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Contains: Additional Committee Report and Floor Amendments.

HOUSE CALENDAR

THURSDAY, APRIL 22

ADDITIONAL COMMITTEE REPORT

FINANCE

HB 740-FN-A-L, increasing the amount of district foundation aid. INEXPEDIENT TO LEGISLATE

Rep. Jeffrey C. MacGillivray for Finance: This bill proposes to address the Claremont issue by enacting a two-year interim solution of \$245 million of local aid per year under the existing foundation aid formula, and asking the Supreme Court for permission to use this interim solution for these two years, or until a permanent solution is adopted. The bill would only take effect if the Supreme Court allows the taxing system to fund public education in effect during the 1998 tax year to be in effect until the end of the 2000 tax year.

However, this bill does not solve the long-term issue. The sponsor has stated clearly that this bill is only an interim solution, which would be sent to the Court with a request that it be approved as an interim solution. This bill doesn't solve the problem, doesn't address adequacy, and doesn't equalize tax rates for any towns for any portion of educational spending. While it is conceivable that the Court might approve an interim solution as part of a complex permanent solution, the Committee finds it

extremely unlikely that the Court which has denied an extension in the past would consent to any interim solution without a permanent solution attached. Vote 19-4.

THURSDAY, APRIL 22

FLOOR AMENDMENTS

1999-0901h

Amendment to HB 549-LOCAL

Proposed by Reps. Lovejoy, Dyer, Davis, McCarthy and Vaughn

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

AN ACT relative to tax reform, local property tax relief, and education funding, and making an appropriation therefor; and repealing the business enterprise tax.

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

1 Declaration of Need and Purpose.

I. Recognizing the duty imposed by part II, article 83 of the New Hampshire constitution to ensure proper diffusion of knowledge and learning throughout the state, the general court finds that measures heretofore authorized for financing primary and secondary education inadequately comply with the mandate of the constitution. More particularly, the general court finds that reliance upon taxation of property assessed locally on differing bases and at differing rates:

(a) Fails to achieve the goal of a constitutionally adequate education for each of the state's youth, in that expenditures for every child's public education depend on the taxable wealth per pupil in the community where the child resides and, because of the great disparity of taxable wealth among the communities, amounts raised to meet the basic expenses of public education vary widely, thereby creating inherent inequality; and

(b) Imposes disproportionate burdens of taxation on persons having low and moderate income in each community and especially on such persons in communities having lesser amounts of taxable wealth per pupil, as in such communities heavier property tax burdens are imposed in order to raise sums sufficient to meet the costs of basic public education, against the spirit and intent of part I, article 12 and part II, articles 5, 6, and 83 of the New Hampshire constitution.

II. The purpose of this act is to more nearly satisfy the requirements of part I, article 12 and part II, articles 5, 6, and 83 of the New Hampshire constitution by establishing a system for:

(a) Financing the basic costs of public primary and secondary education sufficient to provide a constitutionally adequate education on an equal basis throughout the state, thereby redressing the presently existing inequality of educational financing and opportunity;

(b) Financing such basic costs from a source other than the local property tax alone, thereby alleviating the disproportionate burden presently borne by persons of low and moderate income; and

(c) Maintaining local control of public education by distributing adequate education funding grants to the school districts of the state.

(d) Implementing an interim plan for adequate education funding for the biennium ending June 30, 2001 that provides a transition to a more comprehensive and accurate funding plan to be established for the next biennium, with advice from the adequate education and education financing reform commission.

III. The general court finds that:

(a) The general good, benefit and welfare of the state is advanced by promoting home ownership and that an exemption of the first \$250,000 of equalized value of primary residences (homesteads) from the statewide education property tax is reasonable, especially considering that resident homeowners will be subject to the education income tax that will become the primary source of revenue to replace the local school property tax;

(b) It is reasonable to exempt only the first \$250,000 of equalized value of homestead property from the statewide education property tax as that amount is approximately twice the average market value of a new home and greater than the median home value in every or nearly every community in the state, and as such represents a reasonable price or value limit within which residents can obtain and maintain a reasonable amount of shelter and comfort from a home and that homestead value, which includes the land on which the home is situated, in excess of \$250,000 for each primary residence may reasonably be considered to be in excess of basic shelter and comfort requirements for a home and as such should be subjected to the statewide education property tax that applies to all other property beyond basic homestead requirements;

(c) It is reasonable and just that renters, who do not directly pay property taxes, be allowed a renter's credit against their education income tax liability that approximates the statewide education property tax paid by the owner of the rental dwelling unit;

(d) A uniform standard exemption of income from the education income tax for all taxpayers and dependents is a just, reasonable and proportionate means to assure that each taxpayer has the ability to earn a minimal subsistence level of income before being subject to the burden of income taxations, and that single heads of households are an appropriate class of people for whom an additional modest exemption from the education income tax is just and reasonable; and

(e) To promote industry, frugality and a positive work ethic, a modest exemption from the education income tax on income earned by dependents is just and reasonable.

2 New Chapters; Statewide Education Property Tax; Education Income Tax. Amend RSA by inserting after chapter 76 the following new chapters:

CHAPTER 76-A

STATEWIDE EDUCATION PROPERTY TAX

76-A:1 Definitions. In this chapter:

I. "Assessing official" means the assessing authority of any town, city, or unincorporated place.

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

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

IV. "Dwelling" means the house or habitation for a natural person or persons consisting of a structure that provides shelter from the elements and contains at minimum a space for preparation and consumption of food and for repose on a daily basis.

V. "Education trust fund" means the education trust fund established in RSA 198:39.

VI. "Equalized assessed value" or "equalized assessed valuation" 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 utility property, the value of property subject to tax under RSA 82 and the value of property exempted pursuant to RSA 72:37-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.

VII. "Equalized value" means the locally assessed value equalized by the commissioner according to the equalization method specified in RSA 21-J:9-a and RSA 76-A:2, III, except that for municipalities which have undergone a total revaluation of taxable property within the prior year the commissioner shall use the actual value of such property as determined by such revaluation.

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

IX. "Homestead" or "homestead property" 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, 79-B, or 79-C 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.

X. "Tax" means the statewide education property tax imposed pursuant to RSA 76-A:2.

XI. "Taxable real estate" means property subject to tax under RSA 72 and utility property, except property subject to tax under RSA 82 and homestead property.

XII. "Tax collector" means the appointed or elected collector of taxes for a municipality.

XIII. "Taxpayer" means any person subject to tax under RSA 72 and RSA 73 owning taxable real estate.

XIV. "Tax year" means the twelve month period beginning April 1 and ending March 31 of the succeeding calendar year.

XV. "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.

XVI. "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 NewHampshire 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.

76-A:2 Statewide Education Property Tax Imposed. A statewide education property tax is imposed on all taxable real estate in the state as follows:

I. On the effective date of this chapter the rate of tax shall be 0.6 percent of equalized assessed valuation for the first tax year.

II. For subsequent tax years, the rate of tax shall be set through legislative action each year on or before June 30, but shall continue at the prior year's rate if no action is taken by the legislature.

III. The commissioner shall equalize the rate of taxation determined pursuant to paragraphs I or II for each municipality by multiplying such rate by the municipality's equalization ratio determined according to RSA 21-J:9-a, except that for municipalities which have undergone a total revaluation of taxable property within the prior year the commissioner shall use the actual value of such property as determined by such revaluation.

76-A:3 Commissioner's Warrant.

I. The commissioner shall annually calculate the portion of tax to be raised by each municipality by multiplying the equalized rate in RSA 76-A:2, I by the total assessed value of all taxable real estate except utility 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 plus any amount added pursuant to paragraph III to the selectmen or assessing officials of each municipality at the same time as tax rates are set under RSA 21-J:35 directing them to assess such sum and pay to the municipality for the use of the school district or districts or to the department for deposit in the education trust fund in RSA 198:39 such sums and at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

III. In calculating the tax to be assessed pursuant to the warrant, the commissioner may assess a sum not exceeding 5 percent more than the amount of the tax calculated in paragraph I for the purpose of answering any abatements that may be made.

IV. The commissioner shall report the total amounts assessed to each municipality to the governor, speaker of the house of representatives, president of the senate, state treasurer and department of education on or before September 30.

76-A:4 Homestead Exemptions.

I. The first \$250,000 of equalized value of homesteads of qualifying taxpayers are exempt from the tax due under this chapter.

II. A qualifying taxpayer is an individual who:

(a) Is subject to the education income tax under RSA 76-B or qualifies for a local property tax exemption under RSA 72:39-a.

(b) On April 1 owns a homestead or interest in a homestead subject to the education property tax; and

(c) Files a claim certifying under the pains and penalties of perjury that such taxpayer qualifies under subparagraph (a) and (b) with the selectmen or assessing officials on or before July 30, 2000 or, in subsequent years, May 1 of the tax year for which claim is made. Claims filed after July 30, 2000 or May 1 of subsequent years shall not be considered timely for the current year, but shall be considered filed for the following tax year.

III. Upon receipt of a claim for a homestead exemption under RSA 76-A:4, the selectmen or assessing officials shall review the claim and shall grant or deny the claim in writing by September 1st following receipt of the claim. Failure of the selectmen or assessing officials to respond shall constitute acceptance of the claim. Accepted claims shall continue from year to year without necessity for refileing unless there is a change in ownership, or use of the property. Accepted claims may at any time be revoked for any tax year or portion thereof following the occurrence of one or more of the following events:

(a) The claimant fails to file a return as required under RSA 76-B:6 within one year following the close of the tax year for which exemption is claimed; or

(b) The claimant is no longer qualified for local property tax exemption under RSA 72:39-a; or

(c) The claimant is no longer qualified under the definition of homestead in RSA 76-A:1, IX due to a change in ownership or use.

IV. Claims shall be made on forms prescribed by the commissioner and provided to each municipality.

V. The following shall apply to the determination of the amount of property value exempted relative to a homestead which is part of a single tax parcel upon which is located other dwelling units not owned or occupied by the taxpayer or other significant non-homestead property:

(a) If the tax parcel includes property used for business or other nonresidential use, the exempt homestead amount shall include in addition to the actual homestead the lesser of 1,000 square feet of floor area of such non-homestead property or \$25,000 of equalized value up to a total of \$250,000 in equalized value, except that family owned and operated farms which are not owned by a business entity or held in the name of a non-natural person shall be eligible for the full homestead exemption on all property not assessed under RSA 79-A, 79-B, or 79-C up to \$250,000 in equalized value.

(b) If the tax parcel includes other dwellings or dwelling units, the value of the homestead exemption relative to the claimed homestead shall be determined by the assessing official as follows:

(1) Divide the value of the tax parcel by the number of dwelling units; or

(2) If the square footage of each dwelling unit is known, multiply the value of the tax parcel by a fraction consisting of the square footage of the claimed homestead divided by the total square footage of all dwelling units in the parcel; or

(c) In lieu of the methods of determining the amount of homestead exemption in subparagraph (a) or (b), a taxpayer may present competent evidence of a greater proportion of exempt value to the assessing officials. In such instance the taxpayer bears the burden of proving the claimed exemption by the preponderance of the evidence.

VI. If a taxpayer purchases a homestead after April 1 for which no homestead exemption was claimed by the previous owner, the taxpayer may apply to the department for a refund of statewide education property tax previously paid on the homestead, but for which no application was made. The amount of such refund shall be apportioned according to the number of days in the tax year the taxpayer owned and occupied the homestead. Claims by taxpayers purchasing homestead property shall be filed with the inventory of property transfer required to be filed with the municipality pursuant to RSA 74:18. The selectmen or assessing officials shall, within 30 days of filing of the referral claim, accept or deny it and, if accepted, notify the department. The department shall certify the amount of such refund to the state treasurer for payment from the education trust fund created by RSA 198:39.

VII. Manufactured housing as defined in RSA 674:31 qualifying as homestead property and sited on land not owned by the claimant shall be eligible for the homestead exemption based on the value of such manufactured housing without the land.

76-A:5 Time of Assessment and Payment. Except as provided in this chapter with respect to utility property, the tax shall be deemed assessed on April 1 in each year and is payable at the same time or times as the local property tax assessed by the municipality.

76-A:6 Collection. The assessing officials for each municipality shall make a list of all taxes by them assessed against property under their hands and seals to the tax collector, directing the tax collector to collect the statewide education property taxes

along with other property taxes. It shall be listed as a separate line on the municipal property tax bill. Upon application by the assessing officials, the commissioner for good cause may extend the time for delivery of the statewide education property tax warrant.

76-A:7 Remedies for Collection. The statewide education property tax may be collected by all of the means and methods provided by law for the collection of property taxes.

76-A:8 Interest and Charges for Nonpayment. Nonpayment of the tax shall incur the same charges and interest as are imposed by law for nonpayment of local property taxes. Such charges and interest shall be payable to the municipality.

76-A:9 Abatement. The tax may be abated in the same manner as provided by law for abatement of local property taxes. Municipalities shall be reimbursed for the amount of such abatements on an annual basis, or at some more frequent interval at the discretion of the commissioner. Such reimbursement shall be payable by the state treasurer from the education trust fund created by RSA 198:39 upon certification of the amount of reimbursement by the commissioner to the treasurer.

76-A:10 Liability of Cities and Towns. Each municipality shall be liable to the state for all taxes lawfully collected in such municipality.

76-A:11 Payment to State. Each municipality shall cause its tax collector to certify such information as the state treasurer shall require, and shall cause its treasurer to pay over to the state treasurer, less any payments due to the municipalities' school district or districts from the state treasurer under RSA 198:42 and any amounts retained by the municipality under RSA 76-A:12, 25 percent of the tax assessed by the municipality on or before each of the following dates: July 1, October 1, January 1, and April 1.

76-A:12 Computation for Costs. A municipality may retain for its unrestricted use 2 percent of the amount of tax assessed by it as compensation for the costs of collecting such taxes administering homestead claims and assessments, and otherwise complying with the provisions of this chapter and RSA 76-B. Such amount shall not be included in the amount payable by the municipality to the state treasurer under RSA 76-A:11. In addition municipalities may keep any interest earned on taxes that are collected but not due and remitted to the state treasurer, as additional compensation for the costs of collection.

76-A:13 Extents. The state treasurer may also issue an extent for the amounts of all taxes not remitted by any municipality as provided in this chapter.

76-A:14 Supplementary Bond of Collector. Whenever the commissioner considers it necessary, a tax collector may be required to furnish a further and additional bond beyond that required by other provisions of law, with sureties, in such form and amount as the commissioner approves. The additional premium costs shall be paid by the state.

76-A:15 Local Property Taxes for Residual Expense of Education. Municipalities are hereby authorized to assess and collect property taxes locally, under general provisions of law, to meet budgeted expenses of education not funded through distributions from the education trust fund under RSA 198:39 or the moneys raised under this chapter.

76-A:16 Appeals of Homestead Exemptions.

I. Whenever the selectmen or assessing officials refuse to grant a taxpayer a homestead exemption, or grant an exemption less than the amount claimed by the taxpayer, or the taxpayer is aggrieved by a determination by the assessing official under this chapter, the taxpayer may appeal in writing, on or before March 1 following the date of notice of tax under RSA 72:1-d, to the board of tax and land appeals.

II. When a taxpayer appeals the denial of a claim to the board of tax and land appeals, the 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 board finds the selectmen's or assessing official's action to be arbitrary or unreasonable.

Utility Property

76-A:17 Utility Property; 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.

76-A:18 Determination of Utility Property. 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.

76-A:19 Returns and Declarations.

I. On or before January 15 each tax 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. 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.

IV. 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.

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

76-A:20 Records.

I. Every person liable for tax under this subdivision 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.

76-A:21 Utility Property Administration.

I. The commissioner shall collect the taxes, interest, additions to tax and penalties relative to the tax on utility property owners as provided under this subdivision. The commissioner shall determine the expense of administration of this subdivision 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 subdivision 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 subdivision. 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 on utility properties under RSA 76-A:2 and this subdivision;
- (b) The valuation of utility property required under RSA 76-A:18; and
- (c) The recovery of any tax, interest on tax, or penalties imposed on utility property under this chapter.

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 on utility property by this chapter.

V. In the collection of the tax imposed on utility property 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.

76-A:22 Utility Property Valuation Appeals. Utility property taxpayers aggrieved by the determination by the commissioner of the value of utility property pursuant to RSA 76-A:18 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.

76-A:23 Disposition of Taxes. All funds received by the state treasurer under the provisions of this chapter shall be deposited in the education trust fund established by RSA 198:39.

CHAPTER 76-B
EDUCATION INCOME TAX

76-B:1 Definitions. In this chapter:

- I. "Consumer price index" means the consumer price index for all urban consumers, seasonally adjusted, all items, United States city average, published by the United States Department of Labor.
- II. "Department" means the department of revenue administration.
- III. "Education trust fund" means the education trust fund established in RSA 198:39.
- IV. "Individual" means a natural person, including any individual who is a partner in a partnership as to such person's share of the partnership income and any individual who is a sole proprietor as to such person's income as a sole proprietor.
- V. "New Hampshire modified gross income" means New Hampshire modified gross income as determined in RSA 76-B:3.
- VI. "New Hampshire taxable income" means New Hampshire taxable income as determined in RSA 76-B:3.
- VII. "Nonresident individual" means an individual who receives wages, self-employment, or unearned income for the taxable year from sources in this state, who maintains his or her domicile outside the state.
- VIII.(a) "Resident fiduciary" means:
 - (1) The executor or administrator of the estate of a decedent who at death was domiciled in this state;
 - (2) The trustee of a trust created by will of a decedent who at death was domiciled in this state; or
 - (3) The trustee of a trust created by, or consisting of property of, a person domiciled in this state.
 - (4) The trustee of a trust the property of which includes a business organization as defined in RSA 77-A:1, with business activity in New Hampshire as defined in RSA 77-A:1.
 - (5) The trustee of a trust that has at least one beneficiary who is a resident individual, where, in the case of an individual, the trustee of the trust is a resident of NewHampshire or, in the case of a corporation or other business entity, has a place of business in New Hampshire.
- (b) "Resident fiduciary" shall not include the trustee of any trust which is taxable as a corporation under the United States Internal Revenue Code, and shall not include a trust to the extent it is considered to be a grantor trust pursuant to sections 671-679 of the United States Internal Revenue Code.
- IX. "Resident individual" means:
 - (a) An individual domiciled in the state; or

(b) An individual who maintains a permanent place of abode within the state and spends more than 183 days of the taxable year within the state.

X. "Taxable year" means the calendar or fiscal year or portion thereof which the taxpayer uses for federal income tax purposes under the United States Internal Revenue Code.

XI. "Taxpayer" means any individual or fiduciary subject to the provisions of this chapter.

XII. "Unearned income" means any income which is not wage or self employment income, including but not limited to capital gains, distributions from S corporations, partnerships, limited liability companies or other similar entities, dividends, interests, rents and royalties.

XIII. "United States Internal Revenue Code" means the United States Internal Revenue Code of 1986 as amended, including the United States Department of the Treasury's regulations. The forms and procedures of the United States Internal Revenue Service may 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.

76-B:2 Imposition of Tax. A tax is imposed upon every resident and nonresident individual and upon every resident fiduciary at the rate of 4 percent of New Hampshire taxable income as determined in RSA 76-B:3. A 60 percent majority of those present and voting of each house of the general court shall be necessary to increase the tax rate under this section above 4 percent of New Hampshire taxable income.

76-B:3 New Hampshire Taxable Income.

I. "New Hampshire taxable income" means, for any taxable year:

(a) In the case of a resident or nonresident individual, the individual's New Hampshire modified gross income, as defined in paragraph II of this section, less the following:

(1) An additional exemption of \$11,000 for the taxpayer and an additional exemption of \$11,000 for the taxpayer's spouse if a joint return is made, provided that the taxpayer or spouse is not claimed as a dependent on another taxpayer's federal income tax return or New Hampshire income tax return; and

(2) An additional exemption of \$3,000 for each dependent to which the taxpayer is entitled for federal tax purposes under the United States Internal Revenue Code, provided that the dependent is not claimed as a dependent on another person's federal income tax return or New Hampshire income tax return. A person who is claimed as a dependant under this subparagraph and who has earned income from wages, self employment income, or farm income which is taxable under this chapter, shall be entitled to an exemption of \$3,000 of such earned income on that person's New Hampshire income tax return; and

(3) An additional exemption of \$3,000 for a taxpayer entitled to a head of household status for federal tax purposes under the United States Internal Revenue Code.

(b)(1) In the case of a resident fiduciary, the amount shown as total taxable income on the fiduciary's United States fiduciary income tax return:

(A) Increased by:

(i) Any interest or dividend income on obligations or securities of another state of the United States; and

(ii) Any interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempted from the federal income tax; and

(B) Decreased by interest on, and dividends on securities attributable to the interest on, the direct obligations of the United States government.

(2) For a resident fiduciary with at least one beneficiary that is not either a resident individual or another resident fiduciary, the amount of income derived by application of subparagraph (1) shall be multiplied by a fraction, the numerator of which is income properly accumulated for the benefit of resident individuals or resident fiduciaries and the denominator of which is all income property accumulated.

(c) The exemptions allowed under this paragraph shall be in place for the first year of the tax only. The commissioner of revenue administration shall increase the exemption allowed in each succeeding year by an amount which equals the percentage increase in the consumer price index for a recent prior annual period established by rule by the commissioner, and rounded to the nearest \$10.

II. "New Hampshire modified gross income" means, for any taxable year, the amount of the taxpayer's adjusted gross income for federal income tax purposes under the United States Internal Revenue Code:

(a) Decreased by:

(1) Interest on, and dividends on securities attributable to interest on, the direct obligations of the United States government; and

(2) The amount of income taxable under this chapter which is also taxed as business profits under RSA 77-A.

(b) Increased by:

(1) Any interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempted from the federal income tax; and

(2) Any interest or dividend income on obligations or securities of another state of the United States.

76-B:4 Tax; When Due. Subject to the provisions of this chapter concerning the withholding of tax and estimated tax declarations, the tax imposed by this chapter shall be deemed to be assessed and due and payable on the fifteenth day of the fourth month following the close of the taxpayer's taxable year.

76-B:5 Credits. The following credits are allowed against the tax due under this chapter:

I. Taxes withheld pursuant to the provisions of this chapter.

II. Estimated tax payments made pursuant to this chapter.

III. A renter's credit of \$360 on a dwelling unit subject to RSA 76-A rented by the taxpayer as his or her primary residence for the entire year prorated for each full month of residence or alternatively, a renter's credit which is equal to the product of the local assessed value of the rented dwelling unit times the municipality's equalization ratio determined according to RSA 21-J:9-a-(not to exceed \$250,000) times the rate of taxation in RSA 76-A:2 for the concurrent tax year, provided the taxpayer presents competent evidence of such value of the dwelling unit. Taxpayers claiming the alternative renter's credit shall bear the burden of proving the claimed value of the rented dwelling unit by the preponderance of the evidence. Such alternative credit claims shall be on forms prescribed by the commissioner. Taxpayers who reside in residential communities, group homes, nursing homes, manufactured housing or mobile home parks, or other facilities which are neither conventional homeowner or tenant situations may be allowed to claim a renter's credit pursuant to rules adopted by the commissioner. Persons who have claimed a homestead exemption pursuant to RSA 76-A:4 may claim a renter's credit during the same year only if the exempt homestead is sold during the tax year, in which case the renter's credit may be claimed for the period rent is paid after the date of sale of the exempt homestead. The renter's credit shall not exceed the tax due under this chapter.

IV. In the case of a resident individual, a credit calculated by:

(a) Calculating the wages, self-employment income and unearned income of the individual earned or derived from sources in another state and subject to income tax or a tax measured by income in that state;

(b) Reducing the amount calculated in subparagraph (a) by the portion of the taxpayer's claimed exemptions which bears the same relationship to the taxpayer's total claimed exemptions, as the amount calculated in subparagraph (a) bears to the taxpayer's New Hampshire modified gross income; and

(c) Multiplying the amount calculated in subparagraph (a), as reduced in subparagraph (b), by the rate of tax provided in RSA 76-B:2.

V. In the case of a nonresident individual, a credit calculated by:

(a) Reducing the taxpayer's New Hampshire modified gross income by the amount of wages and self-employment income earned by the taxpayer in New Hampshire and the amount of unearned income from New Hampshire sources;

- (b) Reducing the amount calculated in subparagraph (a) by the portion of the taxpayer's claimed exemptions which bears the same relationship to the taxpayer's total claimed exemptions, as the amount calculated in subparagraph (a) bears to the taxpayer's New Hampshire modified gross income; and
- (c) Multiplying the amount calculated in subparagraph (a), as reduced in subparagraph (b), by the rate of tax provided in RSA 76-B:2.

Returns

76-B:6 Returns.

- I. Every resident individual and nonresident individual having New Hampshire modified gross income greater than the exemption amounts provided in RSA 76-B:3, I and every resident fiduciary shall make a return to the department of revenue administration under such rules and in such form or manner as the commissioner may prescribe, on or before the due date of the tax as provided in RSA 76-B:4.
- II. A husband and wife who are both residents or who both earn wages or self employment income from sources within New Hampshire shall file a joint return for any taxable year for which such a joint return is filed for United States income tax purposes.
- III. Whenever any return shows that overpayment allowable to the taxpayer exceed the amount of tax due, the department shall certify the amount of overpayment to the state treasurer for refund from the education trust fund created by RSA 198:39 or shall allow the taxpayer a credit against taxes due for a subsequent year, to the extent of the overpayment, at the taxpayer's option.

76-B:7 Information Returns. Each individual, partnership, limited liability partnership corporation, limited liability corporation, proprietorship, joint stock company, association, insurance company, business trust, real estate trust, or other form of organization, organized for gain or profit, being a resident or having a place of business in this state or being a nonresident having income derived from sources subject to tax under this chapter, in whatever capacity acting, including lessors or mortgagors of personal property, fiduciaries, employers and all officers and employees of the state or of any political subdivision of the state, having the control, receipt, custody, disposal or payment of salaries, wages, rentals or other compensation or income subject to the provisions of this chapter paid or payable during any year to any taxpayer subject to a tax under this chapter shall on such date or dates as the department shall from time to time designate, make complete return thereof to the department, in such form as the department may prescribe.

Withholding of Tax

76-B:8 Who Must Withhold. Every employer as defined by section 3401(d) of the United States Internal Revenue Code of 1986, as amended, employing any person within this state shall deduct and withhold upon wages paid to said employee, a tax equal to 4 percent of such wages less claimed exemptions, subject, however, to the provisions of RSA76-B:11.

79-B:9 Time for Payment of Withheld Taxes and Filing Withheld Taxes Returns.

- I. Every employer required to deduct and withhold any tax under RSA 76-B:8 shall make a quarterly return thereof to the department on or before the 15th of the first calendar month following the calendar quarter for which the return is made. However, a return may be filed on or before the last day of the first calendar month following such quarter if timely deposits have been made in full payment of such taxes due for the quarter.
- II. Every employer shall pay over to the department, or to a depository designated by the department, the taxes so required to be deducted and withheld at the same time that such employer is required, under federal income tax law and regulations, to pay over federal taxes that are required to be deducted and withheld from wages to employees.
- III. The department may, if such action is necessary in any emergency where collection of the tax may be in jeopardy, require such employer to make such return and pay such tax at any time, or from time to time.

76-B:10 Employer's Liability.

- I. Each employer required to deduct and withhold tax under this chapter shall be liable for such tax. In the event an employer fails to withhold and pay over to the department any amount required to be withheld under RSA 76-B:8, the department shall assess such amount against the employer.

II. The amount of tax required to be deducted and withheld and paid over to the department under this chapter, when so deducted and withheld, shall be held to be a special fund in trust for the state. No employee or other person shall have any right of action against the employer in respect to any moneys deducted and withheld from wages and paid over to the department in compliance or in intended compliance with this chapter.

76-B:11 Use of Withholding Tables. At the election of the employer, the employer may deduct and withhold a tax determined on the basis of tables to be prepared and furnished by the department, which tax shall be substantially equivalent to the tax provided in RSA 76-B:8 and which shall be in lieu of the tax required in such section.

Estimated Tax Declarations

76-B:12 Filing of Declarations.

I. On the fifteenth day of the fourth month of the current taxable year every resident individual, nonresident individual, and resident fiduciary, except as provided in paragraph II, shall furnish the department with an estimate of such portion of such person's New Hampshire taxable income for the current taxable year as will not be subject to the withholding provisions of this chapter.

II. The provisions of paragraph I are not applicable to resident individuals and nonresident individuals who reasonably anticipate receiving less than \$11,000 of New Hampshire taxable income which will not be subject to withholding during the current taxable year, or to taxpayers receiving their income from farming as defined by the United State Internal Revenue Code of 1986, as amended. The provisions of paragraph I are not applicable to resident fiduciaries who reasonably anticipate having a tax obligation under this chapter of less than \$440.

76-B:13 Payment of Estimated Tax. Each taxpayer required to file an estimated tax declaration shall include with the declaration of estimated income, payment of not less than 25 percent of the tax due thereon. Thereafter, on the fifteenth day of the sixth and ninth months of the taxable year, the taxpayer shall pay not less than 25 percent of the tax due upon said estimated income or any revised estimate thereof. The fourth installment of estimated tax shall be paid on the fifteenth day of the first month following the close of the taxable year for which the estimate was made.

Miscellaneous Provisions

76-B:14 Extension of Time for Returns. For good cause, the department may extend the time within which a taxpayer is required to file a return or declaration and if such return or declaration is filed during the period of extension no penalty or late payment charge may be imposed for failure to file the return at the time required by this chapter, but the taxpayer shall be liable for interest and late payment charges as prescribed in RSA 21-J:28 and RSA 21-J:33. Failure to file the return during the period of the extension shall void the extension.

76-B:15 Administration.

I. This chapter shall be administered and enforced by the commissioner of revenue administration. The commissioner shall adopt rules, under RSA 541-A, necessary to insure the proper administration of this chapter which shall be consistent with the provisions of RSA 21-J:13.

II. The commissioner shall appoint such additional technical, clerical, and other personnel as the commissioner shall deem necessary to carry out the provisions of this chapter.

III. The department of revenue administration shall collect the taxes, interest, and penalties imposed under this chapter and RSA 21-J and shall pay them to the state treasurer less the administrative and enforcement costs of this chapter. The state treasurer shall deposit the remaining amount in the education trust fund established in RSA 198:39.

IV. The commissioner may institute actions in the name of the state to recover any tax, interest on tax, or the penalties imposed by this chapter and RSA 21-J, as part of the commissioner's authority to administer this chapter and to administer and enforce the tax laws of this state generally under RSA 21-J.

V. In the collection of taxes imposed by this chapter, the department may use all of the powers granted to tax collectors under RSA 80 for the collection of taxes, and it has all of the duties imposed upon the tax collectors by RSA 80 including the optional tax sale procedure under RSA 80:58-86. The following shall also apply:

(a) The provisions of RSA 80:26 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.

(b) 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.

VI. The commissioner shall have the authority to subpoena witnesses, records, and documents, as needed, and to administer oaths to those testifying at hearings. The department and the taxpayer may take the depositions of witnesses residing within and without the state pertaining to a matter under this chapter, in the same way as depositions are taken in civil actions in the superior court.

76-B:16 Fees. Fees of witnesses shall be the same as those allowed to witnesses in the superior court. In the case of witnesses summoned by the commissioner, it shall be considered as an expense of administration of this chapter.

76-B:17 Notice. Any notice required by this chapter to be given by the department to a taxpayer shall be made by mail to the last known address of the taxpayer and in the case of hearings shall be given at least 10 days before the date thereof.

76-B:18 Preference. The taxes and interest imposed by this chapter have preference in any distribution of the assets of the taxpayer, whether in insolvency or otherwise.

76-B:19 Dissolutions, Withdrawals, and Statements of Good Standing.

I.(a) No employer organized under any law of this state may transfer property to its shareholders pursuant to RSA 293-A:14.05(a) or to its members and managers pursuant to RSA 304-C:58 until all taxes required to be withheld by the employer under this chapter, and any interest and penalties that related thereto, have been fully paid and a certificate of dissolution shall have been obtained from the commissioner of revenue administration that no returns, tax required to be withheld, tax interest, or penalties for taxes administered by the department are due and unpaid.

(b) In order to transfer property to its shareholders pursuant to RSA 293-A:14.05(a) or its members or managers pursuant to RSA 304-C:58, an employer shall submit a written request containing the complete corporate or limited liability company name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, interest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a certificate in accordance with subparagraph (a).

II. In order to obtain a statement for withdrawal, in accordance with RSA 293-A:15.20(b)(6) or RSA 304-C:68, an employer shall submit a written request containing the complete employer name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, interest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a statement for withdrawal for the purposes required under RSA 293-A:15.20(b)(6) or RSA 304-C:68.

III. In order to obtain a statement that it is in good standing with the department of revenue administration, an employer shall submit a written request containing the complete employer name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, interest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a statement of good standing.

76-B:20 Liens for Tax.

I. If any employer required to deduct and withhold a tax under this chapter neglects or refuses to pay the same after demand, the unpaid amount, including any late payment charge and interest together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to such employer. Such liens shall arise at the time assessment and demand is made by the department and shall continue until the liability for the full amount of the lien is satisfied or becomes unenforceable. Such lien against personal property shall be valid as against any subsequent mortgagee, pledgee, purchaser or judgment creditor when notice of such lien and the sum due has been placed on record by the department with the secretary of state and in the office of the town clerk where the taxpayer resides. Such lien against real property shall be valid as against any subsequent mortgagee, pledgee, purchaser or judgment creditor when notice of such lien and the sum due has been placed on record by the department with the register of deeds for the county in which the property subject to the lien is situated. In the case of any prior mortgage on real or personal property so

written as to secure a present debt plus future advances by the mortgagee to the mortgagor, the lien herein provided, when notice thereof has been properly recorded, shall be subject to such prior mortgage unless the department also notifies the mortgagee in writing of the recording of such lien, in which case any indebtedness thereafter created from mortgagor to mortgagee shall be junior to the lien herein provided for.

II. The lien created by paragraph I shall be released upon satisfaction of the amount of the lien or upon a finding by the commissioner that the lien has become unenforceable, or if there is furnished to the department a bond with surety approved by the department in a penal sum sufficient to equal the amount of the lien, said bond to be conditioned upon the payment of the amount of the lien upon a final determination or adjudication of the employer's liability therefor.

III. The lien created by paragraph I may be foreclosed in the case of real estate agreeably with the provisions of law relating to foreclosure of mortgages on real estate, and in the case of personal property agreeably with the provisions of law relating to the foreclosure of security interests in personal property.

IV. To secure payment of the taxes, fees, charges and interest imposed by this chapter and RSA 21-J, the department may avail itself of any other provision of law relating to liens for taxes.

76-B:21 Additional Returns. When the commissioner has reason to believe that a taxpayer has failed to file a return or to include any part of New Hampshire modified gross income in a filed return, the commissioner may require the taxpayer to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received, within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the taxpayer of any penalty for failure to make a correct original return or relieve the taxpayer from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify or extend the statute of limitations provided in RSA 21-J:29.

76-B:22 Corrections. Each taxpayer shall report to the commissioner of any change in the amount of the taxpayer's New Hampshire modified gross income as finally determined by the UnitedStates Internal Revenue Service with respect to any previous year for which the taxpayer has made a return under this chapter. Such a report shall be made not later than 6 months after the taxpayer has received notice that such change has finally been determined. Notwithstanding any other provision of law, a taxpayer reporting a correction pursuant to this section shall be given notice by the department of any adjustment to the tax due with respect to such correction within 6 months of the filing of the report.

76-B:23 Taxpayer Records. Every taxpayer shall:

- I. Keep such records as may be necessary to determine the amount of the taxpayer's liability under this chapter;
- II. Preserve such records for the period of 3 years or until any litigation or prosecution hereunder is finally determined;
- III. Make such records available for inspection by the commissioner or authorized agents, upon demand, at reasonable times. Whoever violates the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

76-B:24 Severability. If any provision or provisions of this chapter, is or are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme court of the United States or of the supreme court of New Hampshire, the remaining provisions of said chapter shall not be affected thereby.

3 New Subdivisions; State Aid for Educational Adequacy; Education Trust Fund; Commission. Amend RSA 198 by inserting after section 37 the following new subdivisions:

State Aid for Educational Adequacy; Education Trust Fund

198:38 Definitions. In this subdivision:

- I. "Municipality" means a city, town, or unincorporated place.
- II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.
- III. "Elementary school" means a school with any of the grades kindergarten through 8.
- IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" means the amounts calculated in accordance with RSA198:39, II.

VI. "Average base cost per pupil of an adequate education" means the amount as calculated in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils who have been assigned to one or more of the following classifications:

(a) An elementary pupil which shall include kindergarten pupils, 1.0.

(b) A high school pupil, 1.2.

(c) An elementary pupil who is eligible to receive a free or reduced-priced meal shall receive an additional weight of 0.5.

(d) An educationally disabled child, as defined in RSA 186-C:2, I shall receive an additional weight of 1.0.

VIII. "Consumer price index" means the consumer price index for all items for urban consumers, seasonally adjusted, all items, United States city average, published by the United States Department of Labor.

IX. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III.

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV.

XI. "Transportation costs" means the costs of transporting pupils to and from school and other school activities reported by school districts on the MS-25 form.

198:39 Education Trust Fund Created.

I. 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 grants to municipalities' school districts pursuant to RSA 198:42, make catastrophic aid payments under RSA186-C:18, III, make school building aid payments pursuant to RSA 198:15-b, fund skill center tuition and transportation costs, reimburse municipalities for costs of collection and administration under RSA76-A, and make taxpayer refunds under RSA 76-A:4 and RSA 76-B:6, III, and for such other educational appropriations, as the legislature may from time to time designate. The state treasurer shall deposit into this fund immediately upon receipt:

(a) The full amount of the statewide education property tax payments from municipalities pursuant to RSA 76-A:11.

(b) The full amount of the education income tax payments from the department of revenue administration pursuant to RSA 76-B:15.

(c) All moneys due the fund in accordance with RSA 284:21-j.

(d) All moneys in the local education betterment fund established in 1998, 389:16.

(e) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state 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.

198:40 Methodology for Calculating the Cost of an Adequate Education.

I. For the fiscal year beginning July 1, 2000, the average base per pupil cost of an elementary school pupil shall be \$3,600.

II. For the biennium beginning July 1, 2001, and every biennium thereafter, the average base per pupil cost of an elementary school pupil shall be established by the general court.

III. The weighted average daily membership in residence for each district shall be calculated by combining the district's elementary average daily membership in residence with its weighted high school average daily membership in residence and the district's additional average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-priced meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each school district in the state.

IV. In making the calculations required by this subdivision, the department of education shall use pupil counts for the third preceding school year.

198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of revenue administration shall determine the amount of the adequate education grant for the municipality as follows:

- (a) Multiply the average base per pupil cost of an adequate education by the weighted average daily membership in residence for the municipality;
- (b) Add to the product of subparagraph (a), 50 percent of the municipality's apportioned transportation cost;
- (c) Subtract from the sum of subparagraph (b) 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-A:3, II for the next tax year.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of revenue administration shall determine the amount of the adequate education grant for each municipality as the lesser of the following 2 calculations:

- (a) The amount calculated in accordance with paragraph I of this section; or
- (b) The total amount paid for items of current education expense as determined by the department of education minus 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-A:3, IV for the next tax year.

198:42 Distribution Schedule of Adequate Education Grant.

I. Beginning with the fiscal year ending June 30, 2001 and for each fiscal year thereafter, the adequate education grant determined in RSA 198:41 shall be distributed to each municipality's school district or school districts from the education trust fund as follows:

- (a) Payment of 1/6 of the grant on or before August 1; and
- (b) Payment of 1/12 of the grant on or before the first of each other month except June.

II. The general court is constitutionally obligated to fund the cost of an adequate education, and there are hereby appropriated the funds necessary to make the payments required under RSA198:41. The governor is authorized to draw a warrant for such sums out of any money in the treasury not otherwise appropriated.

III. The department of revenue administration shall certify the amount of each grant to the state treasurer and direct the payment thereof to the school district or districts. When a payment of a grant is made to a school district, the municipality on whose behalf the payment is made, shall receive notification from the state treasurer of the amount of the payment made to its school district or districts.

198:43 Additional Education Expenditures. Nothing in this subdivision shall prevent the assessment and collection of property taxes locally, under general provisions of law, to meet budgeted expenses of education not funded through distributions from the education trust fund under RSA 198:42.

198:44 Use of Funds for Education Purposes.

I. Annually, each school district shall appropriate an amount that equals or exceeds the amount necessary to fund an adequate education for the pupils in that district. Notwithstanding any other provision of law, in the event a school district fails to appropriate at least the required amount, the department of revenue administration, pursuant to RSA 21-J:35, shall direct that amount to be assessed and collected by the municipality, appropriated to the school district, and expended for educational purposes in accordance with paragraph IV without a vote of the school district.

II. On or before June 30 of each year, the individual with fiscal responsibility in each municipality shall submit a statement to the commissioner of revenue administration that the funds collected by the municipality pursuant to RSA 76:8 have been paid over to the school district or districts to be expended for educational purposes in accordance with paragraph IV. The statement

shall include the following: *"I certify, under the pains and penalties of perjury, that all of the information contained in this document is true, accurate, and complete to the best of my knowledge and understanding."*

III. If a municipality uses any part of the funds collected pursuant to RSA 76-A for non-educational purposes, the municipality shall pay to the school district an amount equal to the portion of funds used for such non-educational purposes.

IV. The funds collected by municipalities pursuant to RSA 76-A and the funds received from the state pursuant to RSA 198:42 shall be appropriated by a school district only for current education expenses or transfers to reserves or trusts funds and shall not be used for any other purpose. When setting any local property tax rates pursuant to RSA 21-J:35, the commissioner shall treat any adequate education funding received or to be received by a school district during each fiscal year, whether pursuant to RSA 76-A:3 or RSA 198:42, as revenue to the district to fund officially approved appropriations certified under RSA 21-J:34, II and RSA 198:4-a.

V. On or before June 30 of each year, the individual with fiscal responsibility in each school district shall submit a statement to the commissioner of revenue administration that an amount of money that equals the amount necessary to fund an adequate education for the pupils in that district was used in accordance with paragraph IV. The statement shall include the following: *"I certify, under the pains and penalties of perjury, that all of the information contained in this document is true, accurate, and complete to the best of my knowledge and understanding."*

198:45 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 submit a report by December 31 to the speaker of the house of representatives and 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 pursuant to RSA 541-A necessary to the proper administration of this subdivision.

Adequate Education and Education

Financing Reform Commission

198:46 Adequate Education and Education Financing Reform Commission Established; Membership.

I. There is hereby established an adequate education and education financing reform commission which shall be composed of 25 members as follows:

(a) Five house members, including one member of the education committee, one member of the finance committee, and 2 members of the minority party, appointed by the speaker of the house.

(b) Five senators, including one member of the education committee, 2 members of the finance committee, and 2 members of the minority party, appointed by the senate president.

(c) Three members appointed by the governor.

(d) The commissioner of the department of education, or designee.

(e) The chancellor of the university system of New Hampshire or designee.

(f) The commissioner of the regional community-technical college system or designee.

(g) One member from the state board of education, appointed by the chairperson of the state board of education.

(h) One member appointed by the Claremont Lawsuit Coalition; and

(i) Seven members who shall be agreed to and jointly appointed by the governor, the president of the senate, and the speaker of the house consisting of the following:

(1) One local school board member, recommended by the New Hampshire School Boards Association.

- (2) One school administrator, recommended by the New Hampshire School Administrators Association.
- (3) One special education administrator at the elementary or secondary school level, recommended by the New Hampshire Association of Special Education Administrators.
- (4) Two parents of school-age children, one of whom shall be the parent of a child with an educational disability.
- (5) One member from the business community, who shall be associated with the School to Work Initiative.
- (6) One school business official, recommended by the New Hampshire Association of School Business Officials.

II. The members appointed under subparagraphs I(c)-(i) shall be ex officio nonvoting members of the commission.

III. The commission shall elect a chairperson from among its membership and shall form subcommittees necessary to perform its duties. The chairperson shall determine the frequency of meetings at its first meeting.

IV. The members of the commission shall serve without compensation, provided that legislative members of the commission shall receive mileage at the legislative rate while attending to the duties of the commission, and provided that the parent members of the commission shall be reimbursed for travel expenses associated with their duties on the commission.

V. In order to ensure that all students are provided an adequate education, the duties of the commission shall be as follows:

- (a) Determine and recommend the costs of an adequate education for all students in New Hampshire by determining and calculating adjustments for individual school districts based on yearly inflation, cost of living variances, diseconomies of scale, transportation variability, demographics, including for school districts with a disproportionate number of students who are economically disadvantaged or have educational disabilities, and such other factors as deemed relevant.
- (b) Determine and recommend the amount of state aid, including building aid, to be distributed to school districts based upon the cost of an adequate education as set forth in subparagraph (a) and the method for distributing the state aid.
- (c) Recommend changes in policy and procedure in the areas of educational improvement and accountability.
- (d) Recommend interim and permanent processes to ensure adequate planning and implementation at the local and state level of special education and educationally related services, including planning for and development, on an interagency basis, of local school based options for pupils who have been placed in alternative or separate schools who could be placed in appropriate less restrictive options if available.

VI. The commission shall be divided into the following policy subcommittees: adequacy and cost, educational improvement and accountability, and special education funding.

VII. The commission shall report its findings and recommendations no later than December 1, 2000. The report shall include, for each recommendation, proposed implementation schedules with timelines, specific steps, agencies and persons responsible, and resources needed. Where feasible, all plans, measures and initiatives shall be proposed as legislation or regulation so that they will have the force of law. All recommendations and plans shall be designed to be fully implemented no later than September 1, 2004.

VIII. The department of justice, department of revenue administration, department of education, and department of health and human services shall provide the commission with assistance.

4 New Subparagraph; Special Education; Appropriation for Catastrophic Aid Payments. Amend RSA 186-C:18, III by inserting after subparagraph (c) the following new subparagraph:

(d) There are hereby appropriated for each fiscal year the funds necessary to make the payments required in this section. The governor is authorized to draw a warrant for such sums out of any money in the treasury not otherwise appropriated.

5 Appropriation. The sum of \$150,000 for the fiscal year ending June 30, 2000, is hereby appropriated for the purposes of the commission established in RSA 198:46 as inserted by section 3 of this act. This sum shall be nonlapsing until June 30, 2001. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:7, I to read as follows:

I. If a cooperative school district was organized prior to July 1, 1963, during the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and ***all*** operational costs ***in excess of the amount determined necessary to provide an adequate education under RSA 198:40*** in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

7 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:14, I(b) to read as follow:

(b) The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum, in accordance with RSA 21-J:35, which may be used as a setoff against the amount appropriated when it appears to the commissioner of revenue administration such adjustment is in the best public interest. ***The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42.***

8 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:18, III(e) to read as follows:

(e) The method of apportioning ~~the~~ ***all*** operating expenses ***in excess of the amount determined necessary to provide an adequate education under RSA 198:40***, of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II, shall not be included in the average daily membership relative to apportionment formulas.

9 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the chairperson of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary chairperson for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a setoff against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. ***The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:40 as a setoff against the amount appropriated.*** The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

10 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 76-B.

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

(xxx) Money received under RSA 76-A, RSA 76-B, and from the sweepstakes fund, which shall be credited to the education trust fund under RSA198:39.

12 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:

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

XIII. Equalize annually **by March 31** the valuation of the property in the several towns, cities, and unincorporated places in the state **including the value of property exempt pursuant to RSA 72:37-b, 72:39-a, 72:62, 72:66, and 72:70**, by adding to or deducting from the aggregate valuation of the property ~~[as assessed]~~ 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.**

14 Duties of Commissioner; Electronic Funds Transfer. RSA 21-J:3, XXI is repealed and reenacted to read as follows:

XXI. Except as provided in RSA 78-A:8, have authority to require the payment of any tax, interest, or penalty, or the refund or abatement thereof by electronic funds transfer.

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

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, 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.

XXVI. Have authority subject to appropriation to establish the filing of any return or document by electronic data submission and to enter into contractual agreements with vendors to provide the means by which such electronic data is submitted to the department. The commissioner may by rule or otherwise establish procedures necessary to implement this section.

16 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.

17 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 RSA 74:18 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.

18 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.

19 Exemption from Rulemaking; Interest and Dividends Tax Deleted; Education Income Tax Added. Amend RSA 21-J:13-a to read as follows:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on the department's tax filing forms for the business profits tax, business enterprise tax, and ~~[interest and dividends]~~ **education income** tax.

20 Distraint; Taxes Collected or Withheld. Amend RSA 21-J:28-d to read as follows:

21-J:28-d Distraint. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them **or taxes**

collected or withheld by them, the department may distrain the **goods, chattels**, personal estate, property interest, right or credit of such person or corporation.

21 Income Tax; Penalty for Failure to File. Amend RSA 21-J:31 to read as follows:

21-J:31 Penalty for Failure to File. Any taxpayer who fails to file a return when due, unless an extension has been granted by the department, shall pay a penalty equal to 5 percent of the amount of the tax due or \$10, whichever is greater, for each month or part of a month during which the return remains unfilled. The total amount of any penalty shall not, however, exceed 25 percent of the amount of the tax due or \$50, whichever is greater. This penalty shall not be applied in any case in which a return is filed within the extended filing period as provided in ***RSA 76-B:12***, ~~[RSA 77:18-b]~~ RSA 77-A:9, RSA 77-E:8, RSA 83-C:6, RSA 83-E:5 or RSA 84-A:7, or the failure to file was due to reasonable cause and not willful neglect of the taxpayer. The amount of the penalty is determined by applying the percentages specified to the net amount of any tax due after crediting any timely payments made through estimating or other means.

22 Income Tax; Substantial Understatement Penalty. Amend RSA 21-J:33-a, I to read as follows:

I. If there is a substantial understatement of tax imposed under ***RSA 76-B***, ~~[RSA 77]~~ RSA 77-A, RSA 77-E, RSA 78-A, RSA 78-C, RSA 82-A, RSA 83-C, or RSA 83-E, for any taxable period, there shall be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to such understatement.

23 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 statewide education 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 RSA 541-A establishing the form and content of these reports:

24 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 RSA 21-J:9-a. This report shall be filed within 45 days after receipt from the department.

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

II. ***(a) 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. Any [town] municipality aggrieved by [an] its equalized valuation as determined by the commissioner of revenue administration must appeal to the board in writing within [30] 20 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 pending a decision by the supreme court. Such appeal shall be filed with the clerk of the supreme court within 20 days after the date the decision is mailed by the board to the town. The supreme court shall give any appeal under this section priority in the court calendar.***

(b) Decisions by the supreme court on appeals made under subparagraph (a) that are issued prior to September 1 shall be used by the commissioner of revenue administration in determining the taxes to be raised by each municipality in the tax year commencing April 1 of the succeeding year.

(c) Decisions by the supreme court on appeals made under subparagraph (a) that are issued after September 1 shall be used by the commissioner of revenue administration in determining the taxes to be raised in the tax year commencing April 1 of the second succeeding year. Any adjustments that need to be made to a municipality's tax rate based on a decision by the supreme court under this subparagraph shall be made by the commissioner of revenue administration in the tax year commencing April 1 of the second succeeding year.

26 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.

27 Reference to Interest and Dividend Tax Deleted; Education Income Tax Added. Amend RSA72:34, II to read as follows:

II. For those exemptions having income or asset limitations, the assessing officials may request true copies of any of the following, as needed to verify eligibility. Any documents submitted shall be considered confidential, handled so as to protect the privacy of the applicant, and returned to the applicant at the time a decision is made on the application. The documents are:

(a) Federal income tax form; and

(b) ~~[State interest and dividends tax form; and~~

~~(c)]~~ Property tax inventory form filed in any other town; **and**

(c) Education income tax form.

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

28 New Section; Inventory of Property Transfers. Amend RSA 74 by inserting after section 17 to 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 by whom, whether the property will serve as the buyer's primary residence, and whether the buyer claims a homestead exemption pursuant to RSA 76-A:4.

(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 pursuant to this section shall be exempt from the right-to-know law, RSA 91-A.

29 Distraint; Taxes Collected or Withheld. Amend RSA 80:8 to read as follows:

80:8 Distraint. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them ***or taxes collected or withheld by them***, the collector may distraint the goods, chattels, personal estate, property interest, right, or credit of such person or corporation.

30 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 ~~[RSA 198:27-37]~~ ***adequate education grants under RSA 198:41***.

31 Reimbursement Anticipation Notes; Version Effective Until July 1, 1999. 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 RSA 186-C:18 ***and under RSA 198:42***. 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.

32 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 RSA 186-C:18 ***and 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.

33 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 RSA 287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

34 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.

35 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.

36 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.

37 Bond. To provide initial funding for start-up costs including equipment and computer purchases and other administrative

and enforcement costs under RSA 76-A, including start-up costs for municipalities, and RSA 76-B:15, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding an amount certified by the commissioner of revenue administration and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the education trust fund established in RSA 198:39. The bonds shall be 5-year bonds.

38 First Taxable Year of Income Tax. The first taxable period under RSA 76-B, as inserted by section 2 of this act, begins January 1, 2000, and ends December 31, 2000. Persons liable for a tax during the first taxable period and who do not report the payment of federal income taxes on a calendar year basis are entitled to such proportion of the exemptions allowed in RSA 76-B as the period bears to their taxable year. The determination of the tax shall be made under rules adopted by the commissioner of revenue administration under RSA 541-A, consistent with the general purposes and provisions of RSA 76-B. Persons required to make information returns for the first taxable period shall make them on a proportional basis in such form as the commissioner requires. For such first taxable period under RSA 76-B, all penalties, but not interest, shall be waived for underpayment of estimated taxes and insufficient withholding for calendar year 2000.

39 Returns for Certain Taxes.

I. All persons who are liable for a tax under RSA 77 as of December 31, 1999, who thereafter are no longer liable for a tax under RSA 77 because of the passage of this act shall make a return of such taxes due the commissioner of revenue administration in such manner and on such forms as the commissioner shall prescribe in rules adopted under RSA 541-A. The administrative provisions of RSA 77 shall remain in effect to permit the collection of taxes upon income taxable under RSA 77 which is received by persons subject to taxation under that chapter through December 31, 1999, and to permit the distribution of that revenue. Persons who are liable for a tax under RSA 77 who do not report the payment of federal income taxes on a calendar year basis are entitled to such proportion of the exemptions allowed in RSA 77 as the reporting period bears to their taxable year.

II. An amount equal to the difference between the official estimate for interest and dividends for fiscal year 2000 and the commissioner of revenue administration's best estimate of actual interest and dividend's revenue collections for fiscal year 2000 shall be withdrawn from the education trust fund and deposited into the general fund on June 30, 2000.

40 Temporary Rules. The commissioner of revenue administration shall adopt temporary rules without regard to RSA 541-A for the first year of implementation of this act.

41 Transition Year Education Funding; District Foundation Aid Increased. In order to provide sufficient time to implement the provisions of this act and to assure adequate educational funding on as equal and equitable basis as is practicable during the transition period preceding full implementation of the provisions of this act, therefore, notwithstanding the provisions of RSA 198:36, IV, for the fiscal year beginning July 1, 1999 the foundation amount shall be \$5,708 per weighted pupil.

42 Special Rate for Property Tax Payments; Tax Year April 1, 2000. Notwithstanding the provisions of RSA 76:15-a and RSA 76:15-b for the tax year beginning April 1, 2000, the partial payment of taxes assessed shall be computed by taking the prior year's assessed valuation times $\frac{1}{2}$ of the previous year's municipal tax rate; $\frac{1}{2}$ of the previous year's county tax rate; and $\frac{1}{2}$ of the previous year's local school tax rate as adjusted by the commissioner of revenue administration by deducting therefrom the amount of $\frac{1}{2}$ of the estimated reduction in local school tax rate, if resulting from the implementation of this act and adding thereto $\frac{1}{2}$ of the statewide education property tax rate for the taxable year; provided, however, that whenever it shall appear to the selectmen or assessors that certain individual properties have physically changed in valuation, they may use the current year's appraisal in place of the prior year's valuation to compute the partial payment.

43 Tax Equity and Efficiency Commission Established.

I. There is established a tax equity and efficiency commission to study issues relating to tax fairness and administrative implementation arising from the passage of this act which may be appropriate for further legislative action.

II. The commission shall consist of the following members:

- (a) Eight house members, including the chairperson or vice-chairperson of the finance committee, the chairperson or vice-chairperson of the education committee, and at least 3 members of the minority party, appointed by the speaker of the house.
- (b) Five senators, including the chairperson or vice-chairperson of the finance committee, the chairperson or vice-chairperson of the ways and means committee, the chairperson or vice-chairperson of the education committee, and at least 2 members of the minority party, appointed by the senate president.

- (c) The governor or designee.
- (d) The commissioner of the department of revenue administration or designee.
- (e) The commissioner of the department of education or designee.
- (f) The state treasurer or designee.
- (g) One member appointed by the New Hampshire Municipal Association.
- (h) One member appointed by the School Administrators Association.
- (i) One member appointed by Claremont Lawsuit Coalition.
- (j) One member appointed by the New Hampshire Society of Certified Public Accountants.
- (k) One public member, appointed by the governor.

III. The commission shall study issues arising under this act relating to tax fairness and administrative implementation which may be appropriate for further legislative action. As part of its study, the commission shall consider:

- (a) The most appropriate means for evaluating the following types of property for taxation purposes:
 - (1) Utility property.
 - (2) Railroad property.
 - (3) Nuclear station property.
- (b) The fairness of the renters credit under the income tax.
- (c) The determination of the homestead exemption for owners of multi-unit dwellings or parcels with mixed uses.
- (d) Whether a resident fiduciary responsible for payment of property taxes should qualify for the homestead exemption.
- (e) The income tax treatment of pension payments received in lieu of social security payments or pension payments from pensions to which the taxpayer's contributions to the pension were previously taxed.
- (f) The proper income tax treatment of military personnel on active duty residing out-of-state.
- (g) The property tax treatment of non-conventional single owner or unusual residential situations such as nursing homes, dormitories, group homes, residential communities, condominiums and cooperatives.
- (h) The proper treatment of tax increment financing districts.
- (i) The amount of equalized value of homestead property that shall be exempt from the statewide education property tax.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first named senate member and shall be held within 30 days of the effective date of this section.

V. The commission 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 September 15, 1999 and on or before December 31, 1999.

44 Position Established; Appropriations.

I. To carry out the financial and educational reporting requirements of this act, there are hereby established within the department of education 6 full-time permanent positions as follows:

- (a) One systems development specialist IV, labor grade 25.
- (b) One audit administrator, unclassified group L.

(c) Three auditors, labor grade 23.

(d) One administrative assistant, labor grade 15.

II. The sum of \$600,000 is hereby appropriated to the department of education for the biennium ending June 30, 2001, to fund the positions 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 \$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.

IV. The sum of \$1,000,000 for the biennium ending June 30, 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.

V. The sum of \$9,000,000 for the fiscal year ending June 30, 2000 and \$5,695,000 for fiscal year ending June 30, 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.

VI. The sum of \$600,000 for the biennium ending June 30, 2001 is hereby appropriated to the department of revenue administration to fund the costs of establishing a personal and business tax forecasting and policy analysis unit and to purchase revenue software models and data base improvements to provide information to the tax equity and efficiency commission, the governor and the legislature. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

VII. The sum of \$253,700,000 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education for the fiscal year ending June 30, 2000 for the purpose of funding the requirements of RSA 198:27-37.

45 Returns for Certain Taxes. All business enterprises liable for taxes under RSA 77-E as of December 31, 1999, who thereafter become exempt from taxes under RSA 77-E because of the repeal of RSA 77-E in section 47 of this act shall make a return of such taxes due in such manner and on such forms as the commissioner shall prescribe.

46 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 this act which can be given effect without the invalid provisions or applications and to this end the provision of this act are severable.

47 Repeal. The following are repealed:

I. RSA 9:13-g, relative to educational funding commitments to local communities.

II. RSA 76:3, relative to a state property tax.

III. RSA 77, relative to the taxation of income.

IV. RSA 76-B, relative to the education income tax.

V. RSA 77-A:4, I, relative to an adjustment to business profits.

VI. RSA 77-B, relative to the commuter income tax.

VII. RSA 77-E, relative to a business enterprise tax.

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

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

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

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

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

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

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

XV. RSA 261:52-a, relative to notice that the interest and dividends tax may be due.

XVI. RSA 391:3, relative to the taxation of common trust funds under RSA 77.

XVII. 1998, 389:15, 16 and 17 relative to educational funding commitments and funding for local education betterment.

48 Effective Date.

I. RSA 76-A, as inserted by section 2 of this act and paragraph IX of section 47 of this act shall take effect April 1, 2000.

II. Section 32 of this act shall take effect July 1, 1999 at 12:01 a.m.

III. Paragraph VII of section 47 of this act shall take effect January 1, 2000 and shall apply to returns and taxes and reports due on account of taxable periods beginning on or after January 1, 2000.

IV. Paragraphs III, V, XIII and XVI of section 47 of this act shall take effect January 1, 2000.

V. Paragraph IV of section 47 of this act shall take effect December 31, 2001.

VI. The remainder of this act shall take effect July 1, 1999.

AMENDED ANALYSIS

I. The bill establishes a flat rate education income tax and a statewide property tax to fund public education.

II. This bill:

(a) Establishes an educational adequacy and education financing reform commission.

(b) Establishes a system for calculating and disbursing state grants for educational adequacy.

(c) Appropriates funds to the commission for the purposes of this bill.

(d) Continually appropriates general funds for catastrophic special education payments.

III. The bill repeals the business enterprise tax.

IV. The bill also makes appropriations to the department of education and the department of revenue administration for the purposes of the bill.

1999-0926h

Floor Amendment to HB 117-FN-A-LOCAL

Proposed by Reps. Hess, J. Bradley, Konys, Chandler and Clegg

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

AN ACT establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue 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 for funding an adequate education 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.

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

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

(2) Subsidize with state grants funded from a statewide services tax, utility property tax, and other sources, municipalities whose property base is insufficient to support an adequate education.

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 interjurisdictional 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) 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.

(2) 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 77-A, RSA 78, RSA 78-B, RSA 83-F, RSA 198:50, 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, XIII to read as follows:

XIII. Equalize annually **by March 31** the valuation of the property in the several towns, cities, and unincorporated places in the state **including the value of property exempt pursuant to RSA 72:36-b, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70** 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.**

5 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 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.

6 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.

7 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 in the order listed:

(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) 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.

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

IV. The commissioner shall use the inventory of property transfers authorized by RSA 74:18 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.

8 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.

9 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 RSA 21-J:9-a. This report shall be filed November 30 or 30 days after receipt from the department whichever is later. Municipalities which fail to timely file the report shall pay a penalty to the state in the amount of \$100 for each day that the report is not timely filed.

10 Revenue Sharing. Amend RSA 31-A:4, I to read as follows:

I. Its 1978 distribution under RSA 31-A plus its share under the equalized formula of an annual increase of 5 percent in the previous year's aggregate distribution, through the year 1981, excluding revenue derived from RSA 77-A:20. ***The amount of money which is removed from the formula for deposit in the education trust fund shall not affect the remaining municipal revenue sharing distribution. The same amount distributed to each municipality in fiscal year 1998, excluding the amount apportioned to the school district in the 1998 property tax calculations, shall be distributed to each municipality in fiscal year 1999 and each year thereafter until the legislature revises the formula or provides additional appropriations that will affect the distribution amount.***

11 New Subdivision; Property Tax Transition Grant. Amend RSA 31-A by inserting after section 6 the following new subdivision:

Property Tax Transition Grant

31-A:7 Intent. The general court recognizes the obligations of municipal governments to provide necessary and desirable services to their citizens, including new or expanded programs, and hereby finds that to the extent that changes in state tax

policy could have the effect of unduly limiting municipal governments in carrying out their obligations, it is appropriate to provide encouragement and support to those political subdivisions in the form of grants. The general court further recognizes that the hardships attendant to increased taxes that are placed on low income residents and those providing shelter and services to those citizens result in increased burdens on municipal governments in a number of ways including but not limited to difficulty or impossibility of funding new or expanded programs, fewer housing starts and rental property construction for people of modest means, and less disposable income being available to the elderly and poor, thereby creating a greater need for municipal assistance. Therefore, the general court finds it to be in the interest of the public weal to establish a property tax transition grant program to ameliorate, in part, such adverse consequences.

31-A:8 Definitions. In this subdivision:

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

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

III. "Municipal per capita income" means per capita income as reported by the department of revenue administration for each New Hampshire municipality.

IV. "State per capita income" means per capita income as reported by the department of revenue administration for the state of New Hampshire.

31-A:9 Determination of Transition Grant.

I. The commissioner on or before October 1 shall determine the amount of property tax transition grant for each municipality for the following fiscal year as follows:

(a) Divide the municipal per capita income for a municipality by state per capita income.

(b) Subtract 0.6 from the product in subparagraph (a);

(c) If the result of the subtraction in subparagraph (b) results in an amount less than 0 substitute 0;

(d) Divide the result of the calculation in subparagraph (c) by 4 and subtract the result from 1.0;

(e)(i) If the municipality's weighted average daily membership in residence as defined in RSA 198:38, VII is greater than 9, multiply the result in subparagraph (d) by the amount of the municipality's excess education property tax payment determined pursuant to RSA 198:50, I; or

(ii) If the municipality's weighted average daily membership in residence as defined in RSA 198:38, VI is less than 10, multiply the average of the result in subparagraph (d) for all municipalities whose weighted average daily membership in residence as defined in RSA 198:38, VII is greater than 9 by the amount of the municipality's excess education property tax payment determined pursuant to RSA 198:50, I.

II. The amount in subparagraph I(e) shall not exceed the amount of excess education property tax determined pursuant to RSA 198:50 for the municipality for the corresponding tax year.

31-A:10 Distribution. Upon certification to the state treasurer by the commissioner, distribution of the property tax transition grants determined in RSA 31-A:9 shall be made by the state treasurer from sums appropriated therefor from the general fund. For the fiscal year ending June 30, 2000, such distribution shall be made on June 15, 2000. For fiscal years ending after June 30, 2000, such distribution shall be made at the time or times other payments are returnable to the municipalities pursuant to this chapter.

31-A:11 Biennial Review. The legislature shall biennially review the circumstances of municipalities relative to the intent of this subdivision to determine the need for providing assistance to such municipalities and shall adjust the amounts provided herein as it deems prudent.

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

II.(a) To hear and determine ~~[any]~~ appeals **by municipalities** 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. Any ~~[town]~~ **municipality** aggrieved by ~~[an]~~ **its** equalized valuation as determined by the commissioner of revenue administration must

appeal to the board in writing within ~~[30]~~ **20** 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 pending a decision by the supreme court. Such appeal shall be filed with the clerk of the supreme court within 20 days after the date the decision is mailed by the board to the municipality. The supreme court shall give any appeal under this section priority in the court calendar.***

(b) Decisions by the supreme court on appeals made under subparagraph (a) that are issued prior to September 1 shall be used by the commissioner of revenue administration in determining the taxes to be raised by each municipality.

(c) Decisions by the supreme court on appeals made under subparagraph (a) that are issued after September 1 shall be used by the commissioner of revenue administration in determining the taxes to be raised in the tax year commencing April 1 of the second succeeding year. Any adjustments that need to be made to a municipality's tax rate based on a decision by the supreme court under this subparagraph shall be made by the commissioner of revenue administration in the tax year commencing April 1 of the succeeding year.

13 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.

14 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.

15 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 of \$8.00 on each \$1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F. On or before October 1 of the tax year the commissioner of revenue administration shall equalize the rate of taxation for each municipality, except municipalities which have undergone a total revaluation of taxable property within the prior year, by multiplying the uniform rate by the municipality's equalization ratio determined according to RSA 21-J:9-a.

16 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.

17 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 equalized uniform education property tax rate or full value rate in RSA 76:3 by the total assessed value of all taxable property in the municipality except property taxable under RSA 82 or RSA 83-F.

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 at the time of the setting of the tax rate directing them to assess such sum and pay it to the municipality for the use of the school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:50, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

18 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 October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

19 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 RSA 76:16. 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.

20 Business Profits Tax; Rate Increased. Amend RSA 77-A:2 to read as follows:

77-A:2 Imposition of Tax. A tax is imposed at the rate of [7] 8 percent upon the taxable business profits of every business organization.

21 Business Profits Tax; New Section; Distribution. Amend RSA 77-A by inserting after section 20 the following new section:

77-A:20-a Distribution of Funds.

I. The commissioner shall determine the additional amounts of revenue produced by an increase of one percent in the rate of tax imposed by RSA 77-A:2 and the repeal of the credit for business enterprise taxes paid under RSA 77-A:5, X for each fiscal year and shall certify such amounts to the state treasurer by October 1 of that year for deposit in the education trust fund established by RSA 198:39.

II. The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by the increase in tax rate and the repeal of the credit for the next fiscal year and shall certify such amounts to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1 and March 1 of each year.

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

78:32 Distribution of Funds.

I. The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 37 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 imposed by RSA 78:7 and shall certify such amount to the state treasurer by October 1 of each year for deposit in the education trust fund established by RSA 198:39.

II. The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by such increase in tax rate for the next fiscal year and shall certify such amount to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1 and March 1 of each year.

23 Transfer Tax; Rate. RSA 78-B:1, I(b) is repealed and reenacted to read as follows:

(b) The rate of the tax is \$.50 per \$100, or fractional part thereof, of the price or consideration for such sale, grant or transfer; except that where the price or consideration is \$4,000 or less there shall be a minimum tax of \$20. The tax imposed shall be computed to the nearest whole dollar.

24 Transfer Tax; Rate. RSA 78-B:1, I(b) is repealed and reenacted to read as follows:

(b) The rate of the tax is \$.75 per \$100, or fractional part thereof, of the price or consideration for such sale, grant or transfer; except that where the price or consideration is \$4,000 or less there shall be a minimum tax of \$20. The tax imposed shall be computed to the nearest whole dollar.

25 New Section; Transfer Tax; Distribution of Funds. Amend RSA 78-B by inserting after section 12 the following new section:

78-B:13 Distribution of Funds.

I. The commissioner shall determine the additional amounts of revenue produced by an increase of \$.25 per \$100 in the rate of tax imposed by RSA 78-B:1 for each fiscal year and shall certify such amounts to the state treasurer by October 1 of that year for deposit in the education trust fund established by RSA 198:39.

II. The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by the increase in tax rate for the next fiscal year and shall certify such amounts to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1 and March 1 of each year.

26 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 NewHampshire 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; and

(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 of \$8.00 on each \$1000 of such value, 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 this chapter.

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.

27 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.

28 Cooperative School Districts; Adequate Education Grants. Amend the introductory paragraph of RSA 195:7, I to read as follows:

I. If a cooperative school district was organized prior to July 1, 1963, during the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and ***all*** operational costs ***in excess of the amount determined necessary to provide an adequate education under RSA 198:42, I(a)*** in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

29 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:14, I(b) to read as follows:

(b) The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum, in accordance with RSA 21-J:35, which may be used as a setoff against the amount appropriated when it appears to the commissioner of revenue administration such adjustment is in the best public interest. ***The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:43.***

30 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:18, III(e) to read as follows:

(e) The method of apportioning ~~the~~ ***all*** operating expenses ***in excess of the amount determined necessary to provide an adequate education under RSA 198:42, I(a)***, of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II shall not be included in the average daily membership relative to apportionment formulas.

31 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the chairperson of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary chairperson for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a setoff against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. ***The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:43, as a setoff against the amount appropriated.*** The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

32 New Subdivisions; Education Trust Fund; Excess Tax Payment. 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, except that no kindergarten pupil shall count as more than $\frac{1}{2}$ day attendance per calendar day.

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

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

VI. "School district" means "school district" as defined in RSA 194:1 or RSA 195:1.

VII. "Weighted average daily membership in residence" means average daily membership in residence 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;

(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. Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-A:20-a, relative to business profits taxes.

II. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, relative to tobacco taxes.

III. Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-B:13, relative to real estate transfer taxes.

IV. Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA83-F:7, I, relative to the utility property tax.

V. The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:50.

VI. All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

VII. Tobacco settlement funds.

VIII. The school portion of any revenue sharing funds distributed pursuant to RSA 31-A:4 which were apportioned to school districts in the property tax rate calculations in 1998.

IX. 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 \$4,130.

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.

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.

198:44 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 weighted 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 submit a report by December 31 to the

speaker of the house of representatives and 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 for 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.

198:48 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) The chairperson of the house finance committee, or a designee.
- (f) The chairperson of the senate finance committee, or a designee.

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

198:49 Definition. In this subdivision "commissioner" means the commissioner of the department of revenue administration.

198:50 Excess Education Property Tax Payment.

I. 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 to the department of revenue administration on or before March 15, 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.
- 198:51 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 reporting and remitting of excess education property tax by municipalities.
- 33 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 ~~[RSA 198:27-37]~~ **adequate education grants under RSA 198:42.**
- 34 Reimbursement Anticipation Notes; Version Effective Until July 1, 1999. 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 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.
- 35 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 RSA 186-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.
- 36 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 RSA 287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.
- 37 Transition. As of July 1, 1999, all funds, from any source derived, which would be distributed as foundation aid and any funds, from any source derived, which would be distributed as kindergarten aid shall be deposited in the education trust fund under RSA 198:39.
- 38 Tobacco Settlement Funds. For the fiscal year ending June 30, 2000, \$13,000,000 and for the fiscal year ending June 30, 2001, \$6,000,000 of funds received in each of those fiscal years by the state of New Hampshire as a result of the settlement in 1998 of litigation against tobacco companies shall be deposited in the education trust fund established in RSA 198:39. The governor is authorized to draw a warrant for said sums out of funds received by the state from settlement of the tobacco litigation.
- 39 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.

40 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.

41 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.

42 Franchise Tax; Reference to Credit for Taxes Paid. Amend RSA 83-C:2-a to read as follow:

83-C:2-a Credit for Business Enterprise Tax. The tax imposed under RSA 77-E shall be allowed as a credit against the taxes due under this chapter ~~[and shall be deemed to be taxes paid pursuant to this chapter for the purposes of RSA 77-A:5, I. To the extent the credit for taxes paid pursuant to RSA 77-E exceeds the taxes imposed under RSA 77-E and shall be allowed as a credit against the taxes due under RSA 77-A as provided by RSA 77-A:5, X].~~

43 Insurance; Premium Tax; Reference to Credit for Taxes Paid. Amend RSA 400-A:34-a to read as follows:

400-A:34-a Credit for Business Enterprise Tax. The tax imposed under RSA 77-E shall be allowed as a credit against the taxes due under this chapter ~~[and shall be deemed to be taxes paid pursuant to this chapter for the purposes of RSA 77-A:5, III. Any insurer subject to taxation under this chapter shall first apply such credits as provided in this section, and then pursuant to RSA 77-A:5, X].~~ The taxes paid pursuant to RSA 77-E by an individual member of a unitary business within the meaning of RSA 77-A:1, XIV shall be allowed as a credit against any other individual member's liability under this chapter. ~~[To the extent the credit for taxes paid pursuant to RSA 77-E exceeds the taxes imposed under this chapter, such excess shall be deemed to be taxes imposed under RSA 77-E and shall be allowed as a credit against the taxes due under RSA 77-A as provided by RSA 77-A:5, X.]~~

44 1999 Semi-annual Rate for Property Tax Payments.

I. Notwithstanding the provisions of RSA 76:15-a and RSA 76:15-b for the tax year beginning April 1, 1999, in municipalities liable for an excess statewide education property tax payment pursuant to RSA 198:50, the partial payment of taxes assessed shall be computed by taking the prior year's assessed valuation times $\frac{1}{2}$ of the previous year's municipal tax rate; $\frac{1}{2}$ of the previous year's county tax rate; $\frac{1}{2}$ of the previous year's local school tax rate; and adding thereto $\frac{1}{2}$ of the statewide education property tax rate which would collect the amount to be collected and remitted for tax year 1999 under RSA 198:50, III, as determined by the department of revenue administration; provided, however, that whenever it shall appear to the selectmen or assessors that certain individual properties have physically changed in valuation, they may use the current year's appraisal in place of the prior year's valuation to compute the partial payment.

II. Notwithstanding the provisions of RSA 76:15-a and RSA 76:15-b for the tax year beginning April 1, 1999, in all other municipalities, the partial payment of taxes assessed shall be computed by taking the prior year's assessed valuation times $\frac{1}{2}$ of the previous year's municipal tax rate; $\frac{1}{2}$ of the previous year's county tax rate; $\frac{1}{2}$ of the previous year's local school tax rate deducting therefrom, if the municipality so chooses, $\frac{1}{2}$ of the rate which would collect the amount of the increase in state aid from fiscal year 1999 to fiscal year 2000 resulting from the adequate education grant under RSA 198:43 for the 1999 tax year as determined by the department of revenue administration; provided, however, that whenever it shall appear to the selectmen or assessors that certain individual properties have physically changed in valuation, they may use the current year's appraisal in place of the prior year's valuation to compute the partial payment.

III. In order to avoid a disproportionate semi-annual collection of taxes, the commissioner of revenue administration may, upon

request of a municipality, approve the use of a different method to calculate that municipality's 1999 semi-annual property tax rate.

45 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 commissioner of education shall use weighted average daily membership in residence as defined in RSA 198:38, VII established on or before June 30, 1998 in all calculations required by RSA 198:42, I.

II. 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, $\frac{1}{4}$ the total adequate education grant;

(b) On January 1, 2000 and April 1, 2000, $\frac{1}{4}$ the total adequate education grant. The department shall certify the amount of each grant to the state treasurer and direct the payment thereof to the municipality.

III. Notwithstanding any other provision of law, the commissioner of revenue administration shall for the April 1, 1999 tax year issue the warrants required by RSA 76:8 on or before 30 days after passage of this act.

IV. Notwithstanding any other provision of law, the commissioner of education shall determine the amount of the adequate education grant for each municipality pursuant to RSA 198:42 for the 1999/2000 school year on or before 30 days after the effective date of this section.

V. Notwithstanding the provisions of RSA 76:11-a, I, the governing body of any municipality may choose to combine the local and state education property tax rates on the tax bill.

VI Notwithstanding any other provision of law, for any taxpayer required to pay utility property tax directly to the state for deposit in the education trust fund pursuant to RSA 83-F, the selectmen or assessors shall abate the state education property tax amount shown on any tax bill sent to such taxpayer pursuant to RSA 76:11-a, I.

46 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 from the education trust fund created under RSA 198:39 for the fiscal year ending June 30, 2000 to the department of education to fund the position created in paragraph I, including salary, benefits, rent, supplies, and travel.

III. The sum of \$5,180,000 for the fiscal year ending June 30, 2000, is hereby appropriated to the department of revenue administration to reimburse municipalities for the increased administrative costs necessary to carry out the financial purposes of this act in accordance with part 1, article 28-a of the New Hampshire constitution. The amount to be distributed to each municipality shall be determined according to the proportion of state property tax assessed by such municipality to the total state property tax assessed. Such amount shall be distributed on or before September 30, 1999. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

IV. The sum of \$2,000,000 for the biennium ending June 30, 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 sums 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 from the education trust fund created under RSA 198:39 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.

VI. The sum of \$323,594,808 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 RSA 198:43.

VII. It is the intent of the state to appropriate a sum certain to reimburse municipalities for the costs of additional hardware and software necessary to implement the provisions of this act.

47 Special Provision for Foundation Aid. Notwithstanding the repeal pursuant to section 51 of this act of RSA 198:27-37, relative to foundation aid and alternative foundation aid, the payment of foundation aid which would have been made in April 1999 pursuant to RSA 198:31 before such section was repealed, shall be calculated by the department of education and distributed to the recipients as if such repeal had not occurred.

48 Tax Equity and Efficiency Commission Established.

I. There is established a tax equity and efficiency commission to study issues relating to tax fairness and administrative implementation arising from the passage of this act which may be appropriate for further legislative action.

II. The commission shall consist of the following members:

(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, at least one of whom shall be a member of the science, technology and energy committee and at least one of whom shall be a member of the education committee. The speaker of the house of representatives may appoint 3 other members, if deemed necessary, as alternates.

(b) Five members of the senate, appointed by the president of the senate.

(c) The governor, or designee.

(d) The commissioner of the department of revenue administration, or designee.

(e) The commissioner of the department of education, or designee.

(f) The state treasurer, or designee.

III. The commission members denominated in subparagraphs II(c) through (f) shall sit ex officio and shall not be entitled to vote on commission business.

IV. The commission shall study issues arising under this act relating to tax fairness and administrative implementation which may be appropriate for further legislative action. As part of its study, the commission shall consider:

(a) The most appropriate means for evaluating the following types of property for taxation purposes:

(1) Utility property.

(2) Railroad property.

(3) Nuclear station property.

(4) Property used to provide telecommunications services.

(b) The proper treatment of tax increment financing districts.

(c) A proposal for a property tax circuit breaker.

(d) Cost of administering a state property tax.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member and shall be held within 30 days of the effective date of this section.

VI. The commission 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 December 31, 1999 and on or before March 31, 2000.

49 Applicability; Cigarette Tax. Any increase in the cigarette tax rate in RSA 78:7 over 37 cents adopted and enacted by any act of the 1999 general court 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 the tax rate increase. The tax rate increase 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 RSA21-J.

50 Contingency; Constitutional Amendment; Reenactment of Laws.

I. If the voters of the state adopt an amendment to the New Hampshire Constitution, which constitutional amendment substantially relates to the role of the general court in determining the nature of and means for funding public education, then the provisions of this act except as provided in paragraphs II and III shall be without effect as of July 1 following such adoption, and the provisions of the Revised Statutes Annotated affected by this act shall be hereby reenacted as they were in effect on the day before this act became effective. Such reenactment shall not affect any other amendments to any statutory provisions adopted in any other act of the legislature which becomes law.

II. If the voters of the state adopt an amendment to the New Hampshire Constitution, which constitutional amendment substantially relates to the role of the general court in determining the nature of and means for funding public education, then the provisions of this act relative to the education property tax shall be without effect as of April 1 following such adoption, and the provisions of the Revised Statutes Annotated affected by this act shall be hereby reenacted as they were in effect on the day before this act became effective. Such reenactment shall not affect any other amendments to any statutory provisions adopted in any other act of the legislature which becomes law.

III. Notwithstanding the provisions of paragraph I, if a constitutional amendment is adopted pursuant to paragraph I the rate of the real estate transfer tax in RSA 78-B:1, I shall revert to the rate imposed by section 23 of this act, unless specifically amended or repealed by an act of the legislature.

IV. The director of legislative services, upon the proclamation of the adoption of the constitutional amendment pursuant to paragraph I, is hereby authorized to make changes to the Revised Statutes Annotated to conform the Revised Statutes Annotated pursuant to the provisions of paragraph I.

51 Repeal. The following are repealed:

I. RSA 77-A:5, X, relative to the credit against business profits taxes for business enterprise taxes paid.

II. RSA 77-E:13, relative to the application of the credit for business enterprise taxes against business profits taxes.

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

IV. RSA 78-B:10-a, relative to the real estate transfer questionnaire.

V. 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.

VI. RSA 21-J:13, XI, relative to the form and content of the real estate transfer questionnaire.

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

VIII. RSA 194-B:11, VIII, relative to foundation aid in relation to charter and open enrollment schools.

IX. RSA 198:1-3, relative to required annual district property taxes.

X. RSA 198:15-i – RSA 198:15-q, relative to kindergarten incentive program, kindergarten aid and alternative kindergarten programs.

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

XII. 1998, 389:15, 16, and 17 relative to educational funding commitments and funding for local education betterment.

52 Effective Date.

I. Sections 20, 21, 42, 43 and paragraph I and II of section 51 of this act shall take effect July 1, 1999, and shall apply to returns and taxes due on account of taxable periods ending on or after July 1, 1999. In the case of any business enterprise which has elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code and the fiscal year of which ends on the last day of the week nearest to June 30, 1999, the taxable period shall be deemed to have ended on June 30, 1999,

for the purposes of this act.

II. Section 24, 49, and paragraph XII of section 51 of this act shall take effect July 1, 1999.

III. Section 34 of this act shall take effect July 1, 1999 at 12:01 a.m.

IV. Section 15 and paragraph VII of section 51 of this act shall take effect upon its passage, and shall apply to property taxes due for the tax year beginning April 1, 1999.

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

AMENDED ANALYSIS

This bill creates a state education property tax at a uniform rate to provide support to communities for an adequate education, and establishes a dedicated trust fund, to be funded by revenues from a state utility property tax, a permanently increased real estate transfer tax, and other sources for the purpose of making distributions to municipalities with insufficient property base to raise adequate education funds on their own.

The bill repeals the nuclear station property tax, kindergarten aid and foundation aid and creates a property tax transition grant program in revenue sharing.

1999-0934h

Floor Amendment to HB 117-FN-A-LOCAL

Proposed by Reps. Boyce and Daniels

Amend the bill by replacing section 47 with the following:

47 Special Provision for Foundation Aid. Notwithstanding the repeal pursuant to section 57 of this act of RSA 198:27-37, relative to foundation aid and alternative foundation aid, the payment of foundation aid which would have been made in April 1999 pursuant to RSA 198:31 before such section was repealed, shall be calculated by the department of education and distributed to the recipients as if such repeal had not occurred.

Amend the bill by inserting after section 50 the following and renumbering the original sections 51 and 52 to read as 59 and 60, respectively:

51 Business Profits Tax; Prospective Amendment of Rate. Amend RSA 77-A:2 to read as follows:

77-A:2 Imposition of Tax. A tax is imposed at the rate of [8] 7 percent upon the taxable business profits of every business organization.

52 Transfer Tax; Prospective Amendment of Rate. RSA 78-B:1, I(b) is repealed and reenacted to read as follows:

(b) The rate of the tax is \$.50 per \$100, or fractional part thereof, of the price or consideration for such sale, grant or transfer; except that where the price or consideration is \$4,000 or less there shall be a minimum tax of \$20. The tax imposed shall be computed to the nearest whole dollar.

53 Prospective Reenactment; Business Profits Tax; Credit for Business Enterprise Taxes. RSA 77-A:5, X is repealed and reenacted to read as follows:

X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes due under RSA 83-C or RSA 400-A shall be allowed as a credit under this paragraph except as provided in RSA 83-C:2-a or RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph may be carried forward and allowed against the tax due under this chapter for 5 taxable periods from the taxable period in which the tax was paid.

54 Prospective Reenactment; Application of Credit for Business Enterprise Tax Against Business Profits Tax. RSA 77-E:13 is repealed and reenacted to read as follows:

77-E:13 Application of Credit for Business Enterprise Tax Against Business Profits Tax. If the business enterprise liable for taxes imposed by this chapter is a member of a unitary business within the meaning of RSA 77-A:1, XIV, then the entire

amount of the taxes due under this chapter by the individual member of such unitary business shall be allowed as a credit pursuant to RSA 77-A:5, X, against such individual member's portion of the total tax liability of the unitary business under RSA 77-A. In the event that the individual member's credit exceeds such member's portion of the total tax liability of the unitary business, the excess of such credit shall be allowed as a credit against any other individual member's tax liability under RSA 77-A, provided such other member is also subject to the tax imposed by this chapter. The tax liability of an individual member of a unitary business under RSA 77-A shall be determined by the following steps:

- I. Determine a combined nexus group denominator for the property, payroll and sales factors by adding the property, payroll and sales factor numerators of the individual members of the combined group subject to tax under RSA 77-A.
- II. Determine an individual apportionment percentage for each member of the combined group subject to tax under RSA 77-A by dividing such member's individual New Hampshire property, payroll and sales factor numerators by the combined nexus group denominators determined in paragraph I.
- III. Apply the individual apportionment percentage, determined in paragraph II, to business profits tax liability of the water's edge combined group as determined in accordance with the provisions of RSA 77-A.

55 Prospective Amendment; Franchise Tax; Reference to Credit for Taxes Paid. Amend RSA 83-C:2-a to read as follow:

83-C:2-a Credit for Business Enterprise Tax. The tax imposed under RSA 77-E shall be allowed as a credit against the taxes due under this chapter and shall be deemed to be taxes paid pursuant to this chapter for the purposes of RSA 77-A:5, I. To the extent the credit for taxes paid pursuant to RSA 77-E exceeds the taxes imposed under RSA 77-E and shall be allowed as a credit against the taxes due under RSA 77-A as provided by RSA 77-A:5, X.

56 Prospective Amendment; Insurance; Premium Tax; Reference to Credit for Taxes Paid. Amend RSA 400-A:34-a to read as follows:

400-A:34-a Credit for Business Enterprise Tax. The tax imposed under RSA 77-E shall be allowed as a credit against the taxes due under this chapter and shall be deemed to be taxes paid pursuant to this chapter for the purposes of RSA 77-A:5, III. Any insurer subject to taxation under this chapter shall first apply such credits as provided in this section, and then pursuant to RSA 77-A:5, X. The taxes paid pursuant to RSA 77-E by an individual member of a unitary business within the meaning of RSA 77-A:1, XIV shall be allowed as a credit against any other individual member's liability under this chapter. To the extent the credit for taxes paid pursuant to RSA 77-E exceeds the taxes imposed under this chapter, such excess shall be deemed to be taxes imposed under RSA 77-E and shall be allowed as a credit against the taxes due under RSA 77-A as provided by RSA 77-A:5, X.

57 Prospective Amendment; Sweepstakes. Amend RSA 284:21-j 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 RSA 287-E. Any balance left in such fund after such expenses are paid shall be ~~deposited in the~~ **for** education ~~[trust fund established under RSA 198:39]~~.

58 Prospective Repeals. The following are repealed:

- I. RSA 31-A:7-11, relative to property tax transition grant.
- II. RSA 76:3, relative to state education property tax.
- III. RSA 76:8-9, relative to commissioner of revenue administration property tax warrants.
- IV. RSA 77-A:20-a, relative to distribution of business profits tax revenues.
- V. RSA 78:32, relative to distribution of cigarette tax revenues.
- VI. RSA 83-F, relative to utility property tax.
- VII. RSA 198:38-51, relative to education trust fund, adequate education grants, and excess tax payments.

Amend the bill by replacing section 58 with the following:

60 Effective Date.

I. Sections 20, 21, 42, 43 and paragraph I and II of section 59 of this act shall take effect July 1, 1999, and shall apply to returns and taxes due on account of taxable periods ending on or after July 1, 1999. In the case of any business enterprise which has elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code and the fiscal year of which ends on the last day of the week nearest to June 30, 1999, the taxable period shall be deemed to have ended on June 30, 1999, for the purposes of this act.

II. Section 24, 49, and paragraph XIV of section 59 of this act shall take effect July 1, 1999.

III. Section 34 of this act shall take effect July 1, 1999 at 12:01 a.m.

IV. Section 15 and paragraph VII of section 59 of this act shall take effect upon its passage, and shall apply to property taxes due for the tax year beginning April 1, 1999.

V. Sections 51, 53, 54, 55 and 56 of this act shall take effect July 1, 2001, and shall apply to returns and taxes due on account of taxable periods ending on or after July 1, 2001. In the case of any business enterprise which has elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code and the fiscal year of which ends on the last day of the week nearest to June 30, 2001, the taxable period shall be deemed to have ended on June 30, 2001, for the purposes of this act.

VI. Sections 52, 55, and paragraphs IV, V, and VII of section 58 shall take effect July 1, 2001.

VII. Paragraphs I-III, and VI of section 58 shall take effect April 1, 2001.

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

AMENDED ANALYSIS

This bill creates a state education property tax at a uniform rate to provide support to communities for an adequate education, and establishes a dedicated trust fund, to be funded by revenues from a state utility property tax, a permanently increased real estate transfer tax, and other sources for the purpose of making distributions to municipalities with insufficient property base to raise adequate education funds on their own.

The bill repeals the nuclear station property tax, kindergarten aid and foundation aid and creates a property tax transition grant program in revenue sharing.

This bill also prospectively repeals the tax provisions and education trust fund provisions of the bill in 2001.