

Committee Report

CONSENT CALENDAR

May 13, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred SB 49,**

AN ACT relative to the New Hampshire trust code.

**Having considered the same, report the same with the
recommendation that the bill OUGHT TO PASS.**

Rep. John Hunt

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	SB 49
Title:	relative to the New Hampshire trust code.
Date:	May 13, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill expands the list of persons who may represent the interests of certain beneficiaries, clarifies the meaning of “second trust” in a decanting, and allows trustees to engage in investing strategies focused on social, environmental, governance, or other values or beliefs of the persons interested in the trust, at the express direction of those persons. As we try to be a leader in trust law, the committee felt that this bill makes worthy and appropriate additions to New Hampshire’s trust law.

Vote 19-0.

Rep. John Hunt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

SB 49, relative to the New Hampshire trust code. **OUGHT TO PASS.**

Rep. John Hunt for Commerce and Consumer Affairs. This bill expands the list of persons who may represent the interests of certain beneficiaries, clarifies the meaning of “second trust” in a decanting, and allows trustees to engage in investing strategies focused on social, environmental, governance, or other values or beliefs of the persons interested in the trust, at the express direction of those persons. As we try to be a leader in trust law, the committee felt that this bill makes worthy and appropriate additions to New Hampshire’s trust law. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

Archived: Tuesday, June 1, 2021 12:22:13 PM

From: [JOHN HUNT](#)

Sent: Tuesday, May 25, 2021 11:38:22 AM

To: [Carrie Morris](#)

Cc: [Pam Smarling](#)

Subject: SB49

Importance: Normal

SB 49

This bill expands the list of persons who may represent the interests of certain beneficiaries, clarifies the meaning of “second trust” in a decanting, and allows trustees to engage in investing strategies focused on social, environmental, governance, or other values or beliefs of the persons interested in the trust, at the express direction of those persons. As we try to be a leader in Trust law, the committee felt that this bill makes worthy and appropriate additions to New Hampshire’s trust law.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on SB 49

BILL TITLE: relative to the New Hampshire trust code.

DATE: May 13, 2021

LOB ROOM: 306-308 Hybrid

MOTIONS: OUGHT TO PASS

Moved by Rep. Hunt

Seconded by Rep. Potucek

Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB SB49

BILL TITLE: relative to the New Hampshire trust code

DATE: 5/13/21

LOB ROOM: 306-308

MOTION: (Please check one box)

- OTP ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. Hunt Seconded by Rep. Potucek Vote: 19-0

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR? X Yes _____ No

Minority Report? _____ Yes _____ No If yes, author, Rep.: _____ Motion: _____

Respectfully submitted, Rep. AMMON, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 9:55:55 AM
Roll Call Committee Registers
Report

2021 SESSION

Commerce and Consumer Affairs

Bill #: SB49 Motion: OTP AM #: _____ Exec Session Date: 5/13/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	19		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
Van Houten, Constance	13		
Fargo, Kristina M.	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.	18		
TOTAL VOTE:	19	0	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 49

BILL TITLE: relative to the New Hampshire trust code.

DATE: March 30, 2021

LOB ROOM: Remote **Time Public Hearing Called to Order:** 9:56 a.m.

Time Adjourned: 10:20 a.m.

Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Bill Sponsors:

Sen. D'Allesandro

Sen. Bradley

Rep. Hunt

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen Jeb Bradley

We have tried to make NH a very friendly state to be able to locate a trust, in competition with other states, DE, SD, FL. Jobs come with trust companies locating in NH. We should continue to be at the cutting edge at what makes a state attractive for locating trusts.

Glenn Perlow

General Counsel and Chief Compliance Officer at Jordan Park Trust Company. I'm also president of the NH Trust Council. Registered lobbyist. We're sensitive to issues dealing with the pandemic. This is a two-page bill. The first section of the bill deals with representation when you have beneficiaries are underage or special needs. This section expands the list to allow the person who set up a trust to assign a trusted friend, etc. to represent someone in the trust. The second section allows one trust to report to another trust without having to create a new trust. The last section allows a settlement agreement amongst the beneficiaries to direct a fiduciary to invest in certain categories or companies without the fiduciary being on the hook for suboptimal returns.

Patrick Collins

I don't have anything additional to add. Here for questions.

Rep McAleer

Q: Would a family LLC fit under this legislation?

A: A family trust in LLC form would not fit this legislation.

Q: How long could a family trust go on in NH? Is there a final generational stop?

A: They're perpetual like any other company in NH?

Q: Would that include an LLC?

A: Yes, a family trust in the form of LLC can exist in perpetuity.

Rep Herbert

Q: It sounded like the beneficiaries could instruct the fiduciary to make an unwise investment. Are you still a fiduciary?

Perlow: Yes, short answer. A trustee can take many forms. In some cases, you're a directed trustee with a limited set of fiduciary duties. It would be an exception to the prudent investor rules. There are series of factors that fiduciaries should take into account when deciding on investments. For instance, a trust could own a business which would be a concentration of investment but contrary to prudent investor rule because investment would need to be spread out.

Collins: In a trust context the trustee owes fiduciary to the settlor of the trust and to the beneficiaries. It's effectively modifying the duties of the prudent investor rule but only if the beneficiaries agree.

Perlow: Also, only if it doesn't go against the purpose of the trust. Only if everybody is on the same page.

Rep Hunt: What if the beneficiaries want to cash out?

Collins: This bill is not allowing the beneficiaries to cash out. They could try to do that under other provisions of the trust code.

Rep Fargo

Q: Are we going to hear testimony from the banking department?

Rep Hunt: They have not signed up.

Perlow: This was provided to the banking department and well over 50 trust and estate attorneys well over 4 months ago. The bankers association was also part of our stakeholders discussion.

Rep Abel

Q: What was the impetus for this bill? What problems are we solving here?

Perlow: The Trust Counsel watches other states. We constantly look for ways to lubricate the system. More of our clients are asking for this provision. This was floated and vetted.

Collins: The first one is trying to avoid dealing with the spoiled child. This allows quiet trusts so the terms or assets are not disclosed to the beneficiary until a certain life event. This allows someone to represent the beneficiary's rights before they know the terms of the trust. Secondly, there's a procedural nuance in the statutes that don't make it clear that you need to make a second trust. If you're decanting, you can keep the name of the trust and tax ID. Third one, make NH an attractive state. I don't know of any other state that allows ESG investing. This provides more flexibility and limit the liability of the fiduciary. ESG – environment, social, governmental. Exclude investment in fossil fuels, for example.

Perlow: It's broader than that. It's about governance and liability risk that certain large corporations bring. To get into the nuts and bolts of how a company is run. Directive for a specific type of investment.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # SB49
BILL TITLE: relative to the New Hampshire trust code
DATE: March 30, 2021__

ROOM: Zoom **Time Public Hearing Called to Order:** 9:56 AM

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(please bold if present)

Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

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House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill SB49 on 2021-C

Support: 10 Oppose: 0 Neutral: 1 Total to Testify: 3

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>S</u>
Perlow, Glenn	Concord, NH glenn.perlow@nhtrustcouncil.com	A Lobbyist	NH Trust Council	Support	Yes (2m)	3
Collins, Patrick	Portsmouth, NH patrick.collins@jordanpark.com	A Member of the Public	New Hampshire Trust Council	Support	Yes (2m)	3
Bradley, Jeb	Concord, NH jeb.bradley@leg.state.nh.us	An Elected Official	SD 3 Jeb Bradley	Support	Yes (2m)	3
D'Allesandro, Lou	Manchester, NH dalas@leg.state.nh.us	An Elected Official	SD 20	Support	No	3
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	3
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Support	No	3
Hope, Lucinda	Tilton, NH lmhope46@gmail.com	A Member of the Public	Myself	Support	No	3
Pauer, Eric	Brookline, NH secretary@BrooklineGOP.org	A Member of the Public	Myself	Support	No	3
Vogt, Robin	Portsmouth, NH robin.w.vogt@gmail.com	A Member of the Public	Myself	Neutral	No	3
Schmidt, Jan	Nashua, NH tesha4@gmail.com	An Elected Official	Myself	Support	No	3
Stevens, Representative Deb	Nashua, NH debstevens4ward7@gmail.com	An Elected Official	My 10K constituents	Support	No	3

Testimony

March 24th, 2021

Dear Members of the House Commerce Committee,

As New Hampshire continues to face the impact of the pandemic, we urge you to prioritize increasing access to mental health and substance use disorder treatment. SB 59 would safely increase access to psychiatric care by expanding use of the Collaborative Care model, a team-based form of integrated care. Over 90 research studies indicate that the model can provide access to psychiatric care that is timely, effective, and less stigmatizing. Additionally, for every \$1 spent on care delivered in the Collaborative Care Model, there is a \$6.50 return on investment in improved health and productivity, meaning cost savings to the entire health care system.

The Collaborative Care Model is centered in the primary care setting and consists of a three-person team:

- Primary care physician
- Psychiatrist consultant
- Care manager (social worker or psychologist)

Under this model, primary care physicians, who are often the first point of contact for patients experiencing mental health conditions, may initiate Collaborate Care for patients in need and take the first step to consult with the psychiatrist. The psychiatrist may make a diagnosis, prescribe medication, and may even see the patient if there is more information that must be obtained to accurately diagnose and prescribe. Additionally, the care manager becomes the point person providing therapy, counseling, and other needed interventions. The care manager regularly coordinates with the psychiatrist and the primary care physician to discuss treatment and any modifications that may be necessary. Contrast this with standard practice, which is often siloed with physicians and other mental health providers having no knowledge of the care they are delivering to patients. The Collaborative Care Model is preferable and succeeds because of its team-based approach and use of measurement-based care.

SB 59 would ensure that commercial insurers provide coverage for the Collaborative Care Model, which Medicare has covered since 2017. Access to mental health and substance use disorder treatment in New Hampshire can be very challenging and we expect that the demand for services will increase due to the intense mental health impact of the pandemic. Passing SB 59 will improve psychiatric care delivery, allow more people to receive treatment, and save lives. We urge you to support SB 59.

Sincerely,

New Hampshire Medical Society

New Hampshire Psychiatric Society

New Hampshire Chapter – American Academy of Pediatrics

National Alliance on Mental Health – New Hampshire

New Futures

National Association of Social Workers – New Hampshire

New Hampshire Mental Health Counselors Association
New Hampshire Psychological Association
New Hampshire Alcohol & Drug Abuse Counselors Association
New Hampshire Association for Marriage and Family Therapy





NEW HAMPSHIRE
TRUST COUNCIL

Written Testimony in Support of Senate Bill 49

March 25, 2021

Chairman Hunt and Honorable Members of the House Commerce Committee:

Please accept this brief written testimony from the New Hampshire Trust Council in support of SB 49, which provides tangible benefits to settlors and beneficiaries of New Hampshire trusts by: 1) empowering settlors to ensure that the interests of beneficiaries will be properly represented; 2) eliminating unnecessary time and expense associated with certain trust decantings; and 3) enabling all the interested parties to a trust to provide direction as to how trust assets are invested.

First, the bill fills a void in the current representation statute by allowing a settlor, under the terms of the trust, to have a say in the appointment of someone to represent and bind certain beneficiaries. Representation is important in trust law, because it ensures that beneficiaries who are incapable of adequately representing their own interests or are intentionally made unaware of the existence of the trust are protected. For example, under the current statute, a parent can represent and bind his or her minor children with respect to approving trust accounts, in trust litigation, or any other trust matter, a guardian can represent the interests of her ward, and a trustee can also serve as a representative in some matters. These amendments recognize that settlors likewise should be able to select, or create a mechanism to select, representatives if they so choose.

Second, the bill provides for administrative efficiency by clarifying the process by which trusts can be decanted. Decanting means moving the assets of one trust into a second trust, usually to further the settlor's intent or protect the interests of the beneficiaries. These amendments specify that the second trust may be an existing trust, a restated version of the first trust, a modified version of the first trust, or a new trust. If the decanting results in a restatement or modification of the first trust, the second trust can keep the same name and tax identification number as the first trust, saving time and money.

Finally, the bill allows a formal directive from all the interested parties to a trust that the trustee engage in investing strategies focused on their social, environmental, governance, or other values or beliefs, while shielding the trustee from liability for any financial performance deficiencies resulting from that direction. Commonly referred to as ESG, these investing strategies focus on performance measures that go beyond financial to include things like whether a company is organized to ensure accountability at all levels, how a company minimizes its carbon footprint, or how it ensures its workers' rights are protected around the world. While there is no consensus that ESG investing necessarily means lower returns, this bill will allow, unless the express terms of the trust provide otherwise, all of those with a legitimate interest in a trust to get together and determine for themselves whether they are willing to accept that risk, while protecting trustees from unwarranted liability.

We appreciate your thoughtful consideration of this bill.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Glenn A. Perlow".

Glenn A. Perlow
President

HOUSE SCHEDULING NOTICE

Commerce and Consumer Affairs

PUBLIC HEARING

Tuesday, 3/30/21

REMOTE 000

9:00 a.m.	SB 36	relative to residency under auto insurance policies.
9:30 a.m.	SB 49	relative to the New Hampshire trust code.
10:00 a.m.	SB 68	requiring an employer to provide reasonable accommodations for pregnant employees.
10:30 a.m.	SB 69-FN	requiring employers to provide access to a sufficient space for nursing mothers and reasonable break time.

Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. To join the webinar: <https://www.zoom.us/j/99157160886>
2. Or Telephone: 1-929-205-6099
3. Webinar ID: [991 5716 0886](https://www.zoom.us/j/99157160886)

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: hcs@leg.state.nh.us or call (603-271-3600).

Sponsors:

SB 36

Sen. French
Sen. Sherman

Sen. Hennessey
Sen. Soucy

Sen. Ricciardi
Sen. Reagan

Sen. Giuda
Rep. Pearl

SB 49

Sen. D'Allesandro

Sen. Bradley

Rep. Hunt

SB 68

Sen. Hennessey

Sen. Gannon

Sen. Watters

Sen. D'Allesandro

Sen. Sherman
Sen. Whitley
Sen. Gray
Rep. DeSimone

SB 69-FN

Sen. Whitley
Sen. Cavanaugh
Rep. Marsh

Sen. Ricciardi
Sen. Carson
Sen. Prentiss
Sen. Birdsell

Sen. Hennessey
Sen. Soucy
Rep. Abel

Sen. Rosenwald
Sen. Perkins Kwoka
Rep. Marsh

Sen. Perkins Kwoka
Rep. McWilliams

Sen. Reagan
Sen. Bradley
Rep. Deshaies


Sen. Bradley
Rep. Wazir

Committee Asst: Carrie Morris

Scheduled By: Carrie Morris - 271-3600

Created: March 17, 2021 9:43 a.m.

John B. Hunt, Chairman

Archived: Tuesday, April 27, 2021 12:55:16 PM
From: [Shannon Girard](#)
Sent: Tuesday, March 30, 2021 7:51:32 AM
To: [John Hunt](#)
Cc: [Carrie Morris](#); [Ava Hawkes](#); [Senator Bradley](#)
Subject: HOUSECOMMERCE: SB 49
Response requested: Yes
Importance: Normal
Attachments:
[COMMERCE Notice - 03-30-2021.pdf](#) 

Good Morning Chairman Hunt,

Senator Bradley will be introducing **SB 49** this morning in House Commerce for Sen. D'Allesandro who is not able to attend today's hearing.

Sen. Bradley is a co sponsor and is signed up to speak online

Thank you,
Shannon

Shannon Girard
NH Senate
107 North Main Street
Concord, NH 03301
(603) 271-3479

Archived: Tuesday, April 27, 2021 12:55:16 PM
From: Glenn Perlow NHTC
Sent: Thursday, March 25, 2021 9:38:22 AM
To: ~House Commerce Committee
Subject: NH House Remote Testify: 9:30 am - SB49 in House Commerce and Consumer Affairs
Importance: Normal
Attachments:
2021-3-25 NHTC Testimony - SB 49.pdf ;

Chairman Hunt and Honorable Members of the Commerce Committee:

Please find attached written testimony in favor of Senate Bill 49.

Thank you,

Glenn

Glenn Perlow
VP, General Counsel and Chief Compliance Officer

JORDAN PARK  TRUST COMPANY
(formerly Perspecta Trust)
(m) 603-759-4845
(o) 603-929-2672

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New Hampshire Psychiatric Society

7 N. State St., Concord, NH 03301

Patrick Ho, MD, MPH
President

Catrina Watson
Executive Director

To: NH House Commerce Committee

From: Patrick Ho, MD, MPH, President, New Hampshire Psychiatric Society

Re: SB 59 - Relative to mental health and substance use disorder insurance coverage

Date: March 24, 2021

Mr. Chairman and members of the committee, thank you for allowing me to speak today. My testimony today is on behalf of both the NH Psychiatric Society, which I serve as the president, and the NH Medical Society, of which I am an executive committee member. In these capacities, I fully support SB59 as a strong effort to improve our ability to deliver mental health care in NH. Personally as a psychiatrist, I support this bill because I feel the frustrations of patients who come to an ED or seek inpatient mental health care seeing no other option amidst a severe shortage of psychiatrists and other mental health practitioners in the state. I'll keep my testimony brief and will provide some overall context for collaborative care model services.

- Although New Hampshire has the highest proportion of citizens suffering from mental health disorders out of any state, nearly a quarter of these citizens feel that their mental health care needs are unmet
- Collaborative care model (CoCM) services can help bridge the gap with better care coordination via integration of mental health and primary care:
 - CoCM services use a team approach consisting of a primary care provider, a care manager, and a psychiatric consultant. The team cares for a defined group of patients and closely tracks each patient's progress
 - Treatment is adjusted if patients are not improving as expected. Patients who don't respond to treatment are referred to more intensive mental health specialty care including seeing the psychiatrist.
 - Instead of psychiatrists seeing all patients one-on-one, the psychiatrists provide caseload consultation to a population of patients for the primary care practice, providing proactive, effective care. This approach improves access, health outcomes, and reduces provider burnout.
- Medicare and federally qualified health centers, and rural health clinics already allow reimbursement for CoCM
- This legislation would allow for primary care providers to bill commercial insurers for the model, which would safely increase access to mental health care

With the added stressors of COVID-19, the need for mental health care services is higher than ever, making the lack of access to these services even more pronounced and straining other health care resources like Emergency Departments. We've seen this in just the last month with so many children and adults waiting for inpatient psychiatric beds. It is now more important than ever that we allow for the use of evidence-based practices to increase the availability of mental health services in our state. I urge you to vote in favor of SB59.

Thank you,
Patrick Ho, MD, MPH
President, New Hampshire Psychiatric Society

Bill as
Introduced

SB 49 - AS INTRODUCED

2021 SESSION

21-0760

11/05

SENATE BILL **49**

AN ACT relative to the New Hampshire trust code.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. Bradley, Dist 3; Rep. Hunt, Ches. 11

COMMITTEE: Ways and Means

ANALYSIS

This bill expands the list of persons who may represent the interests of certain beneficiaries, clarifies the meaning of “second trust” in a decanting, and allows trustees to engage in investing strategies focused on social, environmental, governance, or other values or beliefs of the persons interested in the trust, at the express direction of those persons.

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the New Hampshire trust code.

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

1 1 New Paragraph; New Hampshire Trust Code; Representation by Fiduciaries and Parents.
2 Amend RSA 564-B:3-303 by inserting after paragraph (7) the following new paragraph:

3 (8) A representative who is expressly appointed under the terms of the governing
4 trust instrument, either directly or by appointment of one or more persons who are expressly
5 authorized under the terms of the trust instrument to do so, may represent and bind one or more
6 beneficiaries of the trust as to any matter involving the trust. A representative appointed pursuant
7 to this paragraph shall be presumed to be a fiduciary and, unless otherwise provided under the
8 terms of the trust, must deliver to the trustee a written acceptance of appointment as
9 representative. A representative may not be appointed pursuant to this paragraph to represent the
10 interests of a charitable beneficiary subject to the authority of the director of charitable trusts, as
11 provided in statute and common law.

12 2 New Paragraph; New Hampshire Trust Code; Trustee's Power to Decant Trust. Amend RSA
13 564-B:4-418 by inserting after paragraph (a) the following new paragraph:

14 (a-1)(1) For purposes of this section, "second trust" means: (A) an irrevocable trust
15 already in existence, whether created by the settlor of the first trust or a different settlor; (B) a trust
16 that is a complete restatement of the first trust, which may be created by the authorized fiduciary of
17 the first trust or another person as the nominal grantor; (C) the first trust as modified to create the
18 second trust; or (D) a new trust created by the authorized fiduciary or another person as the nominal
19 settlor for the purpose of decanting.

20 (2) If a second trust is created by restating or modifying the first trust: (A) the
21 second trust may, but need not, have the same name as the first trust; and (B) the second trust may,
22 but need not, obtain a new taxpayer identification number. If no new taxpayer identification
23 number is obtained, the second trust may continue to use the taxpayer identification number of the
24 first trust.

25 3 New Hampshire Trust Code; Decanting; Second Trust. Amend RSA 564-B:4-418(q)(3) to read
26 as follows:

27 (3) All title to real property and other property owned by the first trust and all
28 contractual rights possessed by the first trust are vested in the second trust without reversion or
29 impairment, **subject to the provisions of paragraph (b)**; and

30 4 Uniform Prudent Investor Act; Prudent Investor Rule. Amend RSA 564-B:9-901(b) to read as
31 follows:

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1 (b) The prudent investor rule may be expanded, restricted, eliminated, or otherwise
2 altered by the terms of the trust except as provided in RSA 564-B:1-105(b)(2) and (3). A trustee is
3 not liable to a beneficiary to the extent that the trustee acted in **good faith and** reasonable reliance
4 on **(1)** the ~~[provisions]~~ **express terms** of the trust, ~~[or]~~ **(2)** a court order, ~~[or determined not to~~
5 ~~diversify the investments of a trust in good faith in reliance on the express terms of the trust or a~~
6 ~~court order or pursuant to]~~ **(3)** RSA 564-B:9-903, **or (4) RSA 564-B:9-902(c)(10)**.

7 5 Uniform Prudent Investor Act; Standard of Care; Portfolio Strategy; Risk and Return
8 Objectives. Amend RSA 564-B:9-902(c)(8)-(9) to read as follows:

9 (8) needs for liquidity, regularity of income, and preservation or appreciation of
10 capital; ~~and]~~

11 (9) an asset's special relationship or special value, if any, to the purposes of the trust
12 or to one or more of the beneficiaries[-]; **and**

13 **(10) unless contrary to settlor intent or otherwise prohibited by RSA 564-B:1-**
14 **111(c), for a trust not subject to RSA 292-B, the expressed wishes of the interested persons of**
15 **the trust, including where applicable the director of charitable trusts as described in RSA**
16 **564-B:1-111(a), as reflected in a nonjudicial settlement agreement pursuant to RSA 564-B:1-**
17 **111, to have the trustee, trust advisor, or trust protector engage in investing strategies that**
18 **align with the interested persons' social, environmental, or governance objectives or other**
19 **values or beliefs of the interested persons, regardless of investment performance.**

20 6 Effective Date. This act shall take effect 60 days after its passage.