

Governor Lynch Presents his Budget

Peter J. McNamara, Esq., President

On February 15, 2011, Governor John Lynch presented his proposed budget for the next biennium. According to his speech, the budget contains neither new taxes, tax increases, or one-time funds.

He is also proposing:

- an “online business one-stop,”
- the hiring of eight mechanics to perform mechanical inspections of commercial vehicles at weigh stations, who also would inspect car dealerships in lieu of the troopers that do those functions now,
- capitol budget funds to help upgrade the automotive repair programs at White Mountains, Nashua, and Manchester, and
- the closing of four DMV substations,

The Governor reiterated his call for a constitutional amendment on education funding, closing the OSHA consultation offices, and major reforms to the retirement, health care, and education systems.

Here are some excerpts of interest from the speech. The full speech can be found at <http://bit.ly/erGdJi>.

The budget I present today cuts spending by significantly reducing the state’s cost structure. This budget spends \$160 million – or 5.5 percent – less than the state spent in general funds in 2008-2009.

Across state government, this budget eliminates 1,100 positions, reducing our state employee position count by almost 10 percent.

It eliminates 255 currently filled positions, a difficult but necessary move

Budget – continued on page 14

Help Bring Electronic Vehicle Registration to Dealerships

Support Senate Bill 156

Peter J. McNamara, Esq., President

To replicate what is happening in nearly 30 other states, the NHADA is pursuing legislation to allow customers the option to electronically register their vehicle (EVR) at the dealership.

Senator Andy Sanborn (R-Henniker, Dist. 7), 13 other Senators, and five state Representatives have sponsored Senate Bill 156 to create the EVR program, which is voluntary for both consumers and dealers.

I urge you to contact your town selectmen and other town or city officials to encourage them to support SB 156. I also encourage you to call your Senator and encourage them to support the legislation.

As of this writing, the town clerk association has stated they support the concept but are working hard to kill the legislation by claiming towns would lose money – which

EVR – continued on page 22

NHADA and Easter Seals of New Hampshire – 58 Years Ago



“Easter Seals NH is celebrating its 75th anniversary during 2011. In going through our archives, we came across this photo taken on March 27, 1953. At the time, we (Easter Seals of NH) went by the name ‘NH Society for Crippled Children and Handicapped Persons,’” says Linda L. Sirak, vice president of major gifts and planned giving at Easter Seals of NH.

In the photo above, seven-year-old Doris Derosiers of Nashua is shown receiving the keys to a new station wagon donated by the NHADA. The new car was to be used to extend the services of the society to handicapped children in all parts of

Easter Seals – continued on page 7

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On in Two Management Inc.

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 Nashua, NH 03063
 880-6550

Owner: James Powers Jr.

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Workers' Compensation Trustees Elected



Bill Gurney



Matthew Marrazzo



Sue McFarland Moynahan

Bill Gurney of Gurney Automotive Repair, Inc. in Nashua has been re-elected to a second term on the NHADA Workers' Compensation Trust (WCT), while Susan McFarland Moynahan of McFarland Ford Sales, Inc. in Exeter and Matthew Marrazzo of Townline Equipment Sales, Inc. in Plainfield were both elected to the board.

Elections were held last month, with 95 ballots returned from among the WCT membership.

Bill will serve a five-year term as trustee. First elected to the WCT in 2006, he also represents independent members on the NHADA Board of Directors.

Just last month, Sue was honored as 2011 TIME Magazine Quality Dealer of the Year for New Hampshire. The story is featured in February's issue of *Dateline: NH*. You can read about Sue and her honors online at www.nhada.com/DatelineNH.

A former chair of the NHADA Board of Directors, Sue served as director from 2003 to 2007. She fills a five-year term previously filled by Todd Berkowitz of Manchester Subaru.

Matt serves a three-year term previously occupied by David Allen, a member and former chairman of both the NHADA Board of Directors and the WCT board, which he'd served on since 1993.

Matt is currently general manager at Townline Equipment Sales Inc. in

Plainfield, where he worked throughout his high school years. He is the son of owner Robert A. Mazzarro. His multi-faceted job includes responsibilities in finance, human resources, inventory, IT, and marketing. He returned to Townline after working nearly five years at King Arthur Flour in various capacities, including accounting and marketing.

The NHADA WCT includes 335 businesses and covers 9,000 lives. Since its inception in 1982, the WCT has returned \$57.8 million in rebates to its members.

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**From Your
AIADA Director**



Peggy Proko

Dear Friends,

2011 is proving to be a strong year for dealers. Sales have continued to recover. January auto sales demonstrated their highest volume since

2008, with international brands up 15.7 percent. Credit has begun to loosen, and we're seeing a greater number of customers walking through our dealership doors.

Many of you joined me in San Francisco in early February for AIADA's 41st Annual Meeting and Luncheon, where we celebrated the success of America's international nameplate brands and reflected on what we as dealers must do to keep them in the driver's seat of the American auto market. During the meeting, Pennsylvania auto dealer Jim Smail took the helm as AIADA's 2011 chairman, and we recognized California auto dealer Peter Blackstock with the 2011 David F. Mungenast, Sr. Lifetime Achievement Award. Honda Executive Vice President John Mendel also provided the keynote remarks for the event, urging dealers to remain involved and active in associations like AIADA as we steer our industry forward in the coming years.

SBA Financing Restarts

The Small Business Administration (SBA) announced in early February that it would re-start its floor plan financing program

Strong Signs Are Showing for 2011

for small dealerships (see page 10). The re-launch increased the loan limits from \$2 million to \$5 million. The SBA also took into consideration concerns that dealers had expressed during the first run of the program and has made adjustments. I would like to particularly thank New Hampshire Senator Jeanne Shaheen for her help in securing funding to help dealers keep their doors open. If you haven't done so already, please give her a call or write her a letter and let her know that New Hampshire's dealers appreciate her efforts.

Tax Season

Tax season is upon us again. As I mentioned in last month's letter, Congress and the President agreed to extend several key portions of the tax policy before they adjourned in December. Following is a review of several of these provisions that stand to impact dealers specifically:

- **Income Tax Provisions:** The agreement extends all 2001 and 2003 income tax provisions through 2012. Furthermore the agreement maintains the current 15 percent top tax rate on long-term capital gains and

qualified dividends, which otherwise would have risen to 20 percent and 39.6 percent, respectively, in 2011.

- **The Death Tax:** The agreement reflects the bipartisan Lincoln-Kyl compromise, establishing the exemption at \$5 million (indexed for inflation). It also reduces the top rate to 35 percent for 2011 and 2012, better protecting family owned businesses.

- **Payroll Tax:** The plan establishes a payroll tax reduction in place of the Making Work Pay credit. A one-year payroll tax reduction will reduce the employee share of the payroll tax by almost one-third, down to 4.2 percent.

- **Tax Extenders:** The plan extends through 2011 traditional tax extenders on both the business side and the individual side.

- **Expensing Provisions:** The agreement allows businesses (1) to immediately deduct 100 percent of property placed in service between September 9, 2010 and December 31, 2011; and (2) to take advantage of 50 percent bonus depreciation in 2012.

AIADA - continued on page 7

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Collision Corner

Repair Industry Expert Featured In Educational Seminars

Sanel Auto Parts is proud to announce that they are bringing collision repair industry expert Mike Anderson to New Hampshire for 4 dates of educational seminars.

The first class on April 9 – an 8-hour session is planned – will cover Estimating Best Practices. (The course description is provided below.)

For more information or if you are interested in attending, contact Bob Mosher at Sanel's at 603-225-4000 or Dan Bennett at NHADA at 800-852-3372. Dan can also be reached via email at dbennett@nhada.com.

Mike is one of the world's leading automotive experts and perhaps the most sought

after workshop and seminar presenter in the country. His knowledge, passion, and sense of humor are infectious. He is perhaps the most effective consultant in the field. Mike offers on-site consulting and state-of-the-art workshops and seminars in many different areas. For more information, visit: www.collisionadvice.com.

Information on the class "Estimating Best Practices" follows:

Attendees will learn Wagonwork Collision Center's PROVEN systematic approach on how to discover and ensure that they capture all of the "not included" items on an estimate.

In addition, participants will gain a better understanding of what Key

Performance Indicators (KPIs) they should be monitoring when auditing the quality of their own estimates. Learn how to "educate, not alienate" your insurance adjusters.

Other topics include: how to utilize systems to increase the frame/unibody repair times; understand how to avoid last-minute parts delays, and how to utilize the re-keying options available for data entry with all the information providers' estimating systems; and much more.

The average shop attending this seminar has seen their repair orders increase an average of \$300-\$400 per RO! This seminar also touches on how to build employee morale and improve your employee culture!

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Easter Seals – continued from page 1

New Hampshire. Shown left to right are, starting with the 2nd from the left: Ned B. Morse of Manchester, then chairman of the NHADA; Doris, and Med. B. Chandler of Manchester, a director of the society. The person on the far left was cut out of the photo that appeared in the newspaper and no identification is available.

The NHADA works with Easter Seals now and urges members to consider supporting a particular program that is managed through Easter Seals, Veterans Count, which supports service members who are deployed in foreign countries and their families. Learn more about Veterans Count in the February issue of *Dateline: NH* - <http://bit.ly/hzzmZt>.



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Visit <http://bit.ly/gbZy4M>.

AIADA – continued from page 4

- **Refundable Tax Credits:** The package extends a limited number of refundable tax credits expanded or initiated in 2009 aimed at helping businesses, individuals, and energy programs.
- **Federal Unemployment Insurance (UI) Program:** The plan renews the current Federal UI benefit programs for another 13 months, through December 2011. It also maintains the current cap of 99 weeks of total benefits.

AIADA, NADA Send Letter on Behalf of Mahindra Dealers
Several dealer-members contacted AIADA and NADA recently asking for assistance regarding the future sale of Mahindra vehicles in the U.S. In response to concerns related to the delayed introduction of Mahindra vehicles to American showrooms, both associations sent a letter

to Dr. Pawan Goenka at Mahindra & Mahindra. "Any information you can provide to us about the future plans to distribute Mahindra in this country would be appreciated, including, of course, Mahindra's position with regard to the 350 dealers who have invested in this opportunity," the letter wrote. AIADA will continue to monitor the situation and keep dealers apprised of the latest developments.

Register for AIADA's 5th Annual Auto Industry Summit
Make plans now to join AIADA in Washington, D.C., this spring for its 5th Annual Auto Industry Summit held on May 25 and 26 at the Capital Hilton. The two-day event will conclude with afternoon visits to Capitol Hill. Visit www.AIADA.org/events to learn more.
Sincerely,
Peggy

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From Your NADA Director



Jack Tulley



Double-Digit Gains for 2011

on the road today at more than ten years old, Taylor says Americans will need to replace their aging vehicles. This fact, combined with low financing rates and wider credit availability, will help boost new-vehicle sales nearly 12 percent this year, he says.

“Sales will reach 12.9 million new cars and trucks in 2011,” Taylor says. Last year, 11.55 million light vehicles were sold.

For the list of NADA’s top five factors that will accelerate new-vehicle sales this year, visit <http://bit.ly/fXqnTm>.

In legislative and regulatory news...

NADA Outlines Job-Killing Regulations in Letter to New Congress

With the opening of the 112th Congress last month, NADA highlighted some of the undue regulatory burdens dealers face that have hindered job creation in a letter to incoming House Oversight and Investigations Committee Chairman Darrell Issa, R-CA. The letter addresses several pending issues of concern to auto retailers and points out how the cumulative effect of the staggering number of federal rules has impaired dealers’ ability to grow their businesses and expand their workforce. For example, NADA urges action on recent fuel economy/greenhouse gas (GHG) rules, which impact vehicle cost and availability. The association notes that the joint rules adopted by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) for model years 2012-2016 exceed Congressional mandates and are duplicative. NADA argues that one rule (promulgated by NHTSA) would have provided a superior public policy and environmental

outcome. The letter further contends that these new fuel economy mandates will force manufacturers to build vehicles whether or not there is public demand for them. It also warns that EPA will likely grant another preemption waiver for California’s next fuel economy/GHG rule-making as early as this year and that this action will likely further eliminate jobs as California is not required to consider job loss outside of California when drafting its rules. The letter also addresses credit-related regulations, such as the Red Flags and Risk-Based Pricing Notice rules, which make granting credit more costly and burdensome without providing a substantial benefit for car buyers. Dealers with additional examples of excessive regulatory overreach should send their comments to NADA at regulatoryaffairs@nada.org. Rep. Issa has also set up a website at www.AmericanJobCreators.com wherein business owners can fill out a form detailing how the government influences their work.

In other NADA news...

• NADA UCG: Used-Vehicle Market Ends Year Strong

The used-vehicle market ended the year strong, likely recording another record-breaking price performance on the heels of big increases in 2008 and 2009, according to a report from the NADA *Used Car Guide*. “December’s auction prices show continued strength on a year-over-year basis, with pickups, SUVs, and vans up 10 percent,” says Jonathan Banks, executive automotive analyst. This trend “dramatically exceeded our expectations,” Banks said, with the increases driven by strong vehicle demand

NADA – continued from previous page

that superseded the high unemployment rate and relatively cautious consumer confidence witnessed during December. Rising gas prices also have not had a big impact on used-vehicle values, Banks said. However, more expensive gas could spell trouble for already heightened pricing on used trucks and SUVs. “Our analysis indicates that there is some sensitivity when prices eclipse the \$3 mark and if analysts’ expectations are accurate, gas prices will continue to rise,” Banks said. “If this occurs expect to see NADA values on fuel sensitive segments fluctuate with expected changes in demand.” (For more analysis from the NADA guide book, visit www.nada.com/b2b/ and click on “Guidelines” under “What’s New” in the right-hand column. To log in and view Banks’ latest video report, visit: <http://bit.ly/i602Lt>.)

• NADA University Offers More Free Online Courses from Partners

NADA and ATD members can now take advantage of additional free training at NADAUniversity.com. In the sales, leasing, and finance categories, NADA U Partner Ron Reahard offers “Great VSA Closes (\$3,000 Discount Close),” Grant Cardone offers “Time Closes,” and Alan Ram offers “Phone Ups that Show Up.” In the service category, NADA U Partner Don Reed offers “How to Achieve 100 Percent Service Absorption,” while Jeff Cowan offers “The Four Points Walk Around.” All these NADA U Partners, plus Jeff Sacks and Jared Hamilton, were presenters for the 2011 NADA Convention workshop program.

• Dealer Executive Education at Babson College March Class Nearly Full

There are just a few spots remaining in

NADA – continued on page 13

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Taylor: New-Vehicle Sales Poised for Double-Digit Gains in 2011

U.S. new-car and light-truck sales are headed for double-digit percentage gains in 2011, says NADA Chief Economist Paul Taylor.

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- ♦ DEAC is one of the top-five association political action committees in the nation in terms of both total fundraising and candidate donations.
- ♦ DEAC contributed \$2.5 million to House and Senate candidates during the 2010 congressional election cycle.
- ♦ DEAC financially supported 364 candidates that ran for Congress in 2010.
- ♦ 86 percent of DEAC-supported candidates won their races in 2010.
- ♦ In 2010, New Hampshire raised \$25,580 for DEAC, finishing seventh overall in the DEAC state rankings.
- ♦ The \$25,580 was raised by 39 contributors; of those seven were DEAC Presidents Club members.

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Protective’s Dealer Participation Programs total as of May 2010. Lifetime Engine Warranty, Limited Warranty, Vehicle Service Contracts (VSCs) and GAP are backed by Lyndon Property Insurance Company in all states except NY. In NY, VSCs are backed by Old Republic Insurance Company. GAP, Lifetime Engine Warranty and Limited Warranty are not available in NY. Credit Insurance is backed by Protective Life Insurance Company in all states except NY, where it is backed by Protective Life and Annuity Insurance Company.

SBA Re-Launches Dealer Floor Plan Pilot Loan Program

New maximum loan size increased to \$5 million by Small Business Jobs Act

A pilot loan program aimed at increasing access to inventory financing for auto, boat, RV, and other dealerships was re-launched Tuesday, Feb. 8, and will be effective through Sept. 30, 2013, the U.S. Small Business Administration has announced.

The Small Business Jobs Act of 2010 includes a provision for re-launching SBA's Dealer Floor Plan (DFP) Pilot Loan program, which first became available in July 2009. The pilot is part of the SBA's overall 7(a) loan guarantee program. The Jobs Act also increases the maximum size for 7(a) loans to \$5 million, up from \$2 million, which includes loans made through the DFP pilot program.

"As a result of the credit crunch in late 2008 and early 2009, dealerships saw a significant decline in the availability of this type of inventory financing," SBA Deputy Administrator Marie Johns said. SBA's original DFP pilot program was launched as a way to expand the availability of floor plan financing and the Jobs Act added further enhancements to that program, including allowing for larger loan sizes. NH Senator Jeanne Shaheen was a principal supporter of the measure

(read more at <http://bit.ly/gpMBkR>). "Dealerships are a cornerstone of local business communities," Johns continued. "As we continue to see our economy recover, the re-launch of this pilot provides another tool, alongside SBA's other programs, to help them succeed and create jobs in their local communities."

The rules and regulations for the pilot are available on the website of the Federal Register, and in print editions. Additionally, a procedural guide to the program is available online at <http://bit.ly/eRAm5>.

Floor plan financing is a revolving line of credit that allows a dealership to obtain financing through SBA's 7(a) program for inventory that can be titled, such as autos, RVs, manufactured homes, boats, and trailers. As each piece of collateral is sold by the dealer, the loan advance against that piece of collateral is repaid. As the loan is repaid, the dealer can borrow against the line of credit to add new inventory.

The program is available to qualifying small businesses, including new and used automobile, motorcycle, RV, manufactured homes, and boat dealers. SBA has

issued a new maximum alternative size standard to allow businesses with \$15 million net worth and \$5 million in net income measured over two years to have access to the program.

All SBA-approved lenders may make DFP loans. Lenders with more than \$1 billion of floor plan lines of credit in their current portfolios may apply for delegated authority, which would expedite the lending process.

Borrowers interested in obtaining a DFP loan should contact their lender or their nearest SBA field office to get a list of SBA-approved lenders in their area who may be participating in the program. Local district offices and contact information, as well as information on this and other SBA programs and resources, can be found at www.sba.gov or by calling the SBA Answer Desk at 800-U-ASK-SBA or TDD 704-344-6640. ▲

Support Families In Transition, Buy Tax Credits

The tax credits you purchase will support the expansion and relocation of the OutFITTERs Thrift Store Boutique in Concord, a million-dollar project to be completed in 2011.

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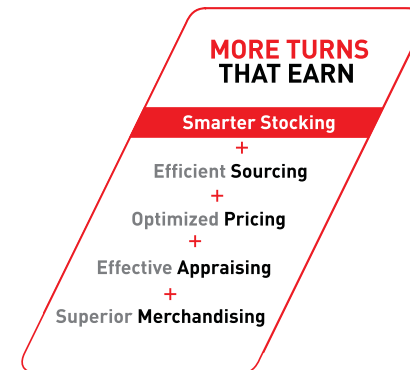
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Wellness Corner

Marta Robbins, Nurse Case Manager

The use of medication accounts for a very high percentage of health care dollars spent every year on both personal and workers' compensation medical issues.

Even though a sprained ankle that occurred at home is the same injury as a sprained ankle that occurred at the work place; the treatment of the two and the use of medications may be quite different. This difference can be based on many factors including decisions made by both the medical provider and the patient.

- **Generic vs. name brand medications**

Some prescription medications are available in both name brand and generic forms, whereas others are only available in their name brand form. Most people who are given a prescription don't think to ask the medical provider if the medication is available in a generic form. Costs of medications are important in both personal and workers' compensation injuries. With personal medical situations, you need to be aware of what your plan covers – there may be costs out of your pocket depending on what form you choose. With workers' compensation, this may not be the case. But, in an effort to keep the rising costs of medical care in check, it's worth a quick question to the provider about what form the medication is available in.

- **No prescriptions written as part of the treatment plan**

Most of us have become accustomed to there being a medication for everything. Unfortunately medication is not always the best medicine. The trend to over-prescribe antibiotics is well known in the

What Is Proper Medication Use In Workers' Compensation Injuries?

news media. Additionally, in many circumstances where other types of medications may be an option, those same drugs may not be the first considered. Some occupational providers often will give, or suggest, alternatives to medication. Ice for inflammation, for example, may be suggested, or the use of an over-the-counter, non-steroidal, anti-inflammatory. These help get swelling down without the risk of any medication side effects.

- **Prescriptions for pain medication**

Prescription pain medication has its place in the treatment of certain work-related injuries, but not all. Most prescription pain medications have side effects that may include drowsiness, dizziness, and even altered judgment; they should not be taken if you are driving or operating safety sensitive machinery. If a medical provider feels there is no need for prescription pain medication, it may be because they feel the injury would be better treated with over-the-counter medications and/or other therapies. If pain medications are prescribed, the course of treatment is likely to be short, with a transition to non-prescription options as these medications have the ability to be highly addictive.

- **Pain medications and return to work**

There often is confusion with the prescribing of pain medication at a medical visit when an injured worker is also given a release to return to work. Given the fact these medications carry warnings regarding side effects it is sometime confusing to the injured worker how they can be expected to work while taking them. Providers are always happy to explain the

use of medications as are pharmacists, so if questions arise the ability to ask them is there. Most prescription pain medications are prescribed to be used "as needed" and the prescription will also indicate how often they should be taken. So a medication that is "as needed" may also say on the bottle "every 4 hours;" this means it is only to be used as it is needed but should not be taken sooner than every 4 hours. In the case of an injured worker having a release to return to work but has also been given this prescription, it should be utilized after work as needed every 4 hours during non-work time. While at work the injured worker is encouraged to take over the counter medications or utilize other therapies as suggested by the medical provider.

- **A couple other tips**

1. When offered an ice pack at a provider's office remember these cost money and even small ticket items add up to an increase in our health care dollars; do you already have one at home? Do you have frozen peas in your freezer; they make the best ice packs and can be reused!
2. When filling prescriptions for work-related injuries avoid the inflated costs of medications by paying out of pocket and submitting the receipt for reimbursement. The third-party billers have to add a charge to medications to cover their services.
3. Take advantage of your time with a medical provider and ask questions regarding the use of medications; if you don't ask they assume you know.
4. With questions on work-related medications and other treatments, contact Marta Robbins at 800-852-3372 or mrobbins@nhada.com. 📌

NADA – continued from page 9

NADA's Dealer Executive Education at the Babson College program starting in March. This customized executive education program is tailor-made for the automotive entrepreneur. The program consists of six one-week residential modules over the course of one year held on campus at the Executive Education Center at Babson College in Wellesley, Mass. Dealer Executive Education at Babson College is an integral part of the dealer development program through NADA University. Visit www.DealerExecEd.org to learn more.

- **Dealer Academy Accepting Applications for 2011 Classes**

The NADA Dealer Academy is accepting enrollments for a class in General Dealership Management (GDM) to be held Feb. 14-18, and for a Dealer Candidate Academy (DCA) class to be held Feb. 21-25. Individual academy classes (e.g., Financial, Parts, Service and Variable Parts 1 & 2) are also open to department managers, who may attend a week of classes even if they don't have a student in the academy program. Call 800-557-6232, ext. 2, or email academy@nada.org for an application.

- **Dealer 'Pain Points' Continue To Resolve Dealer Issues**

NADA University's "Dealer Pain Points" program is proving extremely popular with dealers. Each "pain point" addresses and resolves a particular issue, concern, or dealer compliance obligation in short video segments with NADA U experts. Because of its popularity, the program will continue as a prominent regular feature. Each Dealer Pain Point is accompanied by information on the wealth of NADA U resources on the topic. Find the 27 Dealer

Pain Points developed to date by clicking on the featured pain point on NADA U's home page at www.NADAUniversity.com. After viewing the featured pain point, take a look at the rest by clicking "View Archives." 📌

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Budget – continued from page 1

to ensure we can meet our basic responsibilities. We eliminated almost all vacant positions.

This budget assumes modest economic and revenue recovery – estimates lower than some outside experts and lower than those of some of our neighboring states. For 2012, this budget assumes that revenues will still be below 2008 levels.

This budget proposes neither new taxes nor tax increases. It doubles the research-and-development tax credit and repeals the tax on gaming winnings.

* * *

Several years ago, we merged Highway Patrol and State Police. It is a move that has given us more flexibility, allowing the Colonel of State Police to put more troopers on the road during bad weather and major events.

With this budget, we continue that

integration and focus on putting our law enforcement resources to work where they have the highest value. Right now, some members of Troop G, the former highway patrol, perform mechanical inspections of commercial vehicles at weigh stations and inspect car dealerships. This budget hires eight mechanics to perform those functions and puts those troopers on the road across New Hampshire.

* * *

By adopting a voice-over internet protocol, we will be able to easily share information – and share work – across state government. For example, the Division of Motor Vehicles has already made the switch.

Motor Vehicles can now track – and reduce – waiting times for calls. This technology also allows them to easily shift calls and documents from one

location to another. So, for example, if the switchboard in Concord is overloaded, it can move those calls to the office in Berlin.

This capital budget also funds the creation of a new online Business One-Stop. This phased project will provide one online place for companies to find the information they need to do business in and with the state of New Hampshire. It will integrate computer systems to save agencies from duplicative work. And it will allow us to move to an online and integrated permitting system.

* * *

Our community college system is growing. It offers countless adults the opportunity to improve their skills and to compete for better jobs. Young people turn to the community college system to prepare them for the workforce, or to save money

Budget – continued from previous page

as they work to earn a four-year degree. The system is facing increasing demands for new services and programs, and this capital budget provides the community colleges with \$18 million to construct and maintain the facilities needed by our businesses and our citizens.

These funds will help build a new academic building in the Lakes Region for health sciences; improve computer science and welding facilities in Manchester; upgrade the automotive repair programs at White Mountains, Nashua, and Manchester; and improve technology and health science offerings at River Valley.

As a state, I do not believe we should micro-manage the spending of either the community college system or the university system.

But I do think that we should demand the same efficiencies from both that we

are demanding from the rest of state government.

Over time, higher education has spent its funds in certain ways because that is the tradition. But programs become outdated. Bureaucracies grow. So does spending. That is why I am creating a commission to review public higher education spending, to ensure that it is as efficient as possible.

I will ask the commission to make recommendations on the university and community college system offices, to ensure that they are as lean as possible, to review whether there is unnecessary duplication between the two systems, and to consider how we can continue to improve coordination and integration of the community college and university systems. We must make sure that both systems are doing everything possible to

keep college affordable and accessible for our families.

* * *

But even as we maintain adequacy funding levels, we can't just continue business as usual. I continue to support placing a constitutional amendment on the ballot that will maintain the state's commitment to education but allow us greater flexibility to target aid to communities and children with greater needs.

* * *

The Division of Motor Vehicles has launched an online licensing renewal system and will soon allow for online payments of traffic tickets. For most people, these changes mean they will only have to visit a motor vehicle office once every ten years. As a result, we will close four substations and reduce personnel, saving \$1.2 million.

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Oil Spill Reporting Requirements in New Hampshire

Dan Bennett, Environmental Affairs Specialist

Oil spill prevention and response in the automotive industry has improved markedly in recent history. However, the possibility of accidental spills always exists. Oil spills can occur at auto dealerships or repair shops due to equipment failure, vehicle leaks, damaged containers, and other causes, including natural weather events.

This article is intended to provide a refresher on the reporting requirements for spills. In addition, it is important to remember that it is not allowable to purposely discharge any oil, solvents, antifreeze, or any other contaminants into the environment. This applies even if those contaminants are diluted in floodwater, wash water, or water in repair bay sumps, drains, or pits. Oil and other contaminants should always be disposed of properly.

Depending upon the size of the spill and the type of material spilled, and the conditions existing at the time of the incident, the following notifications may be required:

- Local fire department for initial response.
- The “responsible party” (spiller) or

other person who becomes aware of an oil discharge shall notify NH DES immediately if one or more of the following has occurred:

- A discharge of any amount of oil into surface water or groundwater of the state;
- A discharge of 25 gallons or more of oil to land;
- A discharge of LESS than 25 gallons to land, unless the discharge is cleaned up immediately and disposed of properly;
- A discharge of oil that results in the presence of vapors that pose an imminent threat to human health; and
- A discharge of oil resulting in the detection of a layer of visible oil floating on top of the surface of water.

This notification should be made at 603-271-3899 (Monday through Friday 8 a.m. to 4 p.m.), or, after hours, to the NH Dept. of Safety at the NH State Police Dispatch at 603-271-3636 (available 24/7).

- If the discharge has reached any surface water, it is a federal requirement to also notify the National Response Center at 800-424-8802.

For more information visit the following links to the NH DES web site:

<http://bit.ly/h62vU9>;

<http://bit.ly/fKNZwy>;

and, for reporting a spill,

<http://bit.ly/fZgLIK>

If you have any questions or would like to discuss this article please contact Dan Bennett at NHADA at 800-852-3372 or Rick Berry of the New Hampshire Department of Environmental Services at 603-271-3440. 📞

Are You Compliant with the NEW, Amended Federal Privacy Rule?

The new rule requires a NEW Privacy Notice format for all dealers to describe their privacy policies to all finance and lease customers.

All dealers were to begin using the recently issued, revised notice on January 1, 2011 to obtain “safe harbor” protection under the Privacy Rule.

Dealers are no longer protected if they continue to use the language from the original July 2001 rule.

NHADA will help you create your new model notice. A downloadable questionnaire, with completion instructions, is available online: www.nhada.com.

Additionally, NHAD Services, Inc. - Products Division will work with you in preparing a personalized draft form, to discuss the ordering, quantities, and delivery for your dealership or dealership group.

If you have questions, call Ron McDaniel at 800-852-3372 or email Ron at rmcdaniel@nhada.com.

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Claims Corner

Peter Sheffer, Director, Workers' Compensation Trust

New Hampshire like many other states has attempted to stop the misclassification of employees as independent contractors.

In 2008, Governor Lynch created the Joint Task Force on Employee Misclassification Enforcement. In a 2008 *Nashua Telegraph* article, Labor Commissioner George Copadis and Deborah Stone from the NH Insurance Department wrote, "The task force will ensure communication and cooperation amongst the agencies that investigate instances of misclassification, including the departments of labor, insurance, employment security, and revenue administration. This coordinated effort will help us to better enforce the law and expose those who unlawfully classify workers as independent contractors."

The state has a web site, www.nh.gov/nhworkers/, which invites the reporting of alleged misclassifications. The site states: "If you think an employer is committing

Independent Contractor or Employee?

fraud by misclassifying its workers, or is committing violations of New Hampshire state laws related to the employment of workers, it is important that you let us know about it."

The legislature has refined the definition of "employee" within the New Hampshire Workers' Compensation statute several times over the last five years to broaden the definition of employee.

The statute has been revised in order to provide workers' compensation coverage for entities that in the past may have been considered subcontractors or sole proprietors. The current law RSA 281-A: 2 VI (b) (1) establishes a twelve-prong test, all of which must be met in order for an employer to prove that a service provider is an independent contractor. To be considered an independent contractor, a service provider must meet *all* twelve of the following criteria:

(A) The person possesses or has applied for a federal employer identification number or social security number, or in

the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(B) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer.

(C) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to completion schedule, range of work hours, and maximum number of work hours to be provided by the person, and, in the case of entertainment, the time such entertainment is to be presented.

(D) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(E) The person holds himself or herself

Contractor – continued from previous page

out to be in business for himself or herself. (F) The person has continuing or recurring business liabilities or obligations.

(G) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(H) The person receives compensation for work or services performed and remuneration is not determined unilaterally by the hiring party.

(I) The person is responsible in the first instance for the main expenses related to the service or work performed. However, this shall not prohibit the employer or person offering work from providing the supplies or materials necessary to perform the work. (J) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(K) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(L) The person is not required to work exclusively for the employer.

The Workers' Compensation Statute, RSA 281-A; VI, (c) provides that:

"A written agreement signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with each of the criteria in subparagraphs (b)(1)(A)-(L), is prima facie evidence that the criteria have been met. Nothing in this subparagraph shall require such an agreement to establish that the criteria have been met."

The Labor Commissioner may assess a civil penalty to an employer who has misrepresented the relationship between

the employer and the person providing the services. The civil penalty may be up to \$2,500 with an additional \$100 per employee for each day of non-compliance not to exceed one year.

If the entity is truly a sole proprietorship, employers may develop a written agreement as discussed in RSA 281-A: 2(VI) (d) above. Employers must follow the statute to the letter. The agreement must outline the services to be provided, the date the work is to be performed listing out all 12 criteria with both parties, initialing each criteria as having been met, and both parties must sign and date the agreement. If the agreement is considered valid by the NH Department of Labor (NH DOL), it should protect the employer from workers' compensation claims from the service provider. The agreement carries the risk of civil penalty if the Commissioner finds that the facts were misrepresented. Employers must be aware that after an injury occurs and the injured person's livelihood is threatened stories may change.

There is a bill introduced into the legislature that might clarify the independent contractor issue as it relates to workers' compensation coverage. House Bill 420 proposes voluntary registration for independent contractors. According to the bill, "The commissioner shall design and implement a voluntary registration program for independent contractors for the purposes of this chapter.... Under this section, a worker who registered as an independent contractor, and who incurs an injury or illness during the registration year in the type of business operation indicated on the form, shall not be eligible for benefits under this chapter." If this bill were to pass, employers could hire independent contractors who have registered with the NH DOL without concern for

the workers' compensation ramifications. We will keep the membership apprised of the status of this bill.

Currently the best way for New Hampshire employers to prevent themselves from being liable for workers' compensation coverage for independent contractors, sole proprietors, or subcontractors, is to hire companies that carry workers' compensation coverage. If not, employers run the risk of covering the injured employees of subcontractors for workers' compensation. Many employers may see this unintended consequence as the cost of doing business and as being well worth the reduced rate of hiring someone without workers' compensation coverage.

Contractor – continued on page 20

Benefits Corner

Laurie Churchill, Account Producer

We can all agree that health insurance costs are high and one of the ways NHADA is working to save you money is by teaming up with the services provided by the Compass SmartShopper (Compass) program.

You see, the costs of insurance premiums are directly tied to claims expenses. And when you seek care for routine, outpatient procedures at more cost-effective facilities, this has the potential to lower overall claims costs.

These procedures usually account for 30 percent of total claims spent during the course of a year, so this could definitely have a positive impact if the services of Compass are used to their fullest potential.

Did you know that the *exact* same procedure performed by the *exact* same doctor can cost up to 250 percent more

Contractor – continued from page 19

However, from the claims perspective, it is very difficult to manage the workers' compensation claim for someone who is not really an employee:

- Are employers prepared to provide light-duty work for a subcontractor's employee?
- Will that employee have incentive to return to work?
- Will the subcontractor have work available for the injured party when they are released?

These cases are very difficult to manage and subsequently very expensive. For NHADA WCT members the costs of the claim will increase the member's premium and decrease their rebate. In addition employers run the risk of substantial civil penalties if they misrepresent the

Use the Compass SmartShopper Program And Earn an Incentive

simply based on *where* it is performed?

Compass can help you easily identify cost-effective facilities in your area for a host of frequently prescribed, outpatient procedures.

Compass only targets high-volume, elective procedures and diagnostic tests, such as mammograms and colonoscopies – procedures that are known well in advance and not considered high-risk.

And you can earn a financial incentive, with most checks being \$100!

Anyone enrolled in NHADA's health benefit plans through Anthem Blue Cross Blue Shield is eligible for Compass. You can use the service any number of times, and it's completely confidential too.

There are two steps: Call Compass (or go online at www.compassmartshopper.com) if you need a medical service or diagnostic test from their list of services. You will be

relationship in an agreement with the service provider.

NHADA Workers' Compensation Trust members should be very cautious on entering into agreements with contractors who do not provide workers' compensation for their employees. The NH DOL wants injured employees to be covered by workers' compensation. Is a slight reduction in up-front costs worth the risk of an additional costly workers' compensation claim affecting your premium and rebate?

For information on coverage for independent contractors or sole proprietors contact Pete Sheffer by email at psheffer@nhada.com or call 800-852-3372.

See also "New Hampshire Draws Bright Line...", Nov. 2007, *Dateline: NH*, (online at <http://bit.ly/e246aV>). 📌

provided with cost-effective facilities in your area that qualify for an incentive. Choose to seek care at one of the cost-effective facilities identified by Compass, and you automatically qualify for an incentive reward.

All facilities identified as cost-effective are well-known, fully licensed to provide services in New Hampshire, and meet the rigorous standards to be credentialed providers as part of the Anthem network.

Best of all, an incentive reward will be mailed to your home within 60 days of your claim being paid!

Compass is voluntary, quick and easy. Go ahead, give it a try! Getting engaged and earning an incentive reward is only a phone call away.

Call me for information at 800-852-3372 or email lchurchill@nhada.com. 📌

Save the Date NHADA Family Convention!

June 26-28 at the Omni Mount
Washington Resort in Bretton Woods

The hotel is newly renovated, including the outdoor pool and children's area, and the golf course is restored.

Numerous social activities will include a performance on Sunday night by comic Tony Pace of Las Vegas.

Monday night will be a Roaring Twenties theme night – this is our 90th year after all – with a speakeasy-style casino and music for all generations, followed by a fireworks display.

Top automotive industry executives will discuss the state of the automotive industry in a session to be aired on WMUR-TV at a later date.

Also, we'll hold our Annual Meeting.

Watch for registration materials, and plan to attend our 90th reunion!



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OBD II – continued from page 1

is a falacy. The City of Nashua has already expressed support of the bill and is seeking to be one of the first municipalities that benefit from the system.

SB 156, FAQs on the bill, and the bill's fact sheet can be found at <http://bit.ly/dZIMBG> (lower case "L").

Here is more information about what the bill provides:

Customer convenience – dealers, towns and cities, and the state serve the same customer. This allows purchasers another option to register their vehicle.

The program will be run by third-party vendors and will cost the state nothing.

Dealers will be able to charge a fee to customers who use this program and the vendor will charge a per-transaction fee to dealers.

Security – the New Hampshire Division of Motor Vehicles (DMV) vets all dealers and vendors. Agreements must be signed with DMV taking on liability and agreeing to DMV terms. Dealers must be bonded. A pilot program will ensure the program works.

Customers will be notified in writing that the program is optional and whether the dealer charges an Electronic Vehicle Registration (EVR) fee.

EVR will be open to all vendors. To ensure the program is rolled out properly;

a single vendor pilot program is provided for.

Privacy – no direct access to DMV data is provided to dealers. The vendor accesses DMV information.

Residency is not determined by dealers: The customer must have a valid and current New Hampshire license or ID or be a business in New Hampshire.

Accuracy – the EVR program in other states reduced error rates dramatically and fee calculations are automatically done by the vendor program.

Training – the vendor provides training to dealers and provides a help line.

Dealerships already handle this same

information in a secure and confidential manner. Per federal and state law, dealers must have in place policies and procedures that safeguard customer data (Safeguards Rule), limit sharing of customer information (Privacy Rule), and prevent identity theft (Red Flags Rule), among other rules.

Dealerships daily handle customer data and are trusted by banks with millions in inventory and loans.

EVR enhances law enforcement ability to identify registered owners.

If you would like more information, please contact me at 800-852-3372 or email me at pmcnamara@nhada.com.

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www.nhada.com/store

Safety/OBD II Inspections Statistics

Safety Inspection Results	Jan '11	% of Total	YTD '11	% of Total
Total *	96,666	100.00%	96,666	100.00%
Passed	73,378	75.90%	73,378	75.90%
Corrected	12,235	12.70%	12,235	12.70%
Rejected	5,674	5.90%	5,674	5.90%
Untested	5,379	5.60%	5,379	5.60%
OBD II Inspection Results (1996 and newer)				
Total	86,458	100.00%	86,458	100.00%
Passed	73,903	85.50%	73,903	85.50%
Rejected	9,011	10.4%	9,011	10.4%
Untested	3,544	4.10%	3,544	4.10%

*** Total numbers include OBD II Inspections**

Statistics provided by Gordon-Darby

2010 Unemployment Rates by Area

	Oct	Nov	Dec
United States	9.0%	9.3%	9.1%
New England	7.7%	8.0%	8.0%
Connecticut	8.5%	8.5%	8.6%
Maine	6.7%	7.4%	7.5%
Massachusetts	7.6%	8.1%	8.0%
New Hampshire	5.0%	5.4%	5.3%
Rhode Island	11.0%	11.2%	10.9%
Vermont	5.1%	5.7%	5.6%

Margaret E. Callahan Named Career and Technical Principal of the Year

Margaret Callahan, Seacoast School of Technology Principal and New Hampshire Automotive Education Foundation board member, has been named 2011 Career and Technical Principal of the Year by the New Hampshire Association of School Principals.



Margaret E. Callahan

This distinction highlights the outstanding work Margaret accomplished – and continues to – at SST and throughout the state. Margaret joined the NHAEF last summer.

Nominated for the award by School Administrative Unit 16 Superintendent Michael Morgan, Margaret is “dedicated, resourceful, creative, and dependable,” he said.

Under her direction, SST in Exeter has undergone a major renovation,

completed in June 2009. An important feature of the project is the new automotive technologies building, which boasts 13,000 square feet, 13 bays, seven lifts, and a new Hunter Alignment Machine (a generous gift of the Exeter Area New Car Dealers’ Association).

Ninety-three students are enrolled for the 2010-11 automotive technologies program. SST Automotive Technologies students swept the 2010 SkillsUSA competition.

SST also provides areas of study that include animal and plant sciences, biotechnology, building construction, computer programming, culinary arts, digital communications, early childhood education, health science, preengineering, marketing education, and welding technology.

Donations Requested For Skills USA

Nashua Community College will host the NH Skills USA contest for automotive technology high school students on Friday, March 25, from 8:30 a.m. to 1:00 p.m.

Karl Wunderlich, chairman of the automotive technology program at NCC requests donations of automotive-related items to use as awards for the students. Prizes can be anything auto-related, including tools, t-shirts, hats, die-cast cars, or gift certificates for auto parts.

Also, if any NHADA members would like to help out by judging or making a donation, please contact Karl at either 603-882-6923, ext. 1472 or email kwunderlich@ccsnh.edu.

NCC is located at 505 Amherst Street, Nashua. Directions are available on the college's Web site, www.nashua.ccsnh.edu.

On behalf of the New Hampshire Automotive Education Foundation directors, we appreciate your consideration.

Title Statistics Report Ending January 31, 2011

New Hampshire Department of Safety, Division of Motor Vehicles

	Jan'11	Jan'10	'11 YTD	'10 YTD
Titles Issued for New and Demo Vehicles:	7,097	5,460	7,097	5,460
Titles Issued for Used Vehicles:	14,829	13,965	14,829	13,965
TOTAL TITLES ISSUED:	21,926	19,425	21,926	19,425
Titles Issued with a Lien:	9,525	7,570	9,525	7,570
Titles Issued with no Lien:	12,401	11,855	12,401	11,855
Salvage Titles Issued:	890	832	890	832
Salvage Tags Issued:	130	196	130	196
Titles Issued for Heavy Trucks More than 15 Years Old:	26	28	26	28
Titles Issued for Heavy Trucks 15 Years Old or Less:	117	137	117	137
Titles Issued for Trailers:	354	311	354	311
Titles Issued for Motorcycles:	342	262	342	262
Titles Issued for Motor Homes:	28	25	28	25

2011 NHADA Association Partners

(as of February 18, 2011)

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NHAD Services, Inc. - Products Division
NHADA Workers' Compensation Trust
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Zurich

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New Hampshire Union Leader

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Cars.com
Devine Millimet
Enterprise Holdings
Manheim New England
Northeast Delta Dental
O'Connor & Drew, P.C.
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Tyler, Simms & St. Sauveur, CPAs, P.C.
Wells Fargo Dealer Services
Windward Petroleum/Exxon Mobil

BRONZE

@utoRevenue
Aftermarket/Royal Administration
Alan Scalingi (Morgan Stanley)
Albin, Randall & Bennett
AmSan New England
Amy Martineau (American Hardware Insurance)
Anthem Blue Cross and Blue Shield in New Hampshire
Auto Auction of New England
Auto Use
Bedford Cost Segregation, LLC
Bellwether Community Credit Union
BG Products/Warehouse Distributors of New England
Clean Harbors Environmental Services
cm&b, Inc.
CompPartners (BOAC, MVOH, SOAC, St. Joseph's B & H)
Cook, Little, Rosenblatt & Manson, p.l.l.c.
CUDL Autosmart
DealerTrack Inc.
Environmental Equipment of New England, LLC
F & I Resources
FairPoint Communications
G&K Services
GeoInsight, Inc.
Global Payments

Heritage Propane
Holmes Law Offices PLLC
Jewett Construction Co., Inc./
Jewett Automotive Design & Construction
JM&A Group
JPMorgan Chase Bank
Liftech Automotive Equipment
Lift Works Corp. / Sullivan Tire Inc.
Macdonald Page & Co LLC
Protective
Rath, Young and Pignatelli, P.C.
Resources Management Group
ScanPoint
STAPLES Advantage
TD Bank
Tire Warehouse
TR2 Corp/LSI Industries
Tri State Fire Protection LLC
Trivantus, Inc.
Wiggin & Nourie, P.A.
Willis of Northern New England, Inc.

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