

# Committee Report

**CONSENT CALENDAR**

**February 4, 2020**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Ways and Means to which was referred HB 1492-FN-A-LOCAL,**

**AN ACT establishing a tax on the retail sale of certain electronic devices to fund education. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Lisa Bunker**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	Ways and Means
Bill Number:	HB 1492-FN-A-LOCAL
Title:	establishing a tax on the retail sale of certain electronic devices to fund education.
Date:	February 4, 2020
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE <<Amendment #>>

### STATEMENT OF INTENT

This bill proposes to tax certain electronic devices sold in the state, with revenues to go to education funding. There is no question that state education funding needs to be increased, but, as on other occasions, the committee had concerns about the troubles that arise when attempts are made to arbitrarily tax one narrowly defined sector of the retail economy. Reservations were expressed about the inexactness of the definition of taxable items. We also talked about the negative impact the bill would have on retail outlets near the borders with other states, and on cross-border traffic in search of tax savings generally.

Vote 20-0.

Rep. Lisa Bunker  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Ways and Means

**HB 1492-FN-A-LOCAL**, establishing a tax on the retail sale of certain electronic devices to fund education. **INEXPEDIENT TO LEGISLATE.**

Rep. Lisa Bunker for Ways and Means. This bill proposes to tax certain electronic devices sold in the state, with revenues to go to education funding. There is no question that state education funding needs to be increased, but, as on other occasions, the committee had concerns about the troubles that arise when attempts are made to arbitrarily tax one narrowly defined sector of the retail economy. Reservations were expressed about the inexactness of the definition of taxable items. We also talked about the negative impact the bill would have on retail outlets near the borders with other states, and on cross-border traffic in search of tax savings generally. **Vote 20-0.**

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Vote 20-0.

Rep. Lisa Bunker  
FOR THE COMMITTEE

*LJB*

Original: House Clerk  
Cc: Committee Bill File

# COMMITTEE REPORT

*Bunker*

COMMITTEE: W+M

BILL NUMBER: HB 1492-FN-A

TITLE: \_\_\_\_\_

DATE: 2/4/2020

CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No. _____
------------------------

**STATEMENT OF INTENT:**

*emailed to Karen + Susan*

COMMITTEE VOTE: 20-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. *[Signature]*

For the Committee

# Voting Sheets

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 1492-FN-A-LOCAL

**BILL TITLE:** establishing a tax on the retail sale of certain electronic devices to fund education.

**DATE:** February 4, 2020

**LOB ROOM:** 202

**MOTIONS:** INEXPEDIENT TO LEGISLATE

Moved by Rep. Bunker

Seconded by Rep. Southworth

Vote: 20-0

CONSENT CALENDAR: NO

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Dennis Malloy, Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 1492-FN-A-LOCAL

BILL TITLE: establishing a tax on the retail sale of certain electronic devices to fund education.

DATE: 2/4/2021

LOB ROOM: 202

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. Bunha Secoded by Rep. Sozhusk Vote: 20-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR: \_\_\_ YES  NO

Minority Report? \_\_\_ Yes \_\_\_ No If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted: Dennis Malloy  
Rep Dennis Malloy, Clerk



2019 SESSION

Ways and Means

Bill #: 1492 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 2/4/2020

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Almy, Susan W. Chairman	20		
Ames, Richard Vice Chairman	1		
Karrick, David B.	2		
Southworth, Thomas L.	3		
Malloy, Dennis J. Clerk	4		
Schamberg, Thomas C.	5		
Tucker, Edith M.	6		
Bunker, Lisa H.	7		
Gomarolo, Jennie R.	8		
Griffith, Willis T.	9		
Loughman, Tom J. — DAVIS FRED	10		
Stringham, Jerry M.	11		
Major, Norman L.	12		
Griffin, Mary E.	13		
Ulery, Jordan G.	14		
Abrami, Patrick F.	15		
Burns, Charles C.S.	16		
Doucette, Fred G.	17		
Edwards, Jess C. — Greene Dennis	18		
Bershtein, Alan	19		
<b>TOTAL VOTE:</b>	<b>20</b>	<b>0</b>	

# Hearing Minutes

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 1492-FN-A-LOCAL

**BILL TITLE:** establishing a tax on the retail sale of certain electronic devices to fund education.

**DATE:** January 15, 2020

**LOB ROOM:** 202

**Time Public Hearing Called to Order:** 11:04 a.m.

**Time Adjourned:** 11:59 a.m.

**Committee Members:** Reps. Almy, Ames, Malloy, Karrick, Southworth, Schamberg, Tucker, Bunker, Gomarlo, Griffith, Stringham, Major, M. Griffin, Ulery, Abrami, Doucette and Bershtein

**Bill Sponsors:**

**Rep. Cleaver**

**Rep. King**

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Cleaver, Sponsor** - Introduces bill to establish a tax on the retail sales of certain electronic devices, ie those with a screen, to fund education. Proposing a 4.3% levy and price fluctuation in products can buffer the effect of the tax. Not unduly burdensome to institute in retail setting. Bill writer did not make the distinction between screen and non screen.

**Rep. Almy** - needs a better definition of product.

**Rep. Almy** - Bill goes beyond devices with screens and earned money for K-12 and University System.

**Rep. Major** - More clarification of electronic devices

**Rep. Almy** - working on definition of electronic devices

**Rep. Tucker** - How many devices are sold to out of state customers.

**Rep. Cleaver** - doesn't believe this would discourage out of state shoppers

**Rep. Ames** - how much revenue?

**Rep. Cleaver** - \$200,000,000. 4.3% is less than 6% like in MA,

**Greg Moore, Americans for Prosperity** - opposed - Believes that taxes would discourage use of these products. Why do we want a tax on technology? It's a tax that discourages technology and its use.

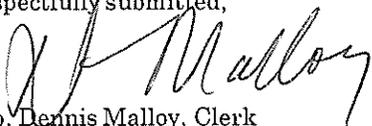
**Joe Haas, Gilmanton** - supports - wants the bill amended.

**Curtis Berry, NH Retain Assoc.** - Opposed. Sales taxes are ill suited for todays economy. Any sales tax spells the end of tax free shopping. A sales tax will diminish taxes from other areas.

**Melissa Rollins, DRA** - Increase expenditures to administer tax 1-2 million - +250,000 in salaries. Too little time to implement tax. Create forms and rules to administer this. Hold public hearings and clarify whats in the law. Refer to fiscal note quick guide.

**Rep. Almy** - have to find 1-2 million in budget before we could collect anything. Could not determine how much this tax would bring in. Doesn't know if \$200,000,000 is a reasonable number.

Respectfully submitted,



Rep. Dennis Malloy, Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 1492-FN-A-LOCAL

BILL TITLE: establishing a tax on the retail sale of certain electronic devices to fund education.

DATE: 1/15/2020

ROOM: 202

Time Public Hearing Called to Order: 11:04

Time Adjourned: 11:59.

(please circle if present)

Committee Members: Reps. Almy, Ames, Malloy, Karrick, Southworth, Schamberg, Tacker, Bunker, Gomarito, Griffith, Loughman, Stringham, Major, M. Griffin, Ulery, Abrami, Burns, Doucette, Edwards and Bershteyn

Bill Sponsors:

Rep. Cleaver

Rep. King

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep Cleaver - introduces in favor - a bill to establish a tax on the retail sales of certain electronic devices, ie those with a screen, to fund education. Propose a 4.3% levy + price fluctuation in products could can buffer the effect of the tax. Not unduly burdensome to ~~institute~~ institute in retail setting.

Bill writer ~~on report~~ did not make the distinction between screen + non-screens.

Susan Army - needs a better definition of products - Abrami's Bill goes beyond screens devices with screens and earmark money for K-12 and Univ. System

HB-1492-FN-A-Local

Major: more clarifying of electronic devices  
Army working on definition of electronic devices  
Tucker: How many devices are sold to out of state  
customers.

Cleaver doesn't believe this would discourage  
out of state shoppers.

Ames - how much revenue? Cleaver \$200,000,000.

Cleaver - 4.3% is less than 6% rate in MA.

Greg Moore opposing. American for Prosperity -  
Believes that taxes would discourage use of these  
products - why do we want a tax on technology -  
As a tax that discourages technology & its  
use.

~~Ames~~

Joe Haas - Gilman in favor rep. himself  
Wants the bill amended.

Curtis Berry - NH Retail ASSO. oppose  
Sales taxes are ill suited for today's economy.  
Any ~~to~~ sales tax spelled the end of tax free  
shopping. A sales tax will diminish taxes  
from other areas

DRAs Melissa Rolton - NO comment  
increase expenditures to administer tax  
1-2 million - + 250,000 a salaries - To little  
time to implement tax

(2)

Event from Title - to administer the Hotel  
public hearing, clearing what is the law -  
required to Fiscal that cover funds.  
Army, have to have 1-2 billion in budget  
before we could collect anything  
Could not determine how much the  
they would bring in. Don't know if 200,000,000  
in a reasonable #.

# Testimony



Bill as  
Introduced

# **Fiscal Note**

HB 1492-FN-A-LOCAL - AS INTRODUCED

2020 SESSION

20-2666

10/05

HOUSE BILL

***1492-FN-A-LOCAL***

AN ACT

establishing a tax on the retail sale of certain electronic devices to fund education.

SPONSORS:

Rep. Cleaver, Hills. 35; Rep. King, Hills. 33

COMMITTEE:

Ways and Means

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ANALYSIS

This bill establishes a tax on the retail sales of certain categories of electronics, to be administered by the department of revenue administration. Revenues collected shall be deposited in the education trust fund for the purpose of state education funding.

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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.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty*

AN ACT establishing a tax on the retail sale of certain electronic devices to fund education.

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

1 1 New Chapter; Electronics Tax for Education. Amend RSA by inserting after chapter 77-G the  
2 following new chapter:

3 CHAPTER 77-H

4 ELECTRONICS TAX FOR EDUCATION

5 77-H:1 Definitions. In this chapter:

6 I. "Casual sale" means an isolated or occasional sale of an electronics item by a person who  
7 is not regularly engaged in the business of making sales at retail where the property was obtained  
8 by the person making the sale, through purchase or otherwise, for his or her own use.

9 II. "Commissioner" means the commissioner of the department of revenue administration.

10 III. "Person" means an individual, partnership, society, association, joint stock company,  
11 corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, and  
12 any other person acting in a fiduciary or representative capacity, whether appointed by a court or  
13 otherwise and any combination of the foregoing.

14 IV. "Persons required to collect tax" imposed by this chapter means and includes every  
15 vendor of taxable electronics.

16 V. "Purchaser" means a person who purchases taxable electronics at retail in this state.

17 VI. "Taxable electronics" means items of consumer electronics as follows:

18 (a) Television sets and related equipment therefore.

19 (b) Video games and all related play systems and equipment.

20 (c) Smart watches and similar products and related equipment therefore.

21 (d) Computers and related equipment, including desktop computers, tablet computers,  
22 laptop computers, printers, scanners, faxes. This shall include all related hardware and software.

23 (e) Cell phones and smart phones and related equipment therefore.

24 VII. "Vendor" means and includes a person making sales of taxable electronics which are  
25 taxed by this chapter.

26 77-H:2 Imposition of Tax. Except where exempted, there shall be paid a tax of 4.3 percent upon  
27 the receipts from the sale of taxable electronics purchased at retail in this state. The tax imposed  
28 shall be based on the price at which items are offered for sale.

29 77-H:3 Administration; Rulemaking. In addition to other powers granted to the commissioner  
30 in this chapter and in RSA 21-J, the commissioner shall:

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

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

4 (a) The administration of the electronics tax for education.

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

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

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

13 IV. Publish and maintain, as the commissioner deems necessary, lists of specific items  
14 which are found to be exempt from tax under RSA 77-H:2.

15 77-H:4 Liability for Tax. Every person required to collect any tax imposed by this chapter shall  
16 be personally liable for the tax imposed, collected, or required to be collected, under this chapter.  
17 That person shall have the same rights in collecting the tax from the purchaser or regarding  
18 nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the  
19 property, and payable at the same time; provided, however, that the commissioner shall be joined as  
20 a party in any action or proceeding brought to collect the tax.

21 77-H:5 Principal and Agent; Joint Liability. When, in the opinion of the commissioner, it is  
22 necessary for the efficient administration of this chapter to treat any salesperson or representative  
23 as the agent of the vendor, distributor, supervisor, or employer under whom the person operates or  
24 from whom the person obtains taxable electronics sold by the person or for whom the person solicits  
25 business, the commissioner may, in the commissioner's discretion, treat such agent as the vendor  
26 jointly responsible with the principal, distributor, supervisor, or employer for the collection and  
27 payment of the tax.

28 77-H:6 Payment and Return by Purchaser.

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

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

1           77-H:7 Registration. The commissioner shall issue, without charge, to each vendor required to  
 2 collect the tax under this chapter a certificate of authority empowering the registrant to collect the  
 3 tax. Each certificate shall state the place of business to which it is applicable. The certificate of  
 4 authority shall be prominently displayed in the place of business of the registrant. The certificate  
 5 shall be nonassignable and nontransferable and shall be surrendered to the commissioner  
 6 immediately upon the registrant's ceasing to do business at the place named.

7           77-H:8 Restrictions on Advertising.

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

13           II. Whenever reference is made in placards or advertisements or in any other publications to  
 14 any tax imposed by this chapter, the reference shall be in substantially the following form:  
 15 "Electronics Tax for Education".

16           77-H:9 Recordkeeping. Every person required to collect any tax imposed by this chapter shall  
 17 keep records of every sale and of all amounts paid or charged or due thereon and of the tax payable  
 18 thereon, in such form as the commissioner shall require. These records shall include a true copy of  
 19 each sales slip, invoice, receipt, statement, or memorandum. The records shall be available for  
 20 inspection and examination at any time upon demand by the commissioner or the commissioner's  
 21 duly authorized agent or employee and shall be preserved for a period of 3 years, except that the  
 22 commissioner may consent to their destruction within that period or may require that they be kept  
 23 longer.

24           77-H:10 Sales Not Covered. The following sales of electronics shall be exempt from the tax on  
 25 imposed under RSA 77-H:2 :

26           I. Sales not within the taxing power of this state under the Constitution of the  
 27 United States.

28           II. Casual sales.

29           III. Sale to the state of New Hampshire, or any of its agencies, instrumentalities, public  
 30 authorities, public corporations, including a public corporation created pursuant to agreement or  
 31 compact with another state, or political subdivisions when it is the purchaser, user, or consumer, or  
 32 when it is a vendor of services or property of a kind not ordinarily sold by private persons.

33           IV. Sales to the United States of America, any of its agencies and instrumentalities, insofar  
 34 as it is immune from taxation when it is the purchaser, user, or consumer, or when it sells services  
 35 or property of a kind not ordinarily sold by private persons.

36           V. Sales to organizations which qualify for exempt status under the provisions of Section  
 37 501(c)(3) of the United States Internal Revenue Code, as the same may be amended or redesignated,

1 excepting sales, storage, or use in activities which are mainly commercial enterprises; provided,  
2 however:

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

5 (b) That the sale is for the exempt purpose of such organization; and

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

8 77-H:11 Returns.

9 I. Every person required to collect or pay tax under this chapter shall on or before the  
10 fifteenth day of each month make and file a return for the preceding month with the commissioner.  
11 The return of a vendor of taxable sales shall show such vendor's receipts from sales and also the  
12 aggregate value of items sold.

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

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

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

23 77-H:12 Payment of Tax.

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

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

33 77-H:13 Collection of Tax From Purchaser. Every person required to collect the tax shall collect  
34 the tax from the purchaser when collecting the price to which it applies. If the purchaser is given  
35 any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable, the  
36 tax shall be stated, charged, and shown separately on the first of the documents given to him or her.  
37 The tax shall be paid to the person required to collect it as trustee for and on account of the state.

1 77-H:14 Deferred Payment Purchases. The commissioner may provide that the tax upon  
2 receipts from purchases on the installment plan, seasonal purchases, or deferred payment purchases  
3 may be paid on the amount of each deferred payment and upon the date when the payment is  
4 received.

5 77-H:15 Refunds.

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

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

18 77-H:16 Proceedings to Recover Tax.

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

21 II. In the collection of the tax imposed by this chapter, the commissioner may use all of the  
22 powers granted to tax collectors under RSA 80 for the collection of taxes, except that the tax imposed  
23 by this chapter shall not take precedence over prior recorded mortgages. The commissioner shall  
24 also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the  
25 commissioner.

26 77-H:17 Suspension or Revocation of Certificates; Appeal.

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

30 II. Any person required to collect the tax aggrieved by a suspension, revocation, or refusal  
31 may appeal therefrom, in the same manner as provided in RSA 21-J:28-b for appeal for  
32 redetermination or reconsideration of assessments, within 10 days after written notice of the  
33 suspension, revocation, or refusal has been mailed or delivered to such person.

34 77-H:18 Disposition of Revenues. The state treasurer shall deposit all revenues collected by the  
35 commissioner under this chapter into the education fund established in RSA 198:39.

36 2 Education Trust Fund; Revenues From the Electronics Tax for Education. Amend RSA  
37 198:39, I(1) to read as follows:

1           (l) *Funds collected and paid over to the state treasurer by the department of*  
2 *revenue administration pursuant to RSA 79-H:18, relative to the electronics tax for*  
3 *education.*

4           (m) Any other moneys appropriated from the general fund.

5           3 Effective Date. This act shall take effect 120 days after its passage.

HB 1492-FN-A-LOCAL- FISCAL NOTE  
AS INTRODUCED

AN ACT establishing a tax on the retail sale of certain electronic devices to fund education.

FISCAL IMPACT:  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$1,261,000-\$2,261,000+	\$266,000+	\$280,000+
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill imposes a tax of 4.3 percent upon the receipts from the sale of taxable electronics purchased at retail in this state and directs all revenues collected by the Department of Revenue Administration (DRA) from this tax into the Education Trust Fund for Education (RSA 198:39). The DRA states it is unable to determine the revenue the proposed tax would generate because the department does not have reliable data on the volume or price of sales of taxable electronics in the state.

The administration of this tax includes adopting rules and creating forms and certificates, collecting the tax and recovering any interest and penalties. The Department indicates it would need an appropriation of between \$1,000,000 and \$2,000,000 to implement the new tax into the existing tax system. The Department states it would also need 3 additional positions to administer this tax, including a Compliance Officer II (LG 21 step 1) and 2 Tax Auditor IV (LG 29, step 1) positions. The combined cost for the three positions is \$261,000 in FY 2021; \$266,000 in FY 2022 and \$280,000 in FY 2023, assuming a starting date of July 1, 2020. The Department indicates it would not be able to fulfill the requirements of this bill by July 1, 2020. Vendors are required to file a return and pay the tax due to the DRA on the 15th day of the month following the month in which the tax was collected. DRA is required to issue, at no charge, a certificate of authority to each vendor to allow the vendor to collect the electronics tax

for education. This certificate is non-assignable and non-transferable and DRA may suspend or revoke this certificate. Advertising restrictions and record-keeping requirements are established for taxpayers. Exemptions from the tax and certificates for such exemption are established and DRA is charged with publishing and maintaining a list of non-taxable items.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class B Misdemeanor	\$54	\$56
Class A Misdemeanor	\$77	\$79
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2019 Average Cost of Incarcerating an Individual	\$44,400	\$44,400
FY 2019 Annual Marginal Cost of a General Population Inmate	\$5,071	\$5,071
FY 2019 Average Cost of Supervising an Individual on Parole/Probation	\$576	\$576
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable

Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120
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Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

**AGENCIES CONTACTED:**

Department of Revenue Administration, Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties

1/15/2020

## New Hampshire Department of Revenue Administration

### Fiscal Note Quick Guide

20-2666

**HB 1492**, *establishing a tax on the retail sale of certain electronic devices to fund education.*

#### House Ways & Means

This proposed legislation establishes a tax on the retail sales of certain categories of electronics, to be administered by the Department of Revenue Administration (DRA). Revenues collected shall be deposited in the Education Trust Fund by the State Treasury for the purpose of state education funding.

The proposed tax is 4.3% upon receipts from the sale of taxable electronics purchased at retail in the state, generally including television sets, video games and gaming systems, smart watches, desktop, laptop, and tablet computers, and cell phones, as well as equipment related to the use of such taxable electronics. The tax is imposed on the price at which taxable items are offered for sale. Every vendor shall make a return and pay the taxes due to the DRA on the 15<sup>th</sup> day of the month following the month in which the tax was collected and every person required to collect the electronic tax will be held personally liable for the tax imposed under this chapter.

Additionally, the DRA is responsible for administering the electronics tax for education, including, adopting rules and creating forms and certificates as explained below. The DRA is also responsible for collection of the tax and the recovery of any tax, interest, and penalties. This proposed legislation imposes restrictions on advertising as well as adopts record keeping requirements for each taxpayer. It establishes an exemption from the tax and the process to obtain that exemption. The DRA is also required to publish and maintain a list of specific items that are found exempt from the electronics tax for education.

Lastly, the DRA is required to issue, without charge, a certificate of authority to each vendor which allows them to collect the electronics tax for education. This certificate shall be non-assignable and non-transferable. The DRA also has the authority to suspend or revoke said certificate.

The fiscal impact of this proposed legislation would result in an indeterminable increase in expenditures to the General Fund. The DRA estimates that it would require three additional positions to administer this new tax, including a Compliance Officer II and two additional Tax Auditors. The DRA would also need an appropriation to implement this new tax into our system. The DRA is unable to estimate a more precise cost to implement this tax into our system in the timeframe designated for our completion of this fiscal impact analysis, but believes that the cost would range between \$1 million to \$2 million.

However, this proposed legislation shall take effect 120 days after passage and the DRA would be unable to implement a new tax within that time. The DRA would need at least twelve months to establish this electronics tax for education. It would need to hire and train staff, educate the public

as well as vendors of their new responsibility, create and adopt rules, build and implement a new system as well as create new forms.