Rep. Ames, Ches. 9
February 8, 2019
2019-0404h
10/06

Amendment to HB 686-FN-A-LOCAL

1 Findings and Statement of Purpose.

I. The general court finds that an interim adjustment to the state's public school funding formula is needed to provide an immediate increase in state funding for public schools and to thereby enable interim improvements in the provision of education to all children while also providing interim relief where needed from unfair local property tax burdens.

II. The general court further finds that the interim public school state funding provided herein is the minimum necessary to meet public school funding and property tax relief imperatives and that the question of whether or not additional reforms in state funding are needed to meet these imperatives, and the formulas, amount, and sources for any such funding and relief, must be determined at the earliest possible date through a special commission established for that purpose by the general court.

III. The general court further finds that the extension to capital gains of the state's existing tax on interest and dividends coupled with significantly higher exemptions from the tax is necessary to both ensure the availability of sufficient funds to support the minimum level of public school funding provided by this act and to promote the state's obligation to ensure a tax system that is fair and proportionate.

IV. The general court further finds that the minimum interim funding provided for by this act will significantly alter both the amount of state funds required for this purpose and the amounts received from the state by school districts; in recognition of the magnitude and scope of these changes, and in an effort to avoid financial dislocations, the general court has provided in this act for the appropriate phase-in of the funding changes.

2 Interest and Dividends Tax; Exemptions Increased; Capital Gain Income. Amend RSA 77:3, I to read as follows:

I. Taxable income is that ***interest, dividend, and capital gain*** income***, as defined in RSA 77:4,*** received [~~from interest and dividends~~] during the tax year prior to the assessment date by:

(a) Individuals who are inhabitants or residents of this state for any part of the taxable year whose gross interest [~~and~~], ***gross*** dividend [~~income from all sources~~]***, and capital gain income, as defined in RSA 77:4***, including income from a qualified investment company pursuant to RSA 77:4, V, exceeds [~~$2,400~~] ***$5,000*** during that taxable period.

(b) Partnerships, limited liability companies, and associations, the beneficial interest in which is not represented by transferable shares, whose gross interest [~~and~~], ***gross*** dividend***,*** [~~income~~

~~from all sources~~] ***and capital gain income, as defined in RSA 77:4,*** exceeds [~~$2,400~~] ***$5,000*** during the taxable year, but not including a qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

(c) Executors deriving their appointment from a court of this state whose gross interest [~~and~~], ***gross*** dividend***,*** [~~income from all sources~~] ***and capital gain income, as defined in RSA 77:4,*** exceeds [~~$2,400~~] ***$5,000*** during the taxable year.

3 Taxation of Incomes; What Taxable. Amend RSA 77:4, IV and V to read as follows:

IV. [~~Dividends, other than that portion of a dividend declared by corporations to be a return of capital and considered by the federal internal revenue service to be such, the exemption of which is permitted by RSA 77:7.~~] ***The capital gain reported on the taxpayer's federal income tax return which shall be the amount, if any, that is equal to the positive sum of the net short-term capital gain or loss and the net long-term capital gain or loss reported on that return.***

V. Amounts reported and taxed federally as [~~dividends or interest~~] ***interest, dividend, or capital gain income*** to a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, a mutual fund, or a unit investment trust.

4 Taxation of Incomes; Exclusion of Certain Income; Employee Benefit Plans. Amend RSA 77:4-b to read as follows:

77:4-b [~~Interest and Dividend~~] Income of Employee Benefit Plans and Tax Deferred Investments Not Taxable. Notwithstanding any provisions of RSA 77:4 to the contrary, [~~interest and dividend income~~] ***interest, dividend, and capital gain income, as defined in RSA 77:4,*** received by an employee benefit plan as defined by the Employee Retirement Income Security Act of 1974, section 3, or any successor act enacted for the purpose of regulating employee benefit plans, or an individual retirement arrangement, Keogh plan or any other arrangement pursuant to which payment of federal tax on the income thereof and of the plan sponsors, participants and beneficiaries is deferred, shall at no time be considered taxable income under RSA 77:4, either to the plan or arrangement or to its sponsors, participants or beneficiaries, irrespective of when or whether all or any portion of such income is accumulated or expended for the benefit of, or distributed in any form or manner to, such sponsors, participants or beneficiaries.

5 Taxation of Incomes; Exclusion of Certain Income; Qualified Investment Companies, Mutual Funds, and Unit Investment Trusts. Amend the introductory paragraph of RSA 77:4-d to read as follows:

77:4-d Special Rule for Qualified Investment Companies, Mutual Funds, and Unit Investment Trusts. Notwithstanding any other provision of RSA 77:4, the following income items shall not be treated as [~~dividends or interest~~] income taxable under this chapter:

6 Taxation of Incomes; Exclusion of Certain Income; College Tuition Savings Plans. Amend

RSA 77:4-e to read as follows:

77:4-e Interest [~~and Dividends~~]***, Dividend, and Capital Gain Income*** from Funds Invested in College Tuition Savings Plan Not Taxable. Notwithstanding any provision of RSA 77:4, income and distributions from any qualified tuition program as defined in the Internal Revenue Code of 1986, as amended, shall not be taxable under this chapter to the plan or to its sponsors, participants, or beneficiaries to the extent that the same is exempt from federal income taxation under section 529 of the Internal Revenue Code of 1986, as amended, as that section was in effect on July 1, 2003.

7 Taxation of Incomes; Excess Compensation. Amend RSA 77:4-g to read as follows:

77:4-g [~~Dividend~~] ***Excess Compensation***. Excess compensation determined by audit of the department shall not be considered [~~a dividend~~] ***taxable income*** under this chapter unless such determination is accepted by the Internal Revenue Service.

8 Taxation of Incomes; ABLE Plans. Amend RSA 77:4-h to read as follows:

77:4-h Interest [~~and Dividends~~]***, Dividend, and Capital Gain Income*** from Funds Invested in Achieving a Better Life Experience (ABLE) Plan Not Taxable. Notwithstanding any provision of RSA 77:4, income and distributions from any Achieving a Better Life Experience (ABLE) plan as defined in the Internal Revenue Code of 1986, as amended, shall not be taxable under this chapter to the plan or its sponsors, participants, or beneficiaries to the extent that the same is exempted from federal income taxation under section 529A of the Internal Revenue Code of 1986, as amended.

9 Exemptions Increased. Amend RSA 77:5 to read as follows:

77:5 Exemptions. Each taxpayer shall have the following exemptions:

I. Income of [~~$2,400~~] ***$5,000***.

II. An additional [~~$1,200~~] ***$7,500*** if either or both taxpayers are 65 years of age or older on the last day of the tax year.

III. An additional [~~$1,200~~] ***$2,500*** if either or both taxpayers are blind.

IV. An additional [~~$1,200~~] ***$2,500*** if either or both taxpayers are disabled, unable to work, and have not yet reached their sixty-fifth birthday.

10 Taxation of Incomes; Married Taxpayers; Joint Returns. Amend RSA 77:5-a to read as follows:

77:5-a Married Taxpayers; Joint Returns. A married taxpayer may claim the exemptions provided in RSA 77:5 for both self and spouse, regardless of the ownership of the [~~income from interest or dividends,~~] ***interest, dividend, or capital gain income, as defined in RSA 77:4,*** provided that both [~~husband and wife~~] ***spouses*** file a joint return.

11 Taxation of Incomes; Decedents Estates. Amend RSA 77:9 to read as follows:

77:9 Decedents' Estates. The estates of deceased persons who last dwelt in this state shall be subject to the taxes imposed by this chapter upon all taxable income received by such persons during their lifetime, which has not already been taxed. The [~~income~~] ***interest, dividend, or***

capital gain income, as defined in RSA 77:4, received by such estates during administration shall be taxable to the estate, except such proportion thereof as equals the proportion of the estate to be distributed to non-taxable persons or organizations. The commissioner of revenue administration and executors and administrators of estates may effect a settlement by compromise of any question of doubt or dispute arising under this section.

12 Taxation of Incomes; Income From Trusts. Amend RSA 77:10 to read as follows:

77:10 Income From Trusts. [~~Interest and dividend income~~] ***The interest, dividend, and capital gain income,*** received by estates held by trustees treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their grantor, to the extent that the grantor is an inhabitant or resident of this state. Income reported by, and taxed federally as interest [~~or dividends to~~], ***dividend, or capital gain income to*** a trust beneficiary who is an individual inhabitant or resident of this state with respect to distributions from a trust that is not treated as a grantor trust under section 671 of the United States Internal Revenue Code shall be included as interest [~~or dividends~~]***, dividend, or capital gain income*** in the return of such beneficiary and subject to taxation in accordance with the provisions of this chapter.

13 Taxation of Incomes; Returns and Declaration. Amend RSA 77:18, IV(a) and (b) to read as follows:

(a) Every individual whose total [~~interest and dividend income~~] ***interest, dividend, or capital gain income, as defined in RSA 77:4,*** is less than [~~$2,400~~] ***$5,000*** for a taxable period.

(b) For joint filers whose total [~~interest and dividend income~~]] ***interest, dividend, or capital gain income, as defined in RSA 77:4,*** is less than [~~$4,800~~] ***$10,000*** for a taxable period.

14 Repeals. The following are repealed:

I. RSA 77:4-c, relative to sale or exchange of transferable shares not taxable.

II. RSA 77:7, relative to capital distribution.

15 Adequate Education; Interim Cost. Amend RSA 198:40-a to read as follows:

198:40-a Cost of an Opportunity for an Adequate Education.

I. For the biennium beginning July 1, [~~2015~~] ***2019***, the ***interim*** annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be as specified in paragraph II. ***For subsequent state fiscal years,*** the department shall adjust the rates specified in this paragraph in accordance with RSA 198:40-d.

II.(a) A cost of [~~$3,561.27~~] ***$4,000*** per pupil in the ADMA, plus differentiated aid as follows:

(b) An additional [~~$1,780.63~~] ***$1,900*** for each pupil in the ADMA who is eligible for a free or reduced price meal; plus

(c) An additional [~~$697.77~~] ***$740*** for each pupil in the ADMA who is an English language learner; plus

(d) An additional [~~$1,915.86~~] ***$2,035*** for each pupil in the ADMA who is receiving special education services; plus

[~~(c) An additional $697.77 for each third grade pupil in the ADMA with a score below the proficient level on the reading component of the state assessment administered pursuant to RSA 193-C:6 or the authorized, locally-administered assessment as provided in RSA 193-C:3, IV(i), provided the pupil is not eligible to receive differentiated aid pursuant to subparagraphs (b)-(d). A school district receiving aid under this subparagraph shall annually provide to the department of education documentation demonstrating that the district has implemented an instructional program to improve non-proficient pupil reading.~~]

III. The sum total calculated under paragraph II shall be the ***interim*** cost of an adequate education. The department shall determine the ***interim*** cost of an adequate education for each municipality based on the ADMA of pupils who reside in that municipality.

16 Adjustment; Rates Per Pupil. Amend RSA 198:40-d to read as follows:

198:40-d Consumer Price Index Adjustment. Beginning July 1, [~~2017~~] ***2021*** and ***for*** every biennium thereafter, the department of education shall adjust ***for each fiscal year of the biennium*** the cost of an adequate education under RSA 198:40-a based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. ***For the first year of the biennium,*** the average change shall be calculated using the 3 calendar years ending 18 months before the beginning of the biennium for which the calculation is to be performed. ***For the second year of the biennium, the adjustment from the adjusted first-year cost of an adequate education shall be the same as the average change calculated for the first year of the biennium.***

17 Adequate Education; Determination of Grants. Amend RSA 198:41, IV(d) to read as follows:

(d) For fiscal [~~year 2017 and each fiscal year thereafter~~] ***years 2018 and 2019***, the department of education shall distribute a total education grant to each municipality in an amount equal to the total education grant for the fiscal year in which the grant is calculated plus a percentage of the municipality's fiscal year 2012 stabilization grant, if any, distributed to the municipality; the percentage shall be 96 percent for fiscal year 2017,[~~ and shall be reduced by 4 percent of the amount of the 2012 education grant for each fiscal year thereafter~~] ***92 percent for fiscal year 2018, and 88 percent for fiscal year 2019, subject, however, to the provisions of subparagraphs (e) and (f)***.

(e) For fiscal year 2017 and each fiscal year thereafter, no stabilization grant shall be distributed to any municipality for any fiscal year in which the municipality's education property tax revenue collected pursuant to RSA 76 exceeds the total cost of an adequate education or to any municipality for any fiscal year in which the municipality's ADMA is zero.

(f) For fiscal year 2019, the department of education shall further distribute an additional stabilization grant to each municipality equal to the difference between the stabilization grant distributed to the municipality for fiscal year 2019 pursuant to

subparagraph (d) and the municipality's fiscal year 2012 stabilization grant, if any, distributed to the municipality, subject, however, to the provisions of subparagraph (e).

(g) For fiscal year 2020 and each fiscal year thereafter, the department of education shall calculate a total interim education grant for each municipality in an amount equal to the total interim education grant for the cost of an adequate education for the fiscal year in which the grant is calculated plus the total amount of the fiscal year 2012 stabilization grant, if any, distributed to the municipality, and shall distribute said total grant, provided, however, that no increase in the total grant, including the stabilization grant, distributed to a municipality for fiscal year 2020 above the total grant distributed to that municipality for fiscal year 2019 shall exceed one-half of the total increase in said grant, including the stabilization grants, otherwise calculated for said municipality for fiscal year 2020 pursuant to the provisions of subparagraphs (a) through (f).

18 Education Tax. Amend RSA 76:3 to read as follows:

76:3 Education Tax. Beginning July 1, [~~2005~~] ***2021***, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education tax rate at a level sufficient to generate revenue of [~~$363,000,000~~] ***$272,000,000*** when imposed on all persons and property taxable pursuant to RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The education property tax rate shall be effective for the following fiscal year. The rate shall be set to the nearest 1/2 cent necessary to generate the revenue required in this section.

19 Applicability. Sections 2-14 of this act shall be applicable to tax periods ending on and after December 31, 2020.

20 Effective Date.

I. Sections 16 and 18 of this act shall take effect July 1, 2021.

II. This act shall take effect upon its passage.

2019-0404h

AMENDED ANALYSIS

This bill extends the interest and dividends tax to capital gains and increases exemptions for the tax. The bill revises the per pupil rates for the formula for determining adequate education grants to school districts. The bill also reduces the total amount collected from the state education property tax beginning July 2021.