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Contains: Corrected Committee Report and Amendments

ADDENDUM TO HOUSE CALENDAR NO. 32

CORRECTED COMMITTEE REPORT

MUNICIPAL AND COUNTY GOVERNMENT

SB 237, (New Title) relative to the definition of “abutter” for notice of land use board hearings. **INEXPEDIENT TO LEGISLATE.**

Rep. Kris E Roberts for Municipal and County Government. This bill redefines the definition of “abutting property” for notification of hearings by the land use board, when that property abuts a condominium or other collectively owned property. Currently under RSA 356-B:3, XXIII, such notifications are sent to the officers of the collective or condominium association. SB 237 would require each unit owner be sent notification if the condominium association or collective form of ownership has 100 units or less. It was stated that owners of condominiums are being treated unfairly when it comes to notice of land use board hearings. The passage of this bill would in fact create a greater unfairness to current single property owners because of the limited property line restrictions. For example, in the case of a property abutting a manufactured housing park as defined in RSA 205-A:1, II, the term “abutter” includes the manufactured housing park owner and only the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board. It was repeatedly stated that the officers of the collective and condominium associations failed to forward notice of land use board hearings to all the owners. There seems to be no reason why any notice of land use board hearings couldn’t be posted in a central location for all to see. The committee strongly felt that as property owners each person had a personal responsibility to keep current with local issues that could affect their property values. **Vote 19-1.**

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

**Floor Amendment to SB 366-FN-A-LOCAL
(2014-1463h)**

Proposed by Reps. D. McGuire and Emerick

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

AN ACT relative to video lottery gaming.

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

1 Statement of Purpose. The general court finds that:

I. Regulation of all forms of gaming is vitally important to the economy of the state and the general welfare of New Hampshire citizens.

II. By virtue of New Hampshire’s unique location, natural resources, and development, tourism is a critically important and valuable asset in the continued viability of the state and strength of its communities.

III. New Hampshire has an interest in promoting economic recovery, small business development, tax relief, and job creation, as soon as possible, through the development of regulated gaming in order to preserve the quality of life for New Hampshire residents.

IV. New Hampshire has an interest in ensuring the financial stability and integrity of gaming operations in the state.

V. Any license issued or permission granted pursuant to the provisions of RSA 284-B is a revocable privilege and no holder acquires any vested right in such license or permission.

2 New Chapter; Video Lottery Machines. Amend RSA by inserting after chapter 284-A the following new chapter:

CHAPTER 284-B

VIDEO LOTTERY MACHINES

284-B:1 Definitions. In this chapter:

I. "Affiliated" means a person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

II. "Applicant" means any person who applies to the lottery commission for a license, certification, registration or qualification under this chapter, and includes any such person.

III. "Associated equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used in connection with video lottery machines, including linking devices, replacement parts, equipment which affects the proper reporting of gross revenue.

IV. "Cash" means United States currency and coin or foreign currency and coin that have been exchanged for its equivalent in United States currency and coin.

V. "Cash equivalent" means an asset that is readily convertible to cash, including, but not limited to, any of the following:

(a) Travelers checks.

(b) Certified checks, cashier's checks, and money orders.

(c) Personal checks or drafts.

(d) Credit extended by the gaming licensee, a recognized credit card company, or a banking institution.

(e) Any other instrument that the New Hampshire lottery commission deems a cash equivalent. Other than recognized credit cards or credit extended by the gaming licensee, all instruments that constitute a cash equivalent shall be made payable to the gaming licensee, to the bearer, or to cash. An instrument made payable to a third party shall not be considered a cash equivalent.

VI. "Central computer system" means a central monitor and control system provided and monitored by the lottery commission to which video lottery terminals communicate for purposes of information retrieval, retrieval of the win and loss determination from video lottery machines, and programs to activate and disable video lottery machines.

VII. "Charitable gaming" means games of chance and other gaming as permitted under RSA 287-A, RSA 287-D, and RSA 287-E.

VIII. "Gaming" means the operation of video lottery machines.

IX. "Gaming applicant" means the person applying for approval by the lottery commission as a gaming licensee.

X. "Gaming employee" means a person employed in the operation of a gaming location whose employment duties and responsibilities involve the security, maintenance, servicing, repair, or operation of video lottery machines. Such employees shall include, without limitation, floorpersons, video lottery machine personnel, video lottery machine technicians, security and surveillance employees, data processing personnel, employees responsible for handling assets and proceeds associated with the operation of gaming activity, and employees that have input into data regarding complementaries.

XI. "Gaming license" means the license issued to a gaming licensee to operate video lottery machines at a gaming location pursuant to this chapter.

XII. "Gaming licensee" means the person or entity licensed by the lottery commission to possess, conduct, and operate video lottery machines at a gaming location.

XIII. "Gaming location" means the premises approved under a gaming license which includes the land, buildings, structures, and any portion thereof approved by the lottery commission as the gaming area and any nongaming structure related to the gaming area.

XIV. "Holding company" means any corporation, association, firm, partnership, trust, or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation or other form of business organization which holds or applies for a gaming license or technology provider license. For purpose of this section, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds, or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the gaming licensee or technology provider.

XV. "Key employee" means any individual who is employed in a director or department head capacity and who is authorized to make discretionary decisions that regulate video lottery machines, including the general manager and assistant manager of the gaming licensee or technology provider, director of operations, director of cage or credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller, shift bosses, credit supervisors, cashier supervisors, and any employee who supervises the operations of these departments or to whom these department directors or department heads report, and such other positions which the lottery commission shall determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee. All other gaming employees shall be considered non-key employees.

XVI. "Licensee" means any individual or entity required to be licensed pursuant to this chapter.

XVII. "Lottery commission" or "commission" means the New Hampshire Lottery Commission created pursuant to RSA 284:21-a, including the administration and enforcement bureau of the commission created pursuant to RSA 284-B:2.

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

XIX. "Non-key gaming employee" means an employee of a gaming licensee who is not a key employee and is directly connected to the operation or maintenance of a video lottery machine taking place in a gaming location.

XX. "Progressive jackpot" means a prize that increases over time or as video lottery machines that are linked to a progressive system are played. Upon conditions established by the lottery commission, a progressive jackpot may be paid by annuity.

XXI. "Progressive system" means one or more video lottery machines linked to one or more common progressive jackpots.

XXII. "Request for application" means a request for applications to be submitted by applicants to the lottery commission pursuant to RSA 284-B:11.

XXIII. "Technology provider" means any person or entity which designs, manufactures, builds or rebuilds, programs, installs, modifies, distributes, or supplies video lottery machines for sale or lease to the gaming licensees, and which are for use by a gaming licensee for conducting video lottery games in accordance with this chapter.

XXIV. "Technology provider license" means the license issued by the lottery commission to a technology provider licensee which allows the technology provider licensee to design, manufacture, install, distribute, or supply video lottery machines devices for sale or lease to a gaming licensee.

XXV. "Technology provider licensee" means a technology provider that is licensed by the lottery commission.

XXVI. "Token" means the coin or coupon, which is not legal tender, sold by a cashier in a face amount equal to the cash paid by a player for the sole purpose of playing a video lottery machine at the gaming location or paid to a player of a video lottery machine, which can be exchanged for cash at the gaming location.

XXVII. "Video lottery" means any lottery conducted with a video lottery machine or linked video lottery machines with a progressive jackpot or progressive system. Video lottery conducted pursuant to this chapter shall not be considered a state-run lottery.

XXVIII. "Video lottery machine" means an electronic, mechanical, or computerized machine 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 shall not include any redemption slot machines and redemption poker machines as defined in RSA 647:2 or video poker machines or other similar machines used for amusement purposes only.

284-B:2 Gaming Oversight and Regulation; Lottery Commission; Bureau of Administration and Enforcement.

I. The lottery commission shall have general responsibility for the implementation of this chapter. The lottery commission shall have the exclusive authority to license and regulate the installation, operation, and conduct of video lottery machines. The lottery commission shall only issue licenses to persons who operate video lottery machines at gaming locations meeting the requirements of this chapter.

II. There shall be established within the lottery commission an administration and enforcement bureau, which shall be the primary enforcement agent for regulatory matters under this chapter. The bureau shall perform such functions as the commissioners may determine from time to time in relation to the administration and enforcement of this chapter, including the enforcement of violations of this chapter. The bureau shall be under the control of the director of administration and enforcement, who shall be appointed by the commissioners and shall report to the executive director of the lottery commission. The director shall be the executive and administrative head of the bureau and shall be responsible for administering the duties of the bureau and any administrative units created within the bureau. The bureau shall cooperate with the attorney general and the gaming enforcement unit of the division of state police in the enforcement of this chapter.

284-B:3 Rulemaking.

I. The lottery commission shall adopt rules identical to the International Association of Gaming Regulators but shall be exempt from RSA 541-A style and format requirements, under RSA 541-A, relative to:

(a) License renewals, and making recommendations for the suspension or revocation of any license issued under this chapter.

(b) Conducting hearings pertaining to civil violations, rules, and penalties required under this chapter.

(c) Establishing standards for licensure and a reasonable fee structure for the licensing and renewal of licenses for gaming licensees and technology providers consistent with this chapter.

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

(e) Ensuring that all licensees update the lottery commission with regard to any change in ownership or material change in information or data regarding the licensee that the commission determines is necessary and appropriate.

(f) Prescribing the manner and procedure of all hearings conducted by the lottery commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof.

(g) Prescribing the method of collection of payments of taxes, fees, and penalties.

(h) Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices.

(i) Prescribing grounds and procedures for the issuing of sanctions, including but not limited to, the revocation or suspension of licenses.

(j) Governing the manufacture, distribution, sale, and servicing of video lottery machines and associated equipment.

(k) Governing the gaming-related advertising of gaming licensees and their employees and agents, with the view toward assuring that such advertisements are in no way deceptive and promote the purposes of this chapter; provided, however, that such rules shall require the words "Bet with your head, not over it," or some comparable language approved by the lottery commission, to appear on all billboards, signs, and other on-site advertising of a licensee operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER," or some comparable language approved by the lottery commission, provided such language shall include the words "gambling problem" and "call 1-800-GAMBLER," which shall appear legibly on all print, billboard, and sign advertising of a gaming location.

(l) Establishing the licensing process and approval process for selecting the provider of the central computer system.

II. The lottery commission shall adopt rules pursuant to paragraph I no later than June 1, 2014.

284-B:4 Duties and Authority of the Lottery Commission.

I. The lottery commission shall administer and enforce the provisions of this chapter.

II. The lottery commission shall have the authority to request any and all records maintained by local, municipal, state, or federal agencies relative to gaming applicants or gaming licensees.

III. The lottery commission shall have the authority to issue subpoenas and compel the attendance of witnesses, to administer oaths, and to require testimony under oath.

IV. The lottery commission shall:

(a) Collect all license fees imposed upon any applicant and all taxes imposed by RSA 284-B.

(b) Certify net machine income revenue by inspecting records, conducting audits, or having its agents on site, or by any other reasonable means.

(c) Require all holders of gaming licenses issued by the lottery commission pursuant to RSA 284-B to maintain a system of internal controls. At a minimum, the licensee's proposed system of internal controls shall:

(1) Safeguard its assets and revenues, including, but not limited to the recording of cash and evidences of indebtedness related to the video lottery machines.

(2) Provide for reliable records, accounts, and reports of any financial event that occurs in the operation of a video lottery machine.

(3) Ensure that each video lottery machine directly provides or communicates all required activities and financial details to the central computer system.

(4) Provide for accurate and reliable financial records.

(5) Ensure any financial event that occurs in the operation of a video lottery machine is performed only in accordance with the management's general or specific authorization.

(6) Ensure that any financial event that occurs in the operation of a video lottery machine is recorded adequately to permit proper and timely reporting of net machine income and the calculation thereof and the related fees and taxes.

(7) Ensure that access to assets is permitted only in accordance with management's specific authorization.

(8) Ensure that recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.

(9) Ensure that all functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound financial practices by qualified personnel.

(d) 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 their operation.

V.(a) The lottery commission shall establish a code of ethics for all commissioners and employees of the lottery commission. A copy of the code shall be filed with the attorney general's office. The code shall include provisions reasonably necessary to carry out the purposes of this chapter and any other laws subject to the jurisdiction of the commission.

(b) No commissioner or employee, other than in the performance of the commissioner's or employee's official duties, shall place a wager in a gaming location. The commissioners and those employees holding major policymaking positions shall be sworn to the faithful performance of their official duties. The commissioners and those employees holding major policymaking positions shall:

(1) Conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest;

(2) Avoid impropriety and the appearance of impropriety in all matters under their jurisdiction;

(3) Avoid all prohibited communications;

(4) Require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence;

(5) Disqualify themselves from proceedings in which their impartiality might reasonably be questioned; and

(6) Refrain from financial or business dealings which would tend to reflect adversely on impartiality.

(c) The commissioners and employees shall not own, or be in the employ of, or own any stock in, a business which holds a license under this chapter, nor shall they have, directly or indirectly, a pecuniary interest in, or be connected with, any such business or be in the employ of or connected with any person financing any such business; provided, however, that immediate family members of commissioners and employees holding major policymaking positions shall not own, or be in the employ of, or own stock in, any business which holds a license under this chapter. The commissioners and employees shall not personally, or through a partner or agent, render professional services or make or perform any business contract with or for any regulated entity, except contracts made with the commissioners for the furnishing of services, nor shall the commissioners or employees directly or indirectly receive any commission, bonus, discount, gift, or reward from a regulated entity.

284-B:5 Central Computer System.

I. The lottery commission shall provide and operate a central computer system into which all licensed video lottery machines shall be connected.

II. The central computer system shall be capable of:

(a) Continuously monitoring, retrieving, and auditing the operations, financial data, and program information of all video lottery machines;

(b) Allowing the lottery commission to account for all money inserted in and payouts made from any video lottery machine;

(c) Disabling from operation or play any video lottery machine as the lottery commission deems necessary to carry out the provisions of this chapter;

(d) Supporting and monitoring a progressive jackpot system capable of operating one or more progressive jackpots; and

(e) Providing any other function that the lottery commission considers necessary.

III. The central computer system shall employ a widely accepted gaming industry communications protocol, as approved by the Gaming Standards Association, to facilitate the ability of video lottery machine manufacturers to communicate with the central computer system.

IV.(a) Except as provided in subparagraph (b), the lottery commission shall not allow a gaming licensee to have access to, or obtain information from, the central computer system.

(b) If the access does not in any way affect the integrity or security of the central computer system, the lottery commission may allow a gaming licensee to have access to the central computer system that allows the licensee to obtain information pertinent to the legitimate operation of its video lottery machines.

284-B:6 Records; Confidentiality.

I. The lottery commission shall keep and maintain a list of all applicants for licenses it receives under this chapter, together with a record of all action taken with respect to such applicants. Except as provided in paragraph IV, a file, including the criminal records of each applicant, its officers, directors, partners, members, shareholders, and key employees, and record of the actions of the lottery commission shall be open to public inspection; provided, however, that information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from the list after 5 years from the date of such action.

II. The lottery commission shall publish on the commission's Internet website a complete list of all persons or entities who applied for or held a license, certificate, or approval pursuant to this chapter, or racetrack license at any time during the preceding calendar year and all affiliates, intermediaries, subsidiaries, and holding companies thereof and the status of the application or license, however, information regarding any applicant whose approval or certificate has been denied, revoked or not renewed shall be removed from such list after 5 years from the date of such action.

III. The lottery commission shall maintain such other files and records as the commission determines are necessary. All records maintained by the lottery commission may be maintained in digital or other format, provided that such information can be produced in written form upon the request of the commission.

IV. All personal and financial proprietary information and data of an applicant, its officers, directors, partners, members, shareholders, or key employees, other than their criminal records, required by the lottery commission to be furnished to it, or which may otherwise be obtained, shall be considered confidential and shall not be disclosed in whole or in part except in the course of the necessary administration of this chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the attorney general, to a duly authorized law enforcement agency. Notwithstanding this paragraph, the state police may share information with the lottery commission and the attorney general as is appropriate under this chapter.

V. All records, information, or data maintained or kept by the lottery commission may be maintained or kept at the office of the gaming enforcement unit.

VI. Notice of the contents of any information or data to be released consistent with paragraph IV, except to a duly authorized law enforcement agency, shall be given to any applicant or licensee in a manner prescribed by the rules adopted by the lottery commission so that the applicant or licensee has the opportunity to object to such release.

VII. With regard to meetings, minutes, and records of the lottery commission, the lottery commission shall notice all proceedings and shall make and keep a record of all proceedings held at public meetings of the lottery commission. A verbatim transcript of those proceedings shall be prepared by the lottery commission upon the request of any commissioner or upon the request of any other person and the payment by that person of the costs of preparation. A copy of the transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

284-B:7 Employees and Contractors.

I. The lottery commission may from time to time contract for such financial, economic, or security consultants, and any other technical and professional services as it deems necessary for the discharge of its duties.

II. The lottery commission may employ certain assistants, and contract with certain individuals or entities experienced in the regulation of gaming to carry out the provisions of this section and RSA 284-B. Such assistants and employees shall receive compensation at rates to be established by the department of administrative services, division of personnel.

III. Compensation of assistants, employees, and contractors shall be funded by proceeds paid or received by the lottery commission pursuant to RSA 284-B.

IV. No employee or contractor of the lottery commission shall have any pecuniary or other interest whatsoever in any supplier or agent to the commission or in any gaming location or license licensed under RSA 284-B and shall be subject to the code of ethics established by the lottery commission pursuant to RSA 284-B:4, V.

284-B:8 Annual Report. No later than November 1 of each calendar year, the lottery commission shall provide a report to the fiscal committee of the general court regarding the generation of revenues of video lottery machines by licensees.

284-B:9 Procedures for Adoption by Local Community.

I. Any municipality in which a gaming location is or proposes to be situated may adopt the provisions of RSA 284-B to allow the operation of video lottery machines in the following manner:

(a) In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the questions shall be placed on the warrant of an annual or special town meeting, by the governing body or by petition pursuant to RSA 39:3.

(b) In a city or town that has adopted a charter pursuant to RSA 49-C or RSA 49-D, upon request of a gaming applicant to authorize the operation of video lottery machines within the municipality in accordance with the provisions of RSA 284-B, the governing body shall place the question on the ballot to be voted upon at the next regularly scheduled municipal or biennial election unless such election is more than 90 days from the request. In such circumstance, the governing body shall place the question on the ballot for a special election called for the purpose of voting on said question and which special election shall occur within 75 days after the request is made. Such special election shall be held at the usual ward polling places by the regular election officials.

(c) In any unincorporated place, and notwithstanding any other provision of law to the contrary, upon the request of a gaming applicant to authorize the operation of video lottery machines within the unincorporated place to either the moderator of the unincorporated place if the unincorporated place is organized to vote pursuant to RSA 668:1, or the clerk of the designated town if the unincorporated place is not organized for voting as provided in RSA 668:2, and the moderator or the clerk shall place the question on the ballot to be voted upon at the next regularly scheduled biennial election. The ballot shall be given to the individuals who are domiciled in such unincorporated place who are registered to vote.

(d) If a majority of those voting on the question vote "Yes," RSA 284-B shall apply in such town or city and the operation of video lottery machines shall be permitted within such town, city, or unincorporated

place in accordance with RSA 284-B and no further vote shall be required for subsequent applications. If a majority of those voting on the question vote "No" the question may be voted on at a subsequent time in accordance with this section provided, however, the town may consider the question at no more than one special meeting and the annual town meeting in the same calendar year after a "No" vote. A city or town subject to subparagraph (b) may consider the question at no more than one special election and a regular municipal or biennial election in the same calendar year after a "No" vote.

(e) The wording of the question shall be substantially as follows: "Shall we adopt the provisions of RSA 284-B allowing the operation of video lottery machines within the [insert name of town, city, or unincorporated place]?"

II. When a gaming licensee requests a town, city, or unincorporated place to act under paragraph I, the gaming licensee shall pay all costs associated with carrying out the actions under this section.

284-B:10 Schedule for License Applications; Requests for Application.

I. In order to facilitate the timely and orderly deployment of licensed gaming operations in New Hampshire, the lottery commission shall adopt a schedule by which applications for gaming licenses and technology provider licenses shall be accepted, reviewed, granted, or denied in accordance with the provisions of this section.

II. The lottery commission shall issue a request for applications for a gaming license pursuant to the process set forth in this section. The lottery commission shall approve, approve with conditions, or deny all applications submitted, in accordance with the provisions of this chapter.

284-B:11 Gaming License Applications; Requirements.

I. A gaming applicant shall obtain a gaming license from the lottery commission to possess, conduct, and operate video lottery machines as follows:

(a) An applicant shall complete and sign an application on forms, in a manner and providing the information prescribed by the lottery commission.

(b) The applicant shall include in the application any and all information requested by the lottery commission, including but not limited to, information regarding:

(1) The applicant's financial affairs, including evidence of financial stability as documented by bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies, business and personal accounting check records and ledgers and other relevant source documents. The lottery commission may require evidence of the financial affairs to be provided on a multi-jurisdictional personal history disclosure form;

(2) The full name, address, date of birth, and other personal identifying information of the applicant and all key employees;

(3) If a corporation or other form of business enterprise, the information listed in subparagraphs (b)(1)-(4) shall be provided with respect to each partner, trustee, officer, and director, and any shareholder, limited liability company member, or other holder who owns more than 10 percent of the legal or beneficial interests of such entity, as well as the name of the state under the laws of which the corporation or business enterprise is formed or incorporated and the location of its principal place of business;

(4) A copy of the applicant's current and valid liquor license.

(c) The application shall be accompanied by a complete description of the proposed project and include the following:

(d) The applicant shall provide detailed information regarding its proposed system of internal security and accounting controls.

(e) The application shall be accompanied by a petition for a game operation certificate consistent with RSA 284-B:19.

(f) The application shall contain evidence of local approval of the municipality in which the project is proposed by local referendum consistent with RSA 284-B:10.

II. Every application shall contain the information required pursuant to this section and such information the lottery commission requests or requires by rule.

284-B:12 Gaming License Application Fees; Initial License Fees; Renewal Fees.

I. The lottery commission shall impose a nonrefundable application fee of \$1,000 on all applicants submitting an application for a gaming license which shall be used to defray the cost of processing and reviewing the application.

II. Upon approval of a gaming license, the lottery commission shall charge a licensing fee of \$1,000 per video lottery machine annually.

284-B:13 Gaming License Applications; Lottery Commission Completeness Review.

I. The lottery commission shall be available to provide technical assistance to any applicant submitting an application in response to a request for applications.

II.(a) The lottery commission shall examine every application for form and completeness, and the information required by RSA 284-B as well as any specifications and standards outlined in the request for application. All applications and accompanying submissions shall be maintained as confidential during completeness review.

(b) If an application is determined incomplete by the lottery commission, the lottery commission shall provide a first notification of incompleteness to the applicant by certified mail within 30 days of receipt of the application. Such first notification of incompleteness shall include a full explanation of the reasons for incompleteness. If no first notification of incompleteness is made by the lottery commission within such 30-day period, the application shall be considered complete and the applicant shall be notified by certified mail.

(c) The applicant shall provide any required additional information within 15 business days of receipt of the first notification of incompleteness. The applicant shall not provide more than the required additional information. The lottery commission shall review the additional information submitted by the applicant; and, if satisfactory, the application shall be considered complete and the applicant shall be notified by certified mail.

(d) If the application is still determined to be incomplete, the commission shall provide a second notification of incompleteness to the applicant by certified mail within 10 business days of receipt of the additional information.

(e) The applicant shall provide any required additional information within 10 business days of receipt of the second notification of incompleteness. The applicant shall not provide more than the required additional information. The lottery commission shall review the additional information submitted by the applicant, and, if satisfactory, the application shall be considered complete and the applicant shall be notified by certified mail.

(f) If the application is still found to be incomplete, the lottery commission shall provide a third and final notification of incompleteness to the applicant by certified mail within 5 business days of receipt of the additional information. The applicant shall provide the required additional information within 3 business days of receipt of the third and final notification of incompleteness. The applicant shall not provide more than the required additional information.

(g) Within 2 business days of the receipt of any information submitted pursuant to the third and final notification of incompleteness, the lottery commission shall review the additional information submitted by the applicant and notify the applicant whether the application is complete.

(h) An applicant whose application is incomplete and who fails to provide the additional required information within the applicable time period specified shall be deemed to have withdrawn its application and to have waived any right to have the application reviewed.

(i) An applicant may withdraw an application at any time thereby terminating the review process and waiving any right to have its application reviewed.

284-B:14 Gaming License Determinations.

I. The lottery commission shall determine whether a gaming applicant meets the standards for licensure in RSA 284-B:16. Such determination shall be made by majority vote of eligible commission members. Any commission member who has a personal or business conflict with any application shall not vote on any of the competing applications. The decision shall be in the form of an approval or approval with conditions, or a denial.

II. No gaming applicant who withdraws an application or is denied approval by the lottery commission shall be prevented from reapplying for a license.

III. Applicants may appeal the denial of a license to the New Hampshire supreme court, pursuant to RSA 541. Such appeal shall be filed with the clerk of the supreme court within 5 days after the lottery commission has denied any request for reconsideration. The supreme court may hold a special session to consider such appeal if it considers such action necessary.

284-B:15 Technology Provider Licensee Applications. A technology provider licensee applicant shall obtain a technology provider license from the lottery commission, as follows:

I. An applicant shall complete and sign an application on forms and in a manner prescribed by the lottery commission.

II. The applicant shall include information regarding:

(a) The applicant's criminal history background including authorization for a criminal background and records check, and an attested disclosure of all arrests and citations for nontraffic offenses;

(b) Civil judgments;

(c) Financial affairs using a multi-jurisdictional personal history disclosure form;

(d) The full name, address, date of birth, and other personal identifying information of the applicant and all key employees; and

(e) If the applicant is 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 10 percent of the legal or beneficial interests of such entity.

III. If the applicant or any owner has held or holds a technology provider, manufacturer, or supplier's license in a jurisdiction where video lottery machine activities are permitted, the applicant shall so state and may produce either a letter of reference from the gaming or lottery enforcement or control agency in such jurisdiction which sets forth the experience of that agency with the applicant, the applicant's associates, and gaming operation, or a statement under oath that the applicant is or was during the period the activities were conducted in good standing with the agency.

IV.(a) Upon receipt of a complete application from a technology provider applicant the lottery commission shall request that the attorney general conduct a background review, and the attorney general shall conduct a background review of each technology provider applicant and any of its owners and key employees. The review may be conducted through any appropriate state or federal law enforcement system and may seek information as to the subject's financial, criminal, or business background, or any other information which the attorney general, in his or her sole discretion, may find relevant to the subject's fitness to be associated with the distribution of video lottery machines, or associated equipment 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 take into consideration as evidence of fitness a letter of reference or sworn statement of good standing.

(b) The attorney general shall report the results of the review to the lottery commission within a reasonable time not to exceed 120 days unless a request for additional time has been granted by the lottery commission for good cause. Whenever the attorney general conducts such a review, the attorney general shall notify the lottery commission whether or not in his or her opinion such person is fit to be associated with the distribution of video lottery machines in this state. Notwithstanding any other law to the contrary, the information provided to the attorney general and the results of any such review shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general, in the attorney general's sole discretion, shall determine the extent to which and the manner in which said results may be reported to the lottery commission or other state agency or official and, if reported, whether such results are to retain their confidential character.

(c) The attorney general may conduct a background review on the attorney general's motion into the background of the technology provider applicant or licensee, or any person or entity upon whom the technology provider applicant or licensee relies for financial support.

V. In any review conducted pursuant to paragraph IV, the attorney general or any duly authorized member of the attorney general's staff may require by subpoena or otherwise the attendance of witnesses and the production of such correspondence, documents, books, and papers as he or she deems advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses.

VI.(a) The lottery commission shall charge the technology provider applicant an application fee of \$100,000 which shall be used to defray the cost of processing the application. If the cost of processing the application exceeds \$100,000, the applicant shall pay the difference.

(b) The attorney general shall charge the technology provider applicant an investigation fee of \$25,000 which shall be used to defray the cost of the background investigation. If the cost of the background investigation exceeds \$25,000, the applicant shall pay the difference.

(c) Upon approval of a technology provider licensee, the lottery commission shall charge an initial license fee of \$50,000. Licenses shall expire after 5 years. The lottery commission shall charge a fee of \$50,000 to renew a license to a technology provider licensee provided, however, such person seeking renewal of its license shall pay all costs incurred by the attorney general to conduct an investigation with regard to such application to renew the technology provider's license.

284-B:16 Licensure Requirements for All Licenses.

I. No license shall be issued by the lottery commission unless the applicant demonstrates it meets the standards set forth in this section. The lottery commission shall consider the applicant's ability to meet the criteria set forth in this section based upon the application submitted pursuant to RSA 284-B:11 or RSA 284-B:15, as applicable, the evidence submitted during a hearing conducted pursuant to RSA 284-B:14, as applicable, and any letter of reference or sworn statement of good standing from the gaming or lottery enforcement or control agency in any jurisdiction where the applicant has held or holds a gaming license.

II. The applicant shall demonstrate the following:

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

(b) The likelihood that the applicant can establish and maintain a successful and efficient operation (including, without limitation, by demonstrating that the applicant meets the criteria specified in RSA 284-B:11, I(d)).

III. If the lottery commission finds that an individual who is a principal or has an interest in the applicant does not meet the eligibility requirements of paragraph II, and on this basis the applicant shall be denied a license, the lottery commission may afford the individual the opportunity to completely divest his or her interest in the applicant and after such divestiture reconsider the applicant's suitability for licensure in an expedited proceeding and may, after such proceeding, issue the applicant a license.

IV. No license shall be issued to a gaming applicant unless the applicant has obtained local approval as provided in RSA 284-B:9.

V. No license shall be issued to a gaming applicant unless the applicant has obtained a valid liquor license.

VI.(a) The lottery commission shall approve, approve with conditions, or deny each application according to the time frames set forth in RSA 284-B:14. Following approval of an application for a license and receiving notice from the lottery commission that the decision is final and not subject to an appeal pursuant to RSA 284-B:14, IV, the applicant shall pay any applicable licensing fee. The applicant shall provide formal notification to the commission as soon as it fulfills all required conditions for issuance of the license. Upon receipt of such formal notification, and upon conducting any necessary verification, and payment of the license fee, the lottery commission shall issue a license to the applicant.

(b) No gaming licensee may begin operations until the lottery commission has adopted final rules.

VII. The lottery commission shall not consider an incomplete application and shall notify the applicant in writing if an application is incomplete consistent with RSA 284-B:13, II. An application shall be considered incomplete if it does not include all applicable application fees and all information and accompanying documentation required by the commission, including, but not limited to, a current tax lien certificate issued by the department of revenue administration at the time of filing the application. Any unpaid taxes identified on the tax lien certificate shall be paid before the application is considered complete. A notification of incompleteness shall state the deficiencies in the application that must be corrected prior to consideration of the merits of the application.

VIII. The lottery commission shall not consider any application for a license to be complete if the applicant or any person affiliated with or directly related to the applicant is a party in any ongoing civil proceeding in which the party is seeking to overturn or otherwise challenge a decision or order of the lottery commission pertaining to the approval, denial, or conditioning of a license to conduct gaming. This paragraph shall not be interpreted to affect the rights of applicants to seek judicial enforcement of mandatory obligations of boards or commissions as may be required by this chapter.

IX. Each applicant at all times shall have the burden of establishing its eligibility and suitability for licensure. If an applicant or licensee does not meet the requirements for licensure, the lottery commission may deny, revoke, suspend, or condition the license until the applicant or licensee meets the requirements.

X. During the course of review of any application for a gaming license, the lottery commission shall take reasonable measures to prohibit and prevent all ex parte communication relating to the merits of such application.

284-B:17 Term of License; Limits on Transfer.

I. Any license issued to a gaming licensee pursuant to this chapter and any renewal thereof shall be valid for one year unless earlier suspended or revoked by the lottery commission. Any license issued to a technology provider pursuant to this chapter and any renewal thereof shall be valid for 5 years unless earlier suspended or revoked by the lottery commission. The lottery commission shall adopt procedures for license renewal; provided that such license may be renewed by the licensee so long as the licensee shall comply with the requirements of the law and continues to meet the standards for licensure pursuant to this chapter, and so long as the fee for renewal has been paid.

II. No license issued by the lottery commission may be transferred to a separate person or entity without the prior approval of the lottery commission consistent with this chapter. Any proposed transferee of a license issued pursuant to this chapter shall pay an application fee to the lottery commission and an investigation fee to the attorney general as specified in RSA 284-B:12 or RSA 284-B:15, as applicable. Any transfer of a license approved by the lottery commission shall be for the balance of the term of the license. The transferee approved by the lottery commission shall not pay any additional fee at the time of the approval. The transferee shall be subject to the provisions of this chapter with regard to renewal of the license.

III. For purposes of this section, a transfer includes the transfer of 50 percent or more of the ownership of the entity which holds the license issued by the lottery commission, whether such proposed transfer occurs in one transaction or a series of transactions over the course of 12 consecutive months. Any transfer without the approval of the lottery commission shall result in the immediate and automatic termination of the license. The lottery commission shall adopt rules and procedures to implement consideration of a proposed transfer of a license.

284-B:18 Exclusion of Minors.

I. No person under 21 years of age shall play a video lottery machine authorized by this chapter. Each violation of this paragraph shall be punishable by a fine of no more than \$2,400 and shall be payable by such person who violates this section.

II. No gaming licensee shall knowingly permit any person under 21 years of age to play or participate in any aspect of the play of a video lottery machine. Each violation of this paragraph shall be punishable by a fine of no more than \$20,000 and shall be payable by the gaming licensee.

III. Video lottery machines shall be located out of the view of minors in a room where minors are not allowed to enter

284-B:19 Operation of Video Lottery Machines.

I.(a) A gaming licensee shall provide to the lottery commission prior to commencing operations of any video lottery machines, by diagram or narrative, a description of:

- (1) The location of each video lottery machine available for play by the public.
- (2) The location of all areas for the storage, maintenance, or repair of video lottery machines.
- (3) A description of all security measures to be taken for the safeguarding of video lottery machines.
- (4) The location and security measures taken for the safeguarding of all moneys, tokens, or other items of value utilized in the use of video lottery machines.

(5) All procedures for the operation, maintenance, repair, and inserting or removing of moneys, tokens, or other items of value from video lottery machines.

(6) All internal control systems as required by RSA 284-B:11, I(f).

(b) The provisions of subparagraphs (a)(1)-(6) shall be approved by the lottery commission prior to a gaming licensee's commencing the operation of any video lottery machine.

II. No video lottery machine shall be possessed, maintained, exhibited, brought into, or removed from a gaming location by any person unless such machine has permanently affixed to it an identification number or symbol authorized by the lottery commission and prior notice of any such movement has been given to the lottery commission.

III. 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 by the lottery commission and licensed for use by the lottery commission. In conducting such tests, the lottery commission shall use the services of an independent laboratory, and the cost of such independent laboratory shall be paid by the technology provider.

IV. Video lottery machines in operation at a gaming location shall provide a payoff of an average of between 90 percent and 95 percent, except that progressive jackpots shall have a payoff of average of at least 85 percent.

V. All tickets given as prizes or winnings from video lottery machines shall be redeemed for cash within one year after the date of winning. Upon the expiration of such one-year period, the value of such unredeemed tickets shall be paid to the state.

VI. A gaming licensee shall not be restricted in the days of operation of video lottery machines.

VII. Video lottery machines shall be operated only at times when the public is allowed access to the gaming locations.

284-B:20 Distribution of Net Machine Income.

I.(a) Notwithstanding any law to the contrary, the net machine income generated by video lottery machines operated by a gaming licensee shall be paid as follows:

(1) Sixty-seven percent of the net machine income generated by video lottery machines shall be paid to the commission from which it shall pay for the costs of regulation, administration, enforcement of this chapter, and the operation of the central computer system, and the balance of which shall be paid to the general fund to be distributed through the operating budget as determined by the general court.

(2) One percent of the net machine income generated by video lottery machines operated by a gaming licensee in any specific municipality shall be paid to the municipality in which the gaming licensee operates video lottery machines.

(3) One percent of the net machine income generated by video lottery machines operated by a gaming licensee shall be paid in equal portions to each of the municipalities of New Hampshire which abut the municipality in which the gaming licensee operates video lottery machines; provided, however, that if a municipality abuts more than one municipality in which a gaming licensee operates video lottery machines, such municipality shall only receive net machine income pursuant to this paragraph from the gaming licensee who operates video lottery machines in the same county as the abutting municipality.

(4) One percent of the net machine income generated by all video lottery machines shall be paid to the state treasurer and credited to the commissioner of the department of health and human services to support programs established by RSA 172 to treat problem gambling.

(b) Thirty percent of the net machine income from video lottery machines shall be retained by the gaming licensee that operates such video lottery machines.

II. A gaming licensee shall deliver the amounts payable to the lottery commission as provided in paragraph I in immediately available funds of the United States on the first day of the month. At the time payment is delivered, the gaming licensee shall provide a written accounting of net machine income generated from the video lottery machines by the gaming licensee on an aggregate basis and the calculation of amounts due to the state separately for distribution pursuant to subparagraphs I(a)(1) and (5), the amount due the municipality pursuant to subparagraph I(a)(2), the amount due certain municipalities pursuant to subparagraph I(a)(3), and the balance of net machine income retained by the gaming licensee. The gaming licensee shall pay a penalty of \$1,000 for each day that payment or the accounting is not delivered on time to the state or a penalty of 5 percent of the payment, whichever is less, and a penalty of \$1,000 for each day that payment or the accounting is not delivered to the lottery commission on time.

284-B:21 Inspection of Video Lottery Machines; Penalty for Tampering or Manipulating.

I. The lottery commission shall periodically test video lottery machines installed at any gaming location. In conducting such tests, the lottery commission shall use the services of an independent laboratory, and the cost of such independent laboratory shall be paid by the technology provider.

II. Any person who purposely manipulates the outcome, payoff, or operation of any video lottery machine by electronic, or mechanical means, shall be guilty of a felony.

284-B:22 Presence of the Lottery Commission. The lottery commission and the division of state police gaming enforcement unit may be present at any gaming location at which video lottery machines are operated at all times when the gaming location is open to the public. The gaming licensee may be required by the lottery commission or gaming enforcement unit to provide such office space and equipment which the commission or unit shall determine is reasonably necessary or proper.

284-B:23 Sanction Powers of the Lottery Commission.

I. The lottery commission shall have the sole and exclusive authority following appropriate hearings and factual determinations, to impose sanctions against any person for any violation of this chapter or any rule of the commission adopted under the provisions of this chapter as follows:

(a) Revocation or suspension of a license.

(b) Civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$50,000 for each violation.

(c) Order restitution of any moneys or property unlawfully obtained or retained by a person.

(d) Issuance of a cease and desist order which specifies the conduct which is to be discontinued, altered, or implemented by the person.

(e) Issuance of letters of reprimand or censure, which shall be made a permanent part of the file of each person so sanctioned.

(f) Imposition of any or all of the foregoing sanctions in combination with each other.

II. In determining appropriate sanctions in a particular case, the commission shall consider:

(a) The risk to the public and to the integrity of video lottery machine operations created by the conduct of the person.

(b) The seriousness of the conduct of the person and whether the conduct was purposeful or with knowledge that it was in contravention of the provisions of this chapter or the rules of the commission.

(c) Any justification or excuse for such conduct.

(d) The prior history of the person involved.

(e) The corrective action taken by the person to prevent future misconduct of a like nature from occurring.

(f) In the case of a monetary penalty, the amount of the penalty in relation to the misconduct and the financial means of the person.

(g) In the event that a person receives 3 civil penalties during the term of such person's license, the commission may subject such person to enhanced fines or other disciplinary action.

284-B:24 Declaration of Limited Exemption from Operation of Provisions of 15 U.S.C. sections 1171-1178. 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," designated as 15 U.S.C. sections 1171-1178, 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 it is in the state's best interest to benefit from limiting gambling device revenues but prevent the proliferation of gambling devices by limiting approved facility locations and therefore 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.

284-B:25 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," designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

3 New Section; Lottery Commission; Administration of Video Lottery. Amend RSA 284 by inserting after section 21-v the following new section:

284:21-w Administration of Video Lottery. The lottery commission shall administer and enforce the provisions of RSA 284-B.

4 New Subparagraph; Authorized Video Lottery Machines. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) Video lottery machines authorized pursuant to RSA 284-B.

5 Rehabilitation of Problem Gaming. Amend RSA 172:2-a to read as follows:

172:2-a Program Established. The commissioner shall provide for the scientific care, treatment, and rehabilitation of **gambling**, alcohol and drug abusers, and work towards the prevention of, and assist in the control of, alcohol and drug abuse within the state through education, treatment, community organization, and research.

6 Rehabilitation of Problem Gaming. Amend RSA 172:8 to read as follows:

172:8 Duties of Commissioner. The commissioner shall:

I. Study the problems presented by **gambling**, alcohol and drug abuse, including methods and facilities available for the care, treatment, custody, employment, and rehabilitation of persons who are **problem gamblers**, inebriates, alcohol abusers, drug dependent, or drug abusers.

II. Promote meetings and programs for the discussion of **gambling**, alcohol and drug dependency and abuse for the guidance and assistance of individuals, schools, courts, and other public and private agencies.

III. Conduct, promote and finance, in full or in part, studies, and other appropriate facilities dealing with the physical, psychological, and/or social aspects of **gambling**, alcohol and drug abuse.

IV. Have the authority to accept or reject for examination, diagnosis, guidance, and treatment, insofar as funds and facilities permit, any resident of the state who comes to the commissioner voluntarily for advice and treatment.

V. [Repealed.]

VI. Render biennially to the governor and council a report of his activities including recommendations for improvements therein by legislation or otherwise.

VII. Coordinate community medical resources for the emergency medical care of persons suffering acute mental or physical reaction to **gambling**, alcohol or drugs and of persons suffering from drug dependency.

VIII. Employ such assistants as may be necessary to carry out the purposes of this chapter, in accordance with state personnel regulations, and within available appropriations and funds.

IX. Disseminate information on the subjects of **gambling**, alcohol and drug abuse for the guidance and assistance of individuals, schools, courts and other public and private agencies.

X. [Repealed.]

7 Problem Gaming Added. Amend RSA 172:8-a to read as follows:

172:8-a Confidentiality of Client Records. No reports or records or the information contained therein on any client of the program or a certified **gambling**, alcohol or drug abuse treatment facility or any client referred by the commissioner shall be discoverable by the state in any criminal prosecution. No such reports or records shall be used for other than rehabilitation, research, statistical or medical purpose, except upon the written consent of the person examined or treated. Confidentiality shall not be construed in such manner as to prevent recommendation by the commissioner to a referring court, nor shall it deny release of information through court order pursuant to appropriate federal regulations.

8 Problem Gaming Added. Amend RSA 172:8-b to read as follows:

172:8-b Rulemaking. The commissioner shall adopt rules under RSA 541-A relative to the following:

I. The acceptance, care, and treatment of **gambling**, alcohol or drug dependent persons and alcohol or drug abusers who are clients of the program established under this chapter or a certified substance abuse treatment facility.

II. A fee schedule and collection of fees under RSA 172:14, IV.

III. Certification of **such** substance abuse treatment facilities including, but not limited to:

- (a) Program content;
- (b) Qualifications of program staff; and
- (c) Type of substance abuse treatment offered.

IV. Certification and recertification of **gambling**, alcohol and drug abuse counselors including, but not limited to:

- (a) Peer review of applicants.
- (b) Minimum qualifications and competency.
- (c) Education and continuing education.
- (d) Experience required.
- (e) Required knowledge of **gambling**, alcohol and drug abuse counseling.
- (f) Such other matters as the commissioner may deem necessary to carry out the purposes of this chapter.

V. Voluntary admissions under RSA 172:13.

9 Acceptance of Funds; Treatment of Problem Gamblers. Amend RSA 172:9 to read as follows:

172:9 Acceptance of [Grants] **Funds**. The commissioner is authorized to accept in the name of the state special grants or money or services from the federal or state governments or any of their agencies and may accept gifts to carry on the functions provided for in this chapter.

10 New Subparagraph; Gambling Offenses; Minors. Amend RSA 647:2, I by inserting after subparagraph (c) the following new subparagraph:

- (d) Violates the provisions of RSA 284-B:7.

11 License Proceeds to Lottery Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the lottery commission and all moneys received from the racing and charitable gaming commission under RSA 284, **RSA 284-B:12, I**, RSA 287-D, and RSA 287-E, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and all administration and enforcement expenses of the racing and charitable gaming commission under RSA 284, RSA 287-D, and RSA 287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

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

2014-1463h

AMENDED ANALYSIS

This bill:

I. Allows video lottery machines in the state pursuant to a competitive application process.

II. Distributes proceeds of video lottery machines to the municipalities where the facility is located and abutting communities, to support programs to treat problem gambling. Proceeds will also be distributed for highway and bridge projects, higher education, and north country economic development.

III. Establishes a gaming enforcement unit in the division of state police.

IV. Requires the lottery commission to regulate, license, and enforce the provisions for video lottery operated at a gaming location.

Floor Amendment to SB 366-FN-A-LOCAL

(2014-1576h)

Proposed by Rep. Ames

Amend RSA 284-B:23, I as inserted by section 1 of the bill by replacing it with the following:

I. A gaming licensee shall be required as a condition of licensure to make the capital investment in the gaming location proposed in its gaming license application, which amount shall meet or exceed:

(a) In the case of the category 1 gaming licensee, \$375,000,000 exclusive of land acquisition, off-site improvement costs, and license fees; or

(b) In the case of the category 2 gaming licensee, \$125,000,000 exclusive of land acquisition, off-site improvement costs, and license fees.

Amend the introductory paragraph of RSA 284-B:48, I as inserted by section 1 of the bill by replacing it with the following:

I. A gaming licensee shall remit to the state treasurer a tax of 40 percent of gross slot machine revenue and 20 percent of gross table game revenue in a manner and time as provided for by this chapter.

Floor Amendment to SB 366-FN-A-LOCAL

(2014-1587h)

Proposed by Reps. Winters, Schroadter, Wright and O'Flaherty

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

AN ACT relative to video lottery and table gaming and penalties for possession of marijuana in the amount of one ounce or less and the cultivation of marijuana plants and permitting qualifying patients and registered caregivers to cultivate cannabis for therapeutic use.

Amend the bill by replacing all after section 24 with the following:

25 New Sections; Controlled Drug Act; Personal Possession of Marijuana. Amend RSA 318-B by inserting after section 2-b the following new sections:

318-B:2-c Personal Possession of Marijuana.

I. Any person possessing one ounce or less of marijuana, including adulterants or dilutants, shall be guilty of a violation.

II. Any person possessing 5 grams or less of hashish, including adulterants or dilutants, shall be guilty of a violation.

III.(a) Any person 18 years of age or older who is convicted of violating paragraph I or II shall be subject to a fine not to exceed \$100 and shall forfeit the marijuana or hashish.

(b) Any person under 18 years of age who is convicted of violating paragraph I or II shall forfeit the marijuana or hashish. The offender's parents or legal guardians shall be notified of the offense. The court shall order the offender to complete an approved alcohol and substance abuse education program, at the offender's expense, within one year of the date of the offense. Further, the court shall order the offender to participate in community service, which shall be completed within one year of the date of the offense. The offender shall furnish the court with evidence of completion of both an approved alcohol and substance abuse education program and community service. An offender who fails to complete both an alcohol and substance abuse education program and community service shall be subject to an additional fine of \$750.

(c) Any person who is not yet 21 years of age on the date of the incident, who is convicted of an offense under paragraph I or II may, at the discretion of the court, be subject to the revocation or denial of a driver's license or privilege to drive for not less than 90 days but not more than one year on the first finding or conviction under this paragraph, and not less than 6 months but not more than 2 years for a subsequent finding or conviction. Nothing in this paragraph shall prevent the court from requiring any person subject to its provisions to successfully completing a substance abuse education program in lieu of a loss or denial of driving license or privilege. The director, upon receipt of a notification from the court that the court has ordered the suspension of a person's license or driving privilege pursuant to this paragraph, shall forthwith issue a formal order of suspension and, in the case of denial of an application for a license, the period imposed shall begin on the date the person is eligible by age for the issuance of a license. Notwithstanding any other law regarding confidentiality, any court which convicts or makes a finding that an offense described in this paragraph has occurred involving a person who meets the age limits specified in this paragraph, and which orders the revocation or denial of a driver's license or privilege to drive, shall forward a notice of such conviction or finding to the director. The director shall maintain the confidentiality of notices received.

(d) The director shall, when ordered by the court, revoke the driver's license or privilege to drive or deny an application for a license for not less than 90 days but not more than one year on the first finding or conviction under paragraph I or II, and not less than 6 months but not more than 2 years for a subsequent finding or conviction; provided, however, that the director shall not revoke or deny a license or privilege to drive under this paragraph without first giving the person an opportunity for a hearing to determine that the person is the individual who was convicted of the offense and against whom the court order applies. In the case of denial of an application for a license, the period imposed shall begin on the date the person is eligible by age for the issuance of a license.

IV.(a) No record of a violation of this section shall be recorded in any database of criminal offenders.

(b) No record that includes personally-identifiable information resulting from a violation of this section shall be made accessible to the public, federal agencies, or agencies from other states or countries.

V.(a) Except as provided in this section, no person shall be subject to arrest for a violation of paragraph I or II.

(b) Any person in possession of an identification card, license, or other form of identification issued by the state or any state, country, city, or town, or any college or university, who fails to produce the same upon request of a police officer who informs the person that he or she has been found to be in possession of what appears to the officer to be an ounce or less of marijuana or 5 grams or less of hashish, may be arrested for a violation of paragraph I or II.

(c) Any person who fails to produce a form of identification provided for in subparagraph (b) may be arrested for a violation of paragraph I or II if the person fails or refuses to truthfully provide his or her name, address, and date of birth to a police officer who has informed such person that he or she has been found in possession of what appears to the officer to be an ounce or less of marijuana or 5 grams or less of hashish.

VI.(a) Except as specifically provided in RSA 263:56-b, III and IV, neither the state nor any of its political subdivisions shall impose any form of penalty on a person for possessing one ounce or less of marijuana, 5 grams or less of hashish, or paraphernalia for marijuana use, nor shall any penalties or obligations exceeding those outlined in RSA 263:56-b, III or IV be imposed by the state nor any of its political subdivisions solely for having cannabinoids or cannabinoid metabolites in the urine, blood, sweat, hair, fingernails, toenails, or other tissue or fluid of the human body.

(b) Possession of one ounce or less of marijuana, possession of 5 grams or less of hashish, possession of paraphernalia for marijuana use, or the presence of cannabinoids or cannabinoid metabolites in the urine, blood, sweat, hair, fingernails, toenails, or other tissue or fluid of the human body shall not constitute grounds for denying a person student financial aid, public housing, or any form of public financial assistance including unemployment benefits, or denying a person the right to operate a motor vehicle, or disqualifying a person from serving as a foster parent or adoptive parent.

318-B:2-d Plea by Mail.

I. Any person 18 years of age or older who is charged with a violation of RSA 318-B:2-c, I or II may enter a plea of guilty, nolo contendere, or not guilty, by mail in a circuit court, district division.

II. Such defendant shall receive, in addition to the summons, a fine notice entitled "Notice of Fine" which shall contain the amount of the fine for a violation of RSA 318-B:2-c I or II. A defendant who is issued a summons and notice of fine and who wishes to plead guilty or nolo contendere shall enter his or her plea on the summons and return it with payment of the fine within 30 days of the date of the summons. Payment by credit card may be accepted in lieu of cash payment.

III. If the defendant wishes to enter a plea of not guilty, he or she shall enter such plea on the summons and return it within 30 days of the date of the summons. The circuit court, district division shall schedule a trial.

IV. Whenever a defendant does not enter a plea by mail within 30 days of the date of the summons, the defendant shall be defaulted and shall be subject to an additional \$100 fine.

V. Whenever a defendant fails to pay a fine in connection with a conviction for a violation of RSA 318-B:2-c, I or II, or payment of such fine is uncollectible, the defendant shall be defaulted and the fine shall increase to \$200.

26 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(b)-(d) to read as follows:

(b) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 20 years, a fine of not more than \$300,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than \$500,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity of 1/2 ounce or more, including any adulterants or dilutants;

(2) A substance classified in schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants;

(3) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine (PCP) or its analog, in a quantity of less than 10 grams, including any adulterants or dilutants, or where the amount is undetermined;

(4) Heroin or its analog or crack cocaine in a quantity of one gram or more, including any adulterants or dilutants;

(5) Methamphetamine or its analog, in a quantity of one ounce or more including any adulterants or dilutants;

(6) ~~Marijuana in a quantity of 5 pounds or more including any adulterants or dilutants, or hashish in a quantity of one pound or more including any adulterants and dilutants;~~

~~(7)~~ Flunitrazepam in a quantity of 500 milligrams or more.

(c) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than \$100,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 15 years, a fine of not more than \$200,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity less than 1/2 ounce including any adulterants or dilutants;

(2) A substance or mixture classified as a narcotic drug in schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants;

(3) Methamphetamine, or its analog in a quantity of less than one ounce including any adulterants or dilutants;

(4) Heroin or its analog or crack cocaine in a quantity of less than one gram, including any adulterants or dilutants;

(5) Marijuana in a quantity of ~~[one ounce]~~ **5 pounds** or more including any adulterants or dilutants, or hashish in a quantity of ~~[5 grams]~~ **one pound** or more including any adulterants or dilutants;

(6) Flunitrazepam in a quantity of less than 500 milligrams;

(7) Any other controlled drug or its analog, other than those specifically covered in this section, classified in schedules I, II, III or IV.

(d) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than \$25,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 6 years, a fine of not more than \$50,000, or both:

(1) Marijuana in a quantity of ~~[less]~~ **more** than one ounce including any adulterants or dilutants, or hashish in a quantity of ~~[less]~~ **more** than 5 grams including any adulterants or dilutants;

(2) Any schedule V substance or its analog.

(e) Any person who possesses, propagates, cultivates, grows, harvests, or manufactures 6 or fewer marijuana plants shall be guilty of a class A misdemeanor.

27 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II to read as follows:

II. Any person who knowingly or purposely obtains, purchases, transports, or possesses actually or constructively, or has under his control, any controlled drug or controlled drug analog, or any preparation containing a controlled drug or controlled drug analog, except as authorized in this chapter, shall be sentenced as follows, except as otherwise provided in this section:

(a) In the case of a controlled drug or its analog, classified in schedules I, II, III or IV, other than those specifically covered in this section, the person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$25,000 may be imposed. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class A felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of up to \$50,000 may be imposed;

(b) In the case of a controlled drug or its analog classified in schedule V, the person shall be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than \$15,000, or both. If a person commits any such violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$25,000 may be imposed;

(c) ~~In the case of more than 5 grams of hashish, the person shall be guilty of a misdemeanor, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$5,000 may be imposed.~~

~~(d)~~ In the case of **more than one ounce** of marijuana, including any adulterants or dilutants, or **more than 5 grams** or less of hashish, the person shall be guilty of a class A misdemeanor.

(d) In the case of one ounce or less of marijuana, including any adulterants or dilutants, or 5 grams or less of hashish, including adulterants or dilutants, the person shall be guilty of a violation pursuant to RSA 318-B:2-c.

28 Controlled Drug Act; Penalties. Amend RSA 318-B:26, III(a) to read as follows:

(a) **Except as provided in RSA 318-B:2-c**, controls any premises or vehicle where he knows a controlled drug or its analog is illegally kept or deposited;

29 Other Alcohol or Drug Offenses; Possession of Drugs. Amend RSA 265-A:43 to read as follows:

265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her license shall be revoked or his or her right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years. **This section shall not apply to possession of marijuana or hashish as provided in RSA 318-B:2-c.**

30 Use of Therapeutic Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, IV to read as follows:

IV. "Cultivation location" means a locked and enclosed site, **under the control of the qualifying patient or designated caregiver who shall report the location to the department in accordance with the provisions of this chapter**, or under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with the provisions of this chapter.

31 Use of Therapeutic Cannabis; Definitions. Amend RSA 126-X:1, VI to read as follows:

VI. "Designated caregiver" means an individual who:

(a) Is at least 21 years of age;

(b) ~~(1) Has [agreed to assist with one or more (not to exceed 5) qualifying patient's] agreed to assist in the therapeutic use of cannabis, excluding the cultivation of therapeutic cannabis, for up to 5 qualifying patients~~, except if the qualifying patient and designated caregiver each live greater than 50 miles from ~~[the nearest]~~ **an** alternative treatment center, ~~[in which case] the designated caregiver may assist [with] in the therapeutic use of cannabis, excluding cultivation, for up to 9 qualifying patients; or~~

(2) Has agreed to cultivate cannabis for therapeutic use pursuant to this chapter for one qualifying patient, if the qualifying patient resides more than 30 miles from an alternative treatment center or if no alternative treatment centers are in operation in this state;

(c) Has never been convicted of a felony or any felony drug-related offense; and

(d) Possesses a valid registry identification card issued pursuant to RSA 126-X:4.

32 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, IX(a) to read as follows:

(a) "Qualifying medical condition" means the presence of:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, multiple sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, **epilepsy, lupus, Parkinson's disease**, or one or more injuries that significantly interferes with daily activities as documented by the patient's provider; and

(2) A severely debilitating or terminal medical condition or its treatment that has produced at least one of the following: **dementia associated with Alzheimer's disease**, elevated intraocular pressure, cachexia, chemotherapy-induced anorexia, wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects, constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle spasms.

33 New Paragraphs; Use of Cannabis for Therapeutic Purposes. Amend RSA 126-X:2 by inserting after paragraph II the following new paragraphs:

II-a. A qualifying patient shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or be denied any right or privilege for the therapeutic use of cannabis in accordance with this chapter, if the qualifying patient possesses, or cultivates if the qualifying patient resides more than 30 miles from an alternative treatment center or if no alternative treatment centers are in operation in this state, an amount of cannabis that does not exceed the following:

(a) If the qualifying patient does not have a designated caregiver, for the possession or cultivation, or both, of cannabis that occurs at the cultivation location reported to the department, or while transporting cannabis and cannabis plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable cannabis;
- (2) Any amount of unusable cannabis; and
- (3) Two mature cannabis plants and 12 seedlings, with a total canopy of no more than 50 square

feet.

(b) If the qualifying patient is not at a cultivation location reported to the department:

- (1) One ounce of usable cannabis; and
- (2) Any amount of unusable cannabis.

II-b. A designated caregiver shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege for the medical use of cannabis in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses, or cultivates for a qualifying patient who resides more than 30 miles from an alternative treatment center or if no alternative treatment centers are in operation in this state, an amount of cannabis that does not exceed the following:

(a) If, at the cultivation location reported to the department, or while transporting cannabis and cannabis plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable cannabis; and
- (2) Any amount of unusable cannabis; and
- (3) Two mature cannabis plants and 12 seedlings, with a total canopy of no more than 50 square

feet.

(b) If not at a cultivation location reported to the department:

- (1) One ounce of usable cannabis; and
- (2) Any amount of unusable cannabis.

II-c. A qualifying patient or designated caregiver shall not be subject to arrest by state or local law enforcement or prosecution or penalty under state or municipal law for giving cannabis to a qualifying patient or a visiting qualifying patient where nothing of value is transferred in return, or for offering to do the same, if the person giving the cannabis does not knowingly cause the recipient to possess more cannabis than is permitted by this section.

II-d. Notwithstanding paragraph II-c, a designated caregiver may receive compensation not to exceed \$500 per calendar year for costs, not including labor, associated with assisting a qualifying patient who has designated the designated caregiver to assist him or her with the therapeutic use of cannabis pursuant to RSA 126-X:1, VI. Such compensation shall not constitute the sale of a controlled drug pursuant to RSA 318-B.

34 New Subparagraph; Use of Cannabis for Therapeutic Purposes; Departmental Administration. Amend RSA 126-X:4, I by inserting after subparagraph (h) the following new subparagraph:

(i) A statement signed by the applicant consenting to random inspections of the cultivation location at the discretion of local public health officials. Such inspections may occur at least quarterly and shall be performed in the presence of the applicant during normal business hours.

35 New Subparagraph; Use of Cannabis for Therapeutic Purposes; Departmental Administration. Amend RSA 126-X:4, II by inserting after subparagraph (g) the following new subparagraph:

(h) A statement signed by the applicant consenting to random inspections of the cultivation location at the discretion of local public health officials. Such inspections may occur at least quarterly and shall be performed in the presence of the applicant during normal business hours.

36 Use of Cannabis for Therapeutic Purposes; Affirmative Defense. Amend RSA 126-X:5, I to read as follows:

I. It shall be an affirmative defense for any person charged with manufacturing, possessing, having under his or her control, selling, purchasing, prescribing, administering, transporting, or possessing with intent to sell, dispense, or compound cannabis, cannabis analog, or any preparation containing cannabis, if:

(a) The actor is a qualifying patient who has been issued a valid registry identification card, was in possession of cannabis in a quantity and location permitted pursuant to this chapter, and was engaged in the therapeutic use of cannabis; or

(b) The actor is a designated caregiver who has been issued a valid registry identification card was in possession of a cannabis in a quantity and location permitted pursuant to this chapter, and was engaged in the therapeutic use of cannabis on behalf of a qualifying patient; **or**

(c) The actor is a person with a qualifying medical condition who does not possess a registry identification card and, prior to the arrest, the actor submitted to the department a completed application to become a qualifying patient, including a written certification, but the actor had not yet received a registry identification card from the department; provided that:

(1) The actor does not possess more than the amount of cannabis permitted under RSA 126-X:2, II-a, if the cannabis is not on the actor's property; or

(2) If the cannabis is on the actor's property, the actor does not possess more than the amount of cannabis permitted under RSA 126-X:2, II-a, which shall be in a locked and enclosed location on the actor's property; or

(d) The actor is a person with a qualifying medical condition who is not yet in possession of a valid registry identification card and is arrested or cited prior to the date on which the department begins accepting registry identification card applications if:

(1) The actor produces a written statement signed by a provider stating that in the provider's professional opinion, after having completed a full assessment made in the course of a provider-patient relationship of at least 3 months duration, the actor has a qualifying medical condition. The 3-month requirement for the provider-patient relationship required in this subparagraph shall not apply if the provider issuing the written certification certifies that the onset of the patient's qualifying medical condition occurred within the past 3 months and the certifying provider is primarily responsible for the patient's care related to his or her qualifying medical condition; and

(2) The actor does not possess more than the amount of cannabis permitted under RSA 126-X:2, II-a, if the cannabis is not on the actor's property; or

(3) If the cannabis is on the actor's property, the actor does not possess more than the amount of cannabis permitted under RSA 126-X:2, II-a, which shall be in a locked and enclosed location on the actor's property.

37 Effective Date.

I. Sections 26 through 29 of this act shall take effect January 1, 2015.

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

2014-1587h

AMENDED ANALYSIS

This bill:

I. Establishes the gaming commission and places the lottery commission and racing and charitable gaming commission under its jurisdiction as separate divisions.

II. Allows for the selection and operation of 2 casinos in New Hampshire, including the operation of video slot machines and table games.

III. Establishes the gaming enforcement unit in the division of state police.

IV. Distributes proceeds from gross slot machine income and gross table game income to reimburse the gaming regulatory oversight authority for certain expenses and to pay for the operation of the gaming commission.

V. Distributes a percentage of proceeds from gross slot machine revenue and gross table game revenue to the host community, those communities abutting the host community, the host county, the department of health and human services to support addiction programs to cities and towns under the revenue sharing agreement, and the gaming regulatory fund.

VI. Lifts the suspension on revenue sharing with cities and towns under RSA 31-A.

VII. Prohibits the use of electronic benefit transfer cards (EBTs) at establishments licensed by the gaming commission.

VIII. Establishes the gaming regulatory fund.

IX. Reduces the penalty for possession of one ounce or less of marijuana to a violation, and reduces the penalty for possession of other amounts of marijuana. The bill also establishes a misdemeanor penalty for cultivation of 6 or fewer marijuana plants.

X. Permits qualifying patients and registered caregivers to cultivate cannabis for therapeutic use.