

HB 673-FN-A - AS INTRODUCED

2015 SESSION

15-0807  
09/10

HOUSE BILL            **673-FN-A**  
AN ACT                establishing a sales and use tax.  
SPONSORS:            Rep. Shattuck, Hills 1  
COMMITTEE:          Ways and Means

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ANALYSIS

This bill imposes a 2.25 percent retail sales tax. The bill also imposes a 2.25 percent use tax on the use or storage of property in New Hampshire when no sales tax has been paid. Use tax is imposed, for example, when a New Hampshire business buys property out of state tax-free and uses it in New Hampshire. It also applies when a business makes personal use of property that it has purchased for resale or has manufactured for sale.

Sales made in New Hampshire for delivery out of state are taxable under this bill. Sales made out of state for delivery out of state are exempt from taxation. Sales for resale, casual sales, and sales of specific items such as gasoline, heating oil, medical supplies, and items of clothing under \$175 are all exempt from taxation.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struck through~~].  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



1 VIII. "Receipt" means the amount of the sales price of any property taxable under this  
2 chapter valued in money, whether received as money or otherwise, without any deduction for  
3 expenses or early payment discount, but excluding any amount for which credit is allowed by the  
4 vendor to the purchaser, and excluding any allowance in cash or by credit made upon the return of  
5 merchandise pursuant to warranty or the price of property returned by customers when the full price  
6 thereof is refunded either in cash or by credit, and excluding the price received for labor or services  
7 used in installing or applying to repairing the property sold, if separately charged or stated, and the  
8 cost of transportation from the retailer's place of business or other point from which shipment is  
9 made directly to the purchaser provided those charges are separately stated and provided the  
10 transportation occurs by means of common carrier, contract carrier, or the United States mails.

11 IX. "Retail sale" or "sold at retail" means the sale of tangible personal property to any person  
12 for any purpose, other than for resale, except resale as a casual sale. Sales of tangible personal  
13 property to all contractors, subcontractors or repairpersons of materials and supplies for use by them  
14 in erecting structures for others, or building on, or otherwise improving, altering, or repairing real  
15 property of others are deemed to be retail sales.

16 X. "Sales," "selling," or "purchase" means any transfer of title or possession or both,  
17 exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any  
18 manner or by any means whatsoever for a consideration, or any agreement therefor; except  
19 professional, insurance, personal service transactions, advertising services and computer and data  
20 processing services where tangible personal property is transferred as part of such service  
21 transaction so long as no separate charge is made for the tangible personal property and so long as  
22 the value of the tangible personal property transferred is essentially an inconsequential element in  
23 relation to the value of the service transaction. The provisions of this paragraph shall be retroactive  
24 if to the benefit of the taxpayer.

25 XI. "Tangible personal property" means personal property which may be seen, weighed,  
26 measured, felt, touched or in any other manner perceived by the senses and shall include fuel, but  
27 shall not include rights and credits, insurance policies, bills of exchange, stocks and bonds, and  
28 similar evidences of indebtedness or ownership. Tangible personal property shall also include  
29 electricity unless RSA 83-E, the electricity consumption tax, is in effect.

30 XII. "Use" means the exercise of any right or power over tangible personal property by the  
31 purchaser thereof and includes, but is not limited to, the receiving, storage, or any keeping or  
32 retention for any length of time, withdrawal from storage, any installation, any affixation to real or  
33 personal property, or any consumption of that property.

34 XIII. "Vendor" means and includes:

35 (a) A person making sales of tangible personal property or services, the receipts from  
36 which are taxed by this chapter;

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1 (b) A person maintaining a place of business in the state and making sales, whether at  
2 that place or business or elsewhere, to persons within the state of tangible personal property or  
3 services, the use of which is taxed by this chapter;

4 (c) A person who solicits business either by employees, independent contractors, agents  
5 or other representatives or by distribution of catalogs or other advertising matter and by reason  
6 thereof makes sales to persons within the state of tangible personal property or services, the use of  
7 which is taxed by this chapter;

8 (d) Any other person making sales to persons within the state of tangible personal  
9 property or services, the use of which is taxed by this chapter, who may be authorized by the  
10 commissioner to collect the tax imposed by this chapter; and

11 (e) The state of New Hampshire or any of its agencies, instrumentalities, public  
12 authorities, public corporations, including a public corporation created pursuant to agreement or  
13 compact with another state, or political subdivision when that entity sells services or property of a  
14 kind ordinarily sold by private persons.

15 77-G:2 Imposition of Sales Tax. Except as otherwise provided in this chapter, there shall be  
16 paid a tax of 2.25 percent upon the receipts from the sale of tangible personal property purchased at  
17 retail in this state.

18 77-G:3 Tax Bracket Schedule.

19 I. In addition to a tax of .0225 percent on each full dollar and partial dollars amounts \$0.51  
20 and up to \$1.00; a tax of .017 percent shall be collected on each part of a dollar less than \$0.50.

21 II. When several taxable articles are purchased together at the same time, the tax shall be  
22 computed on the total amount of the purchase of several taxable items.

23 77-G:4 Imposition of Use Tax. Unless property has already been or will be subject to the  
24 purchase tax under RSA 77-G:2, there is imposed on every person a use tax at the rate of 2.25  
25 percent for the use within this state, except as otherwise exempted under this chapter:

26 I. Of any tangible personal property purchased at retail; and

27 II. Of any tangible personal property manufactured, processed or assembled by the user, if  
28 items of the same kind of tangible personal property are offered for sale by the user in the regular  
29 course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible  
30 personal property or the use for demonstrational or instructional purposes of tangible personal  
31 property by the person who manufactured, processed or assembled such property shall not be  
32 deemed a taxable use by such person.

33 77-G:5 Administration; Rulemaking. In addition to other powers granted to the commissioner in  
34 this chapter and in RSA 21-J, the commissioner shall:

35 I. Collect the taxes, interest, additions to tax, and penalties imposed under this chapter and  
36 RSA 21-J.

37 II. Adopt rules, pursuant to RSA 541-A, relative to:

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1           (a) The administration of the sales and use tax.

2           (b) The recovery of any tax, interest on tax, additions to tax, or the penalties imposed by  
3 RSA 77-G or RSA 21-J.

4           (c) The form of any returns, certificates and documents and the data which they must  
5 contain for the correct determination on computation of receipts and the tax assessed thereon.

6           III. Require any person required to collect taxes to keep detailed records of all receipts,  
7 received, charged or accrued, including those claimed to be nontaxable, and also of the nature, type,  
8 value, and amount of all purchases, sales, and other facts relevant in determining the amount of tax  
9 due and to furnish that information upon request to the commissioner.

10           IV. Publish and maintain, as the commissioner deems necessary, lists of specific items of  
11 tangible personal property which are found to be exempt from tax under RSA 77-G:2.

12           77-G:6 Liability for Tax. Every person required to collect any tax imposed by this chapter shall  
13 be personally liable for the tax imposed, collected or required to be collected, under this chapter.  
14 That person shall have the same rights in collecting the tax from the purchaser or regarding  
15 nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the  
16 property, and payable at the same time; provided, however, that the commissioner shall be joined as  
17 a party in any action or proceeding brought to collect the tax.

18           77-G:7 Principal and Agent; Joint Liability. When, in the opinion of the commissioner, it is  
19 necessary for the efficient administration of this chapter to treat any salesperson, representative,  
20 peddler, or canvasser as the agent of the vendor, distributor, supervisor, or employer under whom  
21 the person operates or from whom the person obtains tangible personal property sold by the person  
22 or for whom the person solicits business, the commissioner may, in the commissioner's discretion,  
23 treat such agent as the vendor jointly responsible with the principal, distributor, supervisor, or  
24 employer for the collection and payment of the tax.

25           77-G:8 Payment and Return by Purchaser.

26           I. Where any purchaser has failed to pay a tax imposed by this chapter to the person  
27 required to collect the same, then in addition to all other rights, obligations, and remedies provided,  
28 the tax shall be payable by the purchaser directly to the commissioner and it shall be the duty of the  
29 purchaser to file a return with the commissioner and to pay the tax to the commissioner within 20  
30 days of the date the tax was required to be paid.

31           II. The commissioner may, whenever the commissioner deems it necessary for the proper  
32 enforcement of this chapter, provide by rule that purchasers shall file returns and pay directly to the  
33 commissioner any tax herein imposed, at such times as returns are required to be filed and paid by  
34 persons required to collect the tax.

35           77-G:9 Transfers not in Course of Business; Notice; Lien.

36           I. Whenever a person required to collect the tax shall make a sale, transfer, or assignment in  
37 bulk of any part or the whole of such person's business assets, otherwise than in the ordinary course

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1 of business, the purchaser, transferee, or assignee shall, at least 10 days before taking possession of  
2 the subject of the sale, transfer, or assignment, or payment therefor, notify the commissioner by  
3 registered mail of the proposed sale and of the price, terms, and conditions thereof whether or not  
4 the seller, transferer, or assignor, has represented, to, or informed the purchaser, transferee, or  
5 assignee that any tax is owed pursuant to this chapter, and whether or not the purchaser,  
6 transferee, or assignee has knowledge that the taxes are owing, and whether any taxes are in fact  
7 owing.

8 II. Whenever the purchaser, transferee, or assignee shall fail to give notice to the  
9 commissioner as required by paragraph I, or whenever the commissioner shall inform the purchaser,  
10 transferee, or assignee that a possible claim for the tax or taxes exists, any sums of money, property,  
11 or choses in action, or other consideration, which the purchaser, transferee, or assignee is required to  
12 transfer over to the seller, transferer, or assignor shall be subject to first priority right and lien for  
13 any taxes theretofore or thereafter determined to be due from the seller, transferer, or assignor to  
14 the state, and the purchaser, transferee, or assignee is forbidden to transfer to the seller, transferer,  
15 or assignor any sums of money, property, or chooses in action to the extent of the amount of the  
16 state's claim. For failure to comply with this section, the purchaser, transferee, or assignee shall be  
17 personally liable for the payment to the state of any taxes theretofore or thereafter determined to be  
18 due to the state from the seller, transferer, or assignor, and the liability may be assessed and  
19 enforced in the same manner as the liability for tax under this chapter.

20 77-G:10 Registration.

21 I. On or before September 1, 2017, or in the case of persons commencing business or opening  
22 new places of business after that date, within 3 days after the commencement or opening, every  
23 person required to collect any tax imposed by this chapter and every person purchasing tangible  
24 personal property for resale shall file with the commissioner a certificate of registration in a form  
25 prescribed by the commissioner. The commissioner shall issue, without charge, to each registrant a  
26 certificate of authority empowering the registrant to collect the tax. Each certificate shall state the  
27 place of business to which it is applicable. The certificate of authority shall be prominently displayed  
28 in the place of business of the registrant. A registrant who has no regular place of doing business  
29 shall attach the certificate to the registrant's cart, stand, truck, or other merchandising device, or  
30 carry it on the registrant's person. The certificate shall be nonassignable and nontransferable and  
31 shall be surrendered to the commissioner immediately upon the registrant's ceasing to do business at  
32 the place named.

33 II. Any person who is not otherwise required to collect any tax imposed by this chapter and  
34 who makes sales to persons within the state of tangible personal property or services, the use of  
35 which is subject to tax under this chapter, may, if such person so elects, file a certificate of  
36 registration with the commissioner who may, in the commissioner's discretion and subject to such

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1 conditions as the commissioner may impose, issue to such person a certificate of authority to collect  
2 the use tax imposed by this chapter.

3 77-G:11 Restrictions on Advertising.

4 I. No person required to collect any tax imposed by this chapter shall advertise or hold out to  
5 any person or to the public in general, in any manner, directly or indirectly, that the tax is not  
6 considered as an element in the price payable by the customer, or that such person will pay the tax,  
7 that the tax will not be separately charged and stated to the customer, or that the tax will be  
8 refunded to the customer.

9 II. Upon written application duly made and proof duly presented to the satisfaction of the  
10 commissioner showing that in the vendor's particular business it would be impractical for such  
11 vendor to separately charge the tax to the customer, the commissioner may waive the application of  
12 the requirement herein as to such vendor.

13 III. Whenever reference is made in placards or advertisements or in any other publications  
14 to any tax imposed by this chapter, the reference shall be in substantially the following form: "sales  
15 and use tax"; except that in any bill, receipt, statement, or other evidence or memorandum of sale  
16 issued or employed by a person required to collect tax, if the tax is required to be stated separately  
17 thereon as provided in RSA 77-G:23, the word "tax" shall suffice.

18 77-G:12 Recordkeeping. Every person required to collect any tax imposed by this chapter shall  
19 keep records of every sale and of all amounts paid or charged or due thereon and of the tax payable  
20 thereon, in such form as the commissioner shall require. These records shall include a true copy of  
21 each sales slip, invoice, receipt, statement, or memorandum upon which RSA 77-G:23 requires that  
22 the tax be stated separately. The records shall be available for inspection and examination at any  
23 time upon demand by the commissioner or the commissioner's duly authorized agent or employee  
24 and shall be preserved for a period of 3 years, except that the commissioner may consent to their  
25 destruction within that period or may require that they be kept longer.

26 77-G:13 Sales Not Covered. Receipts from the following shall be exempt from the tax on retail  
27 purchases imposed under RSA 77-G:2 and the use tax imposed under RSA 77-G:4:

28 I. Sales not within the taxing power of this state under the Constitution of the  
29 United States.

30 II. Purchases of medicines and drugs sold pursuant to a doctor's prescription for human use,  
31 oxygen for medical purposes, blood, blood plasma, artificial components of the human body,  
32 prosthetic devices, medical appliances, corrective appliances, corrective optical devices, dentures,  
33 hearing aids, seeing eye dogs, crutches, wheelchairs, hospital type beds, medical and dental devices  
34 and instruments, medical and dental equipment (including component parts thereof) and supplies  
35 used in treatment intended to alleviate human suffering or to correct, in whole or in part, human  
36 physical disabilities.

37 III. Casual sales.

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1           IV. Purchases of all alcoholic beverages.

2           V. Purchases of motor fuels; taxed or exempted under RSA 260, provided, however, that jet  
3 fuel shall be taxed under this chapter.

4           VI. Rents for rooms and vehicles taxed under RSA 78-A and the transactions exempted  
5 therefrom.

6           VII. Purchases of meals, taxed or exempted under RSA 78-A.

7           VIII. Purchases made by persons who have been qualified under the supplemental Nutrition  
8 Assistance Program.

9           IX. Purchases made by persons who are qualified under the low and moderate income  
10 homeowners property tax relief program under RSA 198:56-61.

11          X. Persons who qualify for a local property tax elderly exemption under RSA 72.

12          XI. Purchases of equipment, supplies, and building materials made directly to volunteer fire  
13 departments, volunteer ambulance companies, or volunteer rescue squads for official use by the  
14 volunteer organizations.

15          XII. Funeral charges, including, but not limited to, sales of tangible personal property such  
16 as caskets, vaults, boxes, clothing, crematory urns, and other such funeral furnishings as are  
17 necessary incidents of the funeral, and other items sold as an accommodation rather than as an  
18 integral part of the funeral service or preparation therefor.

19          XIII. Tangible personal property purchased for use or consumption directly and exclusively,  
20 except for isolated or occasional uses, in commercial, industrial, or agricultural research or  
21 development in the experimental or laboratory sense. It shall be rebuttably presumed that uses are  
22 not isolated or occasional if they total more than 4 percent of the time the machinery or equipment is  
23 operated. Such research or development shall not be deemed to include the ordinary testing or  
24 inspection of materials or products for quality control, efficiency surveys, management studies,  
25 consumer surveys, advertising promotions, or research in connection with literary, historical, or  
26 similar projects.

27          XIV. Purchases of electricity, oil, gas, and other fuels used in a residence for all domestic  
28 uses including heating, and sales of such fuels when used by businesses and farms for farming and  
29 business purposes.

30          XV. All vessels over 50 tons.

31          XVI. All new items of clothing and shoes under \$175 and fire, police, waitress, and nurse  
32 work uniforms and footwear.

33          XVII. All used clothing and shoes.

34          XVIII. Purchases of bibles, prayer books, missals, and other religious texts.

35          77-G:14 Transactions Not Covered. This chapter shall not cover the following transactions:

36           I. Private yard sales which consist of the casual sale of tangible personal property.

1           II. The transfer of tangible personal property to a corporation solely in consideration for the  
2 issuance of its stock, pursuant to a merger or consolidation effected under the laws of  
3 New Hampshire or any other jurisdiction.

4           III. The distribution of property by a corporation to its stockholders as a liquidating  
5 dividend.

6           IV. The distribution of property by a partnership to its partners in whole or partial  
7 liquidation.

8           V. The distribution of property by a limited liability company to its members in whole or  
9 partial liquidation.

10          VI. The transfer of property to a corporation upon its organization in consideration for the  
11 issuance of its stock.

12          VII. The contribution of property to a partnership in consideration for a partnership  
13 interest.

14          VIII. The contribution of property to a limited liability company in consideration for a  
15 membership interest.

16          IX. The sale of tangible personal property where the purpose of the vendee is to hold the  
17 thing transferred as security for the performance of an obligation of the vendor.

18          X. The sawing of lumber owned by the person requesting the sawing or such person's agent.

19          77-G:15 Organizations not Covered. Any purchase or service charged by or to any of the  
20 following or any use by any of the following are not subject to the sales and use taxes imposed under  
21 this chapter:

22           I. The state of New Hampshire, or any of its agencies, instrumentalities, public authorities,  
23 public corporations, including a public corporation created pursuant to agreement or compact with  
24 another state, or political subdivisions when it is the purchaser, user, or consumer, or when it is a  
25 vendor of services or property of a kind not ordinarily sold by private persons.

26           II. The United States of America, any of its agencies and instrumentalities, insofar as it is  
27 immune from taxation when it is the purchaser, user, or consumer, or when it sells services or  
28 property of a kind not ordinarily sold by private persons.

29           III. Organizations which qualify for exempt status under the provisions of Section 501(c)(3)  
30 of the United States Internal Revenue Code, as the same may be amended or redesignated, excepting  
31 sales, storage, or use in activities which are mainly commercial enterprises; provided, however:

32           (a) That the organization first shall have obtained a certificate from the commissioner  
33 stating that it is entitled to the exemption;

34           (b) That the sale or service or use is for the exempt purpose of such organization; and

35           (c) That the vendor keeps a record of the purchase price of each such separate purchase,  
36 the name of the purchaser, the date of each separate purchase, and the number of the certificate.

1 IV. Purchases of building materials and supplies to be used in the construction,  
2 reconstruction, alteration, remodeling, or repair of:

3 (a) Any building structure or other public work owned by or held in trust for the benefit  
4 of any governmental body or agency mentioned in paragraphs I and II of this section and used  
5 exclusively for public purposes;

6 (b) Any building or structure owned by or held in trust for the benefit of any  
7 organization described in paragraph III and used exclusively for the purposes upon which its exempt  
8 status is based; and

9 (c) Any building or housing project subject to the provisions of RSA 204-C, provided,  
10 however, that the governmental body or agency, the organization, or person has first obtained a  
11 certificate from the commissioner stating that it is entitled to the exemption and the vendor keeps a  
12 record of the purchase price of each separate purchase, the name of the purchaser, the date of each  
13 separate purchase, and the number of the certificate. In this paragraph, the words "building  
14 materials and supplies" shall include all materials and supplies consumed, employed or expended in  
15 the construction, reconstruction, alteration, remodeling, or repair of any building, structure, or other  
16 public work as well as the materials and supplies physically incorporated therein.

17 V. Organizations which qualify for exempt status under the provisions of Section 501(c)(4)-  
18 (13) and (19), and political organizations as defined in Section 527(e) of the United States Internal  
19 Revenue Code, as the same may be amended or redesignated, shall not be exempt from taxation of  
20 the purchase or use of tangible personal property as defined in RSA 77-G:1.

21 77-G:16 Property Exempt From Use Tax.

22 I. The following uses of property are not subject to the use tax imposed under this chapter:

23 (a) Property used by the purchaser in this state prior to July 1, 2016.

24 (b) Property purchased by the user while a nonresident of this state, except in the case of  
25 tangible personal property which the user, in the performance of a contract, incorporates into real  
26 property located in the state and except in the case of vessels under 50 tons and used in the waters of  
27 this state for at least 30 days.

28 (c) Property or services to the extent that a retail sales or use tax was legally due and  
29 paid thereon, without any right to a refund or credit thereof, to any other state or jurisdiction within  
30 any other state but only when it is shown that the other state or jurisdiction allows a corresponding  
31 exemption with respect to the purchase or use of tangible personal property or services upon which  
32 such a sales tax or use tax was paid to this state. To the extent that the tax imposed by this chapter  
33 is at a higher rate than the rate of tax in the first taxing jurisdiction, this exemption shall be  
34 inapplicable and the tax imposed by RSA 77-G:4 shall apply to the extent of the difference in the  
35 rates.

36 (d) Property withdrawn from inventory for the purpose of donating such property to an  
37 entity described in RSA 77-G:15, I, II, or III.

1           II. A person while engaged in any manner in carrying on in this state any employment,  
2 trade, business, or profession, not entirely in interstate or foreign commerce, shall not be deemed a  
3 nonresident with respect to the use in this state of property in that employment, trade, business, or  
4 profession.

5           77-G:17 Certificate or Affidavit of Exemption. Unless a vendor shall have taken from the  
6 purchaser a certificate, signed by the purchaser and bearing the purchaser's name and address and  
7 the number of the purchaser's registration certificate, to the effect that the property was purchased  
8 for resale or the purchaser prior to taking delivery, furnishes to the vendor any affidavit, statement,  
9 or additional evidence, documentary or otherwise, which the commissioner may require  
10 demonstrating that the purchaser is an exempt organization described in RSA 77-G:15, the purchase  
11 shall be deemed a taxable purchase at retail. Provided, however, the commissioner may authorize a  
12 purchaser, who acquires tangible personal property or services under circumstances which make it  
13 impossible at the time of acquisition to determine the manner in which the tangible personal  
14 property or services will be used, to pay the tax directly to the commissioner and waive the collection  
15 of the tax by the vendor. Provided, further, the commissioner shall authorize any contractor,  
16 subcontractor, or repairperson who acquires tangible personal property consisting of materials and  
17 supplies for use in erecting structures for others, or building on, or otherwise improving, altering, or  
18 repairing real property of others, to pay the tax directly to the commissioner and waive the collection  
19 of the tax by the vendor. No such authority shall be granted or exercised except upon application to  
20 the commissioner and the issuance by the commissioner of a direct payment permit. If a direct  
21 payment permit is granted, its use shall be subject to conditions specified by the commissioner and  
22 the payment of tax on all acquisitions pursuant to the permit shall be made directly to the  
23 commissioner by the permit holder.

24           77-G:18 Computing Receipts and Consideration.

25           I. The retail sales tax imposed under RSA 77-G:2 and the use tax imposed under RSA 77-G:4  
26 when computed in respect to tangible personal property wherever manufactured, processed, or  
27 assembled and used by such manufacturer, processor, or assembler in the regular course of business  
28 within the state, shall be based on the price at which items of the same kind of tangible personal  
29 property are offered for sale by such manufacturer, processor, or assembler.

30           II. Tangible personal property which has been purchased by a resident of the state outside of  
31 this state for use outside of this state and subsequently becomes subject to the use tax imposed  
32 under this chapter, shall be taxed on the basis of the purchase price of the property, provided  
33 however:

34           (a) That where a taxpayer affirmatively shows that the property was used outside the  
35 state by the taxpayer for more than 6 months prior to its use within this state, the property shall be  
36 taxed on the basis of current market value of the property at the time of its first use within this state  
37 but the value of the property, for use tax purposes, may not exceed its cost.

1           (b) That the use tax on the tangible personal property brought into this state, other than  
2 for complete consumption or for incorporation into real property located in this state, and used in the  
3 performance of a contract or subcontract within this state by a purchaser or user for a period of less  
4 than 6 months may be based, at the option of the taxpayer, on the fair rental value of the property  
5 for the period of use within this state.

6           III. For purposes of RSA 77-G:4, I the tax shall be at the rate of 2.25 percent of the  
7 consideration given or contracted to be given for the property or for the use of the property adjusted  
8 in the same manner as is the sales price under the purchase tax to arrive at "receipts."

9           IV. For purposes of RSA 77-G:4, II the tax shall be at the rate of 2.25 percent of the price at  
10 which items of the same kind of tangible personal property are offered for sale by the user.

11           77-G:19 Returns.

12           I. Every person required to collect or pay tax under this chapter shall on or before the  
13 fifteenth day of each month make and file a return for the preceding month with the commissioner.  
14 The return of a vendor of tangible personal property shall show such vendor's receipts from sales and  
15 also the aggregate value of tangible personal property sold, the use of which is subject to tax under  
16 this chapter.

17           II. The commissioner may extend, for cause shown, the time of filing any return for a period  
18 not exceeding 3 months on such terms and conditions as the commissioner may require.

19           III. The commissioner may permit or require returns to be made covering other periods upon  
20 such dates as the commissioner specifies. In addition, the commissioner may require payment of tax  
21 liability at such intervals and based upon such classifications as the commissioner may designate.  
22 In prescribing the other periods to be covered by the return or intervals or classifications for  
23 payment of tax liability, the commissioner may take into account the dollar volume of tax involved as  
24 well as the need for insuring the prompt and orderly collection of the taxes imposed.

25           IV. The commissioner may require amended returns to be filed within 20 days after notice  
26 and to contain the information specified in the notice.

27           77-G:20 Payment of Tax.

28           I. Every person required to file a return under this chapter shall, at the time of filing the  
29 return, pay to the commissioner the taxes imposed by this chapter as well as all other moneys  
30 collected by such person under this chapter.

31           II. All the taxes for the period for which a return is required to be filed or for such lesser  
32 interval as shall have been designated by the commissioner, shall be due and payable to the  
33 commissioner on the date established for the filing of the return for that period, or on the date for  
34 such lesser interval as the commissioner has designated, without regard to whether a return is filed  
35 or whether the return which is filed correctly shows the amount of receipts, or the value of property  
36 or services sold or purchased or the taxes due thereon.

37           77-G:21 Surety Bonds.

1           I. When the commissioner deems it necessary to protect the revenues to be obtained under  
2 this chapter, the commissioner may, after notice and hearing, require any vendor required to collect  
3 the tax imposed by this chapter to file with the commissioner a bond issued by a surety company  
4 authorized by the New Hampshire insurance department to do business in this state, in an amount  
5 fixed by the commissioner, to secure the payment of any tax, interest, or penalties due, or which may  
6 become due. The vendor shall file a bond within 10 days after the department has issued and mailed  
7 such notice. Surety bonds may be required in situations such as, but not limited to, failure to file  
8 returns, failure to make payments with returns at the time required by law, tender by a vendor of  
9 checks returned for insufficient funds, failure to pay interest and penalties assessed, vendors who  
10 are itinerant, transient or temporary, and any other situation which, in the discretion of the  
11 commissioner, renders the collection of the tax in jeopardy.

12           II. The surety on such bond shall be discharged from the liability accruing on the bond after  
13 the expiration of 60 days from the date on which the surety shall have lodged with the department a  
14 written request to be so discharged; but such request shall not discharge such surety from any  
15 liability already accrued or which shall accrue before the expiration of said 60-day period. The  
16 duration of surety bonds shall be for one year only, unless the requirement is cancelled or revised by  
17 the commissioner before the expiration of the one-year period.

18           III. In lieu of a bond, cash in an amount prescribed by the commissioner may be deposited  
19 with the state treasurer who may, at any time, upon instructions from the commissioner and without  
20 notice to the depositor, apply the cash deposited to any tax or interest or penalties due. Cash  
21 deposited in lieu of a surety bond shall not earn interest.

22           IV. Failure to comply with the provisions of this section shall result in the suspension of the  
23 vendor's license, as provided in RSA 77-G:27.

24           77-G:22 Determination of Tax.

25           I. If a return required by this chapter is not filed, or if a return when filed, is incorrect or  
26 insufficient, the amount of tax due shall be determined and assessed by the commissioner from any  
27 information available. If necessary, the tax may be estimated on the basis of external indices, such  
28 as stock on hand, purchases, rental paid, location, scale of rents or charges, comparable rents or  
29 charges, type of accommodations and service, number of employees, or other factors.

30           II. The commissioner may provide by rule for the exclusion from taxable receipts of amounts  
31 representing sales where the contract of sale has been cancelled, the property returned, or the  
32 receipt or charge has been ascertained to be uncollectable or, in the case the tax has been paid upon  
33 that receipt or charge, for refund or credit of the tax so paid.

34           77-G:23 Collection of Tax From Purchaser. Every person required to collect the tax shall collect  
35 the tax from the purchaser when collecting the price to which it applies. If the purchaser is given  
36 any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable, the

1 tax shall be stated, charged, and shown separately on the first of the documents given to him or her.  
2 The tax shall be paid to the person required to collect it as trustee for and on account of the state.

3 77-G:24 Deferred Payment Purchases. The commissioner may provide that the tax upon  
4 receipts from purchases on the installment plan, seasonal purchases, or deferred payment purchases  
5 may be paid on the amount of each deferred payment and upon the date when the payment is  
6 received.

7 77-G:25 Refunds.

8 I. Claims for refund or credit may be made by a customer who has actually paid the tax or by  
9 a person required to collect the tax, who has collected and paid over the tax to the commissioner,  
10 provided that the claim is timely made in accordance with RSA 21-J:28-a and RSA 21-J:29. No  
11 actual refund of moneys shall be made to a person until such person establishes to the satisfaction of  
12 the commissioner, under such rules as the commissioner may adopt, that such person has repaid to  
13 the customer the amount for which the application for refund is made. The commissioner may, in  
14 lieu of any refund, allow credit on payments due from the claimant.

15 II. If the commissioner determines, on a petition for refund or otherwise, that a person has  
16 paid an amount of tax under this chapter which, as of the date of the determination, exceeds the  
17 amount of tax liability owing from the person to the state, with respect to the current and all  
18 preceding taxable periods, under any provision of this title, the commissioner shall forthwith refund  
19 the excess amount to the person together with interest as provided in RSA 21-J:28.

20 77-G:26 Proceedings to Recover Tax.

21 I. The commissioner may institute actions in the name of the state to recover any tax,  
22 interest on tax, additions to tax, or penalties imposed by this chapter.

23 II. In the collection of the tax imposed by this chapter, the commissioner may use all of the  
24 powers granted to tax collectors under RSA 80 for the collection of taxes, except that the tax imposed  
25 by this chapter shall not take precedence over prior recorded mortgages. The commissioner shall  
26 also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the  
27 commissioner. The provisions of RSA 80:26 apply to the sale of land for the payment of taxes due  
28 under this chapter, and the state treasurer is authorized to purchase the land for the state. If the  
29 state purchases the land, the state treasurer shall certify the purchase to the governor, and the  
30 governor shall draw a warrant for the purchase price out of any money in the treasury not otherwise  
31 appropriated.

32 77-G:27 Suspension or Revocation of Certificates; Appeal.

33 I. The commissioner may, after notice and hearing, suspend or revoke the certificate of  
34 registration of any person required to collect the tax or may refuse to issue or renew any registration  
35 for failure to comply with this chapter or with any pertinent rules adopted hereunder.

36 II. Any person required to collect the tax aggrieved by a suspension, revocation, or refusal  
37 may appeal therefrom, in the same manner as provided in RSA 21-J:28-b for appeal for

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1 redetermination or reconsideration of assessments, within 10 days after written notice of the  
2 suspension, revocation, or refusal has been mailed or delivered to such person.

3           III. If the appealing person required to collect the tax files a bond running to the state as  
4 provided in RSA 77-G:21, then the suspension or revocation shall be inoperative during the appeal.

5           77-G:28 Liens. If any person required to pay or collect and transmit a tax under this chapter  
6 neglects or refuses to pay the same after demand, the amount, together with all penalties and  
7 interest provided for in this chapter and together with any costs that may accrue in addition thereto,  
8 shall be a lien in favor of the state of New Hampshire upon all property and rights to property,  
9 whether real or personal, belonging to such person. Such lien shall arise at the time demand is  
10 made by the commissioner of taxes and shall continue until the liability for such sum with interest  
11 and costs is satisfied or becomes unenforceable. No lien upon real estate for taxes imposed by this  
12 chapter is valid and binding against any person other than the taxpayer until notice of such lien  
13 stating the name and address of the taxpayer and the amount of the tax due shall have been filed  
14 and recorded in the registry of deeds in the grantor index in the county in which such real estate is  
15 located. Notwithstanding the provisions of any other law, the lien shall continue and shall be valid  
16 and binding until the liability for the sum, with interest and costs, is satisfied or becomes  
17 unenforceable.

18           77-G:29 Disposition of Revenues. The state treasurer shall deposit all revenues collected by the  
19 commissioner under this chapter into the general fund.

20           2 Effective Date. This act shall take effect July 1, 2016.

**HB 673-FN-A FISCAL NOTE**

AN ACT                    establishing a sales and use tax.

**FISCAL IMPACT:**

The Department of Revenue Administration states this bill, **as introduced**, will increase state revenue and expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

**METHODOLOGY:**

The Department of Revenue Administration (DRA) states this bill implements a 2.25% sales and use tax in New Hampshire, effective July 1, 2016. The Department states the significant increase in the duties and responsibilities of DRA under this bill would require considerably more time than provided by the bill for the Department to implement this sales and use tax. There would be a substantial indeterminable additional cost for the Department to implement and administer this law for building expansion, computer system enhancements, and staffing increases. The Department does not have any data in order to calculate the value of all such products that would be taxable (and not taxable) and then compute the 2.25% tax thereon for the sales portion of this bill. The Department does not have data for what the future purchases of out-of-state qualifying products would be after July 1, 2016 for the use tax portion of the bill. The exact fiscal impact cannot be determined at this time.