contract for continuing care*. A statement as to what portion of the  
5 entrance fee shall be returned under each condition shall also be included in accordance with  
6 RSA 420-D:12, II.

7 (e) Describe conditions required for a person to continue as a resident.

8 (f) Describe any conditions under which a person delinquent in his *or her* periodic  
9 payments may remain and if there is a specific time limit.

10 (g) State the entrance fees and periodic payment changes that may occur if a resident  
11 marries or if a spouse joins a resident *in a living unit*. It shall also state the fee changes that may  
12 occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves that living  
13 unit.

14 144:2 Effective Date. This act shall take effect January 1, 2011.

15 Approved: June 14, 2010

16 Effective Date: January 1, 2011



# Committee Minutes

**SENATE CALENDAR NOTICE  
HEALTH AND HUMAN SERVICES**

- ✓ Senator Kathleen Sgambati Chairman
- ✓ Senator Peggy Gilmour V Chairman
- ✓ Senator Molly Kelly
- ✓ Senator John Gallus
- ✓ Senator Michael Downing

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 13, 2010**

**HEARINGS**

**Tuesday**

**4/20/2010**

**HEALTH AND HUMAN SERVICES**

**SH 103**

**8:30 AM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

- |   |  |
|---|--|
| <p>8:30 AM HB1363</p> <p>8:45 AM HB1384</p> <p>9:00 AM HB1430</p> <p>9:15 AM HB1526</p> | <p>relative to continuing care communities.</p> <p>establishing a suicide fatality review committee.</p> <p>relative to the uniform anatomical gift act.</p> <p>requiring the department of health and human services to establish a methodology for determining certain high cost long-term care cases.</p> |
|---|--|

**Sponsors:**

- HB1363**  
Rep. Jill Hammond
- HB1384**  
Rep. Roger Wells
- HB1430**  
Rep. Robert Foose
- HB1526**  
Rep. Kate Miller

# Health and Human Services Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Heidi Mitchell, *Legislative Aide*

**RE:** Hearing report on **HB 1363 - AN ACT relative to continuing care communities.**

**HEARING DATE:** April 20, 2010

**MEMBERS OF THE COMMITTEE PRESENT:** Sen. Gilmour; Sen. Downing; Sen. Gallus; Sen. Kelly.

**MEMBERS OF THE COMMITTEE ABSENT:** Sen. Sgambati.

---

**Sponsor:** Rep. Hammond, Hills. 3.

**What the bill does:** This bill clarifies the law regulating continuing care communities when a person has not yet moved into the facility, but is receiving continuing care services at home. This bill is a request of the insurance department.

**Who supports the bill:** Rep. Hammond; Michael Wilkey, New Hampshire Insurance Department; Valerie Acres, Aging Services of Maine and New Hampshire.

**Who opposes the bill:** No one.

**Summary of testimony received:** Rep. Hammond introduced the bill to the committee.

### Rep. Hammond

- This bill is a request of the Insurance Department. The bill contains amendments to the existing law that clarify the applicability of the law, and that would enable continuing care retirement communities (CCRCs) to offer and provide at-home care services to individuals who will be a future resident at their facility.
- Since 1988 the New Hampshire Insurance Department has been responsible for the regulation and financial oversight of CCRCs pursuant to RSA 420-D.
- There are 7 continuing care retirement communities in NH: Havenwood-Heritage Heights, Concord; Hillcrest Terrace, Manchester; Kendal at Hanover, Hanover; Peterborough Retirement at Upland Farm, Peterborough; Riverwoods, Exeter; Taylor Home, Laconia; The Huntington, Nashua.

**Michael Wilkey, New Hampshire Insurance Department**

- In support of the bill, Mr. Wilkey stated that organizations that charge their fee up front are required to be insured by the insurance department.
- In response to questions from the committee, Mr. Wilkey stated that the type of at-home services the CCRCs might provide are: coordinating meals, providing social programs, therapy services, etc. He also stated that the CCRCs don't have to be licensed as home health care agencies if they have contracts with a third party vendor for at-home services.

**Valerie Acres, Aging Services of Maine and New Hampshire**

- In support of the bill. Aging Services of Maine and New Hampshire is a bi-state association that represents not-for-profit providers of long-term care services to the elderly along the entire continuum of care. Eight of their members are CCRCs.
- CCRCs are licensed by the DHHS to provide nursing home, assisted living, and home health services. They are also regulated by the New Hampshire Insurance Department since their contracts guarantee the provision of future healthcare service much like insurance policies do and, therefore, their financial solvency is critical.
- Under current law, citizens who choose to move to a CCRC are able to pay a one-time fee and then a fixed monthly amount in exchange for a guarantee of care for the person's lifetime. This bill allows for such care to be provided in the person's home with the option of moving into an on-campus independent living unit, or assisted living or nursing facility should the need arise, rather than only a CCRC campus. This allows for a person to remain in their own homes for a longer period of time.
- Only facilities that meet all state requirements for CCRCs and hold a valid Certificate of Authority from the Insurance Department will be permitted to offer lifecare contracts for services delivered in the community. The Aging Services of Maine and New Hampshire believes this is an important consumer protection and agree with the decision to draft the bill this way.

**Funding:** Not applicable.

**Future Action:** The Committee took the bill under advisement.

hmm  
[file: HB 1363 report]  
Date: April 23, 2010

*doc*

Date: April 20, 2010  
Time: 8:34 A.M.  
Room: SH RM 103

The Senate Committee on Health and Human Services held a hearing on the following:

HB 1363 relative to continuing care communities.

Members of Committee present: Senator Gilmour  
Senator Kelly  
Senator Gallus  
Senator Downing

---

The Vice Chair, Senator Peggy Gilmour, opened the hearing on HB 1363 and invited the prime sponsor, Representative Jill Shaffer Hammond, to introduce the legislation.

Senator Peggy Gilmour, D. 12: Hi.

Representative Jill Shaffer Hammond: Good morning, Senator. Good morning, Senators. For the record, I'm Representative Jill Shaffer Hammond from Hillsborough District 3, Peterborough, Sharon, New Ipswich, and Greenville and I'm here to introduce HB 1363.

Since 1988, the New Hampshire Insurance Department has been responsible for the regulation and financial oversight of continuing care retirement communities, CCRCs, pursuant to RSA 420-D. The Legislature provided a declaration of purpose when enacting the law in 1988 that states, in part, "the general court recognizes that continuing care communities are an important and necessary alternative to serve the long-term residential, social, and health care needs of many older citizens".

HB 1363 is a request of the Insurance Department. The bill contains amendments to the existing law that clarify the applicability of the law, and that would enable continuing care retirement communities to offer, and provide "at home" care services.

Today, there are seven continuing care retirement communities in New Hampshire; Havenwood-Heritage Heights in Concord, Hillcrest Terrace in Manchester; Kendal at Hanover; the Peterborough Retirement at Upland

Farm, also known as River Mead, in Peterborough; River Woods in Exeter; Taylor Home in Laconia; and, the Huntington in Nashua.

Employees of the Insurance Department are here to provide more in-depth information about HB 1363, and to answer any questions you have, far beyond my meager understanding of the situation.

I did speak with the Executive Director at River Mead, who is also, I think, sort of head of their legislative oversight, or government relations group, and they were quite tickled with this. And, I see it as a great opportunity to expand healthcare, healthcare services to people that are still in the community, aging at home.

So, thank you, and if you have any questions, but it would better to ask the Insurance Department.

Senator Peggy Gilmour, D. 12: Okay. Thank you, Representative.

Representative Shaffer Hammond: Thank you.

**Please see Attachment #1 – Prepared written testimony of Representative Jill Shaffer Hammond.**

Senator Peggy Gilmour, D. 12: And, I'll call on Michael Wilkey, New Hampshire Insurance Department.

Michael Wilkey: Good morning. My name is Michael Wilkey. I am the Director for Life, Accident, and Health at the New Hampshire Insurance Department.

As Representative Hammond indicated, this was really kind of an expansion upon our existing CCRC RSA. A number of months ago, one of the CCRCs approached us and asked us about being able to provide services in an individual's home; and, then we deal with a particular statute. We, it was not clear, as a matter of fact, it was suggested that, that they probably could not do it under the current language that was in play.

So, what you have before you here today is the amendment which, that enables an authorized or licensed CCRC, from which to be able to offer at-home services. And, just kind of as a background, any organization that charges a fee upfront, \$7,000, or one-twelfth, or more than a year's worth of residence, is required to be licensed under the Insurance Department.

*doc*

So, I'm here to answer a number of questions, and, hopefully.

Senator Peggy Gilmour, D. 12: Senator Downing?

Senator Michael W. Downing, D. 22: Thank you, Madam Chair. Mr. Wilkey, what type of services exactly, would be offered?

Mr. Wilkey: Typically, as I understand it, in meeting with the CCRCs and researching this, the type of services at home can be everything from meals, to the coordination of services, some home healthcare services, other therapy services, that may, in essence, be needed by a senior. So, a lot of things that may be done, you know, in a facility would be done, in essence, at the individual's home.

Senator Michael W. Downing, D. 22: Thank you.

Mr. Wilkey: Okay.

Senator Peggy Gilmour, D. 12: Any questions? I have a few.

Senator Michael W. Downing, D. 22: Go ahead.

Senator Peggy Gilmour, D. 12: Kind of a follow up to that. Are CCRCs typically licensed as home health agencies?

Mr. Wilkey: No. They would typically service out, or have a home healthcare agency, that may be a licensed entity associated with them. So, it wouldn't necessarily be also licensed as a home healthcare agency.

Senator Peggy Gilmour, D. 12: So, would they...this would require that they become a licensed home healthcare agency.

Mr. Wilkey: No, they could contract for the services that they deliver. As I understand it, the model that they're looking at is that they would have an in-state coordinator, which is required here under the amendment, and that coordinator would, in essence, ensure that services be provided through contracts with the CCRC. So, it's usually a third-party vendor.

Senator Peggy Gilmour, D. 12: Right.

Mr. Wilkey: It could be associated with a hospital in the community, it could be associated, you know, couldn't be independent.

*doc*

Senator Peggy Gilmour, D. 12: But, doesn't, doesn't that happen right now? I mean, right now, if I'm a home health agency and someone in a CCRC; for instance, the Huntington in Nashua.

Mr. Wilkey: Yep.

Senator Peggy Gilmour, D. 12: And a person, a resident there requires home health services. My home health agency goes in and provides those services. So, how does this change that?

Mr. Wilkey: Well, in addition, to being able to coordinate the home healthcare services, they would coordinate other services, such as meals. It also would make available, depending on the community, certain of the CCRC's facilities. In other words, some of the social programs that are offered to the residents, it could be, in essence, medical services that may be provided through the community, other medical services; doctors' visits that, those types of services. Please.

Senator Peggy Gilmour, D. 12: I'm thinking Valarie's going to be able to answer these for me.

Mr. Wilkey: Sure.

Deborah O'Loughlin: If you're talking about admin, not a...

Mr. Wilkey: Right.

Ms. O'Loughlin: She's talking about the facility.

Mr. Wilkey: Oh, okay. These are going to be done at a person's home.

Senator Peggy Gilmour, D. 12: I understand.

Mr. Wilkey: Okay.

Senator Peggy Gilmour, D. 12: Their home within the community.

Ms. O'Loughlin: No.

Mr. Wilkey: No. At the person's home; individual, their house.

Senator Michael W. Downing, D. 22: Outside the community.



*pac*

Mr. Wilkey: Let me back up.

Senator Peggy Gilmour, D. 12: Yep.

Mr. Wilkey: What the service in essence says...

Senator Peggy Gilmour, D. 12: So, this is the piece I missed.

Mr. Wilkey: ...It enables an individual to stay in their personal home. You know, that they may have lived in all their lives, or for, whatever these are in that particular community, and it's those, it's that location where the services are rendered.

Senator Peggy Gilmour, D. 12: In my personal home.

Mr. Wilkey: In your personal home; and, as long as the individual can stay in there, and does not need assisted living.

Senator Peggy Gilmour, D. 12: Okay. So, then I'm back to my original question. Does the CCRC then become a licensed home health agency?

Mr. Wilkey: They do not have to be.

Senator Peggy Gilmour, D. 12: Okay.

Mr. Wilkey: As I understand it, they don't have to be a licensed.

Senator Peggy Gilmour, D. 12: I'll wait and Valarie can.

Valarie Acres: All right.

Mr. Wilkey: Okay.

Senator Peggy Gilmour, D. 12: Are there any other questions? You'll be... you'll be here for a few minutes?

Mr. Wilkey: I'm sorry?

Senator Peggy Gilmour, D. 12: Will you be here?

Mr. Wilkey: Yes, I'll stay here. Sure.

Senator Peggy Gilmour, D. 12: Yeah. Thank you. Valarie Acres?

Valarie Acres: Thank you, Madam Chair, members of the Committee. My name is Valarie Acres. I'm with Sheehan Phinney Capital Group here in Concord, representing Aging Services of Maine and New Hampshire, which is an association of not-for-profit long-term care providers across the state, including the state's continuing care retirement communities.

Our association is in full support of this bill, and, we appreciate, very much the work done by Representative Hammond and the Insurance Department on the bill. It was a request of the Insurance Department, but we're in full support of this model as another option for long-term care planning for people in New Hampshire. I do have a letter in support. I won't read it; I'll just leave it for you.

I want to address a couple of the questions that have been raised. One is with respect to licensure. And, there is some confusion there and it's understandable because continuing care communities are regulated by both the Department of Health and Human Services and by the Department of Insurance; the Department of Health for licensure aspects, such as the home health agency license. Many of them hold all three licenses, one for home health, one for skilled nursing, and one for assisted living, because they offer all of those levels of care. Some do not have a home health license, it just depends, what kind of services that they're providing. But, yes, whether it's through a third-party home health agency, or provided by actual staff of the CCRC, the people providing these services would be licensed.

The difference here and, I think, where the confusion lies, is that people will be able to enter into a life care contract for these services, and that's where the Insurance Department comes in to ensure the financial liability of the entity that has made that commitment going forward. And, that's what makes the delivery of these services by a continuing care community a little different than delivery by a regular home health agency.

So, I think, I think that answers your questions. If you have any other ones, I'd be happy to give a try to answer them. But, we're in full support.

Senator Peggy Gilmour, D. 12: Sure. I understand, Valarie. So, I'm living in my home.

Ms. Acres: Yes.

Senator Peggy Gilmour, D. 12: I contract with the Huntington.

Ms. Acres: Yes.

Senator Peggy Gilmour, D. 12: As a CCRC. Right now I need meals. I need some, you know, home repair that they arrange; I need, and then I fall, and I need nursing assistance. I can still stay home until such time; I'm still in contract. And, then...

Ms. Acres: Correct.

Senator Peggy Gilmour, D. 12: ...ultimately, I may change to assisted living, or whatever.

Ms. Acres: Right. And, the big difference that's being changed in 420-D is, right now they do all of that, but you're initial entry into the campus is into an independent living unit.

Senator Peggy Gilmour, D. 12: Right.

Ms. Acres: This is just expanding that into your home in the community, and allowing you to still enter the life care type contract. So, and, I would...

Senator Peggy Gilmour, D. 12: Thank you.

Ms. Acres: ...just also note, that this is a great model for the State of New Hampshire because these are life care contracts, so these are folks who do not end up spending down and ending up on your Medicaid rolls; they're really planning...

Senator Peggy Gilmour, D. 12: Yeah.

Ms. Acres: ...for their future, and, hopefully, not landing in that position.

Senator Peggy Gilmour, D. 12: Hm-hmm.

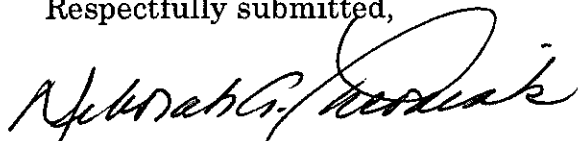
Ms. Acres: So, I'm going to leave the letter with you.

**Please see Attachment #2 – Prepared written testimony of Thomas Argue, Board Chair, Aging Services of Maine and New Hampshire, submitted by Valarie Acres.**

Senator Peggy Gilmour, D. 12: Is there anyone else wishing to testify on HB 1363? If not, I will close the hearing.

Hearing concluded at 8:46 A.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deborah A. Chroniak". The signature is written in a cursive style with a large, looping initial "D".

Deborah A. Chroniak  
Committee Secretary  
6-4-10

2 Attachments

**HB 1363 - Continuing Care Retirement Communities**  
Prime Sponsor: Rep. Hammond

*ATTACHMENT #1*

INTRODUCTION

12/30/09

Since 1988, the New Hampshire Insurance Department has been responsible for the regulation and financial oversight of continuing care retirement communities pursuant to RSA 420-D. The Legislature provided a declaration of purpose when enacting the law in 1988 that states in part....."the general court recognizes that continuing care communities are an important and necessary alternative to serve the long term residential, social, and health care needs of many older citizens...."

HB 1363 is a request of the Insurance Department. The bill contains amendments to the existing law that clarify the applicability of the law, and that would enable continuing care retirement communities to offer and provide "at home" care services.

Today, there are seven continuing care retirement communities in New Hampshire (Havenwoods-Heritage Heights, Concord; Hillcrest Terrace, Manchester; Kendal at Hanover, Hanover; Peterborough Retirement at Upland Farm, Peterborough; Riverwoods, Exeter; Taylor Home, Laconia; and The Huntington, Nashua).

Employees of the Insurance Department are here to provide more indepth information about HB 1363 and to answer any questions you may have.

Thank you.

(legis10hb1363ccrcintro123009)



**aging services**  
of maine and new hampshire

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April 20, 2010

The Honorable Kathleen Sgambati  
and Members of the Senate Health and Human Services Committee  
Statehouse  
107 N. Main St., Room 302  
Concord, NH 03301

*Re HB 1363, relative to continuing care communities*

Dear Senator Sgambati and members of the Senate Health and Human Services Committee:

I am writing on behalf of Aging Services of Maine and New Hampshire, in particular its Continuing Care Retirement Community (CCRC) members, to ask for your support of HB 1363.

Aging Services of Maine and New Hampshire is a bi-state association (affiliated with the American Association of Homes and Services for the Aging) that represents not-for-profit providers of long-term care services to the elderly along the entire continuum of care. Member organizations include nursing homes, assisted living facilities, federally-assisted and market-rate housing units, home- and community-based service providers, and continuing care retirement communities. In New Hampshire, we currently represent twenty-one facilities with a total of approximately 3,000 skilled nursing beds, assisted living units, and independent living units. Eight of our members are CCRCs which offer all three types of living arrangements in an integrated setting so that residents can age in place.

CCRCs are licensed by the NH Department of Health and Human Services to provide nursing home, assisted living, and home health services. They are also regulated by the NH Insurance Department since their contracts guarantee the provision of future health care services much like insurance policies do and, therefore, their financial solvency is critical.

HB 1363 expands the scope of RSA 420-D to allow CCRCs to offer contracts for continuing care to people who want and are able to remain in their own homes for a longer period of time. Under RSA 420-D, New Hampshire citizens who choose to move to a CCRC are able to pay a one-time fee and then a fixed monthly amount (adjusted periodically for inflation) in exchange for a guarantee of care for the person's lifetime. Under HB 1363, this care may be provided in the person's home in the community, with the option of moving into an on-campus independent living unit, or an assisted living or nursing facility should the need arise, rather than only on a CCRC campus.

---

**Aging Services of Maine and New Hampshire**  
PO Box 16506 | Hooksett, NH 03106  
[www.aging-services-menh.org](http://www.aging-services-menh.org)  
603.606.1517 (phone) | 603.606.1607 (fax)

Since HB 1363 amends RSA 420-D, only facilities that meet all state requirements for CCRCs and hold a valid Certificate of Authority from the Insurance Department will be permitted to offer lifecare contracts for services delivered in the community. We believe this is an important consumer protection and agree with the decision to draft the bill that way.

We are grateful to the Insurance Department for the work they have done and continue to do on HB 1363 and we look forward to working with the Department throughout this process.

Thank you for your time and, we hope, for your support of HB 1363.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas Argue /ija".

Thomas Argue, Board Chair

# Speakers





# Voting Sheets

# Senate Health and Human Services Committee

## EXECUTIVE SESSION

Bill # HB 1363

Hearing date: 4-20-10

Executive session date: 4-27-10

Motion of: OTP

VOTE: 4-0

<u>Made by</u>	Sgambati <input type="checkbox"/>	<u>Seconded</u>	Sgambati <input type="checkbox"/>	<u>Reported</u>	Sgambati <input type="checkbox"/>
<u>Senator:</u>	Gilmour <input checked="" type="checkbox"/>	<u>by Senator:</u>	Gilmour <input type="checkbox"/>	<u>by Senator:</u>	Gilmour <input type="checkbox"/>
	Kelly <input type="checkbox"/>		Kelly <input type="checkbox"/>		Kelly <input type="checkbox"/>
	Gallus <input type="checkbox"/>		Gallus <input type="checkbox"/>		Gallus <input type="checkbox"/>
	Downing <input type="checkbox"/>		Downing <input checked="" type="checkbox"/>		Downing <input checked="" type="checkbox"/>

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

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

<u>Made by</u>	Sgambati <input type="checkbox"/>	<u>Seconded</u>	Sgambati <input type="checkbox"/>	<u>Reported</u>	Sgambati <input type="checkbox"/>
<u>Senator:</u>	Gilmour <input type="checkbox"/>	<u>by Senator:</u>	Gilmour <input type="checkbox"/>	<u>by Senator:</u>	Gilmour <input type="checkbox"/>
	Kelly <input type="checkbox"/>		Kelly <input type="checkbox"/>		Kelly <input type="checkbox"/>
	Gallus <input type="checkbox"/>		Gallus <input type="checkbox"/>		Gallus <input type="checkbox"/>
	Downing <input type="checkbox"/>		Downing <input type="checkbox"/>		Downing <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Sgambati, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Kelly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gallus	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

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

\_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 27, 2010

THE COMMITTEE ON Health and Human Services  
to which was referred House Bill 1363

AN ACT                      relative to continuing care communities.

Having considered the same, the committee recommends that the Bill:  
**OUGHT TO PASS**

BY A VOTE OF:    4-0

AMENDMENT #        s

Senator Michael W. Downing  
For the Committee

Deb Chroniak 271-3096

## New Hampshire General Court - Bill Status System

**Docket of HB1363**

Docket Abbreviations

**Bill Title:** relative to continuing care communities.*Official Docket of HB1363:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
12/10/2009	H	Introduced 1/6/2010 and Referred to Health, Human Services and Elderly Affairs; <b>HJ 6</b> , PG.237
01/06/2010	H	Vacated from Health, Human Services and Elderly Affairs: MA VV; <b>HJ 6</b> , PG.249
01/06/2010	H	Referred to Commerce and Consumer Affairs: MA VV; <b>HJ 6</b> , PG.249
01/22/2010	H	Public Hearing: 2/2/2010 1:30 PM LOB 302
01/27/2010	H	Executive Session: 2/4/2010 10:00 AM LOB 302
02/09/2010	H	Committee Report: Ought to Pass with Amendment #0463h for Feb 17 CC (Vote 18-0); <b>HC 14</b> , PG.580
02/09/2010	H	Proposed Committee Amendment #0463h; <b>HC 14</b> , PG.634-635
02/17/2010	H	Amendment #0463h Adopted, VV; <b>HJ 18</b> , PG.931-933
02/17/2010	H	Ought to Pass with Amendment #0463h: MA VV; <b>HJ 18</b> , PG.931-933
03/24/2010	S	Introduced and Referred to Health and Human Services; <b>SJ 11</b> , Pg.262
04/14/2010	S	Hearing: April 20, 2010, Room 103, State House, 8:30 a.m.; <b>SC16</b>
04/28/2010	S	Committee Report: Ought to Pass, 5/5/10; <b>SC18</b>
05/05/2010	S	Ought to Pass, MA, VV; OT3rdg
05/05/2010	S	Passed by Third Reading Resolution
05/12/2010	S	Enrolled Bill Amendment #2008 Adopted
05/13/2010	H	Enrolled Bill Amendment #2008 Adopted; <b>HJ 42</b> , PG.2153
05/19/2010	S	Enrolled
05/19/2010	H	Enrolled; <b>HJ 46</b> , PG.2244
06/16/2010	H	Signed by the Governor 06/14/2010; Effective 01/01/2011; Chapter 0144

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

HB 1363 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):**

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

DATE DELIVERED TO SENATE CLERK

8-5-10

  
COMMITTEE SECRETARY