State of

New Hampshire

HOUSE RECORD

First Year of the 156th Session of the General Court

Calendar and Journal of the 1999 Session

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Vol. 21 Concord N.H Friday, February 12, 1999 No. 17

Contains: Public Hearings, Work Sessions, Notices and Reports and Amendments for February 16

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet on Tuesday, February 16 at 1:00 p.m. and Wednesday, February 17 at 10:00 a.m. If necessary, we will also meet on Thursday, February 18 at 10:00 a.m.

Be sure to attend our next Claremont Forum on Tuesday, February 16 at 9:00 a.m. in Representatives Hall. Proponents of each of the plans to be voted on next week have been invited to present their ideas and answer your questions. I want to assure that all House members have this additional opportunity to get all the information they require before we vote on this major issue.

I know the House joins me in thanking the Finance Committee for their efficiency, diligence and endurance in handling all the Claremont related bills in such a short timeframe. Their work sessions over the weekend were impressive to observe. We can all take pride in serving with such bright, conscientious colleagues.

The House will be in recess the week of February 22 so that members may enjoy a well deserved break. There will be no House committee hearings or work sessions during this period.The next House session is tentatively scheduled for Thursday, March 11.

Chairmen and Vice Chairmen will NOT meet on Tuesday, February 16.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Tuesday, February 16th at 11:00 a.m. in Representatives Hall.

Rep. Gene G. Chandler, Majority Leader

NOTICE

There will be Democratic Caucuses held on Tuesday, February 16th at 11:00 a.m. in Rooms 305-307, LOB, on Wednesday, February 17th at 9:00 a.m. in Rooms 306-308, LOB and Thursday, February 18th at 9:00 a.m. in Rooms 305-307, LOB.

Rep. Peter H. Burling, Democratic Leader

PARKING NOTICE

If you do not have a reserved parking space in the LOB Garage or a bagged meter reserved street parking space, you are asked to park in the Storrs Street Legislative Parking Garage on Tuesdays, Wednesdays and Thursdays. On Mondays and Fridays (unless otherwise posted), spaces along the outer wall of the upper and lower levels of the LOB Parking Garage are open to all legislators and staff on a space available, first-come basis. This is a clarification, not a change from past policy. As area parking is limited you are asked to refrain from using street parking spaces and utilize the legislative parking garages for visits of any length. We are trying our best to be a fair partner with the City of Concord and good neighbor to state agencies and businesses. One way we can do this is by utilizing our garage space to the fullest. This frees the street parking spaces for area business customers and the public conducting business, obtaining information and attending our meetings. If you have any questions or concerns, please contact Rob Johnson, House Sergeant-at-Arms at 271-3315.

Rob Johnson, Sergeant-at-Arms

HOUSE DEADLINES

House Rule 64:

December 15, 1998, Tuesday

Last day for all members to file LSR's, with complete information.

January 11, 1999, Monday

Last day for sign-off of all Claremont-related bills.

January 25, 1999, Monday

Last day for sign-off of all non-Claremont-related bills.

March 11, 1999, Thursday

Last day to amend House rules by majority vote.

TUESDAY, FEBRUARY 16

CONSENT CALENDAR

CHILDREN AND FAMILY LAW

HB 58, establishing a committee to study open adoption in New Hampshire. OUGHT TO PASS

Rep. Rep. Karen K. Hutchinson for Children and Family Law**:** This bill Establishes a committee to provide a definition of open adoption and study the benefits and ramifications of open adoption for the purpose of possibly making recommendations for future legislation. Vote 17-0.

ELECTION LAW

HB 253, requiring ballots to be examined and counted prior to the opening of polls on election day. OUGHT TO PASS WITH AMENDMENT

Rep. Michael S. Rollo for Election Law: This bill would provide flexibility in allowing counting of ballots from Secretary of State prior to the opening of polls. It also requires due notice be given as to the time and place of the counting in order to protect the integrity of the process. Vote 17-0.

MUNICIPAL AND COUNTY GOVERNMENT

HB 244, relative to the corporate charter of the Laconia Airport Authority. OUGHT TO PASS WITH AMENDMENT

Rep. Anthony F. Simon for Municipal and County Government**:** This bill, as amended, continues the Laconia Airport Authority with changes to the membership that have been agreed to by the Authority and the City of Laconia. It also allows for an increase in Authority membership and adds an immunity and indemnification provision for the good faith actions of Authority members. Vote 12-0.

HB 262-L, relative to emergency expenditures and overexpenditures by school boards. OUGHT TO PASS

Rep. Thomas E.P. Rice for Municipal and County Government**:** This bill, supported by both the Department of Education and the Department of Revenue Administration, improves communications between these two entities through a notification process. Vote 12-0.

HB 364, relative to expenditure of funds received from the United States on account of national forest lands in this state. OUGHT TO PASS

Rep. Elizabeth S. Hager for Municipal and County Government**:** This bill is a necessary change in the law to increase efficiency in government. Currently, both the Department of Education and the State Treasurer must be involved in the transfer of this Forest Service federal money. The Committee believes that the Department of Education can handle the apportionment and payment effectively. Vote 12-0.

RESOURCES, RECREATION AND DEVELOPMENT

HB 98-FN, relative to a master plan for Monadnock state park and its environs, Pisgah state park, and Pillsbury state reservation. INEXPEDIENT TO LEGISLATE

Rep. H.Charles Royce for Resources, Recreation and Development**:** The sponsors of this bill have worked out an agreement with the Commissioner of the Department of Resources and Economic Development and the Director of Parks and Recreation to develop plans for these parks within the agency. The plans will involve the public and interested groups. The committee recommends that this bill be ITL. Vote 14-1.

HB 212, relative to local ordinances or regulations affecting groundwater withdrawals. RE-REFER TO COMMITTEE

Rep. Richard T. Cooney for Resources, Recreation and Development**:** This bill addresses the question of local or state control of ground water withdrawals. Several related issues were raised during the committee process. In addition, new rules based on last session's legislation, have yet to go into effect. The committee feels more time is needed to address these issues. Vote 15-0.

HB 245-FN, relative to fees and appropriations to the division of safety services. OUGHT TO PASS WITH AMENDMENT

Rep. Michael W. Downing for Resources, Recreation and Development**:** This bill maintains the existing credit of one half (½) the unrefunded road tolls to the navigation safety fund as well as making certain existing boating related fees such as the boat tax

fee, motor boat operator fee, mooring decal fee, and the boat permit fee available to the division of safety services. This fund shall only be used to promote the safety of navigation and the administration and enforcement of existing laws. Vote 14-0.

HB 290, relative to exempting the town of Litchfield from the shoreland protection act. INEXPEDIENT TO LEGISLATE

Rep. MaryAnn Blanchard for Resources, Recreation and Development**:** Litchfield has a substantial portion of its land in agricultural use and concerns were expressed that provisions of the Shoreline Protection Act could impact the livelihood of farmers there. However, farmers are exempt from the SPA if they follow best management practices regarding fertilizers, manure, runoff and erosion. Farmers receive advice and financial help at no cost from UNH Cooperative Extension and US Department of Agriculture to achieve compliance with best management practices. Therefore, this bill is not necessary. Vote 15-0.

TRANSPORTATION

HB 92, exempting permanently disabled veterans from the requirement of reestablishing their disability status for the division of motor vehicles every 4 years to prove eligibility for special license plates. OUGHT TO PASS WITH AMENDMENT

Rep. Robert H. Milligan for Transportation: The portion of the bill's amendment which pertains to the veterans administrations determination of eligibility should suffice in lieu of every four years recertification. Vote 18-0.

TUESDAY, FEBRUARY 16

REGULAR CALENDAR

FINANCE

HB 108-FN-A-L, establishing a statewide education property tax to provide equal per student funding for state-mandated education and funding for kindergarten and making an appropriation therefor. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS

Rep. Jeffrey C. MacGillivray for the Majority of Finance**:** This is a statewide property tax bill; it has neither a statewide sales or income tax. HB 108 raises $864 million based on an adequacy number of $4000 elementary, $4500 high school, and increases the state kindergarten aid program from the existing $750 per student to full inclusion in an adequate education. As a result, HB 108 has a statewide property tax rate of $12.03. The sponsor has proposed an amendment which would incorporate additional state revenues; this would still only reduce the property tax rate to $10.19. We thank the sponsors for their years of work and their ideas. The committee has decided to recommend HB 117 as amended instead, with its additional state revenues, no increase in the kindergarten program, and superior targeting of the last few hundred dollars of state aid. Therefore this bill is no longer necessary. Vote 22-5.

Rep. Steve Vallincourt for the Minority of Finance**:** The minority believes that this is the most comprehensive and fully developed property tax bill presented. It is the product of more than five years of evolution. Unlike some other property tax bills presented, it allows for kindergarten, has a well-targeted distribution system based on need, and provides the greatest amount of property tax relief. It accomplishes all this without a sales or income tax. Most importantly, it has what we believe to be a compromise figure on the cost for adequacy set at $4,000-$4,500 per student. This raises approximately $864 million in education aid to various communities. With supplemental, non broad-based funding sources, the uniform rate in this bill could be brought under $10 per $1,000 of assessed property value. Those who say that this would be "devastating" to poor people in property rich towns should note that the bill contains an "ability to pay circuit breaker" to assure that no one would pay more than 10 per cent of his or her adjusted gross income on the first $100,000 of her or her property value.

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Neal M. Kurk for the Majority of Finance**:** This bill proposes a 4% statewide income tax plus an $8 per thousand statewide property tax. Local school districts may spend more than the state adequate education grant by raising local property taxes.

Differences exist between the fiscal note and the sponsors with respect to the estimated revenue from the income tax. Moreover, substantial questions remain as to the constitutionality of key provisions in the bill, such as the full homestead credit and the

different treatment of in-state and out-of-state residents, which appear to tax similar taxpayers or properties at different rates. While the committee was provided with information about the effect of the $8 per thousand statewide property tax on cities and towns, no estimate was provided on how much of the $600-700 million in income taxes would come from each city and town. Without this information, it is not possible to determine which cities and towns would be net gainers and net losers under the plan.

The committee believes imposing such a massive redistribution of wealth would have an adverse economic impact on our citizens. A tax scheme such as this would also likely put at risk the kind of entrepreneurial activity, and the good jobs that go with it, that have contributed to the state¹s healthy economy and low unemployment rate. Perhaps more important, an income tax would change the way in which we think of ourselves as different, indeed unique, and the pride we have in being one of the few states without a general sales or income tax. The committee believes a less wrenching change in our tax structure can successfully provide the funds needed for an adequate education. Vote 17-10.

Rep. Mary Jane Wallner for the Minority of Finance**:** In the view of the minority of the Finance Committee, this bill embodies the fairest solution to the Claremont challenge. It places the primary obligation to pay for education on the shoulders of those with the greatest ability to pay. It combines a low-rate statewide property tax with a full homestead exemption and a 4 per cent income tax. The income tax offers a $10,000 per taxpayer and $4,000 per dependent deduction. The Education Fund created in the bill, of course, includes the Sweepstakes revenue.

This bill as presently drafted will lower property taxes by 50 per cent on average for homeowners. Other property taxes will drop over 15 per cent on average. New Hampshire will capture $80-$120 million in revenue that is now flowing out of state. $700 million will be raised over all by the income tax, $200 million by the property tax and $61 million from the Sweepstakes.

HB 112-FN-A, increasing the cigarette tax. OUGHT TO PASS WITH AMENDMENT

Rep. Steve Vaillancourt for Finance: The amendment provides for taxation of cigars and tobacco for the first time. While estimates are that this in itself will add only $1.2-3 million to taxes raised, simple fairness dictates that we tax these products at a time we are raising the cigarette tax by 25 cents. No one can argue that the $50 million this bill generates is badly needed. The Department of Revenue Administration informs us that although this increase will push our lower tax advantage to the limit, it will still exist enough (against Massachusetts and Maine, but not Vermont) so that sales in border areas should not decline significantly. On the health side, indications are that even if adults do not stop smoking in great numbers when prices increase, teens do. Some say that in itself is reason to pass this bill. Vote 24-3.

HB 113, affirming sovereign immunity as it relates to the Claremont ruling. OUGHT TO PASS WITH AMENDMENT

Rep. Franklin G. Torr for Finance**:** This bill proposed expanding sovereign immunity to insure the state is protected from receivership, attorney fees, and costs arising out of the duty to provide an adequate education. The committee amended the bill to reaffirm sovereign immunity. This is being done to make clear that the legislature looked at the sovereign immunity issue with respect specifically to the duty to provide an adequate education and wants it to remain as it is. Past experience indicates the judiciary, at times, moves away from legislative intent, thus the reason for committee action. Vote 17-10.

SPECIAL ORDER

HB 114-FN-A-L, establishing a local property tax education homestead allowance against school taxes on residential real estate, establishing a fund to reimburse municipalities for such exemptions, and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. William S. Belvin for Finance**:** This bill proposes a local property tax education homestead allowance that, over a six year period, would allow a 50% reduction to homeowners of the local effective school tax rate on the first $100,000 of their home's appraised value. This allowance will be paid instead to the school district by the state from a fund established for that purpose. While not included in the bill, the sponsors indicated the proposed legislation would work in concert with two additional CACRs the force of which would place the questions of a graduated income tax and legislative control of education policy before NH's voters in November 2000.

While intrigued by the balance of interests encompassed by the proposal, the committee believes that a Claremont solution should be clearly constitutional and not be dependent on unequal local tax rates, or uncertain future CACRs for funding and policy. The concept of a homestead exemption for property tax relief has merit and may be incorporated as part of other Claremont bills. The committee appreciates the sponsors' efforts to provide a "way out" should other Claremont legislation fail. Vote 22-3.

HB 116-FN-A-L, establishing an alternative consumption tax as a source of funding for education and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. O. Alan Thulander for Finance**:** This bill as originally drafted consists of a 1% alternative consumption tax and a uniform state-wide property tax at a rate to be determined biennially by the commissioner of revenue administration. Municipalities which can fund an adequate education below the uniform state rate pay in the difference to the state to be distributed to those communities which can not fund the adequate education level. The property tax is calculated using the equalized assessed valuation of the municipalities. The consumption component taxes such items as clothing, cars, building materials, medicine, construction, accounting and legal services, entertainment. It is a widely-based tax, and thereby very regressive. This tax would also have an adverse effect on cross-border sales. Since this levy applies to both goods and services, the "cascade effect" comes into play, requiring that raw materials are taxed, the semi-finished goods are taxed and the finished goods are taxed on the total value at each stage in the process. This tax has an unknown impact on the New Hampshire economy and new job creation is uncertain. A late amendment incorporating some features of the "SMART" plan (HB 117 as amended) was presented by the sponsor. However, with the time constraints and the considerable progress made with HB 117 as amended, the majority of the committee felt it to be the better and more comprehensive plan to bring forward for House consideration. Vote 24-3.

HB 117-FN-A-L, relative to local property taxation and state aid to support an adequate public education and making an appropriation therefor. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Neal M. Kurk for the Majority of Finance: HB 117, as amended, funds an adequate education for the state's public school pupils in a way consistent with New Hampshire's traditions and values of limited government and limited taxation. With the sponsor's concurrence, the Committee replaced the original language of the bill with a carefully crafted amendment. This amendment implements a low-rate uniform statewide education property tax that, when combined with the tobacco tax, a uniform utility state education tax, current state expenditures on local education, and a portion of the increase in state revenues, raises $707 million without raising business tax rates or imposing either an income or sales tax. These sums are dedicated to local public education through a newly created state education trust fund.

The amount raised supports an adequate education for public school pupils in grades one through twelve at an average distribution of $3,700 per pupil. The adequacy level is based on the recommendations of the Adequate Education Cost and Municipal Grant Distribution Commission in its December 1998 report. This level of funding will raise New Hampshire from last in the nation in state education contribution to the top 20 in the nation. The funds are distributed to each municipality based on the number and needs of its pupils, weighting those needs on such factors as grade level, participation in vocational education, special education, and participation in the free and reduced school lunch program. The plan goes into effect on April 1, 1999, and thus avoids any disruption in public education programs in the state. Current kindergarten aid, building aid, and catastrophic aid programs are continued unchanged.

The uniform education property tax is set at $8.50. There is a homestead exemption for all primary homeowners of 25% of the home's value or $40,000, whichever is less. A four-year phase-in provision eases the burden of a sharp tax increase in those municipalities. This unique phase-in is substantially funded by the additional $62 million intended for distribution in fall 1999 under the foundation aid formula pursuant to HB 1075 (1998). This amendment supersedes last year's interim plan, thus making those funds available.

The establishment of a hardship relief provision provides further protection for low- and moderate-income homeowners in high property value communities. In those communities homeowners with household income less than 75% of the state median (approx. $40,000) and who see an increase greater than 20% in the school portion of their property tax are eligible to have a portion of their state education tax abated for each of the first five years. Municipalities with rapidly growing student populations are eligible for additional per pupil adequate education grants.

HB 117 as amended establishes a supplemental education grant of up to $400 per pupil in addition to and outside of the adequate education grant of $3,700. This supplemental education grant is available to districts whose equalized value per pupil is less than the state average. This is intended to target the most needy districts.

Local control is continued. School districts may spend on education as much as they choose above the adequacy amount. No limits are placed on how districts operate or spend their budget.

Various provisions deal with implementation of the uniform statewide education property tax. Assessment equalization standards and methods are established so that each municipality will pay its fair share of the tax. Municipal grants will be announced by October 1 of each year to allow school boards and school district meetings to plan their budgets appropriately. The department of education is appropriated $169,500 for a position and to upgrade school district computers to enable the collection

and submission of required data. The department of revenue administration over the next biennium is appropriated $1 million to upgrade municipal computer systems, and $2 million for department expenditures in administering and implementing this act.

A permanent, 10-member legislative oversight committee is established. Among other responsibilities, it is charged with (a) reviewing the provision of an adequate education; (b) looking at alternative approaches to calculating the cost of an adequate education, including the "market basket" approach; (c) considering the appropriateness of a fixed or variable statewide education property tax rate; and (d) examining the average daily membership in residence data.

The majority felt that the bill as amended is a constitutional, rational, and appropriate response to the Claremont funding ruling. The Committee has made education funding a priority and as such the funding sources are clearly identified. The state's responsibility as defined in the Claremont decision is to fund an adequate education. The committee firmly believes that $707 million fulfills that responsibility. Vote 17-10.

Rep. Mary Jane Wallner for the Minority of Finance**:** Try as they did to improve this bill, with amendment piled on amendment, the majority still could not produce a satisfactory result. After all that's been done, this bill is fatally flawed by its "inadequate" adequacy figure. It won't do the job at $3,700 per student.

No one should be confused by that number. It disregards "weighted students." The $708 million pulled together in this bill really means that the adequacy number for an elementary school student is less than $3100, and kindergarten students are left out of the formula entirely. While we can debate the "ultimate" value of the adequacy number, it must be clear that this figure is unrealistic and sadly lacking. It must also be clear that if this bill is brought to the Court, as it surely will be, it will fail review, be found deficient and be struck down.

This bill also funds itself by taking at least $75 million from the general fund, without identifying where it will come from in the budget. Given the tightness of the Governor's budget, the use of any sums at this level will have to come from monies for cities and towns or human services. We should not leave ourselves short in the budget process by stealing such massive revenue before the budget process has even begun.

There is no easy fix for this bill because its adequacy number is arbitrarily low, and it generates insufficient new funds. The minority believes the House should reject this bill, and adopt a plan or plans with an appropriate adequacy number, a detailed description of revenue sources, and a source or sources of new revenue sufficient to the task at hand.

HB 125-FN-L, implementing the findings and recommendations of the adequate education costs and municipal grant distribution commission for fiscal years 2000 and 2001. INEXPEDIENT TO LEGISLATE

Rep. Franklin G. Torr for Finance**:** This bill incorporates the findings and recommendations of the Adequate Education Costs and Municipal Grant Distribution Commission relative to the cost of a constitutionally-adequate education to be borne by the state and the formula for calculating this cost. These recommendations and findings were the basis for legislation to achieve a constitutionally adequate education law. This issue will be studied further by a legislative oversight committee established in HB 117. Vote 27-0.

TRANSPORTATION

HB 94, relative to enforcement of the child passenger restraint law. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE

Rep. John S. Langone for the Majority of Transportation**:** After a spirited and informative discussion in which both sides presented very cogent points of view, the committee voted 12-6 to pass this bill as presented. This bill provides police with the tools needed to effectively enforce seat belt wearing by youths up to age 18. Seat belt use is the most effective strategy for saving lives and reducing the severe injuries among young drivers and passengers. Vote 12-6.

Rep. Pierre W. Bruno for the Minority of Transportation**:** This bill increases the age of a primary offense from 12 to 18 years. Drivers between the ages of 16 to 18 years found operating a motor vehicle without wearing a seatbelt will be committing a primary offense. Because of current law regarding any moving violation offense, a teen found not wearing a seatbelt would have their license suspended for 20 days. We find that to be too strong a penalty for an offense that is committed against the person not wearing the seatbelt and which does not affect the safety of others. The seatbelt law for those from 12 to 18 years was enacted in 1997, along with the youth drivers law. We feel that the law thus far has had a positive effect, and that a longer sample period to verify that trend is needed. Therefore, we feel that existing legislation protects individuals from themselves

with regard to this issue. We believe that safe driving education is a more appropriate course of action because it would provide the desired effect of reducing motor vehicle accidents and resultant injuries thereof.

LAID ON TABLE

HR 10, affirming revenue estimates for fiscal year 1999. (Pending question is ordering to third reading.)

COMMITTEE MEETINGS

WEDNESDAY, FEBRUARY 17

COMMERCE, Room 302, LOB

9:00 a.m. Subcommittee work session on ***HB 252,*** establishing a procedure for separation of condominium units at the Commons at Merrimack.

EDUCATION, Rooms 205-207, LOB

8:30 a.m. Vocational education students meeting with House Education Committee.

THURSDAY, FEBRUARY 18

CHILDREN AND FAMILY LAW, Room 206, LOB

Immediately following House session, subcommittee work session on ***HB 324,*** repealing certain grounds for granting a divorce for cause and ***HB 420,*** relative to orders for spousal support in domestic relations cases.

FRIDAY, FEBRUARY 19

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

FINANCE (DIVISION IV), Rooms 210-211, LOB

9:00 a.m. Subcommittee work session on municipal issues relating to educational funding.

WEDNESDAY, FEBRUARY 24

FISCAL COMMITTEE (RSA 14:30-a), Rooms 210-211, LOB

8:30 a.m. Rescheduled regular business.

9:00 a.m. Rescheduled Audits: New Hampshire Retirement System comprehensive annual financial report for the FY ended June 30, 1998.

New Hampshire Retirement System management letter for the year ended June 30, 1998.

Single audit of Federal Financial Assistance Programs for the year ended June 30, 1998.

FRIDaY, FEBRUARY 26

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 306, LOB

9:00 a.m. Regular meeting.

MONDAY, MARCH 1

NEW HAMPSHIRE CONSERVATION NUMBER PLATE ADVISORY COMMITTEE, (RSA 261:97-d), Room 203, LOB

9:00 a.m. Regular meeting.

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

9:30 a.m. Regular meeting.

TUESDAY, MARCH 2

COMMERCE, Room 302, LOB

10:00 a.m. ***HB 317,*** relative to the display of tobacco products.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***HB 357,*** establishing a committee to study and investigate issues related to investigations, trials, convictions, and sentencing of sex offenders.

11:00 a.m. ***HB 359,*** establishing a committee to study the rights of a private citizen to pursue a criminal investigation if he or she believes it is not being pursued vigorously.

1:30 p.m. ***HB 360-FN,*** clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons.

2:30 p.m. ***HB 367,*** relative to requesting certifying scientists to appear at DWI hearings.

3:00 p.m. ***HB 427,*** relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws applying to syringes.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EDUCATION, Room 207, LOB

10:00 a.m. ***HB 243,*** requiring legislative fiscal committee approval of university system tuition increases.

11:00 a.m. ***HB 454,*** relative to tuition waivers for veterans at state institutions of higher learning.

11:30 a.m. ***HB 265,*** relative to the student trustees on the university system of New Hampshire board of trustees.

Room 307, LOB

1:30 p.m. ***HCR 3,*** urging the federal government to fund 100 percent of the total cost of special education programs and services nationwide.

2:00 p.m. ***HB 428,*** relative to school administrative units.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

9:30 a.m. Subcommittee work session on ***HB 223,*** relative to waiver of filing fees and petitions for

candidates for federal offices.

10:00 a.m. ***HB 411,*** requiring ballot clerks to verify the identity of persons receiving ballots by requesting an identification card.

10:30 a.m. ***HB 506-FN-LOCAL,*** relative to voter registration.

11:00 a.m. ***HB 338,*** relative to absentee voting procedures.

11:30 a.m. ***HB 458,*** relative to voter qualifications.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

9:00 a.m. Pesticide subcommittee work session on ***HB 256,*** repealing the preemption of local regulation of pesticides.

10:00 a.m. Rescheduled public hearing on ***HB 310,*** repealing the authority of the department of agriculture, markets, and food to conduct meat inspections and poultry products inspections.

11:30 a.m. ***HB 340,*** establishing a committee to study mercury source reduction and recycling issues.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

2:00 p.m. Subcommittee work session on ***HB 288,*** relative to the committee to study land management, protection of farmland, rural character, environmental quality and sprawl.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. ***CACR 21,*** relative to: gender neutral language in the constitution. Providing that: all references to persons in part 2 of the constitution shall be gender neutral.

10:30 a.m. ***HB 499-FN,*** relative to payment by the state of the cost of medical insurance benefits for certain New Hampshire retirement system members.

11:15 a.m. ***HB 553-FN-A,*** establishing a commission on the status of men, and making an appropriation therefor.

1:00 p.m. ***HB 533-FN,*** changing the composition of the liquor commission.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

10:00 a.m. ***HB 440,*** relative to access to copies of patient medical records.

11:00 a.m. ***HB 392,*** relative to exemptions from required child immunizations.

Rooms 205-207, LOB

1:30 p.m. ***HB 456,*** establishing a committee to study issues relating to the deaf community in NewHampshire.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

JUDICIARY, Room 208, LOB

10:00 a.m. ***HB 568,*** establishing a review panel to review judicial officers.

11:00 a.m. ***HB 564-FN-LOCAL,*** repealing the authority of the chief justice of the supreme court to assign superior court judges to hear cases in the district court, and reducing the judicial branch budget for jury trials in the district courts.

1:15 p.m. ***HJR 5,*** requiring the attorney general to bring suit or to join with other states bringing suit against the United States Government for violating the United States Constitution and the NewHampshire constitution by enacting a military firearms ban.

2:15 p.m. ***HB 515,*** extending the indemnification of persons providing clinical services to the department of health and human services.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

2:45 p.m. Or immediately following public hearings, subcommittee work session on ***HB 259-FN,*** granting a right to trial by jury in any controversy between a person or persons and a state board, commission, or agency when the amount in controversy is at least $5,000.

NEW HAMPSHIRE COMMISSION ON THE SMITHSONIAN FESTIVAL OF AMERICAN FOLKLIFE (SJR 20, Chapter 204, Laws of 1996), Room 205, LOB

3:00 p.m. Regular meeting.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:00 a.m. Subcommittee work session on ***HB 362,*** relative to dam safety program violations.

10:00 a.m. ***HB 543,*** relative to fill and dredge permits for breakwaters.

11:00 a.m. ***HB 561-FN,*** reducing lab analysis fees of chemical analyses of water.

1:00 p.m. Continued public hearing on ***HB 439,*** relative to exemptions from the safe drinking water act.

2:00 p.m. ***HB 546-FN-A,*** providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

10:00 a.m. ***HB 520,*** relative to an open season for chukar partridge.

10:30 a.m. ***HB 574-FN-A,*** establishing a fisheries habitat stamp required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats.

11:00 a.m. ***HB 298-FN,*** relative to the authority of the executive director of fish and game to prevent damage to commercial agricultural crops through wildlife reduction or management.

11:30 a.m. ***HB 552,*** relative to the issuance of crossbow permits to persons with a permanent physical disability.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, MARCH 3

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***HB 508,*** relative to the nude photography of 16 and 17 year old subjects.

10:30 a.m. ***HB 509,*** relative to requirements in order to obtain a private detective license.

11:00 a.m. ***HB 513,*** relative to approved permissible fireworks.

11:15 a.m. ***HB 522,*** relative to the public's access to sex offender registry information.

1:30 p.m. ***HB 537,*** relative to background checks for firearms purchases.

2:00 p.m. ***HB 584-FN,*** relative to administrative license suspensions.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EDUCATION, Room 207, LOB

9:00 a.m. Subcommittee work session on ***HB 304,*** relative to the confidentiality of criminal history records checks.

10:00 a.m. ***HB 311-FN-A,*** relative to grants made under the New Hampshire incentive program and making an appropriation therefor.

11:00 a.m. ***HB 497-FN-A,*** relative to family literacy planning grants and making an appropriation therefor.

1:00 p.m. ***HB 483-FN-LOCAL,*** relative to restricting the authority of the state board of education to adopt minimum standards for public school approval.

2:30 p.m. ***HB 488,*** relative to the definition of certain disabilities in the provision of special education services.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ENVIRONMENT AND AGRICULTURE, Representatives Hall

10:00 a.m. ***HB 335,*** prohibiting the land application of sludge in reclamation areas.

10:30 a.m. ***HB 334,*** restricting the land application of sludge, septage, and solid wastes.

11:00 a.m. ***HB 370-LOCAL,*** prohibiting wastewater treatment plants from excluding towns that regulate sludge disposal within their borders from using such facilities and requiring disclosure by sellers of sludge applications to land.

11:15 a.m. ***HB 504,*** establishing a sludge advisory board and relative to sludge quality standards.

11:30 a.m. ***HB 472,*** relative to establishing metal limits on land-applied sludge.

11:45 a.m. Rescheduled public hearing on ***HB 222,*** preempting local regulation of biosolids or sludge disposal by landfilling or landspreading.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

2:00 p.m. Subcommittee work session on ***HB 51,*** providing for registration of equipment used in the production of maple products and allowing the commissioner of the department of agriculture markets and food to adopt rules relative to standards for such equipment.

2:30 p.m. Subcommittee work session on ***HB 52,*** exempting certain currants and gooseberries resistant to the white pine blister rust organism from restrictions on planting in control areas.

3:00 p.m. Subcommittee work session on ***HB 291,*** establishing a study committee for seed sterilization technology or "terminator" technology.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. ***HB 516,*** exempting the New Hampshire retirement system from rulemaking for procedures concerning the retirement fund investment objectives and guidelines.

10:30 a.m. ***HB 524,*** increasing the membership on the board of professional engineers.

11:00 a.m. ***HB 481-FN,*** relative to penalties for unlicensed practice of regulated occupations and professions.

11:30 a.m. ***HB 535,*** establishing a committee to study the creation of a department of natural resources.

1:00 p.m. ***HB 599-FN-A,*** relative to initiating a centralized voter checklist and making an appropriation therefor.

1:30 p.m. ***HB 601,*** allowing the assistant commissioner of corrections to act on behalf of the commissioner in the commissioner's absence, establishing a term of appointment for the commissioner of corrections, and correcting out-of-date references and phraseology pertaining to the department of corrections.

2:00 p.m. ***HB 598-FN,*** relative to the licensure of x-ray technicians.

2:45 p.m. ***HB 484,*** relative to the registration of alternative providers of naturopathic care.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

JUDICIARY, Room 208, LOB

9:30 a.m. ***HB 551,*** relative to employers who are subject to state law against discrimination.

11:00 a.m. ***HB 382,*** making the law against discrimination by employers applicable to charitable and educational organizations.

1:00 p.m. ***HB 470,*** relative to settlement of personal actions.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:30 a.m. ***HB 585,*** relative to preserving the use of state park lands for their original purposes.

10:00 a.m. ***HB 539-FN,*** relative to public access to Squam Lake.

11:00 a.m. ***HB 580-FN-A-LOCAL,*** creating a new tourism district and making an appropriation therefor.

1:00 p.m. ***HB 421,*** relative to penalty provisions for the law regarding exotic aquatic weeds.

2:00 p.m. ***HB 594,*** prohibiting the introduction of zebra mussels and other exotic aquatic animals in New Hampshire.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

THURSDAY, MARCH 4

EDUCATION, Room 207, LOB

9:30 a.m. ***HB 577,*** relative to the power of a school district to expend catastrophic special education funds.

10:00 a.m. ***HB 498-FN,*** establishing a special education catastrophic aid fund.

11:00 a.m. ***HB 518-FN-LOCAL,*** relative to a joint maintenance agreement to build a single high school involving the towns of Northwood, Nottingham, and Strafford.

1:15 p.m. ***HB 514-LOCAL,*** establishing open enrollment provisions in the school districts of the state.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

9:30 a.m. ***HB 534,*** eliminating party designations in the election of party officers.

10:00 a.m. ***HB 493-FN,*** relative to alteration of sample ballots.

10:30 a.m. ***HB 547-LOCAL,*** changing the state primary election day to the first Saturday after Labor Day.

11:00 a.m. ***HB 445,*** relative to straight ticket voting procedures.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. ***HB 395-FN-A,*** establishing a pilot program of matching grants and optional local tax exemptions to preserve historic agricultural structures in New Hampshire and making an appropriation therefor.

1:00 p.m. ***HB 410,*** relative to the enforcement authority of the department of environmental services.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

JUDICIARY, Room 208, LOB

9:30 a.m. ***HB 361,*** requiring the suspension of attorneys who do not abide by a client's decision whether to accept an offer of settlement.

10:30 a.m. ***HB 570,*** restricting a presiding judge's authority to interrupt jury deliberations.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 5

BOARD OF CLAIMS (RSA 541-B:3), Room 202, LOB

8:30 a.m. Regular meeting.

MONDAY, MARCH 8

BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2), Room 205, LOB

2:00 p.m. Regular meeting.

DEVELOPMENTAL DISABILITY WAITLIST FUND ALLOCATION OVERSIGHT COMMITTEE, (RSA 171-A:1-b), Room 207, LOB

12:30 p.m. Regular meeting.

PERINATAL ALCOHOL TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19), Room 101, LOB

9:00 a.m. Regular meeting.

TUESDAY, MARCH 9

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. ***HB 510-FN,*** relative to monitoring aerial spraying of herbicides.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, MARCH 10

ELECTION LAW, Room 308, LOB

9:30 a.m. ***HB 315,*** permitting the distribution of certain campaign materials at polling places.

10:00 a.m. ***HB 316,*** relative to political party expenditures.

10:30 a.m. ***HB 390-LOCAL,*** relative to lengthening the polling hours in towns.

11:00 a.m. ***HB 389,*** relative to procedures for apportioning state representatives among counties and among legislative districts.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

9:30 a.m. ***HB 379,*** setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district.

10:30 a.m. ***HB 380,*** repealing the Interstate Solid Waste Compact.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

THURSDAY, MARCH 11

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

9:30 a.m. ***HB 556-FN,*** relative to transporting hazardous waste.

10:30 a.m. ***HB 557-FN,*** relative to hazardous waste permitting and container identification.

11:30 a.m. ***HB 558-FN,*** relative to solid waste management.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

TUESDAY, MARCH 16

ELECTION LAW, Room 308, LOB

10:00 a.m. ***CACR 12,*** relating to: a 4-year term for the office of governor. Providing That: beginning in the year 2002, the governor shall be elected every 4 years.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 19

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 203, LOB

1:00 p.m. Complaint hearing.

MONDAY, MARCH 29

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

9:30 a.m. Regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

The Belknap County Delegation will hold a public hearing on the proposed 1999 budget, March 1 at 7:00 p.m. and the final public hearing to approve the budget on March 22 at 7:00 p.m. at the Belknap County Complex, 34 County Drive, Laconia.

Rep. Robert H. Turner, Vice Chairman

Belknap County Delegation

COUNTY DELEGATION NOTICE

The Cheshire County Delegation will meet Monday, March 1st at 7:00 p.m. at the County Courthouse in Keene for the purpose of voting on the 1999 Cheshire County Budget.

Rep. Stephen G. Avery, Chairman

Cheshire County Executive Committee

COUNTY DELEGATION NOTICE

Merrimack County Executive Committee will meet on the following dates:

Monday, March 1 at 9:00 a.m. in the lower level conference room of the County Administration Building, 4 Court Street, Concord. The purpose of the meeting is to review the 1999 County Attorney, Medical Referee, Sheriff and Dispatch Budgets.

Friday, March 5 at 9:00 a.m. in the lower level conference room of the County Administration Building, 4 Court Street, Concord. The purpose of the meeting is to review the 1999 Delegation, Treasurer, Administration, Concord Complex Maintenance, Registry of Deeds and Miscellaneous Budgets.

Friday, March 5 at 10:30 a.m. in the lower level conference room of the County Administration Building, 4 Court Street, Concord. The purpose of the meeting is to review the 1999 Corrections/Merrimack County Academy Program Budgets.

Monday, March 8 at 9:00 a.m. in the lower level conference room of the County Administration Building, 4 Court Street, Concord. The purpose of the meeting is to review the 1999 Nursing Home and Residential Properties Budgets.

Friday, March 12 at 9:00 a.m. (tentatively) in the lower level conference room of the County Administration Building, 4 Court Street, Concord. The purpose of the meeting is to vote on the approval of the total County Budget.

Rep. Ray F. Langer, Chairman

Merrimack County Executive Committee

COUNTY DELEGATION NOTICE

The Rockingham County Executive Committee will be meeting on the following dates to finalize the 1999 County budget:

Friday, February 19th at 9:30 a.m. – Executive Committee meeting.

Saturday, February 20th at 10:00 a.m. - Full Delegation meeting to adopt the 1999 budget.

Rep. Jon Beaulieu, Chairman

Rockingham County Executive Committee

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A summary of the December meeting of the Judicial Conduct Committee is available at the Sergeant-at-Arms counter for those who are interested.

Rep. Donna Sytek, Speaker

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HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS RESEARCH AVAILABLE

The Health, Human Services and Elderly Affairs Committee receives numerous healthcare related publications. Rather than discard them, we feel they may be of help to those members who want health-related information. These publications are filed in the rear of State House Room 100 under the following groupings:

Children & Child Care

HMO's and Managed Care

Health Care/Administration/Regulations

Healthcare/Treatment

Medicare/Medicaid

State/Federal Health Policy

Rep. Lawrence E. Emerton, Chairman

Health, Human Services and Elderly Affairs

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REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 108, 109, 116, 118, 119, 120, 124 and 237.

Leo J. Callahan, Assistant Clerk

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Members should be aware that several items have recently been added to our web site "www.state.nh.us". One item is Bill Status Searching for the current session. Also, as bills are introduced, a copy of the text is put on the site and linked to bill status and to a title list. These bill copies will be updated with the latest versions as the bills get amended. We also have down-loadable files of all members' names and addresses in several popular formats. Users also have the ability to search across all 1999 LSR's by number, word in the title or by sponsor. Although we have done much work, we still have more to do in the areas of Bill Status, Roster and Who Is My Legislator.

On another subject, some members are concerned about the phasing out of the Dial-Up-Wang system. This system and the software applications we developed are not Year 2000 compliant. We are currently rewriting these applications for the Windows and Web environments. The Wang system will continue to be updated through the current session with member information, Wang E-mail and the calendars and journals. However, Bill Status and the Text of the Bills will not be available on this machine as we move toward phasing it out. I will continue to help find solutions for those members who will be impacted by the loss of the Wang system.

Stan Kelly, Manager, General Court Information Systems

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NH Senators and Representatives may receive complimentary ski privileges at Cannon Mountain for themselves and one guest upon presentation of proper credentials at the ticket window. The elected official must be present to personally present the credentials unless prior arrangement has been made with Commissioner George Bald at the Department of Resources and Economic Development. (*Lift tickets are to be picked up at Guest Services or the ticket Window at Cannon.*)

Rep. Gene Chandler

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When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses so that their colleagues who so desire may send cards and greetings.

Peter O. Crowell, 21 Otterville Road, New London, New Hampshire 03257-4207

Stanley N. Searles, Sr., 129 Dracut Road, Hudson, New Hampshire 03051-5423

Paul St. Hilaire, 404 Church Street, Berlin, New Hampshire 03570-1520

Karen O. Wadsworth, Clerk of the House

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MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

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A number of copies of a report produced by the New Hampshire School Board Association are available at the Sergeant-at-Arms counter on a first come-first served basis. The report contains selected data on all New Hampshire schools showing property valuation per pupil, number of pupils in residence, revenue raised, cost per pupil and foundation aid per pupil as voted last September for fiscal year 1999-2000. The report is a ready reference to use in comparing the various Claremont funding bills to individual towns and SAU's.

Rep. John Alger

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The City of Rochester Delegation organizational meeting will be held Tuesday, February 16th at noon in Room 208, LOB.

Rep. Sandra B. Keans

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The Kasich 2000 Presidential Exploratory Committee cordially invites all legislators and staff to meet Congressman Kasich at the Upham Walker House on Tuesday, February 16th from noon to 1:00 p.m. Lunch will be served.

Rep. Harry T. Hinman

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The House Republican Alliance will meet at the Upham Walker House (Park Street across from the State House) at 9:00 a.m. on Wednesday, February 17.

Rep. Paul M. Mirski

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The Legislative Aviation Group would like to inform any and all legislators who are interested in aviation activities of any kind to join with us and talk air topics of any kind with the Department of Transportation, Division of Aeronautics Director, his staff and airport committees. Our goal is to promote aviation within our state. Our next meeting will be held after session in Room 203, LOB on Wednesday, February 17.

Rep. Robert H. Milligan

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The Retail Merchants Association of New Hampshire cordially invites all legislators and staff to our annual legislative reception on Thursday, February 18 from 4:30 - 7:30 p.m. at the Capitol Center for the Arts, 44 South Main Street, Concord. Refreshments and hors d'oeuvres will be served.

Reps. Gene G. Chandler and Peter H. Burling

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Members of the Environment and Agriculture Committee will be in Newport, March 1 at 7:00 p.m. in the Town Hall to receive comments on HB 446, HB 379, HB 380. These bills pertain to issues concerning the Sullivan County regional disposal district.

Reps. John G. Tuthill and Amy E. Robb-Theroux

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Legislators for Limited Spending will meet on Tuesday, March 2, Tuesday, March 16 and Tuesday, March 30 at 8:30 a.m. in the Upham Walker House.

Rep. Sylvia A. Holley

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Hampton Democratic Committee is having a Jefferson-Jackson pot luck dinner March 3 from 6:00 to 8:00 p.m. at the Lane Memorial Library. Tickets are $10. If you want to come please contact Rep. Jane Kelley.

Rep. Jane P. Kelley

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The Belknap County Republican Committee will hold the Annual Lincoln Day Dinner in Gilford at 6:00 p.m. on Saturday, March 6. Please contact Rep. Rosen for tickets.

Rep. Ralph J. Rosen

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The 1999 Legislative Ski Day will be held at Loon Mountain on Monday, March 8, 1999. Ski NH is joining forces with the New Hampshire Automobile Dealers Association Charitable Foundation to raise money for the keep kids s.a.f.e. program.

Keep kids s.a.f.e. (safety awareness for everyone) is a cooperative effort of the NHADA Charitable Foundation and WMUR-TV. The goal of keep kids s.a.f.e. is to provide free KIDS AND COMPANY: Together for Safety child safety curriculums to every elementary school in New Hampshire (public and private) that commits to its implementation. KIDS AND COMPANY is the child safety curriculum of the National Center for Missing and Exploited Children.

The day's events will include Snowmaking and Grooming Tours; Shaped Ski, Snowboard, and Race clinics; a dual slalom race; and an Apres Race Party/Award Ceremony. For more information call Ben McLeod at Ski NH (800) SKI-NH Ext 82 (800-887-5464) or e-mail Ben: ben@skinh.com.

Reps. Gene G. Chandler and Peter H. Burling

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The University of New Hampshire invites all legislators to attend a breakfast on Thursday, March 11th from 7:30 a.m. to 9:00 a.m. at the Eagle's Nest, One Eagle Court (located across the street from the State House) for the purpose of being briefed on University issues. Dr. Joan Leitzel, President of the University and the University Alumni Trustees will be present to answer any questions.

Rep. Joseph E. Stone

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As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in January, 1999. These listings replace individual notifications in an effort to reduce paper usage and to ensure all members are notified in a timely manner. Please contact the Visitors' Center for further information. Thank you for your continued participation with your School Visitation Program.

Kenneth Leidner, Director

DATE	***TIME***	***GROUP***	***Grade/Size***
Feb. 16	10:00 & 11:45	Auburn Village School	4/73
Feb. 17	9:00 & 10:15	Greenland Central School	4/45
Feb. 17	12:00	Pembroke Academy/Russian Exchange	12/Adults
Feb. 18	10:00 & 12:00	Woodman Park Elem./Dover	4/90
Feb. 19	10:30 & 12:00	Memorial School/Newton	4/88

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The Department of Transportation will hold the following meetings:

Feb 16 – Franklin City Hall, 316 Central Street, Franklin, 7:00 p.m. Public informational meeting, Franklin, US 3/NH 11 intersection with West Bow Street and Kendall Street.

Feb 17 – Stratford Town Hall Downstairs, Route 3, Stratford, 7:00 p.m. Public officials meeting, Stratford, US 3 and bridge over Stratford Brook.

Feb 18 – Peterborough Town House, 1 Grove Street, Peterborough, 7:00 p.m. Public officials meeting, Peterborough, US 202.

Feb 22 – Selectmen's Office, Old Grange Hall, 7 Meetinghouse Hill Road, New Boston, 7:00 p.m. Public officials meeting, New Boston, NH 13/Molly Stark Lane.

Feb 25 – Senior Center, Depot Street, Plymouth, 7:00 p.m. Public informational meeting, Holderness-Plymouth, NH Route 175A.

Mar 1 – Hudson Town Hall, 12 School Street, Hudson, 7:00 p.m. Combined public officials/public informational meeting, Hudson, NH Route 3A, Dracut Road to Rena Avenue.

Mar 4 – Effingham Town Hall, Town House Road, State Route 153, 7:30 p.m. Public informational meeting, Effingham-Freedom, NH Route 143 over Ossipee River.

Rep. Edwin O. Smith, Chairman

Public Works and Highways

TUESDAY, FEBRUARY 16

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1999-0049h

Amendment to HB 92

Proposed by the Committee on Transportation – C

Amend the bill by replacing section 1 with the following:

1 Walking Disability Plates and Placards. Amend RSA 261:88, III to read as follows:

III. An applicant for such special plates shall furnish the director with satisfactory proof, as the director may require, that the applicant meets the requirements of paragraph II. Such proof must be submitted every 4 years ***except in the case of a veteran who has been evaluated by the United States Department of Veterans Affairs to be permanently and totally disabled from such service-connected disability. Such proof shall only have to be made upon initial application***. Satisfactory proof of a walking disability, at a minimum, shall consist of the certification of a licensed physician that the applicant meets the definition, set forth in paragraph I, of persons with walking disabilities. Upon request and for a fee of $1.50 per plate, the director shall exchange special plates for regular plates currently issued to an applicant who qualifies for special plates.

1999-0106h

Amendment to HB 112

Proposed by the Committee on Finance – R

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

AN ACT increasing the tobacco tax and imposing the tax on all types of tobacco products.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-3 to read as 3-4, respectively:

1 Definition Expanded; Tobacco Products. RSA 78:1, XIV is repealed and reenacted to read as follows:

XII. "Tobacco products" means cigarettes; cigars; cheroots; stogies; periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect April 1, 1999.

1999-0051h

Amendment to HB 113

Proposed by the Committee on Finance – R

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

1 New Section; Public Officers and Employees; Defense and Indemnification of State Officers and Employees; Claims Arising Out of the Duty to Provide an Adequate Education. Amend RSA99-D by inserting after section 8 the following new section:

99-D:9 Claims Arising Out of the Duty to Provide an Adequate Education. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, the state hereby reaffirms that the doctrine of sovereign immunity set forth in this chapter is the law of this state and applies to its fullest extent to all claims and civil actions arising under or out of the duty to provide an adequate education, or any statute, rule, or other provision of law defining, providing for, implementing, or funding that duty.

2 Applicability. The provisions of this act shall apply to all claims and civil actions existing on or arising after the effective date of this act.

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

1999-0124h

Floor Amendment to HB 116-FN-A-LOCAL

Proposed by Rep. Peterson - R

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

AN ACT establishing an alternative consumption tax and a public utility realty tax as sources of funding for education and a uniform rate of property taxation for educational funding and making an appropriation therefor.

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

1 Intent. The legislature finds that since *Claremont II* necessitates action with regard to changing the funding mechanisms for public education and the tax structure of the state, it is also timely for the legislature to consider increased funding for the university system, the regional-community technical colleges, and early childhood programs. The legislature recognizes that in solving the problem of providing the means for an adequate education for grades kindergarten through 12 it is also important that consideration be given to funding for the university system, the regional-community technical colleges, and early childhood programs in order to best meet the goals and requirements of Part II, article 83 of the New Hampshire constitution.

2 Duties of the Commissioner. Amend RSA 21-J:3, XV to read as follows:

XV. Establish and approve tax rates as required by law ***including the uniform education tax rate***.

3 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [~~37~~] ***62*** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

4 New Section; Tobacco Tax. Amend RSA 78 by inserting after section 31 the following new section:

78:32 Distribution of Funds. The increase in funds collected by the department resulting from the 25 cents per package increase in rate in this chapter shall be paid over to the state treasurer for deposit in the education trust fund established by RSA198:39.

5 New Chapter; Alternative Consumption Tax. Amend RSA by inserting after chapter 78-C the following new chapter:

Chapter 78-D

Alternative Consumption Tax

78-D:1 Definitions. In this chapter:

I. "Admissions" means the money or other consideration for admitting a person or vehicle to any place of amusement, sport, recreation or physical fitness, and all dues and fees paid to private clubs and membership clubs providing amusement, sport, recreation or physical fitness.

II. "Business activity" means a group of actions performed by a person or persons for the purpose of earning income or profit from such actions and includes every operation which forms a part of, or a step in, the process of earning income or profit from such group of actions. The actions ordinarily include, but are not limited to, the receipt of money, property, or other items of value and the incurring or payment of expenses.

III. "Commissioner" means the commissioner of the department of revenue administration.

IV. "Consumer" means any person, including governmental units, purchasing or leasing at retail any tangible personal property or service for consumption in this state.

V. "Consuming" or "consumption" means the ownership, possession, utilization, use or employment of tangible personal property or the acquisition or enjoyment of services other than for resale.

VI. "Construction" or "constructing" means building, altering, repairing or demolishing any building or structure upon real estate and includes leveling or clearing land, excavating earth, drilling wells of any type or similar activity upon real estate.

VII. "Department" means the department of revenue administration.

VIII. "Gross receipts" means the total amount of money or the value of other consideration received from the sale at retail of tangible personal property, the leasing of property and the performance of services in this state and from selling services performed outside New Hampshire, the product of which is initially used in this state. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the fair market value of the property or service exchanged.

IX. "In this state" means within the legal jurisdictional boundaries of New Hampshire and includes all territory within these limits owned by or ceded to the United States.

X. "Lease," "leasing," or "rental" means any arrangement whereby, for a consideration, property is possessed or employed for or by a person other than the owner of the property. The terms "lease," "leasing," or "rental" shall include any admittance, use or enjoyment of property for which an admission is charged.

XI. "Manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction.

XII. "Property" means real property, tangible personal property, licenses, franchises, patents, trademarks, and copyrights.

XIII. "Real property" or "real estate" means the land, improvements thereto, and fixtures.

XIV. "Retail sale" or "sale at retail" means the sale to a consumer for consumption of tangible personal property or services and includes all such transactions that may be made in lieu of retail sale or sale at retail.

XV. "Service" means all activities engaged in for other persons for a consideration, which activities involve predominately the performance of labor or intellectual activity as distinguished from selling or leasing property. The term "service" includes construction activities. With respect to financial transactions the service component of the total charge for the transaction shall be determined based on the proportion of the cost of performance to the total cost of the transaction. The commissioner shall adopt rules relative to the determination of such service component. The term "service" does not include labor or intellectual activity performed for or on behalf of other persons when:

(a) The person performing the activity is an employee as defined in section 3401(c) of the United States Internal Revenue Code. Any person from whom an employer as defined in section 3401(d) of the United States Internal Revenue Code is required to withhold for federal income tax purposes shall prima facie be deemed an employee; or

(b) The person is an independent contractor performing the activity exclusively for a single business enterprise. The commissioner shall adopt rules relative to the determination of whether an independent contractor qualifies for employee status under this section.

XVI. "Taxable receipts" means gross receipts less the money or value of other consideration received from the sale or transfer of the following:

(a) Property subject to the tax on meals and rooms, pursuant to RSA78-A.

(b) Property subject to the tax on transfer of real property, pursuant to RSA 78-B.

(c) Property subject to taxes imposed on liquor, under Title XIII.

(d) Property subject to tax pursuant to RSA 260:32, relative to motor fuels.

(e) Property subject to tax pursuant to RSA 260:52, relative to special motor fuels.

(f) Property subject to taxation pursuant to RSA 432:9, relative to the airways toll on aviation fuels, and RSA 432:9-a, relative to the airways toll on other aviation fuels.

(g) Property subject to taxation pursuant to RSA 79, relative to forest conservation and taxation, but only to the extent such property remains in its original condition immediately following the point at which such property became taxable under said chapter.

(h) Property subject to the tax on communication services, pursuant to RSA 82-A

XVII. "United States Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended, without the rules, regulations, forms, and procedures of the United States Internal Revenue Service. The rules, regulations, forms and procedures of the United States Internal Revenue Service may, however, be used by the commissioner of revenue administration in formulating rules for adoption under RSA 541-A. This definition shall be operative unless and until a specific statutory exception to its adoption is provided in this chapter, or until the application of one of its provisions is held to violate the New Hampshire constitution.

XVIII. "Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof; or interest therein, except it does not include the sale at retail of such property.

XIX. "Vendor" means every person, including governmental units, engaged in the business activity of making sales at retail to a consumer.

78-D:2 Imposition of Tax.

I. A tax is imposed on the sale at retail of tangible personal property or services in this state to consumers at the rate of one percent upon the taxable receipts from such sale.

II. A compensating tax is imposed on the consumption of tangible personal property or services in this state at the rate of one percent of the value of such tangible personal property or service.

78-D:3 Collection of Tax; Small Vendors Exempted.

I. Every vendor carrying on business activity in this state shall collect and monthly remit the tax to the state as provided in RSA78-D:5. Vendors whose average monthly tax collections do not exceed $100 may apply to the commissioner to remit taxes annually. Approval of such requests shall be at the discretion of the commissioner.

II. Notwithstanding the provisions of paragraph I, vendors with less than $10,000 in gross receipts from sales at retail annually shall not be required to collect and remit tax on their sales at retail.

78-D:4 Liability for Tax; Prior Purchases Exempted.

I. Except as provided in paragraph III, every consumer shall be liable for the tax and such liability shall not be extinguished until the tax has been paid to the state, except that payment to a vendor required to collect the tax pursuant to RSA78-D:3 is sufficient to relieve the consumer from further liability for the tax.

II. Except as provided in paragraph III, any tax required to be collected, and any tax received by a vendor, shall become a personal debt of the vendor until paid to the state. The vendor shall be relieved of further liability for such taxes in the event that the tax is paid directly to the state by the consumer or another person.

III. Consumers shall not be liable for nor vendors required to collect tax on any tangible personal property or services purchased or used in this state prior to the date upon which this chapter became effective.

78-D:5 Presumption of Taxability and Value.

I. To prevent evasion of the compensating tax and the duty to collect it, it is presumed that tangible personal property purchased or sold by any person for delivery into this state is purchased or sold for consumption in this state.

II. In determining the amount of compensating tax due on the consumption of tangible personal property, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or the fair market value of other consideration paid for such property exclusive of any time-price differential; provided however, in an exchange in which the amount of money paid does not represent the value of the tangible personal property or property and service purchased, the

compensating tax shall be calculated on the fair market value of the tangible personal property or property and service purchased.

III. In determining the amount of compensating tax due on the consumption of a service, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or fair market value of other consideration paid for the service exclusive of any type of time-price differential; provided however, in an exchange in which the amount paid does not represent the value of the service purchased, the compensating tax shall be calculated based on the fair market value of the service purchased.

78-D:6 Tax Returns; Date Payment Due.

I. Except as provided in this section, on or before the twenty-eighth day of February and the thirtieth day of each other month, every vendor liable to collect and pay over the taxes imposed by this chapter shall make a return to this department for the preceding month on a form prescribed by the commissioner.

II. Any vendor who has applied for and been granted permission to remit taxes annually shall file a return for each calendar year on or before February 15 of the following calendar year.

III. Any provider who ceases to engage in business activity in this state including making sales at retail for consumption, and is thereby not responsible for filing returns under this chapter, shall file a final return with the department not more than one month after discontinuing such activity. This requirement shall apply notwithstanding any other provision of this chapter regarding the time within which to file a return.

IV. If the commissioner finds that the information required for the making of an accurate return cannot reasonably be compiled by a vendor within the period provided in this section, the commissioner may grant an extension of time for the filing of such return. Any such extension shall be granted for a period not to exceed 31 calendar days. The granting of such extension may be conditioned upon the payment by the vendor of an amount of money equal to the amount estimated by the commissioner to be due with the return when filed under extension. All such estimated payments shall be credited against the vendor's liabilities under this chapter.

V. The vendor shall pay to the department the amount of tax imposed by this chapter at the time the return is due.

78-D:7 Tax Returns by Consumer; Date Payment Due.

I. Consumers may apply for permission to pay tax directly to the state. Direct payment shall be at the commissioner's discretion.

II. When a consumer does not pay the tax imposed by this chapter to a vendor, such consumer shall file a return with the department and pay the compensating tax upon the taxable property or services consumed during the taxable month. Such return and payment shall be due on or before the twenty-eighth day of February and the thirtieth day of each other month following the month in which consumption occurs. The return shall be filed on a form prescribed by the department and shall contain such information as the department may reasonably require.

III. Consumers that are health maintenance organizations or medical insurance companies purchasing medical services shall report and pay tax upon such services directly to the state. Such return and payment shall be filed on a form prescribed by the department and shall be due on or before the twenty-eighth day of February and the thirtieth day of each other month following the month in which such services are purchased. The commissioner may alter or extend the period for filing and payment in this section as necessary to carry out the intent of this section.

78-D:8 Books, Records, Papers, and Other Documents.

I. Every vendor liable for collection of tax under this chapter shall provide and keep the necessary records to show the amount of gross receipts, taxable receipts, and any exclusions, exemptions or deductions therefrom of any tangible personal property or services sold by said vendor.

II. Every consumer making direct tax payments to the department shall provide and keep the necessary records to show the value of any tangible personal property or services consumed by such consumer.

III. Every vendor maintaining a place of business in this state or required to file or actually filing in this state under this chapter and every consumer making direct tax payments to the department under this chapter shall keep books, records, papers, and other documents which are adequate to reflect the information required by this chapter to be reported to the

department by the filing of timely returns with the department.

IV. All books, records, and other papers and documents required to be kept by this chapter shall, at all times during business hours of the day, be subject to inspection by the department.

78-D:9 Determination of Tax; Additional Returns.

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

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

III. When the commissioner has reason to believe that a vendor has failed to file a return or to include any part of the taxable receipts of sales by such vendor in a filed return, the commissioner may require the vendor to file a return or a supplementary return showing such additional information as the commissioner prescribes. The making of such additional return does not relieve the vendor of any penalty for failure to make a correct original return, or relieve it from liability for interest imposed under RSA21-J:28 or for any other additional charges imposed by the commissioner. This section shall not be construed to modify or extend the statute of limitations provided in RSA21-J:29.

78-D:10 Administration; Rulemaking.

I. The commissioner shall collect the taxes imposed under this chapter, interest on tax, additions to tax, and penalties imposed, and pay over to the state treasurer the amount of funds collected under this chapter for deposit in the education trust fund established in RSA 198:39.

II. The commissioner shall adopt rules, under RSA541-A, relative to:

(a) The form of the return and the data which it must contain for the correct computation of the taxable receipts from sales of tangible personal property and services for consumption in this state and the tax assessed.

(b) The administration of the alternative consumption tax.

(c) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA78-D or RSA 21-J.

78-D:11 Surety Bonds.

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

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

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

IV. Failure to comply with the provisions of this section shall result in the suspension of the vendor's license, as provided in RSA

78-D:18.

78-D:12 Collection of Tax From Consumer. Every vendor required to collect the tax shall collect the tax from the consumer when collecting the price to which it applies. If the consumer is given any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable, the tax shall be stated, charged and shown separately on the first of the documents given to said consumer. The form and content of any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable relative to financial transactions which contain a taxable service component shall be determined by the commissioner according to rules promulgated under RSA 541-A. The tax shall be paid to the vendor required to collect it as trustee for and on account of the state.

78-D:13 Deferred Payment Purchases. The commissioner may provide that the tax upon receipts from purchases on the installment plan, seasonal purchases, or deferred payment purchases may be paid on the amount of each deferred payment and upon the date when the payment is received.

78-D:14 Exemptions.

I. The receipts or uses exempted in paragraph II from either the tax imposed under RSA78-D:2, I or the compensating tax imposed under RSA 78-D-2, II are not exemptions from both taxes unless explicitly stated otherwise.

II.(a) Food products for human consumption shall be exempt from the taxes imposed by this chapter.

(b) Any property or service for which the total price therefore without tax is $.50 or less shall be exempt from the taxes imposed by this chapter; provided, however that the purchase by a consumer in a single transaction of multiple items each $.50 or less in total price shall be aggregated to determine the applicability of this exemption.

(c) Rent payments shall be exempt from the taxes imposed by this chapter.

(d) Tuition payments shall be exempt from the taxes imposed by this chapter.

(e) Any property or service purchased or used by:

(1) The United States or any agency, department or instrumentality thereof;

(2) The state of New Hampshire or any political subdivision thereof;

(3) Any foreign nation or agency, instrumentality or political subdivision thereof, but only when required by a treaty in force to which the United States is a party.

(4) Any nonprofit organization expressly made exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent that such organization does not engage in business activity constituting unrelated business activity as defined by section 513 of the United States Internal Revenue Code.

(f) Any tangible personal property consisting of personal or household effects of an individual brought into this state in connection with the establishment by such individual of an initial residence in this state shall be exempt from the compensating tax imposed under RSA 78-D:2, II.

(g) Any tangible personal property brought into this state for use by a nonresident for such nonresident's non-business use while temporarily within this state shall be exempt from the compensating tax imposed under RSA 78-D:2, II.

(h) Receipts from the isolated or occasional sale of or leasing of property or a service by persons who are neither regularly engaged nor holding themselves out as engaged in the business of selling or leasing the same or similar property or service shall be exempt from the tax imposed under RSA 78-D:2, I.

(i) Property used exclusively in interstate commerce shall be exempt from the compensating tax imposed under RSA 78-D:2, II; and

(j) Receipts from dues of nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues shall be exempt from the tax imposed under RSA 78-D:2, I. For purposes of this subparagraph, "dues" means amounts that a member of an organization pays at recurring intervals to retain membership in an organization where such amounts are used for the general maintenance and upkeep of the organization.

(k) Receipts from services provided by nonprofit organizations expressly made exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent that such receipts are not from services provided by such nonprofit organization as a result of unrelated business activity as defined by section 513 of the United States Internal Revenue Code except that receipts from services provided by a hospital shall be taxable under this chapter. In this paragraph "hospital" means any general or special hospital for rehabilitation required to be licensed under RSA 151.

(l) Property and services used exclusively in manufacturing and purchased from out-of-state vendors shall be exempt from the compensating tax imposed under RSA 78-D:2, II.

(m) Services purchased from out-of-state vendors for use by the consumer outside NewHampshire shall be exempt from the compensatory tax imposed under RSA 78-D:2, II to the extent of such use out-of-state. The value of services purchased out-of-state but used or consumed both within and without New Hampshire shall be apportioned using a factor consisting of the percentage of the total sales, including charges for services, made by the consumer everywhere as is made by it within this state. Sales of tangible personal property are made in this state if the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of f.o.b. point or other conditions of sale, or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (1) the purchaser is the United States government, or (2) the business organization is not taxable in the state of the purchaser. Sales other than sales of tangible personal property are in this state if the income-producing activity is performed in this state, or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

78-D:15 Deductions.

I. The following may be deducted from taxable receipts:

(a) Receipts from selling tangible personal property if the sale is made to a person who delivers a nontaxable transaction certificate to the vendor. The buyer delivering the nontaxable transaction certificate shall resell the tangible personal property either by itself or in combination with other tangible personal property in the ordinary course of business.

(b) Receipts from selling a service for resale if the sale is made to a person who delivers a nontaxable transaction certificate to the vendor. Buyers delivering the nontaxable transaction certificate shall separately state the value of the service purchased in his or her charge for the service on its subsequent sale, and the subsequent sale shall be in the ordinary course of business and subject to the tax.

(c) Receipts from selling tangible personal property and licenses if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall be engaged in a business that derives a substantial portion of its receipts from leasing or selling tangible personal property or licenses of the type sold. The buyer may not utilize the tangible personal property or license in any manner other than holding it for lease or sale or leasing or selling it either by itself or in combination with other tangible personal property or licenses in the ordinary course of business.

(d) Receipts from leasing tangible personal property or licenses if the lease is made to a lessee who delivers a nontaxable transaction certificate to the lessor. The lessee delivering the nontaxable transaction certificate may not use the tangible personal property or license in any manner other than for subsequent lease in the ordinary course of business.

(e) Receipts from selling tangible personal property if the sale is made to a person engaged in construction who delivers a nontaxable transaction certificate to the vendor. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

(1) An ingredient or component part of a construction project which is subject to the tax under this chapter upon its completion or upon the completion of the overall construction project of which it is a part; or

(2) An ingredient or component part of a construction project which is subject to the tax under RSA 78-B upon the sale of the real property upon which it was constructed.

(f) Receipts from selling a construction service if the sale is made to a person engaged in construction who delivers a nontaxable transaction certificate to the person performing the construction service. The buyer delivering the nontaxable transaction certificate must have the construction services performed upon:

(1) A construction project which is subject to the tax under this chapter upon its completion or upon the completion of the overall

construction project of which it is a part; or

(2) A construction project which is subject to tax under RSA 78-B upon the sale of the real property upon which it was constructed.

(g) Receipts from performing a service if the sale of the service is made to a buyer who delivers to the vendor either an appropriate nontaxable transaction certificate or other evidence acceptable to the commissioner unless the buyer of the service or any of the buyer's employees or agents makes initial use of the product of the service in New Hampshire or takes delivery of the product of the service in New Hampshire.

II. Receipts whether specified once or several times in paragraph I may be deducted only once from taxable receipts.

78-D:16 Credits.

I. If on property bought outside this state, a gross receipts, sales, compensating or similar tax has been levied by another state or political subdivision thereof on the transaction by which the person using the property in New Hampshire acquired the property or a compensating, use or similar tax has been levied by another state on the use of the property subsequent to its acquisition by the person using the property in New Hampshire and such tax has been paid, the amount of such tax paid may be credited against any compensating tax due this state on the same property.

II. When the receipts from the sale of real property constructed by a person in the ordinary course of a construction business are subject to the gross receipts tax, the amount of compensating tax previously paid by the person on materials which became an ingredient or component part of the construction project and on construction services performed upon the construction project may be credited against the tax due on the sale.

III. If on services performed outside the state a gross receipts sales or similar tax has been levied by another state or a political subdivision thereof and such tax has been paid, the amount of the tax paid may be credited against any gross receipts tax due this state on the receipts from the sale in New Hampshire of the product of the services performed outside this state. The amount of credit shall not exceed an amount equal to the rate of tax imposed under RSA 78-D:2 multiplied by the amount subject to tax by both New Hampshire and the other state or political subdivision of that state.

78-D:17 Certificate or Affidavit of Exemption. Unless a vendor shall have taken from the purchaser a certificate, signed by the purchaser and bearing the purchaser's name and address and the number of the purchaser's registration certificate, to the effect that the property was purchased for resale or the purchaser prior to taking delivery, furnishes to the vendor any affidavit, statement or additional evidence, documentary or otherwise, which the commissioner may require demonstrating that the purchaser is an exempt person described in RSA78-D:14 the purchase shall be deemed a taxable purchase at retail. Provided, however, the commissioner may authorize a purchaser, who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or services will be used, to pay the tax directly to the commissioner and waive the collection of the tax by the vendor. Provided, further, the commissioner shall authorize any person who acquires tangible personal property consisting of materials and supplies for use in construction, to pay the tax directly to the commissioner and waive the collection of the tax by the vendor. No such authority shall be granted or exercised except upon application to the commissioner and the issuance by the commissioner of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the commissioner and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the commissioner by the permit holder.

78-D:18 Proceedings to Recover Taxes.

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

II. In the collection of the tax imposed by this chapter, the commissioner may use all of the powers granted to tax collectors under RSA80 for the collection of taxes, except that the tax imposed by this chapter shall not take precedence over prior recorded mortgages. The commissioner shall also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the commissioner. The provisions of RSA80:26 apply to the sale of land for the payment of taxes due under this chapter, and the state treasurer is authorized to purchase the land for the state. If the state purchases the land, the state treasurer shall certify the purchase to the governor, and the governor shall draw a warrant for the purchase price out of any money in the treasury not otherwise appropriated.

78-D:19 Registration.

I. On or before September 1, 1999, or in the case of vendors commencing business or opening new places of business after that date, within 3 days after the commencement or opening, every vendor required to collect any tax imposed by this chapter and every vendor purchasing tangible personal property for resale shall file with the commissioner a license application in a form prescribed by the commissioner. The commissioner shall issue, without charge, to each applicant a license of authority empowering the applicant to collect the tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the vendor. A vendor who has no regular place of doing business shall attach the certificate to the vendor cart, stand, truck or other merchandising device, or carry it on the vendor person. The certificate shall be nonassignable and nontransferable and shall be surrendered to the commissioner immediately upon the vendor ceasing to do business at the place named.

II. Any person who is not otherwise required to collect any tax imposed by this chapter and who makes sales to persons within the state of tangible personal property or services, the use of which is subject to tax under this chapter, may, if such person so elects, file a license application with the commissioner who may, in the commissioner's discretion and subject to such conditions as the commissioner may impose, issue to such person a license of authority to collect the compensating use tax imposed by this chapter.

78-D:20 Suspension or Revocation of Licenses; Appeal.

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

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

III. If the appealing person required to collect the tax files a bond running to the state as provided in RSA 78-D:11, then the suspension or revocation shall be inoperative during the appeal.

78-D:21 Refunds.

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

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

78-D:22 Liens. If any person required to pay or collect and transmit a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of New Hampshire upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner of taxes and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. No lien upon real estate for taxes imposed by this chapter is valid and binding against any person other than the taxpayer until notice of such lien stating the name and address of the taxpayer and the amount of the tax due shall have been filed and recorded in the registry of deeds in the grantor index in the county in which such real estate is located. Notwithstanding the provisions of any other law, the lien shall continue and shall be valid and binding until the liability for the sum, with interest and costs, is satisfied or becomes unenforceable.

6 New Chapter; Utility Property Tax. Amend RSA by inserting after chapter 83-E the following new chapter:

CHAPTER 83-F

UTILITY PROPERTY TAX

83-F:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of revenue administration.

II. "Department" means the department of revenue administration.

III. "Taxable period" means the period beginning April 1, and ending March 31 of the following year.

IV. "Utility property owner" means any person, partnership, limited liability company, association, corporation or other entity, their trustees or receivers appointed by any court, owning utility property.

V. "Utility property" means all real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage subject to tax under RSA 72:6, 72:7 and 72:8; provided that no electric power fixtures which would otherwise be taxed under this chapter shall be taxed under this chapter if they are employed solely as an emergency source of electric power. "Utility property" shall not include:

(a) Water and air pollution control facilities exempt from local property taxation under RSA 72:12-a;

(b) Any other property which is not subject to local property taxation.

83-F:2 Tax Imposed. For taxable periods beginning April 1, 1999, a tax is imposed upon the value of utility property at the rate for the education property tax set by the commissioner under RSA 76:3 for the same period, to be assessed annually as of April 1, and every year thereafter, and paid in accordance with this chapter.

83-F:3 Determination of Value. On or before December 1 of the tax year, the commissioner shall determine the value of utility property for the purposes of this chapter by appraising such property at its full and true value. Notice of such determination shall be given to the taxpayer within 15 days of the commissioner's determination.

83-F:4 Persons Liable. The tax imposed by this chapter shall be assessed upon each person with an ownership interest in utility property, in the proportion that such person's ownership interest bears to the entirety of the ownership in the property.

83-F:5 Returns and Declarations.

I. On or before January 15 each year, each utility property owner shall file with the commissioner of revenue administration, on a form prescribed by the commissioner, a return based on the valuation for April 1 of the prior year. The return shall be accompanied by the payment of such amount as has not been prepaid in accordance with paragraph III of this section. If the return shows an additional amount to be due, such additional amount is due and payable at the time the return is filed. If such return shows an overpayment of the tax due, a credit against a subsequent payment or payments due, to the extent of the overpayment, shall be allowed.

II. On or before April 15 of each year, each utility property owner liable to pay the tax imposed by this chapter shall file with the department, on a form prescribed by the commissioner, a statement setting forth the amount of such person's ownership interest as of April 1. The statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

III. For taxable periods ending before April 1, 2000, each utility property owner liable to pay the tax shall, in addition, file a declaration on or before July 1, 1999 of the estimated tax to be assessed as of April 1 in the current taxable period, based on the equalized value of utility property used in the department's equalization report for April 1, 1998 accompanied by payment of 1/3 of the estimated tax due. Additional payments of 1/3 of the estimated tax shall be made on September 15, 1999 and December 15, 1999.

IV. For taxable periods ending after March 31, 2000, at the time the statement required by paragraph II is filed, each person liable for the tax shall, in addition, file a declaration of the estimated tax to be assessed as of April 1 in the current taxable period, based on the tax assessed for the preceding taxable year, accompanied by payment of 1/4 of the estimated tax due. Additional payments of 1/4 of the estimated tax shall be made on June 15, September 15 and December 15.

V. As of June 1 of each year the principal owner of utility property shall file a list of the changes made to the utility property since the prior April 1. This statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

VI. Taxes and estimated taxes not paid when due shall be subject to appropriate penalties and interest under RSA 21-J.

83-F:6 Records.

I. Every person liable for tax under RSA 83-F:4 shall:

(a) Keep such records as may be necessary to determine the amount of such person's liability under this chapter.

(b) Preserve such records for the period of at least 3 years or until any litigation or prosecution under this chapter is finally determined.

(c) Make such records available for inspection by the commissioner or authorized agents, upon demand, at reasonable times during regular business hours.

II. Whoever violates any of the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

83-F:7 Administration.

I. The commissioner shall collect the taxes, interest, additions to tax and penalties imposed under this chapter. The commissioner shall determine the expense of administration of this chapter and shall certify and pay over to the state treasurer for deposit in the education trust fund established by RSA 198:39 the amount of remaining balance of the funds collected under this chapter after the expenses of administration have been deducted.

II. The commissioner is authorized to contract for the services of utility appraisers as needed for the proper administration of this chapter. Such contract expenses shall be deemed an expense of administration.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The administration of the tax imposed under RSA 83-F:2;

(b) The valuation of utility property required under RSA 83-F:3; and

(c) The recovery of any tax, interest on tax, or penalties imposed by RSA 83-F.

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

V. In the collection of the tax imposed by this chapter, the commissioner may use all of the powers granted to tax collectors under RSA 80 for the collection of taxes. The commissioner shall also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the commissioner. The provisions of RSA 80:26 shall apply to the sale of land for the payment of taxes due under this chapter, and the state treasurer is authorized to purchase the land for the state. If the state purchases the land, the state treasurer shall certify the purchase to the governor, and the governor shall draw a warrant for the purchase price out of any money in the treasury not otherwise appropriated.

83-F:8 Appeals. Utility property taxpayers aggrieved by the determination by the commissioner of the value of utility property pursuant to RSA 83-F: 3 may appeal such valuation within 30 days of notification of such determination to the board of tax and land appeals or the superior court of the county in which the taxpayer resides or has a place of business. Appeals other than appeals of valuation shall be made according to the procedure and subject to the time limits provided for other taxes administered by the department under RSA 21-J.

83-F:9 Exemption from Local Taxation. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district or county taxation under RSA 76.

7 New Subdivisions; Education Trust Fund; Uniform Education Tax Rate. Amend RSA 198 by inserting after section 37 the following new subdivision:

Education Trust Fund

198:38 Definitions. In this subdivision:

I. "Adequate education block grant" means the total amount of the annual grant made to a municipality by the state from the

education trust fund consisting of the sum of:

(a) The kindergarten pupil adequacy grant multiplied by the weighted average daily membership in residence in the municipality for kindergarten in the last completed school year, or in municipalities that did not have kindergarten in the last completed school year, the estimated average daily membership in residence in the municipality for kindergarten in the current school year.

(b) The elementary pupil adequacy grant multiplied by the weighted average daily membership in residence in the municipality for grades 1-6 in the last completed school year.

(c) The junior high school pupil adequacy grant multiplied by the weighted average daily membership in residence in the municipality for grades 7 and 8 in the last completed school year.

(d) The high school pupil adequacy grant multiplied by the weighted average daily membership in residence in the municipality for grades 9-12 in the last completed school year.

II. "Kindergarten pupil adequacy grant" means the uniform per pupil grant amount set biennially under this subdivision and made to municipalities annually from the education trust fund to reimburse them for providing adequate kindergarten education.

III. "Elementary pupil adequacy grant" means the uniform per pupil grant amount set biennially under this subdivision and made to municipalities annually from the education trust fund to reimburse them for providing adequate elementary school education.

IV. "Junior high school pupil adequacy grant" means the uniform per pupil grant amount set biennially under this subdivision and made to municipalities annually from the education trust fund to reimburse them for providing adequate junior high school education.

V. "High school pupil adequacy grant" means the uniform per pupil grant amount set biennially under this subdivision and made to municipalities annually from the education trust fund to reimburse them for providing adequate high school education.

VI. "Special education pupil adequacy grant" means catastrophic aid amounts due under RSA 186-C:18 and amounts due for other category aid programs plus such additional amounts from sweepstakes revenues and amounts appropriated from time to time by the general court.

VII. "Weighted average daily membership in residence" means "average daily membership in residence" as defined in RSA 189:1-d, IV adjusted for weighted pupils.

VIII. "Weighted pupil" means a resident pupil who has been assigned to one of the following classifications, based on the type of education the pupil received. The weights assigned to a high school pupil and to a high school pupil enrolled in a state approved vocational program reflect the differences in educational costs between these classifications when compared to the average current operating expenditure to educate a resident elementary pupil. The weights assigned to an educationally disabled child reflect the differences in education costs among the classifications of educationally disabled children when compared to the average current operating expenditure to educate a resident pupil in grades kindergarten through 12 who is not educationally disabled and not a high school pupil enrolled in a state approved vocational program. The following classifications of pupils shall carry the following weights:

(a) An elementary pupil, not educationally disabled as defined in RSA 186-C:2, I, which shall include kindergarten pupils, 1.0;

(b) A high school pupil, not educationally disabled as defined in RSA 186-C:2, I and not enrolled in a state approved vocational program, 1.21;

(c) A high school pupil enrolled in a state approved vocational program, 2.01;

(d) An educationally disabled child as defined in RSA 186-C:2, I, in one of the following types of programs:

(1) In-district, placed within a self-contained special education classroom, 2.57;

(2) In-district, without placement in a self-contained special education classroom, 2.12;

(3) An out-of-district day placement, 7.08;

(4) A residential placement, 8.72;

(5) A pre-school day placement, 3.37.

198:39 Education Trust Fund Created. The treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education block grants to municipalities and make taxpayer refunds under RSA 78-D:21. The state treasurer shall deposit into this fund immediately upon receipt:

I. The full amount of alternative consumption tax payments from the department of revenue administration pursuant to RSA 78-D:10, I.

II. All moneys due the fund in accordance with RSA 284:21-j.

III. Special assessments made by the department of revenue administration under RSA198:52.

IV. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-E:7, I.

V. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32.

VI. Funds received by the state treasurer as a result of the settlement of any suit or suits against the tobacco manufacturers.

VII. Any other moneys appropriated from the general fund.

198:40 Investment of Fund. The fund shall be nonlapsing. The treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:41 Determination of Grant Amounts.

I. For the 2000 tax year based on attendance in the 2000-2001 school year, the grant amount shall be as follows:

(a) The kindergarten pupil adequacy grant shall be $2,500 per pupil.

(b) The elementary pupil adequacy grant shall be 100 percent of the adequate cost amount determined by the educational adequacy commission in RSA 193-E.

(c) The junior high pupil adequacy grant shall be 100 percent of the adequate cost amount determined by the educational adequacy commission in RSA 193-E.

(d) The high school pupil adequacy grant shall be 100 percent of the adequate cost amount determined by the educational adequacy commission in RSA 193-E.

II. For all tax years following 2000, the grant amount for the kindergarten pupil adequacy grant, the elementary pupil adequacy grant, the junior high school pupil adequacy grant, the high school pupil adequacy grant, and the special education pupil adequacy grant shall be established by the legislature on a biennial basis.

198:42 Determination of the Adequate Education Block Grant for Each Municipality for Each Tax Year.

I. The department of education shall determine the adequate education block grant for each municipality by October 30 of each year for the current fiscal year following.

II. The adequate education block grant for each municipality shall be less the amount of the municipal adequate education tax commitment determined for such municipality by the commissioner of revenue administration under RSA 198:51 for the corresponding year.

198:43 Distribution Schedule of Adequate Education Block Grant. The adequate education block grant determined in RSA 198:42 shall be distributed to each municipality from the education trust fund, beginning July 1, 2000 and every year thereafter, in 4 equal payments on July 1, October 1, January 1, and April 1 of each school year.

198:44 Use of Funds. Municipalities shall apply the entire amount of aid received under RSA198:43 to education. Nothing in this subdivision shall prevent school districts from adopting budgets which authorize expenditures in excess of those supported with funds from the education trust fund.

198:45 Maintenance of Local Control. Distributions under RSA 198:43 depend only on average daily membership in residence and the pupil adequacy grant amounts as determined in this subdivision and are independent of how the municipalities decide to spend the distributions or other funds they may raise for education. Municipalities may designate one or more school districts to directly receive their grants by filing a revocable notice of such designation with the state treasurer. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets.

198:46 Duties of the Department of Education and the Board of Education. The department of education shall on or before September 30, of each year, collect from the school districts final data concerning all aspects of student attendance for the school year ending June 30, of that year, necessary to establish the average daily membership and average daily membership in residence including the municipality of residence for each pupil for that year. The department of education shall report on this date to the speaker of the house of representatives and the senate president to be used for purposes of determination by the legislature of grant amounts under RSA 198:41, II.

II. The board of education shall adopt rules necessary to the proper administration of this subdivision.

198:47 Submission of Data by Municipalities. Every school district shall submit all attendance information required by the department of education under this subdivision on or before September 30 of each year. The department shall withhold distribution of state funds to any municipality related to a school district in noncompliance with this section.

Uniform Education Tax Rate

198:48 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of revenue administration.

II. "Equalized assessed value" means the sum of the total valuation of each class of property in a municipality reported pursuant to RSA 21-J:34 adjusted by excluding the value of utility property subject to tax under RSA 83-F and the value of property exempted pursuant to RSA72:37-b, 72:62, 72:66, and 72:70 and equalized by the commissioner according to the equalization method specified in RSA 21-J:9-a.

198:49 Uniform Education Tax Rate. Biennially, the commissioner shall calculate the uniform education tax rate as follows:

I. Calculate the total amount required for an adequate education by:

(a) Multiplying the uniform per pupil adequacy grant amount determined pursuant to RSA 198:38, II-VI for each class of pupil times the weighted average daily membership in residence as defined in RSA 198:38, VII for each class of pupil;

(b) Sum the product of the calculations in (a).

II. Subtract from the sum calculated in subparagraph I(a) the total amount of funds available for distribution in the education trust fund established by RSA 198:39 in the year preceding the biennium.

III. Divide the amount calculated in paragraph II by the total equalized assessed value of taxable property in the state for the year preceding the biennium.

198:50 Municipal Adequate Education Tax Commitment.

I. The commissioner shall annually calculate each municipality's adequate education tax commitment by multiplying the uniform education tax rate by the most recent equalized assessed value of all taxable property in the municipality.

II. The commissioner shall issue a warrant under the commissioner's hand and official seal for the amount computed in paragraph I to the selectmen of each municipality on or before October 15 directing them to assess such sum and pay to the municipality for the use of the school district or districts such sums and at such times as may be prescribed for other taxes assessed by such selectmen. A report of the warrants issued shall be forwarded to the department of education at the same time.

III. The selectmen shall assess the municipal adequate education tax commitment based on the equalized assessed valuation of the taxable property of each property owner within the municipality.

198:51 Special Tax Assessments on Certain Municipalities.

I. A municipality which can fund an adequate education at a school portion equalized property tax rate which falls below the uniform education tax rate shall, on July 1, be subject to a special tax assessment by the department of revenue administration equal to the excess of the amount raised by the uniform education tax rate over the amount raised by the municipality's school portion equalized property tax rate.

II. Municipalities with no children required by law to be educated during the calendar year shall be eligible for an abatement in the amount of $2 of the special assessment per $1,000 of equalized assessed value.

8 New Paragraph; Rulemaking; State Treasurer. Amend RSA 6:3-a by inserting after paragraph VII the following new paragraph:

VIII. Administrative functions under RSA 198:39 and RSA 78-D.

9 New Subparagraph; Education Trust Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Money received under RSA 78:32, RSA 78-D, RSA 83-F, the tobacco settlement and from the sweepstakes fund, which shall be credited to the education trust fund under RSA198:39.

10 Reference Change. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and [~~RSA198:27-37~~] ***adequate education block grants under RSA 198:42***.

11 Reimbursement Anticipation Notes. Amend RSA 198:20-d to read as follows:

198:20-d Reimbursement Anticipation Notes. Notwithstanding any other provision of law to the contrary, a school district may incur debt in anticipation of reimbursement under RSA186-C:18 ***and a municipality may incur debt in anticipation of reimbursement under RSA 198:42***. The governing body, after notice and public hearing, may elect to borrow such funds and to recognize the proceeds of the borrowing as revenue for property tax rate setting purposes by providing written notification to the commissioner of the department of revenue administration stating the specific amount of borrowing to be recognized as revenue. Any borrowing under this section shall be exempt from the provisions of RSA 33, relative to debt limits.

12 Sweepstakes. RSA 284:21-j is repealed and reenacted to read as follows:

284:21-j Establishment. The state treasurer shall credit all moneys received from the sweepstakes commission, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and RSA287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA198:39.

13 Transition. As of July 1, 1999, all funds, from any source derived, which would be distributed as foundation aid shall be deposited in the education trust fund under RSA 198:39.

14 Applicability. Section 3 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective April 1, 1999, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

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

16 Repeal. The following are repealed:

I. RSA 78:20, relative to the applicability of the tobacco tax.

II. RSA 83-D, relative to the tax on nuclear station property.

III. RSA 198:1-3, relative to school district taxes.

IV. RSA 198:15-i-15-p, relative to the kindergarten incentive program, kindergarten aid program and alternative kindergarten programs.

V. RSA 198:21, V, relative to the applicability of foundation aid and child benefit service grant recipients in the calculation of average daily membership.

VI. RSA 198:22, V, relative to the applicability of foundation aid and dual enrollment grant recipients in the calculation of average daily membership.

VII. RSA 198:27-37, relative to foundation aid and alternative foundation aid.

17 Effective Date.

I. Section 5 of this act shall take effect on January 1, 2000.

II. Section 11 of this act shall take effect July 1, 1999 at 12:01 a.m.

III. The remainder of this act shall take effect April 1, 1999.

AMENDED ANALYSIS

This bill establishes an alternative consumption tax at a rate of one percent. A tax is imposed on the sale at retail of tangible personal property or services in this state to consumers upon the taxable receipts from such sale. A compensating tax is imposed on the consumption of tangible personal property or service in this state on the value of such tangible personal property or service.

This bill also establishes a utility property tax.

Revenues from the alternative consumption tax and the utility property tax are continually appropriated to an education trust fund to be used to fund an adequate public education. Additional funds are appropriated to the fund from the tobacco tax increase in rate and the tobacco settlement.

The bill establishes a uniform education property tax rate and makes a special assessment on municipalities which can fund an adequate education at an equalized property tax rate which falls below the uniform education property tax rate. The assessment will be equal to a municipality's total variation from the rate.

1999-0133h

Amendment to HB 117-FN-A-LOCAL

Proposed by the Committee on Finance - R

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

AN ACT establishing a uniform education property tax to provide funding for an adequate public education and making an appropriation therefor.

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

1 Intent.

I.(a) The New Hampshire supreme court has ruled that the state has a duty to fund a constitutionally adequate education for public elementary and secondary pupils. The state has long relied upon a system of localized property taxation to fund education, a system to which many have become accustomed and about which economic forces have acquired settled expectations. The court, however, has said that such system violates the constitutional requirement that all taxes levied in the state be proportional and reasonable. A fiscal policy based upon property taxation, according to the court's interpretation, must be "equal in valuation and uniform in rate throughout the state." Acknowledging that reorganization of the revenue raising structure for public elementary and secondary education is now compelled, the general court chooses hereby to do so in a

manner that is the least disruptive of settled economic expectation and social fabric of the community.

(b) By this act the general court establishes a fair taxation policy intended to preserve local control of public schools and retain the incentive for parental and local community participation in the education of the children of New Hampshire. Such involvement is essential to the maintenance of the quality of the state's educational institutions which have heretofore produced high scores on comparative measures of educational outcome. The general court recognizes that disparity exists among cities and towns relative to their ability to raise basic expenses of an adequate public education. Assistance, where required, must be supplied. Recognition is also accorded to the principle of home ownership. Homeowners provide a substantial commitment to the communities in which they live, which is essential to the quality of life in New Hampshire.

(c) The following are intended to carryout this legislative purpose:

(1) Impose a uniform state tax at the lowest possible rate consistent with providing funding for educational adequacy throughout the state.

(2) Subsidize with state grants funded from other sources municipalities whose property base is insufficient to support an adequate education.

(3) Preserve and foster home ownership by providing a measure of tax relief to all resident homeowners, with proportionately greater benefit to those of low or moderate means.

II.(a)(1) A statewide property tax levied at a uniform rate upon equalized property values is generally an equitable method for funding an adequate education. However, reorganizing the existing system will inevitably upset to some degree the delicate balance of social and economic forces at work in the state. A uniform state tax rate will increase property taxes in cities and towns with relatively higher property values. The immediate effect of such increase will be felt disproportionately by homeowners with limited means. The tax may also have a dramatic effect upon certain classes of property such as utility property. Utility property is highly susceptible to interjurisdiction assessment variation and exacerbates the disparity among municipalities. An additional potential problem is the specter of competitive underassessment among cities and towns as the effects of the statewide tax begin to be felt.

(2) In cities and towns with relatively higher property values, sharp increases in property taxes may cause business failure where fixed costs increase faster than the ability to recoup them. Commercial rental property owners may find themselves locked in by lease provisions that prevent them from recouping tax increases from tenants, resulting in reduced reinvestment in the property, and potential foreclosure or bankruptcy. Also substantial increases in property tax obligations may cause or permit lenders to foreclose on mortgage notes based on the decreased ability of the borrower to meet the income level required by the lender because of the higher total mortgage payment obligations. Tax capitalization which decreases property values may also cause foreclosures on otherwise performing loans because the regulated lending institution must call the loan to comply with rules and regulations.

(b) The following are intended to mitigate these consequences so far as is practicable:

(1) Provide a phase-in of tax increases over 4 years for those municipalities that will collect more money in property taxes at the statewide rate than is required to fund an adequate education for the municipality.

(2) Provide additional relief to low and moderate income homeowners in high property value cities and towns to level the immediate effect of property tax increases occurring upon implementation of the statewide tax and allow time for the effect of tax capitalization to reallocate property values.

(3) Stabilize valuation of utility property by removing it from the local base for purposes of educational adequacy funding and taxing such property at the state level for distribution through an educational fund.

(4) Forestall the possibility of interjurisdictional assessment variations by increasing the level of state oversight in the equalization process.

2 New Subparagraph; Education Trust Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Money received under RSA 78, RSA 83-D, RSA 83-F, RSA 198:49 and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

3 Gender Reference Change. Amend the introductory paragraph of RSA 21-J:3 to read as follows:

In addition to the powers, duties, and functions otherwise vested by law, including RSA 21-G, in the commissioner of the department of revenue administration, [~~he~~] ***the commissioner*** shall:

4 Duties of Commissioner. Amend RSA 21-J:3, V to read as follows:

V. Exercise general supervision over the administration of the assessment and taxation laws of the state, ***the appraisal for ad valorem taxation purposes of property within the state,*** and over all assessing officers in the performance of their duties, except the board of tax and land appeals, to the end that all assessments of property be made in compliance with the laws of the state.

5 Duties of Commissioner. Amend RSA 21-J:3, XIII to read as follows:

XIII. Equalize annually the valuation of the property in the several towns, cities, and unincorporated places in the state by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, including the equalized value of property formerly taxed pursuant to the provisions of RSA 72:7; 72:15, I, V, VII, VIII, IX, X, and XI; 72:16; 72:17; 73:26; 73:27; and 73:11 through 16 inclusive, which were relieved from taxation by the laws of 1970, 5:3; 5:8; 57:12; and 57:15, the equalized valuation of which is to be determined by the amount of revenue returned in such year in accordance with RSA 31-A, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes ***or payments in lieu of taxes*** as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. ***In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA21-J:9-a.***

6 Duties of the Commissioner. Amend RSA 21-J:3, XV to read as follows:

XV. Establish and approve tax rates as required by law ***including the uniform education tax rate***.

7 New Paragraph; Duties of Commissioner. Amend RSA 21-J:3 by inserting after paragraph XXIV the following new paragraph:

XXV. Petition the board of tax and land appeals to issue an order for reassessment of property pursuant to the board's powers under RSA 71-B:16 - 19 whenever, in the commissioner's belief, the valuation of property for equalization purposes in a particular city, town, or unincorporated place is disproportional to the valuation for equalization purposes in other cities, towns, or unincorporated places in the state.

8 Division of Property Appraisal; Department of Revenue Administration. RSA 21-J:9 is repealed and reenacted to read as follows:

21-J:9 Division of Property Appraisal. There is established within the department the division of property appraisal, under the supervision of a classified director of property appraisal who shall be responsible for the following functions, in accordance with applicable laws:

I. Assisting and supervising municipalities and appraisers in appraisals and valuations as provided in RSA 21-J:10 and RSA 21-J:11.

II. Appraising state-owned forest and recreation land under RSA 227-H and RSA 216-A.

III. Annually determining the total equalized valuation of properties in the cities and towns and unincorporated places according to the requirements of RSA21-J:9-a.

IV. Preparing a standard appraisal manual which may be used by assessing officials, and holding meetings throughout the state with such officials to instruct them in appraising property.

9 New Section; Equalization Procedure. Amend RSA 21-J by inserting after section 9 the following new section:

21-J:9-a Equalization Procedure. The following procedures shall apply in determining the equalization of property within the cities, towns, and unincorporated places as required by RSA21-J:3, XIII:

I. The commissioner shall annually conduct a sales-assessment ratio study which shall include arm's length sales or transfers of property that occurred 6 months prior to and 6 months following April 1 of the tax year for which such equalization is made.

II. In determining the arm's length sales or transfers that are included in the sales-assessment ratio study, the commissioner may use a randomly selected sample of such sales and transfers the size of which shall be determined by the total taxable parcels in the city, town, or unincorporated place.

III. If less than 2 percent of the total taxable parcels in a city, town, or unincorporated place has been transferred by an arm's length sale or transfer during the 6 months prior to and 6 months following April 1 of the tax year for which such equalization is made or the commissioner determines the sales are unrepresentative of the property within the municipality, the commissioner may choose one or more of the following options:

(a) Include appraisals of any of the taxable property of such city, town, or unincorporated place in the sales-assessment ratio study. Such appraisals shall be based on full and true market value pursuant to RSA 75:1 and shall be performed by department appraisers. The property to be appraised shall be selected by the commissioner.

(b) Consider recent equalization ratio activity in adjoining cities, towns, or unincorporated places.

(c) Include arm's length sales or transfers in the city, town, or unincorporated place, within 2-1/2 years preceding April 1 of the year preceding the tax year for which such equalization is made.

IV. The commissioner shall use the inventory of property transfers authorized by RSA74:18 in determining the equalized value of property and may consider such other evidence as may be available to the commissioner on or before the time the final equalized value is determined.

10 Appraisals of Property for Ad Valorem Tax Purposes. RSA 21-J:11 is repealed and reenacted to read as follows:

21-J:11 Appraisals of Property For Ad Valorem Tax Purposes.

I. Every person, firm, or corporation intending to engage in the business of making appraisals on behalf of a municipality for tax assessment purposes in this state shall notify the commissioner of that intent in writing. No person, firm, or corporation engaged in the business of making appraisals of taxable property for municipalities and taxing districts shall enter into any contract or agreement with any town, city, or other governmental division without first submitting the proposed contract or agreement to the commissioner for examination and approval and submitting to the commissioner evidence of financial responsibility and professional capability of personnel to be employed under the contract.

II. The commissioner, at no expense to the municipality, shall monitor appraisals of property and supervise appraisers as follows:

(a) Assure that appraisals comply with all applicable statutes and rules;

(b) Assure that appraisers are complying with the terms of any appraisal contract;

(c) Review the accuracy of appraisals by inspection, evaluation, and testing, in whole or in part, of data collected by the appraisers; and

(d) Report to the governing body on the progress and quality of the municipality's appraisal process.

III. The commissioner shall adopt rules under RSA 541-A relative to the provisions required of all contracts for appraisal services and the methodology for inspection, evaluation, and testing of data for the purposes of appraisal monitoring.

11 Reports Required. Amend the introductory paragraph of RSA 21-J:34 to read as follows:

The governing body of each city, town, unincorporated town, unorganized place, school district, and village district, and the clerk of each county convention shall submit to the commissioner of revenue administration the following reports necessary to compute and establish the ***uniform education property tax rate and the*** tax rate for each city, town, unincorporated town, unorganized place, school district, village district, and county. The commissioner shall adopt rules under RSA541-A establishing the form and content of these reports:

12 New Paragraph; Reports Required. Amend RSA 21-J:34 by inserting after paragraph XIV the following new paragraph:

XV. A report filed by the assessing officials of each city, town, and unincorporated place shall certify sales-assessment information necessary for the department to conduct the annual sales-assessment ratio study required by RSA21-J:9-a. This report shall be filed within 45 days after receipt from the department.

13 New Paragraph; Setting of Tax Rates by Commissioner. Amend RSA21-J:35 by inserting after paragraph I the following new paragraph:

I-a. The commissioner shall calculate the uniform education property tax rate as follows:

(a) Multiply the adjusted per pupil adequate education cost as defined in RSA 198:38, I by the weighted average daily membership in residence as defined in RSA198:38, VI as reported to the department on December 31 pursuant to RSA198:46.

(b) Subtract from the product in subparagraph (a) the total amount appropriated to the department of education from the education trust fund by the legislature;

(c) Add to the sum in subparagraph (b) the total amount of accepted homestead exemptions under RSA 198:50 from the previous year and hardship relief under RSA 198:51 from the year preceding the previous year;

(d) Divide the sum in subparagraph(c) by the total equalized assessed value as determined by the commissioner relative to the most recent annual report of the department. In this paragraph "equalized assessed value" means the sum of the total valuation of each class of property in a municipality reported pursuant to RSA 21-J:34 adjusted by excluding the value of utility property subject to tax under RSA 83-F, nuclear station property subject to tax under RSA 83-D, and the value of property exempted pursuant to RSA72:37-b, 72:62, 72:66, and 72:70 and equalized by the commissioner according to the equalization method specified in RSA 21-J:9-a.

14 Board of Tax and Land Appeals; Authority. Amend RSA 71-B:5, II to read as follows:

II. To hear and determine [~~any~~] appeals ***by towns*** relating to the [~~equalization of valuation performed~~] ***equalized valuation of property determined*** by the commissioner of revenue administration pursuant to RSA 21-J:3, XIII ***including equalized assessed valuations determined by the commissioner for the purposes of the education property tax***. Any town aggrieved by [~~an~~] ***its*** equalized valuation as determined by the commissioner of revenue administration must appeal to the board in writing within 30 days of [~~the town's notification~~] ***notice*** of [~~the~~] ***its final*** equalized valuation by the commissioner. ***The board shall hear and make a final ruling on such appeal within 45 days of its receipt by the board. The board's decision on such appeal shall be final and not appealable.***

15 New Paragraph; Order for Reassessment. Amend RSA 71-B:16, IV to read as follows:

IV. When a complaint is filed with the board alleging that all of the taxable real estate or taxable property in a taxing district should be reassessed or newly assessed for any reason, provided that such complaint must be signed by at least 50 property taxpayers or 1/3 of the property taxpayers in the taxing district, whichever is less[-]; or

V. ***When the commissioner of revenue administration files a petition with it pursuant to RSA 21-J:3, XXV.***

16 New Section; Inventory of Property Transfers. Amend RSA 74 by inserting after section 17 the following new section:

74:18 Inventory of Property Transfers.

I. In order to properly equalize the value of property under RSA 21-J:3, XIII, an inventory of property transfers shall be filed with the department of revenue administration and with the municipality where the property is located for each transfer of real estate or interest in real estate. Each form may include the following information:

(a) The buyer and seller's names and post transaction addresses and the name and address of a contact person if the buyer or seller is a trust or corporation.

(b) A description of the exact location of the property by town, street, and the assessor's map, lot, and block number.

(c) The acreage included in the sale.

(d) An accurate description of the property included in the sale, the neighborhood where the property is located, and the type and style of the property sold.

(e) The buyer's ownership interest in the property.

(f) The sale price, date of transfer, and the amount mortgaged.

(g) The description of the type of transfer that has taken place.

(h) The amount of personal property included in the sale price.

(i) Whether the property was previously occupied and whether the property will serve as the buyer's primary residence.

(j) The financing arrangements made to purchase the property to be answered at the option of the buyer.

(k) Whether any concessions were made in the sale.

(l) Whether the property was in current use.

(m) Whether land use taxes were considered in the sale.

(n) The buyer's dated signature certifying that the information indicated on the form is true.

II. The inventory of property transfers required by this section shall be filed with the department of revenue administration and with the municipality where the property is located by the purchaser, grantee, assignee, or transferee, no later than 30 days from the recording of the deed at the register of deeds or transfer of real estate, whichever is later. Persons required to file the inventory of property transfers who willfully fail to file or willfully make false statements on the forms shall be guilty of a violation.

III. No deed, recording a transfer of real estate or any interest in real estate, executed before October 1, 1995, shall be required to comply with this section.

IV. Failure to comply with this section shall not be construed to cloud title.

V. Any information provided to the department or the municipality pursuant to this section shall be exempt from the right-to-know law, RSA 91-A.

17 Education Property Tax. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate calculated by the commissioner of revenue administration pursuant to the authority granted in RSA21-J:35, I-a is hereby imposed on all persons and property taxable pursuant to RSA72 and RSA 73, except such property subject to tax under RSA 82, RSA 83-D and RSA 83-F. Such uniform rate shall be calculated by the commissioner on or before October 1 for the tax year commencing April 1 of the succeeding year.

18 What Taxes Assessed. Amend RSA 76:5 to read as follows:

76:5 What Taxes Assessed. The selectmen shall seasonably assess all state and county taxes for which they have the warrants of the [~~state~~] ***commissioner of revenue administration*** and county treasurers respectively; all taxes duly voted in their towns; and all school[~~, schoolhouse,~~] and village district taxes authorized by law or by vote of any school or village district duly certified to them; and all sums required to be assessed by RSA 33.

19 Commissioner's Warrant. RSA 76:8 is repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized assessed value of all property in the municipality as determined under RSA21-J:3, XIII and used to calculate the uniform rate under RSA 21-J:35, I-a.

II. The commissioner shall issue a warrant under the commissioner's hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality on or before September1 directing them to assess such sum and pay to the municipality for the use of the school district or districts or to the department of revenue administration for deposit in the education trust fund such sums and at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

20 Commissioner's Report. RSA 76:9 is repealed and reenacted to read as follows:

76:9 Commissioner's Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before January 15, a

statement of the education property tax warrants to be issued for the tax year commencing April 1 of that year.

21 Information Required. Amend RSA 76:11-a, I to read as follows:

I. The tax bill which is sent to every person taxed, as provided in RSA 76:11, shall show the rate for municipal, [~~school~~] ***local education, state education,*** and county taxes separately, the assessed valuation of all lands and buildings for which said person is being taxed, and the right to apply in writing to the selectmen or assessors for an abatement of the tax assessed as provided under RSA76:16. The department of revenue administration shall compute for each town and city the rates which are to appear on the tax bills and shall furnish the required information to the appropriate town or city.

22 New Section; Tobacco Tax. Amend RSA 78 by inserting after section 31 the following new section:

78:32 Distribution of Funds. The funds collected by the department pursuant to this chapter shall be paid over to the state treasurer for deposit in the education trust fund established by RSA198:39.

23 Administration; Tax on Nuclear Station Property. Amend RSA 83-D:12, I to read as follows:

I. The commissioner of revenue administration shall collect the taxes, interest, additions to tax and penalties imposed under this chapter. The commissioner shall determine the expense of administration of this chapter and shall certify and pay over to the state treasurer ***for deposit in the education trust fund established by RSA 198:39*** the amount of remaining balance of the funds collected under this chapter after the expenses of administration have been deducted.

24 New Chapter; Utility Property Tax. Amend RSA by inserting after chapter 83-E the following new chapter:

CHAPTER 83-F

UTILITY PROPERTY TAX

83-F:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of revenue administration.

II. "Department" means the department of revenue administration.

III. "Taxable period" means the period beginning April 1, and ending March 31 of the following year.

IV. "Utility property owner" means any person, partnership, limited liability company, association, corporation or other entity, their trustees or receivers appointed by any court, owning utility property.

V. "Utility property" means all real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage subject to tax under RSA 72:6, 72:7 and 72:8; provided that no electric power fixtures which would otherwise be taxed under this chapter shall be taxed under this chapter if they are employed solely as an emergency source of electric power. "Utility property" shall not include:

(a) Water and air pollution control facilities exempt from local property taxation under RSA 72:12-a;

(b) Nuclear station property subject to tax under RSA 83-D; and

(c) Any other property which is not subject to local property taxation.

83-F:2 Tax Imposed. For taxable periods beginning April 1, 1999, a tax is imposed upon the value of utility property at the rate for the education property tax set by the commissioner under RSA 76:3 for the same period, to be assessed annually as of April 1, and every year thereafter, and paid in accordance with this chapter.

83-F:3 Determination of Value. On or before December 1 of the tax year, the commissioner shall determine the value of utility property for the purposes of this chapter by appraising such property at its full and true value. Notice of such determination shall be given to the taxpayer within 15 days of the commissioner's determination.

83-F:4 Persons Liable. The tax imposed by this chapter shall be assessed upon each person with an ownership interest in utility property, in the proportion that such person's ownership interest bears to the entirety of the ownership in the property.

83-F:5 Returns and Declarations.

I. On or before January 15 each year, each utility property owner shall file with the commissioner of revenue administration, on a form prescribed by the commissioner, a return based on the valuation for April 1 of the prior year. The return shall be accompanied by the payment of such amount as has not been prepaid in accordance with paragraph III of this section. If the return shows an additional amount to be due, such additional amount is due and payable at the time the return is filed. If such return shows an overpayment of the tax due, a credit against a subsequent payment or payments due, to the extent of the overpayment, shall be allowed.

II. On or before April 15 of each year, each utility property owner liable to pay the tax imposed by this chapter shall file with the department, on a form prescribed by the commissioner, a statement setting forth the amount of such person's ownership interest as of April 1. The statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

III. For taxable periods ending before April 1, 2000, each utility property owner liable to pay the tax shall, in addition, file a declaration on or before July 1, 1999 of the estimated tax to be assessed as of April 1 in the current taxable period, based on the equalized value of utility property used in the department's equalization report for April 1, 1998 accompanied by payment of 1/3 of the estimated tax due. Additional payments of 1/3 of the estimated tax shall be made on September 15, 1999 and December 15, 1999.

IV. For taxable periods ending after March 31, 2000, at the time the statement required by paragraph II is filed, each person liable for the tax shall, in addition, file a declaration of the estimated tax to be assessed as of April 1 in the current taxable period, based on the tax assessed for the preceding taxable year, accompanied by payment of 1/4 of the estimated tax due. Additional payments of 1/4 of the estimated tax shall be made on June 15, September 15 and December 15.

V. As of June 1 of each year the principal owner of utility property shall file a list of the changes made to the utility property since the prior April 1. This statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

VI. Taxes and estimated taxes not paid when due shall be subject to appropriate penalties and interest under RSA 21-J.

83-F:6 Records.

I. Every person liable for tax under RSA 83-F:4 shall:

(a) Keep such records as may be necessary to determine the amount of such person's liability under this chapter.

(b) Preserve such records for the period of at least 3 years or until any litigation or prosecution under this chapter is finally determined.

(c) Make such records available for inspection by the commissioner or authorized agents, upon demand, at reasonable times during regular business hours.

II. Whoever violates any of the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

83-F:7 Administration.

I. The commissioner shall collect the taxes, interest, additions to tax and penalties imposed under this chapter. The commissioner shall determine the expense of administration of this chapter and shall certify and pay over to the state treasurer for deposit in the education trust fund established by RSA 198:39 the amount of remaining balance of the funds collected under this chapter after the expenses of administration have been deducted.

II. The commissioner is authorized to contract for the services of utility appraisers as needed for the proper administration of this chapter. Such contract expenses shall be deemed an expense of administration.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The administration of the tax imposed under RSA 83-F:2;

(b) The valuation of utility property required under RSA 83-F:3; and

(c) The recovery of any tax, interest on tax, or penalties imposed by RSA 83-F.

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

V. In the collection of the tax imposed by this chapter, the commissioner may use all of the powers granted to tax collectors under RSA 80 for the collection of taxes. The commissioner shall also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the commissioner. The provisions of RSA 80:26 shall apply to the sale of land for the payment of taxes due under this chapter, and the state treasurer is authorized to purchase the land for the state. If the state purchases the land, the state treasurer shall certify the purchase to the governor, and the governor shall draw a warrant for the purchase price out of any money in the treasury not otherwise appropriated.

83-F:8 Appeals. Utility property taxpayers aggrieved by the determination by the commissioner of the value of utility property pursuant to RSA 83-F: 3 may appeal such valuation within 30 days of notification of such determination to the board of tax and land appeals or the superior court of the county in which the taxpayer resides or has a place of business. Appeals other than appeals of valuation shall be made according to the procedure and subject to the time limits provided for other taxes administered by the department under RSA 21-J.

83-F:9 Exemption from Local Taxation. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district or county taxation under RSA 76.

25 Extent. Amend RSA 85:1 to read as follows:

85:1 Who May Issue. The state treasurer ***or the commissioner of revenue administration***, and each county and town treasurer, may issue extents under their hands and seals respectively, in cases authorized by law, and such extents shall be deemed to be executions against the person and property.

26 New Subdivisions; Education Trust Fund; Excess Tax Payment, Homestead Exemption and Hardship Relief. Amend RSA 198 by inserting after section 37 the following new subdivisions:

Education Trust Fund

198:38 Definitions. In this subdivision:

I. "Adjusted per pupil adequate education cost" means the amount determined by the legislature as provided by RSA 198:41 adjusted by multiplying such sum by the total average daily membership in residence for the state and dividing the product of such multiplication by total weighted average daily membership in residence for the state.

II. "Adequate education grant" means the total amount of the annual grant calculated according to RSA 198:42 by the department and made to a municipality by the state from the education trust fund.

III. "Average daily membership in residence" means "average daily membership in residence" as defined in RSA 189:1-d, IV. For purposes of this section, kindergarten pupils shall not be counted.

IV. "Elementary pupil" means a pupil in grades 1 through 8.

V. "Municipality" means a city, town or unincorporated place.

VI. "Weighted average daily membership in residence" means average daily membership in residence adjusted for weighted pupils.

VII. "Weighted pupil" means a resident pupil who has been assigned to one of the following classifications, based on the type of education the pupil received. The weights assigned to a high school pupil and to a high school pupil enrolled in a state approved vocational program reflect the differences in educational costs between these classifications when compared to the average current operating expenditure to educate a resident elementary pupil. The weights assigned to an educationally disabled child reflect the differences in education costs among the classifications of educationally disabled children when compared to the average current operating expenditure to educate a resident pupil in grades one through 12 who is not educationally disabled and not a high school pupil enrolled in a state approved vocational program. The following classifications of pupils shall carry the following weights:

(a) An elementary pupil, not educationally disabled as defined in RSA 186-C:2, I, which shall include kindergarten pupils, 1.0;

(b) A high school pupil, not educationally disabled as defined in RSA 186-C:2, I and not enrolled in a state approved vocational program, 1.21;

(c) A high school pupil enrolled in a state approved vocational program, 2.01;

(d) An educationally disabled child as defined in RSA 186-C:2, I, in one of the following types of programs:

(1) In-district, placed within a self-contained special education classroom, 2.57;

(2) In-district, without placement in a self-contained special education classroom, 2.12;

(3) An out-of-district day placement, 7.08;

(4) A residential placement, 8.72;

(5) A pre-school day placement, 3.37;

(e) The weight of each pupil participating in the free and reduced school lunch program shall be the amount shown in subparagraphs (a)-(d), multiplied by 1.1.

198:39 Education Trust Fund Created. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities pursuant to RSA 198:43. The state treasurer shall deposit into this fund immediately upon receipt:

I. The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:49.

II. All moneys due the fund in accordance with RSA 284:21-j.

III. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA83-F:7, I.

IV. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA78:32.

V. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-D:12, I.

VI. The school portion of any revenue sharing funds distributed pursuant to RSA 31-A from funds collected under RSA 77-A.

VII. Any other moneys appropriated from the general fund.

198:40 Investment of Fund. The fund shall be nonlapsing. The treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:41 Determination of Per Pupil Adequate Education Cost.

I. For the biennium beginning July 1, 1999, the cost shall be $3,700.

II. For the biennium beginning July 1, 2001, and every biennium thereafter, the cost per pupil shall be established by the general court.

198:42 Determination of Adequate Education Grant.

I. The department of education shall determine the amount of the adequate education grant for each municipality as follows:

(a) Multiply the adjusted per pupil adequate education cost by the weighted average daily membership in residence for the municipality as reported on December 31 pursuant to RSA198:46;

(b) Subtract the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year; and

(c) Add the sum of the total amount of homestead exemptions taken pursuant to RSA198:50 for the municipality for the current tax year plus the total amount of additional hardship abatements granted by the selectmen pursuant to RSA 198:51 for the previous tax year.

II. The department shall determine the grant in paragraph I for each municipality by October 1 of each year for the state's fiscal year following.

198:43 Distribution Schedule of Adequate Education Grant. The adequate education grant determined in RSA 198:42 shall be distributed to each municipality from the education trust fund in 4 equal payments on July 1, September 1, January 1, and April 1 of each school year. The department shall certify the amount of each grant to the state treasurer and direct the payment thereof to the municipality. Each municipality receiving a payment shall, within 10 days of receipt, pay the money over to the municipality's school district or districts.

198:43-a Additional Pupil Adequate Education Grant.

I. A municipality whose average daily membership in residence for a school year, as determined after the completion of that school year, exceeds the average daily membership in residence used to compute the adequate education grant for that year by more than 8 percent, shall receive an additional pupil adequate education grant. The department of education shall determine the amount of the grant for each municipality which qualifies as follows:

(a) Multiply the adjusted per pupil adequate education cost by:

(b) The amount by which the average daily membership in residence for the current school year, as determined at the completion of the school year, exceeds 1.08 times the average daily membership in residence used to compute the adequate education grant for that year.

II. The school district or districts to which the municipality belongs shall supply the necessary information to the department to calculate the amount of the additional adequate education grant by September 30 after the completion of the school year. After verification of the information, the department shall certify the amount of the grant to the state treasurer and direct the payment thereof to the municipality. Each municipality receiving a payment shall, within 10 days of receipt, pay the money over to the municipality's school district or districts.

198:43-b Supplemental Education Grant.

I. In this section:

(a) "Adjusted per pupil supplemental education amount" means $400, multiplied by the total average daily membership in residence for the state and divided by the total weighted average daily membership in residence for the state.

(b) "Municipal assessed property per student" means the total equalized assessed value as determined in RSA 21-J:35, I-a(d) of all property in the municipality as determined under RSA21-J:3, XIII, divided by the weighted average daily membership in residence for the municipality as determined in RSA 198:46.

(c) "State assessed property per student" means the total equalized assessed value as determined in RSA 21-J:35, I-a(d) of all property in all municipalities in the state and all properties subject to taxation under RSA 83-F, divided by the total weighted average daily membership in residence for the state.

II. In addition to the adequate education grant and supplemental pupil adequate education grant, school districts in which, at the time the adequate education grant is calculated, municipal assessed property per student is less than state assessed property per student shall be entitled to a supplemental education grant. The department of education shall determine the amount of the supplemental education grant for each qualifying municipality as follows:

(a) Multiply the adjusted per pupil supplemental education amount times the weighted average daily membership in residence for the municipality;

(b) Multiply this product by 1 minus the result of dividing the municipal assessed property per student by the state assessed property per student.

III. The department of education shall determine the grant in paragraph II for each municipality by January 15 of each year for the state's fiscal year following. The supplemental education grant shall be distributed to each municipality at the same time and by the same procedures as the adequate education grant as described in RSA 198:43.

198:44 Additional Education Expenditures. Nothing in this subdivision shall prevent school districts from adopting budgets which authorize expenditures in excess of those supported with funds from the education trust fund.

198:45 Maintenance of Local Control. Distributions under RSA 198:43 depend only on average daily membership in residence and the per pupil adequacy cost amounts as determined in this subdivision and are independent of how the municipalities decide to spend the distributions or other funds they may raise for education. Municipalities may designate one or more school districts to directly receive their grants by filing a revocable notice of such designation with the state treasurer. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets.

198:46 Duties of the Department of Education and the Board of Education.

I. The department of education shall on or before September 30, of each year, collect from the school districts final data concerning all aspects of student attendance for the school year ending June 30, of that year, necessary to establish the average daily membership, average daily membership in residence, and weighted average daily membership in residence, including the municipality of residence for each pupil for that year. The department of education shall report by December 31 to the speaker of the house of representatives, the senate president to be used for purposes of determination by the legislature of the appropriation to the education trust fund. A copy of such report shall, at the same time, be given to the department of revenue administration.

II. The board of education shall adopt rules necessary to the proper administration of this subdivision.

198:47 Submission of Data by School Districts. Every school district shall submit all attendance information required by the department of education under this subdivision on or before September 30 of each year. A $1,000 per day penalty shall be imposed on any school district that fails to submit attendance data in the time required by law unless waived for good cause by the commissioner of education. School districts penalized under this section shall not charge such penalty to the municipality or municipalities.

198:47-a Legislative Oversight Committee.

I. An oversight committee shall be established consisting of:

(a) The chairperson of the house education committee, or a designee.

(b) The chairperson of the senate education committee, or a designee.

(c) Three members of the house of representatives, appointed by the speaker of the house.

(d) Three members of the senate, appointed by the senate president.

(e) One member of the house finance committee, appointed by the speaker of the house.

(f) One member of the senate finance committee, appointed by the senate president.

II. The chair of the oversight committee shall rotate biennially between the chairperson of the house finance committee and the chairperson of the senate finance committee. The first chairperson shall be the chairperson of the house finance committee. A member shall only serve while a member of the general court. The members shall not be compensated but shall receive mileage at the legislative rate when carrying out their duties.

III. The oversight committee shall examine the goals, purposes, organization, operation, and financing of the state's program to provide a constitutionally adequate education, and it shall evaluate and make recommendations for the continued provisions and improvement of the program. Among the initial issues the committee shall consider and examine are:

(a) The so-called "market basket" approach to determining the cost of an adequate education;

(b) The appropriateness of a fixed or variable statewide property tax rate; and

(c) Methods for accelerating the collection and reporting of average daily membership in residence data, and improving the accuracy of such data as it originates from the initial reporting source.

IV. The oversight committee shall review the development and implementation of the program to ensure that they are in

accordance with legislative policy.

V. The oversight committee shall submit a report to the general court by November 1, of each odd-numbered year. Copies of the report shall be submitted to the governor, the senate finance and education committees, the house finance and education committees, the department of education, the department of revenue administration and to any other individual or organization as the committee deems advisable.

Excess Tax Payment, Homestead Exemption and Hardship Relief

198:48 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of revenue administration.

II. "Equalized assessed value" means "equalized assessed value" as defined in RSA 21-J:35, I-a(d).

III. "Homestead" means the dwelling owned by a claimant or in the case of a multi-unit dwelling, the portion of the dwelling which is used as the claimant's principal place of residence and the claimant's domicile for purposes of RSA 654:1. "Homestead" shall not include land and buildings taxed under RSA 79-A or land and buildings or the portion of land and buildings rented or used for commercial or industrial purposes. In this paragraph the term "owned" includes a vendee in possession under a land contract and one or more joint tenants or tenants in common.

IV. "Homestead value" means the net local assessed value of the homestead increased or decreased by dividing such value by the equalization ratio for the municipality for the previous year determined in accordance with RSA 21-J:9-a except that homestead value in municipalities which have completed a revaluation of property within the previous year shall be computed at full value.

V. "Household income" means the sum of the adjusted gross income for federal income tax purposes of the claimant and any member of the claimant's household who resides in the homestead for which claim is made.

198:49 Excess Education Property Tax Payment.

I. Except as provided in paragraph IV, municipalities whose education property tax or education property tax plus adequate education grant exceeds the amount necessary to fund an adequate education determined by RSA198:42, I(a) shall collect and remit such excess amount less the amount of any homestead exemptions under RSA 198:50 and hardship relief abatements granted by the selectmen under RSA198:51 to the department of revenue administration on or before June 30, of the year following the close of the tax year in which the excess occurs.

II. The amount of such excess to be remitted shall not include any income derived from the investment of funds by the town treasurer under RSA 41:29. Any funds remaining after full payment of the excess tax required in paragraph I shall become available for the unrestricted use by the municipality.

III. The commissioner shall collect from the selectmen the excess tax and pay over to the state treasurer the amount of funds collected under this subdivision for deposit in the education trust fund established by RSA 198:39.

IV. The commissioner shall calculate the excess amount owed by each municipality pursuant to paragraph I for the tax year 1999. Notwithstanding any other provision of this section, municipalities shall only collect and remit to the department of revenue administration not more than the following percentages of the tax year 1999 excess amount during the tax years 1999-2001:

(a) In tax year 1999, 25 percent.

(b) In tax year 2000, 50 percent.

(c) In tax year 2001, 75 percent.

198:50 Homestead Exemption.

I. A homestead exemption from education property tax imposed under RSA 76:3 in an amount not to exceed the lesser of 25 percent of the homestead value or $40,000, adjusted by the consumer price index for New England published by the United States Department of Labor for each succeeding year, rounded to the nearest $1,000, is hereby granted to any claimant qualifying under this section.

II. A qualifying claimant is a person who:

(a) Owns a homestead or interest in a homestead subject to the education property tax, and

(b) Files a claim for exemption certifying homestead ownership with the selectmen on or before July 1 of the tax year for which claim is made. Claims filed after July 1 shall not be considered timely for the current tax year, but shall be considered filed for the following tax year.

III. If a homestead is owned by 2 or more persons as joint tenants or tenants in common, and one or more of such joint owners do not principally reside at such homestead, the homestead exemption applies to the proportionate share of the homestead value that reflects the ownership percentage of the claimant. If more than one person files claims for exemption relative to a single tax parcel, the aggregate amount of the exemptions claimed shall not exceed the amount of exemption allowable for such parcel if only one person had filed a claim.

IV. If a homestead for which exemption is claimed is part of single tax parcel upon which is located other dwelling units or other significant nonresidential uses, the homestead exemption shall be claimed only on that portion of the homestead value of the tax parcel attributable to the homestead dwelling.

V. Claims shall be accepted as filed unless the selectmen have good reason to believe that any part of the claim is inaccurate or erroneous. Accepted homestead exemption claims shall continue from year to year without necessity for refiling unless there is a change in ownership or use of the property.

VI. On or before August 1 the selectmen shall report accepted claims to the department of revenue administration and the department of education.

198:51 Education Property Tax Hardship Relief.

I. As provided herein eligible claimants shall be granted hardship relief, in addition to the homestead exemption provided in RSA 198:50, for 4 tax years following the enactment of RSA 76:3.

II. An eligible hardship relief claimant is a person who

(a) Qualifies for the homestead exemption in RSA 198:50;

(b) Realizes in the first year after the effective date of the education property tax a net increase in property taxes as a result of the imposition of RSA 76:3, exclusive of the local portion of school, municipal and county taxes, and after application of the homestead exemption, which exceeds 20 percent of the school portion of such claimant's local property taxes for the tax year ended March31, 1999; and

(c) Realizes total household income of less than 75 percent of median total household income of all New Hampshire residents in the year in which the claim for relief is made.

III. The selectmen shall abate a portion of the net increase in an eligible hardship relief claimant's property taxes, exclusive of the local portion of school, municipal and county taxes, and after application of the homestead exemption, which portion is to be calculated as follows:

(a) Deduct the local school, municipal and county tax portion and the amount of the homestead exemption from the claimant's total current tax bill;

(b) Subtract the amount of the claimant's school property taxes for the tax year ended March 31, 1999 from the sum computed in subparagraph (a) to determine the net increase;

(c) Multiply the net increase computed in subparagraph (b) by one of the following percentages to determine the amount of the abatement:

(1) In the first year after the effective date of RSA 76:3, 50 percent of the net increase;

(2) In the second year after the effective date of RSA 76:3, 25 percent of the net increase;

(3) In the third year after the effective date of RSA 76:3, 10 percent of the net increase; and

(4) In the fourth year after the effective date of RSA 76:3, 10 percent of the net increase.

IV. Claims for hardship relief shall be filed with the selectmen on or before March 1 following the date of notice of tax under RSA 76:1-a.

V. If the selectmen have reason to suspect the accuracy of a claim for hardship relief, they may request that the claimant provide copies of any of the following, as needed to verify income. Any documents submitted shall be considered confidential, handled so as to protect the privacy of the claimant, and returned uncopied to the claimant after a decision is made on the claim. The documents are:

(a) Federal income tax form; and

(b) State interest and dividends tax form.

RSA 359-C shall not apply to the documents requested for verification under this paragraph.

VI. The commissioner shall each year publish a taxpayer information release denoting the median household income for New Hampshire residents based upon the most recent figure published by the United States Bureau of the Census for the category "median household income by state."

198:52 Rulemaking; Forms.

I. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the administration of this subdivision.

II. The commissioner shall approve and provide forms relative to the following:

(a) Reporting and remitting excess education property tax by municipalities;

(b) Claims for homestead exemption; and

(c) Claims for hardship relief.

III. Claim forms shall include the following:

(a) Instructions on completing and filing the form;

(b) Sections for information concerning the claimant, the claimant's household, the property for which exemption or relief is sought and such other information as is reasonably necessary to determining the accuracy of the claim;

(c) Instructions on appeal procedure and time limits relative to such appeals;

(d) A place for the claimant's signature with a certification by the claimant that the claim is made in good faith and that the facts contained in the claim are true.

198:53 Penalties. The preparation or filing of homestead exemption or hardship relief claims that are false shall be subject to the provisions of RSA 21-J:39, relative to criminal penalties.

198:54 Appeals.

I. Whenever the selectmen or assessors refuse to grant a claimant either a homestead exemption or an education property tax hardship relief request, the claimant may appeal in writing, on or before September 1 following the date of notice of tax under RSA 72:1-d, to the board of tax and land appeals or the superior court.

II. When a taxpayer appeals the denial of a claim to the superior court or board of tax and land appeals, the court or board may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court or board finds the selectmen's action to be arbitrary or unreasonable.

27 Reference Change. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of

calculating state aid under RSA 186-C:18 and [~~RSA198:27-37~~] ***adequate education grants under RSA 198:42***.

28 Reimbursement Anticipation Notes; Version Effective Until July 1, 1999. Amend RSA198:20-d to read as follows:

198:20-d Reimbursement Anticipation Notes. Notwithstanding any other provision of law to the contrary, a school district may incur debt in anticipation of reimbursement under RSA 186-C:18, ***and a municipality may incur debt in anticipation of reimbursement under RSA 198:43.*** The governing body, after receiving authorization for borrowing from the legislative body, may elect to recognize the proceeds of the borrowing as revenue for property tax rate setting purposes by providing written notification, prior to September 1, to the commissioner of the department of revenue administration stating the specific amount of borrowing to be recognized as revenue.

29 Reimbursement Anticipation Notes; July 1, 1999 Version. Amend RSA 198:20-d to read as follows:

198:20-d Reimbursement Anticipation Notes. Notwithstanding any other provision of law to the contrary, a school district may incur debt in anticipation of reimbursement under RSA186-C:18 ***and a municipality may incur debt in anticipation of reimbursement under RSA 198:43***. The governing body, after notice and public hearing, may elect to borrow such funds and to recognize the proceeds of the borrowing as revenue for property tax rate setting purposes by providing written notification to the commissioner of the department of revenue administration stating the specific amount of borrowing to be recognized as revenue. Any borrowing under this section shall be exempt from the provisions of RSA 33, relative to debt limits.

30 Sweepstakes. RSA 284:21-j is repealed and reenacted to read as follows:

284:21-j Establishment. The state treasurer shall credit all moneys received from the sweepstakes commission, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and RSA287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA198:39.

31 Transition. As of July 1, 1999, all funds, from any source derived, which would be distributed as foundation aid shall be deposited in the education trust fund under RSA 198:39, including the $62,000,000 appropriated under 1998, 389:16, II.

32 Removing Reference to Foundation Aid. Amend RSA 198:21, V to read as follows:

V. No pupil counted by any school district for the purpose of calculating the amount of a grant to be paid pursuant to this section shall for the same school year by the same district be [~~included in average daily membership for the purposes of foundation aid or~~] counted for the purposes of grants pursuant to RSA 198:22.

33 Removing Reference to Foundation Aid. Amend RSA 198:22, V to read as follows:

V. No pupil counted by any school for the purpose of calculating the amount of a grant to be paid pursuant to this section shall for the same school year by the same district be [~~included in average daily membership for the purposes of foundation aid or~~] counted for the purpose of grants pursuant to RSA 198:21.

34 Payment in Lieu of Taxes. Amend RSA 227-H:17 to read as follows:

227-H:17 Payment in Lieu of Taxes. The commissioner of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to forms for application to the commissioner of revenue administration for payment for lost taxes. [~~In any year in which no state tax is levied,~~] Any town in which national forest lands and land held by the state for operation and development as state forestland, as defined by the department for the purposes of this section, are situated, whether acquired by gift, devise, purchase, or in any other manner, may apply, by its selectmen, to the commissioner of revenue administration on forms provided by the commissioner, annually before September 1, for the payment of an amount not exceeding the taxes for all purposes which such town might have received from taxes on such lands in such year had such lands been taxable. In the event that the amount appropriated in any biennium shall be insufficient for the purposes under this section, then the towns entitled to benefits under this section shall be reimbursed proportionately, unless otherwise subsequently ordered by the legislature.

35 Special Transition Rules. The following special transition rules shall apply to the implementation of this act in the first fiscal year following enactment:

I. The commissioners of revenue administration and education shall use weighted average daily membership in residence as defined in RSA 198:38, VI established on or before June 30, 1997 in all calculations required by RSA 21-J: 35, I-a and RSA 198:42, I.

II. "Equalized assessed value" as defined in RSA 21-J:35, I-a(d) shall be based upon the amounts reported in the 1997 equalization survey published by the department of revenue administration.

III. For purposes of calculating the uniform education property tax rate as required by RSA21-J:35, I-a the commissioner of revenue administration shall use the following amounts:

(a) The total amount to be subtracted pursuant to RSA 21-J:35, I-a(b) shall be $282,953,070; and

(b) The total amount to be added pursuant to RSA 21-J:35, I-a(c) shall be $42,038,237.

IV. For the school year 1999/2000, the adequate education grant determined in RSA 198:42 shall be distributed to each municipality from the education trust fund in 4 payments as follows:

(a) On July 1, 1999, and September 1, 1999, ¼ the total adequate education grant without including any homestead exemption amounts;

(b) On January 1, 2000 and April 1, 2000, ¼ the total adequate education grant including 1/2 of the total accepted homestead exemption amounts. The department shall certify the amount of each grant to the state treasurer and direct the payment thereof to the municipality.

V. For the tax year 1999, claims for a homestead exemption shall be filed with the selectmen on or before September 1, 1999.

VI. For the tax year 1999, selectmen shall report accepted claims for the homestead exemption to the department of revenue administration and the department of education by December 1, 1999.

VII. Notwithstanding any other provision of law, the commissioner of revenue administration shall calculate the uniform education property tax rate for the April 1, 1999 tax year and issue the warrants required by RSA 76:8 on or before 30 days after the effective date of this act.

VIII. Notwithstanding any other provision of law, the commissioner of education shall determine the amount of the adequate education grant for each municipality pursuant to RSA198:42 for the 1999/2000 school year on or before 30 days after the effective date of this act.

36 Position Established; Appropriations.

I. To carry out the financial and educational reporting requirements of this act, there is hereby established within the department of education a full-time temporary position of systems development specialist IV, labor grade 25, for the 15 month period ending June 30, 2000.

II. The sum of $69,500 is hereby appropriated to the department of education to fund the position created in paragraph I, including salary, benefits, rent, supplies, and travel. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

III. The sum of $1,000,000 for the biennium ending June30, 2001, is hereby appropriated to the department of revenue administration to fund the costs necessary to upgrade municipalities' computer systems to carry out the financial purposes of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

IV. The sum of $2,000,000 for the biennium ending June30, 2001, is hereby appropriated to the department of revenue administration to fund the costs necessary to implement this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

V. The sum of $100,000 for the biennium ending June 30, 2001 is hereby appropriated to the department of education to fund the costs necessary to upgrade school districts' computer systems to carry out the reporting responsibilities of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

VI. The sum of $282,953,070 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education for each year of the biennium ending June 30, 2001 for the purpose of funding the requirements of RSA198:43.

37 Special Provision for Foundation Aid. Notwithstanding the repeal pursuant to section 40 of this act of RSA 198:27-37, relative to foundation aid and alternative foundation aid, the payment of foundation aid to be made in April 1999 pursuant to

RSA 198:31 before such section is repealed, shall be calculated by the department of education and distributed to the recipients as if such repeal had not occurred.

38 Utility Property Valuation Study Committee Established.

I. There is established a committee to study utility property valuation issues.

II. The members of the committee shall be as follows:

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives, at least one of whom shall be a member of the finance committee, at least one of whom shall be a member of the municipal and county government committee, and at least one of whom shall be a member of the science, technology and energy committee. The speaker of the house of representatives may appoint three other members, if deemed necessary, as alternates.

(b) Five members of the senate, appointed by the president of the senate.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee's duties shall include but not be limited to:

(a) Determining the most appropriate means of evaluating utility property for taxation purposes, and determining to what extent the "unit method" should be used for this purpose.

(b) Determining the extent to which utility property is evaluated consistently from one municipality to another.

(c) Determining the most appropriate means of evaluating nuclear station property.

(d) Determining the most appropriate means of taxing telecommunications services and evaluating property used for providing these services.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be held within 90 days of the effective date of this section. Five members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1999.

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

40 Repeal. The following are repealed:

I. RSA 78:20, relative to the applicability of the tobacco tax.

II. RSA 78-B:10-a, relative to the real estate transfer questionnaire, is repealed.

III. RSA 21-J:3, XXIII, relative to the commissioner of revenue administration's duty to determine local per capita income for purposes of foundation aid.

IV. RSA 21-J:13, XI, relative to the form and content of the real estate transfer questionnaire.

V. RSA 194-B:11, VIII, relative to foundation aid in relation to charter and open enrollment schools.

VI. RSA 198:1-3, relative to required annual district property taxes.

VII. RSA 198:21, V, relative to the applicability of foundation aid and child benefit service grant recipients in the calculation of average daily membership.

VIII. RSA 198:22, V, relative to the applicability of foundation aid and dual enrollment grant recipients in the calculation of average daily membership.

IX. RSA 198:27-37, relative to foundation aid and alternative foundation aid.

41 Effective Date.

I. Sections 22 and 30 of this act shall take effect July 1, 1999.

II. The remainder of this act shall take effect April 1, 1999.

AMENDED ANALYSIS

This bill creates a state education property tax at a uniform rate to provide support to communities for an adequate education. It allows homeowners a homestead exemption for their primary residence and provides additional hardship relief to low income homeowners whose school property taxes are substantially increased as result of this tax.

The bill establishes a dedicated trust fund, to be funded by revenues from a state utility property tax, the tobacco tax and other sources, for the purpose of making distributions to municipalities with insufficient property base to raise adequate education funds on their own and to compensate municipalities for the homestead exemption and hardship relief.

The bill also repeals foundation aid.

1999-0052h

Amendment to HB 244

Proposed by the Committee on Municipal and County Government - C

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership of the Authority.

I. The mayor of the city of Laconia or designee, one member of the board of commissioners of Belknap county or designee, and one member of the board of selectmen of the town of Gilford or designee, ex-officio, together with 4 residents of Laconia and 2 residents of Gilford, appointed as hereinafter provided, shall constitute the Authority, and shall be vested with all the powers and charged with all the duties hereinafter granted to and imposed upon the Authority.

II. After public hearing, any of the appointed members of the Authority may be removed by a majority vote of the appointive agency upon written findings of cause, including but not limited to inefficiency, neglect of duty, or malfeasance. The member of the Authority appointed by Belknap county commissioners and the member of the Authority appointed by the Gilford board of selectmen may be removed only by a majority vote of their respective agencies. The mayor of the city of Laconia may be removed from the Authority only through the vacancy of his or her office as mayor.

3 Appointive Agency; Other Members. The mayor of the city of Laconia, the members of the city council of Laconia, the commissioners of Belknap county and the board of selectmen of the town of Gilford, hereinafter referred to as the appointive agency, shall, acting as a body over which the mayor of the city of Laconia shall preside, elect 6 other members of the Authority, who shall serve for a term of 4 years and until their successors are elected. But in no case shall they serve more than 2 consecutive terms.

Amend the bill by replacing section 7 with the following:

7 Officers; Action by Majority. The mayor of the city of Laconia shall be the chairperson of the Authority. The Authority shall elect annually from its membership a vice chairperson, clerk, and treasurer and prescribe their duties. The treasurer shall be the financial agent of the Authority and shall furnish such bond as the appointive agency shall determine. The concurrence of a majority of the membership of the Authority shall be necessary to constitute action by the Authority.

Amend the bill by inserting after section 16 the following and renumbering the original sections 17-19 to read as 18-20, respectively.

17 Civil Liability; Indemnification. No member of the Authority shall incur personal or individual liability for any actions taken in good faith as a member of the Authority. Further, the Authority shall indemnify and save any member harmless from any loss, claim or damages suffered as a result of any vote or action taken in good faith as a member of the Authority including personal financial loss and expenses, such as reasonable legal fees and costs, if any, arising out of any claim, demand, suit or

judgment arising from the good faith execution of his or her duties as a member of the Authority.

1999-0104h

Amendment to HB 245

Proposed by the Committee on Resources, Recreation and Development - C

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

1 State Treasurer and State Accounts; Application of Receipts; General Revenue Exceptions; Navigation Safety Fund. RSA 6:12, I(ppp) is repealed and reenacted to read as follows:

(ppp) Moneys deposited in the navigation safety fund established in RSA 270-E:6-a.

2 Taxation; Boat Fee; Collection by Department of Safety; Costs Appropriated to Navigation Safety Fund. Amend RSA 72-A:4, III to read as follows:

III. In addition to the fee set in RSA 72-A:3, $1 shall be paid to cover the cost of collection. When the fee is collected by a clerk, tax collector, or authorized agent, he or she shall retain the $1 as compensation. When the fee is collected by the department of safety, [the department shall send the $1 to the treasurer to be deposited in the general fund] the fee shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

3 Taxation; Boat Fee; Town Treasurer; Collection by Department of Safety; Boat Fees Appropriated to Navigation Safety Fund. Amend RSA 72-A:5, II to read as follows:

II. When the boat fee is collected by the department of safety, [the department shall at least weekly send all boat fees so collected to the state treasurer to be deposited in the general fund] the fee shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

4 Supervision of Navigation; Administration and Enforcement; Auxiliary Marine Patrol; Powers. Amend RSA 270:12-c, I-III to read as follows:

I. The commissioner of safety may establish a force of individuals to assist the director of safety services and [his] the marine patrol officers to patrol the various bodies of water in the state. Any person that patrols any water body on behalf of the department shall either be a certified marine patrol officer or an auxiliary officer appointed under the provisions of this section.

II. An individual appointed by the commissioner as an auxiliary officer under this section shall be either a paid part-time employee of the department or a volunteer, and may be, but shall not [necessarily] be [a full-time or part-time] required to be, a certified police officer. An auxiliary officer shall be subject to such training requirements as the commissioner shall deem necessary.

III. [An auxiliary officer appointed pursuant to this section shall be granted such police powers as the commissioner deems necessary, provided that such powers shall not include the powers of arrest, detention, or the issuance of citations for offenses.] The report of an auxiliary officer to [a marine patrol]any peace officer [or other authority] shall be prima facie evidence relative to the violation or offense reported.

5 Supervision of Navigation; Mooring of Boats on Public Waters; Decal Issuance, Display, Replacement, Renewal, and Fee; Mooring Fee; Appropriation to Navigation Safety Fund. Amend RSA 270:62, V to read as follows:

V. An annual mooring fee of $25 shall be charged for each decal issued pursuant to this subdivision which shall be deposited in the navigation safety fund established under RSA270-E:6-a.

6 Supervision of Navigation; Mooring of Boats on Public Waters; Public Mooring Fields; Application Fee; Appropriation to Navigation Safety Fund. Amend RSA 270:67, I(c) to read as follows:

(c) Each public mooring field applicant shall be assessed a fee of $25 which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

7 Supervision of Navigation; Mooring of Boats on Public Waters; Congregate Mooring Fields; Mooring Fee; Appropriation to Navigation Safety Fund. Amend RSA 270:67, II(c) to read as follows:

(c) Each congregate mooring field permitted by the director shall be assessed an annual mooring fee of $25 for each mooring installed in the congregate mooring field which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

8 New Section; Supervision of Navigation; Vessel Registration and Numbering; Navigation Safety Fund. Amend RSA 270-E by inserting after section 6 the following new section:

270-E:6-a Navigation Safety Fund. There is established the navigation safety fund which shall be nonlapsing and continually appropriated to the department of safety, division of safety services. The state treasurer may invest moneys in the fund as provided by law and all interest received on such investment shall be credited to the fund. The fund shall only be used to promote the safety of navigation and the administration and enforcement of RSA 270, RSA 270-B, RSA 270-D, and RSA270-E.

9 Navigation; Vessel Registration and Numbering; Disposition of Revenues; Appropriation to Navigation Safety Fund. Amend RSA 270-E:7, I to read as follows:

I. Except as provided in paragraph II, all fines collected under this chapter and the amount of fees generated by RSA 270-E:5, I and III shall be [made available to the department of safety, division of safety services for the promotion of the safety of navigation and the administration and enforcement of this chapter. Such sums shall be nonlapsing and shall be continually appropriated to the department of safety, division of safety services] deposited in the navigation safety fund established under RSA 270-E:6-a.

10 Navigation; Vessel Registration and Numbering; Licenses and Inspections; License Fees; Appropriation to Division of Safety Services. Amend RSA 270-E:23 to read as follows:

270-E:23 License Fees. There shall be paid to the commissioner for every general certificate of captain, master, pilot or engineer, $4; and for every limited certificate of captain, master, pilot or engineer, $2. A general certificate shall entitle the holder thereof to act in the capacity named on any vessel of the class described in the certificate; a limited certificate shall entitle [him] the holder to act in such capacity only on a particular vessel named in the certificate. Only one certificate shall be required to entitle the holder thereof to act in any or all of the above capacities on any motorized vessel permitted to carry a maximum of 25 persons. The fees paid for certificates issued under this section shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

11 Repeal of Prospective Repeal. 1998, 324:4, relative to repealing the navigation safety fund general revenue exception, is repealed.

12 Effective Date.

I. Section 9 of this act shall take effect July 1, 1999 at 12:01 a.m.

II. Section 11 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1999.

1999-0059h

Amendment to HB 253

Proposed by the Committee on Election Law - C

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

AN ACT allowing ballots to be examined and counted prior to the opening of polls on election day.

Amend the bill by replacing section 1 with the following:

1 Elections; Pre-Election Procedure; Election Day Morning Procedures; Counting Ballots; Prior to Opening of Polls. Amend RSA 658:31 to read as follows:

658:31 Counting Ballots. At ***or prior to*** the opening of the polls in each town or ward, the seal of the packages shall be publicly broken by the town or ward clerk; and the ballots shall be given to the ballot clerks and the ballots shall be examined and counted by the election officers ***in the presence of the clerk, the moderator, and at least one other legal voter***. ***If the***

ballots are counted prior to the opening of the polls, the clerk shall post, in an appropriate place and prior to election day, notice of the time and place of the counting.

AMENDED ANALYSIS

This bill allows ballots to be examined and counted prior to the opening of polls on election day in the presence of the clerk, the moderator, and at least one other legal voter.