

# Bill as Introduced

SB 370 - AS INTRODUCED

2010 SESSION

10-2765

06/04

SENATE BILL **370**

AN ACT relative to sewage disposal systems.

SPONSORS: Sen. Odell, Dist 8; Sen. D'Allesandro, Dist 20; Sen. Houde, Dist 5; Sen. Fuller Clark, Dist 24; Rep. Foose, Merr 1; Rep. Hawkins, Hills 18; Rep. Sad, Ches 2; Rep. P. McMahon, Merr 3

COMMITTEE: Energy, Environment and Economic Development

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ANALYSIS

This bill permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 sewage disposal systems.

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

- 1           1 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal
- 2 System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:
- 3           II-a. No approval from the department shall be required for the expansion of any structure
- 4 that does not increase the load on a sewage disposal system.
- 5           2 Effective Date. This act shall take effect 60 days after its passage.

SB 370 - AS AMENDED BY THE SENATE

03/24/10 1095s

2010 SESSION

10-2765  
06/04

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AN ACT relative to sewage disposal systems.

SPONSORS: Sen. Odell, Dist 8; Sen. D'Allesandro, Dist 20; Sen. Houde, Dist 5; Sen. Fuller Clark, Dist 24; Rep. Foose, Merr 1; Rep. Hawkins, Hills 18; Rep. Sad, Ches 2; Rep. P. McMahon, Merr 3

COMMITTEE: Energy, Environment and Economic Development

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AMENDED ANALYSIS

This bill:

- I. Adds requirements for the renewal of septic system designer and installer permits.
- II. Permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

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## STATE OF NEW HAMPSHIRE

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AN ACT relative to sewage disposal systems.

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1 Permit Eligibility; Exemption. Amend RSA 485-A:35, I to read as follows:

2 I.(a) All applications, plans, and specifications submitted in accordance with this chapter for  
3 subsurface sewage or waste disposal systems shall be prepared and signed by the [person]  
4 **individual** who is directly responsible for them and who has a permit issued by the department to  
5 perform the work. The department shall issue a permit to any [person] **individual** who applies to  
6 the department, [and] pays a fee of \$80, and [~~who has demonstrated~~] **demonstrates** a sound  
7 working knowledge of the procedures and practices required in the site evaluation, design, and  
8 operation of subsurface sewage or waste disposal systems. The department shall require an oral or  
9 written examination or both to determine who may qualify for a permit. Permits shall be issued  
10 from January 1 and shall expire December 31 of every other year, **subject to the grace periods**  
11 **specified in subparagraphs (c) and (d)**. Permits shall be renewable upon proper application,  
12 payment of a biennial **permit** fee of \$80, and documentation of compliance with the continuing  
13 education requirement of subparagraph (b). A permit issued to any [person] **individual** may be  
14 suspended, revoked or not renewed only for just cause and after the permit holder has had a full  
15 opportunity to be heard by the department. An appeal from a decision to revoke, suspend, or not  
16 renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface  
17 systems fund established in RSA 485-A:30, I-b.

18 (b) Permitted designers shall complete a minimum of [3] **6 hours [annually] biennially**  
19 of continuing education approved by the department.

20 2 New Subparagraphs; Permit Eligibility; Exemption. Amend RSA 485-A:35, I by inserting  
21 after subparagraph (b) the following new paragraphs:

22 (c) A permitted designer who fails to file a complete application for renewal, the biennial  
23 permit fee, and documentation that the required continuing education has been completed with the  
24 department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with  
25 the renewal application, biennial permit fee, and documentation, provided such fees, application, and  
26 documentation are filed with the department within 30 days of the permit expiration date.

27 (d) If the renewal application, biennial permit fee, late renewal fee, and documentation  
28 are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended.  
29 The permit holder may request reinstatement of the permit within 60 days of the suspension by  
30 submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a),

1 the late renewal fee specified in subparagraph (c), documentation that the required continuing  
2 education has been completed, and a reinstatement fee of \$80. If the individual does not request  
3 reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual  
4 whose permit has become void who wishes to obtain a designer's permit shall apply as for a new  
5 permit pursuant to subparagraph (a).

6 (e) No individual whose permit has been suspended or voided pursuant to subparagraph  
7 (d) shall submit any design to the department for a subsurface sewage or waste disposal system.  
8 Submittal of such a design after the designer's permit has been suspended or voided pursuant to  
9 subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to  
10 the penalties specified in RSA 485-A:43.

11 3 System Installer Permit. Amend RSA 485-A:36, I to read as follows:

12 I.(a) No ~~[person]~~ **individual** shall engage in the business of installing subsurface sewage or  
13 waste disposal systems under this subdivision without first obtaining an installer's permit from the  
14 department. The permit holder shall be responsible for installing the subsurface sewage or waste  
15 disposal system in *strict* accordance with the ~~[intent of]~~ the approved plan. The department shall  
16 issue an installer's permit to any ~~[person]~~ **individual** who submits an application provided by the  
17 department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and  
18 the ability to read approved waste disposal plans. The department shall require an oral or written  
19 examination or both to determine who may qualify for an installer's permit. ~~[Individuals who have  
20 been actively engaged in the business of installing systems for at least 12 months prior to January 1,  
21 1980, shall not be required to submit to such examination, but shall be issued a permit upon filing  
22 an application and paying the initial fee, if application is made before June 30, 1980.]~~ Permits shall  
23 be issued from January 1 and shall expire December 31 of every other year. Permits shall be  
24 renewable upon proper application, payment of a biennial *permit* fee of \$80, and documentation of  
25 compliance with the continuing education requirement of subparagraph (b). The installer's permit  
26 may be suspended, revoked or not renewed for just cause, including, but not limited to, the  
27 installation of waste disposal systems in violation of this subdivision or the refusal by a permit  
28 holder to correct defective work. The department shall not suspend, revoke or refuse to renew a  
29 permit except for just cause until the permit holder has had an opportunity to be heard by the  
30 department. An appeal from such decision to revoke, suspend or not renew a permit may be taken  
31 pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in  
32 RSA 485-A:30, I-b.

33 (b) Permitted installers shall complete a minimum of [3] **6** hours ~~[annually]~~ **biennially**  
34 of continuing education approved by the department.

35 4 New Subparagraphs; System Installer Permit. Amend RSA 485-A:36, I by inserting after  
36 subparagraph (b) the following new subparagraphs:

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19 A:43.

20 5 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal  
21 System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:

22 II-a. No construction or operational approval shall be required from the department prior to  
23 expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal  
24 system, as long as all of the following conditions are met:

25 (a) The lot is served by a sewage disposal system that received construction and  
26 operational approval from the department within 20 years of the date of the issuance of a building  
27 permit for the proposed expansion, relocation, or replacement.

28 (b) If the property is nonresidential, no waivers were granted in the construction or  
29 operational approval of any requirements for total wastewater lot loading, depth to groundwater, or  
30 horizontal distances to surface water, water supply systems, or very poorly drained soils.

31 (c) When applicable, the proposed expansion, relocation, or replacement complies with  
32 the requirements of the comprehensive shoreland protection act, RSA 483-B.

33 6 Effective Date. This act shall take effect 60 days after its passage.

SB 370 - AS AMENDED BY THE HOUSE

03/24/10 1095s  
28Apr2010... 1444h

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29 expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal  
30 system, as long as all of the following conditions are met:

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32 operational approval from the department within 20 years of the date of the issuance of a building  
33 permit for the proposed expansion, relocation, or replacement.

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35 operational approval of any requirements for total wastewater lot loading, depth to groundwater, or  
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**SB 370 - AS AMENDED BY THE HOUSE**

**- Page 4 -**

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- 2 6 Effective Date. This act shall take effect 60 days after its passage.

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36 horizontal distances to surface water, water supply systems, or very poorly drained soils.

37 (c) When applicable, the proposed expansion, relocation, or replacement complies with



**SB 370 – FINAL VERSION**

**- Page 4 -**

- 1 the requirements of the comprehensive shoreland protection act, RSA 483-B.
- 2       6 Effective Date. This act shall take effect 60 days after its passage.

**SB 370 - FISCAL NOTE**

AN ACT                    relative to sewage disposal systems.

**FISCAL IMPACT:**

The Department of Environmental Services states this bill, as amended by the House (Amendment #2010-1444h), may increase state revenue by an indeterminable amount in FY 2011 and each year thereafter. There is no fiscal impact on county and local revenue or state, county and local expenditures.

**METHODOLOGY:**

The Department of Environmental Services states the provision in this bill establishes a late fee of \$80, in addition to the permit fee, for permitted designers who file for permit renewals after the permit expiration date. As it has never tracked late permit filings, the Department has no information with which it could project potential revenue from the late fees, although it assumes there will be at least some late filers.

# Amendments

Sen. Odell, Dist. 8  
March 15, 2010  
2010-0994s  
06/10



Amendment to SB 370

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11 perform the work. The department shall issue a permit to any ~~[person]~~ **individual** who applies to  
12 the department, ~~[and]~~ pays a fee of \$80, and ~~[who has demonstrated]~~ **demonstrates** a sound  
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14 operation of subsurface sewage or waste disposal systems. The department shall require an oral or  
15 written examination or both to determine who may qualify for a permit. Permits shall be issued  
16 from January 1 and shall expire December 31 of every other year, **subject to the grace periods**  
17 **specified in subparagraphs (c) and (d)**. Permits shall be renewable upon proper application,  
18 payment of a biennial **permit** fee of \$80, and documentation of compliance with the continuing  
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Amendment to SB 370

- Page 2 -



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2010-0994s

AMENDED ANALYSIS

This bill:

- I. Adds requirements for the renewal of septic system designer and installer permits.
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Amendment to SB 370

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2010-1095s

AMENDED ANALYSIS

This bill:

- I. Adds requirements for the renewal of septic system designer and installer permits.
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# Committee Minutes

**SENATE CALENDAR NOTICE  
ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT**

Senator Martha Fuller Clark Chairman ✓  
 Senator Amanda Merrill V Chairman ✓  
 Senator Jacalyn Cilley ✓  
 Senator Bette Lasky ✓  
 Senator Bob Odell ✓  
 Senator Jeb Bradley ✓

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

10:05 open  
 10:46 close

Date: February 17, 2010

**HEARINGS**

**Thursday**

**3/11/2010**

ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT	LOB 102	8:30 AM
(Name of Committee)	(Place)	(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** \*\*Please note: SB 366 was recessed on January 28, 2010.\*\*

8:30 AM	SB366	relative to size limitations on OHRVs operating on state-owned trails.
9:00 AM	SB301	relative to combustion of untreated wood at municipal transfer stations.
9:30 AM	SB370	relative to sewage disposal systems.

**Sponsors:**

<b>SB366</b>	Sen. Sharon Carson	Sen. John Gallus	Rep. Robert Theberge	Rep. Paul Ingersoll
<b>SB301</b>	Sen. Bob Odell	Rep. Tara Sad	Rep. Burton Williams	Rep. Leigh Webb
<b>SB370</b>	Sen. Bob Odell	Sen. Lou D'Allesandro	Sen. Matthew Houde	Sen. Martha Fuller Clark
	Rep. Robert Foose	Rep. Ken Hawkins	Rep. Tara Sad	Rep. Patricia McMahon

# Energy, Environment and Economic Development Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Michael Rollo, *Legislative Aide*

**RE:** Hearing report on **SB 370** -An act relative to sewage disposal systems.

**HEARING DATE:** March 11, 2010.

**MEMBERS OF THE COMMITTEE PRESENT:** Senators Fuller Clark, Merrill, Cilley, Lasky, Odell, and Bradley.

**MEMBERS OF THE COMMITTEE ABSENT:** None

**Sponsor(s):** Sen. Odell, Dist 8; Sen. D'Allesandro, Dist 20; Sen. Houde, Dist 5; Sen. Fuller Clark, Dist 24; Rep. Foose, Merr 1; Rep. Hawkins, Hills 18; Rep. Sad, Ches 2; Rep. P. McMahon, Merr 3

**What the bill does:** This bill permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

**Who supports the bill:** Sen. Odell, Dist. 8, Se. Fuller Clark, Dist 24, Paul Morin, NHHBA, Russ Collins, Home Innovations, Greg Rehm, Liberty Hill Construction, Tricia Grahame, NHHBA, Art Pollack, NHHBA.

**Who opposes the bill:** None

**Neutral position:** Rene Pelletier, NH DES

**Summary of testimony received:**

Senator Odell, Dist 8- Prime Sponsor of SB 370.

- Hearing called to order at 10:05am
- Bill allows increase in structure size if there is not an increase load on the septic system.

- There are two amendments for consideration, one from DES, one from the Home Builders. Senator Odell will leave each of them to present their separate amendments.
- Sen. Bradley asked that if load was based on the number of bedrooms. Sen Odell replied yes.
- Sen. Cilley asked what was to stop someone from building a den and the next owner or current owner converting that space to a bedroom. Sen. Odell replied that the bill is about the expansion of the footprint. If that doesn't change, then there should be no impact.
- Sen. Merrill asked if current RSA doesn't cover this. Sen. Odell explained that there has been some confusion over the years at DES about the statute and that this will clarify.

#### Russ Collins, Residential Remodeler

- In support.
- Administrative rules make compliance difficult. If his company puts a dormer window in, then he must file a permit with DES or be in violation.

#### Paul Morin, NH Home Builders

- In support of Amendment 2010-0957s.
- Bill is only necessary because DES Rule, 1004.15 is trumping RSA 485-A:38.
- The difference between Home Builders amendment and DES amendment is contained in new paragraph section IIa on pg 3, line 23. The change is in regard to exceptions to permitting. The Home Builders consider their proposed language as a compromise of the DES language.

#### Greg Rehm, Liberty Hill Remodeling

- In support of Home Builders amend.
- If this does not pass, customers will look for contractors that are willing to skirt the law to be cheaper.
- Window replacements do not alter footprint. There is a fear factor for customers over added costs.

#### Rene Pelletier, NH DES

- In support of amendment 2010-0949s (DES amend.).
- Concerns that existing rules can be difficult and need to be changed.
- Concerned that people might disturb or displace existing septic systems.
- A twenty year window is acceptable for approval.
- Contention is over pg. 3, line 23. DES asks for more diligence.
- Sen. Odell asked what would it take to come to a consensus and is DES willing to work with the Home Builders? Mr. Pelletier answered that waivers are the sticking point and that he will meet with Home Builders and bring back language next week.

Hearing was closed at 10:45am.

**Funding:**            *Not applicable.*

**Future Action:**    Executive action pending.

**MSR**

File: SB 370

Date: March 11, 2010



*ML*

Date: March 11, 2010  
Time: 10:05 a.m.  
Room: LOB Room 102

The Senate Committee on Energy, Environment and Economic Development held a hearing on the following:

Senate Bill 370 (New Title) relative to sewage disposal systems.

Members of Committee present:                    Senator Fuller Clark  
   Senator Merrill  
   Senator Cilley  
   Senator Lasky  
   Senator Odell  
   Senator Bradley



The Chair, Senator Martha Fuller Clark, opened the hearing on Senate Bill 370 and invited the prime sponsor, Senator Bob Odell, to introduce the legislation.

Senator Bob Odell, D. 8: It seems to be my day.

Senator Martha Fuller Clark, D. 24: Everyone should have a day.

Senator Bob Odell, D. 8: I'm here today to introduce Senate Bill ... Bob Odell, State Senator, District 8 and a part to communities in Merrimack, Cheshire, and Sullivan Counties.

Senate Bill 370 is relative to the expansion of structures, buildings, that do not increase the load on a sewage disposal system without approval of the Department of Environmental Services. This issue simple, and it's become quite complicated. But basically, from a layman's standpoint, septic systems are regulated based upon capacity and volume determined by, as I recall, bedrooms. And this bill would allow citizens of New Hampshire to expand the size of their structures, buildings, and, as long as they're not increasing the load on the septic system, can go forward with doing that without going to the Department of Environmental Services for approval.

Having introduced the bill, with favorable support from the homebuilders and others, the Department has asked that we make some administrative, technical changes and also some changes in the intent of the bill. And what I have done is had two amendments drafted. One I will call the DES amendment, and the other I'll call the homebuilders amendment.

**Please see Attachment #1 – Senator Odell's amendment #2010-0949s.**

**Also see Attachment #2 – Senator Odell's amendment # 2010-0957s.**

Senator Bob Odell, D. 8: What I'd like to do is hold them and leave them here. And, as individuals testify on behalf of their position on this bill, to have those amendments distributed so that the testimony is relative to the amendments, because there are technical aspects of this that are important. But the key thing here is, and why I'm supportive of the Home Builders position on this is, as long as we're not increasing the demand, the load, on the septic system, which is the original ... which is the purpose of having septic systems regulated, then I see no reason why we shouldn't allow people to make some expansions.

There are some issues with non-conforming lots - small lots that date back with old septic systems - and the Department can explain that, but I think this is an important issue, and quite frankly, we need to get it right because we don't want to create, cause more damage than is already being created by the problem of having these regulations to get approval from DES for these small expansions of a home.

So, with that...

Senator Martha Fuller Clark, D. 24: Senator Bradley has a question.

Senator Bob Odell, D. 8: Uh, oh.

Jeb E. Bradley, D. 3: Thank you. I'm assuming what you're talking about. Normally, a septic disposal system is based on the number of bedrooms in a house so that you could expand your living room, your kitchen, but you wouldn't be expanding the number of bedrooms. And that's what this is designed for.

Senator Bob Odell, D. 8: Exactly. And I use the example of you want to build a den. So, you build a den. You get a local building permit; you do all your local regulations; you want to build a den. It doesn't increase the number of people living in the house. It doesn't increase the load on the

septic system, so why would you have to go to DES to get approval? And so, that's the basic issue.

Senator Martha Fuller Clark, D. 24: Other questions? Senator Cilley.

Senator Jacalyn L. Cilley, D. 6: Thank you, Madam Chair. This is another one that I was looking at and saying, "What?" So, I think I understand it a little better now. But what's to prevent ... I give you a personal case. We're about to renovate a room that's been almost anything in the twenty years we've owned the house. It's been a bedroom; it's been sort of a sitting ... And we're renovating it into what, for our use, will be a sitting room. But it could be a bedroom. I'm just wondering, are there any ... Once we do this, are there any parameters on this that would say, "When you build something that's a den or a sitting room or whatever, but if it can equally accommodate, for the next people who buy the house, to be another bedroom..."

Senator Bob Odell, D. 8: I think the word here is expansion, going beyond the footprint. So, if you are converting your bedroom to a sitting room, you're not expanding the footprint of your structure. And so, this deals only with expansion.

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

Senator Martha Fuller Clark, D. 24: Yes.

Senator Jacalyn L. Cilley, D. 6: I'm just trying to understand this. I made the mistake, probably, in saying it had been used as a bedroom. But let's say it never had, and I build this as ... And we are expanding it. And I built it as a sitting room, but then the house sold. Somebody else used it as a bedroom, which would now make our home a three-bedroom place as opposed to a two-bedroom place. I'm just trying to figure out if, in these expansions, we might be adding capacity that could later be used and then be a burden on the septic system. A good homeowner would just upgrade the septic system, which is what we did after we bought the place, because we're a good homeowner.

Senator Bob Odell, D. 8: Let's make sure that I understand this also, and we'll have others that will testify on this, but it's about the expansion of the footprint. So, as long as you are not expanding the footprint, this bill would not apply to you nor ... wouldn't apply to you.

Senator Jacalyn L. Cilley, D. 6: Okay.

Senator Bob Odell, D. 8: So, it's whether you ... It's when you go beyond the footprint, I believe.

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

Senator Martha Fuller Clark, D. 24: Follow up, Senator Merrill.

Senator Amanda Merrill, D. 21: Thank you, Madam Chair. Thank you, Senator Odell. I'm just trying to fit this into the context of the existing statute, which I have ... I'd have to say I'm not intimately familiar with, but I'm looking at 485-A:38, and...

Senator Bob Odell, D. 8: Which section are you looking at?

Senator Amanda Merrill, D. 21: 485-A...

Senator Bob Odell, D. 8: Thirty-five...

Senator Amanda Merrill, D. 21: ...colon thirty...

Senator Bob Odell, D. 8: ...or thirty-eight?

Senator Amanda Merrill, D. 21: Thirty-eight.

Senator Martha Fuller Clark, D. 24: Thirty-eight.

Senator Bob Odell, D. 8: Thirty-eight?

Senator Amanda Merrill, D. 21: Yeah, which, in your new language would be added, would be 2 A, in that section. Okay. But Roman numeral one says, "Prior to expanding any structure..." or occupying owners ... Well, anyway. "Prior to expanding any structure, which would increase the load on the sewage disposal system, the owner shall submit an application for approval..." So, the existing language says that you just need an application if you're going to expand the load. So, it seems as though ... Yeah. Doesn't that cover it? I mean, because you're talking about ... It seems as though you're language says that you shouldn't have to get an application if you're not going to increase the load. And I thought that's what the existing language says.

Senator Bob Odell, D. 8: It depends on how it's interpreted at the Department. This will clarify for anyone who might not understand that that's ... The intent is that any ... As long as you are not increasing the load

as defined then you would be ... not have to get a permit, not have to get approval.

Senator Amanda Merrill, D. 21: So...

Senator Bob Odell, D. 8: That's the layman's...

Senator Amanda Merrill, D. 21: Okay.

Senator Bob Odell, D. 8: ...look at it.

Senator Amanda Merrill, D. 21: So, then, is it ... When you talk about interpretation, then, is it the language, "increase the load," that's...

Senator Bob Odell, D. 8: My term, yeah.

Senator Amanda Merrill, D. 21: ...in question?

Senator Bob Odell, D. 8: That's my term. Yes.

Senator Amanda Merrill, D. 21: That ... No, but then that's in the ... in the statute. So, that's the language that's subject to interpretation: "increasing the load".

Senator Bob Odell, D. 8: Yes.

Senator Amanda Merrill, D. 21: Okay.

Senator Bob Odell, D. 8: Yeah.

Senator Amanda Merrill, D. 21: Thank you.

Senator Martha Fuller Clark, D. 24: Okay.

Senator Bob Odell, D. 8: Am I done?

Senator Martha Fuller Clark, D. 24: No quite yet. Just to follow up on Senator Cilley's question, which I understand that you're dealing with the issue of expansion of any structure, but an expansion of the structure, as you pointed out, could be for a number of different types of uses, whether it was expanding to increase your kitchen, or expanding to add on a den. What would, and further down the road when that house sells or the nature of the family's needs change, for that den not to be converted into a bedroom?

Senator Bob Odell, D. 8: And that's a question that I had not raised earlier, and so I don't have the answer to that.

Senator Martha Fuller Clark, D. 24: Okay. Thank you.

Senator Bob Odell, D. 8: Yep.

Senator Martha Fuller Clark, D. 24: We have ... Yes, if we could hear from Russ Collins. Welcome.

Russ Collins, Home Innovations: Thank you. My name is Russ Collins. I'm a residential remodeler in Sandown, New Hampshire. I run a small remodeling company that has five employees. We've been in business since 2002. We pride ourselves on being responsible contractors who abide by the laws, and we didn't know that we've been out of compliance with the recently passed administrative rules. Whenever we've converted basements or attics to habitable space or we've added dormer windows to a structure and been able to expand the same upstairs bedroom or bumped out kitchen - none of which have any impact on the septic loading - we've been breaking the law on a technicality. And we don't like to do that.

Senator Martha Fuller Clark, D. 24: So, do you have a ... Excuse me for interrupting you, but do you have a copy of those administrative rules which seem now perhaps to be at the crux of the problem?

Mr. Collins: I have administrative rule Environmental Water Quality 1004.15: Relocation or Expansion of Existing Buildings; Replacement of Demolished or Burned Buildings.

**Please see Attachment #3 - New Hampshire Code of Administrative Rules.**

Mr. Collins: And under paragraph (a) it states: "Replacement of a building that has burned or otherwise been demolished, reconstruction of a building in a new location, or any expansion of an existing structure, shall be considered new construction which requires submission of an application, including plans and specifications, in accordance with Water Quality 1003, unless all of the following are true." And it says: "As compared to the structure, the new structure will have the same footprint, ridgeline, usable interior space, and same use."

If I add a dormer window, I'm changing ridgeline. I'm also expanding interior space. If I bump out a kitchen, I'm adding interior space, and I'm increasing the footprint.

Senator Martha Fuller Clark, D. 24: Thank you. This is very helpful, because I think we were looking in statute and not understanding, perhaps, some conflict between the statute and the rules. Thank you.

Mr. Collins: Okay. So, if I obey the existing rule, then I've got to ... And I'm, say, doing a ... bumping out somebody's upstairs bedroom, I've got to prep plans and specs for DES. I've got to wait on approval from DES before I can proceed, and I've got to explain to the client that they've got to pay for the extra plans and specs and deal with the scheduling issues. And I won't get the job. Somebody, some contractor who doesn't care about obeying the law or the rules, is going to get the job. And me and my people...

Senator Martha Fuller Clark, D. 24: Or doesn't understand.

Mr. Collins: Doesn't understand; right. Or is as tuned in. Right. They won't ... They'll get the job and I won't. So, I support the Homebuilders and Remodelers language for the paragraph 2(a) of the amendment here. And I urge you to also.

Senator Martha Fuller Clark, D. 24: Okay. Thank you very much. I think it would be helpful if we could move on and hear from Paul Morin.

Paul Morin, Home Builders and Remodelers Association: Which one is which, yellow or red?

Senator Bob Odell, D. 8: It's indicated. I've written DES on one, and I've written NHHB.

Mr. Morin: Good morning, Madam Chair.

Senator Martha Fuller Clark, D. 24: No one from DES has signed up.

Rene Pelletier, Department of Environmental Services: (Speaking from the back of the room) I got in late, Senator. I'm here.

Senator Martha Fuller Clark, D. 24: Thank you. Yes.

Mr. Morin: Thank you, Madam Chair, members of the Committee.

Senator Martha Fuller Clark, D. 24: Welcome.

Mr. Morin: Paul Morin from the Home Builders and Remodelers Association and Tarkka Homes, Inc. I build homes, and I also do remodeling. It's my main business.

This could get very complicated with competing amendment versions and rules and the current statute and whatnot. So, I will do my best to be clear, but Senator Merrill put her finger right on the heart of the issue when she pointed out that, as it's written today, in our opinion, the statute is just fine. The statute's very clear in two places. Roman one ... It says the fact that the title of this section is *Approval to Increase Load on a Sewage Disposal System*. So, it shouldn't even apply if you're not adding load to a sewage disposal system. You should not be engaging with the Department for an approval.

And it says, "Prior to expanding ... which would increase the load on a sewage disposal system," which I take to mean, if you're not, then this doesn't apply. And it also says it under III: "The Commissioner shall adopt rules under RSA 541-A requiring a person to comply with the provisions of paragraph one before taking any action which would increase the load on a sewage disposal system." But you have a copy before you of Environmental Water Quality rule 1004:15 that came to be two years ago, which clearly says that there are going to be a number of situations, in fact most situations, that involve remodeling.

Adding space could be finishing, above an unfinished garage, a bonus room. It could be a TV room down in the basement or a home office. All of these things that do not add load to a system by definition - they're not adding bedrooms - you would be applying to the Department, which seems to us to be a direct contradiction to the existing statutes. So, we asked Senator Odell to please come in with some language that would make it clear, stating the negative: "If you're not doing this, then you have no business applying to the Department. They have no business requiring this approval." I think your intent was clear when the statute was first written, and we're just making sure that it is that much clearer.

The original bill was quite simple. DES is offering an amendment that is a little more complicated. And in the spirit of trying to assist them to capture more situations that are problematic, when you have smaller lots and there may be cause to take a closer look, we've adopted their reconstruction here, but we've made our own changes. This is the section 2 a, is the new section. Mine is in green; I'm not sure what yours actually looks like, but I presume it's in bold. "No approval is necessary unless you're increasing load, so long as all of the following conditions are met: the lot is served by a legal sewage



*ME*

disposal system..." thank you ... which is lines 8 through 23. I'm sorry this has been formatted differently, so I'm a little bit lost.

I'm on page three, line 29: "The lot is served by a sewage disposal system that received construction and operational approval from the Department." So, this mean, if you have a system that is illegal or it wasn't approved - maybe it pre-dated approvals - yes, you have to go to the Department, if you're going to do anything that adds footprint or might otherwise decrease the available area for a conforming system.

B: "Proposed improvement does not violate current standards for setbacks of structures to the sewage disposal system." Your tank and your field have setbacks. Now, you may be compliant now, but if you're going to add a garage or a family room or something like that, you cannot get within that setback. And so, you have to do a little bit of research and make sure that's not the case. If you are, well then you're up at DES, probably asking for a waiver or something like that, which we believe would be reasonable.

And then C: "When applicable, the Shoreline Protection Act must be complied with." And DES wanted to state the obvious there. We have absolutely no problem with that.

The rules, 1004.15, in our view, were very draconian. If you are changing the footprint at all; if you're changing the ridgeline, which might be a dormer or something like that with the roof; if you are increasing usable interior space finishing off an unfinished area that has nothing to do with the bedrooms. In all of these cases, you have to apply to DES. And it may be a fairly simple application, but we're very concerned of the negative impact it's going to have on a homeowner's desire to actually go forward with a project if they think that maybe they're going to have to replace their septic system or there's going to be additional costs involved or something like that. And the fact that records may not be readily available could be a fairly serious expense to have a septic designer come in and locate your system and your tank and find out exactly what's going on. The older the system, the more difficult it is to get that information.

You've heard from one remodeler. There's another here who's signed up to speak. And it's really a little bit more their world than mine, but I wanted to give you the background on why we're here this morning to essentially keep the statute the way it is and just make it a little bit clearer.

Senator Amanda Merrill, D. 21: Questions for Mr. Morin?

Senator Bob Odell, D. 8: Just a clarification, if I may? Thank you. So, what you're saying on page 3 is that these are ... This came through DES?

Mr. Morin: You're going to get a copy, if Mr. Pelletier's going ... or I can.

Senator Bob Odell, D. 8: Oh, that's all right. Let him do it.

Mr. Morin: His is a little bit different. It's got A, B, C, and D.

Senator Bob Odell, D. 8: Okay.

Mr. Morin: And the conditions are a bit different, and some of them we could not agree with. The twenty-year limit going forward: older systems would now have to apply. And again, we're saying there may be no rational nexus between what you're doing and the septic system itself. So, we didn't believe that that was necessary. So, we've agreed to the degree that we can, and when we reached our pain threshold, we stopped. So, we re-wrote that section that DES was proposing as an amendment.

Senator Bob Odell, D. 8: So, you would ... You agree with A, B, C.

Mr. Morin: Yes, sir.

Senator Bob Odell, D. 8: And not with D.

Mr. Morin: We re-wrote a couple of these, so they're not ... B isn't ... Our B is not necessarily...

Senator Bob Odell, D. 8: Okay.

Mr. Morin: ...their B.

Senator Bob Odell, D. 8: All right. Okay.

Jeb E. Bradley, D. 3: And this is the new paragraph, section 5 that starts on line 26...

Senator Bob Odell, D. 8: Correct.

Jeb E. Bradley, D. 3: ...on page 3?

Mr. Morin: Yes.

Jeb E. Bradley, D. 3: Everything else is agreed upon?

Mr. Morin: One of the things in DES' proposal is that there are waivers associated with the original. That can be a very, very difficult thing to determine, and quite frankly, what you're going to get is mass non-compliance. People are simply going to say, "I don't know. I don't know where to find out. How would I know? That was three owners ago, when it was first approved." It's not an easy thing to find out. That was one of the things we eliminated.

Senator Amanda Merrill, D. 21: Other questions? Okay. Thank you very much.

Mr. Morin: Thank you.

Senator Amanda Merrill, D. 21: And I guess, sticking with this amendment for now, I would ask Greg Rehm to speak, listed as in support.

Greg Rehm, Liberty Hill Construction: Good morning.

Senator Amanda Merrill, D. 21: Do you want to speak to the amendment we just got?

Mr. Rehm: Very briefly...

Senator Amanda Merrill, D. 21: Okay.

Mr. Rehm: ...because most of it has been said. My name's Greg Rehm. I'm the owner of Liberty Hill Construction in Bedford, New Hampshire. I own a residential remodeling company. The vast majority of our projects have some sort of impact on expanding usable space. We do additions, renovations, finish basements, kitchen bump-outs. My fear is that, interpreting some of these rules, customers will ... They don't know about their septic systems. When a remodeler comes in and says, "Oh, we need to apply to DES so that I can put a deck on the back of your house," they are going to be fearful of that, of the costs and the exposure of what may or may not be.

So, my point is they are going to look to other ways to get around this. They may be willing to hire a contractor without a permit. They will try to skirt this due to fear. It will lose me jobs, and it will not cover the intent. Leave it at that, because you've heard most of the other stuff.

Senator Amanda Merrill, D. 21: Thank you. Questions? Senator Odell.

Senator Bob Odell, D. 8: Okay, thank you. Thank you for your testimony. I guess the fear factor ... I'm not sure how other people ... where their fear comes from. My fear comes from the fact that I look out at my field and in, perhaps, the summer, it seems like I can things, and it's a little soggy and things like that. But my neighbor has got ... had a problem. And so all of a sudden, they've got a huge mound out there, which would be very different from the way that my backyard looks right now. So ... And plus I fear the day that I have to replace it, because I don't know where it'll go and what the cost will be.

Am I reflecting what you're potential customers are reflecting, that that septic system's been there for probably fifty years? Would that be possible?

Mr. Rehm: Very much so.

Senator Bob Odell, D. 8: Yeah, and I just ... You know it's like testing the water. Why do it if everybody's healthy, let's not get involved in finding out things we don't need to know.

Mr. Rehm: And more importantly, how am I changing the requirements of that septic system by putting on a deck, by adding a dormer over the garage, by giving them a children's playroom in the basement? When we're adding bedrooms, yes; but most of the other projects, no.

Senator Bob Odell, D. 8: And have you ... I'm going to say I don't want to be pejorative here, but have you had problems in this? Do you fear ... Do you have problems? Actual problems have occurred with the Department in this area, or is it the apprehension of potential problems?

Mr. Rehm: It's the apprehension. And honestly, as a professional remodeler, I chair the Remodelers Council for the State of New Hampshire. I'm the president of the Home Builders Association in Manchester. We act in accordance and a professional level in everything we do, and that's really my fear. In order to comply with the way it's written that we're going to scare people away, lose business, and not achieve the intent.

Senator Amanda Merrill, D. 21: Other questions? Thank you very much.

Mr. Rehm: Thank you.

Senator Amanda Merrill, D. 21: Rene Pelletier from DES.

MC

Mr. Pelletier: Morning, Madam Chair. For the record, I'm Rene Pelletier, the assistant director of the Water Division at DES. And I'm here before you in support of the DES amendment. I know that surprises you. Thank you.

Senator Amanda Merrill, D. 21: Yes.

Mr. Pelletier: Okay. No, I can wait.

Senator Amanda Merrill, D. 21: Oh, good. Why don't we wait until we get the amendment?

Jeb E. Bradley, D. 3: It's already thicker.

Mr. Pelletier: Well, it's a letter of testimony.

**Please see Attachment #4 - Letter from Department of Environmental Services.**

Senator Amanda Merrill, D. 21: Okay.

Senator Bette R. Lasky, D. 13: If not now, when?

Senator Amanda Merrill, D. 21: All right.

Senator Bob Odell, D. 8: Next week.

Senator Amanda Merrill, D. 21: Everybody has the amendment, Mr. Pelletier.

Mr. Pelletier: Okay, first of all, I would like to say that I would concur with the existing rule or standard is probably not workable, and I think that's why we had been talking to the home builders for the last couple of years where we had hoped to achieve the changes in rulemaking. But we all know how the rulemaking process goes, and we've been struggling with other priorities than rulemaking. So, when we proposed this amendment to Senator Odell, it was obviously in response to the Senate Bill 370, but let me be very candid. The rules as they exist now are not workable, and we did understand that. And we did fully intend, at some point in the future, to make those changes.

What I do want to say is the biggest concern that we have about this piece of legislation, certainly in the original language, is that for those of you that may or may not be aware of the design of septic systems, they're all based on soil type and site load.

The concern in the generic nature of Senate Bill 370 as originally written would propose problems, and we've seen those problems because many times people build additions - albeit they may not create loading - it is not uncommon today for people to build twenty by twenty great rooms, ten by twenty great rooms. Unfortunately, in doing that, they may very well have utilized the best area for a replacement septic system on that site. We have encountered that problem a number of times. Because someone has a septic system that's existed for fifty years does not make it...

There's two parts to a septic system. Can you hide all the water you're putting into it, *vis-à-vis*, does it stay in the ground? And number two, is it high enough out of the groundwater - whether it'd be seasonal groundwater or yearly groundwater - to actually renovate the wastewater? So, there's really two significant issues. Because a system has been in the ground for thirty years does not mean that it's doing an effective job of renovating wastewater.

We know in the last twenty years, the technology and the knowledge base on reading soils has changed dramatically. And that's why we chose the twenty year window, figuring if you've got a twenty-year valid septic system, we're pretty confident that there is enough knowledge when the design was done that, installed according to plan, that it's actually renovating the wastewater successfully. So, that was the biggest issue of concern for us. That's why we felt that if you keep it in the same footprint - the dormer issues, the window issues, the basement issues - and you have a plan that was twenty years, you know. Who cares? I mean, I don't think...

We have struggled since I've been around, which is longer than I like to think, is that ... How do you count bedrooms? You know we get more people to build houses that they're building two bedrooms and a den. You know, historically, that's been an issue, and we know that. And short of hiring part-time help to go out at night with flashlights to see what's going on, we can't prove that stuff. It's crazy. So, I think, ultimately, as we move down the line, we're going to go to design load based on square footage or something that makes more sense than trying to figure out how many bedrooms are in use.

So, our biggest concern is is that there's a system that's older than twenty years. The industry is not as astute as it is today about soil type and placement of a system, and that's why we picked the twenty-year window. And the big concern, again to reiterate, is is that we don't want to be put in a position five years down the road where homeowner A has put on a twenty by twenty great room. They now come in for a failed system, and we got to grant waivers, because they can't go anywhere else but where it was because they've utilized, perhaps, one of the better places on the lot.

Now, you can have a small lot that doesn't meet loading. You can have a large lot that you have very few places to put a new system on. It could be ledge outcrops; it could be well location; there's a number of issues that are really going to dictate where you can install a septic system. So, our feeling is that if you get a twenty year old approval, those thoughts were taken into consideration.

Now, I was around in '73 when this program was really just taking off the ground. I mean, people used to design septic systems based on whether their sneakers got wet. I mean, that's a reality. And DES staff as well. I mean, we're all in the same boat, you know? In the last twenty years after that, there were soil scientists created; there was training; there was education. And if you were to look at a system installed in the early to late '70s, early '80s, take that same lot and look at it under the design criteria and knowledge base today, it would be dramatic. It would be dramatic.

So, that's why. That's the whole issue. We don't want to make it any tougher for the home builders or the remodelers. And I would agree that guys that spoke ... Laws never affect the good guys, unfortunately. Well, they affect the good guys, because there's a lot of bad work going on there. But I think it's in our mind. If something like this takes place, we do a fine job, hopefully, of disseminating this to local building officials, that it will level the playing field, because it's not acceptable.

And I hear this all the time - because I sit on the water well board also - all the time about this criteria for how you drill a well, where you drill it, what setbacks are. And there are well drillers out there that ... They'll ignore the rules, and they'll just go in and drill the well. The issue is, if we license them and that's brought to our attention, then we have a little discussion about their professional license. But I mean, hopefully, if something like this takes place, it will level the playing field. To me it's unacceptable that you're in a profession where you're not up to speed on the rules and current laws and statutes. I don't find these onerous. I think it's perhaps doing a little more diligence, but the biggest concern and what we regulate is the environment. And we have seen oh so many times where people have built a structure, and what are you going to do? You're going to grant waivers. You know? So, that's our concern. That's it in a nutshell.

Senator Amanda Merrill, D. 21: Questions? Senator Odell.

Senator Bob Odell, D. 8: Thank you. Not that I want to get into building a career around septic systems...

Mr. Pelletier: I got to check yours, now that you said it's mushy in the center.

Senator Bob Odell, D. 8: It's sort of an armed camp, so it's probably ... So, if you take the two amendments...

Mr. Pelletier: Yep.

Senator Bob Odell, D. 8: ...our discussion is all about section 2, A and B?

Mr. Pelletier: You know, Senator, to be honest, I haven't had enough time to digest. I just saw this today for the first time.

Senator Bob Odell, D. 8: Yep.

Mr. Pelletier: So, I don't want to act off the cuff here. I would have to...

Senator Bob Odell, D. 8: Let me get to ... Let me...

Mr. Pelletier: ...give it some thought.

Senator Bob Odell, D. 8: ...jump ahead.

Jeb E. Bradley, D. 3: Oh, I think it is. I think it's just that new paragraph 5. Everything else...

Senator Amanda Merrill, D. 21: Yeah.

Jeb E. Bradley, D. 3: ...seems to be the same.

Senator Bob Odell, D. 8: Right. So, I'm just wondering, from the Department's standpoint and from ... I know you can't speak for the Home Builders. What does it take to get some accommodation here?

Mr. Pelletier: Well, I'd certainly be willing to sit down and try and come to a compromise that ultimately gets at least most of the goals of both of us.

Senator Bob Odell, D. 8: You've said the rules are not...

Mr. Pelletier: I would agree.

Senator Bob Odell, D. 8: They're not working.

Mr. Pelletier: Absolutely.



Senator Bob Odell, D. 8: So, we've got to do something.

Mr. Pelletier: Well, right.

Senator Bob Odell, D. 8: The Department wants to do the right thing.

Mr. Pelletier: Right.

Senator Bob Odell, D. 8: The Home Builders, I think, have a compelling case, compelling story. I don't know about the twenty years. I can understand the evolution of standards that are different today than they were forty years ago. What can we ask you to do?

Mr. Pelletier: Retire.

Senator Bob Odell, D. 8: Don't get me down that road!

Senator Amanda Merrill, D. 21: Not so fast!

Mr. Pelletier: No, I think, if you want to just hold this open, I can sit down with the Home Builders and see if we can come to some sort of agreement.

Senator Bob Odell, D. 8: All right.

Mr. Pelletier: But we...

Senator Bob Odell, D. 8: Timeframe...

Mr. Pelletier: What do we have for time?

Senator Amanda Merrill, D. 21: We have until...

Senator Bette R. Lasky, D. 13: Next week.

Senator Amanda Merrill, D. 21: ...next Thursday.

Senator Bob Odell, D. 8: But I think we should have...

Mr. Pelletier: Well, I think we could do something by then.

Senator Bob Odell, D. 8: I think we need to have a report back from both of you maybe by Monday's session.

Senator Amanda Merrill, D. 21: Monday, if possible. We're meeting on Monday from two to five.

Senator Bob Odell, D. 8: Two o'clock.

Mr. Pelletier: No, I'll speak with the folks; see if we can meet Friday. And yeah, it's something that we ought to be able to achieve that.

Senator Bob Odell, D. 8: Madam Chair, if you could get it to clarify that the Committee's going to have to make a decision on either this language or this language. I mean, we don't mind making a decision, I don't think, but I think we need to have it very clear about what our reasonable options are. Even if you guys can't agree, we need to know...

Mr. Pelletier: Yep.

Senator Bob Odell, D. 8: ...what.

Mr. Pelletier: And if we can, we would come in with another amendment.

Senator Amanda Merrill, D. 21: All right.

Mr. Pelletier: Okay.

Senator Amanda Merrill, D. 21: Okay. It was when I looked at section 5, I think, is where the differences are between the two.

Mr. Pelletier: Yeah, I don't ... And Paul had told me. They don't have any issues with the other parts of the bill, which is the licensing part.

Senator Amanda Merrill, D. 21: Right.

Mr. Pelletier: Their concern is in that section about (indecipherable).

Senator Amanda Merrill, D. 21: Right. But in just trying to, you know, look at the two of them as I sit here, you know it's not as though all of them are the same with a little, you know, one or two word difference. So...

Mr. Pelletier: Right. I think it's pretty much section 2 A in both. Looking at their amendment and our amendment...

Senator Amanda Merrill, D. 21: The issue of the twenty years.

Mr. Pelletier: ...it's 2 A. Two A on down, yep.

Senator Amanda Merrill, D. 21: You're right. Right. But within 2 A, there's either three or four items, depending upon...

Mr. Pelletier: A, B, C, D. Yep.

Senator Amanda Merrill, D. 21: ...which amendment.

Mr. Pelletier: Yep.

Senator Amanda Merrill, D. 21: And that's what I was trying to compare. And I guess I can't tell, just by quickly reading while I'm sitting here, how much difference there really is between those two, besides the one we've talked about with the twenty-year issue.

Mr. Pelletier: Yeah, that's the obvious. And I think the issue of the small lots that we've granted waivers on...

Senator Amanda Merrill, D. 21: Okay.

Mr. Pelletier: Keep in mind that many of the systems that have been approved in the last twenty years, the lots didn't meet any criteria, but they were lots of record. People had owned them forever, and we have granted a serious number of waivers so that they could get a two bedroom structure on the lot. And that's the waiver part that they wanted to take out.

Senator Bob Odell, D. 8: I guess I get, if I may? I get a little confused because you say it might be using up the best part of a lot, even if it's a large lot. But then we ... I think I frequently hear you say a non-conforming lot or a...

Mr. Pelletier: Right.

Senator Bob Odell, D. 8: ...small lot. The real issue is over the small lot. Am I correct?

Mr. Pelletier: It can be any lot.

Senator Bob Odell, D. 8: Okay. All right.

Mr. Pelletier: There is criteria. You could have streams running all through your lot; could be a two-acre lot. But the big issue is the waiver part is that all over the state, as we all know, there's been lots created for fifty, sixty, seventy, a hundred years. And they will come in and look to build

a house on a lot. Now they've given it to their kids or whomever, and the lots, because of their size or soil type, don't meet current loading, *vis-à-vis*, bedroom, bedroom, bedroom. So, what we have done with many of these is, even though they don't meet loading for a two bedroom, which is the low end - that's the least you can design for - we have granted waivers - perhaps to surface water; perhaps to groundwater and seasonal high water - so they got something. And that's what the waiver section was in our section about.

Senator Amanda Merrill, D. 21: So, I have a question. When ... In an original construction, when you're siting a septic system, is there ... I guess I mean, obviously, you want to come up with a place that's suitable, but in the course of that, is there ... Do you also get information about, you know, the other areas that might be suitable that you're not using? I was just getting to your description of the situation, where, you know, the good location for a new system is used up with a...

Mr. Pelletier: I think...

Senator Amanda Merrill, D. 21: ...or covered over with an addition.

Mr. Pelletier: Yeah, I think...

Senator Amanda Merrill, D. 21: So, I guess I wondered how much information, typically, you have about the...

Mr. Pelletier: And that's a good question.

Senator Amanda Merrill, D. 21: ...overall lot.

Mr. Pelletier: I think most of the time a designer will come in; they'll look to site everything on the structure - wells, buildings, garages - initially. We believe in the last twenty years that people have been educated enough - and that's DES staff as well - to figure out where the best location, soil types, slopes, and everything else, meet. Twenty years ago, people didn't read soil anywhere near the way they read it today.

Our concern is is now that thirty year old system ... Homeowner A comes in, builds that great room we're talking about. Two years down the road, it fails, and because of the knowledge base thirty years ago, a replacement system where it exists would ... is not really prudent.

Senator Amanda Merrill, D. 21: Right. I understand.

Mr. Pelletier: But that's what you're left with.

Senator Amanda Merrill, D. 21: Yeah. I guess what I related to that ... I was just imagining when you, as you say, you pick the best spot for the system, but do you also have ... gather information at that point? I'm not sure who "you" is...

Mr. Pelletier: Yep.

Senator Amanda Merrill, D. 21: ...about other, maybe, pretty good locations?

Mr. Pelletier: When they've sunk...

Senator Amanda Merrill, D. 21: Acceptable locations?

Mr. Pelletier: When ... No, they don't.

Senator Amanda Merrill, D. 21: For potential replacements?

Mr. Pelletier: Yeah. What they do is, when we create lots via the subdivision law in the State, they will show what we call a 4000square foot area that gives you an area that would be adequate somewhere by juxtaposing the structures in that area. But as far as looking at a design and saying you could put it here, here, here? No. That doesn't happen.

Senator Amanda Merrill, D. 21: Okay. Other questions for Mr. Pelletier?

Mr. Pelletier: Thank you.

Senator Amanda Merrill, D. 21: Well, thank you very much. And I guess you'll be having some further discussions with...

Mr. Pelletier: Yeah.

Senator Amanda Merrill, D. 21: ...the authors of the other amendment. I don't think I had anybody else signed up to speak. Does anybody else want to speak on Senate Bill 370? No? Okay, then I will close the hearing.

Hearing concluded at 10:46 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marty Cote". The signature is written in a cursive, flowing style.

Marty Cote  
Senate Secretary  
6/23/10

4 Attachments

Sen. Odell, Dist. 8  
March 10, 2010  
2010-0949s  
06/10

Amendment to SB 370

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to sewage disposal systems.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Permit Eligibility; Exemption. Amend RSA 485-A:35, I to read as follows:

8 I.(a) All applications, plans, and specifications submitted in accordance with this chapter for  
9 subsurface sewage or waste disposal systems shall be prepared and signed by the ~~[person]~~  
10 *individual* who is directly responsible for them and who has a permit issued by the department to  
11 perform the work. The department shall issue a permit to any ~~[person]~~ *individual* who applies to  
12 the department, ~~[and]~~ pays a fee of \$80, and ~~[who has demonstrated]~~ *demonstrates* a sound  
13 working knowledge of the procedures and practices required in the site evaluation, design, and  
14 operation of subsurface sewage or waste disposal systems. The department shall require an oral or  
15 written examination or both to determine who may qualify for a permit. Permits shall be issued  
16 from January 1 and shall expire December 31 of every other year, *subject to the grace periods*  
17 *specified in subparagraphs (c) and (d)*. Permits shall be renewable upon proper application,  
18 payment of a biennial *permit* fee of \$80, and documentation of compliance with the continuing  
19 education requirement of subparagraph (b). A permit issued to any ~~[person]~~ *individual* may be  
20 suspended, revoked or not renewed only for just cause and after the permit holder has had a full  
21 opportunity to be heard by the department. An appeal from a decision to revoke, suspend, or not  
22 renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface  
23 systems fund established in RSA 485-A:30, I-b.

24 (b) Permitted designers shall complete a minimum of ~~[3]~~ 6 hours ~~[annually]~~ *biennially*  
25 of continuing education approved by the department.

26 2 New Subparagraphs; Permit Eligibility; Exemption. Amend RSA 485-A:35, I by inserting  
27 after subparagraph (b) the following new paragraphs:

28 (c) A permitted designer who fails to file a complete application for renewal, the biennial  
29 permit fee, and documentation that the required continuing education has been completed with the  
30 department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with  
31 the renewal application, biennial permit fee, and documentation, provided such fees, application, and  
32 documentation are filed with the department within 30 days of the permit expiration date.

Amendment to SB 370

- Page 2 -

1 (d) If the renewal application, biennial permit fee, late renewal fee, and documentation  
2 are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended.  
3 The permit holder may request reinstatement of the permit within 60 days of the suspension by  
4 submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a),  
5 the late renewal fee specified in subparagraph (c), documentation that the required continuing  
6 education has been completed, and a reinstatement fee of \$80. If the individual does not request  
7 reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual  
8 whose permit has become void who wishes to obtain a designer's permit shall apply as for a new  
9 permit pursuant to subparagraph (a).

10 (e) No individual whose permit has been suspended or voided pursuant to subparagraph  
11 (d) shall submit any design to the department for a subsurface sewage or waste disposal system.  
12 Submittal of such a design after the designer's permit has been suspended or voided pursuant to  
13 subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to  
14 the penalties specified in RSA 485-A:43.

15 3 System Installer Permit. Amend RSA 485-A:36, I to read as follows:

16 I.(a) No ~~[person]~~ **individual** shall engage in the business of installing subsurface sewage or  
17 waste disposal systems under this subdivision without first obtaining an installer's permit from the  
18 department. The permit holder shall be responsible for installing the subsurface sewage or waste  
19 disposal system in **strict** accordance with the ~~[intent of]~~ the approved plan. The department shall  
20 issue an installer's permit to any ~~[person]~~ **individual** who submits an application provided by the  
21 department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and  
22 the ability to read approved waste disposal plans. The department shall require an oral or written  
23 examination or both to determine who may qualify for an installer's permit. ~~[Individuals who have  
24 been actively engaged in the business of installing systems for at least 12 months prior to January 1,  
25 1980, shall not be required to submit to such examination, but shall be issued a permit upon filing  
26 an application and paying the initial fee, if application is made before June 30, 1980.]~~ Permits shall  
27 be issued from January 1 and shall expire December 31 of every other year. Permits shall be  
28 renewable upon proper application, payment of a biennial **permit** fee of \$80, and documentation of  
29 compliance with the continuing education requirement of subparagraph (b). The installer's permit  
30 may be suspended, revoked or not renewed for just cause, including, but not limited to, the  
31 installation of waste disposal systems in violation of this subdivision or the refusal by a permit  
32 holder to correct defective work. The department shall not suspend, revoke or refuse to renew a  
33 permit except for just cause until the permit holder has had an opportunity to be heard by the  
34 department. An appeal from such decision to revoke, suspend or not renew a permit may be taken  
35 pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in  
36 RSA 485-A:30, I-b.

37 (b) Permitted installers shall complete a minimum of [3] 6 hours [~~annually~~] **biennially**



Amendment to SB 370

- Page 3 -

1 of continuing education approved by the department.

2 4 New Subparagraphs; System Installer Permit. Amend RSA 485-A:36, I by inserting after  
3 subparagraph (b) the following new subparagraphs:

4 (c) A permitted installer who fails to file a complete application for renewal, the biennial  
5 permit fee, and documentation that the required continuing education has been completed with the  
6 department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with  
7 the renewal application, biennial permit fee, and documentation, provided the fees, renewal  
8 application, and documentation are filed with the department within 30 days of the permit  
9 expiration date.

10 (d) If the renewal application, biennial permit fee, late renewal fee, and documentation  
11 are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended.  
12 The permit holder may request reinstatement of the permit within 60 days of the suspension by  
13 submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a),  
14 the late renewal fee specified in subparagraph (c), documentation that the required continuing  
15 education has been completed, and a reinstatement fee of \$80. If the individual does not request  
16 reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual  
17 whose permit has become void who wishes to obtain an installer's permit shall apply as for a new  
18 permit pursuant to subparagraph (a).

19 (e) No individual whose permit has been suspended or voided pursuant to subparagraph  
20 (d) shall install any subsurface sewage or waste disposal system. Installation of such a system after  
21 the installer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a  
22 violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-  
23 A:43.

24 5 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal  
25 System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:

26 II-a. No construction or operational approval shall be required from the department prior to  
27 expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal  
28 system, as long as all of the following conditions are met:

29 (a) The lot is served by a sewage disposal system that received construction and  
30 operational approval from the department within 20 years of the date of the issuance of a building  
31 permit for the proposed expansion, relocation, or replacement.

32 (b) No waivers were granted in the construction or operational approval to any  
33 requirements for total wastewater lot loading, depth to groundwater, or horizontal distances to surface  
34 water, water supply systems, or very poorly drained soils.

35 (c) For lots that do not meet current standards for wastewater loading, no expansion of  
36 the structure's footprint is proposed.

Amendment to SB 370

- Page 4 -



- 1 (d) The proposed expansion, relocation, or replacement complies with the requirements
- 2 of the comprehensive shoreland protection act, RSA 483-B.
- 3 6 Effective Date. This act shall take effect 60 days after its passage.



2010-0949s

AMENDED ANALYSIS

This bill:

- I. Adds requirements for the renewal of septic system designer and installer permits.
- II. Permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

Attachment #2

Sen. Odell, Dist. 8  
March 10, 2010  
2010-0957s  
06/10

Amendment to SB 370

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to sewage disposal systems.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Permit Eligibility; Exemption. Amend RSA 485-A:35, I to read as follows:

8 I.(a) All applications, plans, and specifications submitted in accordance with this chapter for  
9 subsurface sewage or waste disposal systems shall be prepared and signed by the ~~[person]~~  
10 **individual** who is directly responsible for them and who has a permit issued by the department to  
11 perform the work. The department shall issue a permit to any ~~[person]~~ **individual** who applies to  
12 the department, ~~[and]~~ pays a fee of \$80, and ~~[who has demonstrated]~~ **demonstrates** a sound  
13 working knowledge of the procedures and practices required in the site evaluation, design, and  
14 operation of subsurface sewage or waste disposal systems. The department shall require an oral or  
15 written examination or both to determine who may qualify for a permit. Permits shall be issued  
16 from January 1 and shall expire December 31 of every other year, **subject to the grace periods**  
17 **specified in subparagraphs (c) and (d)**. Permits shall be renewable upon proper application,  
18 payment of a biennial **permit** fee of \$80, and documentation of compliance with the continuing  
19 education requirement of subparagraph (b). A permit issued to any ~~[person]~~ **individual** may be  
20 suspended, revoked or not renewed only for just cause and after the permit holder has had a full  
21 opportunity to be heard by the department. An appeal from a decision to revoke, suspend, or not  
22 renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface  
23 systems fund established in RSA 485-A:30, I-b.

24 (b) Permitted designers shall complete a minimum of ~~[3]~~ **6** hours ~~[annually]~~ **biennially**  
25 of continuing education approved by the department.

26 2 New Subparagraphs; Permit Eligibility; Exemption. Amend RSA 485-A:35, I by inserting  
27 after subparagraph (b) the following new paragraphs:

28 (c) A permitted designer who fails to file a complete application for renewal, the biennial  
29 permit fee, and documentation that the required continuing education has been completed with the  
30 department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with  
31 the renewal application, biennial permit fee, and documentation, provided such fees, application, and  
32 documentation are filed with the department within 30 days of the permit expiration date.

Amendment to SB 370

- Page 2 -

1 (d) If the renewal application, biennial permit fee, late renewal fee, and documentation  
2 are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended.  
3 The permit holder may request reinstatement of the permit within 60 days of the suspension by  
4 submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a),  
5 the late renewal fee specified in subparagraph (c), documentation that the required continuing  
6 education has been completed, and a reinstatement fee of \$80. If the individual does not request  
7 reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual  
8 whose permit has become void who wishes to obtain a designer's permit shall apply as for a new  
9 permit pursuant to subparagraph (a).

10 (e) No individual whose permit has been suspended or voided pursuant to subparagraph  
11 (d) shall submit any design to the department for a subsurface sewage or waste disposal system.  
12 Submittal of such a design after the designer's permit has been suspended or voided pursuant to  
13 subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to  
14 the penalties specified in RSA 485-A:43.

15 3 System Installer Permit. Amend RSA 485-A:36, I to read as follows:

16 I.(a) No ~~[person]~~ **individual** shall engage in the business of installing subsurface sewage or  
17 waste disposal systems under this subdivision without first obtaining an installer's permit from the  
18 department. The permit holder shall be responsible for installing the subsurface sewage or waste  
19 disposal system in *strict* accordance with the ~~[intent of]~~ the approved plan. The department shall  
20 issue an installer's permit to any ~~[person]~~ **individual** who submits an application provided by the  
21 department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and  
22 the ability to read approved waste disposal plans. The department shall require an oral or written  
23 examination or both to determine who may qualify for an installer's permit. ~~[Individuals who have  
24 been actively engaged in the business of installing systems for at least 12 months prior to January 1,  
25 1980, shall not be required to submit to such examination, but shall be issued a permit upon filing  
26 an application and paying the initial fee, if application is made before June 30, 1980.]~~ Permits shall  
27 be issued from January 1 and shall expire December 31 of every other year. Permits shall be  
28 renewable upon proper application, payment of a biennial *permit* fee of \$80, and documentation of  
29 compliance with the continuing education requirement of subparagraph (b). The installer's permit  
30 may be suspended, revoked or not renewed for just cause, including, but not limited to, the  
31 installation of waste disposal systems in violation of this subdivision or the refusal by a permit  
32 holder to correct defective work. The department shall not suspend, revoke or refuse to renew a  
33 permit except for just cause until the permit holder has had an opportunity to be heard by the  
34 department. An appeal from such decision to revoke, suspend or not renew a permit may be taken  
35 pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in  
36 RSA 485-A:30, I-b.

37 (b) Permitted installers shall complete a minimum of [3] 6 hours ~~[annually]~~ **biennially**

Amendment to SB 370

- Page 3 -

1 of continuing education approved by the department.

2 4 New Subparagraphs; System Installer Permit. Amend RSA 485-A:36, I by inserting after  
3 subparagraph (b) the following new subparagraphs:

4 (c) A permitted installer who fails to file a complete application for renewal, the biennial  
5 permit fee, and documentation that the required continuing education has been completed with the  
6 department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with  
7 the renewal application, biennial permit fee, and documentation, provided the fees, renewal  
8 application, and documentation are filed with the department within 30 days of the permit  
9 expiration date.

10 (d) If the renewal application, biennial permit fee, late renewal fee, and documentation  
11 are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended.  
12 The permit holder may request reinstatement of the permit within 60 days of the suspension by  
13 submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a),  
14 the late renewal fee specified in subparagraph (c), documentation that the required continuing  
15 education has been completed, and a reinstatement fee of \$80. If the individual does not request  
16 reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual  
17 whose permit has become void who wishes to obtain an installer's permit shall apply as for a new  
18 permit pursuant to subparagraph (a).

19 (e) No individual whose permit has been suspended or voided pursuant to subparagraph  
20 (d) shall install any subsurface sewage or waste disposal system. Installation of such a system after  
21 the installer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a  
22 violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-  
23 A:43.

24 5 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal  
25 System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:

26 II-a. No construction or operational approval shall be required from the department prior to  
27 expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal  
28 system, as long as all of the following conditions are met:

29 (a) The lot is served by a sewage disposal system that received construction and  
30 operational approval from the department.

31 (b) The proposed improvement does not violate current standards for setbacks of  
32 structures to the sewage disposal system.

33 (c) When applicable, the proposed expansion, relocation, or replacement complies with  
34 the requirements of the comprehensive shoreland protection act, RSA 483-B.

35 6 Effective Date. This act shall take effect 60 days after its passage.



2010-0957s

AMENDED ANALYSIS

This bill:

- I. Adds requirements for the renewal of septic system designer and installer permits.
- II. Permits expansion of structures that do not increase the load on a sewage disposal system without approval of the department of environmental services.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

"I/we, the undersigned, certify that I am/we are the present owner(s) of the property formerly of (name of former owner) and that I/we have read, viewed, and possess the prior approvals, plans, and any related conditions assigned thereto. I/we agree that I/we will abide by the previously-issued approvals. I/we fully understand that the individual sewage disposal system must be constructed in strict accordance with these plans and that no waivers to this construction approval will be allowed. Any changes will require a new submission, review, and approval prior to any construction. My/Our Title Reference is Book (number) Page (number), (County) Registry of Deeds, and briefly is for certain land known as (brief description) situated in (town), New Hampshire."

(e) The ISDS shall be constructed in strict accordance with the approved, transferred plans, and no waivers to this construction approval shall be allowed.

(f) Any changes to the ISDS design shall require a new submission, review, and approval prior to any construction.

Source. (See Revision Note at chapter heading for Env-Wq 1000) #9086, eff 2-9-08

Env-Wq 1004.13 Approval For Water Supply. Where a community water system is to be provided, subdivision approval shall not be granted until the source, quality, quantity, storage, and design of distribution system have received prior approval pursuant to Env-Ws 300 or successor rules in subtitle Env-Dw.

Source. (See Revision Note at chapter heading for Env-Wq 1000) #9086, eff 2-9-08

Env-Wq 1004.14 Relation to Other State Approvals. If an ISDS construction proposal requires state approvals or permits under other state statutes in order to be constructed in accordance with the plans, but is submitted without copies of those permits or approvals, then the department shall not approve the application until information is received by the department confirming that the other approvals have been obtained.

Source. (See Revision Note at chapter heading for Env-Wq 1000) #9086, eff 2-9-08

Env-Wq 1004.15 Relocation or Expansion of Existing Buildings; Replacement of Demolished or Burned Buildings.

(a) Replacement of a building that has burned or otherwise been demolished, reconstruction of a building in a new location, or any expansion of an existing structure, shall be considered new construction which requires submission of an application, including plans and specifications, in accordance with Env-Wq 1003, unless all of the following are true:

(1) As compared to the structure it is replacing, the new structure will have:

- a. The same footprint;
- b. The same ridgeline;
- c. The same usable interior space; and
- d. The same use; and

(2) A valid construction and operating approval exists for the existing total sewage load, as determined by Env-Wq 1008.03.





The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Attachment #c



**Thomas S. Burack, Commissioner**

March 11, 2010

The Honorable Martha Fuller Clark, Chairman  
Energy, Environment and Economic Development Committee  
Legislative Office Building, Room 102  
Concord, NH 03301

Re: SB 370, relative to sewage disposal systems

Dear Senator Fuller Clark:

Thank you for the opportunity to comment on SB 370, relative to sewage disposal systems. The Department of Environmental Services has concerns about the bill as introduced, but believes an amendment which addresses those concerns will be proposed.

As introduced, SB 370 proposes to add language to RSA 485-A to allow the expansion of a structure without approval from the Department if the expansion does not increase the load on a sewage disposal system. The Department agrees that no approval for a new septic system is necessary for an expansion if the loading does not increase, but notes that many factors must be considered in determining whether loading will be increased, and that other programs implemented by the Department may apply to require approval even if loading does not increase. The Department is thus concerned that the language could easily be misinterpreted, which could lead to inadvertent violations and associated problems.


The Department has worked with the prime sponsor of the bill, Senator Odell, to craft an amendment that more clearly articulates what types of expansion, relocation, or replacement of a structure are allowed without approval of a new septic system. The Department believes the language of the amendment will provide an accurate and understandable framework for people who wish to expand, relocate, or replace an existing structure.

As part of the amendment, the Department also has drafted language to address a separate issue relating to permit renewals for permitted septic system designers and installers. Under the existing language of RSA 485-A:35, I, and RSA 485-A:36, I, such permits expire on December 31 of each year but are renewable "upon proper application, payment of a biennial fee of \$80, and documentation of compliance with the continuing education requirement..." The statute does not clearly direct the Department as to how to regulate permitted designers and installers who fail to apply to renew their permits in a timely manner and/or who fail to complete the required amount of continuing education. Under RSA 541-A:30, I, an existing license (which is defined to include permits and approvals of any kind) that expires by operation of law (as do designer and installer permits) continues in existence after its termination date only if "a timely and sufficient application has been made" for renewal. Thus, under the existing language of RSA 485-A:35 and 36, the most logical conclusion is that any designer or installer who does not file a renewal application with proof of completing the required continuing education simply loses his or her permit as of December 31, and must apply as for a new permit, including taking the examination.

To address this issue, the language proposed in the amendment establishes a process designed to encourage permit holders to renew in a timely way, but allows a grace period of up to 90 days in which a permit can be renewed. The Department believes this process will help to ensure that individuals who design and install septic systems in New Hampshire are maintaining their permits appropriately.

If you have any questions or need additional information, please do not hesitate to call Rene Pelletier at 271-2951 or me at 271-2958.

Sincerely,

  
for Thomas S. Burack  
Commissioner

cc: Senator Odell  
Senator D'Allesandro  
Senator Houde  
Senator Fuller Clark  
Representative Foose  
Representative Hawkins  
Representative Sad  
Representative Patricia McMahon

1 New Paragraph; Sewage Disposal Systems; Approval to Increase Load on a Sewage Disposal System. Amend RSA 485-A:38 by inserting after paragraph II the following new paragraph:

II-a. No construction or operational approval shall be required from the department prior to expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal system, as long as all of the following conditions are met:

(a) The lot is served by a sewage disposal system that received construction and operational approval from the department within 20 years of the date of the issuance of a building permit for the proposed expansion, relocation, or replacement;

(b) No waivers were granted in the construction or operational approval to any requirements for total wastewater lot loading, depth to groundwater, or horizontal distances to surface water, water supply systems or very poorly drained soils;

(c) For lots that do not meet current standards for wastewater loading, no expansion of the structure's footprint is proposed; and

(d) The proposed expansion, relocation, or replacement complies with the requirements of the comprehensive shoreland protection act, RSA 483-B.

2 Amended paragraphs; Permit Eligibility; Exemption; Expiration of Septic Designer Permit; Continuing Education Requirement. Amend RSA 485-A:35, I, by revising paragraphs (a) and (b) as follows:

I. (a) All applications, plans, and specifications submitted in accordance with this chapter for subsurface sewage or waste disposal systems shall be prepared and signed by the ~~[person]~~ *individual* who is directly responsible for them and who has a permit issued by the department to perform the work. The department shall issue a permit to any ~~[person]~~ *individual* who applies to the department, ~~[and]~~ pays a fee of \$80, and ~~[who has demonstrated]~~ *demonstrates* a sound working knowledge of the procedures and practices required in the site evaluation, design, and operation of subsurface sewage or waste disposal systems. The department shall require an oral or written examination or both to determine who may qualify for a permit. Permits shall be issued from January 1 and shall expire December 31 of every other year, *subject to the grace periods specified in subparagraphs (c) and (d)*. Permits shall be renewable upon proper application, payment of a biennial *permit* fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). A permit issued to any ~~[person]~~ *individual* may be suspended, revoked or not renewed only for just cause and after the permit holder has had a full opportunity to be heard by the department. An appeal from a decision to revoke, suspend or not renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted designers shall complete a minimum of ~~[3 hours annually]~~ *6 hours biennially* of continuing education approved by the department.

3 New paragraph. Septic Designer Permit Renewal, Suspension, Reinstatement. Amend RSA 485-A:35, I, by inserting paragraphs (c) through (e) as follows:

(c) A permitted designer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided the fees, renewal application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If

the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain a designer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall submit any design to the department for a subsurface sewage or waste disposal system. Submittal of such a design after the designer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

4 Amended paragraphs; System Installer Permit; Expiration of Septic Installer Permit; Continuing Education Requirement. Amend RSA 485-A:36, I, by revising paragraphs (a) and (b) as follows:

I. (a) No ~~[person]~~ **individual** shall engage in the business of installing subsurface sewage or waste disposal systems under this subdivision without first obtaining an installer's permit from the department. The permit holder shall be responsible for installing the subsurface sewage or waste disposal system in *strict* accordance with the ~~[intent of the]~~ approved plan. The department shall issue an installer's permit to any ~~[person]~~ **individual** who submits an application provided by the department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and the ability to read approved waste disposal plans. The department shall require an oral or written examination or both to determine who may qualify for an installer's permit. ~~[Individuals who have been actively engaged in the business of installing systems for at least 12 months prior to January 1, 1980, shall not be required to submit to such examination, but shall be issued a permit upon filing an application and paying the initial fee, if application is made before June 30, 1980.]~~ Permits shall be issued from January 1 and shall expire December 31 of every other year. Permits shall be renewable upon proper application, payment of a biennial *permit* fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). The installer's permit may be suspended, revoked or not renewed for just cause, including, but not limited to, the installation of waste disposal systems in violation of this subdivision or the refusal by a permit holder to correct defective work. The department shall not suspend, revoke or refuse to renew a permit except for just cause until the permit holder has had an opportunity to be heard by the department. An appeal from such decision to revoke, suspend or not renew a permit may be taken pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted installers shall complete a minimum of ~~[3 hours annually]~~ **6 hours biennially** of continuing education approved by the department.

5 New paragraph. Septic Installer Permit Renewal, Suspension, Reinstatement. Amend RSA 485-A:36, I, by inserting paragraphs (c) through (e) as follows:

(c) A permitted installer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided the fees, renewal application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain an installer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall install any subsurface sewage or waste disposal system. Installation of such a system after the installer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

# Speakers



# Voting Sheets

# Senate Energy, Environment & Economic Development Committee EXECUTIVE SESSION

Bill # SB 370

Hearing date: 3/11/10

Executive session date: 3/18/10

Motion of: OTP/A

VOTE: 6-0

<u>Made by</u> Fuller Clark <input type="checkbox"/>	<u>Seconded</u> Fuller Clark <input type="checkbox"/>	<u>Reported</u> Fuller Clark <input type="checkbox"/>
<u>Senator:</u> Merrill <input type="checkbox"/>	<u>by Senator:</u> Merrill <input checked="" type="checkbox"/>	<u>by Senator:</u> Merrill <input type="checkbox"/>
Lasky <input type="checkbox"/>	Lasky <input type="checkbox"/>	Lasky <input type="checkbox"/>
Cilley <input type="checkbox"/>	Cilley <input type="checkbox"/>	Cilley <input type="checkbox"/>
Odell <input type="checkbox"/>	Odell <input type="checkbox"/>	Odell <input checked="" type="checkbox"/>
Bradley <input checked="" type="checkbox"/>	Bradley <input type="checkbox"/>	Bradley <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Fuller Clark, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Merrill, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Lasky	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cilley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Odell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Amendments: 0994s - OTP - 6-0

1095

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

\_\_\_\_\_

\_\_\_\_\_



# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: March 18, 2010

THE COMMITTEE ON Energy, Environment and Economic Development  
to which was referred Senate Bill 370

AN ACT                   relative to sewage disposal systems.

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

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF: 6 - 0

AMENDMENT # 1095s

Senator Bob Odell  
For the Committee

Marty Cote 271-3045

## New Hampshire General Court - Bill Status System

**Docket of SB370**

Docket Abbreviations

**Bill Title:** (New Title) relative to sewage disposal systems.*Official Docket of SB370:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
01/06/2010	S	Introduced 1/6/2010 and Referred to Energy, Environment and Economic Development Committee; <b>SJ 1</b> , Pg
02/18/2010	S	Hearing: March 11, 2010, Room 102, LOB, 9:30 a.m.; <b>SC8</b>
03/18/2010	S	Committee Report: Ought to Pass with Amendment 1095s, NT, 3/24/10; <b>SC12</b>
03/24/2010	S	Committee Amendment 1095s, NT, AA, VV; <b>SJ 11</b> , Pg.199
03/24/2010	S	Ought to Pass with Amendment 1095s, NT, MA, VV; OT3rdg; <b>SJ 11</b> , Pg.199
03/24/2010	S	Passed by Third Reading Resolution; <b>SJ 11</b> , Pg.255
03/24/2010	H	Introduced and Referred to Resources, Recreation and Development; <b>HJ 30</b> , PG.1520
04/07/2010	H	Public Hearing: 4/14/2010 1:30 PM LOB 305
04/14/2010	H	Executive Session: 4/20/2010 11:00 AM LOB 305
04/20/2010	H	Committee Report: Ought to Pass with Amendment #1444h for April 28 (Vote 16-0; CC); <b>HC 33</b> , PG.1593
04/20/2010	H	Proposed Committee Amendment #1444h; <b>HC 33</b> , PG.1617
04/28/2010	H	Amendment #1444h Adopted, VV; <b>HJ 36</b> , PG.1707
04/28/2010	H	Ought to Pass with Amendment #1444h: MA VV; <b>HJ 36</b> , PG.1707
05/19/2010	S	Sen. Fuller Clark Concurs with House Amendment 1444h, MA, VV
06/02/2010	S	Enrolled Bill Amendment #2354 Adopted
06/02/2010	H	Enrolled Bill Amendment #2354 Adopted
06/02/2010	S	Enrolled
06/02/2010	H	Enrolled

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

SB370 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: Attachments 1-4

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0994s      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
 - AMENDMENT # 1095s      \_\_\_\_\_ - 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

6/24/10

Marilyn Cote  
COMMITTEE SECRETARY