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HOUSE RECORD

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Contains: Additional Floor Amendments

ADDENDUM TO HOUSE CALENDAR 37

WEDNESDAY, MAY 12

ADDITIONAL FLOOR AMENDMENTS

(LISTED IN NUMERICAL ORDER)

Floor Amendment #1975h to SB 354-FN
Proposed by Rep. Rowe

Amend RSA 540:1-b, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Any owner of restricted property who violates paragraph I or II of this section shall be subject to a $100 civil penalty for each rental unit in the restricted property.

Floor Amendment #1990h to SB 450-FN
Proposed by Rep. Vaillancourt

Amend the bill by deleting section 101 and renumbering the original sections 102-104 to read as 101-103, respectively.

Floor Amendment #1998h to SB 450-FN
Proposed by Reps. Packard and Kurk

Amend the bill by deleting sections 56-57 and renumbering the original sections 58-104 to read as 56-102, respectively.

Amend the bill by replacing section 64 with the following:

64 Applicability. Sections 60-63 of this act shall apply to taxable periods ending on or after December 31, 2010.

Amend the bill by replacing section 73 with the following:

73 Repeal. Section 72 of this act, relative to special school district meetings, is repealed.

Amend the bill by replacing section 85 with the following:

85 Shea Farm Transitional Housing Unit; Transfer to Tobey Building. The department of health and human services and department of corrections shall work in consultation to facilitate the transfer of the Shea Farm transitional housing unit to the Tobey building. Notwithstanding

any provision of law to the contrary, all of the functions, positions, powers, duties, responsibilities, and funding for the Shea Farm transitional housing unit and the Tobey building shall be appropriately transferred to allow operation of the transitional housing unit and relocation of programs of the department of health and human services currently residing in the Tobey building. Said transfers shall include, but not be limited to, the use of existing capital and operating budget appropriations to allow for renovations to the Tobey building to ensure its appropriate use, as well as renovations to the Anna Philbrook center if the department of health and human services decides to utilize said facility for office space pursuant to section 83 of this act. The transfers provided in this section shall include all of the equipment, books, papers, and records of the departments necessary for the operation of the facilities.

Amend paragraph IV of section 87 of the bill by it with the following:

IV. The committee shall study the transfer of the population of the youth development center to the lakes region facility located in Laconia, and the transfer of the population of the state prison for women to the current facility of the youth development center as required by section 86 of this act. The committee shall also determine all statutory or administrative rule changes that will be necessary to effectuate said transfers.

Amend the bill by replacing section 94 with the following:

94 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 93 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 93 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by replacing section 102 with the following:

102 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 60-65, 67, 68, and 89-92 shall take effect July 1, 2010.

II. Section 45 and 46 of this act shall take effect June 15, 2010.

III. Section 66 of this act shall take effect November 1, 2012.

IV. Sections 73 and 75 of this act shall take effect July 1, 2011.

V. Sections 95-97 of this act shall take effect January 1, 2011.

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

Floor Amendment #2000h to SB 450-FN
Proposed by Reps. Packard and Kurk

Amend the bill by deleting section 70 and renumbering the original sections 71-104 to read as 70-103, respectively.

Amend the bill by replacing section 74 with the following:

74 Repeal. Section 73 of this act, relative to special school district meetings, is repealed.

Amend the bill by replacing section 76 with the following:

76 Repeal. Section 75 of this act, relative to the special meetings of towns, is repealed.

Amend the bill by replacing section 95 with the following:

95 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 94 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 94 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by deleting sections 99-100 and renumbering sections 101-103 to read as 99-101.

Amend the bill by replacing section 101 with the following:

101 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 62-67, 69, and 90-93 shall take effect July 1, 2010.

II. Section 45 and 46 of this act shall take effect June 15, 2010.

III. Section 68 of this act shall take effect November 1, 2012.

IV. Sections 74 and 76 of this act shall take effect July 1, 2011.

V. Sections 96-98 of this act shall take effect January 1, 2011.

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

Floor Amendment #2001h to SB 450-FN
Proposed by Reps. Packard and Kurk

Amend the bill by deleting sections 52-55 and renumbering the original sections 56-104 to read as 52-100, respectively.

Amend the bill by replacing section 53 with the following:

53 Applicability; Tax on Tobacco Products Other than Cigarettes. Section 52 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products other than cigarettes in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this section. The tax rate effective on the effective date of this section shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be due within 90 days of the effective date of this section. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

Amend the bill by replacing section 62 with the following:

62 Applicability. Sections 58-61 of this act shall apply to taxable periods ending on or after December 31, 2010.

Amend the bill by replacing section 71 with the following:

71 Repeal. Section 70 of this act, relative to special school district meetings, is repealed.

Amend the bill by replacing section 73 with the following:

73 Repeal. Section 72 of this act, relative to the special meetings of towns, is repealed.

Amend the bill by replacing section 83 with the following:

83 Shea Farm Transitional Housing Unit; Transfer to Tobey Building. The department of health and human services and department of corrections shall work in consultation to facilitate the transfer of the Shea Farm transitional housing unit to the Tobey building. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties, responsibilities, and funding for the Shea Farm transitional housing unit and the Tobey building shall be appropriately transferred to allow operation of the transitional housing unit and relocation of programs of the department of health and human services currently residing in the Tobey building. Said transfers shall include, but not be limited to, the use of existing capital and operating budget appropriations to allow for renovations to the Tobey building to ensure its appropriate use, as well as renovations to the Anna Philbrook center if the department of health and human services decides to utilize said facility for office space pursuant to section 81 of this act. The transfers provided in this section shall include all of the equipment, books, papers, and records of the departments necessary for the operation of the facilities.

Amend the bill by replacing section 92 with the following:

92 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 91 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 91 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by replacing section 100 with the following:

100 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 58-63, 65, 66, and 87-90 shall take effect July 1, 2010.
II. Section 45 and 46 of this act shall take effect June 15, 2010.
III. Section 64 of this act shall take effect November 1, 2012.
IV. Sections 71 and 73 of this act shall take effect July 1, 2011.
V. Sections 93-95 of this act shall take effect January 1, 2011.
VI. The remainder of this act shall take effect upon its passage.

Floor Amendment #2003h to SB 450-FN

Proposed by Reps. Packard and Kurk

Amend the bill by deleting sections 91-94 and renumbering the original sections 95-104 to read as 91-100, respectively.

Amend the bill by replacing section 92 with the following:

92 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 91 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 91 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by replacing section 100 with the following:

100 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 62-67, 69, and 70 of this act shall take effect July 1, 2010.

II. Sections 45 and 46 of this act shall take effect June 15, 2010.

III. Section 68 of this act shall take effect November 1, 2012.

IV. Sections 75 and 77 of this act shall take effect July 1, 2011.

V. Sections 93-95 of this act shall take effect January 1, 2011.

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

Floor Amendment #2004h to SB 450-FN
Proposed by Reps. Packard and Kurk

Amend the bill by deleting sections 97-99 and renumbering the original sections 100-104 to read as 97-101, respectively.

Amend the bill by replacing section 101 with the following:

101 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 62-67, 69, 70, and 91-94 shall take effect July 1, 2010.

II. Section 45 and 46 of this act shall take effect June 15, 2010.

III. Section 68 of this act shall take effect November 1, 2012.

IV. Sections 75 and 77 of this act shall take effect July 1, 2011.

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

Floor Amendment #2007h to SB 450-FN
Proposed by Reps. Packard and Kurk

Amend the bill by deleting sections 95 and 96 and renumbering the original sections 97-104 to read as 95-102, respectively.

Amend paragraph V as inserted by section 102 of the bill by replacing it with the following:

V. Sections 95-97 of this act shall take effect January 1, 2011.

Floor Amendment #2016h to SB 450-FN
Proposed by Reps. Packard, Hess, Chandler, Renzullo and W. D. Scamman

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

AN ACT relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, amending the due date for the Medicaid enhancement tax, and making distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares.

Amend the bill by replacing all after section 34 with the following:

35 Taxation of Interest and Dividends; Who Taxable. Amend RSA 77:3, I(b) to read as follows:

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

dividend income from all sources exceeds $2,400 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.

36 Taxation of Interest and Dividends; What Taxable. RSA 77:4, III is repealed and reenacted to read as follows:

III. Dividends, other than stock dividends paid in new stock of the partnership, limited liability company, association, or trust issuing the same, on shares in partnerships, limited liability companies, associations, or trusts the beneficial interest in which is represented by transferable shares.

37 New Sections; Taxation of Interests and Dividends; Partnerships and Limited Liability Companies. Amend RSA 77 by inserting after section 14 the following new sections:

77:14-a Partnerships and Limited Liability Companies. Partnerships and limited liability companies having a usual place of business in this state, any member of which is an inhabitant thereof, shall be subject to taxes imposed by this chapter. If any of the members of the partnership or limited liability company are not inhabitants of this state only so much of the income thereof as is proportionate to the aggregate interest of the partners or members who are inhabitants of this state in the profits of the partnership or limited liability company shall be taxed.

77:14-b Partners and Members. The tax shall be assessed on such a partnership or limited liability company by the name under which it does business, and the partners or members shall not be taxed with respect to the taxable income derived by them from such a partnership or limited liability company.

77:14-c Members of Partnership or Limited Liability Company Outside the State. An inhabitant of this state who is a member of a partnership or limited liability company having no usual place of business in this state, who receives income from such partnership or limited liability company derived from such a source that it would be taxable if received directly from such source by such partner or member, shall as to such income be subject to the taxes imposed by this chapter.

77:14-d Application of Sections. RSA 77:14-a to 14-d shall apply, so far as apt, to associations and trusts, but not to partnerships, limited liability companies, associations, and trusts the beneficial interest in which is represented by transferable shares.

38 Repeal. RSA 77:1-a, relative to definitions, is repealed.

39 Applicability. Sections 35-38 of this act shall apply for taxable periods ending on or after December 31, 2010.

40 Effective Date.

I. Section 5 of this act shall take effect as provided in section 33 of this act.

II. Sections 13, 14, 16, and 35-39 of this act shall take effect July 1, 2010.

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

Floor Amendment #2017h to SB 450-FN
Proposed by Rep. Vaillancourt

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

AN ACT relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, relative to the due date for the Medicaid enhancement tax, and relative to video gaming.

Amend the bill by replacing all after section 34 with the following:

35 New Chapter; Gaming Oversight Authority and Video Lottery. Amend RSA by inserting after chapter 287-G the following new chapter:

CHAPTER 287-H
GAMING OVERSIGHT AUTHORITY AND VIDEO LOTTERY

287-H:1 Definitions. In this chapter:

I. "Centralized data provider" means a provider of centralized gambling data, selected by the gaming oversight authority.

II. "Currency" means legal tender in the form of coins or paper which is officially issued by the United States Treasury, but it does not include any type of credit or debit card.

III. "Facility applicant" means the entity, which will participate and apply for a facility license, as applicable.

IV. "Facility license" means the license issued by the gaming oversight authority to a facility licensee.

V. "Facility licensee" means an applicant who is issued a license by the gaming oversight authority to provide facilities and support to state operated video lottery locations.

VI. "Gaming oversight authority" means the authority established by RSA 287-H:2.

VII. "Net machine income" means all cash or other consideration utilized to play a video lottery machine, less all cash or other consideration paid to players of video lottery machines as winnings. Non cashable promotional credits shall be excluded from the calculation.

VIII. "Technology provider" means any person or entity which designs, manufactures, installs, distributes, or supplies video lottery machines for lease to the state for conducting video lottery games in accordance with this chapter.

IX. "Token" means the coin, which is not legal tender, sold by a cashier in a face amount equal to the currency paid by a player for the sole purpose of playing a video lottery machine at a licensed facility, which can be exchanged for currency at the same facility where the video lottery machines are located, but it does not include any type of credit or debit card.

X. "Video lottery employee" means a person employed by the state in the operation of a video lottery location, including without limitation, cashiers; floormen; machine mechanics; security personnel or inspectors; and supervisors or managers. Video lottery employees shall be hired, fired, trained, managed, and supervised by the division of gaming enforcement.

XI. "Video lottery location" means a state operated facility, within a location provided by the facility licensee, authorized by the local community that contains video lottery machines operated in accordance with this chapter.

XII. "Video lottery machines" means an electronic, mechanical, or computerized machine licensed by the lottery commission, which upon the insertion of bills, coins, tokens, or any representative of value is available to be played where, by chance or skill, or both, the player may receive cash, cash equivalents, or tokens. Video lottery machines include, but are not limited to, slot machines, video poker machines, and other lottery machines. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary. Video lottery machines do not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

287-H:2 Gaming Oversight Authority.

I. There is hereby established the New Hampshire gaming oversight authority. The gaming oversight authority shall consist of the commissioner of the department of safety, the commissioner of the department of resources and economic development, and the commissioner of the department of revenue administration, or their respective designees. The commissioner of the department of safety shall serve as the chairperson of the gaming oversight authority.

II. The gaming oversight authority through delegation to the division of gaming enforcement shall exclusively establish, staff, manage, and operate video lottery locations at facilities licensed under the provisions of this chapter. Facilities provided by the facility licensee shall contain non-gaming resources such as, dining, liquor, hotel, and any other support resource approved by the gaming oversight authority. The facility licensee shall, at a minimum, provide and pay for heat, electricity, water, sewer, maintenance, and security surveillance infrastructure for the video lottery location for which the facility licensee shall receive remuneration pursuant to RSA 287-H:17, III.

287-H:3 Duties of the Gaming Oversight Authority. The gaming oversight authority shall:

I. Issue licenses only after completion of the investigations set forth in this chapter. All license applications shall be approved or denied no later than 150 days from the date of application. No license issued under the provisions of this chapter shall be assigned, transferred, or sold without a complete application and the approval of the gaming oversight authority and payment of a $1,000 application fee. No person or entity may own or have an interest in more than one facility license.

II. Collect all license fees imposed upon any applicant and all fees imposed by this chapter.

III. Certify net machine income by inspecting records, conducting audits, having its agents on site, or by other reasonable means.

IV. Establish a central computer system at a location of its choosing linking all video lottery machines to a central computer to ensure control over the video lottery machines.

V. Enter into lease agreements with up to 3 technology providers to provide video lottery machines to the state. Lease agreements shall provide that the technology provider supply the quantity and quality of video lottery machines determined by the gaming oversight authority in a timely and efficient manner, and shall be paid with a percentage of the net machine income, as provided in RSA 287-H:17, IV. The technology provider shall provide all maintenance and service of its video lottery machines at no additional charge or fee to the state. Each agreement shall also provide that the technology provider shall be required to replace 30 percent of its video lottery machines on a yearly basis.

VI. Establish technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as it may deem necessary to protect the public from fraud or deception and to ensure the integrity of the operation.

VII. No later than November 1 in each calendar year of this program, provide a report to the fiscal committee of the general court regarding the generation of revenue of video lottery machines. Such report shall include any recommendations for legislation and any community concerns.

VIII. Have the authority to issue subpoenas and compel the attendance of witnesses, to administer oaths, and require testimony of witnesses under oath.

IX. Make and keep records of all proceedings of its public meetings. A copy of the transcript shall be made available to any person upon request and payment of the costs of preparing a copy.

X. Keep and maintain a list of all license applicants and a record of all actions taken with respect to each applicant. A file and record of the actions by the gaming oversight authority shall be open to the public.

XI. Maintain such other files and records as it deems necessary. All records maintained by the gaming oversight authority may be maintained in digital format or other technology, provided that such information is capable of being produced in written form.

XII. Maintain the confidentiality of all information and data obtained by the gaming oversight authority. Such information shall not be revealed in whole or in part except as otherwise provided by law, upon the lawful order of a court of competent jurisdiction, lawfully executed and served grand jury subpoenas, or with the approval of the attorney general, to a duly authorized law enforcement agency.

XIII. Provide notice of the contents of any information or data released, except to a duly authorized law enforcement agency or grand jury subpoena pursuant to paragraph XII, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules adopted by the gaming oversight authority.

XIV. If necessary, contract for and procure financial, economic, or security consultants and any other technical and professional services as the authority deem necessary.

XV. Develop and provide an employee training program which shall include, but not be limited to, information on state law, criminal and civil liability, and management practices.

287-H:4 Rulemaking.

I. The gaming oversight authority shall have general responsibility for the implementation of this chapter and shall adopt rules under RSA 541-A relative to:

(a) Hearing and deciding all license applications or recommendations for the suspension or revocation of any license.

(b) Conducting all investigations required with regard to the application, suspension, or revocation of any licensee or applicant.

(c) Conducting hearings pertaining to administrative violations or rules and collecting all penalties assessed under the provisions of this chapter.

(d) Establishing standards and a reasonable fee structure for the licensing and renewal of licenses for technology providers.

(e) Establishing technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as it may deem necessary to protect the public from fraud or deception and to ensure the integrity of operation.

(f) Establishing criteria for licensing, suspension, and revocation and the bidding process under RSA 287-H:12.

(g) The value of prizes, which may be awarded, and the cost of play for each video lottery game played on a video lottery machine, as recommended by the technology provider.

(h) Establishing employee qualifications, training, and background investigations for prospective employees.

(i) Standards for the management, and operation, of all video lottery locations.

II. Pending the adoption of rules under RSA 541-A, and notwithstanding RSA 541-A:2, the gaming oversight authority shall adopt interim rules including provisions for the publication of public notice of the period of time for the submission of facility license applications and after public hearing and within 60 days of the effective date of this chapter. Such interim rules shall automatically expire upon the adoption of rules under RSA 541-A.

287-H:5 Restrictions. No member or employee of the gaming oversight authority, the department of revenue administration, the department of resources and economic development, or the department of safety shall have a fiduciary interest in any technology provider, facility licensee, or centralized data provider.

287-H:6 Licensure of Technology Provider and Centralized Data Provider. No technology provider or centralized data provider shall engage in the business of providing, installing, or repairing video lottery machines used in this program without a license issued by the gaming oversight authority.

287-H:7 Restriction on Technology and Centralized Data Provider. No technology provider or centralized data provider or their employees shall be entitled to operate video lottery machines within the state.

287-H:8 Restriction of Minors.

I. No person under the age of 21 shall play a video lottery machine authorized by this chapter.

II. No member or employee of any video lottery location, department of safety, the attorney general's office**,** or the gaming oversight authority shall knowingly permit a person under the age of 21 to play or participate in any aspect of the playing of a video lottery machine.

III. Each violation of this section shall be punishable by a fine of no more than $1,000 and shall be payable by such person, employee, or facility licensee who violates paragraph I or II. If such violator is a state employee, then the employee shall also be subject to appropriate sanctions in conformance with the adopted policies and procedures of the division of gaming enforcement, and the department of administrative services, division of personnel.

287-H:9 Person Misrepresenting Age.

I. A person who falsely represents his age for the purpose of playing video lottery machines shall be guilty of a misdemeanor. Any person who violates any of the provisions of this section shall be fined for his or her first offense a minimum of $250. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. A second or subsequent offense shall carry a $500 minimum fine.

II. Notwithstanding paragraph I or any other law to the contrary, any person who possesses or uses or displays in any manner an identification card, document, license or any other document which falsely represents such person's age for the purpose of playing video lottery machines shall be fined a minimum of $250. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. The provisions of this paragraph shall not reduce the maximum penalty which may be imposed for such an offense pursuant to paragraph I. A second or subsequent offense shall carry a $500 minimum fine.

III. An identification card issued under the provisions of RSA 260:21 shall be withdrawn for violation of this section for 90 days. In addition, the director of the division of motor vehicles shall withdraw, for 90 days, the identification card of any person who allows his or her card to be used or displayed by another person for the purpose of playing video lottery machines.

287-H:10 Penalty for Tampering or Manipulating. Any person who, with the intent to manipulate the outcome, payoff, or operation of a video lottery machine, manipulates the outcome, payoff, or operation of any video lottery machine by physical, electronic, or mechanical means, shall be guilty of a class A felony.

287-H:11 Video Lottery Machine Requirements.

I. No video lottery machine shall be used to conduct gaming unless it is identical in all electrical, mechanical, and other aspects to a model, which has been specifically tested and licensed for use by the gaming oversight authority.

II. All video lottery machines in operation shall pay out as winnings at least 92 percent on an annual basis.

III. The gaming oversight authority shall establish the days and hours of operation of video lottery locations and shall not be restricted by the facility licensee.

IV. No automatic teller machines shall be located within 150 feet of a video lottery machine.

287-H:12 Licenses; Number of Video Lottery Machines.

I. From the effective date of this chapter, the number of video lottery machines statewide shall be limited to 6,000 to be distributed at the discretion and judgment of the gaming oversight authority.

II. The gaming oversight authority shall issue not more than a total of 6 facility licenses in the state of New Hampshire. Four facility licensees shall have 1,200 video lottery machines and 2 facility licensees shall have 600 video lottery machines. Prior to issuing any facility licenses and when there are fewer than 6 facility licenses, the gaming oversight authority shall issue facility licenses pursuant to the bidding process described in paragraph III. Eligibility shall be based on, but not limited to the following:

(a) Evidence provided by the applicant that the applicant has received any required local approval.

(b) Regional location of prospective facility licensee.

(c) A detailed economic plan, filed with the gaming oversight authority, for the municipality and the surrounding region where the prospective facility licensee is located with supporting documentation to explain the following:

(1) Unemployment in the area.

(2) Direct and indirect employment gain.

(3) Effect on tourism-based economy.

(4) Effect on regional economic development.

(5) Tourist trends.

(d) A business plan, filed with the gaming oversight authority, to support video lottery machines.

(e) Qualifications of those persons who own or manage the prospective licensee facility.

(f) Regional population.

(g) Vehicle traffic.

(h) Total square footage of the facility and total acreage of such facility.

(i) Availability of suitable infrastructure.

(j) Availability of adequate parking.

(k) Other information that the gaming oversight authority may require.

III. Within 60 days of the effective date of this chapter and whenever there are fewer than 6 facility licensees, the gaming oversight authority shall solicit sealed bids through a competitive bidding process for the available facility license or licenses. The minimum bid for the facility licenses for 600 video lottery machines shall be $6,000,000. The minimum bid for the facility licenses for 1200 video lottery machines shall be $12,000,000. If there are more bidders who are equally eligible than the number of available facility licenses, the gaming oversight authority shall conduct a drawing to determine which bidder or bidders will be issued facility licenses. All successful bidders shall pay the balance of the total amount of each bid within 30 days of notification that the bid has been accepted or shall forfeit the gaming facility license.

287-H:13 Application and License Requirements.

I. A facility licensee applicant shall obtain a facility license from the gaming oversight authority. An applicant shall complete and sign an application on the forms prescribed by the gaming oversight authority. The application shall include the full name, residence, date of birth, and other personal identifying information of the applicant, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 3 percent of the legal or beneficial interests of such entity. All such business entities shall be registered with the secretary of state.

II. The gaming oversight authority shall refer applications to the attorney general who shall conduct an investigation. The investigation may be conducted through any appropriate state or federal law enforcement system and may seek information as to the applicant's financial, criminal, or business background, or any other information which the attorney general, in his or her sole discretion, may deem relevant to the subject's fitness to be associated with the ownership or management of the operation of a facility licensee in New Hampshire, including but not limited to, the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. The attorney general shall report the results of the investigation to the gaming oversight authority within 90 days after the receipt of the application. Notwithstanding any other law to the contrary, the results of any such investigation shall be confidential and shall not be subject to disclosure or to public inspection.

III. In any investigation conducted pursuant to paragraph II, the attorney general or any duly authorized member of the attorney general's staff may subpoena the attendance of witnesses and require the production of such correspondence, documents, books, and papers as deemed advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses.

287-H:14 Licensure Requirements.

I. No facility license shall be issued by the gaming oversight authority unless the applicant has proven to the satisfaction of the gaming oversight authority by clear and convincing evidence:

(a) The financial stability based on audited financial statements, integrity, and responsibility, considering, without limitation, bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers.

(b) The trustworthiness and good reputation of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes and other evidences of indebtedness of the applicant.

(c) The good character, honesty and integrity, considering, without limitation, information pertaining to reputation, criminal record, business activities, and financial affairs covering at least the 10-year period immediately preceding the filing of the application.

(d) In addition, no facility license shall be issued by the gaming oversight authority to any applicant unless the applicant has proven to the satisfaction of the gaming oversight

authority by clear and convincing evidence that each director, officer, or similar principal employee and each direct or indirect owner satisfies the standards for licensure contained in RSA 287-H:13.

(e) The gaming oversight authority may, in its discretion, waive the qualification requirement for any such person who is not significantly involved in the activities of the applicant, does not have the ability to significantly influence or control the applicant, or for other good cause, only when written justification is provided.

(f) Except as provided in this chapter, no person who owns, directly or indirectly, legally or beneficially, 5 percent or less of the equity securities or 50 percent or less of the outstanding debt securities of a publicly traded holding company of an applicant for a facility license shall be required to be qualified pursuant to the provisions of this section prior to the issuance of such a license to the applicant.

(g) If a facility licensee has 25 or fewer holders of its equity securities, either directly or indirectly, legally or beneficially, then each such holder shall satisfy the standards of this chapter.

II. No technology provider's license shall be issued by the gaming oversight unless the applicant has demonstrated to the satisfaction of the gaming oversight authority by clear and convincing evidence that it satisfies the standards contained in paragraph I of this section. The gaming oversight authority shall establish the form of application that shall be completed by each applicant for a technology provider's license. Each technology provider license applicant shall be subject to the investigation set forth in RSA 287-H:13 except that all investigatory reports shall be provided to the gaming oversight authority.

III. All information and data required by the gaming oversight authority, or the division of gaming enforcement to be furnished pursuant to this chapter, or which may otherwise be obtained by the gaming oversight authority, or the division of gaming enforcement in the performance of their duties under this chapter, except information regarding net machine income, shall be considered to be confidential and shall not be revealed in whole or in part except as otherwise provided by law, or upon the lawful order of a court of competent jurisdiction, or with the approval of attorney general to a duly authorized law enforcement agency.

IV. No licensee or any individual or entity that is an owner of, or has a financial interest in or with the licensee shall be permitted to make a political contribution as defined by RSA 664:2, VIII.

287-H:15 License and Investigation Fees. A non-refundable license application fee for each class or type of license to be issued under this chapter shall be $1,000. Renewal fees shall be $1,000 for each class or type of license. Upon application for a facility license, the applicant shall pay a one-time fee of 10 percent of the applicant's bid amount under RSA 287-H:12 which will be used by the gaming oversight authority as start-up capital at each location for training and an initial bank. If the facility license applicant is not issued a license under RSA 287-H:12, the one-time application fee shall be returned to the applicant by the gaming oversight authority. If the facility license applicant is issued a license under RSA 287-H:12, the one-time application fee shall be subtracted from the amount of the bid owed by the applicant. Upon issuance of a facility license, the facility licensee shall pay the amount of bid owned to the gaming oversight authority. Fifteen percent of such amount shall be used by the gaming oversight authority as start-up capital at each location for training and an initial bank and 75 percent shall be deposited in the general fund.

287-H:16 Term of License. Any facility license or technology provider's license issued pursuant to this chapter and any renewal thereof shall be valid for 5 years unless earlier suspended or revoked by the gaming oversight authority. All licenses issued under this chapter shall be issued as a privilege and not by right. No person or entity may claim any property right to, or in conjunction with, any license issued under this chapter. The gaming oversight authority shall be informed within 10 days of any anticipated change in ownership or stockholders of a licensee that would normally be subject to investigation and licensing requirements in RSA 287-

H:15. Failure to inform the gaming oversight authority of said anticipated changes shall result in license revocation.

287-H:17 Distribution of Net Income; Machine Income Fund. There is hereby established a machine income fund in the office of the state treasurer to be administered by the state treasurer. The fund shall be nonlapsing and continually appropriated to the state treasurer for the purposes set forth in this section. The state treasurer shall distribute the funds on the fifth of each month as follows:

I. Sixty percent of the net machine income shall be deposited in the general fund.

II. Thirteen percent of the net machine income shall be paid to the gaming oversight authority to be used to pay for the establishment, administration, and operation of the division of gaming enforcement.

III. Eighteen percent of the net machine income shall be paid to the facility licensee as a gross lease.

IV. Six percent of the net machine income shall be paid to the technology provider for the leasing and maintenance of the video lottery machines.

V. Two percent of the net machine income shall be paid to the centralized data provider to carry out the responsibilities outlined in this chapter.

VI. One percent of the net machine income shall be paid to the city or town where the facility licensee facility is located.

287-H:18 Gaming Oversight.

I. The gaming oversight authority or the division of gaming enforcement shall be present at all facility licensee location at which video lottery machines are operated by the state at all times whether the facility is open to the public or not.

II. The division of gaming enforcement shall be present at all times when a video lottery machine is opened to remove or insert any drop box, hopper, or other mechanism containing money, tokens, or other items of value. The division of gaming enforcement shall be present in the count room at all times that money, tokens, or other items of value utilized in video lottery machines are counted.

287-H:19 Hearings; Investigations; False Statement; Enforcement Policy.

I. The gaming oversight authority shall adopt and publish rules pursuant to RSA 541-A, to govern its proceedings and to regulate the mode and manner of all investigations and hearings before it.

(a) All hearings before the gaming oversight authority shall be in accordance with RSA 541-A:31-36. In any such investigation or hearing the gaming oversight authority shall not be bound by the technical rules of evidence.

(b) The gaming oversight authority, or any member, may subpoena witnesses and administer oaths in any proceeding or examination instituted before or conducted by it, and may compel, by subpoena, the production of any accounts, books, contracts, records, documents, memoranda, and papers of any kind whatever.

(c) Witnesses summoned before the superior court, and such summons issued by any justice of the peace shall have the same effect as though issued for appearance before such court. Justices of the peace and all other magistrates empowered to issue subpoenas and compel the attendance of witnesses in the courts of this state shall have the same power to compel their attendance and the production of evidence in any proceeding before the gaming oversight authority.

(d) The gaming oversight authority may apply to the superior court, under the provisions of RSA 491:19-20, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear.

II. If any false statement is knowingly made in any statement under oath which may be required by the provisions of this chapter or by the gaming oversight authority, the person making the same shall be guilty of perjury. The making of any such false statement in any such application or in any such accompanying statements, whether made with or without the

knowledge or consent of the applicant, shall, in the discretion of the gaming oversight authority, constitute sufficient cause for the revocation of the license.

III.(a) The gaming oversight authority shall adopt by rule under RSA 541-A a formal enforcement policy for licensees under its jurisdiction. This policy shall specify the disciplinary action which the gaming oversight authority shall take for violations of various laws under its jurisdiction. The enforcement policy shall also specify mitigating and aggravating factors which the gaming oversight authority shall consider in determining penalties for specific actions. The gaming oversight authority shall not suspend or revoke a license until the licensee has been provided a hearing under RSA 541-A.

(b) In applying its enforcement policy, the gaming oversight authority shall establish and enforce specific penalties for specific offenses. The gaming oversight authority shall not apply penalties such as license suspensions for indefinite periods of time.

287-H:20 Suspension or Revocation; Administrative Fines.

I. If any licensee violates any of the provisions of law or any of the rules of the gaming oversight authority adopted under this chapter, the license may be suspended or revoked after notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other provisions of this chapter, the gaming oversight authority, after the appropriate hearing, may impose a fine of a specific sum, which shall not be less than $1,000 nor more than $50,000 for any one offense. Such a fine may be imposed instead of, or in addition to, any suspension or revocation of a license by the gaming oversight authority.

II. Notwithstanding any other provision of law, the gaming oversight authority may accept at any time, a petition from the governing body of a city or town who has voted to accept the provisions of RSA 287-H, to revoke a license held by a facility licensee who is located within that community. Any petition filed under this paragraph shall state with particularity all relevant facts and circumstances that support the opinion of the petitioner to revoke a license. A licensee against whom a petition is filed shall be entitled to a public hearing before any decision by the gaming oversight authority. All proceedings conducted in conjunction with this paragraph shall conform to the requirements of RSA 541-A.

III. Appeals from a decision of the gaming oversight authority shall be in accordance with RSA 541.

287-H:21 Penalties. Any person who violates any of the provisions of this chapter or any of the rules adopted pursuant to this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. In case of appeal by a licensee, the license of such licensee may be suspended at the discretion of the gaming oversight authority during the pendency of such appeal.

287-H:22 Prosecutions. The gaming oversight authority shall appoint gaming investigators whose primary function shall be the proper prosecution of this chapter. The investigators shall have all the powers of the sheriff in any county, with reference to enforcement of all laws either in cooperation with, or independently of, the officers of any county or town. The gaming oversight authority shall have the primary responsibility for the enforcement of all video lottery gaming. Any person violating the provisions of any law may be prosecuted by the gaming oversight authority or any of its investigators as provided in this section, or by the attorney general, or by county or city attorneys, or by sheriffs or their deputies, or by police officials of towns.

287-H:23 Interference With Gaming Investigators. It shall be unlawful to resist or attempt to resist arrest by a gaming investigator, or to obstruct, or to intimidate or interfere with a gaming investigator in the performance of his or her duty. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.

287-H:24 Fines.

I. All fines imposed by any court and collected for the violation of the provisions of this chapter shall be paid to the state, county, or town, the officials of which instituted the prosecution.

II. All fines imposed by the gaming oversight authority shall be deposited into the general fund.

287-H:25 Procedures for Adoption by Local Community.

I. Any town or city in which a facility licensee location is situated may adopt the provisions of RSA 287-H, to allow the operation of electronic games of chance, in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39:3, and shall be voted on a ballot; provided, however, if the question is placed on the warrant at a special town meeting, it shall be the only question at such special town meeting. In a city, the legislative body may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(b) The selectmen, aldermen, or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be substantially as follows: "Shall we adopt the provisions of RSA 287-H, allowing the operation of electronic games of chance at the licensed facility located within the town and operated by the state?"

II. If a majority of those voting on the question vote "Yes," RSA 287-H shall apply within the city or town.

III. If the question is not approved, the question may later be voted upon according to the provisions of paragraph I, provided, however, that the town may consider the question at no more than one special town meeting and the annual town meeting in the same calendar year.

287-H:26 Declaration of Limited Exemption. Pursuant to section 2 of an act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being Chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that section 2 of that act of Congress shall not apply to any gambling device in this state where the transportation of such a device is specifically authorized by and done in compliance with the provisions of this chapter and any rules adopted pursuant to it, and that any such gambling device transported in compliance with state law and rules shall be exempt from the provisions of that act of Congress.

287-H:27 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

36 New Paragraph; Attorney General; Gaming Investigators. Amend RSA 21-M:3 by inserting after paragraph VII the following new paragraph:

VIII. The attorney general may hire investigators or contract for investigatory services to facilitate background investigations required under RSA 287-H, and said investigators shall be paid from licensing fees paid under RSA 287-H:15.

37 New Sections; Division of Gaming Enforcement. Amend RSA 21-P by inserting after section 8 the following new sections:

21-P:8-a Division of Gaming Enforcement.

I. There is hereby established a division of gaming enforcement under the supervision of an unclassified director of gaming enforcement whom shall be responsible for the following functions, in accordance with applicable laws:

(a) Manage and hire employees for the day-to-day operation of all video lottery locations ensuring the integrity of the program. Gaming enforcement employees shall be assigned to all locations and will be present at all times whether the location is open or closed.

(b) Investigate violations of RSA 284 or RSA 287-H and the rules adopted under the provisions of RSA 284 or RSA 287-H.

(c) Report the results of any investigation conducted to the gaming oversight authority.

(d) Participate in any hearing conducted by the gaming oversight authority.

II. The commissioner of safety shall organize the division into such units as the commissioner deems necessary.

21-P:8-b Powers and Duties; Gaming Enforcement. The director of gaming enforcement shall be the chief administrative officer of the division of gaming enforcement and shall have the following powers and duties:

I. The director shall manage all operations of the division of gaming enforcement and the daily operation of video lottery locations and administer and enforce the laws with which the division is charged. The director shall report directly to the gaming oversight authority.

II. The director shall have every power enumerated in the laws, whether granted to the director, the division, or any administrative unit of the division. In accordance with these provisions, the director shall:

(a) Biennially compile a comprehensive program budget which reflects all fiscal matters related to the operation of the division and each program and activity of the division.

(b) Adopt all rules of the division with approval of the gaming oversight authority, pursuant to RSA 541-A.

(c) Exercise general supervisory and appointing authority over all division employees, subject to applicable personnel statutes and rules.

(d) Delegate authority to subordinates as the director deems necessary and appropriate, except that rulemaking authority shall not be delegated. All such delegations shall be made in writing, shall be disseminated, shall clearly delineate the authority delegated and the limitations thereto, and shall be kept on file in the director's office.

(e) Adopt practices which will improve the efficiency of the division and the provision of services to the citizens of the state.

(f) Provide cooperation, at the request of the heads of administratively attached agencies in order to:

(1) Minimize or eliminate duplication of services and jurisdictional conflicts;

(2) Coordinate activities and resolve problems of mutual concern; and

(3) Resolve by agreement the manner and extent to which the division shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies.

(g) Give bond, and require division directors to give bond, to the state as specified in RSA 93-B.

(h) Where functions of divisions overlap or a function assigned to one division could better be performed by another division, recommend appropriate legislation to the next regular session of the general court.

III. The director shall adopt such reasonable internal practices and procedures, which shall not be considered rules subject to the provisions of RSA 541-A, as may be necessary to carry out the duties of the division and its divisions, consistent with this chapter, including without limitation a comprehensive manual of procedures for the operation of video lottery locations.

IV. The director may not accept, on behalf of the division, any grants of money without first obtaining the express consent of the fiscal committee of the general court established by RSA 14:30-a.

V. The director shall have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure the continuation or granting of federal funds or other assistance not otherwise provided for by law.

VI. The director may enter into contracts for services, supplies, or other needs of the division.

VII. The director shall report annually to the gaming oversight authority with respect to the division's operation for the preceding year, and render such other reports as the governor and council, the general court, or the gaming oversight authority shall from time to time request.

VIII. The director shall develop, publish, and periodically revise an annual comprehensive plan for the division which shall indicate, among other things, the division's goals, objectives, resources, current conditions, and needs. The director shall annually submit such comprehensive plan to the gaming oversight authority.

IX. The director, the gaming oversight authority, the commissioner of the department of safety, and if necessary, the sweepstakes commission shall jointly establish procedures for sharing data, background investigation, technology and technology providers, and facilities. These procedures shall not be considered rules subject to RSA 541-A and shall be established so as to ensure compliance with state and federal confidentiality and privacy laws.

X. If this section conflicts with other powers and duties specifically granted by statute to the director, the specific powers and duties shall control. If this section conflicts with other statutes specifically limiting the powers of the director, the specific limitations shall control.

38 Director of Gaming Enforcement; Salary. The salary for the unclassified position authorized in section 105 of this act shall be established as provided in RSA 14:14-c, RSA 17-A:7, and RSA 94:1-d.

39 New Subparagraph; Authorized Video Lottery of Games of Chance Machines Not Prohibited. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) Video lottery machines authorized pursuant to RSA 287-H.

40 New Subparagraph; Application of Receipts; Machine Income Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (299) the following new subparagraph:

(300) Moneys deposited in the machine income fund established under RSA 287-H:17.

41 New Paragraph; Facility Licensee; Cocktail Lounge License. Amend RSA 178:20, by inserting after paragraph V the following new paragraph:

VI. The liquor commission may issue a special license to a person holding a facility license as defined by RSA 287-H:1, IV. Such special license shall allow the sale of liquor, wine, and beverages within the facility licensee location, including dining room, function room, gaming room, lounge, or any other area designated by the commission, without regard to whether meals are served therein, but only during the time gaming is being conducted under RSA 287-H. A person licensed under this section shall comply with RSA 179:44.

42 Effective Date.

I. Section 5 of this act shall take effect as provided in section 33 of this act.

II. Sections 13, 14, and 16 of this act shall take effect July 1, 2010.

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

Floor Amendment #2027h to SB 450-FN
Proposed by Reps. Packard, Hess and Chandler

Amend the bill by deleting section 49 and renumbering the original sections 50-104 to read as 49-103, respectively.

Amend the bill by replacing section 56 with the following:

56 Applicability; Tax on Tobacco Products Other than Cigarettes. Section 55 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products other than cigarettes in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this section. The tax rate effective on the effective date of this section shall apply to such inventory and the difference, if any, in the amount paid previously on such

inventory and the current effective rate of tax shall be due within 90 days of the effective date of this section. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

Amend the bill by replacing section 65 with the following:

65 Applicability. Sections 61-64 of this act shall apply to taxable periods ending on or after December 31, 2010.

Amend the bill by replacing section 76 with the following:

76 Repeal. Section 75 of this act, relative to the special meetings of towns, is repealed.

Amend the bill by replacing section 86 with the following:

86 Shea Farm Transitional Housing Unit; Transfer to Tobey Building. The department of health and human services and department of corrections shall work in consultation to facilitate the transfer of the Shea Farm transitional housing unit to the Tobey building. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties, responsibilities, and funding for the Shea Farm transitional housing unit and the Tobey building shall be appropriately transferred to allow operation of the transitional housing unit and relocation of programs of the department of health and human services currently residing in the Tobey building. Said transfers shall include, but not be limited to, the use of existing capital and operating budget appropriations to allow for renovations to the Tobey building to ensure its appropriate use, as well as renovations to the Anna Philbrook center if the department of health and human services decides to utilize said facility for office space pursuant to section 84 of this act. The transfers provided in this section shall include all of the equipment, books, papers, and records of the departments necessary for the operation of the facilities.

Amend the bill by replacing section 95 with the following:

95 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 94 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 94 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by replacing section 103 with the following:

103 Effective Date.

I. Sections 10-12, 41-44, 48, 49, 61-66, 68, 69, and 90-93 of this act shall take effect July 1, 2010.

II. Sections 45 and 46 of this act shall take effect June 15, 2010.

III. Section 67 of this act shall take effect November 1, 2012.

IV. Sections 74 and 76 of this act shall take effect July 1, 2011.

V. Sections 96-98 of this act shall take effect January 1, 2011.

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

Floor Amendment #2029h to SB 450-FN

Proposed by Reps. Packard, Hess, Chandler, Renzullo and W. D. Scamman

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

AN ACT making distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares.

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

1 Taxation of Interest and Dividends; Who Taxable. Amend RSA 77:3, I(b) to read as follows:

(b) ***Partnerships, limited liability companies, associations, and*** trusts, the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds $2,400 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.

2 Taxation of Interest and Dividends; What Taxable. RSA 77:4, III is repealed and reenacted to read as follows:

III. Dividends, other than stock dividends paid in new stock of the partnership, limited liability company, association, or trust issuing the same, on shares in partnerships, limited liability companies, associations, or trusts the beneficial interest in which is represented by transferable shares.

3 New Sections; Taxation of Interests and Dividends; Partnerships and Limited Liability Companies. Amend RSA 77 by inserting after section 14 the following new sections:

77:14-a Partnerships and Limited Liability Companies. Partnerships and limited liability companies having a usual place of business in this state, any member of which is an inhabitant thereof, shall be subject to taxes imposed by this chapter. If any of the members of the partnership or limited liability company are not inhabitants of this state only so much of the income thereof as is proportionate to the aggregate interest of the partners or members who are inhabitants of this state in the profits of the partnership or limited liability company shall be taxed.

77:14-b Partners and Members. The tax shall be assessed on such a partnership or limited liability company by the name under which it does business, and the partners or members shall not be taxed with respect to the taxable income derived by them from such a partnership or limited liability company.

77:14-c Members of Partnership or Limited Liability Company Outside the State. An inhabitant of this state who is a member of a partnership or limited liability company having no usual place of business in this state, who receives income from such partnership or limited liability company derived from such a source that it would be taxable if received directly from such source by such partner or member, shall as to such income be subject to the taxes imposed by this chapter.

77:14-d Application of Sections. RSA 77:14-a to 77:14-d shall apply, so far as apt, to associations and trusts, but not to partnerships, limited liability companies, associations, and trusts the beneficial interest in which is represented by transferable shares.

4 Repeal. RSA 77:1-a, relative to definitions, is repealed.

5 Applicability. This act shall apply for taxable periods ending on or after December 31, 2010.

6 Effective Date. This act shall take effect July 1, 2010.

Floor Amendment #2036h to SB 450-FN
Proposed by Rep. Winters

Amend the bill by deleting section 88 and renumbering the original sections 89-104 to read as 88-103, respectively.

Amend the bill by replacing section 88 with the following:

88 Committee to Study the Youth Development Center and State Prison for Women.

I. There is established a committee to study the feasibility of the transfer of populations of the youth development center and the state prison for women.

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

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

(b) Two members of the senate, appointed by the president of the senate.

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

IV. The committee shall study the feasibility of the transfer of the population of the youth development center to the lakes region facility located in Laconia, and the feasibility of the transfer of the population of the state prison for women to the current facility of the youth development center. The committee shall study the cost effectiveness of such transfers and determine all statutory or administrative rule changes that will be necessary to effectuate the transfers.

V. 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.

VI. 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, 2010.

Amend the bill by replacing section 94 with the following:

95 Applicability. The provisions of RSA 400-A:32, I(a) as amended by section 94 of this act shall apply to tax periods of authorized insurers beginning after June 30, 2009. Any additional premium tax liability due to the amendment to RSA 400-A:32, I(c) by section 94 of this act shall be paid in full to the insurance commissioner by June 15, 2010.

Amend the bill by replacing section 103 with the following:

103 Effective Date.

I. Sections 10-12, 41-44, 48, 50, 62-67, 69, 70, and 90-94 shall take effect July 1, 2010.

II. Section 45 and 46 of this act shall take effect June 15, 2010.

III. Section 68 of this act shall take effect November 1, 2012.

IV. Sections 75 and 77 of this act shall take effect July 1, 2011.

V. Sections 96-98 of this act shall take effect January 1, 2011.

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

Floor Amendment #1982h to SB 455-FN
Proposed by Reps. W. O'Brien, Chandler, Itse, Ulery and W. Smith

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

AN ACT relative to nullification of federal health care reform 2010.

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

1 New Chapter; Nullification of Federal Health Care Reform 2010. Amend RSA by inserting after chapter 420-K the following new chapter:

CHAPTER 420-L
FEDERAL HEALTH CARE REFORM 2010 NULLIFICATION

420-L:1 Purpose and Scope. The general court of the state of New Hampshire finds that:

I. The people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes, and nothing more.

II. The Tenth Amendment to the United States Constitution defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves.

III. Part First, Article 7 of the New Hampshire constitution, which predates the United States Constitution, declares that "the people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State and that they shall exercise and enjoy every power, jurisdiction and right pertaining thereto which is not or may not hereafter be by them expressly delegated to the United States of America in Congress assembled."

IV. The people of the state of New Hampshire have never delegated to the United States of America any power, jurisdiction and right other than those expressly enumerated in Article I, Section 8, Clauses 2 through 17 of the United States Constitution.

V. The assumption of power that the federal government has made by enacting the "Patient Protection and Affordable Care Act" interferes with the right of the people of the state of New Hampshire to regulate health care as they see fit, and contradicts James Madison's assurance in Federalist #45 that the "powers delegated" to the federal government are "few and defined," while those of the states are "numerous and indefinite."

420-L:2 Nullification Of Federal Health Care Reform 2010.

I. The general court of the state of New Hampshire declares that the federal law known as the "Patient Protection and Affordable Care Act," signed by President Barack Obama on March 23, 2010, is not authorized by the Constitution of the United States and violates its true meaning and intent as given by the Founders and Ratifiers, and is hereby declared to be invalid in this state, shall not be recognized by this state, is specifically rejected by this state, and shall be considered null and void and of no effect in this state.

II. It shall be the duty of the general court of this state pursuant to Part First, Article 7 of the constitution of New Hampshire to adopt and enact any and all measures as may be necessary to prevent the enforcement of the "Patient Protection and Affordable Care Act" within the limits of this state.

III. It shall be the duty of the executive branch of this state pursuant to Part First, Article 7 of the Constitution of New Hampshire to adopt and take all measures as may be necessary to prevent the enforcement of the "Patient Protection and Affordable Care Act" within the limits of this state.

IV. Any official, agent, or employee of the United States government or any employee of a corporation, association, or organization providing services to the United States government who enforces or attempts to enforce an act, order, law, statute, rule, or regulation of the government of the United States in violation of this act shall be guilty of a class B felony and upon conviction shall be punished by a fine not exceeding $4,000, or a term of imprisonment, or both.

V. Any official, agent, or employee of the state of New Hampshire who enforces or attempts to enforce an act, order, law, statute, rule, or regulation of the government of the United States in violation of this act shall be guilty of a misdemeanor.

420-L:3 Private Cause of Action. Any aggrieved party shall have a private action against any person violating the provisions of RSA 420-L:2, IV or RSA 420-L:2, V and in such action shall be entitled to receive his or her actual damages or damages of five $5,000 for each violation, whichever is greater, together with his or her attorney's fees.

2 Effective Date. This act shall take effect September 23, 2010.

AMENDED ANALYSIS

This bill renders null and void federal health care reform 2010.

Floor Amendment #1986h to SB 480
Proposed by Reps. Rowe and W. O'Brien

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

1 Duties of Commissioner. Amend RSA 21-O:3, VIII to read as follows:

VIII. Provide all necessary clerical and technical support [~~requested by~~] ***to*** any council established by this chapter. At a minimum, the commissioner shall:

(a) ***For any appeal from a department decision before any such council*** provide all necessary clerical and support personnel and services in order to:

(1) Prepare notices and other documents required under RSA 541-A [~~as directed by the particular council~~] and distribute such notices and documents [~~upon the approval of the particular council involved~~] ***as directed by the hearing officer appointed under RSA 21-O:14, VI***;

(2) Schedule the conduct of all council administrative appeal proceedings, [~~with the approval of the particular council~~] ***as directed by the hearing officer appointed under RSA 21-O:14, VI*** so as to ensure timely and efficient conduct of such proceedings;

(3) Prepare and maintain the record, required by RSA 541-A, of all [~~adjudicative proceedings conducted by councils~~] ***such appeals, which shall include the decisions issued in such proceedings***.

(b) Provide comfortable and adequate space for the use of all councils in performing their official duties; and

(c) [~~Prepare, maintain as a public record, and continuously update a document which shall summarize the findings and decisions of all councils supported by the department.~~]
Provide all necessary clerical and support personnel and services in order to:

(1) Prepare and distribute notices and other documents required under RSA 91-A for council meetings; and

(2) Prepare and maintain as public records the official minutes of the meetings of all councils supported by the department.

2 Wetlands Council. Amend RSA 21-O:5-a, V to read as follows:

V. The wetlands council shall hear [~~and decide~~] all ***administrative*** appeals from department decisions [~~relative to the functions and responsibilities of the department which relate to~~] ***made under RSA 482-A relative to*** wetlands [~~and protected shorelands~~], ***or under RSA 483-B relative to shoreland protection and shall decide all disputed issues of fact in such appeals***, in accordance with [~~rules adopted by the council~~] ***RSA 21-O:14***.

3 Water Council. Amend RSA 21-O:7, IV to read as follows:

IV. The water council shall hear [~~and decide~~] all ***administrative*** appeals from department decisions relative to the functions and responsibilities of ***within the expertise of*** the division of water other than department decisions made under RSA 482-A relative to wetlands[~~,~~] and RSA 483-B relative to shoreland protection, ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

4 Waste Management Council. Amend RSA 21-O:9, V to read as follows:

V. The waste management council shall hear [~~and decide~~] all ***administrative*** appeals from department decisions relative to the functions and responsibilities of the division of waste management, ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

5 Air Resources Council. Amend RSA 21-O:11, IV to read as follows:

IV. The air resources council shall hear [~~and decide~~] all ***administrative*** appeals from department decisions relative to the functions and responsibilities of the division of air resources ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

6 Administrative Appeals. Amend RSA 21-O:14 to read as follows:

21-O:14 Administrative Appeals.

I. For purposes of this chapter, "department decision" means the final action on an application, petition, order or request taken by the commissioner or any department official who has statutory authority to make such final decision or to whom the commissioner has properly delegated the authority to take such final action. "Department decision" shall not mean rulemaking or an agency declaratory ruling as provided for in RSA 541-A, and shall not include any decisions of [~~the wetlands~~] ***any*** council.

II. Any person aggrieved by a department decision may, in addition to any other remedy provided by law, appeal to the council having jurisdiction over the subject matter of the appeal. On any such appeal, the council shall determine whether the department decision was unlawful or unreasonable by reviewing the administrative record together with any evidence and testimony the parties to the appeal may present.

[~~II.~~] ***III. Appeal*** hearings before [~~all~~] ***any*** [~~councils~~] ***council*** established by this chapter shall be conducted in accordance with the provisions of RSA 541-A governing adjudicative proceedings ***by an administrative hearing officer assigned by the commissioner, under RSA 21-O:14, VI. All issues shall be determined as specified in RSA 21-O:14, VII.***

[~~III.~~] ***IV.*** Persons aggrieved by the disposition of administrative appeals before any council established by this chapter may appeal such results in accordance with RSA 541.

[~~IV.~~] ***V.*** The councils established under this chapter [~~may~~] ***shall*** adopt rules under RSA 541-A to govern the conduct of administrative appeals under this section. ***To the extent possible, the rules of the councils shall be consistent with each other.***

VI. The commissioner of the department of environmental services shall appoint one or more individuals to serve as a hearing officer for appeals to any of the councils

established under this chapter. The commissioner of the department of environmental services may transfer funds sufficient to fund the hearing officer position and related expenses. Such individual or individuals shall:

(a) Be qualified by education and experience in the conduct of administrative adjudicative hearings and the application of law to facts; and

(b) Be fully screened by the commissioner of the department of environmental services from any attorney representing the department; and

(c) Not be associated by agency employment or co-representation with counsel for the department of environmental services of any other party to the appeal.

VII. When designated as the hearing officer for a particular appeal, the hearing officer shall:

(a) Regulate all procedural aspects of a proceeding, including presiding over the hearing and any prehearing conferences;

(b) Adopt all findings of fact made by the council except to the extent any such finding is without evidentiary support in the record;

(c) Deliberate with the council before reaching conclusions on mixed questions of law and fact;

(d) Decide all questions of law presented during the pendency of the appeal; and

(e) Prepare and issue written decisions on all motions and on the merits of the appeal within 90 days of the conclusion of the hearing on the merits, provided that the hearing officer shall provide the council with a proposed written decision on the merits within 45 days of the conclusion of the hearing on the merits and shall not issue the decision until after the council has held a meeting at which the proposed decision can be discussed and adopted.

VIII. The hearing officer may, upon the request of any party to the proceeding, and only to the extent reasonably necessary for the determination of matters within the council's jurisdiction, subpoena witnesses for purposes of discovery as may be allowed by the council's rules and to provide testimony at any hearing conducted under this chapter. Any costs associated with the issuance of any subpoena issued by the hearing officer shall be paid by the party requesting the subpoena.

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

AMENDED ANALYSIS

This bill allows the various councils in the department of environmental services to hear appeals in their subject areas.

Floor Amendment #1971h to SB 497-FN-A
Proposed by Reps. Sapareto, Major, Weyler and Hess

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

1 Purpose. The legislature finds that:

I. Small businesses are the lifeblood of the New Hampshire economy and are the most important source of jobs for residents of New Hampshire.

II. Recent increases in audits of small businesses in which small business owners are not allowed to deduct the full and fair value of their services to their small business in determining the business profits tax liability of the business have undermined New Hampshire's ability to provide a sound and encouraging environment for small business growth.

III. Good tax policy requires tax rules that provide taxpayers with clear guidance, encourage compliance, and enhance the competitiveness of our economy.

IV. Section 2 of this act clarifies important business profits tax rules that apply to small businesses, eliminates costly and inefficient audits, and restores New Hampshire's ability to encourage small business growth and the good jobs these businesses create.

2 Clarify Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted as follows:

III.(a) In the case of a proprietorship, partnership, or limited liability company filing a business profits tax return as a proprietorship or a partnership, a deduction equal to a fair and reasonable compensation for the personal services of a natural person who is a proprietor, partner, or member provided to the business organization, provided, however, that the amount of such deduction shall not exceed such business organization's gross business profits. The purpose of this paragraph is to permit a deduction from gross business profits of such a proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to the personal services of the proprietor, partner, or member. Such amounts shall generally include all amounts reported as earned income on federal tax returns, but shall also include amounts attributable to personal services provided in connection with the operation and rental of real property, the sale of property and services, and other amounts due to services rendered.

(b) A taxpayer claiming a deduction under this paragraph shall bear the burden of proving that at least one or more proprietors, partners, or members provided actual services to the business organization at any time during the taxable period. Once a taxpayer has satisfied this burden of proof, the amount claimed as a deduction shall be presumed to be reasonable, unless the commissioner proves by a preponderance of the evidence that the deduction claimed by the taxpayer is grossly excessive.

3 Taxation of Interest and Dividends. RSA 77:1 is repealed and reenacted to read as follows:

77:1 Imposition of Tax. A tax is imposed at the rate of 5 percent upon the interest and dividend income of every taxable individual.

4 Taxation of Interest and Dividends; Definitions. RSA 77:1-a is repealed and reenacted to read as follows:

77:1-a Definitions. In this chapter:

I. "Taxable individual" means any individual who is an inhabitant or resident of this state for any part of the taxable year.

II. "Dividend" means any item of federal gross income which is treated as a dividend under the provisions of the United States Internal Revenue Code.

III. "Interest" means all amounts treated as interest under the provisions of the United States Internal Revenue Code, except interest from notes or bonds of this state and notes and bonds of any political subdivision of this state.

5 References Deleted. 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 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~~] ***this chapter***, 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.

6 Reference Deleted. Amend RSA 77:4-d to read as follows:

77:4-d Dividends Earned on Certain Mutual Funds and Distributions Received on Unit Investment Trusts Not Taxable. [~~Notwithstanding any provisions of RSA 77:4 to the contrary,~~] The dividends earned by an investor in a mutual fund or the income earned or distributions received by an investor in a unit investment trust which invests solely in New Hampshire tax-exempt tax anticipation notes, bond anticipation notes and other instruments exempt under New Hampshire law shall not be taxable under this chapter.

7 Reference Deleted. Amend RSA 77:4-e to read as follows:

77:4-e Interest and Dividends 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.

8 References Changed. Amend RSA 77:18, II to read as follows:

II. At the same time the return is filed, as required by paragraph I of this section, every [~~taxpayer~~] ***taxable individual*** as defined in RSA [~~77:3~~] ***77:1-a, I*** shall, in addition, file a declaration of its estimated tax for its subsequent taxable period; provided, however, that if the estimated tax is less than $500, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which the annualized estimated tax exceeds $500.

9 Reference Deleted. Amend RSA 77:24-b to read as follows:

77:24-b Corrections. Each taxpayer shall report to the commissioner of revenue administration any change in the amount of the taxpayer's income [~~as defined by RSA 77:4~~] as finally determined by the United States Internal Revenue Service with respect to any beneficial interest for which the taxpayer has made a return under this chapter. Such a report shall be made not later than 6 months after the taxpayer has received notice that such change has been finally determined. Notwithstanding any other provision of law, a taxpayer reporting a correction pursuant to this section shall be given notice by the department of any adjustment to the tax due with respect to such correction within 6 months after the filing of the report.

10 Reference Changed. Amend RSA 77-A:5-b, II(b) to read as follows:

(b) The names, addresses, and federal taxpayer identification numbers of the holders of such qualified investment company and the amount, if any, of their proportional share of the income required to be included in such holder's New Hampshire tax return under RSA [~~77:4, V~~] ***77*** and RSA 77-A:4, XV.

11 Reference Changed. Amend RSA 391:3 to read as follows:

391:3 Taxability. A common trust fund shall not constitute a taxable entity within the meaning of RSA 77. Each estate having a participating interest in a common trust fund shall include in its return its proportionate share of any taxable income [~~of the classes described in RSA 77:4~~] ***under RSA 77***, received by such common trust fund, whether or not such income is distributed by the common trust fund.

12 Repeal. The following are repealed:

I. RSA 77:3, relative to taxable persons.

II. RSA 77:3-a, relative to limited liability companies.

III. RSA 77:4, relative to taxable income.

IV. RSA 77:4-c, relative to transferable shares.

V. RSA 77:6, relative to income from pledged property.

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

VII. RSA 77:8, relative to certain non-taxable income.

VIII. RSA 77:9, relative to decedents' estates.

IX. RSA 77:10, relative to income from trusts.

X. RSA 77:11, relative to accumulations.

XI. RSA 77:12, relative to nonresident trustees.

XII. RSA 77:13, relative to guardians.

XIII. RSA 77:17-a, relative to small business corporation reports.

13 Applicability.

I. Section 2 of this act shall apply with respect to taxable periods ending on or after June 30, 2010.

II. Sections 3-12 of this act shall apply with respect to taxable periods ending on or after December 31, 2010.

14 Effective Date.

I. Sections 2 of this act shall take effect June 30, 2010.

II. Sections 3-12 of this act shall take effect December 31, 2010.

III. The remainder of this act shall take effect 60 days after its passage.

Floor Amendment #2014h to SB 497-FN-A
Proposed by Reps. Packard, Hess, Chandler, Renzullo and Major

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

AN ACT making distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares.

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

1 Taxation of Interest and Dividends; Who Taxable. Amend RSA 77:3, I(b) to read as follows:

(b) ***Partnerships, limited liability companies, associations, and*** trusts, the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds $2,400 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.

2 Taxation of Interest and Dividends; What Taxable. RSA 77:4, III is repealed and reenacted to read as follows:

III. Dividends, other than stock dividends paid in new stock of the partnership, limited liability company, association, or trust issuing the same, on shares in partnerships, limited liability companies, associations, or trusts the beneficial interest in which is represented by transferable shares.

3 New Sections; Taxation of Interests and Dividends; Partnerships and Limited Liability Companies. Amend RSA 77 by inserting after section 14 the following new sections:

77:14-a Partnerships and Limited Liability Companies. Partnerships and limited liability companies having a usual place of business in this state, any member of which is an inhabitant thereof, shall be subject to taxes imposed by this chapter. If any of the members of the partnership or limited liability company are not inhabitants of this state only so much of the income thereof as is proportionate to the aggregate interest of the partners or members who are inhabitants of this state in the profits of the partnership or limited liability company shall be taxed.

77:14-b Partners and Members. The tax shall be assessed on such a partnership or limited liability company by the name under which it does business, and the partners or members shall not be taxed with respect to the taxable income derived by them from such a partnership or limited liability company.

77:14-c Members of Partnership or Limited Liability Company Outside the State. An inhabitant of this state who is a member of a partnership or limited liability company having no usual place of business in this state, who receives income from such partnership or limited liability company derived from such a source that it would be taxable if received directly from such source by such partner or member, shall as to such income be subject to the taxes imposed by this chapter.

77:14-d Application of Sections. RSA 77:14-a to 77:14-d shall apply, so far as apt, to associations and trusts, but not to partnerships, limited liability companies, associations, and trusts the beneficial interest in which is represented by transferable shares.

4 Repeal. RSA 77:1-a, relative to definitions, is repealed.

5 Applicability. This act shall apply for taxable periods ending on or after December 31, 2010.

6 Effective Date. This act shall take effect July 1, 2010.

AMENDED ANALYSIS

This bill makes distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares.

Floor Amendment #1992h to SB 503
Proposed by Rep. Kurk

Amend RSA 193-E:5, I as inserted by section 3 of the bill by replacing all after subparagraph (m) with the following:

(n) Nothing in this chapter shall prohibit institutions in the university system of New Hampshire and the community college system of New Hampshire from exchanging data between themselves without the consent or involvement of the department of education.

Floor Amendment #2028h to SB 503
Proposed by Rep. Ingbretson

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

1 Delivery of an Adequate Education. Amend RSA 193-E:3 to read as follows:

193-E:3 Delivery of an Adequate Education.

I. Annually, beginning with the 2002-2003 school year, each school district shall report data to the department of education at the school and district levels on the indicators set forth in this paragraph. ***The report shall not contain personally identifiable information including but not limited to, name, date of birth, gender, or social security number.*** The department of education shall develop a reasonable schedule to phase-in the reporting of new data required by federal law. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Indicators shall include the following areas:

(a) Attendance rates.

(b) Annual and cumulative drop-out rates of high school pupils and annual drop-out rates for pupils in grades 7 and 8.

(c) School environment indicators, such as safe-schools data.

(d) Number and percentage of graduating pupils going on to post-secondary education, military service, and advanced placement participation.

(e) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.

(f) Expulsion and suspension rates, including in-school and out-of-school suspensions, which shall be reported for each school year.

(g) Number and percentage of classes taught by highly qualified teachers.

(h) Teacher and administrative turnover rates at the school and district levels.

(i) Pupil course information.

II.***(a)*** The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

(b) The department of education shall obtain prior approval from the board of trustees of the university system of New Hampshire or the community college system of New Hampshire, or both, if necessary, to determine additional indicators applicable to postsecondary institutions within their respective jurisdictions which are not required under paragraph VI.

III.***(a)*** Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles" and shall be made available at every school administrative unit for public review. It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall

be provided for all data reported. Comparisons of each district and school to itself based on its own statewide improvement and assessment performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement plan.

(b) Beginning with the annual report issued in 2013, the department of education shall include data provided by early childhood programs, districts, and postsecondary institutions.

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major ***ethnic,*** racial***,*** and multi-racial groups.

V. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in [~~paragraph~~] ***paragraphs*** I***, VI, and VII*** [~~and all enrollment and cost data related to determining the cost of an adequate education~~].

VI.(a) Annually, beginning with the 2011-2012 school year, each postsecondary institution as defined in RSA 193-E:4 shall submit a report, which shall contain no personally identifiable information including, but not limited to, name, date of birth, gender, or social security number, to the department of education containing information on indicators in the following areas:

(1) Remedial education courses.

(2) Entry, withdrawal, and transfers.

(3) Degrees and certificates granted.

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to such data solely to conduct studies, track and report annual and longitudinal pupil outcomes, and improve postsecondary readiness, retention, and articulation between educational institutions.

(c) The state board of education, in consultation with the university system of New Hampshire board of trustees and the community college system of New Hampshire board of trustees shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

VII.(a) Annually, beginning with the 2011-2012 school year, each early childhood program as defined in RSA 193-E:4 shall submit a report, which shall contain no personally identifiable information including, but not limited to, name, date of birth, gender, or social security number, to the department of education containing information on indicators in the following areas:

(1) Program participation.

(2) Entry, exit, and type of program.

(3) Participant demographics as identified in RSA 193-E:3, IV.

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to data solely to conduct studies, track and report annual and longitudinal pupil outcomes, and improve education programs.

(c) The state board of education, in consultation with the department of health and human services, shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

2 Unique Pupil Identification; Definitions. RSA 193-E:4 is repealed and reenacted to read as follows:

193-E:4 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of education.

II. "Data warehouse" means any electronic system operated by the department of education that maintains the information about public school pupils as set forth in RSA 193-E:3, I, VI, and VII. The data warehouse shall not contain the name, address, telephone number, e-mail address, social security number, or any other personally identifiable information about any pupil.

III. "District" means a New Hampshire public school district.

IV. "District of origin" means the district in which the pupil resides at the point at which the pupil first enters the New Hampshire educational system, whether in an early childhood program, district, or postsecondary education level.

V. "Early childhood program" means a preschool or childcare program receiving Head Start or child care scholarship funds, whether licensed or exempt from licensing, or a preschool program operated by a district.

VI. "Postsecondary institution" means the university system of New Hampshire or the community college system of New Hampshire.

VII. "Random number generator" means the electronic system that creates unique public school pupil identification numbers and assigns a unique public school pupil identification number to a pupil when an early childhood program, a district, or a postsecondary institution enters a public school pupil's name, date of birth, town of birth, and gender. The system shall maintain that information and the name of the district of origin, and no other information. This system shall not retain the unique pupil identification number.

VIII. "Unique pupil identifier" means a randomly generated number assigned to an early childhood program pupil, a district pupil, or postsecondary institution pupil in order to gather pupil level data.

IX. "Unique pupil identification system" means an electronic system comprised of the data warehouse and the random number generator.

3 Unique Pupil Identification. Amend RSA 193-E:5 to read as follows:

193-E:5 Unique Pupil Identification.

I. The department of education shall, using federal funds only, implement and maintain a unique ***public school*** pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil including [~~but not limited to~~] name[~~, date of birth, gender, or~~] ***and*** social security number, shall be collected or maintained by the state [~~in such a manner as to allow such information to be connected with the unique pupil identifier~~]. Under no circumstances shall the department of education [~~obtain or use~~] ***include*** a social security number [~~as an identifier for any pupil, or use unique pupil identifiers except in connection with the data warehouse and such use shall not be accessible to the public~~] ***in the data warehouse***.

(b) [~~The random number generator shall make available to each school district a unique pupil identifier for each pupil enrolled in a New Hampshire public school~~]. The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, ***early childhood program,*** [~~school~~] district, ***postsecondary institution,*** sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be requested ***from the pupil or the random number generator*** and maintained by the ***early childhood program,*** [~~local school~~] district***, or postsecondary institution***. The unique pupil identifier shall ***be requested when the pupil enrolls and shall*** remain in the pupil's file throughout his or her [~~elementary and secondary~~] academic career in New Hampshire. ***A postsecondary institution may obtain a unique pupil identifier for any pupil for whom such identifier does not already exist, but shall not enter the pupil's information into the data warehouse.***

(d) Access to the random number generator shall be limited to ***an early childhood program director,*** a ***district*** superintendent or designee, ***or a postsecondary institution***

registrar or designee, and only for pupils enrolled in that ***early childhood program,*** [~~school administrative unit~~] ***district, or postsecondary institution***. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The random number generator shall create and maintain a comprehensive audit trail for all users accessing the [~~system~~] ***random number generator***.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind***, except as provided in subparagraph I(c)***. Any person or entity [~~violating~~] ***who knowingly violates*** the provisions of this [~~paragraph~~] ***subparagraph*** shall be liable for actual damages or $25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this [~~paragraph~~] ***subparagraph***.

(h) If a pupil's records become part of an administrative action outside of the pupil's [~~school~~] ***early childhood program,*** district, ***or postsecondary institution,*** or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the [~~school~~] ***early childhood program,*** district***, or postsecondary institution*** prior to release.

(i) The information maintained in the data warehouse, except for the unique pupil identifier, shall be available to the department of education and to the public using the [~~same database~~] ***data*** maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to the [~~department of education or to the~~] public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) ***The department of education shall provide*** no personally identifiable information ***collected pursuant to this chapter***, including but not limited to name, date of birth, gender, or social security number, [~~shall be provided~~] to any person or entity absent a court order[~~, and~~]**.** Under no circumstances shall ***such*** personally identifiable information be provided to any person or entity outside of New Hampshire ***without permission from the pupil or the pupil's legal guardian***. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(m) Early childhood programs not receiving Head Start or Child Care scholarship funds, private schools comprised of kindergarten through grade 12, and all private postsecondary institutions may participate in the data warehouse and random number generator. Participating early childhood programs may volunteer to include data for pupils for which Head Start or Child Care scholarship funds are not received. For the purposes of this section, such voluntary participating early childhood programs shall be included in the definition set forth in RSA 193-E:4.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:7 shall perform any revisions to this section through legislation filed for that purpose.

III. Any contracts or agreements necessary to implement the provisions of this section shall be approved by the governor with the consent of the executive council, and the fiscal committee established in RSA 14:30-a.

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