

SB 489-FN-A-LOCAL – AS AMENDED BY THE SENATE

03/24/10 1136s

2010 SESSION

10-2880

08/09

SENATE BILL **489-FN-A-LOCAL**

AN ACT relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. Gallus, Dist 1; Sen. Downing, Dist 22; Sen. Lasky, Dist 13; Sen. Gilmour, Dist 12; Sen. Sgambati, Dist 4; Sen. DeVries, Dist 18; Rep Gionet, Graf 3; Rep. Ingersoll, Coos 4; Rep. Clemons, Hills 24; Rep. Rausch, Rock 5; Rep. L. Ober, Hills 27

COMMITTEE: Finance

ANALYSIS

This bill:

- I. Allows the construction of one destination golf resort and convention center in the southern tier of the state and 2 gaming facilities in the north country.
- II. Allows table gaming and video lottery machines at a destination golf resort and convention center and at north country facilities.
- III. Establishes a permit process for table gaming and video lottery machines.
- IV. Establishes a gaming enforcement unit in the division of state police.
- V. Distributes proceeds of video lottery machines to the general fund, municipalities where the facility is located, the alcohol and drug abuse treatment program, the fire standards and training and emergency medical services fund, the police standards and training council training fund, the department of transportation, and the gaming operator.
- VI. Distributes a percentage of the proceeds from table gaming to the general fund and the gaming operation.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing.

Be it Enacted by the Senate and House of Representatives in General Court convened:

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

CHAPTER 284-A
VIDEO LOTTERY MACHINES

284-A:1 Definitions. In this chapter:

I. "Applicant" means any person, officer, director, or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under the provisions of this chapter. In cases in which the applicant is a corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or any other form of legal business entity, the lottery commission shall determine the associated persons whose qualifications must be provided and reviewed as a precondition to the licensing of the applicant.

II. "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.

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

IV. "Destination golf resort and convention center" means the facility which is issued a resort gaming facility license in accordance with this chapter. The destination golf resort and convention center shall include a minimum of 300 new hotel rooms, restaurants, entertainment facilities, convention and meeting space, and other amenities typical of resorts and convention centers. The facility shall have adequate floor space, which is separate from the conference areas, for gaming. It shall be located in a town along the Massachusetts border in Hillsborough county.

V. "Facility licensee" means any north country facility licensee, destination golf resort and convention center licensee, or any pari-mutuel licensee.

VI. "Facility licensee location" means a pari-mutuel licensee location, north country facility licensee location, or destination golf resort and convention center, and the portion of such facility approved for video lottery machine operations.

VII. "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 machine operations, including the general manager and assistant manager of the operator licensee or technology provider, director of operations, director of cage and/or credit operations, director of surveillance, director of marketing, director of management information systems, director of

security, comptroller, 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 as non-key employees.

VIII. "Licensee" means any applicant licensed by the lottery commission under this chapter.

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

X. "North country facility license" means the license issued to a north country facility licensee by the lottery commission pursuant to RSA 284-A.

XI. "North country facility licensee" means one of no more than 2 facilities licensed by the lottery commission pursuant to this chapter, one of which shall be located in Grafton county and one of which shall be located in Coos county.

XII. "North country facility licensee location" means the facility which is issued a north country facility license in accordance with this chapter.

XIII. "Operator applicant" means the applicant applying for an operator's license to operate video lottery machines in accordance with this chapter.

XIV. "Operator's license" means the license issued by the lottery commission to an operator licensee which allows the operator licensee to possess, conduct, and operate video lottery machines in accordance with this chapter.

XV. "Operator licensee" means an operator applicant who is issued a license by the lottery commission to procure and operate video lottery machines pursuant to this chapter.

XVI. "Pari-mutuel licensee" means an entity licensed and authorized to conduct racing, whether live, simulcast, or both, as provided in RSA 284:16 or RSA 284:16-a at a pari-mutuel licensee location.

XVII. "Pari-mutuel licensee location" means the facility at which a pari-mutuel licensee is located and where a pari-mutuel licensee was authorized to conduct live horse racing or live dog racing as of January 1, 2009 for at least the number of days as required in RSA 284:22-a, II(a)(3) or made the election as provided in RSA 284:22-a and such election was approved by the racing and charitable gaming commission, and any real estate in which a pari-mutuel licensee had an interest as of January 1, 2009 which is adjacent to the real estate at which the pari-mutuel licensee was authorized to conduct live horse racing or live dog racing as of January 1, 2009.

XVIII. "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.

XIX. "Progressive system" means one or more video lottery machines linked to one

or more common progressive jackpots.

XX. "Resort gaming facility license" means the license issued by the lottery commission to the destination golf resort and convention center pursuant to RSA 284-A.

XXI. "Resort gaming facility licensee" means the holder of the destination golf resort and convention center license issued by the lottery commission.

XXII. "Table game" means games authorized pursuant to RSA 287-H.

XXIII. "Technology provider" means any person or entity which designs, manufactures, installs, distributes, or supplies video lottery machines for sale or lease to the operator licensees, and which are for use by an operator 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 for sale or lease to the operator licensees.

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 facility licensee or paid to a player of a video lottery machine, which can be exchanged for cash at the facility licensee.

XXVII. "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 do not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

XXVIII. "Video lottery" means any lottery conducted with a video lottery machine or linked video lottery machines with an aggregate progression prize or prizes. Video lottery conducted pursuant to this chapter shall not be considered a state-run lottery.

284-A:2 Video Lottery Oversight and Facility Location Licensure.

I. No license shall be issued to any person under this chapter without prior approval of the lottery commission pursuant to this chapter and RSA 284:21-w. The lottery commission shall only issue licenses to persons who operate video lottery machines at a facility licensee after meeting the requirements of RSA 284-A:6. The lottery commission shall have the authority to license and regulate the installation, operation, and conduct of video lottery machines at a facility licensee.

II. The lottery commission shall have general responsibility for the implementation

of this chapter and shall adopt rules under RSA 541-A relative to:

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

(b) Conducting all investigations required under this chapter with regard to the application of any applicant for any license.

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

(d) Establishing standards and a reasonable fee structure for the licensing and renewal of licenses for employees and operators, technology providers, and operator licensees consistent with RSA 284-A:5, I(e) and II(e).

(e) 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.

(f) Establishing standards for licensing under RSA 284-A:6.

(g) Establishing standards for reviewing any structure at a facility location.

(h) 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.

(i) Ensuring that any facility licensee seeking to host or operate table games at a facility licensee location has appropriate approvals from the racing and charitable gaming commission pursuant to RSA 287-H.

III. Pending the adoption of rules under RSA 541-A, the lottery commission shall adopt interim rules pursuant to RSA 541-A:19 after public hearing and within 90 days after enactment of this chapter. Such interim rules shall implement the provisions of this chapter, including an approval process for selecting the provider of the central computer system and a process for reviewing, selecting, and granting facility licenses for no more than 2 north country facility locations and one destination golf resort and convention center.

IV. The lottery commission shall provide and operate a single central monitor and control system into which all licensed video lottery machines shall be connected.

(a) The central monitor and control system shall be capable of:

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

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

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

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

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

(b) The central monitor and control 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 statewide system.

(1) Except as provided in subparagraph (2), the lottery commission shall not allow an operator licensee to have access to, or obtain information from, the central monitor and control system.

(2) If the access does not in any way affect the integrity or security of the central monitor and control system, the lottery commission may allow an operator licensee to have access to the central monitor and control system that allows the licensee to obtain information pertinent to the legitimate operation of its video lottery.

V. The lottery commission may issue subpoenas and compel the attendance of witnesses, and may administer oaths and require testimony of witnesses under oath.

VI. No later than November 1 of each calendar year, the lottery commission shall submit a report to the fiscal committee of the general court, regarding the operation of video lottery machines. Such report may include recommendations for future legislation.

VII.(a) The lottery commission shall keep a written record of all proceedings of public meetings of the commission.

(b) 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 actions taken with respect to such applicants. Subject to RSA 284-A:2, VII(d) and (e), a file and record of the actions by lottery commission shall be open to public inspection provided, however, that the information regarding any applicant whose license or registration has been denied, evoked, or not renewed shall be removed from such list after 5 years from the date of such action.

(c) The lottery commission shall maintain such other files and records as the commission determines is 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.

(d) All information and data required by the lottery commission to be furnished to it, or which may otherwise be obtained, shall be considered to be confidential and shall not be revealed 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.

(e) All information and data pertaining to an applicant's or key employee's criminal record, finances, family, and background furnished to or obtained by the lottery commission from any source shall be considered confidential and shall be withheld in whole or in part. Such information shall be released upon the lawful order of a court of competent jurisdiction or to a duly authorized law enforcement agency.

(f) Notice of the contents of any information or data to be released, except to a duly authorized law enforcement agency pursuant to subparagraph (d) or (e), shall be

given to any applicant, registrant, or licensee in a manner prescribed by the rules adopted by the lottery commission so that the applicant, registrant, or licensee has the opportunity to object to such release.

VIII. The lottery commission, the attorney general, and the division of state police gaming enforcement unit may from time to time contract for such financial, economic, or security consultants, and any other technical and professional services as the lottery commission deems necessary for the discharge of its duties.

IX. The lottery commission shall establish standards for reviewing, selecting, and granting licenses for no more than 2 north country facility locations. Applications requesting review and approval of any north country facility licensee location must be received by the lottery commission by July 1, 2013 or no license shall be granted for any north country facility location under this chapter. Standards shall specify the process for licensure and the criteria which shall be met by applicants shall include:

(a) The availability of local resources to support services and amenities necessary to accommodate projected guest volume in the form of transportation, rooms and meals, utilities, law enforcement, and mental health services.

(b) The immediate and long range financial feasibility of the applicant's proposed project.

(c) The character and fitness of the owners of the facility.

(d) Whether the applicant has obtained the approval of the municipality in which the project is proposed by local referendum.

(e) A minimum capital investment of \$10,000,000 in the construction or renovation of the facility location.

(f) An agreement with an operator to operate video gaming at the proposed north country facility location consistent with this chapter.

(g) The availability of space in the facility for charitable gaming to take place under RSA 287-D.

(h) A floor plan suitable for the operation of video lottery consistent with this chapter.

X. The lottery commission shall establish standards for reviewing, selecting, and granting a resort gaming facility license for one destination golf resort and convention center which shall be located in a town along the Massachusetts border in Hillsborough county. Standards shall specify the criteria which shall be met by applicants, which shall include:

(a) The availability of local resources to support services and amenities necessary to accommodate projected guest volume in the form of transportation, rooms and meals, utilities, law enforcement, and mental health services.

(b) The immediate and long range financial feasibility of the applicant's proposed project.

(c) The character and fitness of the owners of the facility consistent with RSA 284-A:6.

(d) Whether the applicant has obtained the approval of the municipality in which

the project is proposed by local referendum.

(e) The process for licensure of a destination golf resort and convention center as a facility licensee.

(f) A requirement for a location that will:

(1) Provide additional economic opportunities for the surrounding region including job creation and increased revenue;

(2) Provide additional tax revenue to the state, including increased meals and rooms tax revenue, business profits tax revenue, and business enterprise tax revenue;

(3) Be reasonably accessible to and from one of the major interstate highway corridors connecting Massachusetts with New Hampshire; and

(4) Be in a city or town sharing a common border with the Massachusetts border and in Hillsborough county.

(g) As required construction, a minimum of 150,000 square feet of new building space, where a minimum of 33 percent of the space is used for non-gaming purposes such as food, entertainment, conventions, and meetings.

(h) As required construction, a minimum of 50,000 square feet of convention and meeting space.

(i) An 18-hole championship golf course associated with the facility where the total recreational amenities on site shall comprise a minimum total of 150 acres of land in addition to the land allocated for buildings and parking.

(j) A minimum of 5,000 square feet of space in the main facility for use by charities for charitable gaming.

(k) A floor plan suitable for the operation of video lottery consistent with this chapter.

(l) A commitment to operate or an agreement with an operator to operate video lottery machines at the destination golf resort and convention center consistent with this chapter.

XI.(a) The resort gaming facility licensee shall commence the local planning approval process for construction of the facility within 6 months of:

(1) Being issued a license by the lottery commission; and

(2) The racing and charitable gaming commission allowing games pursuant to RSA 287-H.

(b) If construction is not commenced within 6 months of final land use approvals, the lottery commission may revoke the license.

XII. A north country facility location shall commence construction of the gaming facility within 12 months of receiving approval of the facility location pursuant to paragraph IX, and a pari-mutuel licensee location shall commence any necessary construction or renovation of the area intended for operation of video lottery machines within 12 months of the pari-mutuel licensee or its operator applicant

filing an application for an operator's license pursuant to RSA 284-A:5.

XIII. A facility licensee may install, operate, and conduct video lottery machines at its licensee location in accordance with the provisions of this chapter.

284-A:3 Authorization for Video Lottery Machines.

I. An operator licensee may install, operate, and conduct video lottery machines at a facility licensee in accordance with the provisions of this chapter.

II. A facility licensee may enter into one or more agreements with an operator licensee to manage or participate in the operation of video lottery machines at its licensed facility location in accordance with the provisions of this chapter.

XII. A north country facility location shall commence construction of the north country facility licensee location within 12 months of receiving a north country facility license pursuant to paragraph IX, and a pari-mutuel licensee location shall commence any necessary construction or renovation of the area intended for operation of video lottery machines within 12 months of the pari-mutuel licensee or its operator applicant receiving an operator's license pursuant to RSA 284-A:5.

284-A:4 Licenses; Number of Video Lottery Machines.

I. No person shall engage in the ownership, possession, or operation of a video lottery machine unless:

(a) Such person is licensed in accordance with the provisions of this chapter;

(b) Local approval as provided in RSA 284-A:9 has been obtained; and

(c) Such person provides adequate space to accommodate charitable gaming as permitted under RSA 287-D.

II. Any operator or technology provider shall be licensed by the lottery commission prior to engaging in any operation of video lottery machines.

III. Each operator licensee operating video lottery machines at a pari-mutuel licensee location at which live dog racing was authorized to be conducted as of January 1, 2009 and where dog racing, whether live or simulcast, is conducted shall be limited to a maximum of 2,000 video lottery machines in operation at each such pari-mutuel licensee location.

IV. The operator licensee operating video lottery machines at a pari-mutuel licensee location at which live horse racing was authorized to be conducted as of January 1, 2009 and where horse racing, whether live or simulcast, is conducted shall be limited to a maximum of 5,000 video lottery machines in operation at each such pari-mutuel licensee location.

V. Each operator licensee operating video lottery machines at a north country facility licensee shall be limited to a maximum of 2,000 video lottery machines in operation at each such approved location.

VI. Each operator licensee operating video lottery machines at a resort gaming facility licensee shall be limited to 4,000 video lottery machines at the licensed location.

284-A:5 License Requirements for Operators and Technology Vendors.

I.(a) A facility licensee or other operator applicant shall obtain an operator's license from the lottery commission to possess, conduct, and operate video lottery machines. In the event that a facility licensee enters into an agreement with another person or entity to manage and operate video lottery machines at its location, that person or entity shall apply as the operator licensee applicant. An applicant shall complete and sign an application on forms prescribed by the lottery commission, and include information regarding the applicant's criminal history background, civil judgments, and financial affairs. The application shall include the full name, address, date of birth, and other personal identifying information of the applicant and all key employees, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 10 percent of the legal or beneficial interests of such entity. The lottery commission shall not accept applications from an operator applicant after December 31, 2011, unless the operator applicant has an agreement with a facility licensee that has previously maintained video lottery machine operations consistent with this chapter.

(b) If the applicant or any owner has held or holds a gaming or video lottery machine 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 which sets forth the experience of that agency with the applicant, the applicant's associates and gaming operations, or a statement under oath that the applicant is or was during the period the activities were conducted in good standing with the agency.

(c) The attorney general shall conduct a background review of each operator applicant and any of its owners and key employees consistent with RSA 284-A:6. The background review may be conducted through any appropriate state or federal law enforcement system and the authorized reviewers 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 ownership or management of the operation of video lottery machines 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. If the applicant is a pari-mutuel licensee and the attorney general has conducted a background investigation pursuant to RSA 284:15-b within the 12 months prior to the application filing, the attorney general may rely on the results of the previous investigation to the extent the applicant's circumstances have not materially changed. The attorney general shall also take into consideration as evidence of fitness a letter of reference or sworn statement of good standing produced pursuant to RSA 284-A:5, I(b). The attorney general shall report the results of the background review to the lottery commission within 60 days. 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; provided, however, that 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 participation in the ownership or management of the operation of video lottery machines in this state. The attorney general may conduct such review on the attorney general's motion into the background of the license applicant or holder, or any person or entity upon whom the license applicant or holder relies for financial support.

(d) In any review conducted pursuant to subparagraph (c), 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.

(e)(1) The lottery commission shall impose 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. In the event that a pari-mutuel licensee makes an agreement pursuant to RSA 284-A:3, II and the operator applicant applies for the operator's license, then the amount of the fee shall be the greater of \$100,000 or the actual costs incurred by the lottery commission.

(2) The attorney general shall impose an investigation fee of \$50,000 which shall be used to defray the cost of the background investigation. If the cost of the background investigation exceeds \$50,000, the applicant shall pay the difference. In the event that a pari-mutuel licensee makes an agreement pursuant to RSA 284-A:3, II and that the operator applicant applies for the operator's license, then the amount of the fee shall be the greater of \$50,000 or the actual costs incurred by the attorney general.

(3) Upon approval of an operator licensee, the lottery commission shall charge an initial license fee of \$50,000,000 for an operator licensee seeking to operate at a pari-mutuel licensee location where live horse racing was authorized as of January 1, 2009 or at a destination golf resort and convention center; \$20,000,000 for an operator licensee seeking to operate at a pari-mutuel licensee location where live dog racing was authorized as of January 1, 2009; and \$10,000,000 for an operator licensee at a north country facility licensee. The lottery commission shall charge a license fee of \$1,000,000 to renew a license for an operator's license at the pari-mutuel licensee location where live horse racing was authorized as of January 1, 2009 or a destination golf resort and convention center; \$500,000 to renew a license for an operator's license at a pari-mutuel licensee location where live dog racing was authorized as of January 1, 2009; and \$500,000 for renewal of an operator license at a north country facility licensee; however, such person seeking renewal of such license shall pay all costs incurred by the attorney general to conduct an investigation with regard to such application to renew the operator's license. Notwithstanding any other provision of this chapter, the first \$50,000,000 received by the lottery commission pursuant to this subparagraph shall be dedicated to the department of health and human services for the purposes of

restoring programming and rate reductions.

II.(a) A technology provider licensee applicant shall secure a technology provider license from the lottery commission. An applicant shall complete and sign an application on forms prescribed by the lottery commission, and include information regarding the applicant's criminal history background, civil judgments and financial affairs. The application shall include the full name, address, date of birth, and other personal identifying information of the applicant and all key employees, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 10 percent of the legal or beneficial interests of such entity.

(b) If the applicant or any owner has held or holds a gaming or video lottery machine 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 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.

(c) 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 the subject's fitness to be associated with the distribution of video lottery machines 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 produced pursuant to RSA 284-A:5, II(b). The attorney general shall report the results of the review to the lottery commission within 60 days. 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; provided, however, that 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. The attorney general may conduct a background review on the attorney general's motion into the background of the license applicant or holder, or any person or entity upon whom the license applicant or holder relies for financial support.

(d) In any review conducted pursuant to subparagraph (c), 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.

(e)(1) 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.

(2) 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.

(3) Upon approval of a technology provider licensee, the lottery commission shall charge an initial license fee of \$50,000. 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 operator's license.

284-A:6 Licensure Requirements.

I. No license shall be issued by the lottery commission unless the applicant demonstrates it complies with the provisions of this section. The lottery commission shall consider as evidence of compliance any letter of reference or sworn statement of good standing submitted pursuant to RSA 284-A:5, I(b) or RSA 284-A:5, II(b) and:

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

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

(d) For operator applicants and/or technology providers, the applicant's business ability and experience in the operation of video lottery machines, as appropriate, so as to establish the likelihood of a successful and efficient operation.

II. No license shall be issued by the lottery commission to any applicant unless the applicant proves that each director, officer, or key employee and each direct or indirect owner complies with the criteria for licensure contained in this section.

III. No license shall be issued by the lottery commission to any applicant if the applicant, any key employee, or any individual who has an ownership or financial interest in or with the applicant or its facility location is an elected official of the

general court or executive branch of the state of New Hampshire or the attorney general's office or the lottery commission on a full or part-time or contractual basis at any time during the previous 2 years. If any such applicant, key employee, or any individual who has an ownership or financial interest in the applicant becomes such an elected official, the applicant shall be subject to sanctions pursuant to RSA 284-A:14.

IV.(a) No license shall be issued by the lottery commission to an operator applicant at a pari-mutuel license location unless the operator applicant is a pari-mutuel licensee seeking to operate video lottery machines at a pari-mutuel licensee location, or, if not a pari-mutuel licensee, the operator applicant submits proof of an agreement to manage and operate video lottery machines at a pari-mutuel licensee location.

(b) No license shall be issued by the lottery commission to an operator applicant at a north country facility licensee location unless the operator applicant is the owner of the north country facility location seeking to operate video lottery machines at the north country facility licensee location, or, if not the owner of the north country facility licensee location, the operator applicant submits proof of an agreement to manage and operate video lottery machines at the north country facility licensee location.

(c) No license shall be issued by the lottery commission to an operator applicant at a resort gaming facility licensee unless the operator applicant is the owner of the destination golf resort and convention center seeking to operate video lottery machines at the resort gaming facility licensee, or, if not the owner of the resort gaming facility licensee, the operator applicant submits proof of an agreement to manage and operate video lottery machines at the destination golf resort and convention center.

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

VI. The lottery commission shall grant or deny a license under this chapter within 180 days of receiving a completed application, notwithstanding the adoption of interim or final rules.

VII. The lottery commission may determine whether the licensing standards of another jurisdiction within the United States or Canada in which an applicant, its affiliate, intermediary subsidiary, or holding company for an operator or technology vendor license is similarly licensed are comprehensive and thorough and provide similar adequate safeguards as those required by this chapter. If the lottery commission makes that determination, it may issue an operator or technology vendor license to an applicant who holds a similar license in such other jurisdiction after conducting an evaluation of the information relating to the applicant from such other jurisdiction, as updated by the lottery commission, and evaluating other information related to the applicant received from that jurisdiction and other jurisdictions where the applicant may be licensed, the lottery commission may incorporate such information, in whole or in whole or in part, into its or the attorney general's evaluation of the applicant.

284-A:7 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 section shall be punishable by a fine of no more than \$20,000 and shall be payable by such person who violates this section.

II. No operator 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 or table game. Each violation of this section shall be punishable by a fine of no more than \$20,000 and shall be payable by the operator licensee.

284-A:8 Distribution of Net Machine Income.

I. Distribution of Net Machine Income.

(a) Thirty nine percent of the net machine income generated by video lottery machines at a facility licensee shall be paid as follows:

(1) Thirty percent of the net machine income generated by video lottery machines shall be paid to the state from which the state shall pay for the costs of regulation administration, enforcement of this chapter under RSA 21-P:11-b, and the operation of the central computer system, and the balance shall be deposited in the general fund of the state.

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

(3) Two percent of the net machine income generated by video lottery machines operated by an operator licensee shall be paid to the state treasurer to be divided equally amongst each county in the state for property tax relief in each county.

(4) One percent of the net machine income generated by video lottery machines operated by an operator licensee shall be paid in equal portions to each of the municipalities of New Hampshire which abut and are contiguous to a municipality in which that operator licensee operates video lottery machines. Except that if a municipality abuts and is contiguous to more than one municipality in which an operator licensee operates video lottery machines, such municipality will only receive net machine income pursuant to this subsection from the operator licensee who operates video lottery machines in the same county as the abutting municipality.

(5) 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.

(6) One-half of one percent of the net machine income generated by video lottery machines shall be paid to the state

treasurer and credited to the division of travel and tourism development, department of resources and economic development for the purpose of promoting tourism in the state.

(7) One-half of one percent of the net income generated by all video lottery machines shall be paid equally to the police standards and training council training fund established in RSA 188-F:30 and the fire standards and training and emergency medical services fund established RSA 21-P:12-d to be used for reimbursement of expenses incurred for certification training and salaries.

(8)(A) One percent of the net machine income generated by all video lottery machines at pari-mutuel licensee locations and north country facility licensee shall be paid to the state treasurer and credited to the racing and charitable gaming commission for the purpose of enhancing live racing purses at pari-mutuel licensees. The racing and charitable gaming commission shall adopt rules under RSA 541-A to implement this subparagraph. In the event that no live racing is conducted in the state, such amount shall be distributed to the state pursuant to subparagraph I(a)(1).

(B) One percent of the net machine income generated by all video lottery machines at a resort gaming facility licensee shall be dedicated directly to the annual operations of the Nashua to Boston commuter rail service. If there is no such rail service, the amount shall be distributed to the state to be used in accordance with subparagraph I(a)(1).

II. The balance of the funds from the net machine income from video lottery machines shall be retained by the operator licensee that operates such video lottery machines.

III. The operator licensee shall deliver the amounts payable

to the state or municipality as provided in paragraph I or II in immediately available funds of the United States on a weekly basis on the third business day following the end of each week. At the time payment is delivered, the operator licensee shall provide a written accounting of net machine income generated from the video lottery machines by the operator licensee on an aggregate basis and the calculation of amounts due to the state separately for distribution pursuant to subparagraphs I(a)(1), (5), (6), (7) and (8), the amount due the municipality pursuant to subparagraph I(a)(2), the amount due to the county pursuant to subparagraph I(a)(3), the amount due certain municipalities pursuant to subparagraph I(a)(4), and the balance of net machine income retained by the operator licensee. The operator licensee shall pay a penalty of \$1,000 for each day that payment or the accounting is not delivered on time to the state, a penalty of \$1,000 for each day that payment or the accounting is not delivered to the municipality on time, and a penalty of \$1,000 for each day that payment or the accounting is not delivered to the county on time.

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

I. Any municipality in which a facility licensee is or will be situated may adopt the provisions of RSA 284-A 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 facility licensee to authorize the operation of video lottery machines within the municipality in accordance with the provisions of RSA 284-A, 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) If a majority of those voting on the question vote "Yes," RSA 284-A shall apply in such town or city and the operation of video lottery machines shall be permitted within such town or city in accordance with RSA 284-A. 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 paragraph II 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.

(d) The wording of the question shall be substantially as follows: "Shall we adopt the provisions of RSA 284-A allowing the operation of video lottery machines at [insert the name of the facility licensee] located within the town?"

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

284-A:10 Inspection of Video Lottery Machines; Penalty for Tampering or Manipulating.

I. The lottery commission shall periodically test video lottery machines installed at any 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 or table game by physical, electronic, or mechanical means, shall be guilty of a felony.

284-A:11 Video Lottery Machines.

I. An operator of video lottery machines shall provide to the lottery commission, by diagram or narrative, a description of:

(a) The location of each video lottery machine available for play by the public.

(b) The location of all areas for the storage, maintenance, or repair of video lottery machines.

(c) A description of all security measures to be taken for the safeguarding of video lottery machines.

(d) 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.

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

(f) All internal control systems as required by RSA 284:21-w.

(g) All of the above shall be approved by the lottery commission prior to commencing the operation of any video lottery machines.

II. No video lottery machine shall be possessed, maintained, exhibited, brought into, or removed from a facility licensee 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. Each operator licensee shall maintain secure facilities for the counting and storage of all moneys, tokens, or other items of value utilized in the conduct of video lottery machines.

IV. The drop boxes and other devices shall not be brought into a facility licensee or removed from an video lottery machine, locked or unlocked, except at such specific times and such places and according to such procedures as the lottery commission may require to safeguard such boxes and devices and their contents.

V. 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.

VI. All video lottery machines in operation at a facility licensee shall provide a payoff of an average of at least 87 percent.

VII. 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 considered net machine income of the issuing operator licensee.

VIII. An operator licensee shall not be restricted in the days of operation of video lottery machines.

IX. Video lottery machines shall be operated only at times when the public is allowed access to the locations. No automatic teller machines shall be located within 50 feet of video lottery machines.

X. All table games operated by a facility licensee shall be approved in advance by the racing and charitable gaming commission consistent with RSA 287-H and operated consistent with the approval.

284-A:12 Term of License. Any license issued 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 that take into consideration whether the applicant has been previously licensed in good standing under this chapter. No license issued by the lottery commission may be transferred to a separate entity without approval by the lottery commission consistent with this chapter.

284-A:13 Presence of the Lottery Commission. The lottery commission and the division of state police gaming enforcement unit may be present at any facility licensee at which video lottery machines are operated at all times when the facility is open to the public. The 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-A:14 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 lottery 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) Issue a cease and desist order which specifies the conduct which is to be discontinued, altered, or implemented by the person.
- (e) Issue letters of reprimand or censure, which shall be made a permanent part of the file of each person so sanctioned.
- (f) Impose any or all of the foregoing sanctions in

combination with each other.

II. In determining appropriate sanctions in a particular case, the lottery 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 racing and charitable gaming commission or the lottery 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 lottery commission may subject such person to enhanced fines or other disciplinary action.

284-A:15 Declaration of Limited Exemption from Operation of Provisions of 15 U.S.C. section 1171-1172. Pursuant to section 2 of an act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being Chapter 1194, 64 Stat 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that 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-A:16 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording,

and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce, approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

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

284:21-w Video Lottery; Duties of the Lottery Commission;
Administration of Video Lottery.

I. The lottery commission shall:

- (a) Collect all license fees imposed upon any applicant and all taxes imposed by RSA 284-A.
- (b) Certify net machine income by inspecting records, conducting audits, having its agents on site, or by any other reasonable means.
- (c) Establish a central computer system located at the office of the lottery commission linking all video lottery machines to insure control over video lottery machines. The lottery commission shall establish a selection procedure for such contracts and ensure that the central computer system uses a widely adopted communications protocol approved by the Gaming Standards Association.
- (d) Require all holders of licenses issued by the lottery commission pursuant to RSA 284-A 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 or table game 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.

(e) 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.

II. The lottery commission may employ certain assistants to carry out the provisions of this section and RSA 284-A, and may employ such additional assistants and employees as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the department of administrative services, division of personnel, however, such compensation shall be funded by proceeds paid to or received by the lottery commission pursuant to RSA 284-A. No employee of the lottery commission shall have any pecuniary or other interest in any supplier or agent to the commission or in any facility location or licensee licensed under RSA 284-A.

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. 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.

V. With regard to meetings, minutes, and records of the lottery commission:

(a) 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.

(b) The lottery commission shall maintain such other files and records as the lottery commission determines is necessary.

(c) All information and data required by the commission, to be furnished to the commission, or which may otherwise be obtained, shall be confidential and shall not be revealed 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.

(d) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the lottery commission from any source shall be confidential and shall be withheld in whole or in part. Such information shall be released only 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.

(e) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subparagraph (c) or (d), shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules adopted by the lottery commission.

(f) All records, information, or data maintained or kept by the lottery commission shall be maintained or kept at the office of the gaming enforcement unit.

3 New Sections; Department of Safety; Gaming Enforcement Unit Established. Amend RSA 21-P by inserting after section 11-a the following new sections:

21-P:11-b Division of State Police; Gaming Enforcement Unit.

I. There is established within the department of safety, division of state police, a gaming enforcement unit under the supervision of the commissioner of the department of safety. Notwithstanding RSA 106-B:15, the unit shall:

(a) Investigate violations of RSA 284-A and the rules adopted under the provisions of RSA 284-A and initiate proceedings before the lottery commission for such violations. The unit shall report the results of any investigation conducted to the lottery commission.

(b) Investigate violations of RSA 287-H and the rules adopted under the provisions of RSA 287-H and initiate proceedings before the racing and charitable gaming commission for such violations. Report the results of any investigation conducted to the racing and charitable gaming commission.

(c) Participate in any hearing conducted by the lottery commission or racing and charitable gaming commission.

(d) Investigate crimes which may involve a violation of RSA 287-A or RSA 287-H that occur at a facility licensee location.

II. The commissioner of the department of safety shall organize the unit as the commissioner deems necessary. The commissioner of safety may employ such state police personnel as the commissioner deems necessary to fulfill the responsibilities of the unit.

21-P:11-c Enforcement Expenditures. The governor and council with the prior approval of the fiscal committee of the general court, upon request from the commissioner of the department of safety, may authorize the transfer of general funds as authorized in RSA 284-A:8, I(a)(1) to the department of safety to implement and enforce RSA 21-P:11-b, RSA 284-A, and RSA 287-H.

4 New Section; Racing and Charitable Gaming Commission; Duties. Amend RSA 284 by inserting after section 6-a the following new section:

284:6-b Duties of the Racing and Charitable Gaming Commission.

I. The racing and charitable gaming commission shall:

(a) Provide to the lottery commission all records pertaining to the licensing of a pari-mutuel licensee relevant to the lottery commission's approval process under RSA 284-A within 30 days after the racing and charitable gaming commission receives a request. All records provided to the lottery commission shall be confidential in accordance with RSA 284:21-w, V.

(b) Provide to the lottery commission confirmation of any facility licensees who are approved locations for table games pursuant to RSA 287-H.

II. With regard to minutes and records of the racing and charitable gaming commission:

(a) The racing and charitable gaming commission shall keep a written record of all proceedings of public meetings of the commission pursuant to this chapter. A verbatim transcript of those proceedings shall be prepared by the racing and charitable gaming 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 a transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

(b) The racing and charitable gaming commission shall keep and maintain a list of all notices it receives under RSA 284-A and RSA 287-H, together with a record of all actions taken with respect to such notices. A file and record of the racing and charitable gaming commission's actions shall be open to public inspection provided, however, that the information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after 5 years from the date of such action.

(c) The racing and charitable gaming commission shall maintain such other files and records as the commission determines is necessary.

(d) All information and data required by the racing and charitable gaming commission to be furnished to it, or which may otherwise be obtained, shall be considered to be confidential and shall not be revealed 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.

(e) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the racing and charitable gaming commission from any source shall be considered confidential and shall be withheld in whole or in part. Such information shall be released upon the lawful order of a court of competent jurisdiction or to a duly authorized law enforcement agency.

(f) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subparagraph (d) or (e), shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the racing and charitable gaming commission.

5 License Restricted. RSA 284:16-c is repealed and reenacted to read as follows:

284:16-c License Restricted.

I. Notwithstanding any other provision of law, the racing and charitable gaming commission shall not issue a license to conduct live thoroughbred horse racing or live harness horse racing pursuant to RSA 284:16 to any applicant if the place where such races or race meets are to be held is within a radius of 40 miles of the place where live horse races or race meets for at least the number of days as required in RSA 284:22-a, II(a)(3) have already been licensed pursuant to RSA 284:16, provided, however, that the racing and charitable gaming commission may issue a license to conduct live harness racing to the holder of a license to conduct live thoroughbred racing if the live harness racing is conducted at the same place where the live thoroughbred racing is being conducted.

II. Notwithstanding any other provision of law, the racing and charitable gaming commission shall not issue a license to conduct live dog racing pursuant to RSA 284:16-a to any applicant if the place where the races or race meets are to be held is within a radius of 40 miles of the place where such races or race meets have already been licensed pursuant to RSA 284:16-a.

6 Restriction on Gambling. RSA 284:17-c is repealed and reenacted to read as follows:

284:17-c Restriction on Gambling. Except as provided in the introductory paragraph of RSA 284:22, RSA 284:22-a, RSA 284-A, and RSA 287-H, no licensee who holds running horse races shall at the same

facility hold any other kinds of races or permit any other type of gambling except harness horse races and activities licensed by the lottery commission or the racing and charitable gaming commission.

7 New Paragraph; Facility Licensee; Cocktail Lounge License. Amend RSA 178:22, by inserting after paragraph V the following new paragraph:

VI. The commission may issue a special license to a person holding a pari-mutuel license or an operator's license at a facility licensee location under the provisions of RSA 284-A provided the facility licensee location has an existing liquor license. Such special license shall allow the sale of liquor, wine, and beverages within the facility licensee location, including dining room, function room, gaming room, lounge, or any other area designated by the commission, without regard to whether meals are served therein, but only during the time gaming is being conducted under RSA 284-A.

8 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-A and table games authorized pursuant to RSA 287-H.

9 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.

10 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 gamers**, 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.]

11 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.

12 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 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.

13 Acceptance of Grants; Treatment of Problem Gamers. 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.

14 New Chapter; Table Games. Amend RSA by inserting after chapter 287-G the following new chapter:

CHAPTER 287-H

TABLE GAMES

287-H:1 Definitions. In this chapter:

I. "Associated equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used in connection with table gaming, including linking devices, replacement parts, equipment which affects the proper reporting of gross revenue, computerized systems for controlling and monitoring table games, including, but not limited to, the central control computer, and devices for weighing or

counting money.

II. "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.

III. "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 table game licensee, a recognized credit card company, or a banking institution.

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

IV. "Certificate holder" means a video lottery operator licensee issued a table game operator certificate by the commission to operate the table games at a licensed facility.

V. "Commission" means the racing and charitable gaming commission.

VI. "Count room" means the room designated for counting, wrapping, and recording of table game receipts.

VII.(a) "Gross table game revenue" means the total of cash or equivalent wagers received in the playing of a table game minus the total of:

(1) Cash or cash equivalents paid out to patrons as a result of playing a table game;

(2) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a table game; and

(3) Any personal property distributed to a

patron as a result of playing a table game.

(b) "Gross table game revenue" does not include travel expenses, food, refreshments, lodging, or other complimentary services. This term does not include counterfeit money, tokens, or chips; coins or currency of other countries received in the playing of a table game, except to the extent that they are readily convertible to United States currency; cash taken in a fraudulent act perpetrated against a licensee for which the licensee is not reimbursed; or cash received as entry fees for contests or tournaments in which patrons compete for prizes.

VIII. "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 table game operations, including but not limited to, the director of table games, pit bosses, shift bosses, credit supervisors, cashier supervisors, table game facility managers, and assistant managers.

IX. "Licensed facility" means any north country facility licensee, destination golf resort and convention center licensee, or pari-mutuel licensee licensed by the lottery commission pursuant to RSA 284-A.

X. "Table game" means any banking or percentage game in which there is an opportunity for the player to use his or her reason, foresight, or other strategy to increase the expected return, including roulette, baccarat, blackjack, poker, craps, big six wheel, mini-baccarat, red dog, pai gow, casino war, Asia poker, Boston 5 stud poker, Caribbean stud poker, Colorado hold 'em poker, double attack blackjack, double cross poker, double down stud poker, fast action hold 'em, flop poker, four card poker, let it ride poker, mini-craps, mini-dice, pai gow poker, pokette, Spanish 21, Texas hold 'em bonus poker, three card poker, two card joker poker, ultimate Texas hold 'em, winner's pot poker and sic bo and any other games approved by the commission. The term includes any variations or composites of approved games, provided that the commission determines that the new table game, variations, or composites are suitable for use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate, and any other game which the commission determines to be suitable for use in a licensed facility after an appropriate test or experimental period as the commission may deem appropriate. The term shall also include gaming contests or tournaments in which players

compete against one another in any table game authorized for use in a licensed facility by the commission. The term shall not include wagering on pari-mutuel racing regulated by the racing and charitable gaming commission pursuant to RSA 284, raffles regulated pursuant to RSA 287-A, lotteries regulated by the lottery commission pursuant to RSA 284:21-a and RSA 287-F, and bingo and lucky 7 games regulated by the racing and charitable gaming commission pursuant to RSA 287-E. Table games which are operated as games of chance pursuant to RSA 287-D shall not be subject to the provisions of this chapter.

XI. "Table game device" includes tables, cards, dice, chips, shufflers, tiles, dominoes, wheels, drop boxes, or any mechanical or electrical contrivance, terminal, machine or other device approved by the commission and used or consumed in operation of or connection with a table game.

XII. "Table game operation certificate" means a certificate issued by the commission that certifies that the table gaming operation of a licensed facility conforms to the requirements of this chapter and rules adopted under this chapter and that authorizes the holder of a video lottery operator license to conduct table gaming under this chapter.

XIII. "Table game operator" means:

- (a) "Primary game operator" which means any consultant or any person involved in conducting, managing, supervising, directing, or running the table games at a licensed facility and shall include the banker, the auditor, the counter, and persons involved in the cage; or
- (b) "Secondary game operator" which means any person involved in dealing, running a roulette wheel, or handling chips at a licensed facility.

XIV. "Technology provider" means a technology provider that is licensed by the lottery commission pursuant to RSA 284-A, or who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise modifies table games.

XV. "Video lottery operator licensee" means a person issued a license by the lottery commission to procure and operate video lottery machines pursuant to RSA 284-A.

287-H:2 State Employee Prohibition. No member, employee, or independent contractor of the lottery commission or racing and charitable gaming commission shall accept a complimentary service or wager or be paid any prize from any wager at any licensed facility

within the state or at any other facility outside this state which is owned or operated by a licensed gaming entity or any of its affiliates, intermediaries, subsidiaries, or holding companies thereof for the duration of his or her term of office, employment, or contract with the lottery commission or the racing and charitable gaming commission and for a period of one year from the termination of term of office, employment, or contract with the lottery commission or racing and charitable gaming commission. The provisions of this section shall not apply to employees who utilize table games for testing purposes or to verify the performance of table games as part of an enforcement investigation.

287-H:3 General and Specific Powers.

I. The commission shall have general and sole regulatory authority over the conduct of table games described in this chapter. The commission shall ensure the integrity of the acquisition and operation of table game devices and associated equipment and shall have sole regulatory authority over every aspect of the authorization and operation of table games.

II. The commission shall:

(a) Issue, approve, renew, revoke, suspend, condition, or deny issuance or renewal of a table game operation certificate to a video lottery operator.

(b) Determine at its discretion the suitability of any person, including technology vendors not licensed pursuant to RSA 284-A, who furnishes or seeks to furnish to a certificate holder licensee directly or indirectly any services or property related to the table games or associated equipment or through any arrangements under which that person receives payment based directly or indirectly on earnings, profits, or receipts from table games and associated equipment. Any criminal background checks shall be conducted by the division of state police, gaming enforcement unit, and any other background investigations shall be conducted by the attorney general's office. The commission may require any such person to comply with the requirements of this chapter and the rules of the commission and may prohibit the person from furnishing the services or property.

III. The commission shall not issue or renew a table games operation certificate unless it is satisfied that the applicant is an operator licensee in good standing operating video lottery machines under RSA 284-A.

IV. To publish on the commission's Internet website a complete list of all persons or entities who applied for or held a table game operation certificate, manufacturer license, supplier license, 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 who's 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.

287-H:4 Enforcement. The commission, with the assistance of the attorney general and the division of state police gaming enforcement unit, shall administer and enforce the provisions of this chapter.

287-H:5 Rulemaking.

I. The commission shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) The application procedure for video lottery operator licensees to obtain a table game operation certificate.
- (b) The approval procedure for table game operators, including the classification of primary game operators and secondary game operators.
- (c) Procedures for a hearing following revocation of any table game operation certificate pursuant to this chapter.
- (d) The operation of table games.
- (e) Refunds of certificate fees pursuant to this chapter.
- (f) Procedures for approving technology providers not licensed by RSA 284-A and associated fees.
- (g) Accountability controls to ensure game integrity, including, but not limited to, cash, attendance, prizes, income, expense, and financial reporting, and record-keeping to be implemented by licensed table game operators in addition to requirements set forth in this chapter.
- (h) Enforcement of this chapter.
- (i) The issuance of subpoenas, administrative orders and fines, badge specifications, requirements, and fees.
- (j) Other matters related to the proper administration

of this chapter.

II. Pending the adoption of rules under RSA 541-A, the commission shall adopt interim rules pursuant to RSA 541-A:19 after a public hearing and within 90 days after the enactment of this chapter. Such interim rules shall implement the provisions of this chapter.

287-H:6 Table Games Authorized. A person licensed to operate video lottery pursuant to RSA 284-A may operate table games at a licensed facility in the manner hereinafter provided and not otherwise:

I. Persons holding a current license in good standing from the lottery commission to operate video lottery pursuant to RSA 284-A may apply for a table games operation certificate for the operation of table games at a licensed facility and upon confirmation by the commission that it meets the criteria set forth in this section shall be granted a certificate for the operation of table games.

II. The certificate shall authorize table games at specified licensed facilities.

III. The certificate shall only permit the operation of table games at a licensed facility that operates or permits the operation of games of chance for or on behalf of charitable organizations pursuant to RSA 287-D, provided that the space allocated for games of chance at the licensed facility be at least 5,000 square feet within the principal gaming area of the licensed facility, and the number of tables used for table games shall be limited to not more than 150 tables.

IV. The certificate shall not be transferable.

287-H:7 Authorization to Conduct Table Games and Licensure.

I. Notwithstanding any other provision of law to the contrary, the commission may authorize only a licensed video lottery operator to engage in the operation of table games and the system of wagering associated with table games at a licensed facility. Authorization to conduct table games shall be contingent upon the licensee's agreement to conduct table games in accordance with this chapter.

II. A video lottery operator who is issued a table games operation certificate may only be permitted to operate table games at a licensed facility consistent with the permission granted by the certificate

III.(a) A video lottery operator licensee may seek approval to operate table games by filing a petition with the commission.

(b) A petition shall include the following:

- (1) The name, business address, and contact information of the petitioner.
- (2) The name and address, job title, and a photograph of each principal and key employee of the petitioner not currently approved or licensed by the commission, including table game operators.
- (3) An itemized list of the number and type of table games for which authorization is being sought.
- (4) The estimated number of full-time and part-time employment positions that will be created at the licensed facility if table games are authorized.
- (5) Information and authorizations sufficient to allow the commission to confirm that any person providing services as a table game operator has not, in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the previous 5 years which has not been annulled by a court, or has violated any statutes or rules governing gambling or gaming of any kind.
- (6) The details of any financing that will be obtained or has been obtained to fund the expansion of the licensed facility to accommodate the operation of table games.
- (7) Detailed site plans identifying the petitioner's proposed table game area within the licensed facility including reference to the area reserved for charitable games of chance. The proposed table game area shall be reviewed by the commission to determine the adequacy of the proposed internal controls and external security and proposed surveillance measures and submit a finding regarding adequacy to the commission.

IV. The applicant shall certify under oath that:

(a) The information provided on the application is accurate.

(b) Information and authorizations sufficient to allow the commission to confirm that any person providing services as a table game operator has not, in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the previous 5 years which has not been annulled by a court, or has violated any statutes or rules governing gambling or gaming of any kind.

(c) The applicant will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of table games.

287-H:8 Standard of Review. The commission shall grant the petition and issue a certificate to authorize the petitioner to operate table games if the petitioner establishes evidence of the following:

I. The petitioner is an eligible video lottery operator licensee duly licensed pursuant to RSA 284-A.

II. If necessary, the petitioner has secured adequate financing to fund the expansion of the petitioner's licensed facility to accommodate the operation of table games.

III. The proposed internal and external security and proposed surveillance measures within the petitioner's proposed table game area within the licensed facility are adequate.

IV. The petitioner agrees to permit the operation of charitable games of chance consistent with RSA 287-H:6, III.

287-H:9 Commencement of Table Game Operations. A video lottery operator licensee may not operate or offer table games for play at a licensed facility until:

I. The commission approves the petition filed under RSA 287-H:7.

II. The video lottery operation pays the fee under RSA 287-H:14.

III. The commission has issued a table games operation certificate to the video lottery operator licensee under RSA 287-H:6 and RSA 287-H:8.

287-H:10 Term of Table Game Authorization. After payment of the fee under RSA 287-H:14, authorization to conduct table games shall be in

effect unless suspended, revoked, or not renewed by the commission upon good cause consistent with the license requirements provided in this chapter. Video lottery operator licensees shall be required to update the information in their initial table games petition at times prescribed by the commission, but at least as frequently as the operator is required to renew its video lottery operator's license. An additional license fee of no more than \$1,000,000 shall be imposed for renewal of a table game operation certificate every 5 years. The commission shall be entitled to use such funds to support staff and resources necessary to implement this chapter.

287-H:11 Condition of Continued Operation. A certificate holder shall maintain all books, records, and documents pertaining to the certificate holder's table game operation in a manner and location as approved by the commission. All books, records, and documents related to table game operations shall:

- I. Be maintained separate and apart from all books, records, and documents of the video lottery machine operations.
- II. Be immediately available for inspection upon request of the commission, the state police or agents of the attorney general during all hours of operation in accordance with rules adopted by the commission; and
- III. Be maintained for a period as the commission, by rule, may require.

287-H:12 Table Game Accounting Controls and Audits.

- I. Prior to being approved for a table game operation certificate, a video lottery operator licensee shall obtain approval from the commission of its proposed site plans and internal control systems and audit protocols for its table games operation.
- II. The video lottery operator licensee's proposed internal controls and audit protocols shall:
 - (a) Safeguard its assets and revenues, including the recording of cash and evidences of indebtedness related to the table games.
 - (b) Provide for reliable records, accounts, and reports of any financial event that occurs in the operation of a table game, including reports to the commission related to the table games.
 - (c) Provide for accurate and reliable financial records related to the table games operation.
 - (d) Establish procedures for all the following:
 - (1) The receipt, storage, and disbursement of chips, cash, and other cash equivalents

used in table gaming.

(2) Check cashing.

(3) The redemption of chips and other cash equivalents used in table gaming and the payoff of jackpots.

(4) The recording of transactions pertaining to table gaming.

(e) Establish procedures for the collection and security of moneys at the gaming tables.

(f) Establish procedures for the transfer and recording of chips between the gaming tables and the cashier's cage.

(g) Establish procedures for the transfer of drop boxes for table games from the gaming tables to the count room.

(h) Establish procedures and security for the counting and recording of table gaming revenue.

(i) Establish procedures for the security, storage, and recording of cash, chips, and other cash equivalents utilized in table gaming.

(j) Establish procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels, and all other gaming equipment.

(k) Establish procedures and rules governing the conduct of particular games and the responsibility of casino personnel.

(l) Establish procedures for the collection and recording of revenue from poker when it is a non-licensee bank game, including the type of rake utilized, the methodology for calculating the rake, and the amount of maximum permissible rake.

(m) Ensure that any wagering governing the operation of a table game is implemented only in accordance with the management's general or specific authorization, as approved by the commission.

(n) Ensure that there is proper and timely accounting of gross table game revenue and the calculation of gross table game revenue, fees, and taxes and maintain accountability for assets.

(o) Ensure that recorded accountability for assets is

compared with actual assets at reasonable intervals and that appropriate action is taken with respect to any discrepancies.

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

(q) Permit use of its existing onsite facilities by the commission, other persons authorized by the commission to facilitate their ability to perform regulatory and oversight functions under this chapter.

III. Each video lottery operator licensee shall, prior to being approved for a table game operation certificate, submit to the commission a detailed description of its administrative and accounting procedures related to table games, including its written system of internal controls. Each written system of internal controls shall include:

(a) An organizational chart depicting appropriate functions and responsibilities of employees involved in the table game operation.

(b) A description of the duties and responsibilities of each position shown on the organizational chart.

(c) The record retention policy of the applicant.

(d) The procedure to be utilized to ensure that assets are safeguarded, including mandatory count procedures.

IV. Prior to approving a petitioner for a table game operation certificate, the commission shall review the system of internal controls submitted under RSA 287-H:7, III(b)(9) to determine whether it conforms to the requirements of this chapter and provides adequate and effective controls for the operations of the licensed facility.

287-H:13 Wagering Policies.

I. Holders of table game operation certificates shall maintain a detailed narrative description of the administrative and accounting procedures which meet the requirements of this section.

II. A video lottery operator licensee may accept a check from a patron in exchange for cash or chips, provided that each check is deposited with the financial institution upon which the check is drawn within 10 days of receipt by the video lottery operator licensee.

III. Holders of table game operation certificates may make

credit card advances and debit card withdrawals available to table game patrons at a licensed facility. All fees charged for cash advances, check cashing, and debit card withdrawals shall be disclosed. Notwithstanding any other provision of law, a holder of a table game operation certificate may provide credit to patrons for the purpose of playing table games in accordance with this section. No third party checks shall be permitted.

287-H:14 Table Game Authorization Fee.

I. Upon approval of a petition filed under RSA 287-H:7 and prior to the commencement of the operation of table games at the licensed facility, the commission shall impose a one-time authorization fee on the video lottery operator licensee in the amount of \$10,000,000. The commission is authorized to use such funds to support staff and resources necessary to implement this chapter.

II. All table game authorization fees received by the commission under this section shall be deposited in the general fund.

287-H:15 Distribution of Table Game Revenues.

I. Each certificate holder shall pay from its daily gross table game revenue from the table games in operation at its licensed facility:

(a) Eight percent of daily gross table revenue to the state to be deposited into the general fund.

(b) The balance of the daily gross table game revenue shall be retained by the video lottery operator licensee that operates the table games.

II. The distribution due to the state pursuant to subparagraph I(a) shall be due and payable to the state treasurer on a quarterly basis and shall be based upon gross table game revenue derived during the previous quarter. All funds owed to the state under this section shall be held in trust by the certificate holder until the funds are paid or transferred and distributed by the certificate holder. Unless otherwise agreed to by the commission, a certificate holder shall establish a separate bank account to maintain table gaming proceeds until such time as the proceeds are paid or transferred under this section.

287-H:16 Authorization of Suppliers and Manufacturers of Table Game Devices. Any person seeking to supply table game devices for use at a licensed facility shall obtain approval by the commission for authority to manufacture or supply table games, table game devices, or other equipment associated with table games, and shall pay such fees as the

commission deems reasonable and appropriate. Upon approval, the manufacturer or supplier shall pay a fee of \$50,000. A fee of \$25,000 shall be paid for the annual renewal of a supplier license.

287-H:17 Equipment; Wagering; Prizes.

I. No table games shall be conducted with any equipment except such as is owned or leased from a supplier or manufacturer of such equipment who has been approved by the commission pursuant to RSA 287-H:16 and who has registered with the secretary of state in such manner and on such form as the secretary of state prescribes.

II. All devices and equipment used to conduct table games shall be subject to inspection by duly authorized law enforcement officials of the commission.

III. The amount of any wager permitted to be played by a player, on any table game, shall be prominently posted.

287-H:18 Sanction Powers of the Racing and Charitable Gaming Commission.

I. The 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) Issue a cease and desist order which specifies the conduct which is to be discontinued, altered, or implemented by the person.

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

(f) Impose 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 table game 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.

287-H:19 Declaration of Limited Exemption from Operation of Provisions of 15 U.S.C. section 1171-1172. Pursuant to section 2 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," approved January 2, 1951, being Chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that 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.

287-H:20 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

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

LBAO

10-2880

Revised 03/01/10

SB 489 FISCAL NOTE

AN ACT relative to table gaming and video lottery at certain locations throughout the state and relative to the recovery of horse racing.

FISCAL IMPACT:

The Lottery Commission, Racing & Charitable Gaming Commission, Department of Safety, Department of Justice, Department of Health & Human Services, Police Standards & Training Council, and Department of Resources & Economic Development state this bill will increase state general fund and restricted revenue by an indeterminable amount in FY 2011 and each fiscal year thereafter. The Lottery Commission, Racing & Charitable Gaming Commission, Department of Safety, Department of Justice, Department of Health & Human Services, Police Standards & Training Council, Department of Corrections, Judicial Branch, and Judicial Council state this bill will increase state general fund and restricted expenditures by an indeterminable amount in FY 2011 and each fiscal year thereafter. The NH Municipal Association states this bill will increase municipal revenue and expenditures by an indeterminable amount in FY 2011 and each fiscal year thereafter. The NH Association of Counties states this bill will increase county revenue by an indeterminable amount in FY 2011 and each fiscal year thereafter. There will be no fiscal impact on county expenditures.

METHODOLOGY:

The Lottery Commission states this bill establishes licenses for video lottery machines (VLMs) and table games in New Hampshire. The Commission assumes it will collect general fund revenue in FY 2011 in the form of license and application fees, and that the operation of VLMs and table games will commence in FY 2012.

The Commission estimated license and application fee revenue related to VLMs to the state general fund in FY 2011 as follows:

License Fees

2 North Country Locations (\$10,000,000 each)
\$20,000,000

1 Resort Gaming Facility \$50,000,000

1 Pari-Mutuel Location, Horse Racing \$50,000,000

2 Pari-Mutuel Locations, Dog Racing (\$20,000,000 each) \$40,000,000

Application Fees

6 Gaming Locations (\$100,000 each) \$600,000

1 Technology Provider \$100,000

Total Fee Revenue \$160,700,000

The Commission estimates net daily income from each VLM at \$296, an amount derived from the NH Commission on Education Funding Report from August, 2000. According to the Commission, a maximum of 17,000 VLMs may be authorized at six locations according to the specific limits in the proposed RSA 284-A:4. The Commission assumes the VLMs will be in operation 365 days per year beginning in FY 2012. Therefore, the commission estimates total net machine income to be \$1,836,680,000 per year (17,000 VLMs x \$296 net daily income per VLM x 365 days), with the operator licensees retaining 61% and 39% distributed to the state, counties, and municipalities as follows:

- State General Fund: \$551,004,000 (30%)
- Municipality in which operator licensee operates: \$55,100,400 (3%)
- Counties: \$36,733,600 (2%)
- Municipalities contiguous to where an operator licensee operates: \$18,366,800 (1%)
- Department of Health & Human Services, problem gambling treatment: \$18,366,800 (1%)
- Department of Resources & Economic Development, tourism promotion: \$9,183,400 (0.5%)
- Police Standards & Training Council Fund: \$4,591,700 (0.25%)
- Fire Standards & Training & Emergency Medical Services Fund: \$4,591,700 (0.25%)
- Live racing purses at pari-mutuel licensees and commuter rail operations: \$18,366,800 (1%)

The Lottery Commission states it does not have any data or revenue estimates for table gaming. The Commission states its cost to operate a central computer system for VLMs could be as high as 10% of net machine income, or \$183,668,000. The Commission further states it is not able to estimate its expenses related to the administration and regulation of VLMs.

The Racing & Charitable Gaming Commission states this bill gives the Commission regulatory authority over the conduct of table games under the proposed RSA 287-H. The Commission made the following assumptions when calculating general fund fee revenue related to table games under this bill:

- There will be six licensed facilities under the proposed RSA 287-H:1, IX.
- Each of the six licensed facilities will pay the initial authorization fee of \$10,000,000 per facility under the proposed RSA 287-H:15 during FY 2011.
- Pursuant to the proposed RSA 287-H:10, I, the six licensed facilities will

renew their licenses and pay not more than \$1,000,000 each within the five year renewal term. The Commission assumes annual renewal fee revenue will be \$1,200,000 beginning in FY 2012 [(6 facilities x \$1,000,000) / 5 years].

- There will be 15 suppliers and manufacturers who will pay the initial approval fee of \$50,000 under the proposed RSA 287-H:17 during FY 2011.
- Pursuant to the proposed RSA 287-H:17, the 15 suppliers and manufacturers will pay an annual renewal fee of \$25,000 beginning in FY 2012.

The Racing & Charitable Gaming Commission reviewed statistics from the State of New Jersey Casino Control Commission in order to determine a state general fund revenue estimate for table games under the proposed RSA 287-H:16, I(a), which will be eight percent of daily gross table revenue. The Commission then applied the NJ statistics to the estimated reduced activity which it expects in New Hampshire. The Commission assumed the following:

- Three larger licensed facilities would utilize 150 tables each.
- Three smaller licensed facilities would utilize 60 tables each.
- All six facilities would have a utilization rate of 60%.
- All six facilities would have a 12 hour per day rate of play, for 360 days per year.
- Table games will be in operation beginning July 1, 2010 (FY 2011)

According to the Commission, the average per hour gross table game revenue in New Jersey during 2008 was \$99.29. The Commission assumes gross revenue in New Hampshire will be 50% of NJ, or \$49.64 per hour per table game. Based on the assumptions listed above, the Commission estimated annual state general fund revenue beginning in FY 2011 as follows:

630 table games x 4,320 hours of play per year per table x 60% utilization rate = 1,632,960

1,632,960 table hours per year x \$49.64 per hour = \$81,060,134

\$81,060,134 total gross annual revenue x 8% = \$6,484,811 annual state general fund revenue

The Commission anticipates all six licensed facilities will conduct charitable gaming; however, the revenue impact from an increase in charitable gaming facilities cannot be determined.

Estimated revenue from table gaming regulated by the Racing & Charitable Gaming Commission is summarized as follows:

FY 2011 FY 2012 FY
2013 FY 2014

Initial License Fees,

Table Gaming \$60,000,000 - - -

License Renewal Fees - \$1,200,000 \$1,200,000 \$1,200,000

Initial License Fees,

Suppliers/Manufacturers \$750,000 - - -

License Renewal Fees,

Suppliers/Manufacturers - \$375,000 \$375,000 \$375,000

8% Gross Gaming Revenue \$6,484,811 \$6,484,811 \$6,484,811
\$6,484,811

Total Estimated Revenue \$67,234,811 \$8,059,811 \$8,059,811
\$8,059,811

The Commission further states it anticipates requiring four additional personnel to implement the regulatory requirements contained in this bill. The Department calculated anticipated expenditures for personnel and related costs as follows:

FY 2011 FY 2012 FY
2013 FY 2014

2 Internal Auditor III

Salary (LG 23) \$82,173 ~~\$85,683~~ \$89,505 \$93,444

Benefits \$44,665 \$48,032 \$51,713 \$55,695

2 Program Assistant I

Salary (LG 12) \$53,079 ~~\$55,029~~ \$57,291 \$59,436

Benefits \$39,224 \$42,301 \$45,690 \$49,336

Overtime \$2,594 \$2,708 \$2,823 \$2,940

In-State Travel \$5,000 \$5,000 \$5,000 \$5,000

Out-of-State Travel \$2,500 \$2,500 - -

Equipment \$6,000 - - -

Supplies \$500 \$500 \$500 \$500

Total \$235,735 \$241,753 \$252,522 \$266,351

The Department of Safety states this bill provides one quarter or one percent of net VLM income to the Fire Standards & Training & Emergency Medical Services Fund. The Department states it is currently unable to estimate the restricted revenue the fund will receive under this bill.

The Department of Safety further states this bill establishes the gaming enforcement unit within the Division of State Police. The members of this unit are charged with investigating any crimes that occur on the premises of any gaming facility, and are responsible for presenting the findings of their investigations to the appropriate authority, either the Lottery Commission, Racing & Charitable Gaming Commission, or a criminal court. Gaming enforcement expenditures would be funded from the general fund upon approval of Governor & Council and the Fiscal Committee. The Department provided an estimate of staffing necessary

to provide the required services at gaming locations, including 41 sworn State Police positions and one Administrative Secretary. The Department assumes all State Police will be compensated at the top step of their respective pay grades because existing experienced personnel would be assigned to the gaming enforcement unit. The Department states there would be an indeterminable savings to the highway fund and to other funds as a result of hiring new, lower-paid personnel to fill units vacated by personnel transferred to the gaming enforcement unit. The Department further states all three State Police Sergeants and 36 State Police Trooper II will receive a two labor grade detective differential. The Department estimated staffing and associated expenditures for the gaming enforcement unit as follows:

FY 2011 FY 2012 FY 2013 FY 2014

State Police Captain

Salary (LG 29, step 8) \$94,282 \$94,282 \$94,282 \$94,282

Benefits \$34,489 \$35,852 \$37,343 \$38,974

State Police Lieutenant

Salary (LG 27, step 8) \$85,451 \$85,451 \$85,451 \$85,451

Benefits \$32,638 \$34,001 \$35,492 \$37,122

State Police Sergeant (3)

Salary (LG 24, step 8) \$245,319 \$245,319 \$245,319 \$245,319

Benefits \$95,601 \$99,690 \$104,163 \$109,056

State Police Trooper II (36)

Salary (LG 21, step 8) \$2,585,664 \$2,585,664 \$2,585,664 \$2,585,664

Benefits \$1,072,152 \$1,121,220 \$1,174,896 \$1,233,576

Administrative Secretary

Salary (LG 14) \$28,646 \$29,718 \$30,888 \$32,097

Benefits \$20,306 \$21,874 \$23,587 \$25,447

Gasoline \$237,120 \$237,120 \$241,862 \$241,862

Supplies / Postage \$7,500 \$4,000 \$5,120 \$5,120

Computer Software \$7,200 - \$2,000 -

41 Cruisers \$1,447,300 - - -

41 Standard Personal Equip. \$176,300 - - -

41 Laptops / Docking Station \$41,000 - - -

3 Printers \$1,500 - - -

15 File Cabinets \$5,775 - - -

6 Work Stations \$18,000 - - -

Copiers \$5,580 \$5,580 \$5,580 \$5,580

Total \$6,241,823 \$4,599,771 \$4,671,647 \$4,739,550

The Department of Justice states this bill permits the development of gambling facilities that will be regulated by the Lottery Commission and Racing & Charitable Gaming Commission; establishes administrative, civil, and criminal penalties for violations of the law; authorizes the Attorney General to conduct background investigations of license applicants; and establishes a gaming enforcement unit within the Department of Safety, Division of State Police. The Department anticipates the Lottery Commission, the Racing & Charitable Gaming Commission, and the gaming enforcement unit will require assistance from an Assistant Attorney General in the Civil Bureau to promulgate rules, conduct administrative enforcement of violations, and otherwise provide legal counsel to manage their obligation to perform gambling oversight. The Department anticipates that in FY 2011 this will require one and one half full-time equivalent (FTE) Assistant Attorneys General and 35% of a paralegal's time. In FY 2012 and each year thereafter, the Department's legal council role will require approximately 50% of an Assistant Attorney General's time and 20% of a paralegal's time.

The Department further states the Department would be responsible for conducting a background investigation of every applicant for an operator's license or technology provider's license, and any owners or key employees thereof. Such investigations must be completed within 60 days. The Department expects to conduct investigations of the two North Country facilities and the destination golf resort and convention center. The bill authorizes the Attorney General to impose a \$50,000 fee to defray the costs for an investigation of an operator applicant, and \$25,000 for an investigation of a technology provider applicant. The applicant would be required to pay the difference if the cost exceeds the fee. The Department expects that it would have to hire two full-time temporary investigators (one FTE in FY 2011), two full-time temporary financial analysts (one FTE in FY 2011), and one part-time paralegal (0.81 FTE in FY 2011) to complete the investigations. The Department estimates total increased general fund expenditures of \$397,516 in FY 2011, as well as revenue from investigation fees of \$240,197.

Estimated personnel and related expenses are summarized as follows:

FY 2011 FY 2012 FY
2013 FY 2014

Assistant Attorney General

Salary \$97,500 \$33,475 \$34,480 \$35,514

Benefits \$40,207 \$14,262 \$15,192 \$16,197

2 Investigators (LG BB)

Salary \$50,668 - - -

Benefits \$24,124 - - -

2 Financial Analysts (LG 31)

Salary \$57,935 - - -

Benefits \$25,483 - - -

Paralegal (LG 19) to assist Attorneys

Salary \$12,203 \$7,258 \$7,570 \$7,878

Benefits \$7,409 \$4,558 \$4,912 \$5,295

Paralegal (LG 19) to assist Investigators

Salary \$28,241 - - -

Benefits \$17,146 - - -

Computers \$11,200 - - -

Furniture \$10,500 - - -

Software \$8,400 - - -

Current Expense \$6,500 - - -

Total \$397,516 \$59,553 \$62,154 \$64,884

The Department of Justice further states this bill creates one new felony-level offense for manipulating the outcome, payoff, or operation of any video lottery machine or table game. The Department states it would be responsible for representing the State in any appeal from a conviction for that offense, but anticipates it could handle those cases within its current budget.

The Department of Health & Human Services, Bureau of Drug & Alcohol Services, states this bill provides one percent of net VLM income to the alcohol and drug abuse treatment program as established in RSA 172 to treat problem gambling. The Department states it is currently unable to estimate the restricted revenue it will receive under this bill. The Department assumes the revenue it receives under this bill will cover the estimated expenses of providing treatment for problem gambling. The Department made the following assumptions to calculate expenditures under this bill:

- Funding would be available to the Department for the creation of positions and other related expenses beginning in FY 2011.
- Funding would be used to contract for gambling prevention and treatment services as well as defraying additional administrative costs associated with those services.
- The Department will hire an additional three FTE staff that will focus on gambling prevention and treatment initiatives, including two Program Specialist III and one Executive Secretary.
- Each Prevention and Treatment Program Specialist III will provide technical assistance, education, and contract management for gambling treatment. The Secretary will assist with materials distribution, set up for outreach, and other

program duties for both problem gambling prevention and treatment.

- As this is a new and developing area of expertise, ongoing staff development and training will be required.
- The remainder of funds will be used for contracts for media advertising and outreach (\$100,000 per year), information development and dissemination (\$50,000 per year), data collection and research to determine the scope of the problem and effectiveness of interventions (\$50,000 per year), and contracts for five FTE of outpatient gambling addiction treatment (\$78,000 per FTE x 5 = \$390,000 per year with subsequent increases of 3% per year).

The Department's estimated expenses associated with treating problem gambling are summarized as follows:

FY 2011 FY 2012 FY 2013 FY 2014

2 Program Specialist III (LG 23)

Salary \$82,173 \$85,683 \$89,505 \$93,444

Executive Secretary (LG 11)

Salary \$25,584 \$26,540 \$27,515 \$28,646

Benefits (3 FTE) \$64,098 \$69,001 \$74,347 \$80,161

Current Expense \$15,000 \$15,000 \$15,000 \$15,000

Equipment \$4,500 - - -

In-State Travel \$2,500 \$2,500 \$2,500 \$2,500

Out-of-State Travel \$6,000 \$6,000 \$6,000 \$6,000

Contracts \$590,000 \$601,700 \$613,750 \$626,160

Total \$789,855 \$806,424 \$828,617 \$851,911

The Police Standards & Training Council (PSTC) states this bill provides one quarter of one percent of net VLM income to the PSTC Training Fund. The PSTC states it is currently unable to estimate the restricted revenue the fund will receive under this bill. The PSTC further states this bill establishes a Gaming Enforcement Unit within the Division of State Police. The new unit would require the PSTC to train new officers; however, the PSTC is unable to determine the expenditure impact without knowing the number of new hires that would be required in this unit.

The Department of Resources and Economic Development states this bill provides one half of one percent of net VLM income to the Division of Travel and Tourism Development for the purpose of promoting tourism in the state. The Department states it does not have history or projections regarding the potential income from this source; however, state restricted revenue will increase by an indeterminable amount.

The NH Municipal Association states this bill provides varying amounts of net video VLM income to municipalities in the state. The Association

states local revenue will increase by an indeterminable amount and local expenditures will increase by an indeterminable amount related to increased demand for safety services.

The NH Association of Counties states this bill provides two percent of net VLM income to be divided equally amongst each county in the state for property tax relief. The Association states it is unable to determine actual revenue from VLMs, but to the extent there is net income generated from VLMs, county revenues will increase by an indeterminable amount.

The Department of Corrections states this bill creates a new felony offense for manipulating the outcome, payoff, or operation of any video lottery machine or table game by physical, electronic, or mechanical means. The Department states it cannot predict the number of individuals who may be found guilty of this offense. The Department states the average annual cost of incarcerating an individual in the general prison population in FY 2009 was \$33,110 and the cost to supervise an offender by the Division of Field Services in FY 2009 was \$744.

The Judicial Branch states it is potentially impacted by several sections of proposed RSA 284-A and related statutory amendments. First, there are multiple proposed sections which involve the same basic issue, namely that certain information held by the Lottery Commission or the Racing and Charitable Gaming Commission is confidential but can be made public by a court order. These sections are proposed RSA 284-A: 2, VII (d) and (e), proposed RSA 284:21-w, V (c) and (d), proposed RSA 284:6-b, II (d) and (e), and the proposed amendment to RSA 172:8-a. Second, proposed RSA 284-A:10, II makes it an unspecified felony to manipulate the outcome, payoff, or operation of a video lottery machine. Finally, the bill sets up a comprehensive regulatory scheme generally under the Lottery Commission, with licensing authority and broad sanction powers. Although there is no reference in the bill or in the existing statute to an RSA 541 appeal right from the Commission to the Supreme Court, without one certiorari would lie, giving another possibility of fiscal impact to the Judicial Branch in appeals to the Supreme Court.

The Judicial Branch states regarding actions to make public confidential information, such actions are likely to take place in the Superior Court. Any such action would be considered a complex equity case in accordance with the New Hampshire Judicial Needs Assessment done by the National Center for State Courts. The Judicial Branch has no information on which to estimate how many such cases may arise as a result of the bill. The Judicial Branch does, however, have information on the average cost of processing such cases in the Superior Court. The cost to the Judicial Branch of an average complex equity case is \$507 in FY 2010 and beyond, without consideration of any salary increases or decreases that may occur.

The second area of possible fiscal impact on the Judicial Branch is proposed RSA 284-A:10, II, which makes it an unspecified felony to manipulate the outcome, payoff, or operation of a video lottery machine. The Judicial Branch has no information on which to estimate how many new charges will be brought pursuant to this provision of the bill. The cost to the Judicial Branch of an average routine felony case is \$336 in FY 2010 and beyond, without consideration of any salary increases or decreases that may occur.

The final potential area for fiscal impact on the Judicial Branch is in the potential of administrative appeals from the Lottery Commission. Regarding appeals to the Supreme Court, the Judicial Branch has no information on how many such appeals may arise. The Supreme Court has discretionary review of such appeals; therefore, another variable is whether the Court accepts the appeal for full appellate review, accepts it for more limited review, or declines the appeal. Such appeals are too speculative to arrive at a conclusion regarding fiscal impact.

The Judicial Branch further states there is no reference in the proposed RSA 287-H or in the existing statute to an RSA 541 appeal right from the Racing and Charitable Gaming Commission to the Supreme Court, without one certiorari would lie, giving another possibility of fiscal impact to the Judicial Branch in appeals to the Supreme Court.

Regarding appeals to the Supreme Court, the Judicial Branch has no information on how many such appeals may arise. The Supreme Court has discretionary review of such appeals; therefore, another variable is whether the Court accepts the appeal for full appellate review, accepts it for more limited review, or declines the appeal. Such appeals are too speculative to arrive at a conclusion regarding fiscal impact.

The Judicial Council states this bill may result in an indeterminable increase in general fund expenditures for charges related to the proposed felony in RSA 284-A:10, II. The Council states if an individual is found to be indigent, the flat fee of \$756.24 per felony will be charged. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$4,100 for a felony charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.