

Rep. L. Turcotte, Straf. 4
Rep. Sylvia, Belk. 6
Rep. Hill, Merr. 3
July 24, 2018
2018-2129h
10/01

Floor Amendment to SSSB 1-FN

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

2

3 AN ACT establishing a commission to study ways to protect the New Hampshire advantage
4 for New Hampshire businesses as a result of the uncertainty created from the recent
5 United States Supreme Court decision on the collection of certain sales and use
6 taxes.
7

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

9

10 1 New Chapter; Commission to Study Ways to Protect the New Hampshire Advantage for New
11 Hampshire Businesses as a Result of the Uncertainty Created From the Recent United States
12 Supreme Court Decision on the Collection of Certain Sales and Use Taxes. Amend RSA by inserting
13 after chapter 78-D the following new chapter:

14

CHAPTER 78-E

15 COMMISSION TO STUDY WAYS TO PROTECT THE NEW HAMPSHIRE ADVANTAGE FOR
16 NEW HAMPSHIRE BUSINESSES AS A RESULT OF THE UNCERTAINTY CREATED FROM
17 THE RECENT UNITED STATES SUPREME COURT DECISION ON THE COLLECTION OF
18 CERTAIN SALES AND USE TAXES

19 78-E:1 Commission Established. There shall be a commission to study ways to protect the New
20 Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from
21 the United States Supreme Court decision in *South Dakota v. Wayfair*, which changed the long held
22 view of the physical presence rule.

23 I. The commission shall be composed of 13 members, as follows:

24 (a) The attorney general, or designee.

25 (b) The commissioner of the department of revenue administration, or designee.

26 (c) The commissioner of the department of business and economic affairs, or designee.

27 (d) A member of the Business and Industry Association of New Hampshire, appointed
28 by the governor.

29 (e) A member of the New Hampshire Retail Association, appointed by the president of
30 the senate.

31 (f) A New Hampshire merchant, appointed by the speaker of the house of
32 representatives.

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1 (g) A New Hampshire remote seller, appointed by the president of the senate.

2 (h) A tax attorney or tax accountant, appointed by the speaker of the house of
3 representatives.

4 (i) Three members of the house of representatives, one of whom shall be from the
5 minority party, appointed by the speaker of the house of representatives.

6 (j) Two members of the senate, one of whom shall be from the minority party, appointed
7 by the president of the senate.

8 II. The duties of commission shall include, but are not limited to:

9 (a) Monitoring subsequent United States Supreme Court decisions relating to the issues
10 raised in *South Dakota v. Wayfair, Inc.*, and any other relevant court decisions that may impact
11 New Hampshire businesses' obligations to collect sales and use taxes on behalf of foreign taxing
12 jurisdictions or authorities.

13 (b) Monitoring attempts by other states to impose sales and use tax collection
14 obligations on New Hampshire remote sellers and remote service providers.

15 (c) Studying the creation of a private right of action for violations of privacy in
16 transactions associated with any attempts to impose sales and use tax collection obligations on New
17 Hampshire remote sellers.

18 (d) Reviewing court cases regarding the Full Faith and Credit Clause of the United
19 States Constitution to determine how these cases impact New Hampshire's ability to protect New
20 Hampshire remote sellers from sales and use tax collection obligations, including but not limited to
21 the following decisions:

22 (1) *Franchise Tax Board of California v. Hyatt*, 136 S.Ct.1277 (2016).

23 (2) *Pacific Employers Ins. Co. v. Industrial Accident Commission of State of*
24 *California*, 306 U.S. 493 (1939).

25 (3) *Bradford Electric Light Co. v. Clapper*, 286 U.S. 145 (1932).

26 (e) Addressing concerns related to costs incurred by New Hampshire businesses in the
27 collection of sales and use taxes on behalf of a foreign taxing jurisdiction or authority.

28 III. The commission may solicit information from any person or entity the commission
29 deems relevant to its duties.

30 IV. The members of the commission shall elect a chairperson from among the members.
31 The first meeting of the commission shall be called by the first-named senate member. The first
32 meeting of the commission shall be held within 30 days of the effective date of this section. Seven
33 members of the commission shall constitute a quorum.

34 V. The commission shall report its findings and any recommendations for proposed
35 legislation to the president of the senate, the speaker of the house of representatives, the senate
36 clerk, the house clerk, the governor, and the state library, in an initial report on or before
37 November 1, 2018, an interim report on or before March 1, 2019, and a final report on or before

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1 June 1, 2019.

2 2 Repeal of Commission. RSA 78-E, relative to the establishment of a commission to study
3 ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the
4 uncertainty created from the recent United States Supreme Court decision on the collection of
5 certain sales and use taxes, is repealed.

6 3 Effective Date.

7 I. Section 2 of this act shall take effect June 1, 2019.

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

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AMENDED ANALYSIS

This bill establishes a commission to study ways to protect the New Hampshire advantage for New Hampshire businesses as a result of the uncertainty created from the recent United States Supreme Court decision on the collection of certain sales and use taxes.