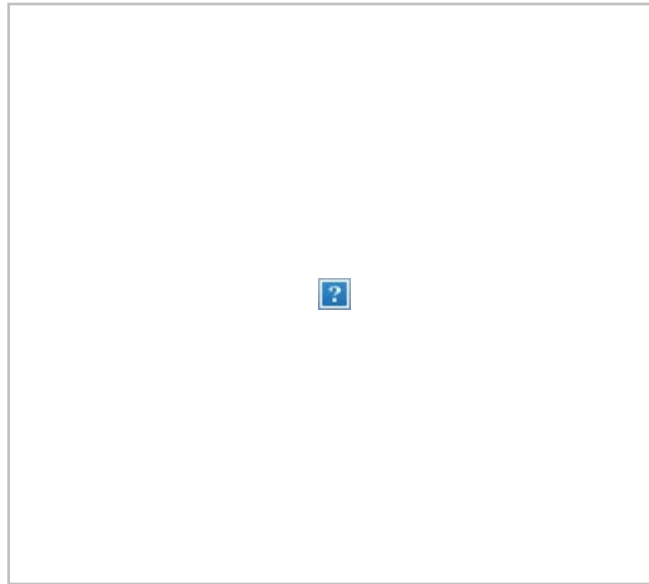


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Second Year of 161st Session of the New Hampshire General Court

Legislative

SENATE CALENDAR ADDENDUM

REPORTS AND AMENDMENTS

THE SENATE WILL MEET IN SESSION ON THURSDAY, MAY 13, 2010, AT 1:00 P.M.

SPECIAL ORDER REPORTS

COMMERCE, LABOR AND CONSUMER PROTECTION

HB 366, relative to retail vehicle dealers.
Ought to Pass with Amendment, Vote 5-1.
Senator Reynolds for the committee.

HB 1364, relative to Medicare unfair trade practices.
Inexpedient to Legislate, Vote 3-3.
Senator Hassan for the committee.

HB 1417, allowing companion dogs in certain areas of restaurants.
Inexpedient to Legislate, Vote 3-3.
Senator Cilley for the committee.

HB 1459, relative to the board of trust company incorporation.
Ought to Pass with Amendment, Vote 4-2.
Senator Hassan for the committee.

ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT

HB 1270, (New Title) relative to balancing amounts expended from the renewable energy fund.
Ought to Pass with Amendment, Vote 6-0.
Senator Bradley for the committee.

FINANCE

HB 1128-FN-L, relative to the distribution of meals and rooms tax revenues to cities and towns.
Ought to Pass, Vote 6-0.
Senator Sgambati for the committee.

WAYS AND MEANS

HB 1490, (New Title) establishing a citizens task force to study state revenues and expenditures.
Ought to Pass with Amendment, Vote 6-1.
Senator Bradley for the committee.

HB 1607-FN-A, relative to the reasonable compensation deduction under the business profits tax.
Ought to Pass with Amendment, Vote 7-0.
Senator Odell for the committee.

HB 1615, (New Title) relative to the determination of value and a notice requirement for purposes of the utility property tax.
Ought to Pass with Amendment, Vote 7-0.
Senator Gilmour for the committee.

SPECIAL ORDER AMENDMENTS

Commerce, Labor and Consumer Protection
May 11, 2010
2010-2021s
03/05

Amendment to HB 366

Amend RSA 259:29-a, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Such business location is a permanent physical structure; and

Energy, Environment and Economic Development
May 6, 2010
2010-1952s

06/05

Amendment to HB 1270

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

AN ACT relative to balancing amounts expended from the renewable energy fund.

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

- 1 Renewable Energy Fund. Amend RSA 362-F:10, VI to read as follows:
VI. Such payments shall be allocated from the renewable energy fund established in paragraph I, as determined by the commission ***to the extent funding is available up to a maximum aggregate payment of 40 percent of the fund over each 2-year period commencing July 1, 2010.***
- 2 Renewable Energy Fund. Amend RSA 362-F:10, VIII to read as follows:
VIII. The commission may, after notice and hearing, by order or rule, establish additional incentive or rebate programs ***and competitive grant opportunities*** for ~~[customer-sited thermal and]~~ renewable ~~[energy]~~ ***thermal and electric energy projects sited in New Hampshire.***
- 3 Renewable Energy Fund. RSA 362-F:10, IX is repealed and reenacted to read as follows:
IX. For good cause the commission may, after notice and hearing, by order or rule, modify the program, including reducing the incentive level, created under RSA 326-F:10, V.
- 4 New Paragraphs; Renewable Energy Fund. Amend RSA 362-F:10 by inserting after paragraph IX the following new paragraphs:
X. Consistent with RSA 362-F:10, VI, the commission shall, over each 2-year period commencing July 1, 2010, reasonably balance overall amounts expended from the fund, net of administrative expenditures, between residential and nonresidential sectors. Funds from the renewable energy fund awarded to renewable projects in the residential sector shall be in approximate proportion to the amount of electricity sold at retail to that sector in New Hampshire, and the remaining funds from the renewable energy fund shall be awarded to projects in the nonresidential sector which include commercial and industrial sited renewable energy projects, existing generators, and developers of new commercial-scale renewable generation in New Hampshire.
XI. The commission shall issue requests for proposals that provide renewable projects in the nonresidential sector, which include commercial and industrial sited renewable energy projects, existing generators, and developers of new commercial-scale renewable generation in New Hampshire, with opportunities to receive funds from the renewable energy fund established under RSA 362-F:10. The requests for proposals shall provide such opportunities to those renewable energy projects that are not eligible to participate in incentive and rebate programs developed by the commission under RSA 362-F:10, V and RSA 362-F:10, VIII. The commission shall issue a request for proposals no later than March 1, 2011 and annually thereafter, and select winning projects in a timely manner.
- 5 Effective Date. This act shall take effect upon its passage.

2010-1952s

AMENDED ANALYSIS

This bill requires the public utilities commission to balance amounts expended from the renewable energy fund between residential and nonresidential sectors.

Commerce, Labor and Consumer Protection
May 6, 2010
2010-1957s
08/10

Amendment to HB 1459

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

AN ACT relative to the board of trust company incorporation and relative to political advertising and advocacy advertising.

Amend RSA 386-A:4, I as inserted by section 8 of the bill by replacing it with the following:

I. A petition requesting approval of the proposed incorporation shall be filed with the bank commissioner. The petition shall be upon such form as may be prescribed by the bank commissioner and shall contain all the information required by such form, signed and verified under oath by the incorporators, to which shall be annexed a signed duplicate of the articles of agreement. An examination fee of \$1,500 shall be paid when the petition is filed. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner. The bank commissioner shall examine **and investigate** each petition ~~[and if he finds that it is duly completed, he shall forthwith refer the petition to the board of trust company incorporation. The bank commissioner shall then make such investigation of each petition]~~ as he **or she** considers expedient~~[, for the purpose of more fully informing the board. Said board]~~. **The commissioner** may, upon request of any interested person or corporation or at ~~[its]~~ **his or her** own discretion, order a public hearing, or may approve said petition without a hearing. The petitioners shall cause to be published such notices relating to the petition as the ~~[board]~~ **commissioner** may order.

Amend RSA 390:6 as inserted by section 25 of the bill by replacing it with the following:

390:6 Reserves. Every such corporation shall at all times maintain as a reserve an amount equal to at least 12 percent of the aggregate amount of its demand deposits plus an amount equal to at least 5 percent of the aggregate amount of its time and savings deposits. Not less than 100 percent of the reserves on demand deposits shall consist of cash and due from banks, and/or federal funds advanced from one business day until the next. The form of the reserve for time and savings deposits may be in any of the following: cash and due from banks, and/or federal funds advanced from one business day until the next, and/or obligations of the United States of America, the maturity of which shall not exceed 5 years, and/or the obligations of agencies of the United States at par value, the maturity of which shall not exceed 5 years, and/or the obligations of any federal government sponsored enterprises (as are designated by written ruling of the bank commissioner), at par value the maturity of which shall not exceed 5 years. The ~~[board of trust company incorporation created under RSA 392]~~ **commissioner** may vary the amount of reserve required, provided, however, that ~~[said board]~~ **the commissioner** shall not increase the amount of reserves required for any bank to an amount in excess of that which is required by the Federal Reserve System of similar banks located in this state which are members of the Federal Reserve System. No new loan or investment shall be made by such corporation when its reserve is not in accordance with the requirements of this section. The required reserve must be maintained on a daily basis. The method of computation and the reserve computation period for determining compliance with this section shall be established by the commissioner. Any deficiency in the reserve established pursuant to this section may be subject to a penalty of up to \$100 per day.

Amend section 29 of the bill by replacing it with the following:

29 Hearing. Amend RSA 392:6-a to read as follows:

392:6-a Hearing. The ~~[board]~~ **commissioner** may order within ~~[its]~~ **his or her** discretion a public hearing on the petition. The ~~[board]~~ **commissioner** may approve or deny the petition with or without a public hearing. Any required public hearing shall be held at the time and place fixed by the ~~[board]~~ **commissioner** and a notice shall be published in accordance with the provisions of RSA 392:6. The ~~[board]~~ **commissioner** may prescribe reasonable procedural rules to govern the proceedings, including rules for maintaining the confidentiality of the portions of the petition, the commissioner's investigation, and the proceedings of the ~~[board]~~ **commissioner** that include confidential information or are determined by ~~[the board or]~~ the commissioner or otherwise determined by law to be confidential or to exempt a certain class of petitions from any public hearing requirement. The ~~[board]~~ **commissioner** shall keep a permanent verbatim record of all such evidence.

Amend the bill by inserting after section 47 the following and renumbering the original sections 48-49 to read as 52-53, respectively:

48 New Subdivision; Shareholder Approval for Political and Advocacy Advertising. Amend RSA 293-A by inserting after section 7.47 the following new subdivision:

Shareholder Approval for Political and Advocacy Advertising

293-A:7.48 Political Advertising and Advocacy Advertising. In this subdivision:

(a) "Advocacy advertising" shall mean any communication:

(1) Advocating in favor or against any New Hampshire statute, legislation that is the subject of a bill pending before the New Hampshire legislature, or any bill or resolution introduced in the most recent session of the New Hampshire

legislature, or any matter that is the subject of a referendum which is submitted or intended to be submitted to a vote in a municipal election; or

(2) That clearly identifies by name, image or voice a current holder of any elective office in New Hampshire, or a candidate for elective office.

(b) "Candidate" means any person who has registered or for whom a committee has been registered pursuant to RSA 664:3 for the purpose of soliciting receipts or making expenditures to support the person's candidacy or possible candidacy for office including candidate's committees, friends committees, exploratory committees, and draft committees.

(c) "Commencement of political advertising and/or advocacy advertising" means the first dissemination by an organization of a communication containing political advertisement or advocacy advertisement by any means whatsoever.

(d) "Communication" means "communication" as defined in RSA 664:2, VII.

(e) "Political advertising" means "political advertising" as defined in RSA 664:2, VI.

293-A:7.49 Filing with New Hampshire Secretary of State. Prior to commencing any political advertising or advocacy advertising, any corporation, domestic or foreign, intending to engage in political advertising or advocacy advertising in the state of New Hampshire, shall file a statement with the New Hampshire secretary of state, corporate division, that the corporation intends to engage in either political advertising or advocacy advertising. The corporation shall file the statement with the secretary of state, corporate division, at least 5 days before the date of commencement of political advertising and/or advocacy advertising. The corporation shall attach to the statement a vote of the shareholders of the corporation, certified as true and complete by the secretary of the corporation, authorizing the corporation to engage in political advertising or advocacy advertising in the state of New Hampshire. The shareholders' vote shall be dated no more than 12 months prior to the date of filing with the secretary of state. The corporation shall also attach to the statement a vote of the board of directors of the corporation, certified as true and complete by the secretary of the corporation, authorizing the president of the corporation to expend corporate funds or other corporate assets for the purpose of paying for political advertising and/or advocacy advertising in the state of New Hampshire. The vote of the board of directors shall specify the maximum amount of corporate funds or other assets that the president of the corporation is authorized to expend in paying for political advertising or advocacy advertising. The statement shall be in substance the following form:

_____, of _____, _____ County, State of _____, intends to engage in [check the appropriate box or boxes]:

☐ Political Advertising

☐ Advocacy Advertising

in the state of New Hampshire. Attached hereto is a true and complete copy of a shareholder vote of the corporation authorizing the corporation to engage in political advertising or advocacy advertising, and a true and complete copy of a vote of the board of directors of the corporation authorizing the president of the corporation to expend corporate funds or other assets for political advertising or advocacy advertising.

[Duly Authorized Secretary of _____]

293-A:7.50 Filing Fee. Any statement filed in accordance with RSA 293-A:7.49 shall be accompanied by a \$25 filing fee.

293-A:7.51 Penalties. A violation of RSA 293-A:7.49 shall result in a civil penalty of \$5,000 per violation. Each individual airing or broadcasting on radio or television or by on-line viewing of a political advertising or an advocacy advertisement by a corporation that has failed to comply with RSA 293-A:7.49 shall constitute a separate violation. Any candidate or voter may make a complaint in writing to the attorney general of any violation of this subdivision. If the attorney general determines that a provision of this subdivision has been violated, he or she may:

(a) Issue an order requiring the violator to cease and desist from its violation.

(b) If the attorney general's order is not obeyed, petition to the superior court of the county in which the violation occurred for an order of enforcement, and to enjoin any further political advertising or advocacy advertising until the appropriate statement has been filed.

(c) Prosecute to final judgment through his or her designee if sufficient cause for such prosecution is found.

293-A:7.52 Private Right of Action. Any candidate or voter may have a private right of action to enforce the provisions of this subdivision by filing a petition with the Merrimack County superior court requesting an order of enforcement or an injunction to enjoin further political advertising or advocacy advertising until the required statements have been filed with the secretary of state, corporate division, and the appropriate filing fee and civil penalties have been paid. Upon a finding by the superior court that the required statements have not been filed, and the ordering of any enforcement or injunctive relief, the complaining candidate or voter shall be entitled to his or her attorney's fees and costs.

49 New Subdivision; Approval for Political and Advocacy Advertising. Amend RSA 304-C by inserting after section 85 the following new subdivision:

Political Advertising and Advocacy Advertising

304-C:86 Political Advertising and Advocacy Advertising. In this subdivision:

I. "Advocacy advertising" means any communication:

- (a) Referencing any New Hampshire statute, legislation pending before the New Hampshire legislature, or any matter that is the subject of a referendum which is submitted or intended to be submitted to a vote in a municipal election; or
 - (b) That clearly identifies a current holder of any elective office in New Hampshire, or a candidate for elective office.
- II. "Candidate" means any person who has established a committee pursuant to RSA 664 for the purpose of soliciting receipts or making expenditures.
- III. "Commencement of political advertising and/or advocacy advertising" means the first dissemination by an organization of a communication containing political advertisement or advocacy advertisement by any means whatsoever.
- IV. "Communication" means "communication" as defined in RSA 664:2, VII.
- V. "Political advertising" means "political advertising" as defined in RSA 664:2, VI.

304-C:87 Filing with New Hampshire Secretary of State. Prior to commencing any political advertising or advocacy advertising, any limited liability company, domestic or foreign, intending to engage in political advertising or advocacy advertising in the state of New Hampshire, shall file a statement with the New Hampshire secretary of state, corporate division, that the limited liability company intends to engage in either political advertising or advocacy advertising. The limited liability company shall file the statement with the secretary of state, corporate division, at least 5 days before the commencement of political advertising or advocacy advertising. The limited liability company shall attach to the statement a vote of the members of the limited liability company, certified as true and complete by the manager of the limited liability company, or, if member managed, by a member of the limited liability company, authorizing the limited liability company to engage in political advertising or advocacy advertising in the state of New Hampshire. The vote shall also authorize the manager or managers of the limited liability company to use company funds or other company assets for the purpose of paying for political advertising or advocacy advertising in the state of New Hampshire, and shall specify the maximum amount of company funds or other assets that the manager or managers are authorized to use in paying for political advertising or advocacy advertising. The member vote shall be dated no more than 12 months prior to the date of filing with the secretary of state. The statement shall be in substance the following form:

_____, of _____, _____ County, State of _____, intends to engage in [check the appropriate box or boxes]:

- ☐ Political Advertising
- ☐ Advocacy Advertising

in the state of New Hampshire. Attached hereto is a true and complete copy of a member vote of the limited liability company authorizing the limited liability company to engage in political advertising or advocacy advertising, and authorizing the manager of the limited liability company to expend company funds or other assets for political advertising or advocacy advertising.

[Duly Authorized _____ of _____]

304-C:88 Filing Fee. Any statement filed in accordance with RSA 304-C:87 shall be accompanied by a \$25 filing fee.

304-C:89 Penalties. A violation of this subdivision shall result in a civil penalty of \$5,000 per violation. Each individual airing or broadcasting on radio or television or by on-line viewing of a political advertising or an advocacy advertisement by a limited liability company that has failed to comply with this subdivision shall constitute a separate violation. Any candidate or voter may make complaint in writing to the attorney general of any violation of this subdivision. If the attorney general determines that a provision of this chapter has been violated, he or she may:

- I. Issue an order requiring the violator to cease and desist from its violation.
- II. If the attorney general's order is not obeyed, petition to the superior court of the county in which the violation occurred for an order of enforcement, and to enjoin any further political advertising or advocacy advertising until the appropriate statement has been filed.

III. Prosecute to final judgment through his or her designee if sufficient cause for such prosecution is found.

304-C:90 Private Right of Action. Any candidate or voter may have a private right of action to enforce the provisions of this subdivision by filing a petition with the Merrimack county superior court requesting an order of enforcement or an injunction to enjoin further political advertising or advocacy advertising until the required statements have been filed with the secretary of state and the appropriate filing fee and civil penalties have been paid. Upon a finding by the superior court that the required statements have not been filed, and the ordering of any enforcement or injunctive relief, the complaining candidate or voter shall be entitled to his or her attorney's fees and costs.

50 Political Advertising and Advocacy Advertising. Amend RSA 304-B by inserting after section 64 the following new subdivision:

Political Advertising and Advocacy Advertising

304-B:65 Political Advertising And Advocacy Advertising. As used in this subdivision:

- I. "Advocacy advertising" means any communication:

(a) Referencing any New Hampshire statute, legislation pending before the New Hampshire legislature, or any matter that is the subject of a referendum which is submitted or intended to be submitted to a vote in a municipal election; or

(b) That clearly identifies a current holder of any elective office in New Hampshire, or a candidate for elective office.

II. “Candidate” means any person who has established a committee pursuant to RSA 664 for the purpose of soliciting receipts or making expenditures.

III. “Commencement of political advertising and/or advocacy advertising” shall mean the first dissemination by an organization of a communication containing political advertisement or advocacy advertisement by any means whatsoever.

IV. “Communication” means “communication” as defined in RSA 664:2, VII.

V. “Political advertising” means “political advertising” as defined in RSA 664:2, VI.

304-B:66 Filing with New Hampshire Secretary of State. Prior to commencing any political advertising or advocacy advertising, any limited partnership, domestic or foreign, intending to engage in political advertising or advocacy advertising in the state of New Hampshire, shall file a statement with the New Hampshire secretary of state, corporate division, that the limited partnership intends to engage in either political advertising or advocacy advertising. The limited partnership shall file the statement with the secretary of state, corporate division, at least 5 days before the commencement of political advertising or advocacy advertising. The limited partnership shall attach to the statement a vote of the limited and general partners of the limited partnership, certified as true and complete by one of the general partners of the limited partnership, authorizing the limited partnership to engage in political advertising or advocacy advertising in the state of New Hampshire. The vote also shall authorize the general partner or general partners of the limited partnership to use partnership funds or other partnership assets of the purpose of paying for political advertising or advocacy advertising in the state of New Hampshire. The vote also shall specify the maximum amount of partnership funds or other assets that the general partner or general partners are authorized to use in paying for political advertising or advocacy advertising. The partner vote shall be dated no more than 12 months prior to the date of filing with the secretary of state. The statement shall be in substance the following form:

_____, of _____, _____ County, State of _____, intends to engage in [check the appropriate box or boxes]:

- ☐ Political Advertising
- ☐ Advocacy Advertising

in the state of New Hampshire. Attached hereto is a true and complete copy of a partnership vote of the limited partnership authorizing the limited partnership to engage in political advertising or advocacy advertising, and a true and complete copy of a vote of the limited and general partners of the limited partnership authorizing the president of the limited partnership to expend corporate funds or other assets for political advertising or advocacy advertising.

[Duly Authorized General partner
of _____]

304-B:67 Filing Fee. Any statement filed in accordance with RSA 304-B:66 shall be accompanied by a \$25 filing fee.

304-B:68 Penalties. A violation of this subdivision shall result in a civil penalty of \$5,000 per violation. Any candidate or voter may make complaint in writing to the attorney general of any violation of this subdivision. If the attorney general determines that a provision of this subdivision has been violated, he or she may:

I. Issue an order requiring the violator to cease and desist from its violation.

II. If the attorney general’s order is not obeyed, petition to the superior court of the county in which the violation occurred for an order of enforcement, and to enjoin any further political advertising or advocacy advertising until the appropriate statement has been filed.

III. Prosecute to final judgment through his or her designee if sufficient cause for such prosecution is found.

304-B:69 Private Right of Action. Any candidate or voter may have a private right of action to enforce the provisions of this subdivision by filing a petition with the Merrimack county superior court requesting an order of enforcement or an injunction to enjoin further political advertising or advocacy advertising until the required statements have been filed with the secretary of state, corporate division, and the appropriate filing fee and civil penalties have been paid. Upon a finding by the superior court that the required statements have not been filed, and the ordering of any enforcement or injunctive relief, the complaining candidate or voter shall be entitled to his or her attorney’s fees and costs.

51 Severability. If any provision of this act or the application thereof to any person or circumstances held invalid, the invalidity does not affect any other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

2010-1957s

AMENDED ANALYSIS

This bill reallocates the duties of the board of trust company incorporation to the banking commissioner.

This bill also requires the filing of a statement with the secretary of state before a corporation, limited liability company, or limited partnership engages in political advertising or advocacy advertising in this state.

Senate Ways and Means
May 6, 2010
2010-1936s
05/10

Amendment to HB 1490

Amend RSA 21-I:88 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Be authorized to solicit, accept, and expend grants, gifts, and donations from any public or private source on behalf of the citizens task force.

Senate Ways and Means
May 4, 2010
2010-1859s
09/10

Amendment to HB 1607-FN-A

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

AN ACT relative to the reasonable compensation deduction under the business profits tax, making distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares, and relative to the interest and dividends tax on certain distributions to investors in investment organizations.

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

1 Purpose. The legislature finds that:

I. Good tax policy requires clear tax law that treats similarly situated business organizations equally, responds to changing business practices, provides taxpayers with clear and simple guidance, encourages compliance, and enhances the growth of jobs and income in our state.

II. The strength of New Hampshire's economy is based on attracting and growing small businesses that create good jobs and growth, and the state's tax system should provide clear rules that encourage and enhance the state's reputation as a leading jurisdiction for the creation and growth of small businesses.

III. The business profits tax statute, RSA 77-A, was put in place in 1970 to tax the profits of businesses, excluding income earned by their owners through the provision of personal services, when natural persons. The business profits tax statute has always allowed a partnership or a proprietorship to deduct an amount attributable to the reasonable value of services provided by a partner or proprietor in connection with the business when calculating its business profits tax.

IV. The interest and dividends tax statute, RSA 77, was first enacted in 1923, and recent amendments in 2009 to extend this tax to distributions from partnerships and limited liability companies resulted in inappropriate taxation of these businesses and their owners and in unintended consequences. This act will repeal this 2009 law in its entirety to restore the interest and dividends tax statute to its terms as they existed prior to the 2009 change.

V. This act will reform, simplify, and modernize important business profits tax rules that apply to small businesses and their owners, will reduce costly audits, and will restore New Hampshire's ability to encourage small business growth and the good jobs these businesses create.

2 Business Profits Tax; Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted to read as follows:

III.(a) In the case of any business organization filing a business profits tax return as a proprietorship or a partnership, a deduction of an amount equal to a fair and reasonable compensation for the personal services of a natural person who is a proprietor, partner, or member provided to the business organization, as exclusively determined pursuant to subparagraph (d).

(b) The purpose of this paragraph is to permit a deduction from gross business profits of such a business organization all amounts that are fairly attributable to the personal services of the proprietor, partner, or member, but not to permit a

deduction from gross business profits of amounts that are attributable to a return on equity capital actually invested in the business organization. Such deductible amounts attributable to labor services would generally include amounts reported as earned income on federal tax returns, but would also include amounts attributable to personal services provided in connection with the operation and rental of real property, the sale of property and services, and other amounts due to services rendered.

(c) The deduction allowed under this paragraph may reduce a business organization’s taxable business profits below zero for any taxable period only if such compensation has actually been paid.

(d) The amount of the deduction allowed under this paragraph shall be determined using the standards set forth in section 162(a)(1) of the United States Internal Revenue Code, as it may be amended from time to time, and the Treasury Regulations, administrative rulings, and judicial cases issued thereunder.

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

(b) Partnerships, limited liability companies, associations, and trusts, the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds \$2,400 during the taxable year, but not including a qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

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

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

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

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

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

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

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

6 New Section; Investors in Investment Organizations Taxable Only on Portion of Distributions Attributable to Interest and Dividends. Amend RSA 77 by inserting after section 4-f the following new section:

77:4-g Investors in Investment Organizations Taxable Only on Portion of Distributions Attributable to Interest and Dividends.

I. In this section, “investment organization” means any organization, including a mutual fund, that limits its activities to investment activities involving some or all of the activities of acquiring, owning, holding, trading, managing, and disposing of equity or debt securities and activities incidental to or in support thereof.

II. Notwithstanding any other provision of RSA 77:4 to the contrary, an investor in an investment organization shall be taxable under this chapter only on the portion of distributions received from the investment organization that are attributable to interest and dividends of the investment organization, provided, however, that the portion of any such distribution attributable to interest from New Hampshire direct or municipal obligations and direct obligations of the United States government shall not be taxable under this chapter.

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

8 Applicability.

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

II. Sections 3-5 and 7 shall apply to taxable periods ending on or after December 31, 2010.

10 Effective Date.

I. Section 6 of this act shall take effect July 1, 2010.

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

This bill changes certain requirements for the reasonable compensation deduction under the business profits tax. The bill makes distributions from limited liability companies, partnerships, and associations subject to the interest and dividends tax only if they have transferable shares.

This bill also establishes that investors in investment organizations shall be taxed under the interest and dividends tax only on the portion of distributions received from the investment organization which are attributable to interest and dividends.

Senate Ways and Means
May 4, 2010
2010-1855s
09/04

Amendment to HB 1615

Amend RSA 83-F:3 as inserted by section 2 of the bill by replacing it with the following:

83-F:3 Determination of Value. On or before December 1 of the tax year, the commissioner shall determine the *market* value of utility property for the purposes of this chapter by ~~[appraising such property at its full and true value]~~ ***utilizing generally accepted appraisal methods and techniques. Market value means the property’s full and true value as defined under RSA 75:1. The commissioner shall hold a public hearing prior to performing an assessment, in order to receive public input on assessments under this chapter.*** Notice of such determination shall be given to the taxpayer within 15 days of the commissioner’s determination.

2010-1855s

AMENDED ANALYSIS

This bill requires utility property to be appraised at market value for purposes of the utility property tax. The bill requires the commissioner of the department of revenue administration to hold a public hearing prior to performing an assessment for valuation of utility property. The bill also changes a notice requirement to the department of revenue administration for transfers of utility property or assets.