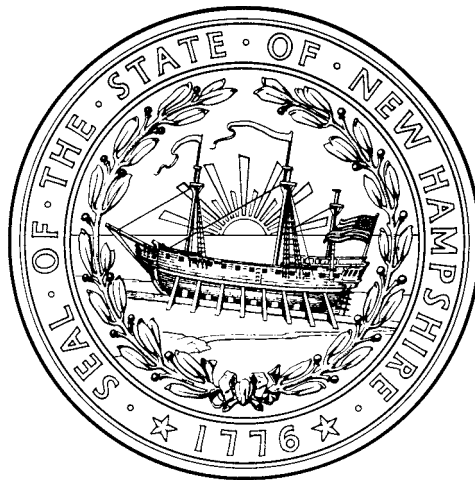


March 26, 2015
Nos. 9-10

STATE OF NEW HAMPSHIRE

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**First Year of the 164th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MARCH 19, 2015 SESSION
COMMENCEMENT – MARCH 26, 2015 SESSION**

SENATE JOURNAL 9 *(continued)*

March 19, 2015

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 121, making a technical correction to the negligent driving statute.

HB 230, relative to penalties for failure to timely discharge a mortgage.

HB 329, relative to a construction project at the state veterans cemetery.

HB 354, relative to the closing of clam, oyster, and other bivalve areas for restoration.

HB 357, relative to notice of change of name or address on a driver's license and on the registration of a vehicle.

HB 468-FN, requiring a warrant to obtain electronic device location information.

HB 572-FN-L, relative to taking land by eminent domain for high pressure gas pipelines and requiring payment of the land use change tax when land is taken by eminent domain to build energy infrastructure.

HB 577-FN-A-L, establishing a children's savings account program.

HB 645-FN, relative to the licensure and regulation of child day care agencies.

INTRODUCTION OF HOUSE BILLS

Sen. Bradley offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees. Adopted.

First and Second Reading and Referral

HB 108-FN, relative to sealing nonpublic session minutes. (Judiciary)

HB 109-FN-L, relative to the testing of backflow devices. (Executive Departments and Administration)

HB 122, relative to advertising of liquor or beverages. (Commerce)

HB 124, relative to the implementation of new college and career readiness standards. (Education)

HB 141, relative to rulemaking authority concerning practice standards and safe and secure operation of pharmacies. (Executive Departments and Administration)

HB 150, establishing a commission to study the legalization, regulation, and taxation of marijuana. (Health and Human Services)

HB 158, requiring the managing agent to return the records of a condominium association upon the request of the association. (Commerce)

HB 169, relative to table stakes poker. (Ways and Means)

HB 171, relative to rebating. (Ways and Means)

HB 175, establishing a committee to study improving the efficiency of the financial approval process for housing subdivisions used by the department of justice. (Executive Departments and Administration)

HB 177-FN, relative to sales of alcoholic beverages by manufacturers. (Commerce)

HB 180, relative to the definition of "price or consideration" under the real estate transfer tax and relative to the exception for transfers by devise under such tax. (Ways and Means)

HB 184, relative to travel insurance. (Commerce)

HB 195, relative to continuing care communities. (Health and Human Services)

HB 198, relative to retention requirements for certain motor vehicle records. (Judiciary)

HB 200, allowing homestead food operations exempt from licensure to sell homestead food products at retail food stores. (Energy and Natural Resources)

HB 205-L, relative to lending practices of energy efficiency and clean energy districts. (Energy and Natural Resources)

HB 212, relative to revocation of fish and game licenses of persons convicted of sexual assault while hunting, trapping, or fishing. (Energy and Natural Resources)

HB 216-FN, relative to recovery of certain investigatory costs by regulatory boards and commissions. (Executive Departments and Administration)

HB 223-FN, relative to external review under the managed care law. (Health and Human Services)

HB 236, relative to child support and allowable child care expenses. (Judiciary)

HB 255-FN, relative to petitioning for annulment of a class B misdemeanor offense. (Judiciary)

HB 270, granting immunity from criminal prosecution to a person who reports a drug related emergency. (Judiciary)

HB 272, designating the Ham Branch River watershed in Easton as a protected river, and exempting portions of the Ham Branch River watershed from the shoreland water equality protection act. (Energy and Natural Resources)

HB 276, providing that school districts shall not be required to adopt the common core standards. (Education)

HB 279, establishing a commission to study the economic impact of the arts and culture in New Hampshire. (Ways and Means)

HB 285, relative to discussion with legal counsel under the right-to-know law. (Judiciary)

HB 286, relative to permits issued by building inspectors. (Public and Municipal Affairs)

HB 287, allowing citizens to record by audio or video a traffic stop by law enforcement officers. (Judiciary)

HB 292, expanding the good Samaritan law to engineers and architects. (Judiciary)

HB 305, relative to assessment of and discharge planning for minors in the juvenile court system. (Judiciary)

HB 308, relative to the supervision of a real estate office and the duties of a facilitator under the real estate practice act. (Commerce)

HB 309, permitting landlords to remove tenants' property in certain circumstances. (Judiciary)

HB 322, relative to protection of personally identifiable data by the department of education. (Education)

HB 323, relative to the administration of the statewide assessment program. (Education)

HB 326, relative to the board of registration of medical technicians. (Executive Departments and Administration)

HB 328, relative to delivery of absentee ballots. (Public and Municipal Affairs)

HB 332, relative to school district policy regarding objectionable course material. (Education)

HB 336, relative to seasons for hunting by crossbow. (Energy and Natural Resources)

HB 346, relative to criminal history records checks for school employees and volunteers. (Education)

HB 347, relative to payment of wages of certain hourly school district employees. (Education)

HB 353, relative to the governance of condominium unit owners' associations. (Commerce)

HB 358, relative to driver's license information obtained by pawnbrokers and secondhand dealers. (Commerce)

HB 361, establishing a committee to study the definition of "employee" and the application of that definition to persons who work exclusively at home via the Internet for online business activities. (Commerce)

HB 363, relative to Lyme disease awareness. (Public and Municipal Affairs)

HB 380, relative to investigations of child day care agencies. (Health and Human Services)

HB 381-FN, allowing a liquor manufacturer to be issued an on-premises license. (Commerce)

HB 383, relative to the immunization/vaccination registry. (Health and Human Services)

HB 391-FN, applying the E911 surcharge to prepaid cellular telephones. (Energy and Natural Resources)

HB 403-FN, repealing the law relative to providing certain parameters for access to reproductive health care facilities. (Judiciary)

HB 408, making a technical correction relative to fees for chiropractors. (Executive Departments and Administration)

HB 411, prohibiting the payment of subminimum wages to persons with disabilities. (Commerce)

HB 418, relative to waiver of rights to inherited property. (Judiciary)

HB 421, authorizing the university of New Hampshire to grow industrial hemp for research purposes. (Executive Departments and Administration)

HB 422-FN, relative to certification of death certificates by physician assistants. (Health and Human Services)

HB 423, designating the bobcat as the New Hampshire state wildcat. (Rules, Enrolled Bills and Internal Affairs)

HB 424, relative to the accessibility of assessment materials. (Education)

HB 425, relative to procedures for the adoption of agency rules under the administrative procedures act. (Executive Departments and Administration)

HB 427, relative to the definition of the New Hampshire fire code. (Executive Departments and Administration)

HB 429, revising the commission to review and consider alcoholic beverage manufacturing processes and retail sales in manufacturing facilities. (Commerce)

HB 441, relative to financial affidavits submitted in hearings regarding child support, property settlement, and alimony. (Judiciary)

HB 449, relative to the duration of child support. (Judiciary)

HB 450, relative to the definition of "employee" for the purposes of workers' compensation and unemployment compensation. (Commerce)

HB 455-FN, relative to the board of managers of the New Hampshire veterans' home. (Executive Departments and Administration)

HB 458, revising the legislative ethics laws and the guidelines of the legislative ethics committee. (Rules, Enrolled Bills and Internal Affairs)

HB 460, establishing a commission to study revenue alternatives to the road toll for electric-powered and hybrid vehicles for the funding of improvements to the state's highways and bridges. (Transportation)

HB 472, relative to the parole board and parole board procedures. (Judiciary)

HB 473, relative to the smoking policy at the New Hampshire veterans' home. (Executive Departments and Administration)

HB 478, relative to rulemaking for market conduct record retention and production. (Commerce)

HB 479, relative to uninsured or hit-and-run motor vehicle coverage. (Commerce)

HB 480, relative to policies for property and casualty insurance. (Commerce)

HB 481, relative to commercial insurance. (Commerce)

HB 482, relative to the insurance claims adjuster definition. (Commerce)

HB 484, relative to medication administration by licensed nursing assistants and relative to exemptions from regulation for certain nursing care and attendant care services. (Health and Human Services)

HB 491, relative to immunity for school personnel using reasonable force to protect a minor. (Education)

HB 492, relative to military and historic reenactments and commemorations. (Judiciary)

HB 494, relative to industrial hemp as a controlled substance. (Judiciary)

- HB 495, relative to referral fees for settlement services. (Commerce)
- HB 498, relative to notification of radon and arsenic testing. (Health and Human Services)
- HB 506, clarifying the conditions under which motor vehicle information may be used. (Transportation)
- HB 507, relative to teacher personally identifiable data. (Education)
- HB 508, relative to the dissolution of the New Hampshire medical malpractice joint underwriting association. (Executive Departments and Administration)
- HB 510, establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers. (Executive Departments and Administration)
- HB 511, establishing a committee to study the funding of certain state aid grants. (Energy and Natural Resources)
- HB 519, establishing a committee to study department of education policies affecting dyslexic students. (Education)
- HB 520, establishing privacy protections for student online personal information. (Education)
- HB 521, relative to the size of the pool of the workers' compensation appeals board. (Executive Departments and Administration)
- HB 522, making certain changes in the law governing toxic substances in the workplace to comply with federal law. (Health and Human Services)
- HB 523, relative to the jurisdiction of the penalty appeal board. (Executive Departments and Administration)
- HB 531, establishing a committee to study short-term rentals by homeowners and owners of residential properties. (Commerce)
- HB 547, relative to the valuation of poles and conduits owned by telephone utilities. (Ways and Means)
- HB 553-FN, relative to dealer registration privileges by a dealership management company and proof of ownership of a vehicle at the time of sale. (Transportation)
- HB 554-FN, relative to sales of beer in refillable containers. (Commerce)
- HB 555, relative to participation of chartered public school students in school district co-curricular activities. (Education)
- HB 560-FN, including a fetus in the definition of "another" for the purpose of certain criminal offenses. (Judiciary)
- HB 563-FN, relative to funding for chartered public school pupils. (Education)
- HB 564-FN, relative to prior authorization for certain prescription drugs. (Health and Human Services)
- HB 578-FN, relative to state board of education compliance with unfunded federal education mandates. (Education)
- HB 584-FN, making various changes to laws relating to motor vehicles and vessels. (Transportation)
- HB 593-FN, permitting qualifying patients and registered caregivers to cultivate cannabis for therapeutic use. (Health and Human Services)
- HB 597-FN, relative to penalties for indecent exposure and lewdness. (Judiciary)
- HB 599, relative to the economic revitalization zone tax credit program. (Ways and Means)
- HB 603, relative to student exemption from statewide assessment. (Education)
- HB 604, relative to the use of mixed use school buses by special education pupils. (Education)
- HB 606-FN-L, relative to costs for public records filed electronically. (Executive Departments and Administration)
- HB 610, relative to a school board vote on the reassignment of a pupil. (Education)
- HB 613, relative to governmental records exempted under the right-to-know law. (Judiciary)
- HB 614-FN, implementing goals of the state 10-year energy strategy. (Energy and Natural Resources)
- HB 618-FN, relative to penalties for the possession of marijuana. (Judiciary)

HB 628-FN, relative to indemnification of health care facilities under certain circumstances. (Health and Human Services)

HB 644-FN, relative to regulation of small loans, title loans, and payday loans. (Commerce)

HB 648-FN, requiring detention until arraignment for persons arrested for violation of protective orders. (Judiciary)

HB 658-FN, prohibiting collective bargaining agreements that require employees to join a labor union. (Finance)

HB 664-FN, consolidating existing oil pollution funds. (Ways and Means)

HB 666-FN, relative to licensing of money transmitters. (Commerce)

HB 681-FN-A, increasing the marriage license fees. (Ways and Means)

Out of Recess. Call Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

Sen. Bradley moved that the Senate adjourn from the Late Session.

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 10

March 26, 2015

The Senate reconvened at 10:00 a.m. a quorum being present.

The Reverend Michael Wilson, guest chaplain to the Senate, offered the following meditative thoughts and prayer.

Almighty God, we humbly ask that you bless the members of the New Hampshire State Senate, their families, and their staff. Grant to them good health, discernment in their deliberations, and the strength needed to do the work of the people. Grant to them good judgment in bringing forth legislation and enacting bills that are beneficial for the residents of the State of New Hampshire. Guide them in their actions, direct them along the right path, and watch over them always and protect them. Grant to them safe passage from their homes as they travel to Concord in order to come together in the performance of their duties, and return them back to their home and their family safely at the end of the day. We also ask special prayers of healing and speedy recovery for Senator Cataldo, who has been hospitalized. We also ask for prayers of healing for members of the families of the members of the Senate who may be ill. We ask this in your holy name. Amen.

Sen. Kelly led the Pledge of Allegiance.

Sen. Cataldo was excused for the day.

INTRODUCTION OF GUESTS

(The Chair recognized Sen. D'Allesandro for a Resolution.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Mister President, we're here for a very special, very special Resolution honoring a retiring state employee who has just done great things for the state of New Hampshire during her 30 years of service to this state.

Linda Hodgdon for her service and dedication to the State of New Hampshire:

WHEREAS, Linda spent nearly 30 years devoted to serving the State of New Hampshire; and

WHEREAS, her commitment to her work in numerous roles, including the Governor's office, the Department of Transportation, the Department of Health and Human Services, and the Department of Justice, has been unwavering; and

WHEREAS, she has effectively worked across the aisle as budget analyst for Governor John Sununu and directed the budget for both Governors Jeanne Shaheen and John Lynch; and

WHEREAS, since 2009 she served as Commissioner of the Department of Administrative Services proving to be an invaluable and fearless leader in any department she serves in; and

WHEREAS, her contributions to major projects like administering the state capital budget, managing 90 state owned buildings, assisting in the rebuilding of the Hillsborough County Courthouse and her 24-7 dedication [24-7] to everything in-between have been critical to New Hampshire; and

WHEREAS, all of those who have worked with Linda share in having the greatest respect for her, her work and her leadership.

Now, therefore, be it resolved that the New Hampshire [State] Senate recognizes Linda's honorable dedication to bettering our state for so many years, and extends its sincerest gratitude and well wishes upon her retirement.

Signed by all 24 Senators, and attested to by Tammy Wright, Clerk of the State Senate.

I've been around a long time, have worked with a lot of state employees, and I don't think anyone has manifested the dedication, hard work, and commitment to the state of New Hampshire like Linda Hodgdon has. So, we hate to see Linda leave, but we're very hopeful that she'll constantly be in touch with us; she'll be happy, healthy, and keep the dream alive and well. Thank you, Linda.

PRESIDENT MORSE: Thank you Senator D'Allesandro. You know, having served as a Finance Chair three times, I realize how governor's can break a commissioner's back. She has carried the state of New Hampshire during all those budgets that I helped create, and I'd just like to say thank you, Commissioner Hodgdon, for everything you've done for the state of New Hampshire over the last 30 years. I think we've all had the chance to work with Linda, and would agree her integrity is unwavering. She and I have spent many years working together and I appreciate her candid and sincere leadership. She is someone I personally hold in the highest regard, and who I have been able to trust and lean on, especially during my times as Finance Chair. Linda, you've shown us what it means to be a strong and dedicated leader. You are an inspiration to the rest of us to truly commit to doing good work for the state of New Hampshire. Thank you for all you've done and congratulations on what I hope is retirement. Congratulations.

(The Chair recognized Commissioner Hodgdon.)

COMMISSIONER HODGDON: Let me say thank you to all of you. I am so touched, this is so unexpected. It is a labor of love. My opportunity to work with each and every one of you is going to be a very special memory of mine as I look back on my career. So, it is a tough job. It's a job that is borne better when there's more shoulders involved, so it's wonderful to be able to do that with all of you. So, thank you very, very much.

(The Chair recognized Sen. Feltes.)

SENATOR FELTES: Thank you, Mister President. Mister President, it's my honor this morning to introduce a guest, Mr. Saggiotes. He's a former state Senator, he's over here. He now resides in Concord. He was a state Senator in 1965 representing District 8, then became a Representative in the House for 8 years before returning to the Senate in 1974. He spent the 1977-1978 term as Majority Leader, and retired from the Senate in 1980. It's my honor to welcome former state Senator Saggiotes.

PRESIDENT MORSE: Thank you for joining us.

Sen. Woodburn introduced Tom Brady visiting in the balcony.

Sen. Fuller Clark introduced Attorney Norman Patenaude visiting in the balcony.

Sen. Avard introduced Rindge Memorial School visiting in the balcony.

INTRODUCTION OF PAGES

Sen. Avard introduced Aditi Srinivasan and Mary Zhu of Nashua High School South serving as Senate Pages for the day.

FN REPORT FOR MARCH 26, 2015

Senator Forrester recommends the waiver of referral to the Finance Committee, Senate Rule 4-5, for the following bill with a fiscal note or an appropriation of funds:

CONSENT CALENDAR:**TRANSPORTATION**

HB 467-FN, relative to the 14-month registration of off highway recreational vehicles.

Senator Forrester previously recommended (March 5, 2015) the waiver of referral to the Finance Committee, Senate Rule 4-5, for the following bills:

REGULAR CALENDAR:**COMMERCE**

SB 3-FN, relative to payment for reasonable value of services.

SB 266-FN, adopting the Uniform Securities Act.

ENERGY AND NATURAL RESOURCES

SB 221-FN, relative to electric rate reduction financing.

Without objection, the FN Report is adopted.

CONSENT CALENDAR REPORTS

The following bills were removed from the Consent Calendar:

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SCR 1, recognizing the contribution of Bhutanese refugees to New Hampshire, and requesting the United States government to work diligently on resolving the Bhutanese refugee crisis, reaching an agreement to allow the option of repatriation, and promoting human rights and democracy in Bhutan. Removed by Sen. Feltes.

SCR 2, urging Congress to discontinue foreign aid to Argentina until financial disputes are resolved. Removed by Sen. D'Allesandro.

SPECIAL ORDER

Without objection the following bill was Special Ordered to the beginning of the calendar:

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SCR 1, recognizing the contribution of Bhutanese refugees to New Hampshire, and requesting the United States government to work diligently on resolving the Bhutanese refugee crisis, reaching an agreement to allow the option of repatriation, and promoting human rights and democracy in Bhutan.

Senator Bradley moves that the consent calendar, with the relevant amendments as printed in the day's calendar be adopted and that all such bills found ought-to-pass be ordered to third reading.

CONSENT CALENDAR REPORTS**COMMERCE**

SB 57, relative to qualifications and duties of condominium association board members. Ought to Pass with Amendment, Vote 5-0. Senator Prescott for the committee.

This bill provides that the board of directors has a fiduciary relationship with members of the unit owners' association. The bill also prohibits a person who has been convicted of a felony from serving as a board member and prohibits compensation for board members. The bill also requires the unit owners' association to maintain a fidelity bond for all persons who control or disburse funds of the association.

Commerce

March 18, 2015

2015-1011s

05/03

Amendment to SB 57

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraphs; Condominium Act; Qualification of Officers; Compensation Prohibited. Amend RSA 356-B:40 by inserting after paragraph II the following new paragraphs:

II-a. No person who has been convicted of any felony in this state or in a United States district or territorial court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this state, is eligible to serve as an officer or board member unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election as an officer or board member.

II-b. An officer shall not directly receive any salary or compensation from the association for the performance of duties as an officer or board member and shall not in any other way benefit financially from service to the association.

II-c. If annually approved by a 2/3 majority of the voting interests present at a properly called meeting of the association, the association may waive the requirements of paragraphs II-a and II-b.

3 New Paragraph; Condominium Act; Insurance; Fidelity Bond Required. Amend RSA 356-B:43 by inserting after paragraph I the following new paragraph:

I-a. The unit owners' association shall maintain insurance or a fidelity bond for all persons who control or disburse funds for the association. The insurance policy or fidelity bond shall cover the maximum funds that will be in the custody of the association or its management agent at any one time. In this subparagraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association shall bear the cost of such insurance or bond.

SB 111, making changes to the life and health insurance guaranty association.

Ought to Pass with Amendment, Vote 5-0.

Senator Pierce for the committee.

This bill is a request of the New Hampshire Insurance Department and makes certain changes to the law governing the life and health insurance guaranty association. New Hampshire currently operates under the 1996 version of industry model law while the large majority of states have updated to a 2009 version. In order to achieve functional consistency amongst the states it's important that we adopt SB 111 as amended by the committee.

Commerce

March 18, 2015

2015-1008s

01/10

Amendment to SB 111

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

1 Life and Health Guaranty Association; Definitions. Amend RSA 408-B:4, XI to read as follows:

XI. "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned on such policies or contracts and less dividends and experience credits on such policies or contracts. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under RSA 408-B:5, II, except that assessable premium shall not be reduced on account of RSA 408-B:5, II(b)(3) relating to interest limitations and RSA 408-B:5, III(b) relating to limitations with respect to any one individual, any one participant and any one contract holder; provided that "premiums" shall not include:

(a) Any premiums in excess of \$5,000,000 on any unallocated annuity contract not issued under a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code; **or**

(b) With respect to multiple non-group policies of life insurance owned by one owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees or other persons, premiums in excess of \$5,000,000 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

2 Life and Health Guaranty Association; Definitions. Amend RSA 408-B:4, XII –XIV to read as follows:

XII. "Resident" means ~~[any]~~ **a person to whom a contractual obligation is owed and** who resides in this state at the ~~[time]~~ **date of entry of a court order that determines** a member insurer ~~[is determined]~~ to be an impaired ~~[or]~~ **insurer or a court order that determines a member insurer to be an** insolvent insurer ~~[and to whom a contractual obligation is owed]~~, **whichever occurs first**. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business. **Citizens of the United States that are either: (a) Residents of foreign countries or (b) Residents of United States possessions, territories or protectorates that do not have an association similar to the association created by this chapter, shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.**

XIII. “Structured settlement annuity” means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

XIV. “Supplemental contract” means any agreement entered into for the distribution of policy or contract proceeds.

XV. “Unallocated annuity contract” means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

3 Life and Health Guaranty Association; Coverage and Limitations. RSA 408-B:5 is repealed and reenacted to read as follows:

408-B:5 Coverage and Limitations.

I. This chapter shall provide coverage for the policies and contracts specified in paragraph II:

(a) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees, or payees of the persons covered under subparagraph (b); and

(b) To persons who are owners of or certificate holders under the policies or contracts, (other than unallocated annuity contracts and structured settlement annuities) and in each case who:

(1) Are residents; or

(2) Are not residents, but only under all of the following conditions:

(A) The insurers that issued the policies or contracts is domiciled in this state;

(B) The states in which the persons reside have associations similar to the association created by this chapter; and

(C) The persons are not eligible for coverage by an association in any other state because the insurer was not licensed in the state at the time specified in the state’s guaranty association law.

(c) For unallocated annuity contracts specified in paragraph II, subparagraphs (a) and (b) shall not apply, and this chapter shall, except as provided in subparagraphs (e) and (f), provide coverage to:

(1) Persons who are the owners of the unallocated annuity contracts if the contracts are issued to or in connection with a specified benefit plan whose plan sponsor has its principal place of business in this state; and

(2) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents.

(d) For structured settlement annuities specified in paragraph II; subparagraphs (a) and (b) shall not apply, and this chapter shall, except as provided in subparagraphs (e) and (f), provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(1) Is a resident, regardless of where the contract owner resides; or

(2) Is not a resident, but only under both of the following conditions:

(A)(i) The contract owner of the structured settlement annuity is a resident; or

(ii) The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state, and the state in which the contract owner resides has an association similar to the association created by this chapter; and

(B) Neither the payee or beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(e) This chapter shall not provide coverage to:

(1) A person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state; or

(2) A person covered under subparagraph (c), if any coverage is provided by the association of another state to the person.

(f) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this paragraph in situations where a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association.

II.(a) This chapter shall provide coverage to the persons specified in paragraph I for direct, non-group life, health or annuity policies or contracts, and for certificates under direct group policies and contracts, and for supplemental contracts to any of these, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries and any immediate or deferred annuity contracts.

(b) This chapter shall not provide coverage for:

(1) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract owner;

(2) Any policy or contract of reinsurance, unless assumption certificates have been issued;

(3) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or change in value:

(A) Averaged over the period of 4 years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds a rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for that same 4-year period or for such lesser period if the policy or contract was issued less than 4 years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(B) On and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association, or similar entity under:

(A) A multiple-employer welfare arrangement as defined in 29 U.S.C. section 1002(40);

(B) A minimum premium group insurance plan;

(C) A stop-loss group insurance plan; or

(D) An administrative services only contract;

(5) Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of the policy or contract;

(6) Any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(7) Any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation;

(8) Any portion of any unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery;

(9) Any portion of a policy or contract to the extent that the assessments required by RSA 408-B:9 with respect to the policy or contract are preempted by federal or state law;

(10) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subparagraph, the interest or change in value determined by using the procedures defined in the policy or contract shall be credited as if the contractual date of the crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and shall not be subject to forfeiture; and

(11) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to Part C or part D of subchapter XVIII, chapter 7 of Title 42 of the United States Code, commonly known as Medicare Part C and D, or any regulations issued pursuant thereto.

III. The benefits for which the association may become liable shall in no event exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b)(1) With respect to any one life, regardless of the number of policies or contracts:

(A) \$300,000 in life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance;

(B) In health insurance benefits:

(i) \$100,000 for coverages not defined as disability insurance or basic hospital, medical and surgical insurance or long-term care insurance, as defined in RSA 415-D, including any net cash surrender and net cash withdrawal values;

(ii) \$300,000 for disability insurance, and \$300,000 for long-term care insurance, as defined in RSA 415-D;

(iii) \$500,000 for basic hospital medical and surgical insurance or major medical insurance;

(C) \$250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(2) With respect to each individual participating in a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, \$250,000 in present value annuity benefits, including net cash surrender and net cash withdrawal values; or

(3) With respect to each payee of a structured settlement annuity or beneficiary or beneficiaries of the payee if deceased, \$250,000 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal value, if any.

(4) However, in no event shall the association be obligated to cover more than:

(A) An aggregate of \$300,000 in benefits with respect to any one life under subparagraphs (b) (1), (2) and (3) except with respect to benefits for basic hospital, medical and surgical insurance and major medical insurance under subparagraph (b)(1)(B)(iii), in which case the aggregate liability of the association shall not exceed \$500,000 with respect to any one individual; or

(B) With respect to one owner of multiple non-group policies of life insurance, whether the policy owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, more than \$5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

(5) With respect to either one contract owner provided coverage under subparagraph I(c)(2); or one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in subparagraph (b)(2) of this paragraph, \$5,000,000 in benefits, irrespective of the number of contracts with respect to the contract owner or plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of 2 or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or

entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than \$5,000,000 in benefits with respect to all these unallocated contracts.

(6) The limitations set forth in this paragraph are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignments rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights.

(7) In performing its obligations to provide coverage under RSA 408-B:8, the association shall not be required to guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

4 Life and Health Guaranty Association; Creation of Association. Amend RSA 408-B:6, I(a)(2) and (3) to read as follows:

(2) Annuity account, ***which shall include annuity contracts owned by a governmental retirement plan (or its trustee) established under Section 401, 403(b) or 457 of the United States Internal Revenue Code, but shall otherwise excluded unallocated annuities;*** and

(3) Unallocated annuity account which shall ~~[include]~~ ***exclude*** contracts ~~[qualified]~~ ***owned by a governmental retirement benefit plan, or its trustee established*** under Section ***401, 403(b), or 457*** of the United States Internal Revenue Code.

5 New Paragraph; Life and Health Guaranty Association; Powers and Duties of the Association. Amend RSA 408-B:8 by inserting after paragraph XV the following new paragraph:

XVI. In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under paragraphs I or II, the association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(a) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contracts provides for:

- (1) A fixed interest rate; or
- (2) Payment of dividends with minimum guarantees; or
- (3) A different method for calculating interest or changes in value;

(b) There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract, and;

(c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

6 Life and Health Guaranty Association; Assessments. Amend RSA 408-B:9, V(a) to read as follows:

(a) ***Subject to the provisions of subparagraph (b),*** the total of all assessments ~~[upon]~~ ***authorized by the association with respect to*** a member insurer ~~[for the life and annuity account and]~~ for each subaccount ~~[thereunder]~~ ***of the life insurance and annuity account and for the health account*** shall not in any one calendar year exceed 2 percent ~~[and for the health account shall not in any one calendar year exceed 2 percent]~~ of ~~[the]~~ ***that member*** insurer's average ***annual*** premiums received in this state on the policies and contracts covered by the ***subaccount or*** account during the 3 calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

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

SB 145, relative to wine consumed at cocktail lounges. Ought to Pass, Vote 5-0. Senator Prescott for the committee.

Current law only allows full service restaurant licensees to charge a fee for consumption of privately owned table wine that is stored on the premises and consumed with the purchase of a full-course meal. This bill extends this opportunity to cocktail lounges that serve a full-course meal and receive permission from the New Hampshire Liquor Commission.

EDUCATION

SB 227, relative to calculating the cost of an adequate education. Ought to Pass with Amendment, Vote 5-0. Senator Stiles for the committee.

This bill is a result of a performance audit at the Department of Education, and makes technical changes to clarify the language.

Senate Education

March 17, 2015

2015-0976s

04/10

Amendment to SB 227

Amend the section heading in RSA 198:38 and RSA 198:38, I as inserted by section 1 of the bill by replacing it with the following:

198:38 Definitions. *In this subdivision:*

I. "Average daily membership in attendance" or "ADMA" means the average daily membership in attendance, *as defined in RSA 189:1-d, III*, of pupils in kindergarten through grade 12, ~~[as defined in RSA 189:1-d, III of the school year in which the calculation is made;]~~ *in the determination year*, provided that no kindergarten pupil shall count as more than 1/2 day attendance per ~~[calendar]~~ *school* year. *ADMA shall only include pupils who are legal residents of New Hampshire pursuant to RSA 193:12 and educated at school district expense which may include public academies or out-of-district placements. For the purpose of calculating funding for municipalities, the ADMA shall not include pupils attending chartered public schools, but shall include pupils attending a charter conversion school approved by the school district in which the pupil resides.*

Amend RSA 198:38, VII as inserted by section 1 of the bill by replacing it with the following:

VII. "Pupils eligible for a free or reduced-price meal" means *the ADMA of* pupils in ~~[grade 1]~~ *kindergarten* through grade 12 who are eligible for the federal free or reduced-price meal program. ~~[For the purposes of RSA 198:40-a, the department shall calculate the concentration of pupils eligible for free or reduced-price meals using ADMA data. The department shall use the ADMA of pupils eligible for a free or reduced-price meal as of October 2006 in calculating ADMA concentrations for 2006-2007 ADMA data;]~~ *No pupil or school shall be required to participate in the federal free or reduced price meal program.*

Amend RSA 198:41, III as inserted by section 4 of the bill by replacing it with the following:

III.(a) For the biennium ending June 30, 2013, the department of education shall not distribute a total education grant ~~[on behalf of all pupils who reside in]~~ *to* a municipality that exceeds that municipality's total education grant in the second year of the previous biennium.

(b) ~~[Beginning July 1, 2013, and each fiscal year thereafter, the department of education shall not distribute a total education grant on behalf of all pupils who reside in a municipality that exceeds 108 percent of the total education grant distributed to such municipality in the previous fiscal year.]~~

IV.(a) ~~[For fiscal year 2012, the department of education shall identify all municipalities in which the [fiscal year 2012 total education grant]~~ *amount determined in paragraph I or II* will be less than the fiscal year 2011 total education grant. The department shall distribute a stabilization grant to each of those municipalities equal to 100 percent of the decrease. *The sum shall be the total education grant for the municipality.*

~~[(b)] (c)~~ For fiscal year 2013, the department of education shall ~~[identify all municipalities in which the fiscal year 2013 total education grant, including any stabilization grant distributed pursuant to subparagraph (a), will be less than the fiscal year 2011 total education grant the department shall distribute funds to each of those municipalities equal to 100 percent of the decrease]~~ *distribute a total education grant*

to each municipality in an amount equal to the amount determined in paragraph I or II, plus the amount of the fiscal year 2012 stabilization grant. The sum shall be the total education grant for the municipality.

ENERGY AND NATURAL RESOURCES

SB 251, relative to regulations for commercial composters. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

This bill permits composting facilities to use meat and dairy products in their composting operations. The committee amended the bill to enable the Department of Environmental Services (DES) to be able to address restrictions placed on composting operations should issues arise. This bill would compel DES to develop the best management practices possible while collaborating with neighboring states who have adopted similar legislation.

Energy and Natural Resources

March 18, 2015

2015-1027s

08/03

Amendment to SB 251

Amend RSA 149-M:7, XV as inserted by section 1 of the bill by replacing it with the following:

XV. Requirements and best practices for facilities that compost organics, including vegetable matter, meat, meat byproducts, dairy products, or dairy product derivatives.

HEALTH AND HUMAN SERVICES

SB 159, reinstating the division for children, youth and families advisory board. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

This bill reinstates the division for children, youth and families advisory board. The bill is a request of the department of health and human services.

Health and Human Services

March 17, 2015

2015-0975s

05/04

Amendment to SB 159

Amend RSA 170-G:6-a as inserted by section 1 of the bill by replacing it with the following:

170-G:6-a Advisory Board. There is hereby established a board to advise the department of health and human services on services for children, youth, and families. The board shall consist of 12 members and such additional members as may be necessary to comply with federal regulations for the acceptance of federal funds. Four of the members shall be appointed by the governor and council, 4 shall be appointed by the senate president, and 4 shall be appointed by the speaker of the house of representatives. Any additional members shall be recommended by the commissioner and appointed by the governor and council. Each member shall serve a term of 3 years. A member shall continue to serve until a successor is appointed in the same manner as the original appointment. No more than 2 of the members of the board may be residents of the same county, with the exception of youth members who may be from any county. The board shall be representative of persons from community youth service agencies; from the juvenile justice field, such as law enforcement, probation, police, courts, and attorneys; and from appropriate professional fields such as psychology, social services, education, and health. Members of the board shall serve without compensation but shall receive mileage payments at the state employee rate within the limits of funds appropriated to the department.

SB 248, establishing a committee to study health care provider payment rates. Ought to Pass, Vote 5-0. Senator Carson for the committee.

This bill establishes a committee to study health care provider payment rates. The committee shall study health care provider payment rates set by health care providers and insurance carriers and report its findings and any recommendations.

JUDICIARY

SB 59, relative to the removal of county officers and temporary filling of the office. Re-refer to committee, Vote 5-0. Senator Carson for the committee.

This bill deals with recent events in Rockingham County where an elected official was removed from office. Because of time constraints, the committee asks that the bill be re-referred so that we can continue to work on the proper language.

SB 167, relative to filing of small claims. Ought to Pass with Amendment, Vote 5-0. Senator Pierce for the committee.

The official notes to RSA 503:3-b, which governs the filing of small claims against non-resident defendants, states that this statute creates a conflict in the law, albeit minor. SB 167 fixes that conflict with language offered by the Judicial Branch.

Senate Judiciary
March 17, 2015
2015-0994s
09/06

Amendment to SB 167

Amend the bill by replacing section 1 with the following:

1 Entry of Claims; Nonresident Defendant. Amend RSA 503:3-b to read as follows:

503:3-b Entry of Claims; Nonresident Defendant. ~~[The statement of the claim shall be filed with the clerk of a municipal court in the town in which the defendant resides. If there is no municipal court in the town in which the defendant resides, the statement of the claim shall be filed with the clerk of the district court in which district the defendant resides.]~~ If the defendant is not a resident of this state, the claim may be filed in **or transferred to the circuit** court of any town or district where the defendant, in person or through an agent: transacts any business; makes a contract with the resident of the town or district; commits a tortious act; or owns, uses or possesses any real or personal property.

2015-0994s

AMENDED ANALYSIS

This bill clarifies entries for litigation for small claims when the defendant is a nonresident.

PUBLIC AND MUNICIPAL AFFAIRS

SB 243, relative to nonpublic sessions under the right-to-know law. Ought to Pass, Vote 5-0. Senator Stiles for the committee.

This bill clarifies the exception allowing a municipal body to go into nonpublic session when discussing litigation in which the municipality is involved. It will prevent unnecessary and costly determinations surrounding the ability of a municipality to appropriately strategize when bringing forward a lawsuit.

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SB 48, relative to the New Hampshire commission on Native American affairs. Ought to Pass, Vote 5-0. Senator Fuller Clark for the committee.

This bill revises the membership and extends the prospective repeal of the New Hampshire commission on Native American affairs until July 1st, 2020. This commission has done great work throughout the State and their continued existence and expansion will further benefit NH on multiple fronts.

TRANSPORTATION

SB 234, relative to police details on public ways. Ought to Pass with Amendment, Vote 5-0. Senator Birdsell for the committee.

This bill initially required municipalities that use state, county, city, or town law enforcement details on public ways to do so in accordance with department of transportation guidelines. The committee amended the bill to create a study committee to conduct more research, acquire statistics, and determine how everyone would benefit mutually from the legislation, enabling a more transparent bill to be drafted.

Senate Transportation
March 17, 2015
2015-0982s
06/04

Amendment to SB 234

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

AN ACT establishing a committee to study the use of law enforcement details and flaggers for traffic control on municipally maintained roads.

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

1 Committee Established. There is established a committee to study the use of law enforcement details and flaggers for traffic control on municipally maintained roads.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall:

I.(a) Study the use of law enforcement details and flaggers for traffic control as required by municipal authorities on municipally maintained roads only for the following activities:

(1) Maintenance, including tree trimming, for utility power, telephone or communication lines, and other non-utility communication lines, whether above ground or underground.

(2) Installation, replacement, or maintenance of utility-owned equipment or non-utility owned equipment located above ground or underground.

(3) Installation, replacement, or maintenance of utility owned gas or water lines.

(b) Investigate whether standards similar to guidelines used by the department of transportation should be required at the municipal level, whether other statewide standards should be used, or whether each municipality should continue to use its own standards.

II. In performing its study, the committee shall solicit information and comments from the department of transportation; the New Hampshire Municipal Association; the New Hampshire Association of Chiefs of Police; the New Hampshire Police Association; representatives of public utilities; representatives of the telecommunications industry; representatives of the private traffic control industry; and the general public.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

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

2015-0982s

AMENDED ANALYSIS

This bill establishes a committee to study the use of law enforcement details and flaggers for traffic control on municipally maintained roads.

HB 467-FN, relative to the 14-month registration of off highway recreational vehicles. Ought to Pass, Vote 5-0. Senator Daniels for the committee.

This bill allows the fish and game department to issue 14-month OHRV registrations for all consumers at any time rather than only at the initial registration of an OHRV which is current law. This legislation will provide additional choice, convenience and greater flexibility to our consumers with minimal fiscal impact.

The question is on the adoption of the Consent Calendar. Adopted.

INTRODUCTION OF GUESTS

(The Chair recognized Sen. Feltes.)

SENATOR FELTES: Thank you, Mister President. In the gallery is some of the Bhutanese refugee community leaders, including Suraj Budathoki. So, I'd like to introduce Suraj, and any other guests Suraj may have. Please rise in support.

REGULAR CALENDAR REPORTS

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SCR 1, recognizing the contribution of Bhutanese refugees to New Hampshire, and requesting the United States government to work diligently on resolving the Bhutanese refugee crisis, reaching an agreement to allow the option of repatriation, and promoting human rights and democracy in Bhutan. Ought to Pass, Vote 5-0. Senator Soucy for the committee.

This resolution recognizes the wonderful contributions of the Bhutanese refugees to New Hampshire that the Bhutanese community has made the Granite State even stronger, and requests the US government to work diligently on resolving the Bhutanese refugee crisis, reaching an agreement to allow the option of repatriation, and promoting human rights and democracy in Bhutan.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted. Resolution ordered to Third Reading.

COMMERCE

SB 3-FN, relative to payment for reasonable value of services. Ought to Pass with Amendment, Vote 4-1. Senator Prescott for the committee.

Commerce

March 19, 2015

2015-1065s

01/09

Amendment to SB 3-FN

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

AN ACT relative to medical costs paid under workers' compensation.

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

1 Statement of Purpose. After considering the work of the governor's commission to recommend reforms to reduce workers' compensation medical costs, the workers' compensation advisory council, and analysis by the insurance department, the general court has determined that overall workers' compensation costs in New Hampshire are among the highest in the country and further, that medical costs under workers' compensation are high in comparison to workers' compensation medical costs in the region and countrywide, and to health care costs in New Hampshire. Therefore, as a result of this determination, the general court hereby develops a process to reduce these costs.

2 Workers' Compensation; Payment for Reasonable Value of Services. RSA 281-A:24, I is repealed and reenacted to read as follows:

I.(a) The employer or the employer's insurance carrier shall pay the reasonable value of medical services provided under this chapter.

(b) The health care provider shall have the burden of establishing that its bill for services is reasonable.

(c) Effort shall be made to resolve any dispute as to the reasonable value of service prior to applying to the commissioner for resolution of such a dispute.

(d) Whenever an injured employee receives medical or hospital service or other remedial care under the provisions of this chapter and a dispute arises between the employer or the employer's insurance carrier and the person, firm, or corporation rendering such service or care as to the reasonable value of the service or care, the commissioner shall have exclusive jurisdiction to determine the reasonable value of such service or care. Any interested party may petition for a hearing and all interested parties shall be entitled to notice and hearing if it is determined that all reasonable efforts to resolve the dispute have failed.

(e) The commissioner or the commissioner's authorized representative shall make a finding as to the reasonable value of such services or care rendered.

(f) Any party in interest aggrieved by such a finding may appeal to the compensation appeals board under RSA 281-A:43.

3 Workers' Compensation; Payment for Reasonable Value of Services. Amend the section heading of RSA 281-A:24 to read as follows:

281-A:24 Payment for Reasonable Value of Services; ***Reduction of Workers' Compensation Medical Paid Costs.***

4 New Paragraph; Workers' Compensation; Reduction of Workers' Compensation Medical Paid Costs; Commission Established. Amend RSA 281-A:24 by inserting after paragraph V the following new paragraph:

VI.(a) The reduction of workers' compensation medical paid costs shall be as follows:

(1) The maximum payment for any medical service paid under this paragraph shall be the lower of 85 percent of the charge in place as of December 31, 2014 or any payment rates established under an existing contract between a provider and workers' compensation payer. Upon determination by the commissioner that any health care provider has not complied with subparagraphs (1) and (2), payment shall not be made.

(2) The baseline for payments established in subparagraph (1) shall remain in effect for a period of 3 years commencing on the effective date of this paragraph, with no adjustment for inflation during the first 2 years of the 3-year period. In the third year of the 3-year period only, the baseline for payments set in subparagraph (1) shall increase by the amount that the United States Department of Labor, Bureau of Labor Statistics, consumer price index for medical care exceeds 3.5 percent. If the United States Department of Labor, Bureau of Labor Statistics, consumer price index for medical care increases by 3.5 percent or less in the third year, then the baseline for payments shall remain unchanged during the third year.

(3) The labor commissioner, after consultation with the insurance commissioner, shall determine the savings achieved annually and shall publish this information no later than August 31 of each of the 3 years following the effective date of this paragraph.

(4) The determination of the amount of savings shall be based on data representing 75 percent of the total workers' compensation medical payments made in 2014, determined by current procedural terminology (CPT) or other applicable code, and utilizing insurer workers' compensation medical payment data as reported to the National Council on Compensation insurance (NCCI.) To the greatest extent practicable, for the purposes of this section, the department of labor shall collect and utilize data regarding self insured trusts.

(5) The calculation shall be done in the following manner:

(A) A weighting distribution shall be developed based on payments by code made in 2014.

(B) This distribution shall be applied to the workers' compensation average payments by code made in 2014.

(C) In each of the next 3 years, the weighting distribution established in subparagraph (A) shall be applied to the workers' compensation average payments by code in that year.

(D) The weighted payments in each subsequent year shall be compared to the previous year to determine the change in payments achieved.

(b) Regardless of the date of injury, payment for medical services shall be based on the payment rates in this paragraph in effect on the date on which the medical service is provided.

(c) Savings in workers' compensation medical paid costs shall be passed in equal proportion to both insurers and self-insureds, such that the amounts paid to a health care provider are equivalent for each type of service regardless of the insurance status of the employer. Further, it is the intent of this paragraph that the savings experienced by insurers are passed on to policyholders in the form of rate reductions. Workers' compensation insurance rates shall be filed for approval with the insurance commissioner pursuant to the provisions of RSA 412:28, I.

(d) There is hereby established a commission to review and report on issues relative to workers' compensation medical payments in New Hampshire.

(1) The members of the commission shall be as follows:

(A) One member of the senate, appointed by the senate president.

(B) One member of the house of representatives, appointed by the speaker of the house of representatives.

(C) The labor commissioner, or designee.

(D) The insurance commissioner, or designee.

(E) Three health care providers, one appointed by the governor, who shall be a physician, one appointed by the senate president, who shall be employed by a hospital, and one appointed by the speaker of the house of representatives, who shall be a rehabilitation professional.

(F) Three business representatives, one appointed by the governor, who shall be employed by a self-insured trust, one appointed by the senate president, who shall be an insured engaged in either the construction or manufacturing sector, and one appointed by the speaker of the house of representatives, who shall be employed in either the retail or service sector.

(G) Three members representing labor, one appointed by the governor who shall be a member of a statewide labor organization, one appointed by the president of the senate who shall be a member of a private sector labor organization, and one appointed by the speaker of the house of representatives who shall be a member of a municipal labor organization.

(2) The legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

(3) The members of the commission shall elect a chairperson from among the members. The first meeting shall be called by the senate member within 30 days of the effective date of this section. Six members of the commission shall constitute a quorum.

(4) The commission shall review the reports issued by the labor commissioner, after consultation with the insurance commissioner, pursuant to subparagraph (a)(5) to evaluate the savings being obtained, shall study issues relating to workers' compensation medical payments, and make recommendations for proposed legislation in support of the purpose of this paragraph. The commission shall evaluate whether a fixed fee medical payment schedule is necessary to further reduce workers' compensation medical costs and make a recommendation to the legislature concerning whether adoption and implementation of a fixed fee medical payment schedule and also determine the effects such a system would have on the workers' compensation system generally. If the commission finds that a fixed fee system is necessary to continue to reduce costs, the commission shall make recommendations concerning statutory changes. The commission shall also evaluate the benefits of permanently limiting medical cost increases to the United States Department of Labor, Bureau of Labor Statistics, consumer price index for medical care, or some other relevant measure. The commission is authorized to examine other workers' compensation cost drivers, payment reform, quality of and access to care, and any other issues related to the workers' compensation system.

(5) The commission shall solicit information from any person or entity the commission deems relevant to its study.

(6) The commission shall make an annual report of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2016 and November 1, 2017.

(7) The final report of the commission shall contain the commission's final recommendations for legislation and shall be due on or before July 1, 2018.

(e) Health care providers providing workers' compensation care shall file charge data with the department of labor in accordance with rules adopted pursuant to RSA 541-A which shall provide sufficient data on workers' compensation current procedural terminology (CPT) codes in the charge master to provide guidelines to manage costs associated with workers' compensation.

5 Insurance; Comprehensive Health Care Information System. Amend RSA 420-G:11-a, I to read as follows:

I. The department and the department of health and human services shall enter into a memorandum of understanding for collaboration in the development of a comprehensive health care information system. The memorandum of understanding shall include a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of limited use data sets, the criteria and procedures to ensure that Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant limited use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system. To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in New Hampshire and to enhance the ability of New Hampshire consumers and employers to make informed and cost-effective health care and workers' compensation choices. ***The data shall be available as a resource to the labor department in complying with RSA 281-A:24.*** In presenting data for public access, comparative considerations shall be

made regarding geography, demographics, general economic factors, and institutional size. Notwithstanding HIPAA or any other provision of law, the comprehensive health care information system shall not include or disclose any data that contains direct personal identifiers. For the purposes of this section, "direct personal identifiers" include information relating to an individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and social security number.

6 Workers' Compensation. Amend RSA 412:28, I to read as follows:

I. Every insurer, that insures employers against liability for compensation under the workers' compensation law, RSA 281-A, shall file with the insurance commissioner individually or in collaboration with others, in such form as the commissioner may prescribe every manual, minimum premium, class rate, rating schedule, or rating plan and every other rating rule, and every modification of any of the foregoing that it proposes to use; provided, that none of the above shall take effect until the commissioner shall have approved the same as adequate, not excessive, and not unfairly discriminatory. ***Furthermore, the commissioner shall evaluate all workers' compensation insurer rate filings to ensure compliance with the intent of RSA 281-A:24, VI(c). If the reductions in workers' compensation medical costs resulting from the provisions of RSA 281-A:24, VI are determined not to be adequately passed on to policyholders, the commissioner shall have the authority to deny approval for that rate filing.***

7 Repeals. The following are repealed.

I. RSA 281-A:24, VI(d), relative to a commission to review and report on issues relative to workers compensation medical payments in New Hampshire.

II. RSA 281-A:24, VI, relative to reduction of workers' compensation medical paid costs.

8 Effective Date.

I. Paragraph I of section 7 of this act shall take effect July 1, 2018.

II. Paragraph II of section 7 of this act shall take effect July 1, 2019.

III. The remainder of this act shall take effect July 1, 2015.

2015-1065s

AMENDED ANALYSIS

This bill establishes a process for reduction of workers' compensation medical paid costs to achieve savings under the workers' compensation law.

Sen. Prescott moved Re-refer to Committee.

Recess. Out of recess.

The question is on the motion of Re-refer to Committee. Adopted.

Sen. Daniels is in opposition to the motion of Re-refer to Committee on SB 3-FN.

SB 100, relative to home heating fuel deliveries in the winter. Ought to Pass with Amendment, Vote 5-0. Senator Prescott for the committee.

Commerce
March 19, 2015
2015-1045s
05/04

Amendment to SB 100

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

AN ACT relative to the failure to deliver home heating fuel.

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

1 New Paragraph; Regulation of Business Practices for Consumer Protection; Acts Unlawful; Failure to Deliver Home Heating Fuel. Amend RSA 358-A:2 by inserting after paragraph XVI the following new paragraph:

XVII. Failing to accept a municipal welfare official's guarantee to pay for a current delivery and the customer agrees to a reasonable repayment plan, which shall consider the:

(a) Size of the arrearage;

- (b) Estimated size of the customer's future bills;
- (c) Customer's payment history;
- (d) Amount of time that the arrearage has been outstanding;
- (e) Reasons why the arrearage is outstanding and whether those reasons will or will not continue during the course of payment; and
- (f) Customer's ability to pay.

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

2015-1045s

AMENDED ANALYSIS

This bill makes the failure to accept a municipal welfare official's guarantee to pay for a current delivery a violation of the consumer protection act.

Sen. Prescott moved Re-refer to Committee. Adopted.

SB 158, relative to notice required prior to foreclosure. Ought to Pass, Vote 4-1. Senator Pierce for the committee.

Sen. Feltes offered a floor amendment.

Sen. Feltes, Dist. 15

March 26, 2015

2015-1158s

05/04

Floor Amendment to SB 158

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

1 Sale Under the Power; Notice Required for Residential Mortgage. Amend RSA 479:25, II to read as follows:

II. A copy of said notice shall be served upon the mortgagor or sent by registered or certified mail to his last known address or to such person as may be agreed upon in the mortgage at least 25 days before the sale, **and at least 45 days before the sale for a residential mortgage.** The term "mortgagor" shall include the mortgagor and any grantee, assignee, devisee or heir of the mortgagor holding a recorded interest in the mortgaged premises subordinate to the lien of the mortgage, provided that such interest is recorded, at least 30 days, **or in the case of a residential mortgage, 45 days** before the date of the sale, in the registry of deeds for the county in which the mortgaged premises are situated. Like notice shall be sent to any person having a lien of record on the mortgaged premises, provided that the lien is recorded at least 30 days, **or in the case of a residential mortgage, 45 days** before the date of the sale in the registry of deeds. The notice shall be sent not less than 21 days before the sale. Such notice of sale shall be sufficient if it fully sets forth the date, time, and place of sale; the town, county, street or highway and street number, if any, of the mortgaged premises; the date of the mortgage; the volume and page of the recording of the mortgage; and the terms of the sale. Any mortgagor or record lienholder who refuses to accept or claim mailed or served notice or who frustrates attempts by the mortgagee to give notice of the sale by failing to give or leave a forwarding address or by other act or omission shall be deemed to be notified of the sale, provided that such mortgagee shall have made a good faith effort to provide such notice. Notice of the sale as served on or mailed to the mortgagor shall include the following language:

"You are hereby notified that you have a right to petition the superior court for the county in which the mortgaged premises are situated, with service upon the mortgagee, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale." Failure to institute such petition and complete service upon the foreclosing party, or his agent, conducting the sale prior to sale shall thereafter bar any action or right of action of the mortgagor based on the validity of the foreclosure.

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

2015-1158s

AMENDED ANALYSIS

This bill extends the foreclosure notice required prior to the sale of residential property from 25 days to 45 days.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Avar, seconded by Sen. Sanborn.

The following Senators voted Yes: Woodburn, Forrester, Bradley, Watters, Pierce, Hosmer, Little, Sanborn, Kelly, Daniels, Avar, Lasky, Carson, Feltes, Boutin, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Prescott, Stiles, Morse.

The following Senators voted No: (None)

Yeas: 23 - Nays: 0

Adopted.

Sen. Cataldo is excused.

Sen. Bradley moved Re-refer to Committee.

The question is on the motion of Re-refer to Committee.

A roll call was requested by Sen. Soucy, seconded by Sen. Sanborn.

The following Senators voted Yes: Forrester, Bradley, Hosmer, Little, Sanborn, Daniels, Avar, Carson, Boutin, Reagan, Birdsell, Stiles, Morse.

The following Senators voted No: Woodburn, Watters, Pierce, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark, Prescott.

Yeas: 13 - Nays: 10

Adopted.

Sen. Cataldo is excused.

SB 189, relative to liquor manufacturers. Ought to Pass, Vote 4-1. Senator Prescott for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sen. Forrester is in opposition to the motion of Ought to Pass on SB 189.

SB 266-FN, adopting the Uniform Securities Act. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Senate Commerce

March 18, 2015

2015-1033s

08/09

Amendment to SB 266-FN

Amend the introductory paragraph of RSA 421-B:1-102(1) as inserted by section 1 of the bill by replacing it with the following:

(1) "Advertisement" means any notice, circular, letter, or other written communication that is given to more than one person or any other announcement in any publication, by radio, television, or other electronic media, that offers:

Amend RSA 421-B:1-102(4) as inserted by section 1 of the bill by replacing it with the following:

(4) "Bank" means any of the following:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) a bank or trust company chartered under the laws of the state of New Hampshire.

(D) any other banking institution, whether incorporated or not, doing business under the laws of a State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(E) a receiver, conservator, or other liquidating agent of any institution or firm included in subsection (A), (B), (C) or (D).

Amend RSA 421-B:1-102(6)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) a bank;

Amend RSA 421-B:1-102(11) as inserted by section 1 of the bill by replacing it with the following:

(11) "Depository institution" means:

(A) a bank; or

(B) a savings institution, trust company, credit union or similar institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or share accounts insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund or a successor authorized by federal law and which is supervised and examined by a state or federal agency having supervision over such institutions, and which is not operated for the purpose of evading this chapter. The term does not include:

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an "insured depository institution" as defined in the Federal Deposit Insurance Act, 12 U.S.C. section 1813(c)(2), or any successor federal statute.

(C) The inclusion of an institution in this definition shall not be construed as a grant of power or authority for such institution to engage in activities under RSA 421-B that are not permitted under the laws governing such institution.

Amend the introductory paragraph of RSA 421-B:1-102(21) as inserted by section 1 of the bill by replacing it with the following:

(21) "Industrial bond," "industrial revenue bond," or "industrial development bond" means any obligation issued by a governmental unit (including the United States, any state, any political subdivision of a state, or any agency, or corporate or other instrumentality, of one or more of them) other than a general obligation of a governmental unit having power to tax property or of an agency of the state of New Hampshire:

Amend RSA 421-B:1-102(22)(A) as inserted by section 1 of the bill by replacing it with the following:

(A) a depository institution, trust company, or international banking institution;

Amend RSA 421-B:1-102(22)(F) through (H) as inserted by section 1 of the bill by replacing it with the following:

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution or trust company, and its participants are exclusively plans of the types identified in subsection (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

Amend RSA 421-B:1-102(22)(O) as inserted by section 1 of the bill by replacing it with the following:

(O) any other person, other than an individual, of institutional character with total assets in excess of \$25,000,000 not organized for the specific purpose of evading this chapter; or

Amend RSA 421-B:1-102(26)(F) as inserted by section 1 of the bill by replacing it with the following:

(F) a bank;

Amend RSA 421-B:1-102(32)(B)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) The sale of an investment metal or investment gem where full payment is made to the seller and physical delivery is made to the purchaser personally, and not to an agent, within 20 days of the date of purchase provided that a purchaser may designate a bank or licensed broker-dealer, within this state only, and not within any other state, to accept physical delivery on his or her behalf if such bank or licensed broker-dealer maintains such investment metal or investment gem in safekeeping and as the specifically identifiable property of the purchaser; or

Amend RSA 421-B:1-102(46) as inserted by section 1 of the bill by replacing it with the following:

(46) "Purchasing for investment" means a purchase made for investment and not for the purpose of resale. In determining whether securities have been purchased for investment, the length of the period for which the securities are held shall be one of the factors considered. Securities held for one year after their purchase shall be conclusively deemed to have been purchased for investment.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after paragraph 47 the following new paragraph and renumbering paragraphs 48 through 59 to read as 49 through 60.

(48) "Revocation" means the recall and cancellation of a license, registration or privilege for either a definite or indefinite period of time.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after subsection (59) the following and renumbering the original subsection (60) to read as (61):

(60) "Trust company" means a trust company or family trust company that is organized under the laws of this state or any other jurisdiction and is authorized to engage in trust business in this state.

Amend RSA 421-B:2-201(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a bank or a depository institution for which a substantial portion of its business consists or will consist of (i) receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation or a successor authorized by federal law or (ii) exercising fiduciary powers that are similar to those permitted for national banks under the authority of the Comptroller of Currency pursuant to 12 U.S.C. Section 92a; or

Amend RSA 421-B:2-201(3) as inserted by section 1 of the bill by replacing it with the following:

(3) a security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

(A) an international banking institution; or

(B) a bank or depository institution;

Amend RSA 421-B:2-201(6) as inserted by section 1 of the bill by replacing it with the following:

(6) a federal covered security specified in section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by order of the secretary of state under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the SEC under the Securities Exchange Act of 1934, 15 U.S.C. Section 78i(b);

Amend RSA 421-B:2-201(8) as inserted by section 1 of the bill by replacing it with the following:

(8) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1);

Amend RSA 421-B:2-201(9) as inserted by section 1 of the bill by replacing it with the following:

(9) Any interest in a common trust fund or similar fund maintained by a state bank organized and operating under the laws of New Hampshire, or a national bank wherever located, for the collective investment and reinvestment of funds contributed to such common trust fund or similar fund by the bank in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed to such collective investment fund or similar fund by the bank, or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing, or similar benefit, or a self-employed person's retirement plan.

Amend RSA 421-B:2-202(9) as inserted by section 1 of the bill by replacing it with the following:

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the secretary of state after a hearing conducted pursuant to RSA 421-B:6-605;

Amend RSA 421-B:2-202(13)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) any other person exempted by order issued by the secretary of state under this chapter;

Amend RSA 421-B:2-202(16)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a stop order of which the offeror is aware has not been issued against the offeror by the secretary of state or the SEC, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(17)(B) and (C) as inserted by section 1 of the bill by replacing it with the following:

(B) a solicitation of interest is provided in a record to offerees in compliance with an order adopted by the secretary of state under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the secretary of state under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(19) as inserted by section 1 of the bill by replacing it with the following:

(19) a rescission offer, sale, or purchase under RSA 421-B:5-510, provided that the terms of such offer, sale or purchase and material disclosures are approved in advance by the secretary of state pursuant to RSA 421-B:5-510(5);

Amend RSA 421-B:2-202(23) as inserted by section 1 of the bill by replacing it with the following:

(23) a nonissuer transaction in a outstanding security by or through a broker dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by order issued under this chapter by the secretary of state; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by order issued under this chapter by the secretary of state, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with RSA 421-B:6-605, the secretary of state, by order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the secretary of state finds that revocation is necessary or appropriate in the public interest and for the protection of investors; or

Amend RSA 421-B:2-202-A(1)(A)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) Any trust or estate in which a purchaser or any of the persons related to such purchaser specified in subsection (C) collectively have more than 50 percent of the beneficial interest (excluding contingent interests); and

Amend RSA 421-B:2-202-A(1)(E) as inserted by section 1 of the bill by replacing it with the following:

(E) Sales to Certain Clients or Customers. Sales to clients of an investment adviser, broker-dealer, or trust administered solely by a bank having fiduciary power, or persons with similar relationships, shall be considered as separate sales, regardless of the amount of discretion given to the investment adviser, broker-dealer, bank, or other person to act on behalf of the client, customer or trust.

Amend RSA 421-B:2-203 and RSA 421-B:204 as inserted by section 1 of the bill by replacing them with the following:

421-B:2-203 Additional Exemptions and Waivers. An order issued by the secretary of state under this chapter may exempt a security, transaction, or offer; an order by the secretary of state under this chapter may exempt a class of securities, transactions, or offers from any or all of the requirements of RSA 421-B:3-301 through RSA 421-B:3-306 and RSA 421-B:5-504; and an order by the secretary of state under this chapter may waive, in whole or in part, any or all of the conditions for an exemption or offer under RSA 421-B:2-201 and RSA 421-B:2-202.

421-B:2-204 Denial, Suspension, Revocation, Conditions, or Limitation of Exemptions.

(a) Enforcement related powers. Except with respect to securities or a transaction preempted by Section 18(b) of the Securities Act of 1933, an order by the secretary of state under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under RSA 421-B:2-201(3)(C) or RSA 421-B:2-202 or an exemption or waiver created under Section 203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in RSA 421-B:3-306(d) or RSA 421-B:6-604 and only prospectively.

(b) Knowledge of order required. A person does not violate RSA 421-B:3-301, RSA 421-B:3-303 through RSA 421-B:3-306, RSA 421-B:5-504, or RSA 421-B:5-510 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order. For purposes of this subsection, a person will be conclusively presumed to have knowledge of an order which is mailed to the last address specified by such person to the secretary of state, if any, or which is published in a newspaper of statewide circulation.

Amend RSA 421-B:3-302(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Required filing of records. Any person offering a federal covered security, that is not otherwise exempt under RSA 421-B:2-201 through RSA 421-B:2-203, shall file all of the following records:

Amend RSA 421-B:3-305(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Escrow and impoundment. An order issued under this chapter may require as a condition of registration that a security issued within the previous 5 years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by order issued under this chapter, but the secretary of state may not reject a depository institution or trust company solely because of its location in another state

Amend RSA 421-B:3-306(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering, but the secretary of state may not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

Amend RSA 421-B:3-306(e)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) findings of fact and conclusions of law in a record in accordance with RSA 421-B:6 – 604(c).

Amend RSA 421-B:4-401(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the secretary of state under this chapter, the SEC, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer.

Amend RSA 421-B:4-401(e)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) A person from Canada who is resident in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.

Amend RSA 421-B:4-401(e)(10)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) With or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, and (iii) banks, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustees; and

Amend RSA 421-B:4-403(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this chapter, the SEC, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the secretary of state, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

Amend RSA 421-B:4-404(e) and (f) as inserted by section 1 of the bill by replacing them with the following:

(e) Limits on employment or association. It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the SEC, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the secretary of state, by order issued, may waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) Client solicitors. A person who solicits referrals of investment advisory clients to an investment adviser may apply for a license as a solicitor by filing with the secretary of state an application, including a request for waiver of examination requirements, a copy of the solicitation agreement with such investment adviser and a copy of the disclosure document of the investment adviser disclosing the arrangements between such investment adviser and such solicitor and an undertaking that, prior to entering into any investment advisory contract with a client, the investment adviser will obtain from such client a signed and dated acknowledgement that the investment advisory contract is being entered into pursuant to a solicitation arrangement with the solicitor as described in the disclosure document.

Amend the introductory paragraph of RSA 421-B:4-406(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Application for initial registration. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application on a form prescribed by the secretary of state and a consent to service of process complying with RSA 421-B:6-611, and paying the fee specified in RSA 421-B:4-410 and any reasonable fees charged by the designee of the secretary of state for processing the filing. The application must contain:

Amend RSA 421-B:4-406(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) upon request by the secretary of state, any other financial or other information or record that the administrator determines is appropriate.

Amend RSA 421-B:4-406(c)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) If an order is not in effect and a proceeding is not pending under RSA 421-B:4-412, registration becomes effective at noon on the 30th day after a completed application is filed. An order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 30th day after the filing of any amendment completing the application. Registration may be suspended by an order of the secretary of state, subject to Article 6.

Amend RSA 421-B:4-406(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Registration renewal. A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under RSA 421-B:4-412, a registration may be automatically renewed each year by filing such records within 60 days after the close of its fiscal year (subject to any extension by order promulgated by the secretary of state) as are required by order issued under this chapter, by paying the fee specified in RSA 421-B:4-410, and by paying costs charged by the secretary of state for processing the filings. In addition, the secretary of state may require at any reasonable time and in any reasonable manner from any person subject to this chapter or any person controlling any such person any statements, reports, financial statements, answers to questionnaires and other information in whatever reasonable form he or she designates, including information from any electronic data processing or storage system.

Amend RSA 421-B:4-406(g) through (l) as inserted by section 1 of the bill by replacing them with the following:

(g) Training Standards. The secretary of state may by order prescribe standards of qualification with respect to training, experience, and knowledge of the securities business and provide for examinations to be taken by any class of or all applicants for broker-dealers, agents, investment advisers, and investment adviser representatives.

(h) Additional conditions or waivers. An order issued under this chapter may impose such other conditions, consistent with the National Securities Markets Improvement Act of 1996, on any registration under this section. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(i) Privilege from defamation. In the absence of malice, no communication required by the secretary of state under this section shall subject the person making it to an action for defamation.

(j) False Filings. Any director, officer, partner, manager, agent, or employee of any broker-dealer, investment adviser, or agent who makes or files in any statement or other document with the secretary of state, having actual knowledge that the same includes any material statement which is false, shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(k) Incorporation of federal, SRO and exchange rules. Persons registered under this article to conduct securities business shall comply with the applicable rules of the SEC, FINRA, any national exchange on which they have securities registered and other applicable self-regulatory organization having jurisdiction over the person so registered.

(l) Satisfaction through Adviser Act filings. The secretary of state may require an investment adviser to furnish or disseminate to investors and advisory clients information specified by order of the secretary of state in the public interest and for the protection of investors. If so determined by the secretary of state, information furnished to clients or prospective clients that would be in compliance with the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of such requirement.

Amend RSA 421-B:4-408(c) through (e) as inserted by section 1 of the bill by replacing them with the following:

(c) Withdrawal of temporary registration. The secretary of state may withdraw a temporary registration if there are or were grounds for discipline as specified in RSA 421-B:4-412 and the administrator does so within 30 days after the filing of the application. If the secretary of state does not withdraw the temporary registration within the 30-day period, registration becomes automatically effective on the 31st day after filing.

(d) Power to prevent registration. The secretary of state may prevent the effectiveness of a transfer of an agent or investment adviser representative under subsection (b)(1) or (2) based on the public interest and the protection of investors.

(e) Termination of registration or application for registration. If the secretary of state determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this chapter may require the registration be canceled or terminated or the application denied. The secretary of state may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

Amend RSA 421-B:4-409(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The secretary of state may determine by order the requirements and procedures for withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective 60 days after the filing of the application to withdraw or within any shorter period as provided by order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by order issued under this chapter. The secretary of state may institute a revocation or suspension proceeding under RSA 421-B:4-412 within one year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

Amend RSA 421-B:4-410(a) through (d) as inserted by section 1 of the bill by replacing them with the following:

(a) Broker-dealers. A person shall pay a fee of \$300 when initially filing an application for registration as a broker-dealer and a fee of \$250 when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(b) Agents. The fee for an individual is \$130 when filing an application for registration as an agent, a fee of \$100 when filing a renewal of registration as an agent, and a fee of \$25 when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the secretary of state shall retain \$30 of the fee.

(c) Investment advisers. A person shall pay a fee of \$250 when filing an application for registration as an investment adviser and a fee of \$200 when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(d) Investment adviser representatives. The fee for an individual is \$125 when filing an application for registration as an investment adviser representative, a fee of \$100 (\$50 per agent; \$50 per license) when filing a renewal of registration as an investment adviser representative, and a fee of \$100 when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the secretary of state shall retain \$25 of the fee.

Amend RSA 421-B:4-411(a)(1) and (2) as inserted by section 1 of the bill by replacing them with the following:

(1) Each broker-dealer registered or required to be registered under this chapter shall comply with the net capital requirements set forth in SEC Rule 15c3-1 and the custody requirements set forth in SEC Rule 15c3-3, as the same may be amended, and shall report to the secretary of state those items requiring reporting under SEC Rules 17a-5, 17a-10 and 17a-11, as the same may be amended.

(2) Each investment adviser registered or required to be registered under this chapter which has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000 and every investment adviser registered or required to be registered under this chapter which has discretionary authority over client funds or securities, but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000. The secretary of state shall specify by order the requirements for determining and reporting such net worth to the secretary of state. Any such investment adviser which has its principal place of business in another state shall maintain such minimum net worth as required by the state in which it maintains its principal place of business, provided that the investment adviser is registered or licensed in such state and is in compliance with such state's minimum net worth requirements.

Amend RSA 421-B:4-411(c)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under the Securities Exchange Act of 1934, 15 U.S.C. Section 78q(a), if they are readily accessible to the secretary of state; and

Amend RSA 421-B:4-411(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter and of an issuer of securities whose principal office is located in this state are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary of state, within or without this state, as the secretary of state considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The secretary of state may copy, and remove for audit or inspection copies of, all records the secretary of state reasonably considers necessary or appropriate to conduct the audit or inspection. The secretary of state may assess a reasonable charge for conducting an audit or inspection under this subsection.

Amend RSA 421-B:4-411(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Custody and discretionary authority bond or insurance. Subject to the Securities Exchange Act of 1934, 15 U.S.C. Section 78o(h), or the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-18a, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed \$100,000. The secretary of state may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in RSA 421-B:5-509(j)(2).

Amend RSA 421-B:4-412(a) through (c) as inserted by section 1 of the bill by replacing them with the following:

(a) Disciplinary conditions-applicants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration: (1) of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and (2) if the applicant is a broker-dealer or investment adviser, of any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) Disciplinary conditions, registrants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may revoke, suspend, condition, or limit the registration of a registrant, and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the secretary of state, under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties. registrants. If the secretary of state finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of \$2,500 for each violation on a registrant and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser.

Amend RSA 421-B:4-412(d)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the secretary of state under this chapter or the predecessor act, a state, the SEC, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

Amend RSA 421-B:4-412(d)(7) through (10) as inserted by section 1 of the bill by replacing them with the following:

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the secretary of state may not enter an order against an applicant or registrant under this subsection without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the secretary of state from conducting an audit or inspection under RSA 421-B:4-411(d) or refuses access to a registrant's office to conduct an audit or inspection under RSA 421-B:4-411(d);

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act;

(10) has not paid the proper filing fee within 30 days after having been notified by the secretary of state of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

Amend RSA 421-B:4-412(d)(14) as inserted by section 1 of the bill by replacing it with the following:

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The secretary of state may require an applicant for registration under RSA 421-B:4-402 or RSA 421-B:4-404 who has not been registered in a state within the 2 years preceding the filing of an application in this state to successfully complete an examination.

Amend RSA 421-B:4-412(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Summary process. The secretary of state may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the secretary of state shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within 15 days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

Amend RSA 421-B:4-412(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary of state under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

Amend RSA 421-B:5-501 as inserted by section 1 of the bill by deleting RSA 421-B:5-501(b) and (c) and renumbering the original RSA 421-B:5-501(d) to read as RSA 421-B:5-501(b).

Amend RSA 421-B:5-502-a(d)(2)(i)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) Any arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and (iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

Amend RSA 421-B:5-502-a(d)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) "Qualified custodian" means the following:

(i) A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

(ii) A trust company;

(iii) A broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;

(iv) A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

(v) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

Amend the introductory paragraph of RSA 421-B:5-510 as inserted by section 1 of the bill by replacing it with the following:

421-B:5-510 Rescission Offers. A purchaser or seller of a security, or a recipient of investment advice may not maintain an action under RSA 421-B:5-509 if:

Amend the introductory paragraph of RSA 421-B:5-510(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The purchaser or seller of a security, or recipient of investment advice receives in a record, before the action is instituted:

Amend RSA 421-B:5-510(2) through (6) as inserted by section 1 of the bill by replacing them with the following:

(2) the offer under subsection (1) states that it must be accepted by the purchaser or seller of a security, or the recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than 3 days, that the secretary of state, by order, specifies;

(3) the offeror has the present ability to pay the amount offered (a firm financing commitment from a reputable investor or other reputable financial source may be included in present ability to pay the amount offered) or, if the purchaser of a security, has the present ability to tender the security under subsection (1);

(4) the offer under subsection (1) is delivered to the purchaser or seller of a security, or the recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice;

(5) the purchaser or seller of a security, or the recipient of investment advice that accepts the offer under subsection (1) in a record within the period specified under subsection (2) is paid in accordance with the terms of the offer; and

(6) The offer under subsection (1) is required to be filed with the secretary of state 20 days before the offering and conform in form and content as prescribed by order of the secretary of state.

Amend RSA 421-B:6-605(b) and the introductory paragraph of (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Findings and cooperation. All actions undertaken by the secretary of state pursuant to this section shall be taken only when the secretary of state finds such action necessary or appropriate to the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this title. In preparing forms, setting standards, and reviewing offerings, the secretary of state may cooperate with the securities regulators of other states, self regulatory organizations, and the Securities and Exchange Commission in order to implement the policy of this chapter in an efficient and effective manner and to achieve maximum uniformity in the form and content of registration statements, applications, reports, and requirements for issuers, broker-dealers, and investment advisors, where practicable.

(c) Financial statements. Subject to Section 15(h) of the Securities Exchange Act and Section 222 of the Investment Advisers Act of 1940, the secretary of state may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule or order under this chapter. A rule or order under this chapter may establish:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Cross Reference; Informational Filing Required. Amend RSA 5-B:4 to read as follows:

5-B:4 Informational Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an informational filing, as defined in RSA 5-B:2, II, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information neces-

sary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613** over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this section as long as their operations and reports conform to the laws and rules adopted by those departments.

3 Cross Reference; Authority of the Secretary of State. Amend RSA 5-B:4-a, VI to read as follows:

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613**.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Little offered a floor amendment.

Sen. Little, Dist. 8

March 24, 2015

2015-1106s

08/09

Floor Amendment to SB 266-FN

Amend the introductory paragraph of RSA 421-B:1-102(1) as inserted by section 1 of the bill by replacing it with the following:

(1) "Advertisement" means any notice, circular, letter, or other written communication that is given to more than one person or any other announcement in any publication, by radio, television, or other electronic media, that offers:

Amend RSA 421-B:1-102(4) as inserted by section 1 of the bill by replacing it with the following:

(4) "Bank" means any of the following:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) a bank organized under the laws of the state of New Hampshire;

(D) a trust company;

(E) any other banking institution, whether incorporated or not, doing business under the laws of a State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(F) a receiver, conservator, or other liquidating agent of any institution or firm included in subsection (A), (B), (C), (D), or (E).

Amend RSA 421-B:1-102(6)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) a bank;

Amend RSA 421-B:1-102(11) as inserted by section 1 of the bill by replacing it with the following:

(11) "Depository institution" means:

(A) a bank; or

(B) a savings institution, trust company, credit union or similar institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or share accounts insured to the maximum amount authorized

by statute by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund or a successor authorized by federal law and which is supervised and examined by a state or federal agency having supervision over such institutions, and which is not operated for the purpose of evading this chapter. The term does not include:

- (i) an insurance company or other organization primarily engaged in the business of insurance;
- (ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an “insured depository institution” as defined in the Federal Deposit Insurance Act, 12 U.S.C. section 1813(c)(2), or any successor federal statute.

(C) The inclusion of an institution in this definition shall not be construed as a grant of power or authority for such institution to engage in activities under RSA 421-B that are not permitted under the laws governing such institution.

Amend the introductory paragraph of RSA 421-B:1-102(21) as inserted by section 1 of the bill by replacing it with the following:

(21) “Industrial bond,” “industrial revenue bond,” or “industrial development bond” means any obligation issued by a governmental unit (including the United States, any state, any political subdivision of a state, or any agency, or corporate or other instrumentality, of one or more of them) other than a general obligation of a governmental unit having power to tax property or of an agency of the state of New Hampshire:

Amend RSA 421-B:1-102(22)(A) as inserted by section 1 of the bill by replacing it with the following:

(A) a depository institution, trust company, or international banking institution;

Amend RSA 421-B:1-102(22)(F) through (H) as inserted by section 1 of the bill by replacing it with the following:

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution or trust company, and its participants are exclusively plans of the types identified in subsection (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

Amend RSA 421-B:1-102(22)(O) as inserted by section 1 of the bill by replacing it with the following:

(O) any other person, other than an individual, of institutional character with total assets in excess of \$25,000,000 not organized for the specific purpose of evading this chapter; or

Amend RSA 421-B:1-102(26)(F) as inserted by section 1 of the bill by replacing it with the following:

(F) a bank;

Amend RSA 421-B:1-102(32)(B)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) The sale of an investment metal or investment gem where full payment is made to the seller and physical delivery is made to the purchaser personally, and not to an agent, within 20 days of the date of purchase provided that a purchaser may designate a bank or licensed broker-dealer, within this state only, and not within any other state, to accept physical delivery on his or her behalf if such bank or licensed broker-dealer maintains such investment metal or investment gem in safekeeping and as the specifically identifiable property of the purchaser; or

Amend RSA 421-B:1-102(46) as inserted by section 1 of the bill by replacing it with the following:

(46) "Purchasing for investment" means a purchase made for investment and not for the purpose of resale. In determining whether securities have been purchased for investment, the length of the period for which the securities are held shall be one of the factors considered. Securities held for one year after their purchase shall be conclusively deemed to have been purchased for investment.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after paragraph 47 the following new paragraph and renumbering paragraphs 48 through 59 to read as 49 through 60.

(48) "Revocation" means the recall and cancellation of a license, registration or privilege for either a definite or indefinite period of time.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after subsection (59) the following and renumbering the original subsection (60) to read as (61):

(60) "Trust company" means a trust company or family trust company that is organized under the laws of this state or any other jurisdiction and is authorized to engage in trust business in this state.

Amend RSA 421-B:2-201(3) as inserted by section 1 of the bill by replacing it with the following:

(3) a security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

(A) an international banking institution; or

(B) a bank or depository institution;

Amend RSA 421-B:2-201(6) as inserted by section 1 of the bill by replacing it with the following:

(6) a federal covered security specified in section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by order of the secretary of state under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the SEC under the Securities Exchange Act of 1934, 15 U.S.C. Section 78i(b);

Amend RSA 421-B:2-201(8) as inserted by section 1 of the bill by replacing it with the following:

(8) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1);

Amend RSA 421-B:2-201(9) as inserted by section 1 of the bill by replacing it with the following:

(9) Any interest in a common trust fund or similar fund maintained by a state bank organized and operating under the laws of New Hampshire, or a national bank wherever located, for the collective investment and reinvestment of funds contributed to such common trust fund or similar fund by the bank in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed to such collective investment fund or similar fund by the bank, or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing, or similar benefit, or a self-employed person's retirement plan.

Amend RSA 421-B:2-202(9) as inserted by section 1 of the bill by replacing it with the following:

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the secretary of state after a hearing conducted pursuant to RSA 421-B:6-605;

Amend RSA 421-B:2-202(13)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) any other person exempted by order issued by the secretary of state under this chapter;

Amend RSA 421-B:2-202(16)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a stop order of which the offeror is aware has not been issued against the offeror by the secretary of state or the SEC, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(17)(B) and (C) as inserted by section 1 of the bill by replacing it with the following:

(B) a solicitation of interest is provided in a record to offerees in compliance with an order adopted by the secretary of state under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the secretary of state under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(19) as inserted by section 1 of the bill by replacing it with the following:

(19) a rescission offer, sale, or purchase under RSA 421-B:5-510, provided that the terms of such offer, sale or purchase and material disclosures are approved in advance by the secretary of state pursuant to RSA 421-B:5-510(5);

Amend RSA 421-B:2-202(23) as inserted by section 1 of the bill by replacing it with the following:

(23) a nonissuer transaction in a outstanding security by or through a broker dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by order issued under this chapter by the secretary of state; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by order issued under this chapter by the secretary of state, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with RSA 421-B:6-605, the secretary of state, by order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the secretary of state finds that revocation is necessary or appropriate in the public interest and for the protection of investors; or

Amend RSA 421-B:2-202-A(1)(A)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) Any trust or estate in which a purchaser or any of the persons related to such purchaser specified in subsection (C) collectively have more than 50 percent of the beneficial interest (excluding contingent interests); and

Amend RSA 421-B:2-202-A(1)(E) as inserted by section 1 of the bill by replacing it with the following:

(E) Sales to Certain Clients or Customers. Sales to clients of an investment adviser, broker-dealer, or trust administered solely by a bank having fiduciary power, or persons with similar relationships, shall be considered as separate sales, regardless of the amount of discretion given to the investment adviser, broker-dealer, bank, or other person to act on behalf of the client, customer or trust.

Amend RSA 421-B:2-203 and RSA 421-B:204 as inserted by section 1 of the bill by replacing them with the following:

421-B:2-203 Additional Exemptions and Waivers. An order issued by the secretary of state under this chapter may exempt a security, transaction, or offer; an order by the secretary of state under this chapter may exempt a class of securities, transactions, or offers from any or all of the requirements of RSA 421-B:3-301 through RSA 421-B:3-306 and RSA 421-B:5-504; and an order by the secretary of state under this chapter may waive, in whole or in part, any or all of the conditions for an exemption or offer under RSA 421-B:2-201 and RSA 421-B:2-202.

421-B:2-204 Denial, Suspension, Revocation, Conditions, or Limitation of Exemptions.

(a) Enforcement related powers. Except with respect to securities or a transaction preempted by Section 18(b) of the Securities Act of 1933, an order by the secretary of state under this chapter may deny, suspend

application of, condition, limit, or revoke an exemption created under RSA 421-B:2-201(3)(C) or RSA 421-B:2-202 or an exemption or waiver created under Section 203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in RSA 421-B:3-306(d) or RSA 421-B:6-604 and only prospectively.

(b) Knowledge of order required. A person does not violate RSA 421-B:3-301, RSA 421-B:3-303 through RSA 421-B:3-306, RSA 421-B:5-504, or RSA 421-B:5-510 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order. For purposes of this subsection, a person will be conclusively presumed to have knowledge of an order which is mailed to the last address specified by such person to the secretary of state, if any, or which is published in a newspaper of statewide circulation.

Amend RSA 421-B:3-302(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Required filing of records. Any person offering a federal covered security, that is not otherwise exempt under RSA 421-B:2-201 through RSA 421-B:2-203, shall file all of the following records:

Amend RSA 421-B:3-305(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Escrow and impoundment. An order issued under this chapter may require as a condition of registration that a security issued within the previous 5 years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by order issued under this chapter, but the secretary of state may not reject a depository institution or trust company solely because of its location in another state.

Amend RSA 421-B:3-306(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering, but the secretary of state may not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

Amend RSA 421-B:3-306(e)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) findings of fact and conclusions of law in a record in accordance with RSA 421-B:6 – 604(c).

Amend RSA 421-B:4-401(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the secretary of state under this chapter, the SEC, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer.

Amend RSA 421-B:4-401(e)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) A person from Canada who is resident in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.

Amend RSA 421-B:4-401(e)(10)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) With or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, and (iii) banks, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustees; and

Amend RSA 421-B:4-403(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this chapter, the SEC, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the secretary of state, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

Amend RSA 421-B:4-404(e) and (f) as inserted by section 1 of the bill by replacing them with the following:

(e) Limits on employment or association. It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the SEC, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the secretary of state, by order issued, may waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) Client solicitors. A person who solicits referrals of investment advisory clients to an investment adviser may apply for a license as a solicitor by filing with the secretary of state an application, including a request for waiver of examination requirements, a copy of the solicitation agreement with such investment adviser and a copy of the disclosure document of the investment adviser disclosing the arrangements between such investment adviser and such solicitor and an undertaking that, prior to entering into any investment advisory contract with a client, the investment adviser will obtain from such client a signed and dated acknowledgement that the investment advisory contract is being entered into pursuant to a solicitation arrangement with the solicitor as described in the disclosure document.

Amend the introductory paragraph of RSA 421-B:4-406(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Application for initial registration. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application on a form prescribed by the secretary of state and a consent to service of process complying with RSA 421-B:6-611, and paying the fee specified in RSA 421-B:4-410 and any reasonable fees charged by the designee of the secretary of state for processing the filing. The application must contain:

Amend RSA 421-B:4-406(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) upon request by the secretary of state, any other financial or other information or record that the administrator determines is appropriate.

Amend RSA 421-B:4-406(c)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) If an order is not in effect and a proceeding is not pending under RSA 421-B:4-412, registration becomes effective at noon on the 30th day after a completed application is filed. An order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 30th day after the filing of any amendment completing the application. Registration may be suspended by an order of the secretary of state, subject to Article 6.

Amend RSA 421-B:4-406(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Registration renewal. A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under RSA 421-B:4-412, a registration may be automatically renewed each year by filing such records within 60 days after the close of its fiscal year (subject to any extension by order promulgated by the secretary of state) as are required by order issued under this chapter, by paying the fee specified in RSA 421-B:4-410, and by paying costs charged by the secretary of state for processing the filings. In addition, the secretary of state may require at any reasonable time and in any reasonable manner from any person subject to this chapter or any person controlling any such person any statements, reports, financial statements, answers to questionnaires and other information in whatever reasonable form he or she designates, including information from any electronic data processing or storage system.

Amend RSA 421-B:4-406(g) through (l) as inserted by section 1 of the bill by replacing them with the following:

(g) Training Standards. The secretary of state may by order prescribe standards of qualification with respect to training, experience, and knowledge of the securities business and provide for examinations to be taken by any class of or all applicants for broker-dealers, agents, investment advisers, and investment adviser representatives.

(h) Additional conditions or waivers. An order issued under this chapter may impose such other conditions, consistent with the National Securities Markets Improvement Act of 1996, on any registration under this section. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(i) Privilege from defamation. In the absence of malice, no communication required by the secretary of state under this section shall subject the person making it to an action for defamation.

(j) False Filings. Any director, officer, partner, manager, agent, or employee of any broker-dealer, investment adviser, or agent who makes or files in any statement or other document with the secretary of state, having actual knowledge that the same includes any material statement which is false, shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(k) Incorporation of federal, SRO and exchange rules. Persons registered under this article to conduct securities business shall comply with the applicable rules of the SEC, FINRA, any national exchange on which they have securities registered and other applicable self-regulatory organization having jurisdiction over the person so registered.

(l) Satisfaction through Adviser Act filings. The secretary of state may require an investment adviser to furnish or disseminate to investors and advisory clients information specified by order of the secretary of state in the public interest and for the protection of investors. If so determined by the secretary of state, information furnished to clients or prospective clients that would be in compliance with the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of such requirement.

Amend RSA 421-B:4-408(c) through (e) as inserted by section 1 of the bill by replacing them with the following:

(c) Withdrawal of temporary registration. The secretary of state may withdraw a temporary registration if there are or were grounds for discipline as specified in RSA 421-B:4-412 and the administrator does so within 30 days after the filing of the application. If the secretary of state does not withdraw the temporary registration within the 30-day period, registration becomes automatically effective on the 31st day after filing.

(d) Power to prevent registration. The secretary of state may prevent the effectiveness of a transfer of an agent or investment adviser representative under subsection (b)(1) or (2) based on the public interest and the protection of investors.

(e) Termination of registration or application for registration. If the secretary of state determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this chapter may require the registration be canceled or terminated or the application denied. The secretary of state may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

Amend RSA 421-B:4-409(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The secretary of state may determine by order the requirements and procedures for withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective 60 days after the filing of the application to withdraw or within any shorter period as provided by order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by order issued under this chapter. The secretary of state may institute a revocation or suspension proceeding under RSA 421-B:4-412 within one year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

Amend RSA 421-B:4-410(a) through (d) as inserted by section 1 of the bill by replacing them with the following:

(a) Broker-dealers. A person shall pay a fee of \$300 when initially filing an application for registration as a broker-dealer and a fee of \$250 when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(b) Agents. The fee for an individual is \$130 when filing an application for registration as an agent, a fee of \$100 when filing a renewal of registration as an agent, and a fee of \$25 when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the secretary of state shall retain \$30 of the fee.

(c) Investment advisers. A person shall pay a fee of \$250 when filing an application for registration as an investment adviser and a fee of \$200 when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(d) Investment adviser representatives. The fee for an individual is \$125 when filing an application for registration as an investment adviser representative, a fee of \$100 (\$50 per agent; \$50 per license) when filing a renewal of registration as an investment adviser representative, and a fee of \$100 when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the secretary of state shall retain \$25 of the fee.

Amend RSA 421-B:4-411(a)(1) and (2) as inserted by section 1 of the bill by replacing them with the following:

(1) Each broker-dealer registered or required to be registered under this chapter shall comply with the net capital requirements set forth in SEC Rule 15c3-1 and the custody requirements set forth in SEC Rule 15c3-3, as the same may be amended, and shall report to the secretary of state those items requiring reporting under SEC Rules 17a-5, 17a-10 and 17a-11, as the same may be amended.

(2) Each investment adviser registered or required to be registered under this chapter which has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000 and every investment adviser registered or required to be registered under this chapter which has discretionary authority over client funds or securities, but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000. The secretary of state shall specify by order the requirements for determining and reporting such net worth to the secretary of state. Any such investment adviser which has its principal place of business in another state shall maintain such minimum net worth as required by the state in which it maintains its principal place of business, provided that the investment adviser is registered or licensed in such state and is in compliance with such state's minimum net worth requirements.

Amend RSA 421-B:4-411(c)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under the Securities Exchange Act of 1934, 15 U.S.C. Section 78q(a), if they are readily accessible to the secretary of state; and

Amend RSA 421-B:4-411(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter and of an issuer of securities whose principal office is located in this state are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary of state, within or without this state, as the secretary of state considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The secretary of state may copy, and remove for audit or inspection copies of, all records the secretary of state reasonably considers necessary or appropriate to conduct the audit or inspection. The secretary of state may assess a reasonable charge for conducting an audit or inspection under this subsection.

Amend RSA 421-B:4-411(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Custody and discretionary authority bond or insurance. Subject to the Securities Exchange Act of 1934, 15 U.S.C. Section 78o(h), or the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-18a, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed \$100,000. The secretary of state may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in RSA 421-B:5-509(j)(2).

Amend RSA 421-B:4-412(a) through (c) as inserted by section 1 of the bill by replacing them with the following:

(a) Disciplinary conditions-applicants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration: (1) of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and (2) if the applicant is a broker-dealer or investment adviser, of any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) Disciplinary conditions, registrants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may revoke, suspend, condition, or limit the registration of a registrant, and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the secretary of state, under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties. registrants. If the secretary of state finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of \$2,500 for each violation on a registrant and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser.

Amend RSA 421-B:4-412(d)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the secretary of state under this chapter or the predecessor act, a state, the SEC, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

Amend RSA 421-B:4-412(d)(7) through (10) as inserted by section 1 of the bill by replacing them with the following:

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the secretary of state may not enter an order against an applicant or registrant under this subsection without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the secretary of state from conducting an audit or inspection under RSA 421-B:4-411(d) or refuses access to a registrant's office to conduct an audit or inspection under RSA 421-B:4-411(d);

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act;

(10) has not paid the proper filing fee within 30 days after having been notified by the secretary of state of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

Amend RSA 421-B:4-412(d)(14) as inserted by section 1 of the bill by replacing it with the following:

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The secretary of state may require an applicant for registration under RSA 421-B:4-402 or RSA 421-B:4-404 who has not been registered in a state within the 2 years preceding the filing of an application in this state to successfully complete an examination.

Amend RSA 421-B:4-412(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Summary process. The secretary of state may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before

final determination of an administrative proceeding. Upon the issuance of an order, the secretary of state shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within 15 days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

Amend RSA 421-B:4-412(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary of state under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

Amend RSA 421-B:5-502 as inserted by section 1 of the bill by deleting RSA 421-B:5-502(b) and (c) and re-numbering the original RSA 421-B:5-502(d) to read as RSA 421-B:5-502(b).

Amend RSA 421-B:5-502-a(d)(2)(i)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) Any arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and (iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

Amend RSA 421-B:5-502-a(d)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) "Qualified custodian" means the following:

(i) A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

(ii) A trust company;

(iii) A broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;

(iv) A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

(v) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

Amend the introductory paragraph of RSA 421-B:5-510 as inserted by section 1 of the bill by replacing it with the following:

421-B:5-510 Rescission Offers. A purchaser or seller of a security, or a recipient of investment advice may not maintain an action under RSA 421-B:5-509 if:

Amend the introductory paragraph of RSA 421-B:5-510(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The purchaser or seller of a security, or recipient of investment advice receives in a record, before the action is instituted:

Amend RSA 421-B:5-510(2) through (6) as inserted by section 1 of the bill by replacing them with the following:

(2) the offer under subsection (1) states that it must be accepted by the purchaser or seller of a security, or the recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than 3 days, that the secretary of state, by order, specifies;

(3) the offeror has the present ability to pay the amount offered (a firm financing commitment from a reputable investor or other reputable financial source may be included in present ability to pay the amount offered) or, if the purchaser of a security, has the present ability to tender the security under subsection (1);

(4) the offer under subsection (1) is delivered to the purchaser or seller of a security, or the recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice;

(5) the purchaser or seller of a security, or the recipient of investment advice that accepts the offer under subsection (1) in a record within the period specified under subsection (2) is paid in accordance with the terms of the offer; and

(6) The offer under subsection (1) is required to be filed with the secretary of state 20 days before the offering and conform in form and content as prescribed by order of the secretary of state.

Amend RSA 421-B:6-605(b) and the introductory paragraph of (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Findings and cooperation. All actions undertaken by the secretary of state pursuant to this section shall be taken only when the secretary of state finds such action necessary or appropriate to the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this title. In preparing forms, setting standards, and reviewing offerings, the secretary of state may cooperate with the securities regulators of other states, self regulatory organizations, and the Securities and Exchange Commission in order to implement the policy of this chapter in an efficient and effective manner and to achieve maximum uniformity in the form and content of registration statements, applications, reports, and requirements for issuers, broker-dealers, and investment advisors, where practicable.

(c) Financial statements. Subject to Section 15(h) of the Securities Exchange Act and Section 222 of the Investment Advisers Act of 1940, the secretary of state may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule or order under this chapter. A rule or order under this chapter may establish:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Cross Reference; Informational Filing Required. Amend RSA 5-B:4 to read as follows:

5-B:4 Informational Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an informational filing, as defined in RSA 5-B:2, II, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under [RSA 421-B:26-a] **RSA 421-B:6-613** over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this section as long as their operations and reports conform to the laws and rules adopted by those departments.

3 Cross Reference; Authority of the Secretary of State. Amend RSA 5-B:4-a, VI to read as follows:

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with [RSA 421-B:26-a] **RSA 421-B:6-613**.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended.

A roll call was requested by Sen. Prescott, seconded by Sen. Boutin.

The following Senators voted Yes: Woodburn, Forrester, Bradley, Watters, Pierce, Hosmer, Little, Sanborn, Kelly, Daniels, Avard, Lasky, Carson, Feltes, Boutin, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Prescott, Stiles, Morse.

The following Senators voted No: (None)

Yeas: 23 - Nays: 0

Adopted, bill ordered to Third Reading.

Sen. Cataldo is excused.

ENERGY AND NATURAL RESOURCES

SB 221-FN, relative to electric rate reduction financing. Ought to Pass with Amendment, Vote 4-1. Senator Feltes for the committee.

Energy and Natural Resources

March 18, 2015

2015-1026s

06/10

Amendment to SB 221-FN

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

1 New Paragraph; Electric Rate Reduction Financing and Commission Action; Findings and Purpose. Amend RSA 369-B:1 by inserting after paragraph XV the following new paragraph:

XVI. It is in the public interest for the commission to issue a finance order that is subject to the requirements of this chapter and that securitizes any stranded costs resulting from the divestiture of PSNH's remaining generation plants, if the commission approves the 2015 settlement proposal or otherwise orders divestiture of PSNH's remaining generation plants.

2 Electric Rate Reduction Financing and Commission Action; Definitions; Rate Reduction Bonds. Amend RSA 369-B:2, X to read as follows:

X. "Rate reduction bonds" ("RRB") means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, in accordance with this chapter, 1999, 289:3, I and II, [and] **or** RSA 369-A, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance RRB costs, and which, directly or indirectly, are secured by, evidence ownership interests in, or are payable from, RRB property.

3 New Subparagraph; Electric Rate Reduction Financing and Commission Action; Definitions; RRB Costs. Amend RSA 369-B:2, XIV by inserting after subparagraph (f) the following new subparagraph:

(g) Expenditures incurred to implement the 2015 settlement proposal as approved by the commission.

4 Electric Rate Reduction Financing and Commission Action. Amend RSA 369-B:2, XVI to read as follows:

XVI. "Security interest" means a security interest as defined in RSA 382-A:1-201[(37)]**(b)(35)**.

5 Electric Rate Reduction Financing and Commission Action; Definitions; Service Territory. Amend RSA 369-B:2, XVII to read as follows:

XVII. "Service territory" means, with respect to any electric utility, the geographic area established by the commission as the retail electric service territory of such electric utility, as such territory is depicted on the "Electric Utilities Franchise Areas" map issued by the commission, dated [July 1, 1993] **February 13, 2015**, together with any other geographic area in which such electric utility actually provided retail electric service on such date and any new geographic areas in which such electric utility is granted a franchise for the provision of retail electric service subsequent to such date.

6 New Paragraph; Electric Rate Reduction Financing and Commission Action; Definitions; 2005 Settlement Proposal. Amend RSA 369-B:2 by inserting after paragraph XVII the following new paragraph:

XVIII. "2015 settlement proposal" means the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" reached by and between PSNH, the New Hampshire office of energy and planning, the New Hampshire consumer advocate and any other settling parties in Dockets DE 11-250 and DE 14-238 before the commission regarding cost recovery of the Merrimack Station scrubber and divestiture of PSNH's remaining generation plants.

7 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance Orders to Finance RRB Costs. Amend RSA 369-B:3, I to read as follows:

I. The commission is authorized, upon the petition of an electric utility and after a hearing, to issue one or more finance orders pursuant to which rate reduction bonds shall be issued, if the commission finds that the issuance of such finance order or finance orders is in the public interest as set forth in RSA 369-B:1, IX **or RSA369-B:1, XVI, as applicable**. Any finance order adopted pursuant to 1999, 289:3, I and II prior to the effective date of this chapter shall, following the effective date of this chapter, be deemed to be authorized by this chapter, provided the commission has made the required finding pursuant to RSA 369-B:3, IV(b).

8 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance Orders to Finance RRB Costs. Amend RSA 369-B:3, IV(b)(16) to read as follows:

(16) No finance order shall be final or effective until PSNH and NU have agreed to dismiss with prejudice on competition day PSNH's and NU's claims and causes of action in all pending litigation associated with the implementation of RSA 374-F, including civil action No. 97-97-JD (New Hampshire) / 97-121 L (Rhode Island)[-]; **and/or**

(c) Authorize the issuance of rate reduction bonds in an amount sufficient to fund stranded costs, deferrals, transaction costs, tax liabilities, employee protections, payments in lieu of taxes, and other expenditures as contemplated in the 2015 settlement proposal as approved by the commission. The net benefits of accumulated deferred income taxes relating to amounts that will be recovered through any such issuance of rate reduction bonds shall be credited to retail customers by reducing the amount of such rate reduction bonds that would otherwise be issued by the net present value of the related tax cash flows, using a discount rate equal to the expected interest rate on such rate reduction bonds. This authorization is in addition to any amount authorized in subparagraph (a) or (b).

9 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance Orders to Finance RRB Costs. Amend RSA 369-B:3, V to read as follows:

V. Any finance order that expressly states each and every one of the conditions as set forth in RSA 369-B:3, IV, **if any**, and finds that the finance order is consistent with all of these conditions, shall be deemed to satisfy the conditions and requirements of RSA 369-B:3, IV. If such finance order so satisfies the conditions, **if any**; and requirements of RSA 369-B:3, IV and satisfies the other requirements of this chapter, then such finance order shall be deemed to be authorized by, and issued pursuant to, this chapter.

10 Electric Rate Reduction Financing and Commission Action; Divestiture of PSNH Generation Assets. RSA 369-B:3-a is repealed and reenacted to read as follows:

I. The general court finds that divestiture of PSNH's generation assets and securitization of any resulting stranded costs consistent with the terms of the 2015 settlement proposal is in the public interest.

II. As part of the pending expedited proceeding in Docket DE 14-238, Determination Regarding PSNH's Generation Assets, the commission shall determine the manner in which PSNH's generation assets should be divested. On or before March 31, 2015, the commission shall submit a progress report to the legislative oversight committee on electric utility restructuring established under RSA 374-F:5. Notwithstanding RSA 374:30, the commission shall order PSNH to divest its generation assets in a manner that is in the public interest and provides for the cost recovery of such divestiture.

III. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such modification or retirement.

11 Electric Rate Reduction Financing and Commission Action; Employee Protections. Amend RSA 369-B:3-b to read as follows:

369-B:3-b Employee Protections. In the event of divestiture or retirement of any or all of PSNH's generation assets, [the] employee protections **no less than those** set forth in [Section X of the original proposed settlement defined in RSA 369-B:2, VIII,] **the then-current collective bargaining agreement** shall be provided to affected employees.

12 Electric Rate Reduction Financing and Commission Action; Issuance of Rate Reduction Bonds. Amend RSA 369-B:5, I to read as follows:

I. An electric utility or financing entity may, from time to time, after approval by the commission in a finance order or orders, issue rate reduction bonds. The power and authority of such electric utility or financing entity to issue such bonds **authorized by a finance order pursuant to RSA 369-B:3, IV(a) or (b)** shall expire on December 31, 2002.

13 Electric Rate Reduction Financing and Commission Action; Issuance of Rate Reduction Bonds. Amend RSA 369-B:5, VIII through X to read as follows:

VIII. Rate reduction bonds **authorized by a finance order pursuant to RSA 369-B:3, IV(a) or (b)** shall mature at such time or times approved by the commission in the finance order, but not more than 14 years after competition day.

IX. The state treasurer, or other state official designated by the state treasurer, shall have oversight over the terms and conditions of rate reduction bond issuances, **that are authorized by a finance order pursuant to RSA 369-B:3, IV(a) or (b)**, to assure that the electric utility exercises fiscal prudence and achieves the lowest overall cost for the rate reduction bonds.

X. Subject to the approval of the commission and, **in the case of rate reduction bonds authorized by a finance order pursuant to RSA 369-B:3, IV(a) or (b)**, the oversight of the state treasurer, or other state official designated by the state treasurer, rate reduction bonds issued and at any time outstanding may, if and to the extent permitted under the indenture or other agreement pursuant to which they are issued, be refunded by other rate reduction bonds.

14 Electric Utility Restructuring; Policy Principles. Amend RSA 374-F:3, V(c) to read as follows:

(c) Default service should be designed to provide a safety net and to assure universal access and system integrity. Default service should be procured through the competitive market and may be administered by independent third parties. Any prudently incurred costs arising from compliance with the renewable portfolio standards of RSA 362-F for default service [~~or purchased power agreements~~] shall be recovered through the default service charge. The allocation of the costs of administering default service should be borne by the customers of default service in a manner approved by the commission. If the commission determines it to be in the public interest, the commission may implement measures to discourage misuse, or long-term use, of default service. Revenues, if any, generated from such measures should be used to defray stranded costs.

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

2015-1026s

AMENDED ANALYSIS

This bill permits the public utility commission to issue finance orders that authorize the issuance of certain rate reduction bonds in accordance with the 2015 settlement proposal regarding cost recovery of the Merrimack Station scrubber and divestiture of PSNH's remaining generation plants.

The bill also clarifies employee protections in the event of the divestiture or retirement of PSNH generation assets.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

Sen. Feltes, Dist. 15

March 25, 2015

2015-1124s

06/10

Floor Amendment to SB 221-FN

Amend RSA 369-B:1, XVI as inserted by section 1 of the bill by replacing it with the following:

XVI. It is in the public interest for the commission to issue a finance order that is subject to the requirements of this chapter and that securitizes any stranded costs resulting from the divestiture of PSNH's remaining generation plants, if the commission approves the 2015 settlement proposal or otherwise orders divestiture of PSNH's remaining generation plants. When considering the 2015 settlement proposal or the divestiture of PSNH's remaining assets, the commission shall consider the interests of all PSNH's distribution customers.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment. Adopted.

Sen. Forrester is in opposition to the Floor Amendment on SB 221-FN.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sens. Avard, Daniels, Forrester, and Sanborn are in opposition to the motion of Ought to Pass with Amendment on SB 221-FN.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 123, relative to warnings prior to the imposition of civil fines assessed by certain state agencies. Inexpedient to Legislate, Vote 4-0. Senator Reagan for the committee.

The question is on the adoption of the committee recommendation of Inexpedient to Legislate. Adopted.

FINANCE

SB 29-FN, relative to fines for motor vehicle offenses. Ought to Pass, Vote 6-0. Senator D'Allesandro for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

SB 30-FN-L, establishing a commission to study the feasibility and financing of a development district for the Balsams resort. Ought to Pass with Amendment, Vote 6-0. Senator Little for the committee.

Senate Finance

March 17, 2015

2015-0997s

09/06

Amendment to SB 30-FN-A-LOCAL

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

AN ACT permitting counties with unincorporated areas to establish tax increment financing districts and establishing a commission to study the feasibility and financing of a development district for the Balsams resort.

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

1 Municipal Economic Development and Revitalization Districts; Local Option. Amend RSA 162-K:1 to read as follows:

162-K:1 Local Option. Any city [or] town, ***or unincorporated place*** may adopt this chapter and shall thereafter have all the authority, powers, duties, and responsibilities set forth in this chapter.

I. A city may adopt this chapter by majority vote of the legislative body of the city after notice and hearing as set forth in RSA 162-K:4.

II. A town may adopt this chapter by majority vote of the voters present and voting at any legal town meeting under a proper article and after notice and hearing as set forth in RSA 162-K:4.

III. An unincorporated place may adopt this chapter by majority vote of the county delegation after notice and hearing as set forth in RSA 162-K:4.

2 Definitions; "Governing Body; Legislative Body. Amend RSA 162-K:2, V and VI to read as follows:

V. "Governing body" means the board of aldermen or city council in the case of a city [and], the board of selectmen in the case of a town, ***and the county delegation in the case of an unincorporated place.***

VI. "Legislative body" means the board of aldermen or city council in the case of a city [and], the town meeting in the case of a town, ***and the county delegation in the case of an unincorporated place.***

3 Definition; Municipality. Amend RSA 162-K:2, VIII to read as follows:

VIII. "Municipality" means a city or town. ***For the purposes of this chapter, an unincorporated place shall be considered a municipality.***

4 New Section; Feasibility and Financing of Development District for the Balsams; Commission Established. Amend RSA 162-K by inserting after section 15 the following new section:

162-K:16 Commission to Study the Feasibility and Financing of a Development District for the Balsams.

I. There is established a commission to study the feasibility and financing of a development district for the Balsams resort.

II. The members of the commission shall be as follows:

- (a) Two members of the senate, appointed by the president of the senate, one of whom shall be a member of the senate finance committee and one of whom shall be a member of the capital budget committee.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the house finance committee and one of whom shall be a member of the public works and highways committee.
- (c) The state treasurer, or designee.
- (d) The commissioner of the department of resources and economic development, or designee.
- (e) One representative of the hospitality industry, appointed by the governor.
- (f) One representative of Ski NH, appointed by the governor.
- (g) One representative of the New Hampshire Association of Realtors, appointed by that association.
- (h) One representative of the New Hampshire Bankers Association, appointed by that association.
- (i) One representative of the New Hampshire Business Finance Authority, appointed by that organization.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall:

- (a) Study the feasibility and financing options for establishing a development district for the Balsams.
- (b) Investigate ways to maximize the use of New Hampshire vendors, contractors, and labor in the development of the district.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

5 Repeal. RSA 162-K:16, relative to commission to study the feasibility and financing of a development district for the Balsams resort, is repealed.

6 Effective Date.

I. Section 5 of this act shall take effect November 1, 2015.

II. The remainder of this act shall take effect upon its passage.

2015-0997s

AMENDED ANALYSIS

This bill allows counties with unincorporated places to establish tax increment financing districts.

This bill also establishes a commission to study the feasibility and financing of a development district for the Balsams resort.

The question is on the adoption of the Committee Amendment. Failed.

Sen. Forrester offered a floor amendment.

Sen. Forrester, Dist. 2

March 23, 2015

2015-1094s

06/04

Floor Amendment to SB 30-FN-A-LOCAL

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

AN ACT permitting counties with unincorporated areas to establish tax increment financing districts.

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

1 Municipal Economic Development and Revitalization Districts; Local Option. Amend RSA 162-K:1 to read as follows:

162-K:1 Local Option. Any city [or] town, **or unincorporated place** may adopt this chapter and shall thereafter have all the authority, powers, duties, and responsibilities set forth in this chapter.

I. A city may adopt this chapter by majority vote of the legislative body of the city after notice and hearing as set forth in RSA 162-K:4.

II. A town may adopt this chapter by majority vote of the voters present and voting at any legal town meeting under a proper article and after notice and hearing as set forth in RSA 162-K:4.

III. An unincorporated place may adopt this chapter by majority vote of the county delegation after notice and hearing as set forth in RSA 162-K:4.

2 Definitions; "Governing Body; Legislative Body. Amend RSA 162-K:2, V and VI to read as follows:

V. "Governing body" means the board of aldermen or city council in the case of a city [and], the board of selectmen in the case of a town, **and the county delegation in the case of an unincorporated place.**

VI. "Legislative body" means the board of aldermen or city council in the case of a city [and], the town meeting in the case of a town, **and the county delegation in the case of an unincorporated place.**

3 Definition; Municipality. Amend RSA 162-K:2, VIII to read as follows:

VIII. "Municipality" means a city or town. **For the purposes of this chapter, an unincorporated place shall be considered a municipality.**

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

2015-1094s

AMENDED ANALYSIS

This bill allows counties with unincorporated places to establish tax increment financing districts.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

SB 135-FN, relative to lead poisoning in children. Ought to Pass, Vote 6-0. Senator Little for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass.

A roll call was requested by Sen. Soucy, seconded by Sen. Avar.

The following Senators voted Yes: Woodburn, Forrester, Bradley, Watters, Pierce, Hosmer, Little, Sanborn, Kelly, Daniels, Avar, Lasky, Carson, Feltes, Boutin, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Prescott, Stiles, Morse.

The following Senators voted No: (None)

Yeas: 23 - Nays: 0

Adopted, bill ordered to Third Reading.

Sen. Cataldo is excused.

SB 138-FN, relative to claims arising from clinical services provided to the department of corrections. Re-refer to committee, Vote 6-0. Senator Reagan for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee. Adopted.

SB 157-FN, relative to encouraging high school students to take and pass a United States citizenship test. Ought to Pass, Vote 6-0. Senator D'Allesandro for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

SB 188-FN, revising banking, credit union, and trust laws. Ought to Pass with Amendment, Vote 5-0. Senator Hosmer for the committee.

Senate Finance
 March 17, 2015
 2015-0999s
 08/10

Amendment to SB 188-FN

Amend RSA 383:9, II as inserted by section 7 of the bill by replacing it with the following:

II. The commissioner may conduct investigations of the persons identified in paragraph I and of persons believed to be engaged in unlicensed activity in the state.

Amend RSA 383:9,V as inserted by section 7 of the bill by replacing it with the following:

[H:] V. The commissioner may conduct an examination ***or investigation during business hours, at any location*** of the [institution's] ***entity's*** operations, including any place where assets are located or where records are made, posted, or kept. The commissioner shall have the power to conduct such an examination ***or investigation*** outside the state of New Hampshire and outside the United States and its territories.

Amend RSA 383-A:3-306 as inserted by section 16 of the bill by replacing it with the following:

383-A:3-306 Investigative Powers. For the purpose of any investigation under RSA 383-A, RSA 383-B, RSA 383-C, RSA 383-D, and RSA 383-E, the commissioner shall have the power to subpoena witnesses and administer oaths in any adjudicative proceedings and the power to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to his or her investigation.

Amend RSA 383-A:7-701 (a) through (e) as inserted by section 16 of the bill by replacing it with the following:

(a) It shall be unlawful for any person to willfully and maliciously, or with an intent to deceive, make or transmit to another any false statement concerning the financial condition of any state bank or credit union, or to induce another to make such a statement. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor if a natural person or a class B felony if an entity.

(b) It shall be unlawful for any bank or credit union, or any person engaging in the business of banking, to (i) employ any device, scheme, or artifice to defraud, make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or (iii) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor if a natural person or a class B felony if an entity.

(c) No director, officer, or employee of a state bank or credit union shall directly or indirectly receive any fee, gift, or benefit whatsoever from any borrower or applicant for a loan from the state bank or credit union as an inducement to making the loan, or from anyone negotiating securities to the entity, except the usual compensation for drawing mortgages and other papers pertaining to the loan; nor shall any director, officer or employee negotiate loans in his or her own behalf with himself or herself as an official of the state bank or credit union. Any director, officer, or employee of the state bank or credit union who violates the provisions of this subsection shall be guilty of a class A felony.

(d) If any director or officer embezzles, abstracts, or willfully misapplies any of the money, funds, or credits of the state bank or credit union or makes any false entry in any book, report, or statement of the state bank or credit union with intent in either case to injure or defraud the state bank, credit union, or any other person or to deceive any officer or agent of the state bank, credit union, any committee or examiner appointed to examine the affairs of the state bank or credit union, or the commissioner, then the director or officer shall be guilty of a class A felony.

(e) If, in the opinion of the commissioner, a state bank, credit union, or any of its directors or officers have violated any of subsections (a), (b), (c), or (d) or any other provision of criminal law, then the commissioner shall forthwith report the violations, with such remarks as the commissioner deems expedient, to the department of justice, which shall immediately institute a prosecution of those violations on behalf of the state.

Amend RSA 383-A:9-903, (a) as inserted by section 16 of the bill by replacing it with the following:

(a) The commissioner may issue (i) an order to show cause why fines and penalties should not be applied, (ii) a cease and desist order, or (iii) both, in accordance with this provision to any person that is engaged or that has engaged in any violation of the Banking Acts or the Credit Union Act, including holding

itself, himself, or herself out as a state bank or credit union without a charter and authority issued under this chapter, or to any state bank or credit union or bank holding company under the supervision of the commissioner that is engaging in or has engaged in any of the following:

(1) An unsafe or unsound practice in conducting the business of the state bank or credit union or company;

(2) Violation of any federal or state law, rule or regulation or agreement relating to the supervision of the entity; or

(3) Violation of any condition, imposed in writing, in connection with the approval of any application by the commissioner.

Each of the acts or conduct identified in the order shall constitute a separate violation. Any order issued under this section shall comply with the procedures for adjudicative hearing under RSA 541-A:31 through RSA 541-A:36.

Amend RSA 383-A:9-903, (g) through (i) as inserted by section 16 of the bill by replacing it with the following:

(g) If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action.

(h) A person who is subject to an order of the commissioner shall not have any civil or criminal liability in an action brought by the state for any act or omission made in good faith in reliance upon that order, even if a subsequent decision of any court invalidates that order.

(i) In addition to any other penalty provided for under this chapter, and after notice and opportunity for hearing, the commissioner may impose:

(1) An administrative penalty of not more than \$2,500 upon any person who violates, or participates in any act or conduct that violates, the Banking Acts, the Credit Union Act, or any rule or order issued under the Banking Acts or Credit Union Act; and

(2) An additional penalty of \$25,000 upon any person who willfully violates the Banking Acts, the Credit Union Act, or any rule or order issued under the Banking Acts or Credit Union Act. Each of the acts specified shall constitute a separate violation.

(j) An enforcement action under this article shall be commenced within 6 years after the date on which the violation occurred.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Bradley offered a floor amendment.

Sen. Bradley, Dist. 3

March 25, 2015

2015-1135s

08/09

Floor Amendment to SB 188-FN

Amend RSA 383-A:3-316(a) as inserted by section 16 of the bill by replacing it with the following:

(a) Except as provided in subsection (b), a state bank that intends to amend its organizational instrument shall file with the commissioner an application to do so under RSA 383-A:6-602 and ask for approval of the amended organizational instrument based on the considerations set forth in RSA 383-A:3-305(d), as applicable.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 190-FN, relative to payment of costs for career and technical education center programs and administration by the department of education, and establishing a tax credit against business profits taxes for donations to such centers. Ought to Pass with Amendment, Vote 6-0. Senator Little for the committee.

Senate Finance
March 17, 2015
2015-0981s
04/10

Amendment to SB 190-FN

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

AN ACT relative to payment of costs for career and technical education center programs and administration by the department of education.

Amend the bill by replacing all after section 9 with the following:

10 New Section; Advisory Council on Career and Technical Education. Amend RSA 188-E by inserting after section 10-a the following new section:

188-E:10-b Advisory Council on Career and Technical Education.

I. There is established an advisory council on career and technical education (CTE). The members of the council shall be as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The state director of career and technical education.
- (d) The commissioner of the department of resources and economic development, or designee.
- (e) The chancellor of the community college system, or designee.

(f) Three CTE directors, one member of a school board, and one SAU administrator, appointed by the commissioner of education.

(g) A representative of the Business and Industry Association of New Hampshire, appointed by the association.

(h) Three representatives of skilled trades or businesses related to CTE programs, appointed by the commissioner of education.

II. Legislative members of the council shall receive mileage at the legislative rate when attending to the duties of the council.

III. Members of the advisory council appointed under subparagraphs I(f) –(h) shall serve for terms of 3 years and may be reappointed, except that terms of initial appointments by the commissioner under subparagraphs (f) and (h) shall be staggered.

IV. The council shall study career and technical education, and make recommendations concerning:

- (a) The delivery system of career and technical education in New Hampshire;
- (b) Increasing access to career and technical education programs;
- (c) Increasing partnerships between businesses, skilled trades, advanced manufacturing, and CTE programs;
- (d) The establishment and implementation of Individual Learning Plans beginning in grade 6; and
- (e) Other barriers as may be identified that restrict the delivery of career and technical education to all interested students.

IV. The members of the advisory council shall elect a chairperson from among the members. Meetings of the advisory council shall be called by the chairperson as necessary. Seven members of the council shall constitute a quorum.

V. The advisory council shall file an annual report of its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1.

11 Reference Changed. Amend RSA 21-N:9, II(m) to read as follows:

(m) Standards for approval of regional [~~vocational~~] ***career and technical*** education centers, as authorized by RSA 188-E:3.

12 Reference Changed. Amend RSA 189:25-a to read as follows:

189:25-a Universal Service Fund; Definition of "School." For the purpose of obtaining discounts pursuant to the universal service fund, otherwise known as "E-rate" discounts, as established by section 254 of the Telecommunications Act of 1996, "school" means any public or private elementary or secondary school, and any regional [~~vocational~~] ***career and technical*** educational [~~school~~] ***center*** designated under RSA 188-E, including educational programs offered at such [~~vocational~~] ***career and technical*** educational [~~schools~~] ***centers*** for pre-kindergarten, adult education programs, and juvenile justice programs.

13 Reference Changed. Amend RSA 194:23, II-a to read as follows:

II-a. In this section, the term "high school" shall include [~~any~~] ***the*** regional [~~vocational~~] ***career and technical*** education center in the Manchester school district which complies with the provisions of RSA 188-E.

14 Effective Date. This act shall take effect July 1, 2015.

2015-0981s

AMENDED ANALYSIS

This bill modifies the determination of financial responsibility for tuition for career and technical education center programs and the administration of CTE programs by the department of education.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Watters offered a floor amendment.

Sen. Watters, Dist. 4

Sen. Hosmer, Dist. 7

March 23, 2015

2015-1098s

10/04

Floor Amendment to SB 190-FN

Amend RSA 188-E:5, VIII as inserted by section 6 of the bill by replacing it with the following:

VIII.(a) All career and technical education students shall be given access to career and technical education programs for the entire instructional time required for those programs.

(b) Upon a joint application by a student's career and technical education center and his or her sending district, the commissioner may grant a waiver from the requirement of subparagraph (a) on a case-by-case basis.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Sanborn is in opposition to the motion of Ought to Pass with Amendment on SB 190-FN.

Recess. Out of recess.

MOTION OF RECONSIDERATION

Sen. Bradley, having voted on the prevailing side, moved to reconsider the following actions taken by this body on SB 266-FN, adopting the Uniform Securities Act: rescind Order to Third Reading; vote on Ought to Pass with Amendment; vote on Floor Amendment 1106s; vote on Committee Amendment 1033s. Adopted.

COMMERCE

SB 266-FN, adopting the Uniform Securities Act.

Senate Commerce

March 18, 2015

2015-1033s

08/09

Amendment to SB 266-FN

Amend the introductory paragraph of RSA 421-B:1-102(1) as inserted by section 1 of the bill by replacing it with the following:

(1) “Advertisement” means any notice, circular, letter, or other written communication that is given to more than one person or any other announcement in any publication, by radio, television, or other electronic media, that offers:

Amend RSA 421-B:1-102(4) as inserted by section 1 of the bill by replacing it with the following:

(4) “Bank” means any of the following:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) a bank or trust company chartered under the laws of the state of New Hampshire.

(D) any other banking institution, whether incorporated or not, doing business under the laws of a State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(E) a receiver, conservator, or other liquidating agent of any institution or firm included in subsection (A), (B), (C) or (D).

Amend RSA 421-B:1-102(6)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) a bank;

Amend RSA 421-B:1-102(11) as inserted by section 1 of the bill by replacing it with the following:

(11) “Depository institution” means:

(A) a bank; or

(B) a savings institution, trust company, credit union or similar institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or share accounts insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund or a successor authorized by federal law and which is supervised and examined by a state or federal agency having supervision over such institutions, and which is not operated for the purpose of evading this chapter. The term does not include:

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an “insured depository institution” as defined in the Federal Deposit Insurance Act, 12 U.S.C. section 1813(c)(2), or any successor federal statute.

(C) The inclusion of an institution in this definition shall not be construed as a grant of power or authority for such institution to engage in activities under RSA 421-B that are not permitted under the laws governing such institution.

Amend the introductory paragraph of RSA 421-B:1-102(21) as inserted by section 1 of the bill by replacing it with the following:

(21) “Industrial bond,” “industrial revenue bond,” or “industrial development bond” means any obligation issued by a governmental unit (including the United States, any state, any political subdivision of a state, or any agency, or corporate or other instrumentality, of one or more of them) other than a general obligation of a governmental unit having power to tax property or of an agency of the state of New Hampshire:

Amend RSA 421-B:1-102(22)(A) as inserted by section 1 of the bill by replacing it with the following:

(A) a depository institution, trust company, or international banking institution;

Amend RSA 421-B:1-102(22)(F) through (H) as inserted by section 1 of the bill by replacing it with the following:

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement

ment Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution or trust company, and its participants are exclusively plans of the types identified in subsection (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

Amend RSA 421-B:1-102(22)(O) as inserted by section 1 of the bill by replacing it with the following:

(O) any other person, other than an individual, of institutional character with total assets in excess of \$25,000,000 not organized for the specific purpose of evading this chapter; or

Amend RSA 421-B:1-102(26)(F) as inserted by section 1 of the bill by replacing it with the following:

(F) a bank;

Amend RSA 421-B:1-102(32)(B)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) The sale of an investment metal or investment gem where full payment is made to the seller and physical delivery is made to the purchaser personally, and not to an agent, within 20 days of the date of purchase provided that a purchaser may designate a bank or licensed broker-dealer, within this state only, and not within any other state, to accept physical delivery on his or her behalf if such bank or licensed broker-dealer maintains such investment metal or investment gem in safekeeping and as the specifically identifiable property of the purchaser; or

Amend RSA 421-B:1-102(46) as inserted by section 1 of the bill by replacing it with the following:

(46) "Purchasing for investment" means a purchase made for investment and not for the purpose of resale. In determining whether securities have been purchased for investment, the length of the period for which the securities are held shall be one of the factors considered. Securities held for one year after their purchase shall be conclusively deemed to have been purchased for investment.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after paragraph 47 the following new paragraph and renumbering paragraphs 48 through 59 to read as 49 through 60.

(48) "Revocation" means the recall and cancellation of a license, registration or privilege for either a definite or indefinite period of time.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after subsection (59) the following and renumbering the original subsection (60) to read as (61):

(60) "Trust company" means a trust company or family trust company that is organized under the laws of this state or any other jurisdiction and is authorized to engage in trust business in this state.

Amend RSA 421-B:2-201(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a bank or a depository institution for which a substantial portion of its business consists or will consist of (i) receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation or a successor authorized by federal law or (ii) exercising fiduciary powers that are similar to those permitted for national banks under the authority of the Comptroller of Currency pursuant to 12 U.S.C. Section 92a; or

Amend RSA 421-B:2-201(3) as inserted by section 1 of the bill by replacing it with the following:

(3) a security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

- (A) an international banking institution; or
- (B) a bank or depository institution;

Amend RSA 421-B:2-201(6) as inserted by section 1 of the bill by replacing it with the following:

(6) a federal covered security specified in section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by order of the secretary of state under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the SEC under the Securities Exchange Act of 1934, 15 U.S.C. Section 78i(b);

Amend RSA 421-B:2-201(8) as inserted by section 1 of the bill by replacing it with the following:

(8) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1);

Amend RSA 421-B:2-201(9) as inserted by section 1 of the bill by replacing it with the following:

(9) Any interest in a common trust fund or similar fund maintained by a state bank organized and operating under the laws of New Hampshire, or a national bank wherever located, for the collective investment and reinvestment of funds contributed to such common trust fund or similar fund by the bank in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed to such collective investment fund or similar fund by the bank, or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing, or similar benefit, or a self-employed person's retirement plan.

Amend RSA 421-B:2-202(9) as inserted by section 1 of the bill by replacing it with the following:

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the secretary of state after a hearing conducted pursuant to RSA 421-B:6-605;

Amend RSA 421-B:2-202(13)(C) as inserted by section 1 of the bill by replacing it with the following:

- (C) any other person exempted by order issued by the secretary of state under this chapter;

Amend RSA 421-B:2-202(16)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a stop order of which the offeror is aware has not been issued against the offeror by the secretary of state or the SEC, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(17)(B) and (C) as inserted by section 1 of the bill by replacing it with the following:

(B) a solicitation of interest is provided in a record to offerees in compliance with an order adopted by the secretary of state under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the secretary of state under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(19) as inserted by section 1 of the bill by replacing it with the following:

(19) a rescission offer, sale, or purchase under RSA 421-B:5-510, provided that the terms of such offer, sale or purchase and material disclosures are approved in advance by the secretary of state pursuant to RSA 421-B:5-510(5);

Amend RSA 421-B:2-202(23) as inserted by section 1 of the bill by replacing it with the following:

(23) a nonissuer transaction in a outstanding security by or through a broker dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by order issued under this chapter by the secretary of state; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by order issued under this chapter by the secretary of state, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with RSA 421-B:6-605, the secretary of state, by order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the secretary of state finds that revocation is necessary or appropriate in the public interest and for the protection of investors; or

Amend RSA 421-B:2-202-A(1)(A)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) Any trust or estate in which a purchaser or any of the persons related to such purchaser specified in subsection (C) collectively have more than 50 percent of the beneficial interest (excluding contingent interests); and

Amend RSA 421-B:2-202-A(1)(E) as inserted by section 1 of the bill by replacing it with the following:

(E) Sales to Certain Clients or Customers. Sales to clients of an investment adviser, broker-dealer, or trust administered solely by a bank having fiduciary power, or persons with similar relationships, shall be considered as separate sales, regardless of the amount of discretion given to the investment adviser, broker-dealer, bank, or other person to act on behalf of the client, customer or trust.

Amend RSA 421-B:2-203 and RSA 421-B:204 as inserted by section 1 of the bill by replacing them with the following:

421-B:2-203 Additional Exemptions and Waivers. An order issued by the secretary of state under this chapter may exempt a security, transaction, or offer; an order by the secretary of state under this chapter may exempt a class of securities, transactions, or offers from any or all of the requirements of RSA 421-B:3-301 through RSA 421-B:3-306 and RSA 421-B:5-504; and an order by the secretary of state under this chapter may waive, in whole or in part, any or all of the conditions for an exemption or offer under RSA 421-B:2-201 and RSA 421-B:2-202.

421-B:2-204 Denial, Suspension, Revocation, Conditions, or Limitation of Exemptions.

(a) Enforcement related powers. Except with respect to securities or a transaction preempted by Section 18(b) of the Securities Act of 1933, an order by the secretary of state under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under RSA 421-B:2-201(3)(C) or RSA 421-B:2-202 or an exemption or waiver created under Section 203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in RSA 421-B:3-306(d) or RSA 421-B:6-604 and only prospectively.

(b) Knowledge of order required. A person does not violate RSA 421-B:3-301, RSA 421-B:3-303 through RSA 421-B:3-306, RSA 421-B:5-504, or RSA 421-B:5-510 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order. For purposes of this subsection, a person will be conclusively presumed to have knowledge of an order which is mailed to the last address specified by such person to the secretary of state, if any, or which is published in a newspaper of statewide circulation.

Amend RSA 421-B:3-302(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Required filing of records. Any person offering a federal covered security, that is not otherwise exempt under RSA 421-B:2-201 through RSA 421-B:2-203, shall file all of the following records:

Amend RSA 421-B:3-305(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Escrow and impoundment. An order issued under this chapter may require as a condition of registration that a security issued within the previous 5 years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited

in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by order issued under this chapter, but the secretary of state may not reject a depository institution or trust company solely because of its location in another state.

Amend RSA 421-B:3-306(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering, but the secretary of state may not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

Amend RSA 421-B:3-306(e)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) findings of fact and conclusions of law in a record in accordance with RSA 421-B:6 – 604(c).

Amend RSA 421-B:4-401(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the secretary of state under this chapter, the SEC, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer.

Amend RSA 421-B:4-401(e)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) A person from Canada who is resident in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.

Amend RSA 421-B:4-401(e)(10)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) With or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, and (iii) banks, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustees; and

Amend RSA 421-B:4-403(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this chapter, the SEC, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the secretary of state, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

Amend RSA 421-B:4-404(e) and (f) as inserted by section 1 of the bill by replacing them with the following:

(e) Limits on employment or association. It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the SEC, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the secretary of state, by order issued, may waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) Client solicitors. A person who solicits referrals of investment advisory clients to an investment adviser may apply for a license as a solicitor by filing with the secretary of state an application, including a request for waiver of examination requirements, a copy of the solicitation agreement with such investment adviser and a copy of the disclosure document of the investment adviser disclosing the arrangements between such investment adviser and such solicitor and an undertaking that, prior to entering into any investment advisory contract with a client, the investment adviser will obtain from such client a signed and dated acknowledgement that the investment advisory contract is being entered into pursuant to a solicitation arrangement with the solicitor as described in the disclosure document.

Amend the introductory paragraph of RSA 421-B:4-406(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Application for initial registration. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application on a form prescribed by the secretary of state and a consent to service of process complying with RSA 421-B:6-611, and paying the fee specified in RSA 421-B:4-410 and any reasonable fees charged by the designee of the secretary of state for processing the filing. The application must contain:

Amend RSA 421-B:4-406(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) upon request by the secretary of state, any other financial or other information or record that the administrator determines is appropriate.

Amend RSA 421-B:4-406(c)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) If an order is not in effect and a proceeding is not pending under RSA 421-B:4-412, registration becomes effective at noon on the 30th day after a completed application is filed. An order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 30th day after the filing of any amendment completing the application. Registration may be suspended by an order of the secretary of state, subject to Article 6.

Amend RSA 421-B:4-406(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Registration renewal. A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under RSA 421-B:4-412, a registration may be automatically renewed each year by filing such records within 60 days after the close of its fiscal year (subject to any extension by order promulgated by the secretary of state) as are required by order issued under this chapter, by paying the fee specified in RSA 421-B:4-410, and by paying costs charged by the secretary of state for processing the filings. In addition, the secretary of state may require at any reasonable time and in any reasonable manner from any person subject to this chapter or any person controlling any such person any statements, reports, financial statements, answers to questionnaires and other information in whatever reasonable form he or she designates, including information from any electronic data processing or storage system.

Amend RSA 421-B:4-406(g) through (l) as inserted by section 1 of the bill by replacing them with the following:

(g) Training Standards. The secretary of state may by order prescribe standards of qualification with respect to training, experience, and knowledge of the securities business and provide for examinations to be taken by any class of or all applicants for broker-dealers, agents, investment advisers, and investment adviser representatives.

(h) Additional conditions or waivers. An order issued under this chapter may impose such other conditions, consistent with the National Securities Markets Improvement Act of 1996, on any registration under this section. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(i) Privilege from defamation. In the absence of malice, no communication required by the secretary of state under this section shall subject the person making it to an action for defamation.

(j) False Filings. Any director, officer, partner, manager, agent, or employee of any broker-dealer, investment adviser, or agent who makes or files in any statement or other document with the secretary of state, having actual knowledge that the same includes any material statement which is false, shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(k) Incorporation of federal, SRO and exchange rules. Persons registered under this article to conduct securities business shall comply with the applicable rules of the SEC, FINRA, any national exchange on which they have securities registered and other applicable self-regulatory organization having jurisdiction over the person so registered.

(l) Satisfaction through Adviser Act filings. The secretary of state may require an investment adviser to furnish or disseminate to investors and advisory clients information specified by order of the secretary of state in the public interest and for the protection of investors. If so determined by the secretary of state, information furnished to clients or prospective clients that would be in compliance with the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of such requirement.

Amend RSA 421-B:4-408(c) through (e) as inserted by section 1 of the bill by replacing them with the following:

(c) Withdrawal of temporary registration. The secretary of state may withdraw a temporary registration if there are or were grounds for discipline as specified in RSA 421-B:4-412 and the administrator does so within 30 days after the filing of the application. If the secretary of state does not withdraw the temporary registration within the 30-day period, registration becomes automatically effective on the 31st day after filing.

(d) Power to prevent registration. The secretary of state may prevent the effectiveness of a transfer of an agent or investment adviser representative under subsection (b)(1) or (2) based on the public interest and the protection of investors.

(e) Termination of registration or application for registration. If the secretary of state determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this chapter may require the registration be canceled or terminated or the application denied. The secretary of state may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

Amend RSA 421-B:4-409(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The secretary of state may determine by order the requirements and procedures for withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective 60 days after the filing of the application to withdraw or within any shorter period as provided by order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by order issued under this chapter. The secretary of state may institute a revocation or suspension proceeding under RSA 421-B:4-412 within one year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

Amend RSA 421-B:4-410(a) through (d) as inserted by section 1 of the bill by replacing them with the following:

(a) Broker-dealers. A person shall pay a fee of \$300 when initially filing an application for registration as a broker-dealer and a fee of \$250 when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(b) Agents. The fee for an individual is \$130 when filing an application for registration as an agent, a fee of \$100 when filing a renewal of registration as an agent, and a fee of \$25 when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the secretary of state shall retain \$30 of the fee.

(c) Investment advisers. A person shall pay a fee of \$250 when filing an application for registration as an investment adviser and a fee of \$200 when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(d) Investment adviser representatives. The fee for an individual is \$125 when filing an application for registration as an investment adviser representative, a fee of \$100 (\$50 per agent; \$50 per license) when filing a renewal of registration as an investment adviser representative, and a fee of \$100 when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the secretary of state shall retain \$25 of the fee.

Amend RSA 421-B:4-411(a)(1) and (2) as inserted by section 1 of the bill by replacing them with the following:

(1) Each broker-dealer registered or required to be registered under this chapter shall comply with the net capital requirements set forth in SEC Rule 15c3-1 and the custody requirements set forth in SEC Rule 15c3-3, as the same may be amended, and shall report to the secretary of state those items requiring reporting under SEC Rules 17a-5, 17a-10 and 17a-11, as the same may be amended.

(2) Each investment adviser registered or required to be registered under this chapter which has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000 and every investment adviser registered or required to be registered under this chapter which has discretionary authority over client funds or securities, but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000. The secretary of state shall specify by order the requirements for determining and reporting such net worth to the secretary of state. Any such investment adviser which has its principal place of business in another state shall maintain such minimum net worth as required by the state in which it maintains its principal place of business, provided that the investment adviser is registered or licensed in such state and is in compliance with such state's minimum net worth requirements.

Amend RSA 421-B:4-411(c)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under the Securities Exchange Act of 1934, 15 U.S.C. Section 78q(a), if they are readily accessible to the secretary of state; and

Amend RSA 421-B:4-411(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter and of an issuer of securities whose principal office is located in this state are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary of state, within or without this state, as the secretary of state considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The secretary of state may copy, and remove for audit or inspection copies of, all records the secretary of state reasonably considers necessary or appropriate to conduct the audit or inspection. The secretary of state may assess a reasonable charge for conducting an audit or inspection under this subsection.

Amend RSA 421-B:4-411(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Custody and discretionary authority bond or insurance. Subject to the Securities Exchange Act of 1934, 15 U.S.C. Section 78o(h), or the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-18a, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed \$100,000. The secretary of state may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in RSA 421-B:5-509(j)(2).

Amend RSA 421-B:4-412(a) through (c) as inserted by section 1 of the bill by replacing them with the following:

(a) Disciplinary conditions-applicants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration: (1) of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and (2) if the applicant is a broker-dealer or investment adviser, of any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) Disciplinary conditions, registrants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may revoke, suspend, condition, or limit the registration of a registrant, and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the secretary of state, under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties. registrants. If the secretary of state finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of \$2,500 for each violation on a registrant and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser.

Amend RSA 421-B:4-412(d)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the secretary of state under this chapter or the predecessor act, a state, the SEC, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

Amend RSA 421-B:4-412(d)(7) through (10) as inserted by section 1 of the bill by replacing them with the following:

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the secretary of state may not enter an order against an applicant or registrant under this subsection without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the secretary of state from conducting an audit or inspection under RSA 421-B:4-411(d) or refuses access to a registrant's office to conduct an audit or inspection under RSA 421-B:4-411(d);

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act;

(10) has not paid the proper filing fee within 30 days after having been notified by the secretary of state of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

Amend RSA 421-B:4-412(d)(14) as inserted by section 1 of the bill by replacing it with the following:

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The secretary of state may require an applicant for registration under RSA 421-B:4-402 or RSA 421-B:4-404 who has not been registered in a state within the 2 years preceding the filing of an application in this state to successfully complete an examination.

Amend RSA 421-B:4-412(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Summary process. The secretary of state may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the secretary of state shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within 15 days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

Amend RSA 421-B:4-412(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary of state under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

Amend RSA 421-B:5-501 as inserted by section 1 of the bill by deleting RSA 421-B:5-501(b) and (c) and re-numbering the original RSA 421-B:5-501(d) to read as RSA 421-B:5-501(b).

Amend RSA 421-B:5-502-a(d)(2)(i)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) Any arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and (iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

Amend RSA 421-B:5-502-a(d)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) "Qualified custodian" means the following:

(i) A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

(ii) A trust company;

(iii) A broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;

(iv) A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

(v) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

Amend the introductory paragraph of RSA 421-B:5-510 as inserted by section 1 of the bill by replacing it with the following:

421-B:5-510 Rescission Offers. A purchaser or seller of a security, or a recipient of investment advice may not maintain an action under RSA 421-B:5-509 if:

Amend the introductory paragraph of RSA 421-B:5-510(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The purchaser or seller of a security, or recipient of investment advice receives in a record, before the action is instituted:

Amend RSA 421-B:5-510(2) through (6) as inserted by section 1 of the bill by replacing them with the following:

(2) the offer under subsection (1) states that it must be accepted by the purchaser or seller of a security, or the recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than 3 days, that the secretary of state, by order, specifies;

(3) the offeror has the present ability to pay the amount offered (a firm financing commitment from a reputable investor or other reputable financial source may be included in present ability to pay the amount offered) or, if the purchaser of a security, has the present ability to tender the security under subsection (1);

(4) the offer under subsection (1) is delivered to the purchaser or seller of a security, or the recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice;

(5) the purchaser or seller of a security, or the recipient of investment advice that accepts the offer under subsection (1) in a record within the period specified under subsection (2) is paid in accordance with the terms of the offer; and

(6) The offer under subsection (1) is required to be filed with the secretary of state 20 days before the offering and conform in form and content as prescribed by order of the secretary of state.

Amend RSA 421-B:6-605(b) and the introductory paragraph of (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Findings and cooperation. All actions undertaken by the secretary of state pursuant to this section shall be taken only when the secretary of state finds such action necessary or appropriate to the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this title. In preparing forms, setting standards, and reviewing offerings, the secretary of state may cooperate with the securities regulators of other states, self regulatory organizations, and the Securities and Exchange Commission in order to implement the policy of this chapter in an efficient and effective manner and to achieve maximum uniformity in the form and content of registration statements, applications, reports, and requirements for issuers, broker-dealers, and investment advisors, where practicable.

(c) Financial statements. Subject to Section 15(h) of the Securities Exchange Act and Section 222 of the Investment Advisers Act of 1940, the secretary of state may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule or order under this chapter. A rule or order under this chapter may establish:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Cross Reference; Informational Filing Required. Amend RSA 5-B:4 to read as follows:

5-B:4 Informational Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an informational filing, as defined in RSA 5-B:2, II, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613** over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this section as long as their operations and reports conform to the laws and rules adopted by those departments.

3 Cross Reference; Authority of the Secretary of State. Amend RSA 5-B:4-a, VI to read as follows:

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613**.

The question is on the adoption of the Committee Amendment. Failed.

Sen. Little offered a floor amendment.

Sen. Little, Dist. 8

March 24, 2015

2015-1106s

08/09

Floor Amendment to SB 266-FN

Amend the introductory paragraph of RSA 421-B:1-102(1) as inserted by section 1 of the bill by replacing it with the following:

(1) "Advertisement" means any notice, circular, letter, or other written communication that is given to more than one person or any other announcement in any publication, by radio, television, or other electronic media, that offers:

Amend RSA 421-B:1-102(4) as inserted by section 1 of the bill by replacing it with the following:

(4) "Bank" means any of the following:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) a bank organized under the laws of the state of New Hampshire;

(D) a trust company;

(E) any other banking institution, whether incorporated or not, doing business under the laws of a State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(F) a receiver, conservator, or other liquidating agent of any institution or firm included in subsection (A), (B), (C), (D), or (E).

Amend RSA 421-B:1-102(6)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) a bank;

Amend RSA 421-B:1-102(11) as inserted by section 1 of the bill by replacing it with the following:

(11) "Depository institution" means:

(A) a bank; or

(B) a savings institution, trust company, credit union or similar institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or share accounts insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund or a successor authorized by federal law and which is supervised and examined by a state or federal agency having supervision over such institutions, and which is not operated for the purpose of evading this chapter. The term does not include:

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an "insured depository institution" as defined in the Federal Deposit Insurance Act, 12 U.S.C. section 1813(c)(2), or any successor federal statute.

(C) The inclusion of an institution in this definition shall not be construed as a grant of power or authority for such institution to engage in activities under RSA 421-B that are not permitted under the laws governing such institution.

Amend the introductory paragraph of RSA 421-B:1-102(21) as inserted by section 1 of the bill by replacing it with the following:

(21) "Industrial bond," "industrial revenue bond," or "industrial development bond" means any obligation issued by a governmental unit (including the United States, any state, any political subdivision of a state, or any agency, or corporate or other instrumentality, of one or more of them) other than a general obligation of a governmental unit having power to tax property or of an agency of the state of New Hampshire:

Amend RSA 421-B:1-102(22)(A) as inserted by section 1 of the bill by replacing it with the following:

(A) a depository institution, trust company, or international banking institution;

Amend RSA 421-B:1-102(22)(F) through (H) as inserted by section 1 of the bill by replacing it with the following:

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is

a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, a trust company, or an insurance company;

(H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution or trust company, and its participants are exclusively plans of the types identified in subsection (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

Amend RSA 421-B:1-102(22)(O) as inserted by section 1 of the bill by replacing it with the following:

(O) any other person, other than an individual, of institutional character with total assets in excess of \$25,000,000 not organized for the specific purpose of evading this chapter; or

Amend RSA 421-B:1-102(26)(F) as inserted by section 1 of the bill by replacing it with the following:

(F) a bank;

Amend RSA 421-B:1-102(32)(B)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) The sale of an investment metal or investment gem where full payment is made to the seller and physical delivery is made to the purchaser personally, and not to an agent, within 20 days of the date of purchase provided that a purchaser may designate a bank or licensed broker-dealer, within this state only, and not within any other state, to accept physical delivery on his or her behalf if such bank or licensed broker-dealer maintains such investment metal or investment gem in safekeeping and as the specifically identifiable property of the purchaser; or

Amend RSA 421-B:1-102(46) as inserted by section 1 of the bill by replacing it with the following:

(46) "Purchasing for investment" means a purchase made for investment and not for the purpose of resale. In determining whether securities have been purchased for investment, the length of the period for which the securities are held shall be one of the factors considered. Securities held for one year after their purchase shall be conclusively deemed to have been purchased for investment.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after paragraph 47 the following new paragraph and renumbering paragraphs 48 through 59 to read as 49 through 60.

(48) "Revocation" means the recall and cancellation of a license, registration or privilege for either a definite or indefinite period of time.

Amend RSA 421-B:1-102 as inserted by section 1 of the bill by inserting after subsection (59) the following and renumbering the original subsection (60) to read as (61):

(60) "Trust company" means a trust company or family trust company that is organized under the laws of this state or any other jurisdiction and is authorized to engage in trust business in this state.

Amend RSA 421-B:2-201(3) as inserted by section 1 of the bill by replacing it with the following:

(3) a security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

(A) an international banking institution; or

(B) a bank or depository institution;

Amend RSA 421-B:2-201(6) as inserted by section 1 of the bill by replacing it with the following:

(6) a federal covered security specified in section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by order of the secretary of state under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the SEC under the Securities Exchange Act of 1934, 15 U.S.C. Section 78i(b);

Amend RSA 421-B:2-201(8) as inserted by section 1 of the bill by replacing it with the following:

(8) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. Section 77r(b)(1);

Amend RSA 421-B:2-201(9) as inserted by section 1 of the bill by replacing it with the following:

(9) Any interest in a common trust fund or similar fund maintained by a state bank organized and operating under the laws of New Hampshire, or a national bank wherever located, for the collective investment and reinvestment of funds contributed to such common trust fund or similar fund by the bank in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed to such collective investment fund or similar fund by the bank, or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing, or similar benefit, or a self-employed person's retirement plan.

Amend RSA 421-B:2-202(9) as inserted by section 1 of the bill by replacing it with the following:

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the secretary of state after a hearing conducted pursuant to RSA 421-B:6-605;

Amend RSA 421-B:2-202(13)(C) as inserted by section 1 of the bill by replacing it with the following:

(C) any other person exempted by order issued by the secretary of state under this chapter;

Amend RSA 421-B:2-202(16)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) a stop order of which the offeror is aware has not been issued against the offeror by the secretary of state or the SEC, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(17)(B) and (C) as inserted by section 1 of the bill by replacing it with the following:

(B) a solicitation of interest is provided in a record to offerees in compliance with an order adopted by the secretary of state under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the secretary of state under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

Amend RSA 421-B:2-202(19) as inserted by section 1 of the bill by replacing it with the following:

(19) a rescission offer, sale, or purchase under RSA 421-B:5-510, provided that the terms of such offer, sale or purchase and material disclosures are approved in advance by the secretary of state pursuant to RSA 421-B:5-510(5);

Amend RSA 421-B:2-202(23) as inserted by section 1 of the bill by replacing it with the following:

(23) a nonissuer transaction in a outstanding security by or through a broker dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by order issued under this chapter by the secretary of state; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by order issued under this chapter by the secretary of state, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with RSA 421-B:6-605, the secretary of state, by order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the secretary of state finds that revocation is necessary or appropriate in the public interest and for the protection of investors; or

Amend RSA 421-B:2-202-A(1)(A)(iii) as inserted by section 1 of the bill by replacing it with the following:

(iii) Any trust or estate in which a purchaser or any of the persons related to such purchaser specified in subsection (C) collectively have more than 50 percent of the beneficial interest (excluding contingent interests); and

Amend RSA 421-B:2-202-A(1)(E) as inserted by section 1 of the bill by replacing it with the following:

(E) Sales to Certain Clients or Customers. Sales to clients of an investment adviser, broker-dealer, or trust administered solely by a bank having fiduciary power, or persons with similar relationships, shall be considered as separate sales, regardless of the amount of discretion given to the investment adviser, broker-dealer, bank, or other person to act on behalf of the client, customer or trust.

Amend RSA 421-B:2-203 and RSA 421-B:204 as inserted by section 1 of the bill by replacing them with the following:

421-B:2-203 Additional Exemptions and Waivers. An order issued by the secretary of state under this chapter may exempt a security, transaction, or offer; an order by the secretary of state under this chapter may exempt a class of securities, transactions, or offers from any or all of the requirements of RSA 421-B:3-301 through RSA 421-B:3-306 and RSA 421-B:5-504; and an order by the secretary of state under this chapter may waive, in whole or in part, any or all of the conditions for an exemption or offer under RSA 421-B:2-201 and RSA 421-B:2-202.

421-B:2-204 Denial, Suspension, Revocation, Conditions, or Limitation of Exemptions.

(a) Enforcement related powers. Except with respect to securities or a transaction preempted by Section 18(b) of the Securities Act of 1933, an order by the secretary of state under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under RSA 421-B:2-201(3)(C) or RSA 421-B:2-202 or an exemption or waiver created under Section 203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in RSA 421-B:3-306(d) or RSA 421-B:6-604 and only prospectively.

(b) Knowledge of order required. A person does not violate RSA 421-B:3-301, RSA 421-B:3-303 through RSA 421-B:3-306, RSA 421-B:5-504, or RSA 421-B:5-510 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order. For purposes of this subsection, a person will be conclusively presumed to have knowledge of an order which is mailed to the last address specified by such person to the secretary of state, if any, or which is published in a newspaper of statewide circulation.

Amend RSA 421-B:3-302(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Required filing of records. Any person offering a federal covered security, that is not otherwise exempt under RSA 421-B:2-201 through RSA 421-B:2-203, shall file all of the following records:

Amend RSA 421-B:3-305(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Escrow and impoundment. An order issued under this chapter may require as a condition of registration that a security issued within the previous 5 years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by order issued under this chapter, but the secretary of state may not reject a depository institution or trust company solely because of its location in another state.

Amend RSA 421-B:3-306(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering, but the secretary of state may not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

Amend RSA 421-B:3-306(e)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) findings of fact and conclusions of law in a record in accordance with RSA 421-B:6 – 604(c).

Amend RSA 421-B:4-401(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the secretary of state under this chapter, the SEC, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer.

Amend RSA 421-B:4-401(e)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) A person from Canada who is resident in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.

Amend RSA 421-B:4-401(e)(10)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) With or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, and (iii) banks, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustees; and

Amend RSA 421-B:4-403(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Limits on employment or association. It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this chapter, the SEC, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the secretary of state, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

Amend RSA 421-B:4-404(e) and (f) as inserted by section 1 of the bill by replacing them with the following:

(e) Limits on employment or association. It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the SEC, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the secretary of state, by order issued, may waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) Client solicitors. A person who solicits referrals of investment advisory clients to an investment adviser may apply for a license as a solicitor by filing with the secretary of state an application, including a request for waiver of examination requirements, a copy of the solicitation agreement with such investment adviser and a copy of the disclosure document of the investment adviser disclosing the arrangements between such investment adviser and such solicitor and an undertaking that, prior to entering into any investment advisory contract with a client, the investment adviser will obtain from such client a signed and dated acknowledgement that the investment advisory contract is being entered into pursuant to a solicitation arrangement with the solicitor as described in the disclosure document.

Amend the introductory paragraph of RSA 421-B:4-406(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Application for initial registration. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application on a form prescribed by the secretary of state and a consent to service of process complying with RSA 421-B:6-611, and paying the fee specified in RSA 421-B:4-410 and any reasonable fees charged by the designee of the secretary of state for processing the filing. The application must contain:

Amend RSA 421-B:4-406(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) upon request by the secretary of state, any other financial or other information or record that the administrator determines is appropriate.

Amend RSA 421-B:4-406(c)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) If an order is not in effect and a proceeding is not pending under RSA 421-B:4-412, registration becomes effective at noon on the 30th day after a completed application is filed. An order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 30th day after the filing of any amendment completing the application. Registration may be suspended by an order of the secretary of state, subject to Article 6.

Amend RSA 421-B:4-406(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Registration renewal. A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under RSA 421-B:4-412, a registration may be automatically renewed each year by filing such records within 60 days after the close of its fiscal year (subject to any extension by order promulgated by the secretary of state) as are required by order issued under this chapter, by paying the fee specified in RSA 421-B:4-410, and by paying costs charged by the secretary of state for processing the filings. In addition, the secretary of state may require at any reasonable time and in any reasonable manner from any person subject to this chapter or any person controlling any such person any statements, reports, financial statements, answers to questionnaires and other information in whatever reasonable form he or she designates, including information from any electronic data processing or storage system.

Amend RSA 421-B:4-406(g) through (l) as inserted by section 1 of the bill by replacing them with the following:

(g) Training Standards. The secretary of state may by order prescribe standards of qualification with respect to training, experience, and knowledge of the securities business and provide for examinations to be taken by any class of or all applicants for broker-dealers, agents, investment advisers, and investment adviser representatives.

(h) Additional conditions or waivers. An order issued under this chapter may impose such other conditions, consistent with the National Securities Markets Improvement Act of 1996, on any registration under this section. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(i) Privilege from defamation. In the absence of malice, no communication required by the secretary of state under this section shall subject the person making it to an action for defamation.

(j) False Filings. Any director, officer, partner, manager, agent, or employee of any broker-dealer, investment adviser, or agent who makes or files in any statement or other document with the secretary of state, having actual knowledge that the same includes any material statement which is false, shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(k) Incorporation of federal, SRO and exchange rules. Persons registered under this article to conduct securities business shall comply with the applicable rules of the SEC, FINRA, any national exchange on which they have securities registered and other applicable self-regulatory organization having jurisdiction over the person so registered.

(l) Satisfaction through Adviser Act filings. The secretary of state may require an investment adviser to furnish or disseminate to investors and advisory clients information specified by order of the secretary of state in the public interest and for the protection of investors. If so determined by the secretary of state, information furnished to clients or prospective clients that would be in compliance with the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of such requirement.

Amend RSA 421-B:4-408(c) through (e) as inserted by section 1 of the bill by replacing them with the following:

(c) Withdrawal of temporary registration. The secretary of state may withdraw a temporary registration if there are or were grounds for discipline as specified in RSA 421-B:4-412 and the administrator does so within 30 days after the filing of the application. If the secretary of state does not withdraw the temporary registration within the 30-day period, registration becomes automatically effective on the 31st day after filing.

(d) Power to prevent registration. The secretary of state may prevent the effectiveness of a transfer of an agent or investment adviser representative under subsection (b)(1) or (2) based on the public interest and the protection of investors.

(e) Termination of registration or application for registration. If the secretary of state determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this chapter may require the registration be canceled or terminated or the application denied. The secretary of state may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

Amend RSA 421-B:4-409(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The secretary of state may determine by order the requirements and procedures for withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective 60 days after the filing of the application to withdraw or within any shorter period as provided by order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by order issued under this chapter. The secretary of state may institute a revocation or suspension proceeding under RSA 421-B:4-412 within one year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

Amend RSA 421-B:4-410(a) through (d) as inserted by section 1 of the bill by replacing them with the following:

(a) Broker-dealers. A person shall pay a fee of \$300 when initially filing an application for registration as a broker-dealer and a fee of \$250 when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(b) Agents. The fee for an individual is \$130 when filing an application for registration as an agent, a fee of \$100 when filing a renewal of registration as an agent, and a fee of \$25 when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the secretary of state shall retain \$30 of the fee.

(c) Investment advisers. A person shall pay a fee of \$250 when filing an application for registration as an investment adviser and a fee of \$200 when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the secretary of state shall retain \$50 of the fee.

(d) Investment adviser representatives. The fee for an individual is \$125 when filing an application for registration as an investment adviser representative, a fee of \$100 (\$50 per agent; \$50 per license) when filing a renewal of registration as an investment adviser representative, and a fee of \$100 when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the secretary of state shall retain \$25 of the fee.

Amend RSA 421-B:4-411(a)(1) and (2) as inserted by section 1 of the bill by replacing them with the following:

(1) Each broker-dealer registered or required to be registered under this chapter shall comply with the net capital requirements set forth in SEC Rule 15c3-1 and the custody requirements set forth in SEC Rule 15c3-3, as the same may be amended, and shall report to the secretary of state those items requiring reporting under SEC Rules 17a-5, 17a-10 and 17a-11, as the same may be amended.

(2) Each investment adviser registered or required to be registered under this chapter which has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000 and every investment adviser registered or required to be registered under this chapter which has discretionary authority over client funds or securities, but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of \$10,000. The secretary of state shall specify by order the requirements for determining and reporting such net worth to the secretary of state. Any such investment adviser which has its principal place of business in another state shall maintain such minimum net worth as required by the state in which it maintains its principal place of business, provided that the investment adviser is registered or licensed in such state and is in compliance with such state's minimum net worth requirements.

Amend RSA 421-B:4-411(c)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under the Securities Exchange Act of 1934, 15 U.S.C. Section 78q(a), if they are readily accessible to the secretary of state; and

Amend RSA 421-B:4-411(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter and of an issuer of securities whose principal office is located in this state are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary of state, within or without this state, as the secretary of state considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The secretary of state may copy, and remove for audit or inspection copies of, all records the secretary of state reasonably considers necessary or appropriate to conduct the audit or inspection. The secretary of state may assess a reasonable charge for conducting an audit or inspection under this subsection.

Amend RSA 421-B:4-411(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Custody and discretionary authority bond or insurance. Subject to the Securities Exchange Act of 1934, 15 U.S.C. Section 78o(h), or the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-18a, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed \$100,000. The secretary of state may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in RSA 421-B:5-509(j)(2).

Amend RSA 421-B:4-412(a) through (c) as inserted by section 1 of the bill by replacing them with the following:

(a) Disciplinary conditions-applicants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration: (1) of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and (2) if the applicant is a broker-dealer or investment adviser, of any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) Disciplinary conditions, registrants. If the secretary of state finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this chapter may revoke, suspend, condition, or limit the registration of a registrant, and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the secretary of state, under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties. registrants. If the secretary of state finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of \$2,500 for each violation on a registrant and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser.

Amend RSA 421-B:4-412(d)(4) as inserted by section 1 of the bill by replacing it with the following:

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the secretary of state under this chapter or the predecessor act, a state, the SEC, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

Amend RSA 421-B:4-412(d)(7) through (10) as inserted by section 1 of the bill by replacing them with the following:

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the secretary of state may not enter an order against an applicant or registrant under this subsection without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the secretary of state from conducting an audit or inspection under RSA 421-B:4-411(d) or refuses access to a registrant's office to conduct an audit or inspection under RSA 421-B:4-411(d);

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act;

(10) has not paid the proper filing fee within 30 days after having been notified by the secretary of state of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

Amend RSA 421-B:4-412(d)(14) as inserted by section 1 of the bill by replacing it with the following:

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The secretary of state may require an applicant for registration under RSA 421-B:4-402 or RSA 421-B:4-404 who has not been registered in a state within the 2 years preceding the filing of an application in this state to successfully complete an examination.

Amend RSA 421-B:4-412(f) as inserted by section 1 of the bill by replacing it with the following:

(f) Summary process. The secretary of state may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the secretary of state shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within 15 days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

Amend RSA 421-B:4-412(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary of state under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

Amend RSA 421-B:5-502 as inserted by section 1 of the bill by deleting RSA 421-B:5-502(b) and (c) and renumbering the original RSA 421-B:5-502(d) to read as RSA 421-B:5-502(b).

Amend RSA 421-B:5-502-a(d)(2)(i)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) Any arrangement (including a general power of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and (iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

Amend RSA 421-B:5-502-a(d)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) "Qualified custodian" means the following:

(i) A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

(ii) A trust company;

(iii) A broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;

(iv) A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

(v) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

Amend the introductory paragraph of RSA 421-B:5-510 as inserted by section 1 of the bill by replacing it with the following:

421-B:5-510 Rescission Offers. A purchaser or seller of a security, or a recipient of investment advice may not maintain an action under RSA 421-B:5-509 if:

Amend the introductory paragraph of RSA 421-B:5-510(1) as inserted by section 1 of the bill by replacing it with the following:

(1) The purchaser or seller of a security, or recipient of investment advice receives in a record, before the action is instituted:

Amend RSA 421-B:5-510(2) through (6) as inserted by section 1 of the bill by replacing them with the following:

(2) the offer under subsection (1) states that it must be accepted by the purchaser or seller of a security, or the recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than 3 days, that the secretary of state, by order, specifies;

(3) the offeror has the present ability to pay the amount offered (a firm financing commitment from a reputable investor or other reputable financial source may be included in present ability to pay the amount offered) or, if the purchaser of a security, has the present ability to tender the security under subsection (1);

(4) the offer under subsection (1) is delivered to the purchaser or seller of a security, or the recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice;

(5) the purchaser or seller of a security, or the recipient of investment advice that accepts the offer under subsection (1) in a record within the period specified under subsection (2) is paid in accordance with the terms of the offer; and

(6) The offer under subsection (1) is required to be filed with the secretary of state 20 days before the offering and conform in form and content as prescribed by order of the secretary of state.

Amend RSA 421-B:6-605(b) and the introductory paragraph of (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Findings and cooperation. All actions undertaken by the secretary of state pursuant to this section shall be taken only when the secretary of state finds such action necessary or appropriate to the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this title. In preparing forms, setting standards, and reviewing offerings, the secretary of state may cooperate with the securities regulators of other states, self regulatory organizations, and the Securities and Exchange Commission in order to implement the policy of this chapter in an efficient and effective manner and to achieve maximum uniformity in the form and content of registration statements, applications, reports, and requirements for issuers, broker-dealers, and investment advisors, where practicable.

(c) Financial statements. Subject to Section 15(h) of the Securities Exchange Act and Section 222 of the Investment Advisers Act of 1940, the secretary of state may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule or order under this chapter. A rule or order under this chapter may establish:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Cross Reference; Informational Filing Required. Amend RSA 5-B:4 to read as follows:

5-B:4 Informational Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an informational filing, as defined in RSA 5-B:2, II, with the department and

shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613** over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this section as long as their operations and reports conform to the laws and rules adopted by those departments.

3 Cross Reference; Authority of the Secretary of State. Amend RSA 5-B:4-a, VI to read as follows:

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with ~~[RSA 421-B:26-a]~~ **RSA 421-B:6-613**.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 191-FN, relative to use of the state's procurement card services. Ought to Pass, Vote 6-0. Senator Hosmer for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

SB 203-FN, relative to review of eligibility for workers' compensation. Ought to Pass, Vote 5-1. Senator Reagan for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

SB 213-FN-A-L, establishing a committee to study the formula for distribution of meals and rooms tax revenues. Ought to Pass with Amendment, Vote 6-0. Senator Reagan for the committee.

Senate Finance
March 17, 2015
2015-0998s
09/06

Amendment to SB 213-FN-A-LOCAL

Amend the bill by replacing sections 2-4 with the following:

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the senate minority leader.

(b) Three members of the house of representatives, 2 of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the house minority leader.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties.

I. The committee shall study:

(a) The present formula for distribution of meals and rooms tax revenues and whether or not it should be changed and if so, how.

(b) Alternative methods for municipalities to address the high cost of serving tourism in their communities, including enabling the implementation of a local hotel occupancy surcharge.

II. The committee shall invite stakeholders and solicit input and advice from persons and entities the committee deems relevant to its study.

4 Chairperson; Meetings. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Sanborn is in opposition to the motion of Ought to Pass with Amendment on SB 213-FN-A-L.

SB 214-FN, relative to the transfer of skilled nursing facility beds from the Franklin Regional Hospital. Ought to Pass with Amendment, Vote 6-0. Senator Hosmer for the committee.

Senate Finance
March 17, 2015
2015-0993s
01/06

Amendment to SB 214-FN

Amend the bill by replacing section 1 with the following:

1 Certificate of Need Review; Transfer of Skilled Beds; Franklin Regional Hospital. Amend RSA 151-C:13, I(h) to read as follows:

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. section 1395i-4 and 42 CFR Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds. ***The hospital may relocate its beds subject to exemption from this chapter within the service area of the hospital's corporate entity;***

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Sanborn is in opposition to the motion of Ought to Pass with Amendment on SB 214-FN.

SB 216-FN, relative to sales of alcoholic beverages by manufacturers. Ought to Pass, Vote 4-2. Senator Reagan for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sen. Forrester is in opposition to the motion of Ought to Pass on SB 216-FN.

SB 232-FN-A, exempting certain leases from the real estate transfer tax. Ought to Pass, Vote 6-0. Senator Little for the committee.

Recess. Out of recess.

The question is on the adoption of the committee recommendation of Ought to Pass.

A roll call was requested by Sen. Avard, seconded by Sen. Boutin.

The following Senators voted Yes: Woodburn, Forrester, Bradley, Watters, Pierce, Hosmer, Little, Sanborn, Kelly, Daniels, Avard, Lasky, Carson, Feltes, Boutin, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Prescott, Stiles, Morse.

The following Senators voted No: (None)

Yeas: 23 - Nays: 0

Adopted, bill ordered to Third Reading.

Sen. Cataldo is excused.

SB 238-FN, relative to the workers' compensation appeals board. Ought to Pass, Vote 4-2. Senator Reagan for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sens. Forrester, Prescott, and Sanborn are in opposition to the motion of Ought to Pass on SB 238-FN.

SB 256-FN, authorizing certain expenditures by the department of transportation. Re-refer to committee, Vote 5-1. Senator Hosmer for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee. Adopted.

HEALTH AND HUMAN SERVICES

SB 7, adding duties to the joint health care reform oversight committee. Ought to Pass with Amendment, Vote 5-0. Senator Sanborn for the committee.

Health and Human Services

March 17, 2015

2015-0989s

01/10

Amendment to SB 7

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

1 Health Care Reform; Chapter Heading. Amend the chapter heading of RSA 420-N to read as follows:

~~[FEDERAL]~~ HEALTH CARE REFORM ~~[2010]~~

2 Health Care Reform. Amend RSA 420-N:1 to read as follows:

420-N:1 Purpose and Scope.

I. The intent of this chapter is to preserve the state's status as the primary regulator of the business of insurance within New Hampshire and the constitutional integrity and sovereignty of the state of New Hampshire under the Tenth Amendment to the United States Constitution and part I, article 7 of the New Hampshire constitution and to create a legislative oversight committee to supervise the insurance commissioner's administration of the insurance reforms required under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder ~~[(hereinafter "the Act")]~~.

II. The intent of this chapter is also to provide oversight, policy direction, and recommendations for legislation regarding the implementation of the managed care program and the New Hampshire health protection program.

3 Health Care Reform; Definitions. Amend RSA 420-N:2, I to read as follows:

I. ~~["Act" means]~~ **"Acts" mean** the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder. **"Acts" shall also include the New Hampshire managed care program and the New Hampshire health protection program.**

4 Joint Health Care Reform Oversight Committee; Duties Added. Amend RSA 420-N:3, III to read as follows:

III. The committee shall provide legislative oversight, policy direction, and recommendations for legislation with respect to the ~~[Act]~~ **Acts** as it determines appropriate. The committee shall also ~~[review]~~ **approve** existing rules, bulletins, or policies adopted pursuant to ~~[2010, 243]~~ **the Acts** and may require the repeal of such rules, bulletins, or policies.

5 Health Care Reform; Implementation; Authority of Commissioners. Amend RSA 420-N:4 and RSA 420-N:5 to read as follows:

420-N:4 Implementation of the ~~[Act]~~ **Acts**.

I. The oversight committee established under RSA 420-N:3 shall determine **and approve** all policies within the state of New Hampshire regarding implementation of the ~~[Act]~~ **Acts**, as directed by this chapter and by any future law enacted by the general court with respect to implementation of the ~~[Act]~~ **Acts**.

II. Before establishing any standard for enforcing or implementing the [Act] **Acts**, and before initiating any rulemaking proceeding relating to the [Act] **Acts**, the commissioner **and the commissioner of health and human services** shall obtain approval for the standard or rule from the oversight committee.

III. The commissioner **and the commissioner of health and human services** shall make periodic reports as requested by the oversight committee on the provisions of the [Act] **Acts** that have taken legal effect in New Hampshire and on the status of the commissioner's implementation and enforcement efforts under the [Act] **Acts**.

IV. The commissioner shall not implement or enforce any provision of the **Patient Protection and Affordable Care Act** that has been ruled unconstitutional or invalid by the United States Supreme Court.

420-N:5 Authority of ~~the Commissioner~~ **Commissioners**. Only with such prior approvals from the oversight committee as are required under RSA 420-N:4, the commissioner **and the commissioner of health and human services** shall have authority to:

I. Make, adopt, and amend rules, **bulletins**, and regulations pursuant to RSA 541-A for, or as an aid to, the administration of any provision of the [Act] **Acts** relating to insurance;

II. Apply for any public or private grant funds available under the [Act] **Acts**;

III. Apply for any waiver available under any specific provision of the [Act] **Acts**;

IV. Adopt and apply standards consistent with the Act for form and rate review of insurance products and any other regulatory oversight functions performed by the ~~department~~ **departments**; and

V. Enforce the consumer protections and market reforms set forth in the [Act] **Acts** that relate to insurance. This shall not include the medical assistance program under RSA 167.

6 Health Care Reform; Exchange. Amend RSA 420-N:7, I to read as follows:

I. No New Hampshire state agency, department, or political subdivision shall plan, create, participate in or enable a state-based exchange for health insurance under the [Act], **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152** or contract with any private entity to do so.

7 Health Care Reform; Exchange. Amend RSA 420-N:7, IV(a) to read as follows:

(a) Promoting preservation of the private, commercial delivery of health coverage through carriers and producers to the greatest degree possible under the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152** and minimizing interference with the operation of commercial markets.

8 Health Care Reform; Federally-Facilitated Exchange. Amend RSA 420-N:8, II-IV to read as follows:

II. Any person who sells, solicits, or negotiates insurance within the meaning of RSA 402-J:3 through a federally-facilitated exchange shall be licensed as a producer under RSA 402-J; provided, that nothing in this subdivision shall prohibit the sale of health coverage by an exchange or health carrier directly to the consumer without the use of a producer. This paragraph shall not be interpreted to require that all navigators as defined under the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152** be licensed as producers, but rather that any individual who in fact performs a producer function be licensed, whether or not that person is employed by a navigator.

III. The commissioner may establish standards and training requirements for navigators on a federally-facilitated exchange consistent with section 1311(i) of the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152** and regulations implemented under the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152**, including provisions to ensure that any private or public entity that is selected as a navigator avoids conflicts of interest and is appropriately qualified to engage in navigator activities.

IV. The commissioner shall, consistent with the requirements of the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education**

Reconciliation Act of 2010, Public Law 111-152, allow producers to enroll individuals, employers, or employees in qualified health plans offered through a federally-facilitated exchange in this state, including enrollment using Internet websites.

9 Health Care Reform; Federally-Facilitated Exchange. Amend RSA 420-N:9, II to read as follows:

II. The commissioner of health and human services may establish navigator guidelines for New Hampshire consistent with section 1311(i) of the [Act] **Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152**, and regulations implemented under the Act, to ensure that navigators are qualified to reach and assist the Medicaid-eligible and other populations served by a federally-facilitated exchange in New Hampshire.

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

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 31, relative to the controlled drug prescription health and safety program. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

Health and Human Services

March 17, 2015

2015-0990s

01/06

Amendment to SB 31

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

1 Controlled Drug Prescription Health and Safety Program; Definitions. Amend RSA 318-B:31, IV to read as follows:

IV. "Dispenser" means a person who is lawfully authorized to deliver a schedule II-IV controlled substance, but does not include:

(a) A licensed hospital pharmacy that dispenses ***less than a 48-hour supply of a schedule II-IV controlled substance from a hospital emergency department or that dispenses*** for administration in the hospital;

(b) A practitioner, or other authorized person who administers such a substance; ~~[or]~~

(c) A wholesale distributor of a schedule II-IV controlled substance or its analog;

(d) ***A prescriber who dispenses less than a 48-hour supply of a schedule II-IV controlled substance from a hospital emergency department to a patient; or***

(e) ***A veterinarian who dispenses less than a 48-hour supply of a schedule II-IV controlled substance to a patient.***

2 Controlled Drug Prescription Health and Safety Program; Definitions. Amend RSA 318-B:31, VI to read as follows:

VI. "Practitioner" means a physician, dentist, podiatrist, veterinarian, ***pharmacist, APRN, physician assistant***, or other person licensed or otherwise permitted to prescribe, dispense, or administer a controlled substance in the course of licensed professional practice.

3 Controlled Drug Prescription Health and Safety Program; Operation. Amend RSA 318-B:33, II to read as follows:

II. All prescribers and dispensers authorized to prescribe or dispense schedule II-IV controlled substances within the state shall be required to register with the program ***as follows***:

(a) ***Practitioners who prescribe but do not dispense schedule II-IV controlled substances shall register with the program as a prescriber;***

(b) ***Practitioners who dispense but do not prescribe schedule II-IV controlled substances shall register with the program as a dispenser unless exempted pursuant to RSA 318-B:31, IV; and***

(c) Practitioners who prescribe and dispense schedule II-IV controlled substances shall register with the program as both a prescriber and a dispenser unless exempted pursuant to RSA 318-B:31, IV.

II-a. Only registered prescribers and dispensers shall be eligible to access the program.

4 Controlled Drug Prescription Health and Safety Program; Confidentiality. Amend RSA 318-B:34, I to read as follows:

I. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in this subdivision. ***This paragraph shall not prevent a practitioner from using or disclosing program information about a patient to others who are authorized by state or federal law or regulations to receive program information.***

5 New Paragraph; Controlled Drug Prescription Health and Safety Program; Confidentiality. Amend RSA 318-B:34 by inserting after paragraph II the following new paragraph:

III. The board may use and release information and reports from the program for program analysis and evaluation, statistical analysis, public research, public policy, and educational purposes, provided that the data are aggregated or otherwise de-identified.

6 New Subparagraph; Controlled Drug Prescription Health and Safety Program; Health and Safety Information. Amend RSA 318-B:35, I by inserting after subparagraph (b) the following new subparagraph:

(c) By electronic or written request on a case-by-case basis to:

(1) A controlled prescription drug health and safety program from another state; provided, that there is an agreement in place with the other state to ensure that the information is used or disseminated pursuant to the requirements of this state.

(2) An entity that operates a secure interstate prescription drug data exchange system for the purpose of interoperability and the mutual secure exchange of information among prescription drug monitoring programs, provided that there is an agreement in place with the entity to ensure that the information is used or disseminated pursuant to the requirements of this state.

7 Controlled Drug Prescription Health and Safety Program; Rulemaking. Amend RSA 318-B:37, V to read as follows:

V. The criteria for notifying [~~prescribers~~] ***practitioners*** of individuals that are engaged in obtaining controlled substances from multiple practitioners or dispensers.

8 Controlled Drug Prescription Health and Safety Program Established; Information Deleted. Amend RSA 318-B:32, IV to read as follows:

IV. Prescription information relating to any individual, which information does not meet the level established to suggest possible drug abuse or diversion shall be deleted within [6] **36** months after the initial prescription was dispensed. All other information shall be deleted after 3 years.

9 Controlled Drug Prescription Health and Safety Program; Reports Required. Amend 2012, 196:3, III to read as follows:

III. The pharmacy board shall report annually to the oversight committee on health and human services, ***the president of the senate, the speaker of the house representatives, the governor, and the senate and house committees having jurisdiction over health and human services issues***, relative to the effectiveness of the program established in section 2 of this act. ***The report shall also include the number of practitioners signed up for the program, compliance with using the system, and a comparison on how many prescriptions of schedule II and schedule III drugs got a check on the system before being prescribed.***

10 Committee Established.

I.(a) There is established a committee to study certain issues relative to the controlled drug prescription health and safety program. The members of the committee shall be as follows:

(1) Two members of the senate, appointed by the president of the senate.

(2) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II.(a) The committee's study shall include, but not be limited to, considering whether and under what conditions there should be a requirement to utilize the system before prescribing any schedule II-IV controlled drugs.

(b) The committee shall solicit information from any person or entity the committee deems relevant to its study.

III. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

IV. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

11 Repeal. RSA 318-B:35, I(b)(4), relative to certain health and safety information, is repealed.

12 Effective Date.

I. Section 10 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

2015-0990s

AMENDED ANALYSIS

This bill makes certain changes to the controlled drug prescription health and safety program, including clarifying the registration process and confidentiality procedures.

This bill also establishes a committee to study certain issues relative to the controlled drug prescription health and safety program

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Sanborn offered a floor amendment.

Sen. Sanborn, Dist. 9

March 25, 2015

2015-1133s

01/09

Floor Amendment to SB 31

Amend the bill by replacing section 9 with the following:

9 Controlled Drug Prescription Health and Safety Program; Reports Required. Amend 2012, 196:3, III to read as follows:

III. The pharmacy board shall report annually to the oversight committee on health and human services, ***the president of the senate, the speaker of the house representatives, the governor, and the senate and house committees having jurisdiction over health and human services issues***, relative to the effectiveness of the program established in section 2 of this act. ***The report shall also include the number of practitioners signed up for the program, the percentage of practitioners using the program, and a comparison of results and progress based on the use of the program.***

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 64, relative to rulemaking authority of the pharmacy board concerning prices for filling certain prescriptions. Ought to Pass with Amendment, Vote 5-0. Senator Kelly for the committee.

Health and Human Services

March 17, 2015

2015-0977s

10/09

Amendment to SB 64

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

AN ACT relative to rulemaking authority and enforcement concerning prices for filling certain prescriptions.

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

1 New Paragraph; Pharmacists and Pharmacies; Price of Filling Prescriptions. Amend RSA 318:47-h by inserting after paragraph II the following new paragraph:

III. The board shall adopt rules under RSA 541-A establishing procedures to receive complaints of violations of paragraphs I and II. Such rules shall include:

(a) Procedures to determine if complaints received have merit.

(b) Criteria and procedure to refer complaints to the insurance department.

(c) Method for tracking the status of complaints referred to the insurance department and receiving department of insurance reports on the status.

(d) Procedures for reporting to the senate president, the speaker of the house of representatives, and the chairpersons of the house and senate committees with oversight of pharmacy benefit manager regulation the number of complaints received, the number and nature of complaints referred to the insurance department, and the status of referred complaints.

2 New Paragraph; Managed Care Law; Prescriptions; Price of Filling Prescriptions. Amend RSA 420-J:7-b by inserting after paragraph IX the following new paragraph:

X.(a) A pharmacy benefits manager or insurer shall require a contracted pharmacy to charge an enrollee or insured person the pharmacy's usual and customary price of filling the prescription or the contracted co-payment, whichever is less.

(b) Once it has settled a claim for filling a prescription for an enrollee or insured person and notified the pharmacy of the amount the pharmacy benefits manager or insurer will pay to the pharmacy for that prescription, the pharmacy benefits manager or insurer shall not lower the amount to be paid to the pharmacy by the pharmacy benefits manager or the insurer for such settled claim; provided, however, that this paragraph shall not apply if the claim was submitted fraudulently or with inaccurate or misrepresented information.

(c) The commissioner shall adopt rules under RSA 541-A to implement this paragraph. Such rules shall include procedures for addressing complaints, provisions for enforcement, the receipt of complaints referred to the insurance department under RSA 318:47-h, III(c), and for reporting to the board of pharmacy on the status of complaints referred.

3 New Section; Accident and Health Insurance; Price of Filling Prescriptions. Amend RSA 415 by inserting after section 25 the following new section:

415:26 Price of Filling Prescriptions.

I. A pharmacy benefits manager or insurer shall require a contracted pharmacy to charge an enrollee or insured person the pharmacy's usual and customary price of filling the prescription or the contracted copayment, whichever is less.

II. Once it has settled a claim for filling a prescription for an enrollee or insured person and notified the pharmacy of the amount the pharmacy benefits manager or insurer will pay to the pharmacy for that prescription, the pharmacy benefits manager or insurer shall not lower the amount to be paid to the pharmacy by the pharmacy benefits manager or the insurer for such settled claim; provided, however, that this paragraph shall not apply if the claim was submitted fraudulently or with inaccurate or misrepresented information.

III. The commissioner shall adopt rules under RSA 541-A to implement this paragraph. Such rules shall include procedures for addressing complaints, provisions for enforcement, the receipt of complaints referred to the insurance department under RSA 318:47-h, III(c), and for reporting to the board of pharmacy on the status of complaints referred.

4 Insurance Department; Rulemaking. The commissioner of insurance shall adopt rules under 541-A within 180 days of the effective date of this act to implement the authority established in RSA 420-J:7-b, X and RSA 415:26 by this act.

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

2015-0977s

AMENDED ANALYSIS

This bill adds rulemaking authority for the pharmacy board concerning the price of filling prescriptions paid by a pharmacy benefits manager or insurer. The bill also adds authority for the insurance department to adopt rules for enforcement of requirements for the price of filling prescriptions.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Sanborn offered a floor amendment.

Sen. Sanborn, Dist. 9

March 24, 2015

2015-1107s

10/04

Floor Amendment to SB 64

Amend the bill by replacing sections 1-3 with the following:

1 New Paragraph; Pharmacists and Pharmacies; Price of Filling Prescriptions. Amend RSA 318:47-h by inserting after paragraph II the following new paragraph:

III. The board shall adopt rules under RSA 541-A establishing procedures to receive complaints of violations of paragraphs I and II. Such rules shall include:

(a) Criteria and procedure to refer complaints to the insurance department.

(b) Method for tracking the status of complaints referred to the insurance department and receiving department of insurance reports on the status.

(c) Procedures for reporting to the senate president, the speaker of the house of representatives, and the chairpersons of the house and senate committees with oversight of pharmacy benefit manager regulation the number of complaints received, the number and nature of complaints referred to the insurance department, and the status of referred complaints.

2 New Paragraph; Managed Care Law; Prescriptions; Price of Filling Prescriptions. Amend RSA 420-J:7-b by inserting after paragraph IX the following new paragraph:

X.(a) A pharmacy benefits manager or insurer shall require a contracted pharmacy to charge an enrollee or insured person the pharmacy's usual and customary price of filling the prescription or the contracted co-payment, whichever is less.

(b) Once it has settled a claim for filling a prescription for an enrollee or insured person and notified the pharmacy of the amount the pharmacy benefits manager or insurer will pay to the pharmacy for that prescription, the pharmacy benefits manager or insurer shall not lower the amount to be paid to the pharmacy by the pharmacy benefits manager or the insurer for such settled claim; provided, however, that this paragraph shall not apply if the claim was submitted fraudulently or with inaccurate or misrepresented information.

(c) The commissioner shall adopt rules under RSA 541-A to implement this paragraph. Such rules shall include procedures for addressing complaints, provisions for enforcement, the receipt of complaints referred to the insurance department under RSA 318:47-h, III(b), and for reporting to the board of pharmacy on the status of complaints referred.

3 New Section; Accident and Health Insurance; Price of Filling Prescriptions. Amend RSA 415 by inserting after section 25 the following new section:

415:26 Price of Filling Prescriptions.

I. A pharmacy benefits manager or insurer shall require a contracted pharmacy to charge an enrollee or insured person the pharmacy's usual and customary price of filling the prescription or the contracted copayment, whichever is less.

II. Once it has settled a claim for filling a prescription for an enrollee or insured person and notified the pharmacy of the amount the pharmacy benefits manager or insurer will pay to the pharmacy for that prescription, the pharmacy benefits manager or insurer shall not lower the amount to be paid to the pharmacy by the pharmacy benefits manager or the insurer for such settled claim; provided, however, that this paragraph shall not apply if the claim was submitted fraudulently or with inaccurate or misrepresented information.

III. The commissioner shall adopt rules under RSA 541-A to implement this paragraph. Such rules shall include procedures for addressing complaints, provisions for enforcement, the receipt of complaints referred to the insurance department under RSA 318:47-h, III(b), and for reporting to the board of pharmacy on the status of complaints referred.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

SB 169, relative to permissible uses of electronic benefit transfer (EBT) cards. Ought to Pass, Vote 3-2. Senator Avarad for the committee.

Sen. Fuller Clark offered a floor amendment.

Sen. Feltes, Dist. 15

Sen. Fuller Clark, Dist. 21

March 25, 2015

2015-1137s

05/01

Floor Amendment to SB 169-FN

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

1 New Subparagraphs; Prohibited Use of Electronic Benefit Transfer Card. Amend RSA 167:7-b, II by inserting after subparagraph (d) the following new subparagraphs:

(e) Business establishments primarily engaged in the practice of body piercing, branding, or tattooing.

(f) Cigar stores and stands, pipe stores, smoke shops, and tobacco shops using merchant category code 5993 identified in the Internal Revenue Bulletin 2004-31 Revenue Procedure 2004-43 and any subsequent Internal Revenue Service publication thereto.

(g) Marijuana dispensaries, excluding an alternative treatment center as defined in RSA 126-X:1, I.

2 New Hampshire Department of Health and Human Services; Restrictions on the Use of Electronic Benefit Transfer (EBT) Cards; Education Program. On or before November 1, 2015, the department of health and human services shall develop an education program for cash assistance recipients and retail establishments that accept EBT cards. The program shall provide information regarding the permitted and prohibited use of cash assistance under RSA 167:7-b, including penalties for misuse by businesses and program participants.

3 New Hampshire Department of Health and Human Services; Restrictions on the Use of Electronic Benefit Transfer (EBT) Cards; Electronic Blocking at Prohibited Locations; Reporting Requirement. On or before November 1, 2015, the department of health and human services shall provide an interim report with a final report on or before July 1, 2016 to the health and human services oversight committee established under RSA 126-A:13 on the use and effectiveness of electronically blocking the use of EBT cards at prohibited locations identified under RSA 167:7-b, II.

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

2015-1137s

AMENDED ANALYSIS

This bill prohibits the use of EBT cards in businesses that primarily engage in body piercing, branding, or tattooing; cigar stores and smoke shops; and marijuana dispensaries. The bill also requires the department of health and human services to establish an education program relative to the use of EBT cards and requires the department to report on the effectiveness of electronic blocking of EBT cards at prohibited locations.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Sanborn, seconded by Sen. Bradley.

The following Senators voted Yes: Woodburn, Watters, Pierce, Hosmer, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Forrester, Bradley, Little, Sanborn, Daniels, Avard, Carson, Boutin, Reagan, Birdsell, Prescott, Stiles, Morse.

Yeas: 10 - Nays: 13

Failed.

Sen. Cataldo is excused.

Sen. Feltes offered a floor amendment.

Sen. Feltes, Dist. 15

March 26, 2015

2015-1148s

05/03

Floor Amendment to SB 169

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Forrester, seconded by Sen. Sanborn.

The following Senators voted Yes: Woodburn, Watters, Pierce, Little, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Forrester, Bradley, Hosmer, Sanborn, Daniels, Avard, Carson, Boutin, Reagan, Birdsell, Prescott, Stiles, Morse.

Yeas: 10 - Nays: 13

Failed.

Sen. Cataldo is excused.

MOTION OF RECONSIDERATION

Sen. Bradley, having voted on the prevailing side, moved to reconsider Floor Amendment 1148s. Adopted.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Sen. Bradley, seconded by Sen. Sanborn.

The following Senators voted Yes: Woodburn, Watters, Pierce, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Forrester, Bradley, Hosmer, Little, Sanborn, Daniels, Avard, Carson, Boutin, Reagan, Birdsell, Prescott, Stiles, Morse.

Yeas: 9 - Nays: 14

Failed.

Sen. Cataldo is excused.

The question is on the adoption of the committee recommendation of Ought to Pass.

A roll call was requested by Sen. Forrester, seconded by Sen. Avard.

The following Senators voted Yes: Woodburn, Forrester, Bradley, Watters, Pierce, Hosmer, Little, Sanborn, Daniels, Avard, Lasky, Carson, Boutin, Reagan, Soucy, Birdsell, Prescott, Stiles, Morse.

The following Senators voted No: Kelly, Feltes, D'Allesandro, Fuller Clark.

Yeas: 19 - Nays: 4

Adopted, bill ordered to Third Reading.

Sen. Cataldo is excused.

SB 244, relative to abuse and neglect investigations and establishing a commission to review child abuse fatalities. Ought to Pass with Amendment, Vote 5-0. Senator Avard for the committee.

Health and Human Services
March 17, 2015
2015-0974s
05/04

Amendment to SB 244

Amend the bill by replacing sections 1 and 2 with the following:

1 Child Protection Act; Duties of the Department; Motion to Enter. Amend RSA 169-C:34, IV to read as follows:

IV. Upon notification by the department that the immediate safety or well-being of a child may be endangered, the court ~~[may, in its discretion,]~~ **shall, upon finding probable cause to believe that the child's immediate safety or well-being is endangered,** order a police officer~~;~~ **or a** juvenile probation and parole officer~~;~~ **or** child protection service worker, **accompanied by a police officer,** to enter the place where the child is located, in furtherance of such investigation.

2 New Paragraph; Child Protection Act; Duties of the Department; Motion to Enter. Amend RSA 169-C:34 by inserting after paragraph VI the following new paragraph:

VII. If the child's parents refuse to allow a social worker or state employee on their premises as part of the department's investigation, and the department has probable cause to believe that the child has been sexually molested, sexually exploited, intentionally physically injured so as to cause serious bodily injury, physically injured by other than accidental means so as to cause bodily injury, a victim of a crime, abandoned, or neglected, the department shall seek a court order to enter the premises. If the court finds probable cause to believe that the child has been abused or neglected in the manner described in this paragraph, the court shall issue an order permitting a police officer, juvenile probation and parole officer, or child protection service worker to enter the premises in furtherance of the department's investigation and to assess the child's immediate safety and well-being. Any juvenile probation and parole officer or child protection service worker who serves or executes a motion to enter issued under this paragraph shall be accompanied by a police officer.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

JUDICIARY

SB 37, limiting the requirements for live testimony by medical professionals in civil actions. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

Senate Judiciary
March 17, 2015
2015-0992s
09/04

Amendment to SB 37

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

1 New Section: Medical and Hospital Records, Bills, and Reports; Evidence in Certain Civil Cases. Amend RSA 516 by inserting after section 29-b the following new section:

516:29-c Medical and Hospital Records, Bills, and Reports; Evidence in Certain Civil Cases.

I. Subject to the provisions of paragraphs II-VI, in any civil proceeding in any court, commission, or agency in which no single party seeks damages exceeding \$50,000, the hospital medical records and physician's and dentist's medical records, and reports relating to medical, dental, or hospital services, prescriptions, or orthopedic appliances rendered to or prescribed for an injured person, reports of any medical or dental examination of such injured person, and itemized medical or hospital bills reflecting the amounts charged for such services, prescriptions, or appliances, which such records, reports, or bills are subscribed and sworn to under the penalties of perjury by the physician, dentist, authorized agent of the hospital or health maintenance organization rendering such services, or the pharmacist or retailer of orthopedic appliances, shall, subject to the court's discretion, be admissible as evidence of:

- (a) The fair and reasonable charge for such services and the necessity of such services or treatments;
- (b) The diagnosis and prognosis of the physician or dentist;
- (c) The opinion of such physician or dentist as to the proximate cause of the diagnosed condition; and
- (d) The opinion of such physician or dentist as to disability or incapacity, if any, proximately resulting from the diagnosed condition.

II. Written notice of the intention to offer such record, report, or bill as evidence, together with a copy of the hospital medical record or other medical record, report, or bill, shall be given to the opposing party or parties, or to their attorneys, on or before the date established for disclosure of expert testimony pursuant to RSA 516:29-b.

III. Nothing contained in this section shall be construed to limit the right of any party to the action or proceeding to summon, at his or her own expense, such physician, dentist, pharmacist, retailer of orthopedic appliances, or agent of such hospital or health maintenance organization, or the records of such physician, dentist, hospital, or health maintenance organization, for the purpose of cross-examination with respect to such record, report, or bill, or to rebut the contents thereof, or for any other purpose, nor to limit the right of any party to the action or proceeding to summon any other person to testify in respect to such record, report, or bill, or for any other purpose.

IV. Nothing in this section shall be construed to render admissible any facts, opinions, or information that would not be admissible if testified to by a live witness.

V. This section does not authorize the use of written records or reports as evidence of either the applicable standard of medical care or of any alleged compliance with or failure to comply with such standard of medical care in any action for medical injury as defined in RSA 507-E:1.

VI. In this section:

(a) "Physician" and "dentist" shall include any person who is licensed to practice as such under the laws of the jurisdiction within which services were rendered, and shall include medical doctors, chiroprodists, chiropractors, optometrists, osteopaths, physical therapists, podiatrists, psychologists, and other medical personnel licensed to practice under the laws of the jurisdiction within which services were rendered.

(b) "Hospital" means any hospital licensed under RSA 151:2, or licensed or regulated by the laws of any other state, or by the laws and regulations of the United States of America, including hospitals of the Veterans Administration or similar type institutions, whether incorporated or not.

(c) "Health maintenance organization" shall have the same meaning as defined in RSA 151-C:2, XVI.

2 Effective Date. This act shall take effect January 1, 2016.

Sen. Carson moved to Lay on the Table SB 37. Adopted.

SB 51, relative to the statute of limitations for recovery of a deficiency judgment after a mortgage foreclosure. Inexpedient to Legislate, Vote 4-1. Senator Carson for the committee.

Recess. Out of recess.

The question is on the adoption of the committee recommendation of Inexpedient to Legislate. Adopted.

Sen. Pierce is in opposition to the motion of Inexpedient to Legislate on SB 51.

SB 147, granting immunity from criminal prosecution to a person who reports a drug or alcohol related emergency. Re-refer to committee, Vote 5-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Re-refer to Committee. Adopted.

SB 153, relative to the accessibility of criminal records. Ought to Pass with Amendment, Vote 4-1. Senator Carson for the committee.

Senate Judiciary

March 17, 2015

2015-0984s

04/06

Amendment to SB 153

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

1 State Police; Rulemaking. Amend RSA 106-B:7 to read as follows:

106-B:7 Rulemaking Power; Employees.

I. The director may, with the approval of the commissioner of safety, adopt rules, pursuant to RSA 541-A, relative to:

(a) The efficient administration of this chapter ***and reasonable prohibitions on the resale, rental, unauthorized disclosure, abuse, or misuse of criminal record and fingerprinting checks obtained from the division;***

(b) Reasonable fees to cover criminal record and fingerprinting checks conducted by the division ***pursuant to RSA 106-B:14, I***, which fees shall be ~~[chargeable to any license applicant on whom the division is required or requested to perform such checks, or in the case of an individual requesting his own criminal record or the criminal record of another pursuant to RSA 106-B:14, I to the individual making the request]~~ ***paid by the requesting individual or public or private agency not otherwise prohibited from receiving such criminal record and fingerprinting checks;*** and

(c) The administration of RSA 169-E:2-a, regarding the operation of the statewide hotline for missing children.

II. Notwithstanding RSA 106-B:10 or any other provision of law to the contrary, the fees collected pursuant to RSA 106-B:7, I(b) shall be credited to a special nonlapsing account ~~[for the department of safety]~~ by the department of administrative services ***for the department of safety*** to cover the expenses of ***staffing the criminal records section, maintaining and updating the database, and*** conducting such checks. Such fees shall not be deposited in the general fund.

III. The director may, within the limits of the appropriation for the division, ***and such additional transfers from the nonlapsing account as may be approved by the fiscal committee of the general court and the governor and council to address backlogs or increased service demands,*** employ such civilian employees as may be necessary and determine their duties, ***and provide such resources as may be necessary.*** The director may require any ***such*** employee to give bond.

IV. The director shall provide criminal record information in electronic form once the division has the technological capability to do so.

2 State Police; Criminal Records; Reports. Amend RSA 106-B:14, I to read as follows:

I. With the approval of the commissioner of safety, the director shall adopt rules under RSA 541-A as may be necessary to secure records and other information relative to persons who have been convicted of a felony, misdemeanor or violation within the state, or who are known to be habitual criminals, or who have been placed under arrest in criminal proceedings. The term "violation"[;] as used in this section shall apply only to violations committed under title LXII. Notwithstanding RSA 91-A, ~~[such]~~ records and ***other*** information ***secured by the director under this section,*** including but not limited to dissemination logs, shall not be ~~[open to the inspection of any person except those who may be authorized to inspect the same by the director;]~~ ***disclosed to any individual or public or private agency except*** as follows:

(a) Law enforcement personnel may request and receive any information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody and supervision.

(b) Any individual may request and receive, ***for a fee,*** a copy of his or her own criminal conviction and arrest records and related information.

(c) Any individual or any public or private agency ***may, unless otherwise prohibited and subject to the provisions of this section, request*** and receive a copy of the ***state*** criminal conviction record ~~[of another who has provided authorization in writing, duly signed and notarized, explicitly allowing the requestor to receive such information]~~ ***for a felony, misdemeanor, or violation of another person. Any individual or public or private agency requesting such information under this paragraph shall include with the request a copy of a document notifying the person whose record is requested that the individual or public or private agency has requested a copy of the person's criminal conviction record or a signed acknowledgment in a form acceptable to the director from the person whose record is requested, that he or she is aware of the request and the procedure for challenging any inaccurate information.***

(d) An employee of or person under contract to the state of New Hampshire to whom such disclosure **of information** is necessary in connection with the processing, storage, and transmission of such information, or the programming, repair, maintenance, testing, or procurement of equipment used to process, store, or transmit such information **may have access to such information**.

(e) A consumer reporting agency subject to and complying with the requirements of 15 U.S.C. Section 1681 conducting employment screening services, including the screening of independent contractors, may request and receive a copy of the state criminal conviction record for a felony, misdemeanor, or violation of a candidate being screened for employment purposes or as an independent contractor.

The clerks of the superior and ~~municipal~~ **circuit** courts, or if there is no clerk the justice thereof, sheriffs, deputy sheriffs, police officers, **probation and parole officers**, and superintendents of the county departments of corrections shall secure and forward to the director all such information as he or she may direct relative to persons brought before said courts or arrested or in the custody of such officers. ~~[Any person violating the provisions of this section or any rules adopted under RSA 541-A shall be guilty of a violation, for each offense.]~~

3 New Paragraphs; State Police; Criminal Records; Reports. Amend RSA 106-B:14 by inserting after paragraph I the following new paragraphs:

I-a.(a) No individual, or public or private agency receiving criminal conviction record information from the division shall resell or rent such information to another person for commercial purposes without permission of the director.

(b) The state of New Hampshire and its officials, employees, or agents shall not be liable for the improper use, disclosure, or inaccuracy of conviction record information provided to a requesting individual or public or private agency under the provisions of this section.

(c) The director, after notice and opportunity for hearing, may prohibit any individual or public or private agency from requesting or receiving state criminal conviction information from the division if such individual or public or private agency resells, rents, or discloses such information to another in violation of this section or any rule adopted thereunder.

(d) Criminal conviction records received from the division shall be the official source of certified criminal conviction history records for employment and licensing purposes.

I-b. Any person violating the provisions of this section or any rules adopted under RSA 541-A, shall be guilty of a violation for each offense.

4 Effective Date. This act shall take effect 90 days after its passage.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 225, relative to annual reporting by medical care providers under the law governing early offers for medical injury. Inexpedient to Legislate, Vote 4-0. Senator Carson for the committee.

The question is on the adoption of the committee recommendation of Inexpedient to Legislate. Adopted.

SB 240, protecting certified public accountants from prosecution or penalty for providing services to alternative treatment centers. Ought to Pass with Amendment, Vote 4-0. Senator Pierce for the committee.

Senate Judiciary
March 17, 2015
2015-0988s
01/04

Amendment to SB 240

Amend RSA 126-X:2, XV as inserted by section 1 of the bill by replacing it with the following:

XV. A certified public accountant licensed under RSA 309-B shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, or denied any right or privilege, including, but not limited to, a civil penalty or disciplinary action by the New Hampshire board of accountancy pursuant to RSA 309-B, solely for providing services to a certified alternative treatment center or treatment

center applicant; provided that nothing shall prevent the board of accountancy from sanctioning such public accountant for failing to adhere to ethical or professional standards pursuant to RSA 309-B and the board's administrative rules.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

PUBLIC AND MUNICIPAL AFFAIRS

SB 4, relative to domicile for voting purposes. Ought to Pass, Vote 3-2. Senator Birdsell for the committee.

Sen. Birdsell moved Re-refer to Committee. Adopted.

SB 179, relative to eligibility to vote. Ought to Pass with Amendment, Vote 3-2. Senator Birdsell for the committee.

Public and Municipal Affairs

March 18, 2015

2015-1025s

03/10

Amendment to SB 179

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

1 Voter; Domicile. Amend RSA 654:1, I to read as follows:

I.(a) Every inhabitant of the state, having a single established domicile for voting purposes ***which has been established for no less than 30 consecutive days before any election where the inhabitant offers to vote***, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled.

(b)(1) An inhabitant's domicile for voting purposes [is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.] shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his or her habitation is fixed and to which a person, whenever he or she is temporarily absent, has the intention of returning after a departure or absence therefrom, including when the person is absent because of military service or temporarily absent as described in RSA 654:2.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, and motor vehicle registration.

(3) A qualified voter who has left his or her home and gone into another state or town of this state for a temporary purpose only shall not be considered to have lost his or her domicile.

(4) A qualified voter shall not be considered to have gained a domicile in any town or city of this state into which he or she comes for temporary purposes only, without the intention of making it his or her home but with the intention of leaving it when he or she has accomplished the purpose that brought him or her there.

(5) If a qualified voter moves to another state, with the intention of making it his or her permanent home, he or she shall be considered to have lost his or her domicile in this state.

(c) A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

2 New Paragraphs; Voter; Domicile. Amend RSA 654:1 by inserting after paragraph I-a the following new paragraphs:

I-b. Any person who establishes a voting domicile that otherwise meets the requirement of paragraph I, later than 30 days before any election where the inhabitant offers to vote shall vote at the polling place for the town or ward of his or her most recent previous domicile. Except that any person who transfers an existing New Hampshire voter registration and satisfies the requirements of this chapter for proving his or her new domicile may vote at the polling place for the town or ward of his or her new domicile.

I understand that to vote in this [city/town] **ward/town**, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this [city/town] **ward/town**. **Furthermore, I understand that I must have been domiciled in New Hampshire for no less than 30 consecutive days before the first election in which I intend to vote.**

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I am subject to the laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-tated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Date

Signature of Applicant

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

(c) The secretary of state shall prescribe the form of the voter registration form to be used only for voter registrations, **transfers, or updates** at the polling place on the date of a state general election, which shall be in substantially the following form:

____ **NEW REGISTRATION I am not registered to vote in New Hampshire**

____ **TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire**

____ **NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have changed my name/address**

Date _____

VOTER REGISTRATION FORM

FOR USE AT THE POLLING PLACE ON THE DATE OF THE STATE GENERAL ELECTION

(Please print or type)

1. Name _____
Last (suffix) First Full Middle Name

2. Domicile Address _____
Street Ward Number

Town or City Zip Code

3. Mailing Address if different than in 2 _____
Street

Town or City Zip Code

4. Place and Date of Birth _____
Town or City State

Date _____

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

4 Effective Date. This act shall take effect December 1, 2015.

2015-1025s

AMENDED ANALYSIS

This bill expands the definition of domicile for voting purposes and requires that a voter be a resident of the state for at least 30 days. This bill also modifies the voter registration form.

Recess. Out of recess.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Sen. Lasky, seconded by Sen. Sanborn.

The following Senators voted Yes: Forrester, Bradley, Little, Sanborn, Daniels, Avard, Carson, Boutin, Reagan, Birdsell, Prescott, Stiles, Morse.

The following Senators voted No: Woodburn, Watters, Pierce, Hosmer, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

Yeas: 13 - Nays: 10

Adopted.

Sen. Cataldo is excused.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended.

A roll call was requested by Sen. Lasky, seconded by Sen. Avard.

The following Senators voted Yes: Forrester, Bradley, Little, Sanborn, Daniels, Avard, Carson, Boutin, Reagan, Birdsell, Prescott, Stiles, Morse.

The following Senators voted No: Woodburn, Watters, Pierce, Hosmer, Kelly, Lasky, Feltes, Soucy, D'Allesandro, Fuller Clark.

Yeas: 13 - Nays: 10

Adopted, bill ordered to Third Reading.

Sen. Cataldo is excused.

SB 235, relative to the condominium act and the land sales full disclosure act. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

Public and Municipal Affairs

March 18, 2015

2015-1029s

05/04

Amendment to SB 235

Amend the bill by deleting section 1 and renumbering the original sections 2-8 to read as 1-7, respectively.

Amend the bill by replacing section 2 with the following:

2 Condominium Act; Inquiry and Investigation; Reasonable Assurance. Amend RSA 356-B:53, I(b) to read as follows:

(b) That there is reasonable assurance that all uncompleted improvements and amenities will be completed as represented. ***Reasonable assurance includes, but is not limited to, evidence of institutional financing in the form of a revolving line of credit in an amount less than the total cost of completing the improvements, so long as the loan documents provide (i) that funds may be re-advanced during the term of the loan to construct the improvements, and (ii) that the loan documents provide that the institutional lender shall notify the attorney general in the event that the revolving line of credit is cancelled or reduced;***

Amend the bill by replacing section 5 with the following:

5 Land Sales Full Disclosure Act; Inquiry and Examination; Reasonable Assurance. Amend RSA 356-A:7, I(b) to read as follows:

(b) That there is reasonable assurance that all proposed improvements will be completed as represented. ***Reasonable assurance includes, but is not limited to, evidence of institutional financing in the form of a revolving line of credit in an amount less than the total cost of completing the improvements, so long as the loan documents provide (i) that funds may be re-advanced during the term of the loan to construct the improvements, and (ii) that the loan documents provide that the institutional lender shall notify the attorney general in the event that the revolving line of credit is cancelled or reduced;***

2015-1029s

AMENDED ANALYSIS

This bill:

I. Defines the financial statements required if the declarant or subdivider is not a natural person.

II. Describes the type of financial information required to provide reasonable assurance that all uncompleted improvements and amenities will be completed.

III. Permits a declarant or subdivider to request an amended certificate of registration.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

SB 242-L, relative to amending the budget in towns that have adopted official ballot voting. Ought to Pass, Vote 3-2. Senator Stiles for the committee.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sen. Soucy is in opposition to the motion of Ought to Pass on SB 242-L.

SB 253, relative to the enactment of ordinances by municipalities permitting an assessment on hotel occupancy for the use of municipal services. Re-refer to committee, Vote 5-0. Senator Stiles for the committee.

Sen. Fuller Clark moved to Lay on the Table SB 253. Adopted.

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SB 136, relative to assessing the consequences of the *Citizens United* decision. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

Rules, Enrolled Bills and Internal Affairs

March 18, 2015

2015-1038s

03/04

Amendment to SB 136

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

AN ACT establishing a committee to review constitutional amendments regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

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

1 Committee Established. There is established a committee to review constitutional amendments regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, one appointed by the president of the senate and one appointed by the senate minority leader.

(b) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the house minority leader.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. Recognizing the need to study the *Citizens United* ruling and related cases, and ensure protection of the First Amendment, the committee shall:

I. Examine the impact of the *Citizens United* ruling.

II. Examine the different approaches and language being proposed for a constitutional amendment.

III. Examine short term solutions to issues raised by the ruling.

4 Chairperson; Quorum. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation or resolution to the New Hampshire congressional delegation, the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

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

2015-1038s

AMENDED ANALYSIS

This bill establishes a committee to review constitutional amendments regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

The question is on the adoption of the Committee Amendment. Adopted.

Sen. Fuller Clark offered a floor amendment.

Sen. Fuller Clark, Dist. 21

March 25, 2015

2015-1138s

03/05

Floor Amendment to SB 136

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

AN ACT establishing a committee to review constitutional amendments pending in Congress regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to review constitutional amendments pending in Congress regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

Amend the bill by replacing section 3 with the following:

3 Duties. Recognizing the need for a United States Constitutional Amendment to address the *Citizens United* ruling and related cases, that protects New Hampshire's ability to make its own laws regarding campaign finance while protecting the First Amendment, the committee shall:

I. Examine the impact of the *Citizens United* ruling and related cases on New Hampshire elections.

II. Examine the different approaches and language being proposed by the United States Congress for a constitutional amendment.

III. Examine short term solutions to issues raised by the *Citizens United* ruling and related cases.

2015-1138s

AMENDED ANALYSIS

This bill establishes a committee to review constitutional amendments pending in Congress regarding the *Citizens United* decision and related cases that have been introduced in the United States Supreme Court.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the committee recommendation of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

PRESIDENT MORSE: We are at the conclusion of the regular calendar and will take up the bill that was removed from the consent calendar.

RULES, ENROLLED BILLS AND INTERNAL AFFAIRS

SCR 2, urging Congress to discontinue foreign aid to Argentina until financial disputes are resolved. Ought to Pass, Vote 5-0. Senator Soucy for the committee.

This resolution urges Congress to discontinue foreign aid to Argentina until financial disputes are resolved.

It is necessary for Argentina to honor the agreements they have made with NH businesses and this is a step to support those businesses in their efforts to receive what they are rightfully owed.

The question is on the adoption of the committee recommendation of Ought to Pass. Adopted, bill ordered to Third Reading.

Sen. Bradley moved to remove SB 58 from the table. Adopted.

PUBLIC AND MUNICIPAL AFFAIRS

SB 58, relative to the United States flag worn as a patch.

Sen. Birdsell offered a floor amendment.

Sen. Birdsell, Dist. 19

March 24, 2015

2015-1119s

08/10

Floor Amendment to SB 58

Amend RSA 3-E:4 as inserted by section 1 of the bill by replacing it with the following:

3-E:4 Wearing of United States Flag as a Patch. State and local agencies, law enforcement officers, fire department personnel, and first responders of all type, shall not wear a "reverse image" of the United States flag. If any state, city, or town department chooses to include an American flag as part of their uniform it shall be in conformance with United States Flag Code.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Bradley moved to remove SB 72 from the table. Adopted.

JUDICIARY

SB 72, relative to confidentiality of police personnel files.

Senate Judiciary

March 3, 2015

2015-0709s

09/10

Amendment to SB 72

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

AN ACT relative to confidentiality of police personnel files and establishing a committee to study the use of police personnel files as they relate to the Laurie List.

Amend RSA 105:13-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Prior to the disclosure of a police officer's personnel file to the defendant, the prosecuting official shall notify the police officer of the information the prosecuting official intends to disclose and the court shall allow the police officer a reasonable period of time to request a prehearing evidentiary proceeding before the court adjudicating the criminal matter. The court shall grant a prehearing evidentiary proceeding upon the police officer's request.

Amend RSA 105:13-b, IV as inserted by section 1 of the bill by replacing it with the following:

IV. No personnel file of a police officer who is serving as a witness or prosecutor in a criminal case shall be opened for the purposes of obtaining or reviewing non-exculpatory evidence in that criminal case, unless the judge makes a specific ruling that probable cause exists to believe that the file contains evidence relevant

to that criminal case. If the judge rules that probable cause exists, the judge shall order the police department employing the officer to deliver the file to the judge. Prior to the disclosure of a police officer's personnel file to the court, the prosecuting official shall notify the police officer of the information the prosecuting official intends to disclose and the court shall allow the police officer a reasonable period of time to request a prehearing evidentiary proceeding before the court adjudicating the criminal matter. The court shall grant a prehearing evidentiary proceeding upon the police officer's request. The determination as to whether the file is relevant will be a confidential proceeding under seal until a determination is made that the information is exculpatory. If the court find that the file does not contain exculpatory information, the court shall order that the file is not subject to any disclosure. Only those portions of the file which the judge determines to be relevant in the case shall be released to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. The remainder of the file shall be treated as confidential and shall be returned to the police department employing the officer.

Amend the bill by replacing all after section 1 with the following:

2 Committee Established.

I. There is established a committee to study the use of police personnel files as they relate to the Laurie List.

II.(a) The members of the committee shall be as follows:

(1) One member of the senate, appointed by the president of the senate.

(2) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the use of police personnel files as they relate to the Laurie List. The committee's study shall include, but not be limited to, what the appropriate procedure and criteria should be for being placed on or removed from the Laurie List. The committee shall study any other issue that the committee deems relevant to its objective. The committee may solicit the advice or testimony of any organization or individual with information or expertise relevant to its study.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2016.

II. The remainder of this act shall take effect upon its passage.

2015-0709s

AMENDED ANALYSIS

This bill establishes a procedure for disclosure of exculpatory information in police personnel files when a police officer is serving as a witness or prosecutor in a criminal case.

The bill also establishes a committee to study the use of police personnel files as they relate to the Laurie List. The question is on the adoption of the Committee Amendment. Failed.

Sen. Carson offered a floor amendment.

Sen. Carson, Dist. 14

March 24, 2015

2015-1110s

09/10

Floor Amendment to SB 72

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

AN ACT relative to confidentiality of police personnel files and establishing a commission to study the use of police personnel files as they relate to the Laurie List.

Amend RSA 105:13-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Prior to the disclosure of a police officer's personnel file to the defendant, the prosecuting official shall notify the police officer of the information the prosecuting official intends to disclose and the court shall allow the police officer 10 business days from notice to request a confidential pretrial proceeding before the court adjudicating the criminal matter. The court shall grant a confidential pretrial hearing upon the police officer's request. The proceeding to determine whether evidence is exculpatory shall be a confidential proceeding until a determination is made that the information is exculpatory. If the court finds that the file does not contain exculpatory information, the court shall order that the file is not subject to any disclosure. If the court finds that the file contains exculpatory information, only the exculpatory information shall be released to the defendant.

Amend the bill by replacing all after section 1 with the following:

2 New Section; Commission on Use of Police Personnel Files. Amend RSA 105 by inserting after section 13-b the following new section:

105:13-c Commission on Use of Police Personnel Files.

I. There is established a commission to study the use of police personnel files as they relate to the Laurie List.

II.(a) The members of the commission shall be as follows:

- (1) One member of the senate, appointed by the president of the senate.
- (2) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (3) The attorney general, or designee.
- (4) One county attorney, appointed by the New Hampshire Association of Counties.
- (5) One sheriff, appointed by the New Hampshire Sheriff's Association.
- (6) One public defender, appointed by the New Hampshire Public Defender.
- (7) One criminal defense lawyer, appointed by the New Hampshire Association of Criminal Defense Lawyers.
- (8) One chief of police appointed by the New Hampshire Association of Chiefs of Police.
- (9) The commissioner of the department of safety, or designee.
- (10) One police officer, appointed by the New Hampshire Police Association.
- (11) One superior court judge, appointed by the chief justice of the superior court.
- (12) One circuit court judge, appointed by the chief justice of the circuit court.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall study the use of police personnel files as they relate to the Laurie List. The commission's study shall include, but not be limited to, what the appropriate procedure and criteria should be for being placed on or removed from the Laurie List. The commission shall study any other issue that the commission deems relevant to its objective. The commission may solicit the advice or testimony of any organization or individual with information or expertise relevant to its study.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eight members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

3 Repeal. RSA 105:13-c, relative to the commission on use of police personnel files, is repealed.

4 Effective Date.

I. Section 1 of this act shall take effect January 1, 2016.

II. Section 3 of this act shall take effect November 1, 2015.

III. The remainder of this act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill establishes a procedure for disclosure of exculpatory information in police personnel files when a police officer is serving as a witness or prosecutor in a criminal case.

The bill also establishes a commission to study the use of police personnel files as they relate to the Laurie List.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the motion of Ought to Pass as Amended. Adopted, bill ordered to Third Reading.

Sen. Bradley moved to remove SB 109-FN from the table. Adopted.

HEALTH AND HUMAN SERVICES

SB 109-FN, relative to receivership of nursing homes and other residential health care facilities.

The question is on the adoption of committee recommendation of Re-refer to Committee. Adopted.

Sen. Boutin moved to remove SB 144 from the table. Adopted.

WAYS AND MEANS

SB 144, relative to carry-over cover-all bingo.

Bill ordered to Third Reading.

Sen. Bradley moved to remove SB 114-FN from the table. Adopted.

FINANCE

SB 114-FN, enabling a driver's license applicant to request that his or her license indicate that he or she has a medically recognized disorder.

The question is on the adoption of the committee recommendation of Inexpedient to Legislate. Failed.

Sen. Stiles moved Ought to Pass.

The question is on the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted. Adjournment from the Early Session.

LATE SESSION ANNOUNCEMENTS

(The Chair recognized Sen. Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. Today is the 70th anniversary of the Battle of Iwo Jima, and I want to recognize...of course we know that a Manchester native was one of the men who was holding up that flag, but there are some people in my district who served and are survivors of that, and I want to recognize them: Robert Emery, Milton Paradis, Walter Barry, David Reid, Ed Reichert, and Bill Simpson. Thank you, Mister President.

(The Chair recognized Sen. D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. Thank you very much, Senator Woodburn. Rene Gagnon was the individual from Manchester, New Hampshire who was one of those who raised the flag on Iwo Jima. I had Rene Gagnon, Jr. in school, Bishop Bradley High School. So, I am close to him as you can get. Thank you, Mister President.

PRESIDENT MORSE: You taught him civics.

(The Chair recognized Sen. Carson)

SENATOR CARSON: Thank you, Mister President. For those of us that served in the House, we all remember, hopefully, Representative Alf Jacobson who, every year at this time, would talk to us about his experiences on Iwo Jima. Sadly, Representative Jacobson has passed on. And, I would just like to ask everyone to please remember him and the sacrifices that he made, and the fact that he wanted that story to remain. He didn't want us to forget the sacrifices and the loss of life that happened on Iwo Jima that day. Thank you very much, Mister President.

PRESIDENT MORSE: Thank you, Senator Carson. I'd just like to thank everyone for reaching out to Senator Cataldo. Several people called last night, some people texted -- not my forte -- but the reality is, he's doing well, and I thank you all for reaching out to him.

Second, Senator Carson earlier said, you know, we've worked very hard at this. She was talking about an issue she worked with the Secretary of State on. I want to remind everyone in here, today was crossover for the Senate, and there were 270 bills processed, plus or minus, in the Senate, which is extraordinary. And I know many of you sat on efforts that got fought out right until this morning, and I know it was difficult, and I know you haven't quit, yet, and that's what the Senate's all about. But, right now I want to thank the Clerk and staff because they processed those 270 bills. They caught the mistakes and had you turn them all around to make sure they got out of the Senate properly. I think that's a great thing.

Without objection all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17)

LATE SESSION

Third Reading and Final Passage

HB 467-FN, relative to the 14-month registration of off highway recreational vehicles.

SB 7, adding duties to the joint health care reform oversight committee.

SB 29-FN, relative to fines for motor vehicle offenses.

SB 30-FN-A-L, permitting counties with unincorporated areas to establish tax increment financing districts.

SB 31, relative to the controlled drug prescription health and safety program.

SB 48, relative to the New Hampshire commission on Native American affairs.

SB 57, relative to qualifications and duties of condominium association board members.

SB 58, relative to the United States flag worn as a patch.

SB 64, relative to rulemaking authority and enforcement concerning prices for filling certain prescriptions.

SB 72, relative to confidentiality of police personnel files and establishing a commission to study the use of police personnel files as they relate to the Laurie List.

SB 111, making changes to the life and health insurance guaranty association.

SB 114-FN, enabling a driver's license applicant to request that his or her license indicate that he or she has a medically recognized disorder.

SB 135-FN, relative to lead poisoning in children.

SB 136, establishing a committee to review constitutional amendments pending in Congress regarding the Citizens United decision and related cases that have been introduced in the United States Supreme Court.

SB 144, relative to carry-over cover-all bingo.

SB 145, relative to wine consumed at cocktail lounges.

SB 153, relative to the accessibility of criminal records.

SB 157-FN, relative to encouraging high school students to take and pass a United States citizenship test.

SB 159, reinstating the division for children, youth and families advisory board.

SB 167, relative to filing of small claims.

SB 169, relative to permissible uses of electronic benefit transfer (EBT) cards.

SB 179, relative to eligibility to vote.

SB 188-FN, revising banking, credit union, and trust laws.

SB 189, relative to liquor manufacturers.

SB 190-FN, relative to payment of costs for career and technical education center programs and administration by the department of education.

SB 191-FN, relative to use of the state's procurement card services.

SB 203-FN, relative to review of eligibility for workers' compensation.

SB 213-FN-A-L, establishing a committee to study the formula for distribution of meals and rooms tax revenues.

SB 214-FN, relative to the transfer of skilled nursing facility beds from the Franklin Regional Hospital.

SB 216-FN, relative to sales of alcoholic beverages by manufacturers.

SB 221-FN, relative to electric rate reduction financing.

SB 227, relative to calculating the cost of an adequate education.

SB 232-FN-A, exempting certain leases from the real estate transfer tax.

SB 234, establishing a committee to study the use of law enforcement details and flaggers for traffic control on municipally maintained roads.

SB 235, relative to the condominium act and the land sales full disclosure act.

SB 238-FN, relative to the workers' compensation appeals board.

SB 240, protecting certified public accountants from prosecution or penalty for providing services to alternative treatment centers.

SB 242-L, relative to amending the budget in towns that have adopted official ballot voting.

SB 243, relative to nonpublic sessions under the right-to-know law.

SB 244, relative to abuse and neglect investigations and establishing a commission to review child abuse fatalities.

SB 248, establishing a committee to study health care provider payment rates.

SB 251, relative to regulations for commercial composters.

SB 266-FN, adopting the Uniform Securities Act.

SCR 1, recognizing the contribution of Bhutanese refugees to New Hampshire, and requesting the United States government to work diligently on resolving the Bhutanese refugee crisis, reaching an agreement to allow the option of repatriation, and promoting human rights and democracy in Bhutan.

SCR 2, urging Congress to discontinue foreign aid to Argentina until financial disputes are resolved.

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Bradley moved that the business of the day being completed, that the Senate recess to the call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments and when we recess, we recess to the call of the Chair.

Adopted. The Senate is in recess to the call of the Chair.