State of

New Hampshire

HOUSE RECORD

ADDENDUM

First Year of the 157th Session of the General Court

Calendar and Journal of the 2001 Session

Vol. 23 Concord N.H Friday, April 13, 2001 No. 31

Contains: Amendments for April 18 and April 19.

HOUSE CALENDAR

ALL LEGISLATORS ARE ASKED TO RETAIN THIS CALENDAR

FOR USE ON

APRIL 18 AND APRIL19, 2001

WEDNESDAY, APRIL 18

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2001-0873h

Amendment to CACR 5

Proposed by the Committee on Judiciary - R

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

RELATING TO: the rulemaking authority of the supreme court.

PROVIDING THAT: supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

Amend the resolution by replacing paragraph I with the following:

I. That article 73-a of the second part of the constitution be repealed and reenacted to read as follows:

[Art.] 73-a. [Supreme Court Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. The chief justice shall, with the concurrence of a majority of the supreme court justices, have the power by rule to regulate the administration of, and the practice, procedure, and rules of evidence in, all courts in the state. The rules so adopted shall have the force and effect of law. Notwithstanding part I, article 37, the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. In the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be:

"Are you in favor of amending article 73-a of the second part of the constitution to read as follows:

[Art.] 73-a. [Supreme Court Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. The chief justice shall, with the concurrence of a majority of the supreme court justices, have the power by rule to regulate the administration of, and the practice, procedure, and rules of evidence in, all courts in the state. The rules so adopted shall have the force and effect of law. Notwithstanding part I, article 37, the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. In the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule."

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. The resolution also provides that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

2001-0891h

Amendment to HB 2-FN-A

Proposed by the Majority of the Committee on Finance

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

1 New Section; Department of Resources and Economic Development; Travel and Tourism Development; Travel and Tourism Development Fund. Amend RSA 12-A by inserting after section 43 the following new section:

12-A:43-a Travel and Tourism Development Fund.

I. There is hereby established in the office of the state treasurer a fund to be known as the travel and tourism development fund. Any appropriations received shall be deposited in the fund. Moneys in the fund and any interest earned on the fund shall be used for the purpose of promoting and developing appropriate travel and tourism initiatives through the division of travel and tourism development and shall not be used for any other purpose. The director of travel and tourism development shall oversee expenditures from the fund. The moneys in the fund shall be non-lapsing and shall be continually appropriated to the department of resources and economic development.

II. The commissioner of resources and economic development shall prepare an annual report to be presented no later than December 1 of each year to the president of the senate, the speaker of the house of representatives, and the governor and council, and filed with the state library. The report shall detail the specific activities supported by, and expenditures from, the fund during the past year.

2 New Subparagraph; Travel and Tourism Development Fund. Amend RSA 6:12, I by inserting after subparagraph (dddd) the following new subparagraph:

(eeee) Moneys received for deposit in the travel and tourism development fund established by RSA 12-A:43-a, I.

3 New Paragraph; Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over $100,000 From Any Non-State Source. Amend RSA 14:30-a by inserting after paragraph V the following new paragraph:

VI. Any non-state funds in excess of $100,000, whether public or private, including refunds of expenditures, federal aid, local funds, gifts, bequests, grants, and funds from any other non-state source, which under state law require the approval of governor and council for acceptance and expenditure, may be accepted and expended by the proper persons or agencies in the state government only with the prior approval of the fiscal committee.

4 Fiscal Committee Approval Required for Expenditure of Federal Aid. Amend RSA 124:4 to read as follows:

124:4 Application for[~~,~~] and Administration of ***Federal Aid***. Notwithstanding any other provision of law, the governor and council are hereby authorized to designate from time to time, as they may deem in the best interest of the state, the proper persons or agencies in the state government to take all necessary action to apply for, receive***,*** and administer any federal benefits, facilities, grants-in-aid, or other federal appropriations or services made available to assist state activities, for which the state is, or may become eligible. ***All such moneys in excess of $100,000 made available, after designation by the governor and council, may be expended by the proper persons or agencies in the state government only with the prior approval of the joint legislative fiscal committee, provided, however, that prior approval by the joint legislative fiscal committee shall not be required for any federal moneys received by the department of employment security.*** In addition to such other instruments, documents***,*** and agreements as may be executed [~~hereunder~~] ***under the authority of this section***, such persons or agencies may[~~, whenever the same shall be required as a condition to the receipt of such federal assistance, with the approval of the governor and council~~] execute indemnification agreements***, with the approval of governor and council,*** in the name of the state with and for the benefit of the United States ***whenever such execution is required as a condition of receipt of such federal assistance***.

5 Retirement System; Definition of Employee. Amend RSA 100-A:1, V to read as follows:

V. "Employee" shall mean any regular classified or unclassified officer or employee of the state or any department, commission, institution or agency of the state government by which an employee is paid through the office of the state treasurer, or employees of the general court who work on a full-time basis and are eligible for other state benefits, but whose salary is calculated on a per diem basis or any employee ***of the retirement system or*** of any of the groups authorized to participate [~~in the retirement system~~] under this chapter but excluding any person who is a teacher, permanent policeman, or permanent fireman as defined in this section, or who is a member or attache of the general court or member of the executive council.

6 Retirement System; Administration. Amend RSA 100-A:14, V to read as follows:

V. The board of trustees [~~may~~] ***shall have the full power to*** employ ***and compensate*** such classified employees ***on such terms*** as may be necessary ***as charges upon the funds of the retirement system***. It may also engage such actuarial, medical, and like services as may be required to transact the business of the system. The compensation for such special services, and all other expenses of the board necessary, hereto, shall be paid at such rates and in such amounts as the board shall approve.

7 Retirement System; Administrative Cost Assessment. RSA 100-A:14, XIII is repealed and reenacted to read as follows:

XIII. Administrative Cost Assessment. Other provisions of law notwithstanding, the cost of administration of the retirement system as provided in this section shall be a charge upon the funds of the retirement system. The amount of administrative expense recorded monthly by the department of administrative service, division of accounting services, shall be paid to the state treasurer by the board of trustees. The board shall biennially review the administrative expenses for the previous biennium and shall submit in a budget for legislative appropriation, those amounts that the board, in its reasonable discretion, may deem necessary for the efficient operation of the system. Administrative balances accrued prior to June 30, 2001 shall be retained by the retirement system and expended for ongoing operations.

8 Retirement System; Management of Funds. Amend RSA 100-A:15, IV to read as follows:

IV. The board of trustees is authorized to engage the services of legal counsel for special investment, federal, and tax matters and[~~, with the approval of the attorney general,~~] to engage outside counsel for other matters. The payment for services provided in this paragraph shall be a charge upon the funds of the New Hampshire retirement system.

9 Retirement System; Executive Director. Amend RSA 100-A:44 to read as follows:

100-A:44 Appointment; Removal. The board of trustees of the retirement system shall ***have the full power to*** appoint ***and compensate*** an executive director [~~who shall hold office during good behavior. The board may remove the executive director for cause~~] ***to perform such duties on such terms as it may require***.

10 Executive Director Salary; Director of Finance. Amend RSA 100-A:47 and 47-a to read as follows:

100-A:47 Salary. The annual salary of the executive director shall be [~~that prescribed by RSA 94:1-4~~] ***set at such rates as the board of trustees may deem necessary to attract and retain a suitably qualified individual***.

100-A:47-a Appointment; Duties; and Compensation. The executive director of the retirement system shall nominate a director of finance for appointment by the board of trustees. The director of finance shall assist the board of trustees in the management of retirement system funds. The director of finance shall report directly to the board of trustees or to a person or persons designated by the board and shall serve at their pleasure. The director of finance shall be qualified to hold the position by reason of education and experience. The annual salary for the director of finance shall be [~~that prescribed by RSA 94:1-a, I, Group M~~] ***set at such rates as the board of trustees may deem necessary in order to attract and retain a suitably qualified individual***.

11 New Hampshire Retirement System; Payment by Retirement System-Group I; Amend RSA 100-A:52-a to read as follows:

100-A:52-a Payment by Retirement System; Group I [~~Teachers and Political Subdivision Employees~~].

I. The New Hampshire retirement system shall pay the cost for permanent group hospitalization, hospital medical care, surgical care, and other medical and surgical benefits, in the employer-sponsored plan provided for active employees of a retiree's former employer, subject to the provisions of this section, for the following persons:

(a) Any person, who has at least 20 years of creditable service as a group I member if age 60 or older, or at least 30 years of creditable service as a group I member if age 55-59, retired on or before July 1, 2004 as a group I [~~teacher member or political subdivision employee~~] member of the New Hampshire retirement system on service or ordinary disability retirement, provided

that such person shall be entitled to retirement on the basis of group I creditable service, or any person retired on or before July 1, 2004, as a group I member whose service retirement benefit is based upon the provisions of RSA 100-A:19-c and who has a minimum of 20 years of creditable service as a group I member.

(b) Any person who has completed no less than 20 years of group I creditable service, but who for reasons other than retirement or death ceased to be a group I [~~teacher member or political subdivision employee~~] member prior to attaining the age of 60, and who, as of July 1, 2004, receives a vested deferred retirement allowance and who subsequently attains the age of 60.

(c) Any person who has completed no less than 20 years of group I creditable service and who retired as a group I [~~teacher member or political subdivision employee~~] member prior to age 60, and who subsequently attains the age of 60, or any person who has completed no less than 30 years of group I creditable service and who retired as a group I [~~teacher member or political subdivision employee~~] member prior to age 55, and who subsequently attains the age of 55.

(d) The surviving spouse of a deceased retired group I teacher member or political subdivision employee member who met the qualifications of subparagraphs (a), (b) or (c), or of a deceased member who died while in service as a group I teacher member or political subdivision employee member, provided that such surviving spouse was covered as the member's spouse in the employer-sponsored plan before the member's death and is entitled to a monthly allowance under RSA 100-A:8, 100-A:9, or 100-A:13.

(e) Any certifiably dependent child with a disability living in the household and being cared for by the qualified retired member, the member's spouse, or the qualified surviving spouse.

(f) The surviving spouse and children of a deceased [~~teacher or~~] group I [~~political subdivision employee~~] member who dies as the natural and proximate result of injuries suffered while in the performance of duty, provided that:

(1) Any such child shall be qualified under this subparagraph only if under 18 years of age, or under 23 years of age if attending school on a full-time basis; and

(2) Such surviving spouse shall cease to be qualified upon the remarriage of the surviving spouse; and

(3) No surviving spouse or child shall be qualified or continue to be qualified under this subparagraph while receiving or eligible to receive medical insurance or health care benefits from any employer's sponsored plan.

(g) Any group I [~~teacher member or political subdivision employee~~] member retired on or before July 1, 2004 on disability retirement as the natural and proximate result of injuries suffered while in the performance of duty.

(h) The spouse of a qualified retiree.

I-a. Notwithstanding the provision of RSA 100-A:4, III-b, for the purpose of calculating creditable service for eligibility for medical benefits payment under paragraph I, each full year of job-sharing service of a teacher in a job-sharing position shall be calculated at 1/2[~~;~~] of one year of such service credit.

II. However, for the fiscal year beginning July 1, 2000, the maximum amount payable by the retirement system under this subdivision on account of each person qualified under paragraph I who is not entitled to medicare benefits, and on account of each person qualified under paragraph I who is entitled to medicare benefits, shall be the same as the amount provided in RSA 100-A:52, II for group II retirees. As of July 1, 2000 and on each July 1 thereafter, the maximum amount payable by the retirement system as provided in this paragraph shall be increased by 8 percent, compounded on previous increases.

III. In the case of group I members retired from employment by political subdivisions of the state, the amount payable by the retirement system on account of qualified persons shall be paid over to the employer, insurer, or health care administrator and used to pay for all or part of the medical benefits provided through the former employer for qualified persons. If the cost of the premium for any eligible person under paragraph I shall exceed the maximum under paragraph II, and the employer does not elect to pay the excess cost, the excess cost shall be paid by the retiree or qualified surviving spouse and may be deducted from retirement benefits as provided in RSA 100-A:51. The employer may require, as a condition for coverage, that the retiree or surviving spouse apply for deduction of such excess cost from retirement benefits as provided in RSA 100-A:51.

III-a. As of January 1, 2002, in the case of group I members retired from state employment before July 1, 1991, and their beneficiaries who are eligible for coverage under this subdivision and also under the provisions of RSA 21-I:26-36, the amount payable by the retirement system on account of such persons shall be paid over to the state and used to pay for all or part of the medical benefits provided under RSA 21-I:26-36 for such persons, and the balance

shall be paid by the state as provided in RSA 21-I:26-36.

III-b. As of January 1, 2002, in the case of group I members retired from state employment on or after July 1, 1991, and their beneficiaries who are eligible for coverage under this subdivision and also under the provisions of RSA 21-I:26-36, the amount payable by the retirement system on account of such persons shall be paid over to the state and used to pay for all or part of the medical benefits provided under RSA 21-I:26-36 for such persons, and the state shall pay its portion as provided in RSA 21-I:26-36. If the cost of the premium for any retired group I member and spouse, surviving spouse, or any other person entitled to benefits under paragraph I shall exceed the maximum under paragraph II, and the state does not elect to pay the excess cost above the amount to be paid under RSA 21-I:26-36, the excess cost shall be paid by the retiree or qualified surviving spouse and may be deducted from retirement benefits as provided in RSA 100-A:51. The state may require, as a condition for coverage, that the retiree or surviving spouse apply for deduction of such excess cost from retirement benefits as provided in RSA 100-A:51.

IV. There shall be no age limit to participate in the employer sponsored medical and health plan provided in paragraph I, and there shall be no physical examination or health statement required for such coverage, provided, however, that if an eligible retired group I [~~teacher member or political subdivision employee~~] member of the retirement system fails to apply for such coverage within the time required by the insurance contract, the insurer may require satisfactory evidence of insurability as a condition for becoming insured.

V. Any group I teacher member retired before January 1, 2000, or other eligible person under paragraph I, who would have been eligible for medical benefits under this section if this section had been in effect on the member's date of retirement, shall have the option of re-joining the medical or health plan sponsored by the retired member's former employer and of receiving benefits under this section, provided that such eligible person shall apply to the employer for such benefits before January 1, 2002. Upon receipt of such application, the former employer shall enroll such retiree or other eligible person in the employer's plan in the same manner and subject to the same conditions as enrollment of a new employee but without any benefit-waiting period which may be applicable to new employees of that employer. Neither an employer nor an employer's group plan or insurer shall be liable for any claims incurred prior to the date of enrollment under this paragraph.

VI. Any group I political subdivision employee member retired before January 1, 2001, or other eligible person under paragraph I, who would have been eligible for medical benefits under this section if this section had been in effect on the member's date of retirement, shall have the option of re-joining the medical or health plan sponsored by the retired member's former employer and of receiving benefits under this section, provided that such eligible person shall apply to the employer for such benefits before January 1, 2003. Upon receipt of such application, the former employer shall enroll such retiree or other eligible person in the employer's plan in the same manner and subject to the same conditions as enrollment of a new employee but without any benefit-waiting period which may be applicable to new employees of that employer. Neither an employer nor an employer's group plan or insurer shall be liable for any claims incurred prior to the date of enrollment under this paragraph.

VII. The retirement system shall notify all group I teacher and political subdivision employee retirees and surviving spouse beneficiaries, who are currently drawing monthly allowances from the retirement system, of their possible right to re-join and active-employee medical insurance or health plan and to receive benefits under this section.

VIII. Any person who is eligible to receive group insurance or other medical benefits under the provisions of this section, but who does not need and who declines such benefits because they would be duplicative of coverage under any employer-sponsored plan, shall nevertheless continue to be eligible and, upon ceasing to be eligible for the other coverage, shall be permitted to receive the benefits allowable under this section without any waiting period.

12 New Section; New Hampshire Retirement System; Method of Financing; Group I State Employees. Amend RSA 100-A by inserting after section 53-c the following new section:

100-A:53-d Method of Financing; Group I State Employees.

I. The benefits provided under RSA 100-A:52-a shall be provided by a 401(h) subtrust of the New Hampshire retirement system. The 401(h) subtrust shall be funded by allocating 25 percent of future group I state employer contributions made for group I state employees in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter, the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.

II. All contributions made to the retirement system to provide medical benefits under RSA 100-A:52-a shall be maintained in a separate account, the 401(h) subtrust. All funds and accumulated interest shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in

this chapter may be used or diverted to provide medical benefits under RSA 100-A:52-a. The funds, if any, providing medical benefits under RSA 100-A:52-a may be invested pursuant to the provisions of RSA 100-A:15.

13 New Paragraph; New Hampshire Retirement System; Medical Benefits; Application. Amend RSA 100-A:55 by inserting after paragraph I-b the following new paragraph:

I-c. It is the intent of the legislature that future group I state employee members eligible after July 1, 2004 shall be included under the provisions of RSA 100-A:52-a only if the total cost of such inclusion can be terminally funded from the special account established in RSA 100-A:16, II (h).

14 Defense and Indemnification. Amend RSA 99-D:2 to read as follows:

99-D:2 **Defense** and **Indemnification**. If any claim is made or any civil action is commenced against a present or former officer, trustee, official***,*** or employee of the state or any agency thereof, including members of the New Hampshire national guard and any justice of the district, municipal, probate, superior***,*** or supreme court, or the clerks or bail commissioners thereof, or any harbor master appointed by the New Hampshire port authority, or officials and employees of the New Hampshire housing finance authority, or directors, officers, and employees of the Pease development authority***, or directors, officers, and employees of the land and community heritage investment authority*** seeking equitable relief or claiming damages for the negligent or wrongful acts and the officer, trustee, official, or employee requests the state to provide representation for him ***or her***, and the attorney general, or, in the case of a claim or civil action commenced against the attorney general, the governor and council, determines that the acts complained of were committed by the officer, trustee, official, or employee while acting within the scope of official duty for the state and that such acts were not wanton or reckless, the attorney general shall represent and defend such person with respect to such claim or throughout such action, or shall retain outside counsel to represent or defend such person, and the state shall defray all costs of such representation or **defense**, to be paid from funds not otherwise appropriated. In such case the state shall also protect, indemnify, and hold harmless such person from any costs, damages, awards, judgments***,*** or settlements arising from the claim or suit. The attorney general or governor and council shall not be required to consider the request of such person that representation be provided for him ***or her*** unless within 7 days of the time such person is served with any summons, complaint, process, notice, demand, or pleading [~~he~~] ***the person*** shall deliver the original or a copy thereof to the attorney general or, in the case of an action against the attorney general, to the governor and council. As a condition to the continued representation by the attorney general and to the obligation of the state to indemnify and hold harmless, such officer, trustee, official, or employee shall cooperate with the attorney general in the **defense** of such claim or civil action. No property either real or personal of the state of New Hampshire shall be subject to attachment or execution to secure payment of or to satisfy any obligations of the state created under this chapter. Upon the entry of final judgment in any action brought under this chapter, the governor shall draw [~~his~~] ***a*** warrant for said payment out of any money in the treasury not otherwise appropriated, and said sums are hereby appropriated. The attorney general shall have the authority to settle any claim brought under this chapter by compromise and the amount of any such settlement shall be paid as if the amount were awarded as a judgment under this chapter. **Indemnification** by the state under this section shall be for the actual amount of costs, damages, awards, judgments, or settlements personally incurred by any such officer, trustee, official, or employee, and the state shall not pay any amounts for which payment is the obligation of any insurance carrier or company under a policy or policies of insurance or any other third party under a similar obligation.

15 New Subparagraphs; Additional Powers and Duties. Amend RSA 227-M:5, VIII by inserting after subparagraph (c) the following new subparagraphs:

(d) Employ or retain as independent contractors architects, engineers, attorneys, accountants, and other advisors and employees, consultants, and agents as may be necessary in its judgment without regard to any personnel or civil service law of the state to prescribe their duties and qualifications and to fix and pay their compensation if any.

(e) Appoint qualified individuals to serve as unpaid volunteers under such terms and conditions as it deems necessary. Said volunteers or advisors may be paid a stipend and/or reimbursed for any incidental expenses determined by the authority to be necessary and incurred while performing the business of the authority.

16 New Section; Administrative Fund Established. Amend RSA 227-M by inserting after section 7 the following new section:

227-M:7-a Administrative Fund.

I. There is established in the office of the state treasurer a fund to be known as the land and community heritage investment program administrative fund into which the state treasurer shall credit any revenue generated pursuant to RSA 261:97-b, I-a. For the biennium ending June 30, 2003 there shall also be deposited, on a monthly basis, interest income generated on

appropriations made to the land and community heritage investment program trust fund pursuant to RSA 227-M:7. If the revenues generated to the administrative fund from these two sources for said biennium do not total $335,000 during each year of the biennium, then, on or after the first day of the last month of the fiscal year, the treasurer shall be authorized to credit the administrative fund from the principal of the trust fund, not to exceed this total.

II. All sums so credited shall be appropriated to the authority for the following purposes:

(a) To pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board or the executive director. The authority may enter into a contract or agreement for provision of services to withhold on a monthly basis all payroll and benefit costs for employees.

(b) In general for the payment of all expenses incident to the management and operation of the authority as are consistent with its statutory purpose and as the board or the executive director thereof may from time to time determine.

III. This fund shall constitute a continuing appropriation for the benefit of the authority. Any amount remaining to the credit of the authority at the close of any fiscal year, and any interest accrued, shall be nonlapsing and shall be carried over and credited to the fund for the succeeding year.

17 New Section; Land and Community Heritage Investment Program; Authority Employees. Amend RSA 227-M by inserting after section 6 the following new section:

227-M:6-a Status of Employees.

I. The authority may hire, fix and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state. The employees of the authority shall not be classified employees of the state within the meaning of RSA 21-I:49. Any individual employed by the authority shall be deemed an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding the provisions of paragraph I, any individual employed by the authority whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state provided, however, that the election is made in writing within 30 days of the start of employment. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority.

18 Department of Resources and Economic Development; Telecommunications Planning and Development Initiative; Initial Funding; Appropriation Nonlapsing. Amend 2000, 298:5 by inserting after paragraph IV the following new paragraph:

V. The initial funding mechanism and the appropriation made pursuant to this section shall not lapse until June 30, 2002.

19 Authority to Fill Unfunded Positions; Department of Health and Human Services. Notwithstanding any other provision of law, the commissioner of the department of health and human services may fill any authorized unfunded positions during the biennium ending June 30, 2003, provided that the total expenditures shall not exceed the amount appropriated for personal services, permanent and personal services, unclassified.

20 Certain Tobacco Use Prevention Fund Moneys; General Fund. Notwithstanding any provision of law to the contrary, $1,500,000 from the tobacco use prevention fund, established in RSA 126-K:15, shall lapse to the general fund on July 1, 2001.

21 Effective Date.

I. Sections 11 and 12 of this act shall take effect 60 days after its passage.

II. Section 13 of this act shall take effect January 1, 2002.

III. Section 18 of this act shall take effect June 30, 2001.

IV. The remainder of this act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill:

I. Establishes a travel and tourism development fund.

II. Requires that acceptance and expenditures of federal aid and any other non-state funds in excess of $100,000 be approved by the joint legislative fiscal committee.

III. Provides for the costs of administration of the retirement system to be a charge upon retirement system funds.

IV. Provides for the method of funding payments for certain group I members of the New Hampshire retirement system.

V. Establishes an administrative fund for the land and community heritage investment authority and adds certain powers and duties of the authority.

VI. Provides that the initial funding mechanism and appropriation for the telecommunications planning and development initiative shall not lapse until June 30, 2002.

VII. Permits the commissioner of the department of health and human services to fill authorized unfunded positions.

VIII. Requires that $1,500,000 from the tobacco use prevention fund lapse to the general fund.

2001-0910h

Amendment to HB 2-FN-A

Proposed by the Minority of the Committee on Finance - R

Amend the bill by deleting section 20 and renumbering the original section 21 to read as 20.

AMENDED ANALYSIS

This bill:

I. Establishes a travel and tourism development fund.

II. Requires that acceptance and expenditures of federal aid and any other non-state funds in excess of $100,000 be approved by the joint legislative fiscal committee.

III. Provides for the costs of administration of the retirement system to be a charge upon retirement system funds.

IV. Provides for the method of funding payments for certain group I members of the New Hampshire retirement system.

V. Establishes an administrative fund for the land and community heritage investment authority and adds certain powers and duties of the authority.

VI. Provides that the initial funding mechanism and appropriation for the telecommunications planning and development initiative shall not lapse until June 30, 2002.

VII. Permits the commissioner of the department of health and human services to fill authorized unfunded positions.

2001-0901h

Amendment to HB 25-FN-A

Proposed by the Committee on Finance - R

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

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified to the departments, agencies, and branches named:

I. Adjutant General.

A. Armory Renovations - Statewide $ 400,000

B. Reroofing Plymouth and Franklin Armories and SMR building "F" 210,000

C. Army Aviation Support Facility Construction - Concord 30,600,000

Less Federal -30,600,000

Net state appropriation subparagraph C 0

D. NHSVC Administration Building 514,000

Less Federal -514,000

Net state appropriation subparagraph D 0

E. NHSVC Grave Locator and Public Restroom 94,000

Less Federal -94,000

Net state appropriation subparagraph E 0

F. NHSVC Columbarium Expansion 305,000

Less Federal -305,000

Net state appropriation subparagraph F 0

G. NHSVC Irrigation 141,000

Less Federal -141,000

Net state appropriation subparagraph G 0

H. NHSVC Foot Bridge 210,000

Less Federal -210,000

Net state appropriation subparagraph H 0

I. USPFO Addition and Renovation 4,036,700

Less Federal -4,036,700

Net state appropriation subparagraph I 0

J. NHNG Training Site Range-Center Strafford 2,280,800

Less Federal -2,280,800

Net state appropriation subparagraph J 0

Total state appropriation paragraph I $610,000

II. Administrative Services.

A. Bureau of General Services.

1. State Laboratory - Complete HVAC Repairs $ 8,552,200

2. E-911 Install Ventilation Unit 133,000

3. 6 Hazen Drive - Install Fire Suppression System 807,500

4. State Library - Install Fire Suppression System 310,000

5. State House Annex - Life Safety Code Improvements 106,500

6. State House Annex - Upgrade Elevators 198,000

7. 6 Hazen Drive - Replace State Laboratory Roof 160,000

8. State House - Upgrade Elevators 198,000

9. State House - Repoint Exterior Granite & Caulk Windows 205,000

10. State House – Dome 300,000

11. State House Annex – Mailroom Lift 93,500

12. Johnson Hall Renovations - State Office Park South 229,576

13. Storrs Street Garage - Parking Garage Repairs 513,000

Total state appropriation subparagraph A $11,806,276

B. Bureau of Court Facilities.

1. Carroll County Courthouse Construction $ 6,250,000

2. Roof - Nashua 115,700

Total state appropriation subparagraph B $ 6,365,700

Total state appropriation paragraph II $18,171,976

III. Agriculture, Markets, and Food.

A. NH Bldg. At Eastern States Exposition $200,000

Total state appropriation paragraph III $200,000

IV. Community-Technical College System.

A. Learning Resource Center - Stratham $1,584,000

B. System Maintenance - Statewide 705,000

C. Machine Tool Lab - Nashua 350,000

D. New Academic Building - Laconia (Design) 700,000

E. Mezzanine Instruction Renovation - Manchester 739,850

F. Computer System Upgrades * 600,000

G. Computer System Upgrades – Claremont* 350,000

H. Mobile Equipment Center Design/Child Care – Berlin 250,000

I. Christa McAuliffe Planetarium – Alan B. Shepard Memorial Wing 100,000

Total state appropriation paragraph IV $ 5,378,850

V. Department Of Corrections.

A. Upgrade Electronic Perimeter Fence Phase 2 - Concord $100,000

Total state appropriation paragraph V $100,000

VI. Department of Cultural Resources.

A. Statewide Union Catalog Hardware* $225,000

Total state appropriation paragraph VI $225,000

VII. Department Of Education.

A. Education Statistics System * $200,000

B. Grants Management * 650,000

Less Federal -500,000

Net state appropriation subparagraph B 150,000

C. Vocational Rehabilitation Case Management System * 170,000

Less Federal -140,000

Net state appropriation subparagraph C 30,000

D. Career Development System (Phase 2) * 227,500

Less Federal -98,000

Net state appropriation subparagraph D 129,500

E. Regional Vocational Center Renovation - Keene 4,500,000

F. Vocational Center Construction – Nashua (Phase I) 4,500,000

Total state appropriation paragraph VII $9,509,500

VIII. Department Of Environmental Services.

A. Drinking Water SRF Matching Funds $721,400

B. Wastewater SRF Matching Funds 5,361,274

Total state appropriation paragraph VIII $6,082,674

IX. Department Of Health & Human Services.

A. Patient Res. ADA & Fire Sys/Transitional Housing

– State Office Park South $433,750

B. Asbestos Abatement - State Office Park South 996,250

C. Main Building - ADA, Fire/Life Safety Renovations 265,000

D. MOP Roof Replacement/Wiring, Phone, Alarm - Laconia 210,000

E. Laconia MR Offenders New Building 500,000

F. Patient Care Network * 700,000

G. LITS (Lab Information Tracking System) * 250,000

H. Bridges Enhancement * $3,000,000

Less Federal -1,500,000

Net state appropriation subparagraph H 1,500,000

I. DFA New Heights Enhancements * 3,100,000

Less Federal -1,550,000

Net state appropriation subparagraph I 1,550,000

J. Public Health Laboratories Replacement Equipment 495,000

Total state appropriation paragraph IX $6,900,000

X. Liquor Commission.

A. Renovate Store #38 & Parking Lot - Portsmouth $685,000

B. Renovate Store #34 - Salem & New HVAC 593,000

Total state appropriation paragraph X $1,278,000

XI. Department Of Resources and Economic Development.

A. Statewide Radio System $582,200

B. Exterior Repairs, Roofing - Statewide 200,000

C. Road Repairs/Parking Lot Maintenance - Statewide 200,000

D. Cannon Mt. Aerial Tram-Upgrade Drive & Control Sys. 995,000

Less Park Fund -995,000

Net state appropriation subparagraph D 0

Total state appropriation paragraph XI $982,200

XII. Supreme Court.

A. Computer System Upgrade * $1,100,000

Total state appropriation paragraph XII $1,100,000

XIII. Department Of Transportation.

A. 5-10 percent match for FAA Projects $2,800,000

B. Repair State Rail Lines 2,000,000

Less Federal -1,000,000

Net state appropriation subparagraph B 1,000,000

C. Public Transit Bus Replacement 1,000,000

Less Federal -800,000

Less Other -100,000

Net state appropriation subparagraph C 100,000

Total state appropriation paragraph XIII $3,900,000

XIV. Veterans Home.

A. 100 Electric Beds $150,000

B. Parker Tubs 40,000

Total state appropriation paragraph XIV $190,000

XV. Youth Development Services.

A. King Cottage Renovations - Const. YDS $415,000

B. ADA Compliance and Sprinkler/Fire Detection - Const. 500,000

Total state appropriation paragraph XV $915,000

Total state appropriation section 1 $55,543,200

* The bonds issued for these projects shall be 5 year bonds.

2 Appropriation; University System of New Hampshire.

I. The general court intends to appropriate a total of $100,000,000 during the bienniums ending June 30, 2003, June 30, 2005, and June 30, 2007 to fund capital improvement projects at the university system of New Hampshire. The legislature intends to appropriate $33,000,000 for the biennium ending June 30, 2005; and $33,000,000 for the biennium ending June 30, 2007.

II. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Murkland Hall renovation $ 8,500,000

B. Mason Library renovation $ 4,600,000

C. Boyd Hall renovation and expansion $16,000,000

D. Kingsbury Hall design $ 3,000,000

E. NHPTV equipment $ 1,900,000

Total state appropriation section 2 $34,000,000

III. Requests by the university system of New Hampshire submitted in the capital budget request in accordance with RSA 9 for the bienniums ending June 30, 2005 and June 30, 2007 shall specify which projects the university system intends to include in the $33,000,000 to be appropriated for that biennium.

3 Appropriation; Fish and Game Department. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Statewide Fish Hatchery Capital Improvement Study $200,000

Total state appropriation section 3 $200,000

4 Appropriation; Department of Safety and Department of Transportation. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department Of Safety.

A. Hayes Building Sprinkler System $424,500

B. Radio System – County Tie-in 1,000,000

Total state appropriation paragraph I $1,424,500

II. Department Of Transportation.

A. Security & Building Modifications - Traffic $ 626,000

B. Energy/Environmental Renovations/Replacements

and Emergency Repairs - Statewide 1,000,000

C. Replacement of Shop Cranes - Mechanical Services - Statewide 407,000

D. New Garage & Testing Lab Facility $18,423,000

Less Other (Sale of existing garage) -4,000,000

Net state appropriation subparagraph D 14,423,000

Total state appropriation paragraph II $16,456,000

Total state appropriation section 4 $17,880,500

5 Expenditures: General. The appropriation made for the purpose mentioned in sections 1, 3, and 4 and the sums available for those projects shall be expended by the trustees, commissions, commissioner, or department head of the institutions and departments referred to herein; provided that all contracts and projects and plans and specifications therefor shall be awarded in accordance with the provisions of RSA 228.

6 Expenditures; University System of New Hampshire.

I. The appropriations made for the purposes mentioned in section 2 and the sums available for these projects shall be expended by the trustees of the university system of New Hampshire. All contracts for the construction of all or any part of said buildings or facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each of 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less 30 days prior to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. The appropriations made in section 2 are available for all costs incidental to the completion of the projects enumerated including the costs of the services of architects, engineers, and other consultants of such kind and capacity as the university system board of trustees, in its discretion, may wish to employ on such terms and conditions as the board determines. These moneys shall be spent under the direction of the university system board of trustees and subject to the provisions of section 13 of this act.

III. If, in the judgment of the trustees of the university system, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder; or, if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. The board of trustees of the university system has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered must advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the construction on terms considered most advantageous to the university system and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

7 Land Acquisition. Any land acquired under the appropriations made in sections 1, 3, and 4 of this act, except such land, if any, as may be acquired under the appropriation for the department of environmental services, shall be purchased by the commissioner of the department of transportation with the approval of governor and council.

8 Bond Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of $107,623,700 and for said purposes may issue bonds and notes in the names and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

9 Payments.

I. The payment of principal and interest on bonds and notes issued for the projects in sections 1 and 2 shall be made when due from the general funds in the state.

II. The payment of principal and interest on bonds issued for the projects in:

(a) Section 3 shall be made from the fish and game fund.

(b) Section 4 shall be made from the highway fund.

10 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government, or any agency thereof, as they may deem advisable, to secure federal funds for the purposes hereof.

II. To accept any federal funds which are, or become available for any project under sections 1, 3, and 4 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by section 8 shall be reduced by the same amount.

11 Transfers. The individual project appropriations provided in sections 1, 2, 3, and 4 of this act shall not be transferred or expended for any other purposes; provided that if there is a balance remaining after an individual project, which is fully funded by state funds, is completed, accepted, and final payment made, said balance or any part thereof may be transferred by governor and council, or for expenditures made pursuant to section 6 by the trustees of the university system, to any other individual project or projects, which are also fully funded by state funds, within the same section and from the same funding source, provided that prior approval of the capital budget overview committee is obtained.

12 Reduction of Appropriation and Bonding Authority. If the net appropriation of state funds for any project provided for by sections 1, 3 and 4 is determined on the basis of an estimate of anticipated federal, local, or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such projects and the net appropriation of state funds thereof shall be reduced by the same proportion as the proportion by which federal, local, or other funds are reduced. The amount of bonding authorized by section 8 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

13 Oversight and Reporting Required; University System. The legislative budget assistant shall provide a report every 90 days to the governor and legislative capital budget overview committee on the progress of each of the capital projects funded from the sum appropriated and authorized in section 2 beginning September 30, 2001 until the funds appropriated in section 2 are fully expended. Said reports shall include the method of selecting contractors, the current total project cost, funds encumbered, actual expenditures, and estimated completion date for each project. The board of trustees of the university system of New Hampshire shall provide information necessary for the reports upon request of the legislative budget assistant.

14 Appropriation; Office of the Legislative Budget Assistant. The sum of $50,000 for the biennium ending June 30, 2003, is hereby appropriated to the office of the legislative budget assistant for the purpose of preparing the reports required by section 13 of this act. This appropriation shall be in addition to any other sums appropriated to the office of the legislative budget assistant. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

15 Information Technology Equipment and Software. Individual project appropriations for information technology equipment provided for by sections 1, 3, or 4, or for any other agency in any budget bill enacted during the 2001 legislative session, shall not be spent, obligated, or encumbered until such time as the agency's information technology plans are reviewed by the division of information technology management pursuant to RSA 21-I:67 and approved by the capital budget overview committee. The division of information technology management shall review any such agency technology plans within 90 days. An agency may request an extension of time from the capital budget overview committee.

16 Appropriation; Payment of Bonds and Notes; Department of Regional Community-Technical Colleges; Addition to Student Center; Concord.

I. The sum of $1,500,000 is appropriated to the department of regional community-technical colleges for the purpose of the construction of an addition to the Dr. Goldie Crocker Wellness Center on the Concord campus.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the

credit of the state not exceeding the sum of $1,500,000 and for said purpose 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 on the bonds and notes shall be made from the technical institute private fund.

17 Appropriation Purpose Amended; Department of Transportation; Salt Sheds; Exeter, Gonic, Moultonborough. Amend 1999, 226:4, I, B to read as follows:

B. [~~Roof repair/Stickney Ave.~~] ***Salt Sheds – Exeter Patrol Shed,***

Gonic, Moultonborough 630,000

18 Appropriation; Payment of Bonds and Notes; Department of Safety; Addition to Dormitory; Fire Standards and Training.

I. The sum of $2,687,400 is appropriated to the department of safety for the purpose of the construction of an addition to the dormitory at the fire standards and training center.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of $2,687,400 and for said purpose 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 on the bonds and notes shall be made from the fire standards and training and emergency medical services fund.

19 Contingency; Appropriation to Department of Safety. If both HB 303 and HB 218 of the 2001 legislative session do not become law, then section 18 of this act shall not take effect.

20 Lapse Dates Extended to June 30, 2003. The following appropriations are hereby extended to June 30, 2003.

I. The appropriation made to the department of corrections in 1995, 309:1, IV, K, as amended by 1997, 349:29, and as extended by 1997, 349:34, XVII and 1999, 226:32, VIII, for preliminary design of expanded correctional facilities, including land acquisition, in accordance with federal crime bill grants.

II. The appropriation made to the department of corrections in 1998, 223:2, as extended by 1999, 226:32, XLII, for the design and construction of the new medium security prison and for furnishings and equipment for inmates of the new prison.

III. The appropriation made to the department of corrections in 1999, 226:1, V, D, for a new halfway house.

IV. The appropriation made to the department of resources and economic development in 1997, 349:1, X, B, C, as extended by 1999, 226:32, XXXVI, for rocky bend seawall repairs and replacement of the Sunapee bathhouse.

V. The appropriation made to the department of resources and economic development in 1999, 226:1, XII, A, C, D, E, for ADA compliance for parks facilities, new toilet facilities – Hampton, septic gray water system – Mount Washington, and install power – Crawford Notch.

VI. The appropriation made to the department of administrative services in 1999, 226:I, II, A, 1, for Johnson Hall stair tower.

VII. The appropriation made to the department of administrative services in 1995, 309:1, II, A, 1, as extended by 1997, 349:34, XI and 1999, 226:32, V, for health and human services building and laboratory HVAC renovations.

VIII. The appropriation made to the department of administrative services in 1999, 226:1, II, A, 2, for state lab electrical wiring/panel replacement.

IX. The appropriation made to the department of administrative services in 1999, 226:I, II, A, 4, for health and human services flash and recoat stair tower.

X. The appropriation made to the department of administrative services in 2000, 283:2, for renovation to the Walker building.

XI. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 3, as extended by 1999, 226:32, XIX, for roof repairs – Supreme Court.

XII. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 12, as extended by 1999, 226:32, XXII, for emergency repairs, contingency fund.

XIII. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 13, as extended by 1999, 226:32,

XXIII, for the life safety, renovations – health and human services building.

XIV. The appropriation made to the department of administrative services in 1999, 226:1, II, A, 8, for executive/legislative budget system.

XV. The appropriation made to the department of administrative services, bureau of court facilities in 1993, 359:1, II, B, 2, as extended by 1994, 171:1, 1996, 257:5 and 1998, 226:4, and as amended by 2000, 283:4, for the Plaistow district court.

XVI. The appropriation made to the department of administrative services in 1995, 309:1, II, B, 3, as amended by 1997, 349:34, XIV, and as extended by 1999, 226:32, VI, for the study and design of court facility on county donated land – Carroll County Superior Court.

XVII. The appropriation made to the department of administrative services in 1997, 349:1, II, C, 1, as extended by 1999, 226:32, XXV, for the bureau of court facilities Dover/Durham/Somersworth District Court.

XVIII. The appropriation made to the department of administrative services in 1999, 226:1, II, A, 9, for information technology plan consultants.

XIX. The appropriation made to the department of safety in 1999, 226:4, II, A, as amended by 2000, 132:2, for design and construct troop D barracks/DMC training.

XX. The appropriation made to the department of safety in 1999, 226:4, II, D, for carpeting at 10 Hazen Drive, Concord

XXI. The appropriation made to the department of safety in 1999, 226:4, II, B, for paving and roof replacement at troop stations.

XXII. The appropriation made to the department of education in 1999, 226:1, VI, A, for computer applications expansion/replacement.

XXIII. The appropriation made to the department of transportation in 1993, 359:1, XII, A, 1, as extended by 1994, 171:1, 1996, 215:3, III, 1997, 349:34, X and 1999, 226:32, IV, for land acquisition for navigation beacons.

XXIV. The appropriation made to the department of transportation in 1997, 349:1, XIV, A, as extended by 1999, 226:32, XXXVII, for 5-10 percent match FAA airport projects.

XXV. The appropriation made to the department of transportation in 1999, 226:1, XIII, A, for match for FAA projects.

XXVI. The appropriation made to the department of transportation in 1999, 226:1, XIII, B, for match for public transit bus replacement.

XXVII. The appropriation made to the department of transportation in 1999, 226:1, XIII, C, for acquisition for railroad and airport properties.

XXVIII. The appropriation made to the department of transportation in 1999, 226:1, XIII, E, for compliance, governor's commission on disability.

XXIX. The appropriation made to the department of transportation in 1999, 226:4, I, E, for energy and environmental renovations-statewide.

XXX. The appropriation made to the department of transportation in 1999, 226:4, I, F, for Conway rest area.

XXXI. The appropriation made to the department of transportation in 1999, 226:1, XIII, D for the Concord rail bridge.

XXXII. The appropriation made to the department of transportation in 1999, 226:4, I, B, as amended by section 17 of this act, for salt sheds - Exeter patrol shed, Gonic, Moultonborough.

XXXIII. The appropriation made to the department of health and human services in 1995, 309:1, VII, B, I, as extended by 1997, 349:34, XXIII and 1999, 226:32, XI, for RSA 171-B mentally retarded criminal offenders.

XXXIV. The appropriation made to the department of health and human service by 1995, 310:191, as amended by 1997, 349:31 and 1998, 276:2, as extended by 1997, 349:34, XXXVII and 1998, 276:3, and as amended by 1999, 226:29 and extended by 1999, 226:32, XVI for design and renovation of APS-B-wing, M and S building and Thayer building improvements, Glencliff home improvements, and improvements to the Brown building.

XXXV. The appropriation made to the department of health and human services in 1999, 226:1, VIII, A for laboratory safety improvements.

XXXVI. The appropriation made to the department of health and human services in 1999, 226:1, VIII, F for Laconia developmental services campus-designated receiving facility renovations- developmental services.

XXXVII. The appropriation made to the department of health and human services in 1999, 226:1, VIII, H for information technology.

XXXVIII. The appropriation made to the New Hampshire port authority in 1999, 226:1, XI, A, for building improvements.

XXXIX. The appropriation made to the New Hampshire veterans' home in 1999, 226:1, XIV, A, to design and build a new facility.

XL. The appropriation made to the adjutant general in 1999, 226:1, I, C, for renovation of state armories.

XLI. The appropriation made to the community technical college system in 1999, 226:1, IV, C, for maintenance/critical repairs.

XLII. The appropriation made to the community technical college system in 1999, 226:1, IV, D, for general science laboratory upgrades.

XLIII. The appropriation made to the department of environmental services in 1999, 226:1, VII, D, for storage building for emergency response equipment.

XLIV. The appropriation made to the department of environmental services in1989, 367:1, IV, A, 1, as extended by 1991, 351:27, II(g), 1992, 149:2, I, 1993, 359:20, I, and 1995, 309:33, I for upgrading state-owned flood retardation structures at small watershed program sites.

XLV. The appropriation made to the department of environmental services in 1995, 309:1, VI, C, as extended by 1997, 349:34, XXI, for superfund program.

XLVI. The appropriation made to the department of environmental services in 1995, 309:1, VI, A as extended by 1997, 349:34, XIX and 1999, 226:32, X, for the state revolving fund program – wastewater.

XLVII. The appropriation made to the department of environmental services in 1997, 349:1, VI, A and 1999, 226:32, XXIX, for the wastewater state revolving fund match.

XLVIII. The appropriation made to the department of environmental services in 1997, 349:1, VI, B and 1999, 226:32, XXX, for the drinking water state revolving fund match.

XLIX. The appropriation made to the department of environmental services in 1997, 349:1, VI, F and 1999, 226:32, XXXII, for dam removal.

L. The appropriation made to the department of environmental services in 1999, 226:1, VII, A, for drinking water state revolving fund match.

LI. The appropriation made to the department of environmental services in 1999, 226:1, VII, B, for wastewater state revolving fund match.

LII. The appropriation made to the department of environmental services in 1999, 226:1, VII, C, for hazardous waste superfund match.

LIII. The appropriation made to the department of environmental services in 1999, 226:1, VII, H, for Winnipesaukee operations model.

LIV. The appropriation made to the department of health and human services in 1999, 226:1, VIII, F, for Laconia developmental services campus-designated receiving facility renovations-developmental services.

21 Contingency; Department of Transportation. Section 17 of this act and paragraph XXXII of section 20 of this act shall only take effect if the 2001 capital budget includes the appropriation to the department of transportation for a new garage and testing lab facility, as provided in paragraph II, D of section 4 of this act.

22 Effective Date.

I. Section 20 of this act shall take effect June 30, 2001.

II. Section 18 of this act shall take effect as provided in section 19 of this act.

III. The remainder of this act shall take effect on July 1, 2001.

2001-0778h

Amendment to HB 50-FN-A-LOCAL

Proposed by the Majority of the Committee on Ways and Means - R

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

1 Education Property Tax Rate Reduced. Amend RSA 76:3 to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of [~~$6.60~~] ***$6.30*** 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***, and RSA 83-G***.

2 New Chapter; Tax on Nuclear Station Property. Amend RSA by inserting after chapter 83-F the following new chapter:

CHAPTER 83-G

TAX ON NUCLEAR STATION PROPERTY

83-G:1 Declaration of Purpose and Findings. The general court finds:

I. Nuclear station property is the only property in the state that generates electricity from the fission of atoms.

II. Creating electricity from the fission of atoms imposes unique responsibilities on the state.

III. A nuclear station creates special and unique public safety requirements and burdens on the state.

IV. A nuclear station has a unique and long lasting impact on the environment which creates burdens on the state.

V. Accordingly, in the exercise of authority under part II, article 6 of the constitution of New Hampshire, the general court concludes that nuclear station property constitutes a distinct class of property that is appropriately subject to taxation as such by the state, to help defray the public charges of government, as provided in this chapter.

83-G:2 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. "Nuclear state property" means the land, buildings, structures, tunnels, machinery, dynamos, apparatus, poles, wires, nuclear fuel and fixtures of all kinds and descriptions used in generating, producing, supplying and distributing electric power or light from the fission of atoms, exclusive of transmission lines.

83-G:3 Tax Imposed. For taxable periods beginning April 1, 2001, a tax is imposed upon the value of nuclear station property at the rate of 3.4 percent of valuation, assessed annually April 1, 2001 and every year thereafter, and paid in accordance with this chapter.

83-G:4 Determination Value. On or before December 1 of the tax year, the commissioner shall determine the value of nuclear station 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 persons liable for the tax within 15 days of the determination.

83-G:5 Persons Liable. The tax imposed by this chapter shall be assessed upon each utility owning or possessing nuclear station

property. If an owner of such property has filed an election pursuant to RSA 83-G:6, II, the tax imposed by this chapter shall be assessed upon each person with an ownership interest in such property, in the proportion that such person's ownership interest bears to the entirety of the ownership in the property.

83-G:6 Returns and Declarations.

I. On or before January 15 each year, each person 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 July 15, 2001 for taxable periods ending on or before March 30, 2002 and on or before April 15 of each year ending thereafter, a person with an ownership interest in the utility property, may elect to have the tax assessed in the proportion that such person's ownership interest bears to the entirety of the ownership in the property. If such an election is made, 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, 2002, each person liable to pay the tax shall, in addition, file a declaration on or before July 15, 2001 of the estimated tax to be assessed as of April 1 in the current taxable period, based on the equalized value of nuclear station property determined by the commissioner in the most current equalization report, and 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, 2001 and December 15, 2001.

IV. For taxable periods ending after March 31, 2002, 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 ¼ of the estimated tax due. Additional payments of ¼ of the estimated tax shall be made on June 15, September 15, and December 15.

V. As of June 1 of each year the person liable for the tax or the utility shall file a list of changes made to the utility property since the prior April 1 of the preceding year. 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-G:7 Records.

I. Every person liable for tax under RSA 83-G:5 shall:

(a) Keep such records as may be necessary to determine the amount of his or her 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 of revenue administration or his 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-G:8 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 the amount of remaining balance of the funds collected under this chapter after the expenses of administration have been deducted.

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

(a) The administration of the tax imposed under RSA 83-G:3; and

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

III. 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.

IV. 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, except that the tax imposed by this chapter shall not take precedence over prior recorded mortgages. The commissioner shall also have all of the duties imposed upon the tax collectors by RSA 80 that are applicable to the commissioner. The provisions of 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 his or her warrant for the purchase price out of any money in the treasury not otherwise appropriated.

83-G:9 Appeals. Taxpayers aggrieved by the determination by the commissioner of the value of nuclear station property pursuant to RSA 83-F:4 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-G:10 Exemption from State Education Property Tax. 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.

3 Utility Property Tax; Definition of Utility Property. Amend RSA 83-F:1, V to read as follows:

V. "Utility property" means all real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage subject to tax under RSA 72:6, 72:7 and 72:8, but not exempt under RSA 72:23; 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) Water and sewer companies exempt from regulation as public utilities by the public utilities commission under RSA 362:4; [~~and~~]

(c) ***Nuclear station property subject to tax under RSA 83-G; and***

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

4 New Subdivision; Low and Moderate Income Homeowners Property Tax Relief. Amend RSA 198 by inserting after section 55 the following new subdivision:

Low and Moderate Income Homeowners Property Tax Relief

198:56 Definitions. In this subdivision:

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

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

(a) A vendee in possession under a land contract;

(b) One or more joint tenants or tenants in common; or

(c) A person who has equitable title, or the beneficial interest for life in the homestead.

III. "Household income" means the sum of the adjusted gross income for federal income tax purposes of the claimant and any member of the claimant's household who resides in the homestead for which a claim is made. "Household income" shall also include all income of any trust through which the claimant holds equitable title, or the beneficial interest for life, in the homestead.

IV. "Tax relief" means the low and moderate income homeowners property tax relief provided in this subdivision.

V. "New Hampshire household" means any person filing a federal income tax return as head of household or 2 or more adults who jointly share the benefit of the homestead. "New Hampshire household" shall not include those adults who share the homestead under a landlord-tenant relationship.

VI. "Dependent" means a person residing in a homestead who is claimed as a dependent for federal income tax purposes.

198:57 Low and Moderate Income Homeowners Property Tax Relief

I. Pursuant to the provisions of this subdivision, eligible claimants shall be granted tax relief following the effective date of this act.

II. Residents shall apply to the department of revenue administration for such tax relief.

III. An eligible tax relief claimant is a person who:

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

(b) Resided in such homestead on April 1 of the year for which the claim is made, except such persons as are on active duty in the United States armed forces or are temporarily away from such homestead but maintain the homestead as a primary domicile; and

(c) Realizes total household income of:

(1) $20,000 or less if a single person;

(2) $40,000 or less if a head of a New Hampshire household with a dependent or dependents, or if a married person.

IV. All or a portion of an eligible tax relief claimant's education property taxes, RSA 76:3, shall be rebated as follows:

(a) Multiply the total local assessed value of the claimant's property by the percentage of such property that qualifies as the claimant's homestead;

(b) Multiply the product determined in subparagraph (a) by the current education property tax rate;

(c) Multiply $150,000 by the current education property tax rate;

(d) Multiply either the product of the calculation in subparagraph (b) or (c), whichever is less, by the following percentage as applicable to determine the amount of tax relief available to the claimant:

(1) If a single person and total household income is:

(A) less than $12,500, 100 percent;

(B) $12,500 but less than $15,000, 85 percent;

(C) $15,000 but less than $17,500, 65 percent; or

(D) $17,500 but less than or equal to $20,000, 50 percent.

(2) If a head of a New Hampshire household or a married person and total household income is:

(A) less than $25,000, 100 percent;

(B) $25,000 but less than $30,000, 85 percent;

(C) $30,000 but less than $35,000, 65 percent; or

(D) $35,000 but less than or equal to $40,000, 50 percent.

(e) The amount determined by subparagraph (d) is the allowable tax relief in any year.

V. If a homestead is owned by 2 or more persons as joint tenants or tenants in common, and one or more of such joint owners do not principally reside at such homestead, tax relief applies to the proportionate share of the homestead value that reflects the ownership percentage of the claimant. Only one claim may be filed for a single homestead.

VI. Claims for tax relief shall be filed with the department of revenue administration between May 1 and June 30 following the due date of the education property taxes.

VII. Each claim shall be accompanied by a copy of the claimant's federal income tax return filed by the claimant for the corresponding tax period. Claimants who were not required to file a federal tax return for the immediately prior tax period may submit an affidavit to such effect in lieu of a tax return which document shall include the claimant's social security number. A claimant who asserts ownership in a homestead because he or she holds equitable title, or the beneficial interest for life, in the homestead shall also submit a copy of the document creating such interest and a copy of the federal tax return, if any, for the immediately prior tax period, of the trust holding legal title to the homestead. Any documents submitted shall be considered confidential, and protected under RSA 21-J:14.

VIII. The provisions of RSA 359-C shall not apply to the documents required to be submitted under this section.

198:58 Rulemaking; Forms; Notice.

I. The commissioner shall adopt rules, under RSA 541-A, relative to the administration of excess tax payments and the tax relief provisions of this subdivision.

II. The commissioner shall approve and provide forms relative to the administration of this subdivision.

III. Claim forms shall include the following:

(a) Instructions on completing and filing the form;

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

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

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

IV. The commissioner shall publicize notice of the tax relief provisions in a suitable manner.

198:59 Penalties; Assessment of Erroneous Claims.

I. Any person who files a claim for tax relief under this subdivision with fraudulent intent and any person who assisted in the preparation or filing of the claim or supplied information upon which the claim was prepared shall be guilty of a misdemeanor.

II. The commissioner may assess and collect the amount of any sums granted for property tax relief relative to a fraudulent or erroneously paid claim for tax relief including interest provided under RSA 21-J:28 and an additional penalty of 25 percent for the erroneous amount of such claim or an additional penalty of the greater of 25 percent or $1,000 for a fraudulent claim.

198:60 Appeals.

I. Whenever the commissioner refuses to grant a claimant a tax relief claim, the claimant may appeal in writing within 30 days of notice of such refusal to the board of tax and land appeals.

II. When a taxpayer appeals the commissioner's refusal 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 commissioner's action to be arbitrary or unreasonable.

198:61 Refund of Tax Claims. The department of revenue administration shall review a claim for tax relief filed with it and, if such claim is determined to be valid, shall certify such amount to the state treasurer within 120 days. The state treasurer shall pay the claim to the claimant from funds in the education trust fund. The department shall notify a claimant whose claim is rejected in whole or in part of such determination within 90 days of the department's receipt of the claim and all required documentation.

5 Rate of Tax for Biennium Ending June 30, 2003; Intrastate and Interstate Communications Services Tax. Notwithstanding RSA 82-A:3 and RSA 82-A:4, for the period beginning July 1, 2001 and ending June 30, 2003, the rate of tax is 5.5 percent on the gross charge for communications services purchased at retail from a retailer.

6 Prospective Repeal Date Extended for Exemption of Wooden Poles Under RSA 72:8-b. Amend 1998, 304:6, I as amended by 1999, 163:7 to read as follows:

I. Section 5 of this act shall take effect July 1, [~~2001~~] ***2003***.

7 Special Transition Rule; Credit for Utility Property Tax Payments. As of July 1, 2001 any utility property tax estimated payments made to the state in accordance with RSA 83-F:5, IV by persons exempted from such tax by section 3 of this act shall be credited toward the amount due from such persons, if any, under the provisions of RSA 83-G:6, III as enacted in section 2 of this act.

8 Repeal. The following are repealed:

I. RSA 77-A:5, III, relative to the insurance premium tax credit against the business profits tax.

II. RSA 77-A:5, X, relative to the business enterprise tax credit against the business profits tax.

III. RSA 77-E:13, relative to application for the business enterprise tax credit against the business profits tax.

IV. RSA 198:50 through 198:55, relative to education property tax hardship relief.

V. 1999, 338:22, II, relative to the repeal of education property tax hardship relief.

VI. RSA 400-A:32, V, relative to the insurance premium tax credit against the business profits tax.

VII. RSA 400-A:34-a, relative to the insurance tax credit against the business enterprise tax and the business profits tax.

9 Effective Date.

I. Section 1 of this act shall take effect upon its passage, and shall apply to property taxes due for the tax year beginning April 1, 2002.

II. Sections 2-7 and IV and V of section 8 of this act shall take effect July 1, 2001.

III. Paragraphs I, II, III, VII and VIII of section 8 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 organization or 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.

AMENDED ANALYSIS

This bill:

I. Reduces the rate of the education property tax.

II. Establishes a nuclear station property tax.

III. Establishes a low and moderate income homeowners property tax relief program.

IV. Extends the temporary rate of the communications services tax.

V. Repeals certain business tax credits.

2001-0610h

Amendment to HB 105-FN-A

Proposed by the Committee on Finance - R

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

1 New Subdivision; Agricultural Nutrient Management Program. Amend RSA 431 by inserting after section 35 the following new subdivision:

Agricultural Nutrient Management Program

431:36 Program Established.

I. The commissioner of the department of agriculture, markets, and food shall establish an agricultural nutrient management program. The program shall assist agricultural land and livestock owners with efforts to minimize potential adverse effects on waters of the state resulting from agricultural nutrients including fertilizers, animal manures, and agricultural compost. The purpose of the program shall be to provide educational, technical, and financial assistance to agricultural land owners with implementing best management practices as provided in RSA 431:34-35, and such other practices deemed necessary to mitigate water pollution. The goal of the program is to assist and enable the continued viability of farming in New Hampshire and the preservation of open space in a manner that is compatible with the state's public health and environmental objectives. The commissioner shall be authorized to accept grants, gifts, and donations from any public or private sources for the purposes stated in this paragraph.

II. The commissioner shall report by October 1 of each year, beginning 2002, to the house environment and agriculture committee, the senate environment committee, the house finance committee, and the senate finance committee. The report shall include:

(a) The use and current status of the fund;

(b) The work accomplished;

(c) The number of grantees and the amount of the grant received by each; and

(d) The effectiveness of the implementation of agricultural best management practices needed to more fully protect water quality.

2 Appropriations.

I. The sum of $20,000 is appropriated to the department of agriculture for each year of the biennium, ending June 30, 2003, for the purpose of funding the agricultural nutrient management program established under RSA 431:36. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

II The commissioner shall apply for a grant of $30,000 through the department of environmental services from the Environmental Protection Agency pursuant to section 319 of the Clean Water Act for nonpoint source pollution programs.

AMENDED ANALYSIS

This bill requires the commissioner of the department of agriculture, markets, and food to establish a program of agricultural nutrient management in the state of New Hampshire. This bill provides for funding through June 30, 2003, and requires the commissioner to apply for a grant from the department of environmental services.

2001-0009h

Amendment to HB 152

Proposed by the Majority of the Committee on Fish and Game - R

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

AN ACT relative to expanding the legal methods of taking deer.

Amend the bill by replacing all after section 1 with the following:

2 New Section; Taking Deer by Crossbow; Rulemaking. Amend RSA 208 by inserting after section 7 the following new section:

208:7-a Taking Deer by Crossbow; Rulemaking. The executive director of fish and game, with the consent of the commission, may adopt rules under RSA 541-A to allow for the taking of deer by crossbow during the regular firearms season, for persons holding a valid firearms deer tag, or as specified in RSA 206:23-c. Such rules may include, but not be limited to, conditions or limitations as to the portions of the state crossbows may be used, the manner and method of taking with a crossbow, mandatory education requirements for the use of a crossbow, and any additional licensing requirements and associated fees.

3 Effective Date. This act shall take effect January 1, 2003.

AMENDED ANALYSIS

This bill expands the permitted methods of hunting deer to include crossbow for persons holding a firearms deer tag and adds a rulemaking provision allowing the executive director of fish and game to adopt rules regarding the regulation and use of crossbow.

2001-0600h

Amendment to HB 154

Proposed by the Committee on Election Law - C

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

AN ACT relative to candidates of parties nominated by nomination papers and relative to vacancies for office on a party ticket.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 7:

2 Nominations for Incompatible Offices; Filling Vacancies. Amend RSA 659:91 to read as follows:

659:91 Nominations for Incompatible Offices. Any person who is nominated by the same political party for incompatible offices shall notify the secretary of state no later than the Monday following the date of the primary of which nomination he ***or she*** will accept. Thereupon the secretary of state shall declare a vacancy to exist in the nomination which such person declined. The vacancy shall ***not*** be filled [~~as provided in RSA 655:37 except that all the necessary declarations of candidacy and affidavits shall be filed no later than the second Friday following the date of the primary~~].

3 Candidate of One Party; Disqualification; Reference Deleted. Amend RSA 659:91-a, II to read as follows:

II. [~~Notwithstanding the provisions of RSA 655:37,~~] If any candidate is disqualified from accepting the nomination of another party by means of write-in votes because the candidate is disqualified under the provisions of paragraph I, then the nomination shall be given to the candidate who received the highest number of write-in votes and who was not disqualified under the provisions of paragraph I, so long as he or she receives 10 write-in votes, or write-in votes equaling 10 percent or more of the total votes cast for that party on the state primary election ballot, whichever is the smaller.

4 Vacancies Among County Officers; Reference Changed. Amend RSA 661:9, II(c) to read as follows:

(c) The provisions of RSA 655:32 [~~and RSA 655:37~~] relating to nominations by appropriate party committees for vacancies in an office on a primary [~~or general~~] election ballot[~~, respectively,~~] shall apply to vacancies to be filled under this paragraph. 5 Jurisdiction of Ballot Law Commission; Objection to Filling of Vacancy; Reference Changed. Amend RSA 665:4, II to read as follows:

II. When nomination papers as provided in RSA 655:40-43 or the filling of vacancies in nominations occurring after the primary as provided in RSA 655:[~~37~~] 38-39 are in apparent conformity with law, they shall be valid unless written objection thereto shall be filed with the secretary of state within the time limit provided in RSA 655:44 in the case of nominations by nomination papers or within 3 days of the date on which the appointment to fill a vacancy is filed with the secretary of state in the case of filling vacancies in nominations. If written objections are filed, the secretary of state shall forthwith notify the ballot law commission of the filing. The ballot law commission shall then meet as provided in RSA 665:6-a in order to hear and decide all the objections. The decision of the ballot law commission in such case shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision.

6 Repeal. RSA 655:37, relative to vacancy for office on party ticket, is repealed.

AMENDED ANALYSIS

This bill requires that a political party nominated by nomination papers submit its list of candidates for the general election to the secretary of state no later than 5:00 p.m. on the day of the primary. This also bill repeals the provision permitting parties to fill vacancies existing on a party ticket following the state primary election.

2001-0825h

Amendment to HB 158

Proposed by the Committee on Fish and Game - C

Amend RSA 208:8-a, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. The provisions of paragraph I shall not apply to a person using an artificial light to locate or view a moose prior to 9:00 p.m. on any day during the period of September 1 through the second Monday of October. In addition, the exception in this paragraph shall be limited to the following roads in Coos county.

(a) Class I, II, and III state highways.

(b) Class IV, V, and VI city or town roads, with the permission of the local governing body.

2001-0894h

Amendment to HB 170-FN-A

Proposed by the Majority of the Committee on Ways and Means - R

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

AN ACT establishing a titled motor vehicle transfer tax and repealing the legacies and successions tax.

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

1 New Chapter; Titled Motor Vehicle Transfer Tax. Amend RSA by inserting after chapter 78-C the following new chapter:

CHAPTER 78-D

TITLED MOTOR VEHICLE TRANSFER TAX

78-D:1 Definitions. In this chapter:

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

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

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

IV. "Electronic data submission" means the use of either the telephone or computer to transmit information.

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

VI "Lease," "leasing," or "rental" means any arrangement whereby, for a consideration, a motor vehicle is possessed or employed for or by a person other than the owner of the vehicle.

VII. "Maintaining a place of business in this state" means the following:

(a) Having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or any agent of general or restricted authority irrespective of whether the place of business or agent is located here permanently or temporarily or whether the person or subsidiary maintaining such place of business or agent is authorized to do business within this state.

(b) The engaging in any business activity within this state by any person, directly or by a subsidiary, in connection with the sale, lease, or delivery of motor vehicles or the performance of services thereon for use or storage including, but not limited to, having, maintaining or using any office, distribution house, sales house, warehouse, or other place of business, any stock of goods or any solicitor, salesperson, agent, or representative under its authority, at its direction or with its permission, regardless of whether the person or subsidiary is authorized to do business in this state.

VIII. "Motor vehicle" means any self-propelled vehicle not operated exclusively on stationary tracks for which a certificate of title is required by RSA 261:1; provided, however, the following shall not be included in the definition of "motor vehicle":

(a) Exempt vehicles as provided in RSA 261:3 I, (a) through (j); and

(b) Construction equipment as defined in RSA 259:42.

IX. "Municipal registration agent" means any person appointed to issue, renew, or transfer motor vehicle registrations pursuant to RSA 261:74-a.

X. "Net purchase price" means the purchase price as defined in this section less any deductions allowed by RSA 78-D:4.

XI. "Person" means an individual, partnership, trust or association, with or without transferable shares, joint stock company, corporation, limited liability company, society, club, organization, institution, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

XII. "Purchase or purchasing, sale or selling" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle for a consideration, including leases and transactions whereby the possession of the property is transferred but the seller retains the title as security for the payment of the purchase price.

XIII.(a) "Purchase price" means the gross consideration, exclusive of the tax hereby imposed, which is to be paid for the motor vehicle, expressed in terms of United States currency as of the time of the sale, and shall include the cash consideration, if any, plus the value of any services or property given or to be given, or both, in exchange for the motor vehicle.

(b) In the case of a lease, the purchase price shall mean an amount computed by subtracting the "lease end value" of the motor vehicle from the "original acquisition cost" of the motor vehicle. For purposes of this subparagraph, the "original acquisition cost" of a motor vehicle means the gross consideration which the lessee would pay for the motor vehicle if the lessee purchased the motor vehicle on the date of execution of the lease contract, as stated in the lease contract or worksheet, and the "lease end value" means the value of the motor vehicle at the end of the lease period, as stated in the lease contract or worksheet or as determined by the commissioner pursuant to RSA 78-D:10, III. Purchase price shall also include the value of anything paid or delivered, or promised to be paid or delivered by a lessee, whether it be money or otherwise, to any person other than the vendor or lessor by reason of the maintenance, insurance, or repair of the leased motor vehicle.

XIV. "Tax" means the titled motor vehicle transfer tax imposed by this chapter.

XV. "Taxpayer" means any person required to make returns or pay the tax imposed by this chapter.

XVI. "Vendor" means any person maintaining a place of business in this state, engaged in the business activity of selling or leasing motor vehicles, the sale, lease or use of which is subject to the tax imposed by this chapter and who elects to collect the tax imposed under this chapter.

78-D:2 Imposition of Tax.

I. A tax is imposed upon each separate sale or lease of a motor vehicle within this state at the rate of one percent of the net purchase price, which tax shall be collected by the municipal registration agent or the vendor from the purchaser, and shall be paid over to the state as provided in this chapter.

II. A tax is imposed upon the use within this state of a motor vehicle, purchased on or after January 1, 2002, at the rate of one percent of the net purchase price, which tax shall be paid to the state by the person who makes such use as provided in this chapter, except that such tax shall not be paid to the state where the tax imposed by paragraph I has been paid by such person or such person has paid the tax imposed by this paragraph to a municipal registration agent or to the vendor with respect to such use.

III. A tax is imposed at the rate of one percent on any amount charged at the end of a motor vehicle lease contract executed on or after January 1, 2002 resulting from excess wear and tear or excess mileage.

78-D:3 Exemptions. The following motor vehicles shall be exempt from the tax imposed by this chapter :

I. Motor vehicles the rental of which is subject to tax under RSA 78-A; provided, however, that such exemption shall not apply to any vehicle not actually rented for at least 30 days in any single year or which is no longer used for such rentals.

II. Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

III. Motor vehicles, title to which on January 1, 2002 is in the owner seeking registration thereof.

IV. Motor vehicles transferred to the spouse, mother, father, child, grandparent, grandchild, aunt, uncle, niece, or nephew of the donor, or to a trust established for the benefit of any such persons or for the benefit of the donor, or subsequently transferred among such persons provided such motor vehicle has been registered or titled in this state in the name of the original donor.

V. Motor vehicles owned by an individual purchased and used outside this state and brought into this state in connection with the establishment by such individual of an initial residence in this state, provided such motor vehicle was purchased by the individual more than 2 months prior to the date it was first brought into this state.

78-D:4 Deductions. There may be deducted from the purchase price for any motor vehicle the sale, lease, or use of which is taxable under this chapter the amount allowed by the vendor of any trade-in of a taxable motor vehicle received upon the sale of another motor vehicle to the purchaser. When any such motor vehicle traded in is subsequently sold or leased, the tax provided for in this chapter shall apply.

78-D:5 Credits. A credit against the tax imposed by this chapter shall be granted with respect to a motor vehicle to be registered in this state on which tax has been paid to another state by reason of the imposition by such other state of a tax similar to the tax imposed by this chapter equal to the amount of such other state tax paid, provided however, that no such credit shall be granted unless such other state grants substantially similar tax relief by reason of the payment of tax under this chapter.

78-D:6 Tax Form; Penalty.

I. Every vendor selling or leasing a motor vehicle in this state shall at the time of selling or leasing said motor vehicle compute for the purchaser or lessee the tax imposed by RSA 78-D:2 and complete in its entirety the information required on the form prescribed and furnished by the commissioner. Vendors whose average monthly tax collections do not exceed $100 may apply to the commissioner to remit taxes annually or on such other schedule as the commissioner may require. Approval of such requests shall be at the discretion of the commissioner.

II. Any vendor failing to fill out the tax form as required in paragraph I shall be subject to a penalty of $500 or the commissioner may suspend the vendor's license as provided in RSA 78-D:19. Such suspension shall be for a reasonable time and shall not exceed 10 days for each offense and shall be made only after a finding that the failure of such vendor is willful and intentional and not the result of inadvertence.

III. Any person registering the transfer of a motor vehicle upon which tax is due under this chapter and for which no form has been provided by a vendor shall complete such form at the time of registration.

78-D:7 Collection of Tax; Vendor Liability; Receipts Presumed Taxable.

I. Every purchaser of a motor vehicle subject to a tax under RSA 78-D:2, I shall present the tax form together with the amount of tax due to the municipal registration agent at the time of first registering or transferring a registration to such motor vehicle as a condition precedent to registration thereof. Said agent shall remit the tax to the state as provided in RSA 78-D:11.

II. Every person subject to a use tax under RSA 78-D:2, II shall present the tax form with the amount of tax due to the municipal registration agent at the time of first registering or transferring a registration to such motor vehicle as a condition precedent to registration thereof. Said agent shall remit the tax to the state as provided in RSA 78-D:11.

III. Every vendor maintaining a place of business in this state and leasing motor vehicles the lease of which is subject to tax shall collect the tax from the lessee at the time of making the sale, and shall remit the tax to the state as provided in RSA 78-D:11 in the case of the first lease of a motor vehicle, and within 30 days after any extension of the lease or any subsequent lease of the motor vehicle. Every vendor leasing a motor vehicle shall collect the tax imposed by RSA 78-D:2, III from the lessee and remit it to the commissioner within 30 days after the end of the motor vehicle lease contract. Vendors whose average monthly tax collections do not exceed $100 may apply to the commissioner to remit taxes annually or on such other schedule as the commissioner may require. Approval of such requests shall be at the discretion of the commissioner.

IV. Any vendor required under this chapter to collect tax from another person, who shall fail to collect the proper amount of such tax, shall be liable for the full amount of the tax which the vendor should have collected. Any tax required to be collected, and any tax received by a vendor, shall become a personal debt of the vendor until paid to the state. The vendor shall be relieved of further liability for such taxes in the event that the tax is paid directly to the state by the purchaser or other person.

V. It shall be presumed that all gross receipts of a vendor from the sale or lease of motor vehicles are from sales or leases subject to tax until the contrary is established. The burden of proving that a sale of or lease of motor vehicles by any vendor is not a taxable sale or lease shall be upon such vendor

78-D:8 Purchaser Liability for Tax; Prior Purchases Exempted.

I. Except as provided in paragraph II, every purchaser shall be liable for the tax imposed by this chapter and such liability shall not be extinguished until the tax has been paid to the state, except that payment to a municipal registration agent or vendor required to collect the tax pursuant to RSA 78-D:7 is sufficient to relieve the purchaser from further liability for the tax.

II. Purchasers shall not be liable for municipal registration agents or vendors required to collect tax on any motor vehicle purchased or used in this state prior to January 1, 2002.

78-D:9 Presumption of Taxability; Notice to Commissioner

I. For the purposes of this chapter, the New Hampshire registration, transfer of registration, or issuance of a New Hampshire certificate of title of a motor vehicle shall be presumed to be a transfer upon which the tax applies except as provided in RSA 78-D:3.

II. Upon the return of the certificate of registration, as required by RSA 261, the director of the division of motor vehicles shall forthwith inform the commissioner of the date of transfer and the names and addresses of the former and new owners.

78-D:10 Purchase Price, Investigation and Adjustment; Affiliated Interests.

I. The commissioner may investigate and adjust the purchase price of any motor vehicle the transfer of which is subject to the provisions of this chapter. In instances where it appears to the commissioner that the purchase price reported does not represent the actual value of such consideration, the commissioner may adjust the purchase price of said motor vehicle at the average book value of vehicles of the same make, type, model and year of manufacture as designated by the manufacturer, as shown in the Official Used Car Guide, National Automobile Dealers Association (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The commissioner may compute and assess the tax due thereon in the manner provided for the assessment of taxes in this chapter.

II. The commissioner may investigate and adjust the value of any motor vehicle trade-in allowed or taken as a deduction to the purchase price of a motor vehicle in the same manner as provided in paragraph I.

III. The commissioner may investigate and adjust the lease end value of any motor vehicle transferred subject to the provisions of this chapter. In instances where it appears to the commissioner that the reported lease end value of a motor vehicle does not represent a commercially reasonable value, the commissioner shall, pursuant to uniform and equitable rules, establish a reasonable, commercial value for the end of the lease period. The commissioner may compute and assess the tax due thereon in the manner provided for the assessment of taxes in this chapter.

IV.(a) In determining the purchase price on the sale, lease or use of a motor vehicle where, because of affiliation of interests between the vendor and purchaser, or irrespective of any such affiliation, if for any other reason the purchase price declared by the vendor or taxpayer on the taxable sale or use of such vehicle is, in the opinion of the commissioner, not indicative of the true value of the vehicle or the fair price thereof, the commissioner shall, pursuant to uniform and equitable rules, determine the amount of constructive purchase price upon the basis of which the tax shall be computed and levied. Such rules shall provide for

a constructive amount of purchase price for each such sale, lease or use which would naturally and fairly be charged in an arm's-length transaction in which the element of common interest between the vendor or purchaser is absent or if no common interest exists, any other element causing a distortion of the price or value is likewise absent.

(b) For the purpose of this paragraph, where a taxable sale or purchase at retail transaction occurs between a parent and a subsidiary, affiliate, or controlled corporation of such parent corporation, there shall be a rebuttable presumption that, because of such common interest, such transaction was not an arm's-length transaction.

78-D:11 Tax Reports and Returns; Date Payment Due.

I.(a) Every vendor shall, on or before the 20th day of the calendar month following the collection of taxes imposed by this chapter, file a report by electronic data submission of the sales and leases and taxes collected thereon for the preceding month to the department. This report shall be filed even though no tax may be due.

(b) If a vendor has been granted permission to make other than monthly filings, as provided in RSA 78-D:6, I the vendor shall make the report required in subparagraph I(a) in accordance with the schedule permitted by the commissioner, even though no tax may be due.

(c) On or before the 20th day of September, every vendor liable to collect and pay over the taxes imposed by this chapter shall make a return to the department reporting the results of the preceding 12-month period beginning July 1 and ending June 30. Such return shall recapitulate the reports filed as required by subparagraph I(a) or (b) and shall provide such other information as the commissioner shall require.

II. Taxes collected by every vendor or municipal registration agent shall be paid to the state on or before the 20th day of the calendar month following collection of the tax or the purchase or use of tangible personal property. The vendor shall remit the taxes due by electronic funds transfer to the department. The municipal registration agent shall remit taxes to the department at the times and in the manner required by the commissioner

III. Notwithstanding the provisions of any other law, reports, returns, and remittances due under this chapter shall be considered timely only if received by the department on or before the 20th day of the calendar month in which they were due. If this due date falls on a Saturday, Sunday, or legal holiday, then the returns and remittances due under this chapter shall be filed no later than the next business day.

IV. The department shall notify the vendor of a successful electronic filing and remittance and provide the vendor with a confirmation number which shall serve as proof of filing and remittance.

V. All reports and returns shall contain an electronic authorization by the vendor or an authorized representative which shall be subject to the pains and penalties of perjury.

VI. Any vendor who ceases to engage in business activity in this state and is thereby not responsible for filing reports and returns under this chapter, shall file a final return with the department not more than one month after discontinuing such activity. This requirement shall apply notwithstanding any other provision of this chapter regarding the time within which to file a report or return.

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

78-D:12 Books, Records, Papers, and Other Documents.

I. Every vendor maintaining a place of business in this state or required to file or actually filing in this state shall keep books, records, papers, certificates, and other documents which are adequate to reflect the information required to be reported to the department by the filing of timely reports or returns or maintained for inspection by the department.

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

78-D:13 Determination of Tax; Additional Returns.

I. If a return required by this chapter is not filed, or if a return when filed, is incorrect or insufficient, the amount of tax due shall be determined and assessed by the commissioner from any information available.

II. When the commissioner has reason to believe that a vendor has failed to file a report or return or to include any part of the taxable receipts of sales by such vendor in a filed report or return, the commissioner may require the vendor to file a return or a supplementary return showing such additional information as the commissioner prescribes. The making of such additional return does not relieve the vendor of any penalty for failure to make a correct original report or return, or relieve it from liability for interest imposed under RSA 21-J:28 or for any 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.

78-D:14 Administration; Rulemaking.

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

II. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) The form and content of the reports and returns required by this chapter.

(b) The method of electronic authorization required by RSA 78-D:11.

(c) Alternative filing procedures in the event there is an electronic equipment malfunction.

(d) The administration of the tax.

(e) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA 78-D or RSA 21-J.

III.(a) The commissioner shall adopt emergency rules under RSA 541-A relative to:

(1) The form and content of the reports and returns required by this chapter.

(2) The method of electronic authorization required by RSA 78-D:11.

(3) Alternative filing procedures in the event there is an electronic equipment malfunction.

(4) The administration of the tax.

(5) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA 78-D or RSA 21-J.

(b) Such emergency rules shall be effective for 180 days. After 180 days the commissioner shall adopt rules pursuant to RSA 541-A.

78-D:15 Surety Bonds.

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

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

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

IV. Failure to comply with the provisions of this section shall result in the suspension of the vendor's registration license, as provided in RSA 78-D:19.

78-D:16 Motor Vehicle Registration. No certificate of registration shall be issued by the director of the division of motor vehicles to the new owner until such new owner shall furnish evidence, on such forms as shall be prescribed by the commissioner and the director of the division of motor vehicles, that any tax due under the provisions of this chapter has been paid. If payment of any such tax due is made by check and said check is not duly paid, the director of the division of motor vehicles may, after hearing, revoke the certificate of registration. Such tax shall be considered as a first encumbrance against such vehicle and the vehicle may not be transferred without first payment in full of such tax and any interest additions or penalties which shall accrue thereon in accordance with this chapter or RSA 21-J.

78-D:17 Proceedings to Recover Taxes.

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

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

78-D:18 Vendor Licenses; Registration.

I. On or before January 1, 2002, or in the case of vendors commencing business or opening new places of business after that date, within 3 days after the commencement or opening, every vendor required to collect any tax imposed by this chapter shall file with the commissioner a license application in a form prescribed by the commissioner. The commissioner shall issue, without charge, to each applicant a license of authority empowering the applicant to collect the tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the vendor. A vendor who has no regular place of doing business shall attach the certificate to the vendor cart, stand, truck, or other merchandising device, or carry it on the vendor's person. The certificate shall be nonassignable and nontransferable and shall be surrendered to the commissioner immediately upon the vendor ceasing to do business at the place named.

78-D:19 Suspension or Revocation of Licenses; Appeal.

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

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

III. If the appealing person required to collect the tax files a bond running to the state as provided in RSA 78-D:15, then the suspension or revocation shall be inoperative during the appeal.

78-D:20 Refunds.

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

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

78-D:21 Liens. If any person required to pay or collect and transmit a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of New Hampshire upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. No lien upon real estate for taxes imposed by this chapter is valid and binding against any person other than the taxpayer until notice of such lien, stating the name and address of the taxpayer and the amount of the tax due, shall have been filed and recorded in the registry of deeds in the grantor index in the county in which such real estate is located. Notwithstanding the provisions of any other law, the lien shall continue and shall be valid and binding until the liability for the sum, with interest and costs, is satisfied or becomes unenforceable.

2 Municipal Registration Agents; Reference. Amend RSA 261:74-a to read as follows:

261:74-a Agents Appointed. With the approval of the governing body of a city or town and subject to the direction and approval of the commissioner, the director may appoint municipal officials as agents to issue, renew or transfer motor vehicle registrations ***or to collect the tax imposed under RSA 78-D***. The director shall determine the optimum number of registration agents that the division can reasonably accommodate. The appointment of any municipal official as a registration agent for the purposes of this subdivision shall continue while the agent holds his office or employment with the municipality, except as provided in RSA 261:74-b and 261:74-f.

3 Municipal Registration Agents; Reference. Amend RSA 261:74-d to read as follows:

261:74-d Additional Fees Charged by Agents. Each registration agent may charge an applicant not more than $2.50 in addition to the fees otherwise required to issue, renew or transfer a motor vehicle registration. ***Each registration agent may charge an additional fee of $2.50 to collect the tax imposed under RSA 78-D.*** [~~This fee~~] ***These fees*** shall be retained either by the municipality if the registration agent receiving the [~~fee~~] ***fees*** is on salary to the municipality, or by the agent himself if he is not on salary to the municipality but is paid on a fee basis.

4 Municipal Registration Agents; Reference. Amend RSA 261:74-g, III to read as follows:

III. The collection, deposit and remittance of state funds pursuant to this subdivision ***and pursuant to RSA 78-D.***

5 Legacies and Successions Tax; Exemption. Amend RSA 86 by inserting after section 6-b the following new section:

86:6-c Exemption. Notwithstanding RSA 86:6, I, all property within the jurisdiction of the state, real or personal, and any interest therein, belonging to domiciliaries of the state; and all real estate within the state, or any interest therein, belonging to persons who are not domiciliaries of the state; which shall pass by will, or by the laws regulating intestate successions, or by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, to any person, absolutely or in trust, shall be exempt from tax imposed by this chapter, provided the death of such grantor or donor occurs on or after July 1, 2001.

6 Effective Date.

I. Sections 1-4 of this act shall take effect July 1, 2001 and shall apply to all motor vehicle transfers, whether by sale or lease, that occur on or after January 1, 2002.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a titled motor vehicle transfer tax. The bill also repeals the legacies and successions tax.

2001-0888h

Floor Amendment to HB 170-FN-A-LOCAL

Proposed by Rep. Sapareto - R

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

AN ACT establishing a titled motor vehicle transfer tax and relative to estates taxable under the legacies and successions tax.

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

1 New Chapter; Titled Motor Vehicle Transfer Tax. Amend RSA by inserting after chapter 78-C the following new chapter:

CHAPTER 78-D

TITLED MOTOR VEHICLE TRANSFER TAX

78-D:1 Definitions. In this chapter:

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

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

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

IV. "Electronic data submission" means the use of either the telephone or computer to transmit information.

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

VI "Lease," "leasing," or "rental" means any arrangement whereby, for a consideration, a motor vehicle is possessed or employed for or by a person other than the owner of the vehicle.

VII. "Maintaining a place of business in this state" means the following:

(a) Having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or any agent of general or restricted authority irrespective of whether the place of business or agent is located here permanently or temporarily or whether the person or subsidiary maintaining such place of business or agent is authorized to do business within this state.

(b) The engaging in any business activity within this state by any person, directly or by a subsidiary, in connection with the sale, lease, or delivery of motor vehicles or the performance of services thereon for use or storage including, but not limited to, having, maintaining or using any office, distribution house, sales house, warehouse, or other place of business, any stock of goods or any solicitor, salesman, agent, or representative under its authority, at its direction or with its permission, regardless of whether the person or subsidiary is authorized to do business in this state.

VIII. "Motor vehicle" means any self-propelled vehicle not operated exclusively on stationary tracks for which a certificate of title is required by RSA 261:1; provided, however, the following shall not be included in the definition of "motor vehicle":

(a) Exempt vehicles as provided in RSA 261:3 I, (a) through (j); and

(b) Construction equipment as defined in RSA 259:42.

IX. "Municipal registration agent" means any person appointed to issue, renew, or transfer motor vehicle registrations pursuant to RSA 261:74-a.

X. "Net purchase price" means the purchase price as defined in this section less any deductions allowed by RSA 78-D:4.

XI. "Person" means an individual, partnership, trust or association, with or without transferable shares, joint stock company, corporation, limited liability company, society, club, organization, institution, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

XII. "Purchase or purchasing, sale or selling" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle for a consideration, including leases and transactions whereby the possession of the property is transferred but the seller retains the title as security for the payment of the purchase price.

XIII.(a) "Purchase price" means the gross consideration, exclusive of the tax hereby imposed, which is to be paid for the motor vehicle, expressed in terms of United States currency as of the time of the sale, and shall include the cash consideration, if any, plus the value of any services or property given or to be given, or both, in exchange for the motor vehicle.

(b) In the case of a lease, the purchase price shall mean an amount computed by subtracting the "lease end value" of the motor vehicle from the "original acquisition cost" of the motor vehicle. For purposes of this subparagraph, the "original acquisition cost" of a motor vehicle means the gross consideration which the lessee would pay for the motor vehicle if the lessee purchased the motor vehicle on the date of execution of the lease contract, as stated in the lease contract or worksheet, and the "lease end value" means the value of the motor vehicle at the end of the lease period, as stated in the lease contract or worksheet or as determined by the commissioner pursuant to RSA 78-D:9, III. Purchase price shall also include the value of anything paid or delivered, or promised to be paid or delivered by a lessee, whether it be money or otherwise, to any person other than the vendor or lessor by reason of the maintenance, insurance, or repair of the leased motor vehicle.

XIV. "Tax" means the titled motor vehicle transfer tax imposed by this chapter.

XV. "Taxpayer" means any person required to make returns or pay the tax imposed by this chapter.

XVI. "Vendor" means any person maintaining a place of business in this state, engaged in the business activity of selling or leasing motor vehicles the sale, lease or use of which is subject to the tax imposed by this chapter.

78-D:2 Imposition of Tax.

I. A tax is imposed upon each separate sale or lease of a motor vehicle within this state at the rate of one percent of the net purchase price, which tax shall be collected by the vendor from the purchaser, and shall be paid over to the state as provided in this chapter.

II. A tax is imposed upon the use within this state of a motor vehicle, purchased on or after January 1, 2002, at the rate of one percent of the net purchase price, which tax shall be paid to the state by the person who makes such use as provided in this chapter, except that such tax shall not be paid to the state where the tax imposed by paragraph I has been paid by such person or such person has paid the tax imposed by this paragraph to the vendor with respect to such use.

III. A tax is imposed at the rate of one percent on any amount charged at the end of a motor vehicle lease contract executed on or after January 1, 2002 resulting from excess wear and tear or excess mileage.

78-D:3 Exemptions. The following motor vehicles shall be exempt from the tax imposed by this chapter :

I. Motor vehicles the rental of which is subject to tax under RSA 78-A; provided, however, that such exemption shall not apply to any vehicle not actually rented for at least 30 days in any single year or which is no longer used for such rentals.

II. Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

III. Motor vehicles, title to which on January 1, 2002 is in the owner seeking registration thereof.

IV. Motor vehicles transferred to the spouse, mother, father, child, grandparent or grandchild of the donor, or to a trust established for the benefit of any such persons or for the benefit of the donor, or subsequently transferred among such persons provided such motor vehicle has been registered or titled in this state in the name of the original donor.

V. Motor vehicles owned by an individual purchased and used outside this state and brought into this state in connection with the establishment by such individual of a residence in this state, provided such motor vehicle was purchased by the individual more than 2 months prior to the date it was first brought into this state.

78-D:4 Deductions. There may be deducted from the purchase price for any motor vehicle the sale, lease, or use of which is taxable under this chapter the amount allowed by the vendor of any trade-in of a taxable motor vehicle received upon the sale of another motor vehicle to the purchaser. When any such motor vehicle traded in is subsequently sold or leased, the tax provided for in this chapter shall apply.

78-D:5 Credits. A credit against the tax imposed by this chapter shall be granted with respect to a motor vehicle to be registered in this state on which tax has been paid to another state by reason of the imposition by such other state of a tax similar to the tax imposed by this chapter equal to the amount of such other state tax paid, provided however, that no such credit shall be granted unless such other state grants substantially similar tax relief by reason of the payment of tax under this chapter.

78-D:6 Collection of Tax; Vendor Liability; Payment at Registration.

I. Every vendor maintaining a place of business in this state and selling motor vehicles the sale or use of which is subject to tax shall collect the tax from the purchaser at the time of making the sale, and shall remit the tax to the state as provided in RSA 78-D:10. Vendors whose average monthly tax collections do not exceed $100 may apply to the commissioner to remit taxes annually or on such other schedule as the commissioner may require. Approval of such requests shall be at the discretion of the commissioner.

II. Every vendor maintaining a place of business in this state and leasing motor vehicles the lease of which is subject to tax shall collect the tax from the lessee at the time of making the sale, and shall remit the tax to the state as provided in RSA 78-D:10 in the case of the first lease of a motor vehicle, and within 30 days after any extension of the lease or any subsequent lease of the motor vehicle. Every vendor leasing a motor vehicle shall collect the tax imposed by RSA 78-D:2, III from the lessee and remit it to the commissioner within 30 days after the end of the motor vehicle lease contract. Vendors whose average monthly tax collections do not exceed $100 may apply to the commissioner to remit taxes annually or on such other schedule as the commissioner may require. Approval of such requests shall be at the discretion of the commissioner.

III. Any vendor required under this chapter to collect tax from another person, who shall fail to collect the proper amount of such tax, shall be liable for the full amount of the tax which the vendor should have collected. Any tax required to be collected, and any tax received by a vendor, shall become a personal debt of the vendor until paid to the state. The vendor shall be relieved of further liability for such taxes in the event that the tax is paid directly to the state by the purchaser or other person.

IV. It shall be presumed that all gross receipts of a vendor from the sale or lease of motor vehicles are from sales subject to tax until the contrary is established. The burden of proving that a sale of or lease of motor vehicles by any vendor is not a taxable sale or lease shall be upon such vendor

V. Tax due on any motor vehicle to be registered in this state upon which tax has not been collected as provided in paragraphs I or II shall be collected by the municipal registration agent at the time of such registration. Such agent shall remit the tax to the state as provided in RSA 78-D:10.

78-D:7 Purchaser Liability for Tax; Prior Purchases Exempted.

I. Except as provided in paragraph II, every purchaser shall be liable for the tax imposed by this chapter and such liability shall not be extinguished until the tax has been paid to the state, except that payment to a vendor or municipal registration agent required to collect the tax pursuant to RSA 78-D:6 is sufficient to relieve the purchaser from further liability for the tax.

II. Purchasers shall not be liable for or vendors or municipal registration agents required to collect tax on any motor vehicle purchased or used in this state prior to January 1, 2002.

78-D:8 Presumption of Taxability; Notice to Commissioner

I. For the purposes of this chapter, the New Hampshire registration, transfer of registration or issuance of a New Hampshire certificate of title of a motor vehicle shall be presumed to be a transfer upon which the tax applies except as provided in RSA 78-D:3.

II. Upon the return of the certificate of registration, as required by RSA 261, the director of the division of motor vehicles shall forthwith inform the commissioner of the date of transfer and the names and addresses of the former and new owners.

78-D:9 Purchase Price, Investigation and Adjustment; Affiliated Interests.

I. The commissioner may investigate and adjust the purchase price of any motor vehicle the transfer of which is subject to the provisions of this chapter. In instances where it appears to the commissioner that the purchase price reported does not represent the actual value of such consideration, the commissioner may adjust the purchase price of said motor vehicle at the average book value of vehicles of the same make, type, model and year of manufacture as designated by the manufacturer, as shown in the Official Used Car Guide, National Automobile Dealers Association (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The commissioner may compute and assess the tax due thereon in the

manner provided for the assessment of taxes in this chapter.

II. The commissioner may investigate and adjust the value of any motor vehicle trade-in allowed or taken as a deduction to the purchase price of a motor vehicle in the same manner as provided in paragraph I.

III. The commissioner may investigate and adjust the lease end value of any motor vehicle transferred subject to the provisions of this chapter. In instances where it appears to the commissioner that the reported lease end value of a motor vehicle does not represent a commercially reasonable value, the commissioner shall, pursuant to uniform and equitable rules, establish a reasonable, commercial value for the end of the lease period. The commissioner may compute and assess the tax due thereon in the manner provided for the assessment of taxes in this chapter.

IV.(a) In determining the purchase price on the sale, lease or use of a motor vehicle where, because of affiliation of interests between the vendor and purchaser, or irrespective of any such affiliation, if for any other reason the purchase price declared by the vendor or taxpayer on the taxable sale or use of such vehicle is, in the opinion of the commissioner, not indicative of the true value of the vehicle or the fair price thereof, the commissioner shall, pursuant to uniform and equitable rules, determine the amount of constructive purchase price upon the basis of which the tax shall be computed and levied. Such rules shall provide for a constructive amount of purchase price for each such sale, lease or use which would naturally and fairly be charged in an arm's-length transaction in which the element of common interest between the vendor or purchaser is absent or if no common interest exists, any other element causing a distortion of the price or value is likewise absent.

(b) For the purpose of this paragraph where a taxable sale or purchase at retail transaction occurs between a parent and a subsidiary, affiliate, or controlled corporation of such parent corporation, there shall be a rebuttable presumption that, because of such common interest, such transaction was not an arm's-length transaction.

78-D:10 Tax Reports and Returns; Date Payment Due.

I.(a) Every vendor shall, on or before the 20th day of the calendar month following the collection of taxes imposed by this chapter, file a report by electronic data submission of the sales and leases and taxes collected thereon for the preceding month to the department. This report shall be filed even though no tax may be due.

(b) If a vendor has been granted permission to make other than monthly filings, as provided in RSA 78-D:6, I the vendor shall make the report required in subparagraph I(a) in accordance with the schedule permitted by the commissioner, even though no tax may be due.

(c) On or before the 20th day of September, every vendor liable to collect and pay over the taxes imposed by this chapter shall make a return to the department reporting the results of the preceding 12-month period beginning July 1 and ending June 30. Such return shall recapitulate the reports filed as required by subparagraph I(a) or (b) and shall provide such other information as the commissioner shall require.

II. Taxes collected by every vendor or municipal registration agent shall be paid to the state on or before the 20th day of the calendar month following collection of the tax or the purchase or use of tangible personal property. The vendor shall remit the taxes due by electronic funds transfer to the department. The municipal registration agent shall remit taxes to the department at the times and in the manner required by the commissioner

III. Notwithstanding the provisions of any other law, reports, returns, and remittances due under this chapter shall be considered timely only if received by the department on or before the 20th day of the calendar month in which they were due. If this due date falls on a Saturday, Sunday, or legal holiday, then the returns and remittances due under this chapter shall be filed no later than the next business day.

IV. The department shall notify the vendor of a successful electronic filing and remittance and provide the vendor with a confirmation number which shall serve as proof of filing and remittance.

V. All reports and returns shall contain an electronic authorization by the vendor or an authorized representative which shall be subject to the pains and penalties of perjury.

VI. Any vendor who ceases to engage in business activity in this state and is thereby not responsible for filing reports and returns under this chapter, shall file a final return with the department not more than one month after discontinuing such activity. This requirement shall apply notwithstanding any other provision of this chapter regarding the time within which to file a report or return.

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

78-D:11 Books, Records, Papers, and Other Documents.

I. Every vendor maintaining a place of business in this state or required to file or actually filing in this state shall keep books, records, papers, certificates, and other documents which are adequate to reflect the information required to be reported to the department by the filing of timely reports or returns or maintained for inspection by the department.

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

78-D:12 Determination of Tax; Additional Returns.

I. If a return required by this chapter is not filed, or if a return when filed, is incorrect or insufficient, the amount of tax due shall be determined and assessed by the commissioner from any information available.

II. When the commissioner has reason to believe that a vendor has failed to file a report or return or to include any part of the taxable receipts of sales by such vendor in a filed report or return, the commissioner may require the vendor to file a return or a supplementary return showing such additional information as the commissioner prescribes. The making of such additional return does not relieve the vendor of any penalty for failure to make a correct original report or return, or relieve it from liability for interest imposed under RSA 21-J:28 or for any 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

78-D:13 Administration; Rulemaking.

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

II. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) The form and content of the reports and returns required by this chapter.

(b) The method of electronic authorization required by RSA 78-D:10.

(c) Alternative filing procedures in the event there is an electronic equipment malfunction.

(d) The administration of the tax.

(e) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA 78-D or RSA 21-J.

III.(a) The commissioner shall adopt emergency rules under RSA 541-A relative to:

(1) The form and content of the reports and returns required by this chapter.

(2) The method of electronic authorization required by RSA 78-D:10.

(3) Alternative filing procedures in the event there is an electronic equipment malfunction.

(4) The administration of the tax.

(5) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA 78-D or RSA 21-J.

(b) Notwithstanding RSA 541-A:18, II, such emergency rules shall be effective for 180 days. After 180 days the commissioner shall adopt rules pursuant to RSA 541-A.

78-D:14 Surety Bonds.

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

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

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

IV. Failure to comply with the provisions of this section shall result in the suspension of the vendor's registration license, as provided in RSA 78-D:18.

78-D:15 Motor Vehicle Registration. No certificate of registration shall be issued by the director of the division of motor vehicles to the new owner until such new owner shall furnish evidence, on such forms as shall be prescribed by the commissioner and the director of the division of motor vehicles, that any tax due under the provisions of this chapter has been paid. If payment of any such tax due is made by check and said check is not duly paid, the director of the division of motor vehicles may, after hearing, revoke the certificate of registration. Such tax shall be considered as a first encumbrance against such vehicle and the vehicle may not be transferred without first payment in full of such tax and any interest additions or penalties which shall accrue thereon in accordance with this chapter or RSA 21-J.

78-D:16 Proceedings to Recover Taxes.

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

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

78-D:17 Vendor Licenses; Registration.

I. On or before January 1, 2002, or in the case of vendors commencing business or opening new places of business after that date, within 3 days after the commencement or opening, every vendor required to collect any tax imposed by this chapter shall file with the commissioner a license application in a form prescribed by the commissioner. The commissioner shall issue, without charge, to each applicant a license of authority empowering the applicant to collect the tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the vendor. A vendor who has no regular place of doing business shall attach the certificate to the vendor cart, stand, truck, or other merchandising device, or carry it on the vendor person. The certificate shall be nonassignable and nontransferable and shall be surrendered to the commissioner immediately upon the vendor ceasing to do business at the place named.

78-D:18 Suspension or Revocation of Licenses; Appeal.

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

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

III. If the appealing person required to collect the tax files a bond running to the state as provided in RSA 78-D:14, then the suspension or revocation shall be inoperative during the appeal.

78-D:19 Refunds.

I. Claims for refund or credit may be made by a purchaser who has actually paid the tax or by a vendor required to collect the tax who has collected and paid over the tax to the department; provided, however, that the claim is timely made in accordance with RSA 21-J:28-a and RSA 21-J:29. No actual refund of moneys shall be made to a vendor until such person establishes to the satisfaction of the commissioner, under such rules as the commissioner may adopt, that such vendor has repaid to the purchaser the amount for which the application for refund is made or established that no refund is due the purchaser. The commissioner may, in lieu of any refund, allow credit on payments due from the claimant. If the commissioner determines, on a claim for refund or otherwise, that a person has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the person to the state, with respect to the current and all preceding taxable periods, under any provision of this title, the commissioner shall forthwith refund the excess amount to the person together with interest as provided in RSA 21-J:28.

78-D:20 Liens. If any person required to pay or collect and transmit a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of New Hampshire upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. No lien upon real estate for taxes imposed by this chapter is valid and binding against any person other than the taxpayer until notice of such lien, stating the name and address of the taxpayer and the amount of the tax due, shall have been filed and recorded in the registry of deeds in the grantor index in the county in which such real estate is located. Notwithstanding the provisions of any other law, the lien shall continue and shall be valid and binding until the liability for the sum, with interest and costs, is satisfied or becomes unenforceable.

2 Legacies and Succession Tax; Taxable Property. Amend RSA 86:6, I to read as follows:

I. All property within the jurisdiction of the state, real or personal, and any interest therein, belonging to domiciliaries of the state; and all real estate within the state, or any interest therein, belonging to persons who are not domiciliaries of the state; which shall pass by will, or by the laws regulating intestate successions, or by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, to any person, absolutely or in trust, shall be subject to a tax of 18 percent of its fair market value for the use of the state, except as provided in paragraphs II and III and RSA 86:9-a ***and except as follows:***

(a) From July 1, 2001 to June 30, 2002, the first $200,000 of estate value shall not be taxable under this chapter.

(b) From July 1, 2002 to June 30, 2003, the first $400,000 of estate value shall not be taxable under this chapter.

(c) From July 1, 2003 to June 30, 2004, the first $500,000 of estate value shall not be taxable under this chapter.

(d) From July 1, 2004 to June 30, 2005, the first $600,000 of estate value shall not be taxable under this chapter.

(e) From July 1, 2005 to June 30, 2006, the first $800,000 of estate value shall not be taxable under this chapter.

(f) On or after July 1, 2006, the first $1,000,000 of estate value shall not be taxable under this chapter.

3 Effective Date.

I. Section 1 of this act shall take effect July 1, 2001 and shall apply to all motor vehicle transfers, whether by sale or lease, that occur on or after January 1, 2002.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a titled motor vehicle transfer tax.

This bill also establishes phase-in provisions under the legacies and successions tax. Beginning July 1, 2001, estates are exempt from taxation on the first $200,000 of value. This tax exempt amount increases each year until July 1, 2006, when estates of $1,000,000 or less in value shall be exempt from the legacies and succession tax.

2001-0895h

Floor Amendment to HB 170-FN-A

Proposed by the Committee on Rep. McGuirk

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

1 Repeal. RSA 86:6, relative to taxable property under and tax rate of the legacies and successions tax, is repealed.

2 Applicability. Section 1 of this act shall apply only to estates established as the result of deaths occurring on or after July 1, 2001.

3 Effective Date. This act shall take effect July 1, 2001.

2001-0465h

Amendment to HB 177-FN-A

Proposed by the Committee on Finance - R

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

1 Appropriation; Department of Administrative Services; Wheelchair Van for Veterans' Home. The sum of up to $25,000 is hereby appropriated for the fiscal year ending June 30, 2001 to the department of administrative services, for the purpose of matching private donations on a dollar per dollar basis for the purchase of a wheelchair van for the veterans' home in the town of Tilton. This appropriation shall not lapse until June 30, 2002. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill appropriates state funds to match private donations for the purchase of a wheelchair van for the veterans' home in Tilton.

2001-0730h

Amendment to HB 186-FN-A

Proposed by the Committee on Ways and Means - C

Amend RSA 430:31-b as inserted by section 1 of the bill by inserting after paragraph II the following new paragraphs:

III. The department of agriculture, markets, and food shall submit an annual report, beginning on July 1, 2002, to the speaker of the house, president of the senate, and the governor and council which shall include, but not be limited to, training and educational programs offered or contracted by the division of pesticide control under the training program established by paragraph I of this section, the revenue generated from the program under paragraph II of this section, and the budget and revenue projections of the division.

IV. In addition to or in conjunction with the operating budget of the department of agriculture, markets and food, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include financial responsibility for and the costs of all training and educational programs offered or contracted by the division of pesticide control, the development of technological advancements in division programs, the revenue generated from the pesticides training program, and all revenues and expenditures of the dedicated fund established in paragraph II of this section.

AMENDED ANALYSIS

This bill establishes a pesticides training program for the purpose of providing education regarding pesticides and the handling of pesticides to commercial pesticide applicators and other applicable persons. This bill establishes a pesticides training program fund to support the purposes of the training program and establishes certain reporting and budgeting requirements for the department of agriculture, markets, and food. Moneys for the fund shall be established by rule by the commissioner of agriculture, markets, and food and collected from program participants.

2001-0348h

Amendment to HB 201

Proposed by the Majority of the Committee on Election Law - R

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

AN ACT relative to voters presenting identification to obtain a ballot.

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

1 Election Day Morning Procedures; Statutes Posted; Reference Added. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place: RSA 654:38, 39; RSA 658:29; RSA 659:***13, 13-a,*** 27, 30, 31, 32, 103; RSA 665:15; RSA 666:4, 5, 8, 9, 10, 11, 12.

2 New Section; Optional Procedure for Obtaining a Ballot. Amend RSA 659 by inserting after section 13 the following new section:

659:13-a Optional Procedure for Obtaining a Ballot.

I. The legislative body of a municipality may adopt the alternative procedure for obtaining a ballot established in paragraph II. Upon adoption, the alternative procedure shall be followed in lieu of the procedure established in RSA 659:13 at all elections in the municipality. If the legislative body votes to discontinue use of the alternative procedure for obtaining a ballot, the procedure established in RSA 659:13 shall be followed at all elections in the municipality held after such vote. The governing body of the municipality shall notify the secretary of state of the adoption of the alternative procedure for obtaining a ballot or of the vote to discontinue the alternative procedure for obtaining a ballot.

II. In municipalities adopting the procedures in this paragraph, a person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name and present his or her New Hampshire driver's license, armed services identification card, United States passport, or any other form of photographic identification to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. If the person does not have his or her driver's license, passport, or other form of photographic identification, the ballot clerk shall notify the person of the affidavit provided for in RSA 659:27. The voter, unless challenged as provided for in RSA 659:27-33, or unless failing to present proper identification and failing to sign an affidavit, shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

3 Preservation of Challenge Affidavits. Amend RSA 659:103 to read as follows:

659:103 Preservation of Challenge Affidavits. The affidavits made by challenged voters as provided in RSA 659:27 shall be preserved by the town clerk for at least one year following the date of a state election. In contested elections, all affidavits ***made by challenged voters*** shall be retained by the town clerk until the contest is settled and all appeals periods have expired or for at least one year, whichever is longer. ***Affidavits made pursuant to RSA 659:13-a shall be retained with the ballots for the period of time established in RSA 659:100.***

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill permits municipalities to require that voters present identification or sign an affidavit to obtain a ballot.

2001-0468h

Amendment to HB 218-FN

Proposed by the Committee on Ways and Means - R

Amend the bill by replacing sections 6-7 with the following:

6 Motor Vehicles; Certificates of Title and Registration of Vehicles; Registration Fees; Fees to be Collected; Prorated Fees for Motor Vehicles. Amend RSA 261:141, III(g) to read as follows:

(g) For all motor vehicles other than those in RSA 261:141, I:

0-3000 lbs. [~~$19.20 ($1.60~~] ***$25.20 ($2.10*** per month)

3001-5000 lbs. [~~$31.20 ($2.60~~] ***$37.20 ($3.10*** per month)

5001-8000 lbs. [~~$43.20 ($3.60~~] ***$49.20 ($4.10*** per month)

8001-73,280 lbs. $ .84 per hundred lbs. gross weight.

7 Appropriation; Motor Vehicle Inspectors. The sums of $900,000 for the fiscal year ending June 30, 2002 and $630,526 for the fiscal year ending June 30, 2003, are hereby appropriated to the department of safety for the purpose of hiring10 motor vehicle inspectors for the enforcement duties established in RSA 266:1-a. Said appropriations shall be a charge against the highway fund.

Amend the bill by deleting section 8 and renumbering the original sections 9-10 to read as 8-9, respectively.

AMENDED ANALYSIS

I. Deletes the maximum amount for road toll bonds required of licensed distributors of motor fuel.

II. Permits the commissioner of safety to waive interest assessed for road toll violations.

III. Requires the commissioner of safety to establish the interest rate assessed on road toll violations.

IV. Requires special fuel users to retain records necessary for purposes of administering the road toll laws.

V. Repeals road toll provisions relating to heating oil suppliers.

VI. Increases registration fees for motor vehicles.

VII. Makes an appropriation to pay for the hiring of motor vehicle inspectors.

This bill is a request of the department of safety.

2001-0452h

Amendment to HB 219

Proposed by the Committee on Transportation - C

Amend RSA 265:54, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Except as provided in paragraph III, no driver of a vehicle who is required to stop his or her vehicle in accordance with paragraph I shall overtake and pass a school bus on the right. A person who violates the provisions of this paragraph shall be guilty of a violation and shall be fined not less than $500 nor more than $1,200. In addition, the director shall suspend the person's license to drive or nonresident driving privilege for a period of up to 30 days for a first offense. The director shall suspend the person's license to drive or nonresident driving privilege for a period of 30 days for a second offense, and for a period of not less than 30 days nor more than 120 days for a third or subsequent offense.

2001-0876h

Amendment to HB 252

Proposed by the Committee on Judiciary - R

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

AN ACT relative to rules promulgated by the supreme court.

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

1 New Section; Supreme Court; Rules of Practice and Procedure and Rules of Evidence; Power to Prescribe. Amend RSA 490 by inserting after section 4-a the following new section:

490:4-b Rules of Procedure and Evidence; Power to Prescribe.

I. The supreme court shall have the power to prescribe rules of practice and procedure and rules of evidence to be followed in all courts of this state. All such rules in effect prior to the effective date of this section shall remain in full force and effect, except as they may be changed by statute or by rule of court pursuant to this section.

II. The rules described in paragraph I shall not abridge, enlarge, or modify any substantive right. All preexisting laws, which conflict with the proposed rules, shall be of no further force and effect after such rules have taken effect.

III. The rulemaking procedures of the supreme court shall be subject to the provisions of the right to know law, RSA 91-A, except that the failure to comply with RSA 91-A shall not invalidate a rule adopted under this section.

IV. The supreme court shall transmit to the speaker of the house of representatives and the president of the senate a copy of all rules, including emergency rules, at the time that they are promulgated by the court. Each rule so transmitted shall include a provision addressing the extent to which the rule shall apply to proceedings then pending before any court, a list of any statute that will conflict with the rule, as well as an explanatory note concerning the purpose of, and need for, the proposed rule. The transmission shall also include any minority views of justices or committee or subcommittee members concerning the proposed rule.

2 Contingency. If a constitutional amendment is adopted by the voters in the 2002 election which provides that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute shall supersede the rule, section 1 of this act shall take effect January 1, 2003. If such a constitutional amendment is not adopted, then section 1 of this act shall not take effect.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

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

AMENDED ANALYSIS

This bill provides that rules promulgated by the supreme court have the force and effect of law and may be changed by statute, and requires that supreme court rulemaking procedures comply with the right to know law. This bill takes effect only if CACR 5 of the 2001 legislative session is adopted in the 2002 general election.

2001-0695h

Amendment to HB 270-FN

Proposed by the Committee on Finance - R

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

1 General Court; Travel Allowance to Members. Amend RSA 14:15-a, I, (b)(1) and (2) to read as follows:

(1) For the first 45 miles, [~~$.38~~] ***$.42*** per mile; and

(2) For all miles in excess of 45 miles, [~~$.19~~] ***$.23*** per mile.

2 Application. The rules for travel allowance for members of the general court provided for in RSA 14:15-a, I(b)(1) and (2) as amended by section 1 of this act shall be used for the calculation of reimbursement to members beginning on or after December 4, 2002.

3 Effective Date. This act shall take effect December 4, 2002.

2001-0609h

Amendment to HB 276-FN-A

Proposed by the Committee on Finance - R

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

AN ACT relative to reimbursement of legal fees of supreme court employees who were subpoenaed and incurred legal fees during the impeachment proceedings regarding chief justice David A. Brock and making an appropriation therefor.

Amend the bill by replacing section 1 with the following:

1 Appropriation; Reimbursement of Legal Fees of Supreme Court Employees. The sum of $7354 is appropriated for the fiscal year ending June 30, 2002 to the supreme court, for the purpose of reimbursing supreme court employees who were subpoenaed during the impeachment proceedings regarding chief justice David A. Brock and incurred legal fees. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill makes an appropriation to the supreme court to reimburse supreme court employees who were subpoenaed and incurred legal fees during the impeachment proceedings regarding chief justice David A. Brock.

2001-0648h

Amendment to HB 288-FN

Proposed by the Committee on Finance - C

Amend RSA 326-I:4, IX as inserted by section 1 of the bill by replacing it with the following:

IX. Cooperating with the New Hampshire Registry of Interpreters for the Deaf, the New Hampshire Association of the Deaf, Self Help for the Hard of Hearing of New Hampshire, the New Hampshire League for the Hard of Hearing, the department of education, division of vocational rehabilitation, and interpreting agencies to provide access to the services of interpreters to persons communicating with deaf and hard of hearing persons.

2001-0839h

Amendment to HB 289-FN

Proposed by the Committee on Children and Family Law - C

Amend RSA 132-A:1, II as inserted by section 1 of the bill by replacing it with the following:

II. "Hospital" shall mean a public or private institution which is required to be licensed under RSA 151, and which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitative services for the rehabilitation of such persons.

Amend RSA 132-A:2, I as inserted by section 1 of the bill by replacing it with the following:

I. In accordance with hospital policy or protocol, a hospital, without a court order, shall take possession of a child who is 72 hours old or younger provided that the child is voluntarily brought to the hospital by the child's parent or parents and the

parent or parents did not express an intent to return for the child.

Amend section 2 of the bill by replacing it with the following:

2 Husband and Wife; Support of Wife and Children; Abandonment by Wife Amended. Amend RSA 460:28 to read as follows:

460:28 Abandonment by [~~Wife~~] ***Mother***.

I. If any [~~wife or~~] mother shall separate herself from her [~~husband~~] ***children*** without cause[~~, or from her children,~~] she shall be guilty of a misdemeanor. The fine, if any, shall be applied in the discretion of the court to the benefit of the deserted [~~husband or~~] children [~~or both~~].

II. A mother who separates herself from her child or children, pursuant to RSA 132-A, shall not be guilty of an offense or subject to a fine under this section.

2001-0866h

Amendment to HB 303-FN-A-LOCAL

Proposed by the Committee on Ways and Means - C

Amend the bill by replacing sections 3-5 with the following:

3 Department of Safety; Division of Emergency Medical Services; Fiscal Duties of the Director. Amend RSA 21-P:12-b, II(l) to read as follows:

(l) With the approval of the commissioner, accept in the name of the state any and all donations***, fees for tuition, rents, services, and any and all money*** and grants from any governmental unit, public agency, institution, person, firm, or corporation and receive, utilize, expend, and dispose of such funds subject to budgetary provisions, consistent with the rules of the department of safety and the purposes or conditions of the donation or grant.

(m) With the approval of the commissioner, establish fees to be collected for tuition, services, and licenses. The commissioner may for good cause waive any fees charged under this subparagraph and may authorize tuition reimbursement from the fire standards and training and emergency medical services fund.

4 New Sections; Department of Safety; Fire Standards and Training and Emergency Medical Services Fund Established; Report and Budget Requirements Established. Amend RSA 21-P by inserting after section 12-c the following new sections:

21-P:12-d Fire Standards and Training and Emergency Medical Services Fund. There is established in the office of the state treasurer a separate, nonlapsing, and continually appropriated fund to be known as the fire standards and training and emergency medical services fund from which the state treasurer shall pay expenses as determined by the commissioner of safety incurred in the administration of the division of fire standards and training, under RSA 21-P:12-a, and the division of emergency medical services, under RSA 21-P:12-b.

21-P:12-e Fire Standards and Training and Emergency Medical Services Report and Budget.

I. The department of safety shall submit an annual report, beginning on July 1, 2002, to the speaker of the house, president of the senate, and the governor and council which shall include, but not be limited to, training and educational programs offered or contracted by the divisions of fire standards and training and emergency medical services, the development of the technological advancements in division programs, the revenue generated from the sale of motor vehicle records, the budget and revenue projections of both divisions, the degree of coordination with municipal fire and emergency medical services departments, and the extent of direct aid to municipalities and mutual aid associations.

II. In addition to or in conjunction with the operating budget of the department of safety, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include financial responsibility for and the costs of all training and educational programs offered or contracted by the divisions of fire standards and training and emergency medical services, the development of technological advancements in division programs, the revenue generated from the sale of motor vehicle records, the extent of direct aid to municipalities and mutual aid associations, and all revenues and expenditures of the dedicated fund established in RSA 21-P:12-d.

5 New Paragraph; Department of Safety; Rulemaking Authority; Commissioner of Safety; Fees for Fire Standards and Training

and Emergency Medical Services Training Programs. Amend RSA 21-P:14 by inserting after paragraph VI the following new paragraph:

VII. The commissioner of safety, in consultation with the fire standards and training commission and the emergency medical and trauma services coordinating board, shall adopt rules under RSA 541-A, relative to:

(a) Fees for tuition, services, and licenses under RSA 21-P:12-a and 21 P:12-b.

(b) Tuition reimbursement under RSA 21-P:12-a and 21-P:12-b.

(c) The circumstances in which a waiver may be granted under RSA 21-P:12-a, II(b) and RSA 21-P:12-b, II(m).

Amend the bill by inserting after section 14 the following and renumbering the original section 15 to read as 16:

15 Division of Fire Standards and Training, Disposition of Funds; Tuition Reimbursement. Amend RSA 21-P:12-a, II(b) to read as follows:

(b) Establish fees to be collected for tuition and services. Such fees shall be subject to the approval of the commissioner of the department of safety. ***The commissioner may for good cause waive any fees charged under this subparagraph and may authorize tuition reimbursement from the fire standards and training and emergency medical services fund.***

AMENDED ANALYSIS

This bill:

I. Establishes a dedicated fund to support the division of fire standards and training and the division of emergency medical services in the department of safety. The bill also establishes reporting and budgeting requirements for the department of safety in conjunction with the operation of the divisions of fire standards and training and emergency medical services.

II. Allows the director of the division of emergency medical services to establish and collect fees for tuition, services and licenses.

III. Allows the commissioner of the department of safety to establish fees for certain fire standards and training and emergency services programs and services.

IV. Increases certain motor vehicle license fees.

V. Extends certain motor vehicle license expiration dates from

2001-0637h

Amendment to HB 305-FN-A

Proposed by the Committee on Finance - C

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

1 New Subdivision; Operation Game Thief. Amend RSA 207 by inserting after section 61 the following new subdivision:

Operation Game Thief

207:62 Operation Game Thief; Fund Account Established. The state treasurer shall establish a separate nonlapsing account within the fish and game fund to be known as the operation game thief account to which moneys obtained by the fish and game department shall be applied, including any federal moneys which become available and all donations received for such purpose. The moneys in this account including accrued interest, shall be used exclusively for, and shall be continually appropriated to, the administration and participation in Operation Game Thief.

2 Certification of Date of Repeal. The executive director of fish and game shall certify to the secretary of state and the director of legislative services the date that the fund account established in RSA 207:62 as inserted by section 1 of this act does not contain sufficient funds for the continued administration of Operation Game Thief by the department. The administration and participation of the department in Operation Game Thief shall cease upon such date.

3 Repeal. RSA 207:62, relative to Operation Game Thief, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect on the date certified in section 2 of this act.

II. The remainder of this act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill establishes a dedicated fund for certain fish and game funds to be expended for the purpose of Operation Game Thief. The fund is repealed when sums in the fund are insufficient for continued administration of Operation Game Thief.

2001-0797h

Amendment to HB 348-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R

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

AN ACT relative to suspending the issuance of any permits for the land application of sludge and short paper fiber in certain excavation areas.

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

1 Suspension of Permit Issuance. Notwithstanding any other law to the contrary, the department of environmental services shall suspend issuing any new permits for the land application of sludge and short paper fiber, as defined in RSA 485-A:2, in any excavation area, as defined in RSA 155-E:1, VI, located over a stratified drift aquifer as determined by the most recent United States Geological Survey aquifer map or in any affected site, as defined in RSA 12-E:1, I, located over a stratified drift aquifer as determined by the most recent United States Geological Survey aquifer map.

2 Repeal. Section 1 of this act, relative to land application of sludge and short paper fiber, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2003.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This act temporarily suspends the issuance of any new permits for the land application of sludge and short paper fiber in certain excavation areas for a period of 2 years.

2001-0855h

Amendment to HB 354-FN-A-LOCAL

Proposed by the Committee on Finance - R

Amend the bill by replacing all after section 1 with the following:

2 Statement of Intent. It is the intent of the general court to extend the kindergarten construction program to provide grants to offset a substantial portion of the cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities, to any eligible school district which does not operate a kindergarten program, and which has voted to adopt kindergarten in the district.

3 Kindergarten Construction Program; Appropriation Amended. Amend 1997, 348:6 to read as follows:

348:6 Appropriation; Kindergarten Construction. A sum not to exceed [~~$22,500,000~~] ***$24,000,001*** hereby appropriated to the department of education for the purposes of constructing kindergarten classrooms. This appropriation shall be nonlapsing and in addition to any other appropriation to the department of education; provided, however, that the department of education shall not approve grant requests for such purposes for more than:

I. $6,000,000 in the biennium ending June 30, 1999.

II. $5,000,000 in the fiscal year ending June 30, 2000.

III. $5,000,000 in the fiscal year ending June 30, 2001.

IV. [~~$6,500,000~~] ***$7,000,000*** in the fiscal year ending June 30, 2002.

V. $1,000,000 in the fiscal year ending June 30, 2003.

VI. $1 in the fiscal year ending June 30, 2004.

4 Kindergarten Construction Program; Bonding Amount Amended. Amend 1997, 348:7, I as amended by 1997, 351:56 to read as follows:

348:7 Bonds Authorized.

I. To provide funds for the appropriation made in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~$22,500,000~~] ***$24,000,001*** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A; provided that bonds or notes shall not be issued in excess of:

(a) $6,000,000 in the biennium ending June 30, 1999.

(b) $5,000,000 in the fiscal year ending June 30, 2000.

(c) $5,000,000 in the fiscal year ending June 30, 2001.

(d) [~~$6,500,000~~] ***$7,000,000*** in the fiscal year ending June 30, 2002.

(e) $1,000,000 in the fiscal year ending June 30, 2003.

(f) $1 in the fiscal year ending June 30, 2004.

5 Effective Date. This act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill extends the kindergarten construction program through the fiscal year ending June 30, 2004 and increases by $1,500,001 the amount of the bonded appropriation for the kindergarten construction program.

2001-0852h

Amendment to HB 373

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT relative to surety bonds for detective agencies and security services.

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

1 Surety Bond. Amend RSA 106-F:9 to read as follows:

106-F:9 Surety Bond.

I. The surety bond required by this section shall be so conditioned that the person bonded shall conduct his ***or her*** business in a lawful and honest manner without committing, compounding, aiding or abetting the commission of any criminal offense. Said bond shall be filed with and kept by the secretary of state and shall be subject to being sued upon by the attorney general of the state in the name of the state or sued upon by any person injured by a breach of any condition of such bond designed to protect such person. The principal sum of the bond shall be [~~$10,000~~] ***$50,000***, which shall be increased by [~~$10,000~~] ***$50,000*** for each additional type of license held by any person licensed under this chapter.

II. Any person licensed under this chapter who operates as a bail recovery agent shall maintain liability insurance coverage in accordance with RSA 597:7-b, II.

2 Detective Agencies Included. Amend RSA 597:7-b, II to read as follows:

II. Any person who operates as a recovery agent in this state, excluding licensed private detectives, shall be trained and certified through a program approved by the Professional Bail Agents of the United States and shall register annually with the secretary of state. The secretary of state shall issue to each registered recovery agent proof of such registration. Effective July 1, 2000, each bail agency operating in this state***, including private detective agencies under RSA 106-F which conduct bail recovery activities,*** shall annually provide to the secretary of state proof of liability insurance coverage in the amount of $300,000 for bail recovery activities of the agency's bail agents and bail recovery agents. This proof of insurance coverage shall be provided before the agency's bail agents are licensed or relicensed, and before the agency's bail recovery agents are registered or reregistered. Bail recovery agents acting as independent contractors shall provide proof of liability insurance coverage in the amount of $300,000 to the secretary of state before registration or reregistration. Any person who operates as a recovery agent in this state without meeting such certification, insurance, and registration requirements shall be guilty of a class A misdemeanor.

3 Effective Date. This act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill increases the surety bond for detective agencies and security services from $10,000 to $50,000. This bill requires private detectives who operate as bail recovery agents to have liability insurance coverage.

2001-0281h

Amendment to HB 392

Proposed by the Committee on Environment and Agriculture - R

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

AN ACT relative to a property tax exemption for property of agricultural fairs.

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

1 New Section; Agricultural Fairgrounds Tax Exempt. Amend RSA 72 by inserting after section 23-b the following new section:

72:23-bb Agricultural Fairgrounds. The real estate and personal property of agricultural fairgrounds which qualify as nonprofit under section 501(c)(3) or section 501(c)(5) of the Internal Revenue Code shall be exempt from taxation. On or before November 1 of each year the owner of the agricultural fairgrounds shall enter into an agreement with the municipality in which the property is situated to pay the municipality, on December 1 of each year, a sum in lieu of taxes to defray the applicable costs of municipal services.

2 Annual List. Amend RSA 72:23-c, I to read as follows:

I. Every religious, educational and charitable organization, Grange, ***agricultural fairground,*** the Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, the American National Red Cross and any other national veterans association shall annually, on or before April 15, file a list of all real estate and personal property owned by them on which exemption from taxation is claimed, upon a form prescribed and provided by the board of tax and land appeals, with the selectmen or assessors of the place where such real estate and personal property are taxable. If any such organization or corporation shall willfully neglect or refuse to file such list upon request therefor, the selectmen may deny the exemption. If any organization, otherwise qualified to receive an exemption, shall satisfy the selectmen or assessors that they were prevented by accident, mistake or misfortune from filing an application on or before April 15, the officials may receive the application at a later date and grant an exemption thereunder for that year; but no such application shall be received or exemption granted after the local tax rate has been approved for that year.

3 Effective Date. This act shall take effect April 1, 2001.

AMENDED ANALYSIS

This bill grants an exemption from property taxes to agricultural fairgrounds. The owners of the agricultural fairgrounds shall make a payment in lieu of taxes to the municipality.

2001-0752h

Amendment to HB 393-FN

Proposed by the Committee on Environment and Agriculture - R

Amend RSA 433:21, I as inserted by section 1 of the bill by replacing it with the following:

I. "Certificate" means a document indicating that plant stock has been inspected and found to be apparently free from dangerous insects and plant diseases.

Amend RSA 433:21, VI as inserted by section 1 of the bill by replacing it with the following:

VI. "Director" means the state entomologist, qualified by scientific training and practical experience, directly answerable to the commissioner, in charge of and responsible for the activities of the division of plant industry.

Amend RSA 433:21, X and XI as inserted by section 1 of the bill by replacing them with the following:

X. "Horticultural services" means any arborist, landscape architect or gardening consultant whose function is that of providing services relative to horticulture.

XI. "License" means an authorization from the director to sell plant stock.

Amend RSA 433:23 as inserted by section 3 of the bill by replacing it with the following:

433:23 Certified Stock. All nursery stock shipped into New Hampshire shall bear on each consignment or package [~~an unexpired~~] a valid license or certificate ***number indicating*** that the contents of that consignment or package have been inspected by a duly authorized inspecting officer, and that the contents are apparently free from all dangerous insects and plant diseases, and are therefore certified stock.

Amend RSA 433:28, V as inserted by section 5 of the bill by replacing it with the following:

V. Nursery stock infected with plan diseases or infested with plant pests shall not be offered for sale or given away.

Amend RSA 433:32, I(a) as inserted by section 10 of the bill by replacing it with the following:

(a) Selling, distributing, receiving, or delivering nursery stock which has not been licensed or certified.

2001-0435h

Amendment to HB 394

Proposed by the Committee on Commerce - C

Amend RSA 415:5, III as inserted by section 1 of the bill by replacing it with the following:

III. Nonrenewable, individual health insurance policies which provide medical, hospital, or major medical expense benefits for a specified term may be delivered or issued for delivery to any person in this state; however, no such policy shall provide coverage for a specified term in excess of 6 months, nor shall any such policy be issued in this state to a person who was previously covered by more than [~~one such policy~~] ***2 such policies*** within the preceding 12-month period.

AMENDED ANALYSIS

This bill clarifies when short-term individual health insurance policies may be issued.

2001-0174h

Amendment to HB 399

Proposed by the Committee on Election Law - R

Amend RSA 654:7-a, II as inserted by section 1 of the bill by replacing it with the following:

II. Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place on election day. The voter may then vote at that election. The applicant [~~may~~] ***shall*** be required to produce appropriate proof of qualifications as provided in RSA 654:12. The applicant shall complete an election day affidavit which shall be prescribed by the secretary of state ***and provided to the applicant by an election official***, and which shall contain the following written oath or affirmation:

"I do hereby certify under penalty of perjury that to the best of my knowledge, I am a qualified voter, and that I am not disqualified on any ground from voting, and I have not voted and will not vote at any other polling place this election."

_____

(Signature of Applicant)

2001-0595h

Amendment to HB 412

Proposed by the Committee on Education - C

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

AN ACT relative to requiring the public higher education study committee to study the feasibility of granting of state franchise rights to providers of on-line education courses.

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

1 New Paragraph; Public Higher Education Study Committee; Duties Amended. Amend RSA 187-A:28-c by inserting after paragraph I the following new paragraph:

I-a. In addition to the duties set forth in paragraph I, the committee shall study the feasibility of granting state franchise rights to the providers of on-line education courses which may include but is not limited to, the institutions of the university system of New Hampshire and the regional community-technical college system. The committee may consult with any individual or organization with information or expertise relevant to this aspect of the committee's duties.

2 Report. The committee shall include, in the next report to the general court due after the effective date of this act, a report of its findings and recommendations relative to the feasibility of granting state franchise rights to the providers of on-line education courses as set forth under RSA 187-A:28-c, I-a.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the public higher education study committee to study the feasibility of granting state franchise rights to the providers of on-line education courses and requires that the committee include, in its next regularly scheduled report to the general court, its findings and recommendations on this matter.

2001-0664h

Amendment to HB 413

Proposed by the Committee on Public Works and Highways - C

Amend the bill by replacing sections 1 and 2 with the following:

1 Purchase of Rail Property; Title. Amend RSA 228:60-b, II to read as follows:

II. The state of New Hampshire, acting through the commissioner with the approval of governor and council, may match any verifiable bona fide offer made for any rail properties within the limits of funds available to the commissioner for this purpose. In the event that the property offered for sale to the commissioner is to be purchased for other transportation purposes, including recreational trails, funds for such purchase shall be identified and provided by the state agency or political subdivision

requesting the commissioner to acquire the property. [~~The department of transportation~~] ***The state or a political subdivision thereof*** shall retain title to all land purchased under the right of first refusal. Cooperative use and management agreements with state agencies or political subdivisions providing acquisition funds shall be executed for parcels acquired with other than department of transportation funds. In the event that all or any part of the parcel so acquired is needed for transportation of goods or services of any kind or for any other purpose deemed necessary by the commissioner, the contributing entity shall be entitled to a refund of contribution or replacement land as determined by RSA 4:40. Any such right of first refusal shall be offered in writing to the commissioner who shall notify such railroad corporation in writing of acceptance or rejection of such an offer within 90 calendar days of receipt of such offer.

2 Disposition of Acquired or Abandoned Rail Properties. Amend RSA 228:67 to read as follows:

228:67 Disposition of Acquired or Abandoned Rail Properties. Whenever the commissioner determines that certain acquired or abandoned rail properties owned by the state pursuant to RSA 228:60-a, II; 228:60-a, VI; 228:60-b; or any other means are no longer needed, [~~he~~] ***the commissioner*** may transfer or sell such rail properties[~~, excluding the railroad bed and right-of-way lying within a corridor,~~] to any other state department or agency, or political subdivision of the state, which will utilize such properties for public purposes and, if no state department or agency, or political subdivision, wants such properties, the commissioner may sell them, ***in accordance with RSA 4:40*** with the proceeds from the sale [~~distributed to the Federal Railroad Administrator, Department of Transportation, in accordance with the grant agreement for the federal share of the participation in the original purchase of the rail properties. The balance shall be~~] deposited into the special fund established in RSA 228:68. Such transfer or sale shall require approval of the long range capital planning and utilization committee and the governor and council. [~~For the purpose of this section, "corridor" shall mean from the point of origin of railroad tracks or bed and right-of-way to the point of terminus within the state, excluding spur lines and sidings which are incidental to the main line.~~]

2001-0835h

Amendment to HB 423

Proposed by the Committee on Science, Technology and Energy - R

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

AN ACT relative to the sale of generation assets, the provision of transition service, and the funding of the energy efficiency program for Public Service Company of New Hampshire.

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

1 Findings. The general court finds that:

I. Commodity prices for oil and natural gas have substantially increased in the past year, resulting in higher wholesale electricity prices in New Hampshire and throughout the New England region. The higher wholesale electricity prices have prevented competitive electricity suppliers from being able to compete with standard transition service causing them to exit the market or not even enter it in the first place.

II. Given the increase in wholesale electricity prices and the potential lack of a significant number of viable competitive suppliers, it is important that measures be taken to protect customers from the potential of a noncompetitive and volatile electricity market. A critically important measure that should be undertaken to protect customers from price volatility and a noncompetitive market is for the public utilities commission to delay the divestiture of Public Service Company of New Hampshire's ("PSNH") fossil generation assets until the commission determines such sale is in the public interest. Delay in the divestiture of PSNH's fossil generation assets would allow for the use of those assets to serve transition service. While this delay in divestiture dates is in the public interest today, the general court finds that competitive electricity markets should provide benefits for customers over the long term. When the sale of PSNH's fossil assets is in the public interest, the public utilities commission should proceed with the sale of those assets in order to establish competitive electricity markets.

III. The planned sale of PSNH's generation assets will be done in a manner consistent with RSA 374:30.

IV. Changes to RSA 369-B and RSA 374-F which are designed to protect PSNH customers from current price volatility must be accomplished in a manner that shall not affect the validity, effectiveness, or finality of Order No. 23,550 issued by the public utilities commission, and does not diminish the value of the settlement agreement to either PSNH or PSNH's customers.

2 Limited Electrical Energy Producers; Retention of Savings by Electric Utility. Amend RSA 362-A:4-d to read as follows:

362-A:4-d Retention of Savings by Electric Utility. An electric utility that is party to an approved renegotiation of a commission order under RSA 362-A:4-c shall be entitled to retain [~~up to~~] 20 percent of the savings resulting from such renegotiation[~~, subject to order of the commission~~].

3 Authority to Issue Finance Orders; Transition Service. Amend RSA 369-B:3, IV(b)(1)(A)-(D) to read as follows:

(A) ***For purposes of implementing RSA 369-B:3, IV(b), transition service shall be available for the periods of time set forth in subparagraphs (b)(1)(B) and (b)(1)(C), subject to the commission's authority to lengthen the transition service period under RSA 374-F.*** From competition day until [~~initial transition service end day~~] ***the completion of the sale of PSNH's ownership interests in fossil and entitlement interests in nuclear generation assets located in New Hampshire***, PSNH shall supply ***such*** transition service and default service in its retail electric service territory ***from its generation assets and, if necessary, through supplemental power purchases in a manner approved by the commission***. [~~After initial transition service end day~~] ***Once PSNH is no longer supplying transition service, to the extent applicable***, any provider or providers of transition service shall have been chosen through a competitive bid process, administered by the commission, to provide such service. The commission may, if it finds it to be in the public interest, divide the competitive bid process into multiple categories or multiple competitive bids;

(B)(i) Transition service for residential customers, street lighting customers, and general delivery service rate G customers shall be available until 24 months after initial transition service end day. From competition day until initial transition service end day, the price of transition service for these customers shall be $0.044 per kilowatt-hour. From initial transition service end day to 12 months after initial transition service end day, the price of transition service for these customers shall be $0.044 per kilowatt-hour, or the competitively bid price for transition service, whichever is less. From 12 months after initial transition service end day to 24 months after initial transition service end day, the price of transition service for these customers shall be $0.046 per kilowatt-hour, or the competitively bid price for transition service for these customers, whichever is less. If the competitively bid price exceeds these fixed prices, the differences shall be reconciled for these customers in the manner prescribed in the original proposed settlement;

(ii) ***If the commission extends transition service beyond 33 months while PSNH retains its fossil generation assets, the price of transition service during such period may be PSNH's actual, prudent, and reasonable costs of providing such power, as approved by the commission. The commission, in approving such transition service pricing, shall also consider setting a transition price which will facilitate a smooth transition to market prices, provided the commission determines such transition effectively, fully, and contemporaneously mitigates stranded costs and is in the public interest.***

(iii) At the end of the transition service period, up to 25 percent of the residential customers, street lighting customers, and general delivery service rate G customers who have not chosen a competitive supplier may be assigned randomly to registered competitive suppliers other than the transition service supplier or suppliers, if the commission finds such random assignment to be in the public interest. The commission shall develop procedures and regulations for this assignment process. Any random assignment must be affirmatively approved by an individual customer;

(C) Transition service for all other customers shall be available until 12 months after initial transition service end day. From competition day to initial transition service end day, the price of transition service for these customers shall be $0.044 per kilowatt-hour. From initial transition service end day to [~~12 months after initial transition service end day~~] ***the day that PSNH ceases to provide transition service***, the price of transition service for these customers [~~shall~~] ***may*** be ***PSNH's actual, prudent, and reasonable costs of providing such power as approved by the commission. The commission may extend transition service for these customers if it determines an extension to be in the public interest. The commission, in approving such transition service pricing, shall also consider setting a transition price which will facilitate a smooth transition to market prices, provided the commission determines such transition effectively, fully, and contemporaneously mitigates stranded costs and is in the public interest. Thereafter, the price of transition service shall be*** the competitively bid price for transition service;

(D) Any difference between the price of transition service from competition day to [~~initial transition service end day~~] ***the day that PSNH ceases to provide transition service*** and PSNH's actual, prudent***,*** and reasonable costs of providing such power ***as determined by the commission*** shall first be separated between the 2 groups of customers described in subparagraphs (b)(1)(B) and (b)(1)(C), used first to offset any differences described in subparagraph (b)(1)(B), and the net then reconciled for each group of customers either by changing the recovery end date, or by decreasing the stranded cost recovery charge, as the commission finds to be in the public interest;

4 Authority to Issue Finance Orders; System Benefits Charge. Amend RSA 369-B:3, IV(b)(6) to read as follows:

(6) The total system benefits charge shall be [~~fixed at $0.002~~] ***no greater than $0.003*** per kilowatt-hour for 33 months from competition day divided between low-income assistance and energy efficiency/conservation programs. In the event that the commission finds that a significant amount of unencumbered dollars have accumulated in either program, and are not needed for program purposes, the commission shall refund such unencumbered dollars to ratepayers in a timely manner;

5 Electric Utility Restructuring Policy Principles; Universal Service; Default Service. Amend RSA 374-F:3, V(c) to read as follows:

(c) Default service should be designed to provide a [~~temporary~~] safety net and to assure universal access and system integrity. Default service should be procured through the competitive market [~~and based on short-term market prices,~~] and may be administered by independent third parties. The [~~cost~~] ***allocation of the costs*** of administering default service should be borne by the customers of default service ***in a manner approved by the commission***. If the commission determines it to be in the public interest, the commission may implement measures to discourage misuse, or long-term use, of default service. Revenues, if any, generated from such measures should be used to defray stranded costs.

6 Electric Utility Restructuring; Implementation; System Benefits Charge; Energy Efficiency Programs. Amend RSA 374-F:4, VIII(b) to read as follows:

(b) [~~The system benefits charge referred to in RSA 374-F:3, VI shall be limited as follows:~~

~~(1) During the first year after competition is certified to exist pursuant to RSA 38:36, the portion of the system benefits charge due to energy efficiency programs, new renewable programs, and programs for low-income customers shall not exceed 2.5 mills per kilowatt hour for any utility whose rates are at or above regional average as determined by the commission.~~

~~(2)~~] During the ***first and*** second year after competition is certified to exist pursuant to RSA 38:36, the portion of the system benefits charge ***referred to in RSA 374-F:3, VI*** due to energy efficiency programs, new renewable programs, and programs for low-income customers shall not exceed 3 mills per kilowatt hour for any utility [~~whose rates are at or above regional average as determined by the commission~~].

7 Sale of PSNH Fossil Generation Assets; Date. Amend 2000, 249, 7, II to read as follows:

II. The sale of PSNH fossil generation assets shall take place no [~~later~~] ***sooner*** than July 1, [~~2001~~] ***2003***, unless the commission finds [~~due to circumstances beyond its control~~] that [~~further delay~~] ***an earlier sale*** is in the public interest.

8 Energy Efficiency Program. The public utilities commission shall phase-in, as quickly as can be effectively administered by Public Service Company of New Hampshire, an energy efficiency program for Public Service Company of New Hampshire that is funded at a rate of $0.0018 per kilowatt-hour to be allocated from the system benefits charge. The public utilities commission shall not decrease the amount of the system benefits charge allocated to low-income customers due to passage of this act.

9 Liquidation of Generation Assets. As part of the public utilities commission's administration of the liquidation of Public Service Company of New Hampshire's generation assets, the commission shall:

I. Allow and consider bids for the generation assets that may include proposals for providing transition service at a ceiling price for any customer class. Should such a bid be accepted by the commission, the commission shall consider such transition service commitment as part of the competitive bid process under RSA 369-B:3, IV(b)(1)(A). If such transition service is used, then it shall be considered the "competitively bid price" for purposes of RSA 369-B:3, IV(b)(1)(B) and (C), as applicable.

II. Expeditiously initiate and complete, in a manner consistent with RSA 374:30, the sale of nuclear generation assets located in New Hampshire required by the settlement in a manner that benefits all New Hampshire customers with stranded cost recovery obligations associated with such assets.

10 Temporary Energy Surcharge. In order to avoid excessive deferrals that may accrue under the provisions of RSA 369-B:3, IV(b)(1)(B)(i), the public utilities commission may impose an energy surcharge on electricity purchased by residential, street lighting, and general delivery service rate G customers of Public Service Company of New Hampshire that take transition service between initial transition service end day and 24 months after initial transition service end day as defined in RSA 369-B:2, VII. Money collected from such a surcharge shall be applied to reducing any amounts that would otherwise be deferred under RSA 369-B:3, IV(b)(1)(B)(i) after taking into account the provisions of RSA 369-B:3, IV(b)(3)(D).

11 Effect on Finance Order. The provisions of this act shall amend the specific provisions of public utilities commission Order

No. 23, 550, approving the issuance of rate reduction bonds, issued by the public utilities commission in Docket No. DE 99-099. All provisions of RSA 369-B, including the amendments made by this act, and all provisions of commission Order No. 23,550, as amended by this act, shall remain in full force and effect and are hereby ratified and confirmed in all respects. The provisions of this act shall not affect the validity, effectiveness, or finality of commission Order No. 23,550, or the validity of any rate reduction bonds issued thereto. The general court finds that commission Order No. 23,550, as amended by this act, satisfies all of the conditions and requirements of RSA 369-B, as amended, including without limitation, RSA 369-B:3, IV, and is deemed to be authorized and issued pursuant to RSA 369-B, as amended, and that the implementation of such order, as amended, is in the public interest.

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

AMENDED ANALYSIS

This bill:

I. Entitles an electric utility to retain 20 percent of the savings from an approved renegotiation of a public utilities commission order.

II. Modifies the terms of transition service for customers of Public Service Company of New Hampshire.

III. Modifies the system benefits charge authority.

IV. Requires the public utilities commission to make certain determinations prior to approving the sale of Public Service Company of New Hampshire fossil generation assets.

V. Authorizes the public utilities commission to impose an energy surcharge on transition service customers of Public Service Company of New Hampshire.

2001-0636h

Amendment to HB 435

Proposed by the Committee on Municipal and County Government - C

Amend the bill by replacing sections 1 and 2 with the following:

1 Counties; Payment by Credit Card. Amend RSA 29:11-b to read as follows:

29:11-b Payment by Credit Card. The county commissioners, by rule or regulation may authorize the county treasurer or other appropriate county official to accept payment of local taxes, charges generated by the sale of utility services, or other fees by use of a credit card. Any county adopting such a rule or regulation [~~shall~~] ***may*** add to the amount due, in addition to any penalties and interest payable, a service charge for the acceptance of the card. [~~The service charge shall be based upon the credit card company's rate and the actual cost to the county for the use of the service.~~] The county, at the time of billing, shall disclose the amount of the service charge.

2 Municipalities; Payment by Credit Card. Amend RSA 80:52-c to read as follows:

80:52-c Payment by Credit Card. The legislative body, by ordinance adopted in accordance with RSA 39, may authorize the municipality's treasurer or other appropriate municipal official to accept payment of local taxes, charges generated by the sale of utility services, or other fees by use of a credit card. Any municipality adopting such an ordinance [~~shall~~] ***may*** add to the amount due, in addition to any penalties and interest payable, a service charge for the acceptance of the card. [~~The service charge shall be based upon the credit card company's rate and the actual cost to the municipality for the use of the service.~~] The municipality, at the time of billing, shall disclose the amount of the service charge.

2001-0576h

Amendment to HB 443

Proposed by the Majority of the Committee on Science, Technology and Energy - R

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

AN ACT relative to a state energy plan.

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

1 Purpose. The state of New Hampshire has recently moved to restructure its electric and natural gas industries. Electric utilities were formerly responsible for developing least cost energy plans and integrated resource plans. While it is expected that the restructuring of the electric and natural gas industries will provide market responses to energy supply and demand conditions, it is nonetheless important that the governor's office of energy and community services and the public utilities commission be involved in some aspects of energy planning.

2 Findings. The general court finds that a comprehensive and integrated energy plan will provide useful information about the supply of and demand for natural gas and electricity, the adequacy of transmission and distribution infrastructure, siting requirements, fuel diversity, and energy efficiency and conservation. The general court further finds that use of the system benefits charge to fund the plan within the limitations legislatively established for those charges is in the public interest.

3 State Energy Plan.

I. The governor's office of energy and community services, in consultation with the public utilities commission and other state agencies as needed, shall prepare a state energy plan covering a 10-year period. The governor's office of energy and community services shall solicit the input of independent parties, including the Whittemore School of Business and Economics at the University of New Hampshire. The plan shall be consistent with the legislative policies set forth in RSA 162-H, RSA 378:37, RSA 374-F, and RSA 369-A. The plan shall include:

(a) An analysis of the demand projections for energy consumption of electricity and natural gas in New Hampshire.

(b) An analysis of the adequacy of electricity generation in New Hampshire, and of transmission and distribution resources in New Hampshire for the natural gas and electric industries, and how regional generation, transmission, and distribution resources affect New Hampshire.

(c) An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources.

(d) An analysis of fuel diversity for electricity generation.

(e) An analysis of the efficient use of energy resources and conservation initiatives.

(f) An analysis of how these New Hampshire-specific issues relate to regional initiatives to assure the adequacy of generation, transmission, and distribution assets.

(g) Recommendations, based on the analyses completed under subparagraphs (a)–(f), for state implementation actions to achieve the legislative policies set forth in RSA 162-H, RSA 378:37, RSA 374-F, and RSA 369-A, or for other energy policies that should be pursued.

II. In developing the plan, the governor's office of energy and community services shall seek public comment by holding at least 4 public hearings in different geographic locations around the state.

III. The governor's office of energy and community services is authorized to expend up to $100,000 to complete the plan. Such funds shall be provided proportionally by jurisdictional electric distribution utilities out of funds collected from the energy efficiency portion of each utility's approved system benefits charge, or as otherwise directed by the public utilities commission.

IV. The governor's office of energy and community services shall complete the state energy plan by November 1, 2002. Prior to publication of the plan, the governor's office of energy and community services shall consult with the legislative oversight committee on electric utility restructuring established by RSA 374-F:5 and the gas utility restructuring oversight committee established by RSA 374:60. Upon completion, the plan shall be distributed to the speaker of the house of representatives, the senate president, the chairpersons of the house science, technology, and energy committee and the senate energy and economic development committee, the governor, and the state library.

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

AMENDED ANALYSIS

This bill requires the governor's office of energy and community services, in consultation with the public utilities commission and other state agencies, to prepare a state energy plan covering a 10-year period. This bill authorizes the governor's office of energy and community services to expend up to $100,000 to be provided by jurisdictional electric distribution utilities, to complete the plan.

2001-0339h

Amendment to HB 450

Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT relative to certain work product under the right-to-know law.

Amend the bill by deleting section 3 and renumbering the original section 4 to read as section 3, respectively.

AMENDED ANALYSIS

This bill clarifies that certain work papers are not subject to the right-to-know law.

2001-0622h

Amendment to HB 451

Proposed by the Committee on Children and Family Law - R

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

AN ACT establishing a commission to study the impact of pay and health care benefits for child care workers on the quality of care and education for children by considering and exploring funding methods for accomplishing any recommendations.

Amend the bill by replacing sections 1-4 with the following:

1 Findings. The general court finds that:

I. Quality early learning and care is critical to the well-being of an estimated 48,000 children who need out-of-home care while their parents work.

II. New Hampshire employers are already losing as much as $24 million per year because of child-care-related absenteeism; continued erosion of affordable, available child care threatens increased harm to the state's economy. A significant part of New Hampshire's labor force is made up of the parents of 74 percent of preschoolers in New Hampshire who require child care to enable them to work.

III. Some of the chief causes of a lack of available child care and poor quality child care are high employee turnover and inexperienced staff, a major cause of which is the fact that as many as 2/3 of child care workers do not have access to affordable health insurance.

IV. Qualified and educated individuals who want to make a professional career in child care are unable to do so because of the low pay and lack of benefits, especially health insurance.

V. The urgency of this crisis requires that a special commission be established that brings the creative forces of business, the executive branch, child care providers and insurance experts to identify and recommend ways by which affordable health insurance can be made available to child care workers in New Hampshire.

2 Commission Established. There is established a commission to study the impact of pay and benefits for child care workers on quality of care for children.

3 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house.

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

(c) The governor or designee.

(d) The commissioner of insurance or designee.

(e) Two representatives from the department of health and human services, one of whom shall be from the child development bureau and the other from the division of family assistance, appointed by the commissioner of health and human services.

(f) The commissioner of education, or designee.

(g) A representative from New Hampshire Business Partners for Early Learning, selected by that organization.

(h) A representative from the University of New Hampshire knowledgeable in research related to the quality of child care programs, selected by the chancellor of the university.

(i) A representative from the New Hampshire Child Care Association representing non-profit child care providers, selected by that association.

(j) A representative from the New Hampshire Family Child Care Association, selected by that association.

(k) A representative of private child care centers, appointed by the governor.

(l) A representative of New Hampshire Child Care Resource and Referral Network, selected by that organization.

(m) An individual who is a parent of a child in an early care and learning program, appointed by the governor.

(n) A representative from the New Hampshire Child Care Advisory Council, appointed by that body.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission. Lay members of the commission shall not be reimbursed for their participation. However, the commission may accept private contributions to support its work.

4 Duties. The commission shall:

I. Investigate creative ways in which to make affordable health insurance available to all persons providing child care services to children and families in New Hampshire.

II. Investigate the experiences in other states with programs designed to improve pay and benefits of child care providers to ascertain whether these programs have led to an improvement in the quality and availability of child care in those states.

III. Monitor any private or other initiatives undertaken in New Hampshire which address pay and benefits to ascertain the impact on the quality of care for children, paying particular attention to issues of turnover and continuity of care experienced by children.

IV. Consider new and innovative funding methods for accomplishing any recommendations of the commission.

V. Hold at least 2 public hearings.

AMENDED ANALYSIS

This bill establishes a commission to issues regarding the pay and benefits of child care providers, including creative ways in which to make affordable health insurance available to persons providing child care services to children and families in New Hampshire.

2001-0741h

Amendment to HB 463-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs - R

Amend RSA 161-F:43, VII as inserted by section 3 of the bill by replacing it with the following:

VII. "Vulnerable" means that the physical, mental, or emotional ability of a person is such that the person is unable to protect his or her own rights and interests or to manage personal, home, or financial affairs without assistance or support.

Amend the bill by replacing sections 4-8 with the following:

4 Clarification of Reporting Requirements. Amend the introductory paragraph of RSA 161-F:46 to read as follows:

Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, ***financial officers*** and law enforcement officials, [~~having reason to believe~~] ***suspecting or believing in good faith*** that any [~~incapacitated~~] adult [~~protected under the provisions of this subdivision~~] ***who is or who is suspected to be vulnerable*** has been subjected to [~~physical~~] abuse, neglect, ***self-neglect,*** or exploitation or is living in hazardous conditions shall report or cause a report to be made as follows:

5 Immunity From Liability. Amend RSA 161-F:47 to read as follows:

161-F:47 Immunity From Liability. Any person or agency, other than an alleged perpetrator, participating in good faith in the making of a report of an alleged incident of adult abuse, neglect or exploitation ***or providing information relative to such incident*** shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any [~~such participant~~] ***person or agency providing information in good faith, including materials requested by the department pursuant to RSA 161-F:56,*** shall have the same immunity with respect to participation in any investigation by the commissioner or his authorized representative or in any judicial proceeding resulting from such report.

6 "Incapacitated" Changed to "Vulnerable." Amend RSA 161-F:51 to read as follows:

161-F:51 Duties and Responsibilities.

I. The commissioner or his ***or her*** authorized representative, upon the substantiation of a report of abuse, neglect, or exploitation of [~~an incapacitated~~] ***a vulnerable*** adult, shall provide, when necessary, protective services to such adults.

II. The commissioner or his ***or her*** authorized representative shall refer all cases of serious bodily injury to [~~an incapacitated~~] ***a vulnerable*** adult ***known or suspected to be the result of abuse, neglect, or exploitation*** to ***local law enforcement,*** the department of justice or to the county attorney for possible criminal prosecution. The commissioner or his ***or her*** authorized representative [~~may~~] ***shall*** also report other cases of abuse, neglect, or exploitation [~~as he deems appropriate, under procedures to be developed jointly by the department and the attorney general,~~] to ***local law enforcement,*** the department of justice***,*** or [~~to~~] the office of the county attorney for possible criminal prosecution ***if there is reason to believe a crime has been committed***.

7 "Incapacitated" Changed to "Vulnerable." Amend RSA 161-F:53 to read as follows:

161-F:53 Entry of Premises. If either [~~an incapacitated~~] ***a vulnerable*** adult reported or suspected of being abused, neglected, or exploited refuses, or a caretaker or caregiver refuses, to allow the representative of the department entrance to the premises for the purpose of investigating a report of abuse, neglect, or exploitation, the probate court, in the county where the adult is found, upon a finding of probable cause, may order an authorized representative of the commissioner, a police officer, or other authorized individual to enter said premises in furtherance of such investigation.

8 Reference to Financial Records Added; Petition to Probate Court Authorized. Amend RSA 161-F:56 to read as follows:

161-F:56 Access to Information. In the course of an investigation conducted pursuant to this subdivision, the department's authorized representative may make any inquiries and obtain such information as is necessary to further such investigation. The department's authorized representative may review and photocopy any books, files, medical records, ***photographs, financial records,*** or other records ***on any medium*** that pertain to patients, residents, clients or alleged victims of abuse, neglect, or exploitation. ***In the event any person or agency refuses to allow the department access to materials necessary to further its investigation, the probate court, upon a finding of probable cause, may order the person or agency to release its records to the department.***

2001-0909h

Floor Amendment to HB 469-FN-LOCAL

Proposed by Rep. Norelli

Amend the bill by replacing section 1 with the following:

1 Minimum Hourly Rate. Amend the introductory paragraph of RSA 279:21 to read as follows:

279:21 Minimum Hourly Rate. Unless otherwise provided by statute, no person, firm, or corporation shall employ any employee at an hourly rate lower than that set forth in the federal minimum wage law, as amended, or as follows, whichever is higher:

Date Hourly Rate

[~~April 1, 1991 to September 30, 1996 $4.25~~

~~October 1, 1996 to August 31, 1997 $4.75~~]

On and after September 1, 1997 $5.15

On and after October 1, 2001 $5.65

On and after October 1, 2002 $6.15

Tipped employees of a restaurant, hotel, motel, inn or cabin, who customarily and regularly receive more than $20 a month in tips directly from the customers will receive a base rate from the employer of not less than $2.38 per hour. With any change to the minimum wage after the effective date of this section, the employer is responsible to pay employees $2.38 per hour or 45 percent of the applicable minimum wage whichever is higher. If an employee shows to the satisfaction of the commissioner that the actual amount of wages received at the end of each pay period did not equal the minimum wage for all hours worked, the employer shall pay the employee the difference to guarantee the applicable minimum wage. The limitations imposed hereby shall be subject to the following exceptions:

2001-0822h

Amendment to HB 477-FN

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 100-A:41-c, I as inserted by section 1 of the bill by replacing it with the following:

I. An eligible retired group I member of the New Hampshire retirement system whose annual retirement allowance is less than $8500 shall receive a one-time supplemental allowance sufficient to provide an annual allowance of $8500. An eligible retired group I member shall be a member, or beneficiary of such member, who retired with at least 20 years of creditable service under RSA 100-A:5, I, or member, or beneficiary of such member, who retired under RSA 100-A:6, I.

2001-0862h

Amendment to HB 481

Proposed by the Committee on Criminal Justice and Public Safety - C

Amend RSA 7:6-b, I(f) as inserted by section 1 of the bill by replacing it with the following:

(f) The telephone number or other subscriber number or identity.

Amend RSA 7:6-b, III as inserted by section 1 of the bill by replacing it with the following:

III. The attorney general may delegate authority under this section to any assistant attorney general. Where the offense under investigation is defined in RSA 318-B or RSA 649-B, the attorney general may delegate authority under this section to a county attorney. A county attorney may further delegate authority under this section to any assistant county attorney in the county attorney's office. The county attorney may exercise this authority only in cases within the jurisdiction of that county attorney. The attorney general shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Circumstances under which an assistant attorney general, a county attorney, or an assistant county attorney may issue such

demands to communications common carriers under this section.

(b) The procedures for applying for such demands.

(c) The records of such demands which shall be kept and maintained.

AMENDED ANALYSIS

This bill revises the provisions permitting the attorney general to gain access to records of communications common carriers.

2001-0875h

Amendment to HB 488

Proposed by the Committee on Commerce - R

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

AN ACT establishing a task force to study certain issues regarding privacy.

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

1 Task Force Established. There is established a privacy task force to study privacy issues as they pertain to federal law including, but not limited to, the Health Insurance Portability and Accountability Act of 1966 (HIPAA) and the Gramm-Leach-Bliley Act of 1999 (GLBA) and existing state laws relative to privacy issues.

2 Membership and Compensation.

I. The members of the task force shall be as follows:

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

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

(c) The insurance commissioner, or designee.

(d) The secretary of state, or designee.

(e) The bank commissioner, or designee.

(f) The commissioner of the department of safety, or designee.

(g) The commissioner of the department of health and human services, or designee.

(h) The commissioner of the department of administrative services, or designee.

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

(j) The commissioner of the department of employment security, or designee.

(k) One representative of each of the following industries, appointed by the governor:

(1) Banking.

(2) Insurance.

(3) Securities.

(4) Real estate.

(5) Financial service providers.

(6) Hospitals.

(7) Physicians.

(8) Retail pharmacists.

(9) Other health care providers.

(l) Five members of the general public, appointed by the governor.

II. Legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

3 Duties. The task force shall study privacy issues as they pertain to federal law including, but not limited to, the privacy provisions of the Health Insurance Portability and Accountability Act of 1966 (HIPAA) and the Gramm-Leach-Bliley Act of 1999 (GLBA). The task force shall also include in its study a review of existing state laws relative to privacy issues.

4 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Eleven members of the task force shall constitute a quorum.

5 Report. The task force shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2002, provided that the committee shall make an interim report on or before November 1, 2001.

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

AMENDED ANALYSIS

This bill establishes a task force to study privacy issues as they pertain to federal law and existing state laws relative to privacy issues.

2001-0860h

Amendment to HB 495

Proposed by the Committee on Judiciary - C

Amend RSA 493-B:1, I as inserted by section 1 of the bill by replacing it with the following:

I.(a) "Appointed official" means an administrator, an administrator de bonis non, a special administrator, a guardian ad litem except as provided in subparagraph (b)(2), an auditor, an appraiser, a referee, a master, or any other person appointed by a court; part or all of whose compensation is to be paid by one or more parties to an action pending before the court.

(b) "Appointed official" shall not include:

(1) An executor nominated by a decedent or an appraiser nominated by such executor.

(2) A guardian ad litem appointed in a matter involving the custody of minor children.

(3) A marital master duly appointed under the marital master program.

2001-0717h

Amendment to HB 509

Proposed by the Committee on Children and Family Law - C

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

AN ACT establishing a statute of limitations on spousal support orders.

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

1 Divorce; Revision of Orders; Limitation on Alimony Orders Inserted. Amend RSA 458:14 to read as follows:

458:14 Revision of Orders, etc. ***Except as otherwise provided in RSA 458:19, I and VII,*** the court, upon proper application and notice to the adverse party, may revise and modify any order made by it, may make such new orders as may be necessary, and may award costs as justice may require.

2 Divorce; Alimony; Statute of Limitations Added. Amend RSA 458:19, I to read as follows:

I. Upon motion of either party for alimony payments, the court shall make orders for the payment of alimony to the party in need of alimony, either temporary or permanent, for a definite or indefinite period of time, if [~~it~~] ***the motion for alimony payments is made within 2 years of the decree of nullity or divorce and the court*** finds that:

3 New Paragraph; Divorce; Alimony; Statute of Limitations Applied to Renewal of Alimony Order. Amend RSA 458:19 by inserting after paragraph VI the following new paragraph:

VII. In cases where the court issues an order for permanent alimony for a definite period of time, such order may be renewed, upon the petition of either party, provided that such petition is made within 2 years of the termination date of the permanent alimony order. Nothing in this paragraph shall be construed to change or alter in any way the terms of the original alimony order.

4 Effective Date. This act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill establishes a statute of limitations for spousal support orders.

2001-0651h

Amendment to HB 511

Proposed by the Committee on Executive Departments and Administration - C

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

1 Physicians and Surgeons; Continuing Medical Education Requirement. Amend RSA 329:16-g to read as follows:

329:16-g Continuing Medical Education Requirement. As a condition of renewal of license, the board shall require each licensee to show proof at least every 3 years that the licensee has completed an approved continuing medical education program within the preceding 3 years. For the purposes of this section, an approved continuing medical education program is a program designed to continue the education of the licensee in current developments, skills, procedures, or treatment in the licensee's field of practice, which has been certified by a national, state or county medical society or college or university approved by the board. ***There shall be a complete audit of all continuing education credits annually by the New Hampshire Medical Society until January 1, 2007, and by the board or their designee thereafter. The board shall accept verification of continuing medical education for licensees from the New Hampshire Medical Society until January 1, 2007. The fee charged to licensees for continuing medical education verification shall not exceed 125 percent of the actual cost of providing the service. The New Hampshire Medical Society is prohibited from using any information from this program for promotional purposes or any other purpose not necessary for continuing education verification.***

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires physicians licensed by the board of medicine to submit a continuing medical education form to the New Hampshire Medical Society on or before February 28 of each year, unless the licensee has completed the continuing medical education requirement for the 3-year period in a previous year. The New Hampshire Medical Society shall verify continuing medical education requirements of licensees until January 1, 2007.

2001-0801h

Amendment to HB 512

Proposed by the Committee on Municipal and County Government - C

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

1 Local Land Use Planning; Authority for Impact Fee Ordinances. Amend RSA 674:21, V(i) to read as follows:

(i) Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance. ***The planning board shall, in the course of site plan or subdivision review, have the authority to impose a requirement that a developer, as a condition of approval of such subdivision or site plan proposal, be responsible for the payment of the cost of such developer's proportional share of any off-site improvements that the board determines are necessitated by the development proposal. Such authority shall not be affected by the adoption of or failure to adopt an impact fee ordinance as provided herein. For purposes of this subparagraph "off-site improvements" means an exaction imposed to meet special needs occasioned by a particular application.***

2 New Paragraph; Local Land Use Planning; Authority for Subdivision Regulations. Amend RSA 674:36 by inserting after paragraph III the following new paragraph:

IV. The planning board, in exercising the authority granted under subparagraph II(a), may consider both on-site and off-site improvements. It is expressly provided that a planning board may adopt regulations which provide that in the course of review of a subdivision application, the board may require that a developer or an applicant, as a condition of approval of such subdivision plan proposal, be responsible for the payment of the cost of any on-site improvements as well as the developer's or applicant's proportional share of any off-site improvements that the board determines are necessitated by the development proposal. Such authority shall not be affected by the adoption of or failure to adopt an impact fee ordinance as provided in RSA 674:21.

3 Local Land Use Planning; Authority for Site Plan Review Regulations. Amend the introductory paragraph of RSA 674:44, IV to read as follows:

IV. The site plan review regulations of the planning board may stipulate, as a condition precedent to the approval of the plat, the extent to which and the manner in which streets shall be graded and improved and to which water, sewer, and other utility mains, piping, connections, or other facilities shall be installed. ***The planning board, in exercising this authority, may consider both on-site and off-site improvements. It is expressly provided that a planning board may adopt regulations which provide that in the course of review of a site plan review application, the board may require that a developer or an applicant, as a condition of approval of such site plan proposal, be responsible for the payment of the cost of any on-site improvements as well as the developer's or applicant's proportional share of any off-site improvements that the board determines are necessitated by the development proposal. Such authority shall not be affected by the adoption of or failure to adopt an impact fee ordinance as provided in RSA 674:21. For purposes of this subparagraph "off-site improvements" means an exaction imposed to meet special needs occasioned by a particular application.*** The regulations or practice of the planning board:

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill provides that a planning board shall, in the course of site plan or subdivision review, have authority to require that a developer be responsible for the payment of the cost of any on-site improvements as well as the developer's proportional share of off-site improvements. Such authority shall not be affected by the adoption of or failure to adopt an impact fee ordinance.

2001-0599h

Amendment to HB 520

Proposed by the Committee on Election Law - R

Amend the bill by replacing section 1 with the following:

1 Nominations; General Qualifications; Domicile. Amend RSA 655:2 to read as follows:

655:2 Domicile. To hold any elective office in the state, a person must have a domicile in the state. ***Registration to vote or voting in another state during the relevant time period shall create a presumption that a person does not have a domicile in this state.***

2001-0779h

Amendment to HB 525

Proposed by the Committee on Commerce - C

Amend the bill by replacing section 4 with the following:

4 Road Service Licensure; Bond Required. Amend RSA 407-C:2 to read as follows:

407-C:2 Issuance and Renewal.

I. If the insurance commissioner is of the opinion that an applicant is reliable and entitled to confidence, such applicant shall be granted a license to perform such road or other service in this state until July 1 thereafter, and annually thereafter on July 1, such license may be renewed so long as the commissioner shall regard such licensee as reliable and entitled to confidence. Such application shall give such information as the commissioner may require, including, but not limited to, the most recent financial statement of the applicant prepared [~~according to~~] ***in accordance with*** generally accepted accounting principles and certified by a certified public accountant.

II. Individuals, firms, associations, or corporations established in this state shall file with the commissioner proof of minimum capital and surplus in an amount equal to or greater than $250,000, or shall file with the commissioner a surety bond or equivalent acceptable to the commissioner in the amount of $250,000.

Amend RSA 415-B:2, II as inserted by section 7 of the bill by replacing it with the following:

II. The annual license fee shall be $ 200. Licenses may be renewed from year to year as of July 1 of each year upon payment of the license fee to the commissioner. ***Additionally, a premium finance company established in this state shall file with the commissioner proof of minimum capital and surplus in an amount equal to or greater than $250,000, or shall file with the commissioner a surety bond or equivalent acceptable to the commissioner in the amount of $250,000.***

Amend the bill by replacing all after section 9 with the following:

10 Authorization for Interception of Telecommunications or Oral Communications. Amend RSA 570-A:7 to read as follows:

570-A:7 Authorization for Interception of Telecommunications or Oral Communications. The attorney general, deputy attorney general, or a county attorney, upon the written approval of the attorney general or deputy attorney general, may apply to a judge of competent jurisdiction for an order authorizing or approving the interception of telecommunications or oral communications, and such judge may grant, in conformity with RSA 570-A:9, an order authorizing or approving the interception of telecommunications or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offenses as to which the application is made, when such interception may provide, or has provided, evidence of the commission of organized crime, as defined in RSA 570-A:1,XI, or evidence of the commission of the offenses of homicide, kidnapping, gambling, theft as defined in RSA 637, corrupt practices as defined in RSA 640, child pornography under RSA 649-A, computer pornography and child exploitation under RSA 649-B, criminal conduct in violation of the securities law, as defined in RSA 421-B:3, 421-B:4, 421-B:5, 421-B:19, and 421-B:24, criminal conduct in violation of the security takeover disclosure laws, as defined in RSA 421-A:3, 421-A:7, 421-A:8, 421-A:11, and 421-A:13, robbery as defined in RSA 636:1, arson as defined in RSA 634:1, hindering apprehension or prosecution as defined in RSA 642:3, tampering with witnesses and informants as defined in RSA 641:5, aggravated felonious sexual assault as defined in RSA 632-A:2, felonious sexual assault as defined in RSA 632-A:3, escape as defined in RSA 642:6, bail jumping as defined in RSA 642:8, ***insurance fraud as defined in RSA 638:20,*** dealing in narcotic drugs, marijuana, or other dangerous drugs, hazardous waste violations under RSA 147-A:4,I, or any conspiracy to commit any of the foregoing offenses.

11 Repeal. The following are repealed:

I. RSA 404-E, relative to an environmental risk insurance pool.

II. RSA 638:20, V, relative to limiting charges for insurance fraud.

12 Effective Date.

I. Sections 8 and 9 of this act shall take effect January 1, 2002.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes certain technical changes to the laws relative to property and casualty insurance. The bill requires road service licensees and premium finance companies to file a surety bond with the commissioner. The bill repeals the chapter relative to an environmental risk insurance pool and repeals a limitation on multiple insurance fraud charges. The bill also allows the interception of wire or oral communications in connection with an insurance fraud investigation.

This bill is a request of the insurance department.

2001-0829h

Amendment to HB 534

Proposed by the Committee on Commerce - C

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

1 New Paragraph; Salvage Certificate of Title; Disclosure to Buyer. Amend RSA 261:22 by inserting after paragraph IV the following new paragraph:

IV-a. Before selling to any buyer any used vehicle, the title to which is required to be marked "salvage" pursuant to this section, the seller shall disclose to the buyer in writing that the vehicle is a salvage vehicle and the reasons for such designation. Failure to comply with the provisions of this paragraph shall constitute an unfair or deceptive act or practice under RSA 358-A:2.

2 Dismantling or Destruction of Vehicle; Penalty. Amend RSA 261:22, V to read as follows:

V. It shall be a misdemeanor for any person to remove or cause to be removed a "salvage vehicle" decal from a motor vehicle to which it has been affixed pursuant to paragraph IV. A bona fide purchaser for value of a motor vehicle ***which is not properly accompanied by the disclosure required by RSA 261:22, IV-a, or*** from which the seller has removed or caused to be removed a "salvage vehicle" decal in violation of this paragraph may rescind the purchase within 3 business days after receiving a certificate of title disclosing that the vehicle is a salvage vehicle.

3 Effective Date. This act shall take effect 60 days after its passage.

2001-0878h

Amendment to HB 543-FN

Proposed by the Committee on Public Works and Highways - R

Amend the bill by replacing section 2 with the following:

2 State Treasurer; Application of Receipts; Reference Amended. Amend RSA 6:12, I (vvv) to read as follows:

(vvv) Moneys deposited in the harbor dredging and pier maintenance fund established in RSA [~~271-A:21~~] ***12-G:46***.

Amend the bill by replacing sections 5-6 with the following:

5 Resources and Economic Development; Review of Reports Required; Reference Changed. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under RSAs 4-C:6-a, 12-A:33, [~~12-G:26-a~~] ***12-G:30***, and 162-A:23-a, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

6 Pease Development Authority. RSA 12-G is repealed and reenacted to read as follows:

CHAPTER 12-G

PEASE DEVELOPMENT AUTHORITY

12-G:1 Declaration of Purpose.

I. The general court recognizes that the closure and redevelopment of Pease Air Force Base is a matter of great concern for the town of Newington, the city of Portsmouth, the seacoast region, and the state of New Hampshire. Therefore, the general court finds that a comprehensive study of all issues related to the closure and redevelopment of Pease Air Force Base is necessary to ensure proper planning and optimal use of the property. The study shall have as a primary concern the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment, and quality of life of the affected communities, the seacoast region, and the state.

II. The general court further recognizes that the economies, environment, and quality of life of the affected communities, the seacoast region, and the state will depend on the speedy and proper redevelopment of Pease Air Force Base. Thus, it is hereby declared to be in the public interest and to be the policy of the state to foster and promote the redevelopment of Pease Air Force Base by implementing the comprehensive conversion and redevelopment plan being prepared by the former Pease Air Force Base redevelopment commission and the Pease development authority.

III. It is further declared that creation of a development authority to implement the comprehensive conversion and redevelopment plan and to promote, oversee, and integrate the development of Pease Air Force Base is in all respects for the benefit of the affected communities, the seacoast region, and the state and for the improvement of their welfare and prosperity, including the creation of employment and other business opportunities. It is also the intent of the general court that the authority be empowered to assume from the Pease Air Force Base redevelopment commission the responsibility for obtaining federal approval of the comprehensive conversion and redevelopment plan and complete any steps in the planning process that may remain incomplete as of July 1, 1990, and to create a development authority with the power, duties, and authority to implement all aspects of the comprehensive conversion and redevelopment plan subject to provisions of this chapter, including without limitation, taking title in the name of the state of New Hampshire, acting by and through the authority, to any or all of Pease Air Force Base.

IV. The general court further recognizes that integration of the functions of the former New Hampshire state port authority with the functions and duties of the Pease Development Authority will allow for faster and more coordinated development of New Hampshire ports with the conversion and redevelopment of Pease Air Force Base. Thus, it is declared to be in the public interest and the policy of the state to combine in one authority all power, authority, and responsibility for the promotion and development of Pease Air Force Base and the ports of New Hampshire for the benefit of the seacoast region and all of the citizens of New Hampshire. It is also the intent of the general court that in the furtherance of its responsibility to promote and develop New Hampshire ports that they remain working ports with due consideration given to the commercial, recreational, and private interests associated therewith.

12-G:2 Definitions. In this chapter:

I. "Airport district" means:

(a) The property conveyed, granted, or otherwise transferred to the authority by the federal government or any agency thereof pursuant to section 13(g) of the Surplus Property Act of 1944, as amended, or such other provision of federal law authorizing transfer of federal surplus property for airport purposes. Property conveyed, granted, or otherwise transferred to the authority in this manner shall automatically become part of the airport district, but may be removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:13, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located; or

(b) Property conveyed, granted, or otherwise transferred to the authority by the federal government or any agency thereof, or otherwise acquired by the authority, and declared or designated by the authority as the "airport district" in accordance with the procedures prescribed in RSA 12-G:13, II, after the expansion of the district has been approved by the governing body of the municipality in which the land sought to be added to or taken from the airport district is located. Such property may be subsequently removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:13, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located.

II. "Airport project" means the development, construction, reconstruction, maintenance, or operation of any property of the

authority or of any airport by the authority, including all real property and tangible and intangible personal property, structures, machinery, equipment, and appurtenances or facilities which are part of such airport or used or useful in connection therewith either as ground facilities for the convenience of handling aviation equipment, passengers, and freight or as part of aviation operation, air navigation, and air safety operation, and excluding any division project.

III. "Airport property" means all real property and tangible and intangible personal property, rights, and facilities of the authority excluding division property.

IV. "Appointing authorities" means the governor and executive council, the president of the senate, the speaker of the house of representatives, the mayor and city council of the city of Portsmouth, and the board of selectmen of the town of Newington.

V. "Authority" means the Pease development authority.

VI. "Board" means the board of directors of the authority.

VII. "Bond" means any bond, note, or other evidence of indebtedness issued under this chapter.

VIII. "Commission" means Pease Air Force Base redevelopment commission established pursuant to 1989, 3:2.

IX. "Director" means a member of the board.

X. "Division" means the Pease development authority, division of ports and harbors.

XI. "Division director" means the director of the division of ports and harbors.

XII. "Division project" means the development, construction, reconstruction, maintenance, or operation of any property of the authority related to the ports, harbors, and navigable tidal rivers of the state under the jurisdiction of the authority, including dredging activities authorized under RSA 12-G:45 and including all real property and tangible and intangible personal property, structures, machinery, equipment, and appurtenances or facilities used or useful in connection therewith and listed on the inventory of division projects maintained pursuant to RSA 12-G:43, I(e).

XIII. "Division property" means all real property and tangible and intangible personal property, rights, and facilities of the authority related to ports, harbors, and navigable tidal rivers administered or operated by the authority through the division and listed on the inventory of division property maintained pursuant to RSA 12-G:43, I(e).

XIV. "Division revenues" means any appropriations received by the division and any rents, profits, fees, charges, receipts, and other income derived or to be derived by the authority from the purchase, sale, leasing, development, or operation of division property or projects and the operation of related facilities located thereon.

XV. "Excess revenues" means those revenues other than division revenues in excess of the funds identified in the audit performed pursuant to RSA 12-G:29 required (a) to pay the costs of operating, maintaining, and repairing all property and projects of the authority except division property and division projects, (b) to pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board or the executive director except those costs of administering and operating the division, (c) to pay the principal of, and premium, if any, and the interest on the outstanding bonds of the authority, except any bonds issued in relation to any division property or project, as the same become due and payable, (d) to create and maintain reserves established pursuant to RSA 12-G:18 or required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority, (e) to create and maintain a capital improvement fund for airport property and airport projects to be established by the board in an amount not more than $10,000,000, and (f) to pay all taxes owed by the authority related to its ownership or operation of airport property or airport projects. Excess revenue shall not include any revenues generated from property transferred or conveyed to the authority pursuant to section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. section 1622(g), as amended, within the airport district, unless the board and the Federal Aviation Administration deem, in compliance with applicable Federal Law, including but not limited to 49 U.S.C. App. section 2210(a)(12), such revenues to be excess revenues within the meaning of this chapter.

XVI. "Land use controls" means all municipal ordinances and requirements or rules of the authority regulating the use, development, and improvement of property, including, but not limited to, zoning ordinances, subdivision regulations, site plan review regulations, and building, electric, plumbing, and fire codes.

XVII. "Pease Air Force Base" means all land, easements, buildings, structures, and appurtenances owned or controlled by the

United States Department of Defense on January 1, 1990, in the towns of Newington and Greenland, or the city of Portsmouth.

XVIII. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state (including the state of New Hampshire), municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.

XIX. "Port authority" means the New Hampshire state port authority established pursuant to 1957, 262:1.

XX. "Resolution" means:

(a) The statements of intent adopted by formal vote of the commission on the dates set forth below and related to the following:

(1) The New Hampshire Air National Guard on August 1, 1989.

(2) The Pease Air Force Base trash-to-energy plant on August 15, 1989.

(3) The proposed wildlife refuge at Pease Air Force Base on August 29, 1989.

(4) Asbestos in housing at Pease Air Force Base on October 10, 1989.

(5) The provision of health care for military retirees on October 24, 1989.

(b) Any other statement of intent designating a resolution and adopted by the commission since March 20, 1989.

XXI. "Revenues" means the gifts, contributions, and appropriations from any source and the rents, profits, fees, charges, receipts, and other income derived or to be derived by the authority from the purchase, sale, leasing, or development of Pease Air Force Base and the operation of related facilities located thereon and all right to receive the same, including investment earnings and the proceeds of any borrowing hereunder or of any sale or disposition or insurance of any assets of the authority, excluding division revenues.

XXII. "Security document" means any trust agreement, security agreement, or resolution authorizing the issuance of or securing bonds.

XXIII. "State" means the state of New Hampshire.

XXIV. "Surplus Property Act" and all references to section 13(g) of the Surplus Property Act of 1944, as amended, mean any provision of federal law authorizing transfer of federal surplus property for airport purposes, including 49 U.S.C. section 47151(a); 50 U.S.C. App. section 1622(g), as amended, to the extent applicable prior to the enactment of 49 U.S.C. section 47151(a); and any other provision of federal law that may be subsequently enacted that authorizes the transfer of federal surplus property for airport purposes.

XXV. "Vessel" means boats of all sizes propelled by sail, machinery, or hand, scows, dredgers, shellfish cars, and craft of every kind.

12-G:3 Pease Development Authority Established.

I. There is hereby created a body politic and corporate of the state, to be known as the Pease development authority, to carry out the provisions of this chapter. The authority is hereby deemed to be a public instrumentality, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of public and essential governmental functions of the state.

II. Any resolution or contract executed or approved by or on behalf of the commission shall be binding on, shall inure to the benefit of, and shall be performed by, the authority whether so expressed or not. All rights, title, and interest in and to all assets and all obligations and liabilities of the commission vested in or possessed by the commission on June 1, 1990, shall vest in and be possessed, performed, and assumed by the authority. The passing of rights, remedies, duties, covenants, agreements, and obligations in accordance with this paragraph shall not increase or diminish them.

III. Nothing in this chapter shall be construed as requiring the authority to assume, adopt, or otherwise be bound by the bylaws, votes, or decisions of the commission or any advisory committee thereof except as set forth in paragraph II and RSA 12-G:44.

IV. Any rule or contract executed or approved by or on behalf of the port authority shall be binding on, shall inure to the benefit of, and shall be performed by, the authority whether so expressed or not. All rights, title, and interest in and to all assets and all

obligations and liabilities of the port authority vested in or possessed by the port authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority shall vest in and be possessed, performed, and assumed by the authority. The passing of rights, remedies, duties, covenants, agreements, and obligations in accordance with this paragraph shall not increase or diminish them. Nothing in this chapter shall be construed as precluding the authority from amending or rescinding, to the extent permitted by law, and by law, rule, vote, or decision rendered by the port authority prior to the transfer to the authority of the duties, functions, and jurisdiction of the port authority.

12-G:4 Management by Board of Directors; Executive Director.

I. The management of the authority shall be vested in a board of 7 directors to be appointed as follows:

(a) One member appointed by the governor and executive council.

(b) One member appointed by the mayor and city council of the city of Portsmouth.

(c) One member appointed by the board of selectmen of the town of Newington.

(d) One member appointed by the president of the senate.

(e) One member appointed by the speaker of the house of representatives.

(f) One member appointed jointly by the mayor and city council of the city of Portsmouth and the board of selectmen of the town of Newington.

(g) One member who is nominated by majority vote of the legislative delegation of Strafford county, including the senators whose districts include towns in Strafford county and who is appointed by the governor, the senate president, and the speaker of the house. The member appointed in this manner shall be a resident of Strafford county and shall serve an initial term of 2 years beginning June 1, 1993. Subsequent terms shall be governed by the provisions of this section. The member appointed in this manner may be removed from office for cause after hearing by the Strafford county legislative delegation.

II. The governor shall appoint the chairman of the board, who shall serve in that capacity at the pleasure of the governor. Directors shall hold office for 3 years and until their successors shall have been appointed. State-appointed directors may be removed from office pursuant to the provisions of RSA 4:1. Directors appointed by the municipal appointing authorities may be removed from office for cause after hearing by the municipal appointing authorities.

III. Four members of the board shall constitute a quorum. A minimum of 4 affirmative votes shall be required for any action of the board, except for the adoption of land use controls, which shall require 5 votes.

IV. The directors shall serve without compensation from the authority, except for such incidental expenses determined by the board to be necessary and incurred while performing business of the authority.

V. Directors shall be residents of the state. No director shall be an elected public official of the state, federal government, or any political subdivision of the state or federal government. Notwithstanding any other provision of law, public employees and appointed officials of the state and any of its political subdivisions may serve, if appointed in accordance with the provisions of this chapter, as directors of the authority.

VI. The board shall appoint an executive director, who shall be the chief executive and administrative officer of the authority and who shall have general and active supervision and direction over the day-to-day business and affairs of the authority and its officers and employees, subject, however, to the direction and control of the board. The executive director shall be responsible for ensuring that all division revenues and all costs associated with operating and maintaining division property and division projects are accounted for separately from all other revenues and costs of the authority and shall perform all such other duties as from time to time may be assigned to the executive director by the board. The executive director shall hold office for an indefinite term at the pleasure of the board. The executive director shall also be the secretary of the authority, shall keep a record of the proceedings of the authority, and shall be the custodian of all books, documents, and papers filed with the authority and of its minute book and seal. The executive director shall have the power to cause copies to be made of all minutes and other records and documents of the authority and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates. The executive director may employ such assistants, legal counsel, and clerical and administrative staff as is directed by the board and within the limits of funds available for that purpose. The executive director may from time to time, with the prior consent of the board, establish and maintain such operating divisions within the authority as he or she shall deem necessary for the proper and efficient

conduct of business under this chapter and may assign such staff members to any such division. The salary of the executive director shall be established by the board.

12-G:5 Statements of Financial Interests; Content; Form.

I. Every member of the board shall file by July 1 of each year a verified written statement of financial interests in accordance with the provisions of this section, unless the member has already filed a statement in that calendar year.

II. A member of the board shall not be allowed to enter into or continue his or her duties, unless the member has filed a statement of financial interests with the secretary of state.

III. Statements of financial interests shall contain the following information:

(a) The name, address, and type of any professional, business, or other organization in which the reporting individual was an officer, director, associate, partner, proprietor, or employee, or served in any other professional or advisory capacity, and from which any income in excess of $10,000 was derived during the preceding calendar year.

(b) The description of any debt and the name of the creditor for all debts in excess of $5,000 owed by the reporting individual, as well as the description of any debt and the name of the debtor for all debts in excess of $5,000 owed to the reporting individual, but only if the creditor or debtor, respectively, or any guarantor of the debt, has done work for or business with the state in the preceding calendar year. Loans issued by financial institutions whose normal business includes the making of loans of the kind received by the reporting individual, and which are made at the prevailing rate of interest and in accordance with other terms and conditions standard for such loans at the time the debt was contracted need not be disclosed. Debt issued by publicly-held corporations and purchased by the reporting individual on the open market at the price available to the public need not be disclosed.

IV. The statement of financial interests shall be completed by typewriting or hand printing, and shall be verified, dated, and signed by the reporting individual personally. It shall be submitted on a form prescribed by the secretary of state.

12-G:6 Disqualification of Member. If any director, or the spouse or issue of any director, shall be interested either directly or indirectly or shall be a director, officer, or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract or other matter with the authority, including any loan to any eligible mortgagor or loan to or purchase of any loan from any lending institution, such interest shall be disclosed to the board and shall be set forth in the minutes of the board. The member having such interest shall not participate on behalf of the authority in any proceedings or decision relating to such contract or matter.

12-G:7 Duties.

I. The authority assumes from the commission and shall perform the following duties:

(a) Monitoring the proposed closing of Pease Air Force Base.

(b) Conducting a comprehensive study of all issues related to the closure, conversion, redevelopment, and future use of Pease Air Force Base. This study shall have as a primary concern the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment, and quality of life of the affected communities, the seacoast region, and the state.

(c) Reviewing all options relative to the most appropriate use of Pease Air Force Base.

(d) Formulating and adopting a comprehensive plan for conversion and redevelopment of Pease Air Force Base and submitting this plan to the federal authorities no sooner than 30 days following submission to the appointing authorities.

(e) Submitting the comprehensive plan for the conversion and redevelopment of Pease Air Force Base to the appropriate agency or agencies of the federal government.

II. The authority shall at all times act in a manner which is consistent with the public good and pursuant to this chapter shall seek to implement the comprehensive plan for the conversion and redevelopment of Pease Air Force Base identified in paragraph I.

12-G:8 Incorporation; Powers. The authority shall have all of the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the power:

I. To sue and be sued in all courts and to initiate or participate in actions and proceedings, whether judicial, administrative, arbitrative, or otherwise.

II. To have a seal, and to alter such seal at pleasure and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any manner.

III.(a) To employ or retain as independent contractors architects, engineers, attorneys, accountants, and such other advisors and employees, consultants, and agents as may be necessary in its judgment without regard to any personnel or civil service law or personnel or civil service rule of the state, to prescribe their duties and qualifications, and to fix and pay their compensation, if any.

(b) To appoint qualified individuals to serve as unpaid volunteers or advisors under such terms and conditions as it may deem necessary. Such volunteers or advisors may be reimbursed for such incidental expenses determined by the board to be necessary and incurred while performing the business of the authority.

IV. To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with property or any interest therein, whether tangible or intangible, for its purpose.

V. To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, all or any of its airport or division property or any interest therein, except that no real property of the division may be sold, conveyed, exchanged, transferred, or otherwise disposed of, except by license, lease, or other agreement subject to a term of not more than seven years, without the prior approval of the governor and the executive council.

VI. To apply for and accept gifts, loans, grants, property, funds, money, materials, labor, supplies, or services from the United States of America or its agencies or departments or any state agency or any political subdivision of the state, or any other person, to carry out the terms and provisions of, or make agreements with respect to, any such gifts, loans, or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of such gifts, loans, or grants.

VII. To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, or otherwise deal in and with, bonds and other obligations, shares, or other securities or interests therein issued by others, whether engaged in a similar or different business or activity.

VIII. To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with any person, firm, corporation, municipality, state agency, governmental unit, or other entity, foreign or domestic, provided that no contract in excess of $10,000, including contracts under paragraphs III and XV, shall be made without requests for proposal. This requirement may be eliminated by an affirmative vote of 5 members of the board on any particular matter. Justification for eliminating the requirement shall be recorded in the minutes of the meeting.

IX. To borrow money for purposes not related to division property or division projects at such rate or rates of interest as the authority may determine, issue its notes, bonds, or other obligations to evidence such indebtedness, and secure any of its obligations by mortgage or pledge of all or any of its airport property or any interest therein, tangible or intangible, whether then owned or thereafter acquired.

X. To arrange for guaranties of its notes, bonds, or other obligations pursuant to RSA 12-G:31 by the federal government or by any private insurer or otherwise, and to pay any premiums therefor.

XI. To issue such notes, bonds, or other obligations, whether or not the income therefrom to the holders is exempt from federal income taxation.

XII. To purchase notes, bonds, or other obligations of the authority at such price or prices, in such manner, and upon such terms as the authority may determine.

XIII. To invest and reinvest its funds, and take and hold property as security for the payment of funds so invested.

XIV. To procure insurance against any loss in connection with its airport or division property or projects in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor. Nothing in this paragraph shall be construed as a waiver of the sovereign immunity of the state except as

authorized under RSA 491:8.

XV. To enter into and perform contracts and agreements, whether or not they may be deemed to constitute indebtedness under applicable law, for the joint and separate planning, financing, construction, purchase, operation, maintenance, use, sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other participation in facilities, products, or services of any person who engages in business on property owned or controlled by the authority.

XVI. To maintain a principal office in the state and an office or offices at such other place or places as it may determine.

XVII. To make any inquiry, investigation, survey, feasibility study, or other study which the authority may deem necessary to enable it to carry out effectively the provisions of this chapter.

XVIII. To apply to the appropriate agencies and officials of the federal government and the state for licenses, permits, or approvals of its plans, airport projects, or division projects as it may deem necessary or advisable, and to accept such licenses, permits, or approvals as may be tendered to it by such agencies or officials, upon such terms and conditions as it may deem appropriate.

XIX. To make bylaws and establish committees for the management and regulation of its affairs as it may deem necessary, and subject to agreements with bondholders, to make rules pursuant to its own procedures for the use of its airport projects and property and division projects and property, including but not limited to zoning, subdivision, and site plan review regulations, and building, electric, plumbing, and fire codes, and to establish and collect rentals, fees, and all other charges for the use of projects under the jurisdiction of the authority and for services or commodities sold, furnished, or supplied by the authority.

XX. To design, construct, maintain, operate, improve, and reconstruct such airport projects and division projects as shall be consistent with the purposes and provisions of this chapter, including without limitation the maintenance and development of aviation and port services, including landing fields, heliports, hangars, shops, passenger and freight terminals, control towers, piers, wharves, navigation aids, and all facilities necessary or convenient in connection with any such airport project or division project and also to contract for the construction, operation, or maintenance of any parts thereof, or for services to be performed thereon, and to rent parts thereof and grant concessions thereon, all on such terms and conditions as the authority may determine.

XXI. To take such other action as it may deem necessary and advisable in the furtherance of the purposes of this chapter.

12-G:9 General Authority Power. In addition to the powers and duties specifically enumerated in RSA 12-G:7, RSA 12-G:8, and RSA 12-G:42, the authority shall have every power enumerated in the laws of the state granted to the authority, the division, the executive director, the division director, the port authority, or any administrative unit of the authority.

12-G:10 Coordination With Department of Resources and Economic Development. The authority shall coordinate its publicity efforts and the activities of the division with the department of resources and economic development.

12-G:11 Status of Authority Employees; Entitlement to State Benefits; Reimbursement of Costs.

I. Except for any classified employee of the division, the authority may hire, fix, and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state. Except for any classified employee of the division, the employees of the authority shall not be classified employees of the state within the meaning of RSA 21-I:49. Except for any classified employee of the division, any individual employed by the authority shall be deemed an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding the provisions of paragraph I, any individual employed by the authority, except for any classified employee of the authority, whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state provided, however, that the election is made in writing within 30 days of the start of employment. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority. This paragraph shall not apply to any classified employee of the division.

III. The state classified positions of the port authority shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority. Any person employed in such a position at the time of such

transfer or at any time subsequent thereto shall be deemed a classified employee of the division. All classified employees of the division shall be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 and shall be subject to all requirements, and be entitled to all benefits and emoluments, of the state personnel system. Nothing herein shall preclude the general court from increasing or decreasing the number of classified positions within the division.

IV. Notwithstanding any other provision of law, the authority or the executive director may assign as necessary any employee of the authority with appropriate skills and training to perform any responsibility, task, or duty assigned by statute to the authority or the division, including without limitation, on a temporary basis, any responsibility, task, or duty previously or otherwise assigned to any classified employee of the division. To the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or revenues of the authority other than division revenues, such fund or other source of revenue shall be reimbursed for the cost of such wages, salary, benefits, and other expenses, including without limitation reasonable overhead expenses, from funds drawn from the fund established under RSA 12-G:37 and, to the extent authorized, from the fund established under RSA 12-G:46. The executive director of the authority, subject to the approval of the board, is authorized to determine and fix, as necessary, rates of reimbursement.

12-G:12 Coordination Between State and Federal Governments.

I. In addition to any other duties set forth in any provision of this chapter, the authority shall coordinate with, and provide information to, the United States Department of Defense, and any official or employee thereof, regarding any matter related to the ownership, condition, closure, conversion, redevelopment, or future use or operation of Pease Air Force Base. Notwithstanding any other provision of law, no political subdivision of the state shall submit any plan regarding the closure, conversion, redevelopment of future use, or operation of Pease Air Force Base without the prior approval of the authority.

II. Notwithstanding any provision of law, except for the authority, no political subdivision or any agency of the state or governmental unit thereof, may apply for or receive pursuant to any provision of federal law any funds, grants, or other assistance from the Office of Economic Adjustment within the United States Department of Defense relative to the closure, conversion, redevelopment, or future use of Pease Air Force Base without prior approval of the authority. Except for the authority, no state political subdivision, or any agency or governmental unit thereof, shall apply for or receive any funds, grants, or other assistance from any agency of the federal government relative to the closure, conversion, redevelopment, or future use of Pease Air Force Base without prior notification to the authority. The provisions of this paragraph shall not apply to the adjutant general or to school administrative units for the city of Portsmouth or the town of Newington.

III. Except for the adjutant general and notwithstanding any other provision of law, the authority shall be the only person in the state authorized to negotiate, purchase, or otherwise obtain on behalf of the state or any of its political subdivisions any fee ownership, easement, lease, or other property interest in any property in, or on a part of, Pease Air Force Base, except that the town of Newington may negotiate for and reacquire from the federal government the "Old Stone School" and associated yard located on Nimble Hill Road and the city of Portsmouth may negotiate for and acquire Jones School and Brackett School and associated yards located on Northwood Road and Rockingham Drive, respectively. The board may grant exemptions in its sole discretion from this provision to any state agency or political subdivision on such terms and conditions as it may deem appropriate.

IV. Notwithstanding any other provision of law, the authority shall be the only person authorized in the state to accept on behalf of the state or any of its political subdivisions any title to, or any other interest in, the runway, taxiways, parking aprons, hangars, control tower, airspace, or other property or related facilities at Pease Air Force Base, from the United States pursuant to section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. section 1622(g)), as amended.

12-G:13 Local Land Use Controls.

I. Notwithstanding any other provision of law, any and all land use controls of the town of Newington and the city of Portsmouth shall not apply to any of the property at Pease Air Force Base transferred, conveyed, or otherwise granted to the authority by the federal government or any agency thereof. The authority shall have the exclusive jurisdiction in adopting and establishing land use controls for the property at Pease Air Force Base transferred, conveyed, or otherwise granted to the authority by the federal government or any agency thereof.

II. The authority shall adopt land use controls including, without limitation, regulations to establish zones, building codes, subdivision regulations, site plan review, and fire codes in order to implement the comprehensive conversion and redevelopment plan prepared by the commission no later than December 31, 1991. All land use controls and amendments to such controls shall

be enacted in accordance with rules of procedure adopted by the authority and shall include at least one public hearing. In order to adopt, amend, interpret, or override any land use control, 5 affirmative votes of the authority shall be required. All land use controls enacted by the authority shall be filed in the Rockingham county registry of deeds, the clerk's office for the town of Newington, the clerk's office for the city of Portsmouth, and the New Hampshire office of state planning. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

III. In adopting land use controls, the authority may adopt, in whole or in part, the land use controls of the town of Newington and/or the city of Portsmouth. If the authority opts not to adopt the land use controls of Newington and/or Portsmouth, in whole or in part, the authority shall adopt its own land use controls which are consistent with the comprehensive conversion and redevelopment plan prepared by the commission and consistent with the master plans of the town of Newington and the city of Portsmouth. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

IV. The land use controls and any amendments to them adopted by the authority shall only apply to all airport property at Pease Air Force Base acquired by the authority from the federal government or any agency thereof, and shall remain applicable and enforceable after the sale, lease, assignment, or other transfer of any or all of such property to such person by the authority. All other property at Pease Air Force Base shall be subject to all land use controls of the municipalities in which such property is located. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

V. With the exception of the airport zone and that portion of the airport industrial zone acquired by the authority pursuant to the Surplus Property Act of 1944, section 13(g), in the enforcement of land use controls, the following shall apply to property located at Pease Air Force Base:

(a) The authority shall delegate enforcement of the land use controls to the appropriate land use boards of the town of Newington and the city of Portsmouth for airport property within each municipality, respectively.

(b) If the town of Newington or the city of Portsmouth, as appropriate, rejects the enforcement on the basis of Part I, Art. 28-a of the New Hampshire constitution, the authority may delegate such enforcement to the community which did not reject it or to another community. If the town of Newington and/or the city of Portsmouth elects to perform said enforcement, the building inspection services, zoning enforcement services, and planning services of Portsmouth and/or Newington shall be made available to the authority for all land within the authority's control. In addition, the building code boards of appeal, the zoning boards of adjustment, and the planning boards of the respective municipalities shall process building code appeals, administrative appeals, special exception and variance requests, as well as subdivision, site plan review, and conditional use applications. The only charge that may be made for such services shall be the standard application fees charged by the municipalities for local permits.

(c) In all instances, the authority shall retain the power to make the final decision regarding applicability, interpretation, and enforcement of its land use controls, which shall require 5 affirmative votes.

(d) Any action of the authority in the exercise of its powers under this section shall be subject to a motion for rehearing and appeal in accordance with the appropriate provisions of RSA 677. In addition to any other person deemed to be an aggrieved person, the city of Portsmouth and the town of Newington and any abutters shall have standing to appeal land use decisions made by the authority.

(e) Any property located at the former Pease Air Force Base which is sold, leased, or otherwise conveyed by the United States government to any person other than the state of New Hampshire or one of its political subdivisions shall be in full compliance with all applicable municipal land use regulations, building codes, electrical codes, plumbing codes, and related codes prior to being occupied for any use by any person.

VI. The authority, after notice and hearing and in addition to any contract right or other power, may impose an administrative fine not to exceed $2,000 for each offense upon any person who violates any provision of the authority's land use controls applicable to the airport zone or that portion of the airport industrial zone acquired by the authority pursuant to the Surplus Property Act of 1944, section 13(g). The proceeds of any administrative fine levied pursuant to this section shall be deposited in the Pease Development Authority Airport Fund. The authority shall adopt rules relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violations of the authority's land use controls as provided in this paragraph;

(b) Procedures for notice and hearing prior to imposition of an administrative fine; and

(c) Procedures for rehearings and appeals to the board.

Any final action by the board in the exercise of the authority's powers under this section shall be subject to appeal in accordance with RSA 677.

VII. Notwithstanding any provisions of this section, all property on Pease Air Force Base west of McIntyre Road shall be designated a wildlife preserve under the control of the United States Department of the Interior, United States Fish and Wildlife Service, National Wildlife Refuge, or other appropriate federal or state agency. Except for the establishment of a national veteran cemetery, the authority shall not permit the development of the property designated a wildlife refuge or preserve.

VIII. In any event, regulatory power over all land use controls at Pease Air Force Base except for the airport district and all property west of McIntyre Road designated as a wildlife preserve shall revert exclusively to the municipalities no later than January 1, 2020, or sooner at the election of the authority.

12-G:14 Limitations on State and Local Taxation; Provision of Services.

I. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and, except as provided in paragraph II, the authority shall not be required to pay any tax or assessment on any property or project owned by the authority under the provisions of this chapter or upon the revenues from such property or project, nor shall the authority be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf. Nothing in this section shall be construed to exempt any transferee, lessee, or tenant of the authority from paying any recording fee, transfer tax, or other tax required by state law.

II. All airport property within the boundaries of Pease Air Force Base but outside of the airport district located thereon that is owned or occupied by a person, other than the authority or any other entity exempted from taxation under RSA 72:23, shall be taxable by the municipality in which the property is located as though such property were not owned by the exempt entity and were held in fee simple. Upon leasing or renting by the authority of any of its airport property outside the airport district to a non-exempt entity for any use, the municipality in which such property is located shall subject such property to any and all applicable property taxes of the municipality as though such property were not owned by the state or authority and were held in fee simple. Tax payments shall be made as follows:

(a) In the case of such airport property rented from the authority, the renter shall pay, in lieu of real estate taxes, to the municipality in which the property is located an amount equal to the amount that would have been paid as ad valorem taxes in respect to such property, had it been owned by a nongovernmental person.

(b) In the case of such airport property leased from the authority, the lessee of such property shall pay all taxes duly assessed against such property no later than the due date. If the lessee fails to pay such duly assessed taxes by the due date:

(1) Interest shall accrue on the unpaid taxes at a rate of 18 percent per annum from the due date until such taxes are paid;

(2) The municipality in which the leased airport property is located shall have a lien, subordinate only to any existing lien of the authority or the state, upon any personal property including, but not limited to, equipment owned by the lessee, which lien shall continue in force from the due date until the taxes and accrued interest are paid; and

(3) The municipality may bring suit against the lessee in any court of competent jurisdiction for the recovery of any unpaid taxes and interest, together with reasonable attorney's fees and costs.

(c) Such tax payments shall be made at the times and in the manner prescribed for ad valorem property taxes for nongovernmental persons and shall be based on the valuation of the property determined by the respective municipality for such purpose, subject to any equalization or proportionality factor to be applied within such municipality. If the lessee or authority determines that any valuation made by a municipality is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA 76 for the abatement of taxes.

III. For all airport property within the boundaries of Pease Air Force Base and within the airport district that is owned, leased, or occupied by a person, other than the authority, who is subject to the payment of a municipal services fee in lieu of real estate taxes for the provision of services by or on behalf of the authority which are traditionally provided by the town of Newington

and/or the city of Portsmouth, and to the extent such municipal services fee is based in whole or in part on the valuation of the property by the respective municipality for such purpose, subject to any equalization or proportionality factor to be applied within such municipality, if the lessee or authority determines that any valuation made by a municipality is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA 76 for the abatement of taxes.

IV. Notwithstanding any other provision of law:

(a) Security for all land and buildings within the airport district and security for all flights at Pease Air Force Base shall be provided by the authority. All other police services within the airport district shall be provided by the municipalities. Any municipality providing police services to the authority within the airport district shall be reimbursed in timely manner pursuant to a contract with the authority for all costs incurred by the municipality in providing such services, including but not limited to, salaries, benefits, insurance, equipment, and associated administrative expenses.

(b) The provision of all other services to land, buildings, and people in the airport district which are traditionally provided by the town of Newington and/or the city of Portsmouth shall be exclusively the responsibility of the authority. These services shall include, but not be limited to, the provision of fire protection, roadway maintenance, runway and parking apron maintenance, maintenance of all underground storage facilities, public assistance, public education, and public utilities. In accordance with the provisions of RSA 12-G:8, VIII, the authority may contract with any person for the provision of these services.

(c) Outside of the airport district the provision of the municipal services by the towns of Greenland and Newington and the city of Portsmouth shall be governed by the general law of the state and the other provisions of this chapter.

V. Notwithstanding any other provision of law, all property formerly held by the port authority and transferred to the authority, or acquired by the authority pursuant to RSA 12-G:39, is declared to be public property and shall be exempt from all taxes and special assessments of the state or any political subdivision thereof; provided that in lieu of such taxes the authority shall make payments to the city of Portsmouth in the amount of $30,000 annually for the tax year commencing April 1, 2001, and each subsequent tax year for highway maintenance, fire protection, and other services.

12-G:15 Distribution of Excess Revenues.

I. Subject to the limitations contained in RSA 12-G:2, XV, excess revenues of the authority may be distributed by the board annually within 30 days of the end of the authority's fiscal year as follows:

(a) 50 percent to the state treasurer for deposit in the general fund.

(b) 50 percent to the town of Newington, the town of Greenland, and the city of Portsmouth, to be distributed based upon the ratio of the equalized assessed value of the real property within the boundaries of Pease Air Force Base, but not including the airport district, located within the town or city limits of each municipality to the total equalized assessed value of all such property.

II. Before any excess revenues are distributed pursuant to subparagraphs I(a) and (b), the authority shall reimburse in full on a pro rata basis the state, the town of Newington, and the city of Portsmouth for all funds provided to the commission or authority since March 30, 1989.

III. The annual report prepared by the authority pursuant to RSA 12-G:29 shall include a detailed explanation of any distribution of excess revenues made pursuant to this section or of any decision by the board not to make such distribution.

12-G:16 Limited Liability of State and Municipalities.

I. Except as provided in paragraphs II and III of this section, all obligations and liabilities incurred by the authority related to airport property or airport projects, whether arising from bonds, contracts, or otherwise, shall be corporate obligations of the authority and not general obligations of the state or any political subdivision thereof, and neither the full faith and credit nor the taxing power of the state, nor any subdivision thereof is pledged to support such obligations, except as provided in RSA 12-G:31, nor shall they be deemed a debt of the state or any political subdivision thereof in determining its borrowing capacity under any applicable law.

II. Any agreement between the United States and any agency thereof and the authority shall constitute a binding agreement between the United States and the state. Any agreement between the United States and the authority obligating the state to expend funds may be satisfied in full by revenues, bond proceeds, or other funds provided by the authority in the first instance, and if such funds are insufficient, then the obligations shall be satisfied by the state from other funds. Furthermore, any

agreement between the United States and the authority requiring payment of funds by the authority to purchase any property at Pease Air Force Base shall be satisfied in full by revenues, bond proceeds, or other funds provided by the authority, and such payment shall not require a pledge of the full faith and credit of the state, except as otherwise provided under RSA 12-G:31.

III. All obligations and liabilities incurred by the authority related to division property or division projects, whether arising from bonds, contracts, or otherwise, shall be general obligations of the state of New Hampshire.

12-G:17 Issuance of Bonds. The authority may issue bonds which shall be obligations of the authority and not general obligations of the state, except as provided in RSA 12-G:31. Such bonds may be issued from time to time consistent with the purposes and provisions of this chapter, including, without limitation, financing the preacquisition costs and other costs of acquisition of any property or interest therein at Pease Air Force Base, or for any costs incurred in undertaking any airport project authorized by this chapter, or for paying or refunding any bonds issued pursuant to this section or interest thereon. The principal of, and premium, if any, and interest on all bonds shall be payable solely by the authority in accordance with the provisions of this chapter. Prior to each new issuance of bonds, the authority shall provide written notice to the state treasurer of the maximum amount of bonds proposed to be issued. The bonds shall be issued by the authority in such amounts as the board shall determine, not exceeding in the aggregate $250,000,000. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, or other method as may be determined by the board, and shall mature at such time or times as may be determined by the board, except that no bonds shall mature more than 30 years from their date of issue. Bonds may be made redeemable before maturity either at the option of the authority or at the option of the holder, or upon the occurrence of specified events, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form and details of the bond. Subject to RSA 93-A, the bonds shall be signed by at least 4 members of the board. The bonds may be sold in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest as the board may determine.

12-G:18 Security Documents. Any bonds issued pursuant to RSA 12-G:17-28 may be issued pursuant to and entitled to the benefits of a security document between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or by a security document directly between the authority and the purchasers of the bonds, and such security document shall be in such form and executed in such manner as may be determined by the board. Such security document may include the mortgage, pledge, or grant of a security interest in any airport property of the authority and may pledge or assign, in whole or in part, the revenues held or to be received by the authority, excluding any division revenues, any contract or other rights to receive the revenues, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the authority, and any proceeds thereof, excluding any division revenues. Such security documents may contain provisions for protecting and enforcing the rights, security, and remedies of the bondholders as may, in the discretion of the board, be reasonable and proper and not in violation of law. Such security documents may include provisions defining defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities and the enforcement of any mortgage, pledge, or security interest, and covenants setting forth the duties of, and limitations on, the authority in relation to the custody, safeguarding, investment, and application of moneys, the issue of additional or refunding bonds, the fixing, revision, and collection of rates, charges, and other revenues, the use of any surplus bond proceeds, the establishment of reserves, the acquisition of any property or interest therein, or undertaking of any project, any contracts relating thereto, and subsequent amendments of such provisions and contracts. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues, or other moneys under a security document and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or credit facilities as may be required by the authority acting under RSA 12-G:17-28. Any such security document may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

12-G:19 Credit Facilities and Insurance. Any bonds issued pursuant to RSA 12-G:17-28 may be issued pursuant to lines of credit or other banking arrangements under such terms and conditions not inconsistent with this chapter, and under such agreements with the purchasers or makers thereof, as the board may determine to be in the best interests of the authority. In addition to other security provided herein or otherwise by law, bonds issued by the authority pursuant to RSA 12-G:17-28 may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the authority by any bank, trust company, or other financial institution, within or without the state, and the authority may make any pledge, mortgage, assignment, or security interest in respect of its airport property and revenues other than division revenues as security for the reimbursement by the authority to the issuers of such letters or lines of credit, insurance, or credit facilities or any payments made thereunder.

12-G:20 Perfection and Priority of Mortgage, Pledge, or Security Interest. Any mortgage, pledge, or security interest made by the authority under RSA 12-G:17-28 shall be valid and binding and shall be deemed continuously perfected for the purposes of

RSA 382-A and all other laws from the time when the mortgage, pledge, or security interest is made. The airport property or revenues other than division revenues so mortgaged, pledged, or subjected to a security interest then held or thereafter acquired or received by the authority shall immediately be subject to the lien of such mortgage, pledge, or security interest without any physical delivery or segregation thereof or further act. The lien of such mortgage, pledge, or security interest shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. No such property or revenues may be used in a manner inconsistent with the terms governing such mortgage, pledge, or securities interest. Any agreement by which a pledge or security interest in personal property is created under RSA 12-G:17-28 shall be filed or recorded in the records of the secretary of state. Any mortgage or other agreement by which a security interest in real property is created under RSA 12-G:17-28 shall be filed with the register of deeds for Rockingham county.

12-G:21 Enforcement of Rights. Any owner of a bond issued under the provisions of RSA 12-G:17-28 and any trustee under a security document securing the same, except to the extent the rights given in this section may be restricted by such security document, may bring suit upon the bonds and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of the state granted hereunder or under such security document and may enforce and compel performance of all duties required by this chapter or by such security document to be performed by the authority or by any director or officer of the authority.

12-G:22 Refunding Bonds. The authority, when authorized by the board, may issue refunding bonds for the purpose of paying any bonds issued under the provisions of RSA 12-G:17-28 at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the bonds being refunded as the board may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a security document securing the bonds. The authorization and issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect to the same shall be governed by the provisions of RSA 12-G:17-28 relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

12-G:23 Separate Funds. Any debt service fund, construction fund, debt service reserve fund, or other fund established in connection with the issuance of bonds pursuant to RSA 12-G:17-28 shall be kept separate from other moneys of the authority. The moneys deposited in any such funds, together with the income derived from any investments held as part of such funds, shall be expended without further authorization or appropriation as provided for in the security document establishing such funds.

12-G:24 Investment of Funds. Moneys in any fund or account created under the provisions of RSA 12-G:17-28, subject to the terms and provisions of any security document applicable thereto, may be invested. Except as otherwise provided by any such security document, obligations so purchased as an investment of money in said fund or account shall be deemed at all times to be part of said fund or account, and the interest thereon and any profit arising from the sale thereof shall be credited to said fund or account, and any loss resulting on their sale shall be charged to said fund or account, respectively.

12-G:25 Alteration of Rights of Bondholders. The state does hereby pledge to and agree with the holders of bonds issued RSA 12-G:17-28 that the state shall not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said holders of such bonds or in any way impair the rights and remedies of such holders until such bonds, together with the interest on them, with the interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

12-G:26 Tax Exemption. Bonds issued pursuant to RSA 12-G:17-28 and their transfer and income, including any profit made on their sale or transfer, shall at all times be exempt from all taxation by or within the state.

12-G:27 Investment Securities. Notwithstanding any of the provisions of RSA 12-G:17-28 or any recitals in any bonds issued pursuant to RSA 12-G:17-28, all such bonds shall be deemed to be investment securities under RSA 382-A.

12-G:28 Eligible Investments. Bonds issued under the provisions of RSA 12-G:17-28 are hereby made securities in which all public officers, agencies and authorities of the state and of its political subdivisions, insurance companies, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency, authority, or political subdivision of the state for any purpose for which

the deposit of bonds or obligations of the state or any political subdivision is now or may hereafter be authorized by law.

12-G:29 Audit and Annual Reports. The accounts of the authority shall be subject to an annual audit performed by an independent certified public accountant selected by the authority. The authority shall submit annually to all appointing authorities, to the house finance committee, the senate finance committee, the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library a detailed report of its operations and a complete financial audit for the preceding fiscal year, including financial statements prepared in accordance with generally accepted accounting principles.

12-G:30 Reports on Economic Development Programs.

I. The authority shall include, as part of its annual report or as a separate report published and made available to the public annually on or before September 1, beginning September 1, 1997, the following information regarding each economic development program funded, bonded, or guaranteed by the authority:

(a) Information regarding the number of jobs to be created or saved and the related wages and benefits levels.

(b) The growth potential of the program.

(c) The environmental impact of the program.

(d) The amount of the loan, grant, loan guarantee, bond guarantee, or tax incentives awarded.

II. The annual report shall also include information regarding the criteria for the awarding of economic development assistance and the means by which the authority tracks the progress which each awardee makes in meeting the job, wage, and benefit projection included in its application for assistance.

12-G:31 State Bond Guarantee.

I. In view of the general public benefits expected to be derived from the airport property acquisitions and airport projects to be financed under this chapter, and their contribution to the social and economic prosperity of the state and its political subdivisions, the governor and council may award an unconditional state guarantee of the principal and interest thereon of bonds issued pursuant to RSA 12-G:17-28. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed $50,000,000, plus interest. The governor, with the advice and consent of the council, is authorized to draw a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

_____

State Treasurer

II. In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds, the use of any airport property or operation of any airport project and the revenues therefrom, and reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the authority, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the authority by at least 4 directors.

III. In lieu of a state guarantee under this section, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding the total state bond guarantee authorized in RSA 12-G:31, I to make a loan or loans to the authority for the purposes of this chapter relating to airport property and airport purposes, and issue general obligation bonds or notes in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority. The principal amount of bonds of the authority that may be guaranteed by the state under paragraph I of this section shall be reduced by the amount of bonds issued by the state under this paragraph.

12-G:32 Operating Budget. The authority shall comply with the requirements of RSA 9:1 through 9:9, relative to the budget.

12-G:33 Comprehensive Development Plan Required. Notwithstanding any other provision of law and subject to approval by the fiscal committee of the general court of a comprehensive development plan for the former Pease Air Force Base prepared and submitted by the authority, the governor and council may award an unconditional state guarantee of the principal and interest thereon of bonds issued under this section. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed $35,000,000, plus interest. The comprehensive development plan shall include the designation and delineation of a research district within the bounds of the former Pease Air Force Base. The governor, with the advice and consent of the council, is authorized to draw a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

_____

State Treasurer

12-G:34 Pease Matching Grants. Notwithstanding any other provision of law, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding $5,000,000 to make a loan or loans to the authority to be used for the purposes of matching funds for Federal Aviation Administration grants, Economic Development Administration grants, and other available grants. General obligation bonds and notes shall be issued in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority.

12-G:35 Matching Funds. Notwithstanding any other provision of law, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding $10,000,000 to make a loan or loans to the authority to be used solely for the purposes of matching public and private funds, and said aggregate moneys shall be expended solely for the development of the research district of the Pease International Tradeport. General obligation bonds and notes shall be issued in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority.

12-G:36 Pease Development Authority Airport Fund; Expenditure of Other Revenues.

I. For the purpose of providing a fund to be known as the Pease Development Authority Airport Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year excluding division revenues and any appropriation related to the division, division property, a division project, or any activity of the division.

II. All sums so credited are appropriated to the authority:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with airport property, an airport project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all airport property and airport projects of the authority;

(c) To pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board or the executive director but excluding any such costs related to administering and operating the division, division property, or any division project;

(d) To pay the principal of, and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;

(e) To create and maintain reserves established pursuant to RSA 12-G:18 or required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority related to airport property or airport projects;

(f) To create and maintain a capital improvement fund for airport property and airport projects to be established by the board in an amount not more than $10,000,000;

(g) To pay all taxes owed by the authority related to airport property or airport projects;

(h) To pay any excess revenues authorized pursuant to RSA 12-G:12; and

(i) In general for the payment of all expenses incident to the management and operation of the authority, excluding such expenses related to the management and operation of the division, division property, or any division project, as are consistent with its statutory purpose and as the board thereof may from time to time determine.

III. This fund shall constitute a continuing appropriation for the benefit of the authority. Any amount remaining in this fund to the credit of the authority at the close of any fiscal year shall be nonlapsing and shall be carried over and credited to its account for the succeeding year.

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. The revenues received and due to the authority from all other sources, except by way of state appropriation or division revenues, from whatever source derived shall be retained by the authority and shall be used in such manner as the board may determine consistent with the provisions of this chapter or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust, or security document.

VI. Notwithstanding any other provision of law, no revenues of the authority other than division revenues shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of the division, division property, or any division project.

12-G:37 Pease Development Authority Ports and Harbors Fund.

I. For the purpose of providing a fund to be known as the Pease Development Authority Ports and Harbors Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year relating to the division, division property, a division project, or any activity of the division, except any appropriation made to the harbor dredging and pier maintenance fund in accordance with RSA 12-G:46.

II. All sums so credited are appropriated to the authority:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with division property, a division project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all division property and division projects;

(c) To pay all costs as allocated by the authority for administering and operating the division, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board, the executive director, the division director, or other provision of law, including without limitation, reimbursement of the fund established under RSA 12-G:36 or any other source of revenue of the authority other than division revenues to the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or from revenues of the authority other than division revenues;

(d) To pay the principal of, and premium, if any, and the interest on any outstanding bonds of the state related to division property or division projects as the same become due and payable;

(e) To pay all payments in lieu of taxes owed by the authority, if any, related to division property or division projects; and

(f) In general for the payment of all expenses incident to the management and operation of the division, as are consistent with its statutory purpose and as the board may from time to time determine.

III. This fund shall constitute a continuing appropriation for the benefit of the authority. All division revenues associated with operations and responsibilities assigned by the authority to the division in excess of the operating expenditures required for the

activities of the division shall be deposited in the general fund until such time as any bonds authorized and issued relating to division property or division projects have been retired. After such bonds have been retired, any amount remaining to the credit of the authority in this fund at the close of any fiscal year in excess of the amounts required under paragraph II shall lapse and shall be returned to the general fund of the state.

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. Notwithstanding any other provision of law, no money in the fund shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of airport property or airport projects.

12-G:38 Authorization to Seek Designation as Port of Entry or International Airport and to Establish Foreign Trade Zone and Free Port Area.

I. The authority shall be and is hereby authorized to make application to the Secretary of the Treasury of the United States for the purpose of having Pease Air Force Base, or portions thereof, designated, established, or constituted, a port of entry, or an international airport, pursuant to the Customs Reorganization Act, 19 U.S.C. section 1 et seq., as amended, and 19 U.S.C. section 58b, as amended, and regulations of the United States Customs Service, including 19 C.F.R. section 101.0, et seq. and 19 C.F.R. section 122.1, et seq.

II. The authority shall be and hereby is authorized to make application to the Secretary of Commerce of the United States for the purpose of establishing, operating, and maintaining foreign-trade zones in the state of New Hampshire, including without limitation at Pease Air Force Base, pursuant to the Free Trade Zone Act, 19 U.S.C. section 81a, et seq., as amended, providing for the establishment, operation, and maintenance of foreign trade zones in or adjacent to ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes. Unless precluded by federal law, any foreign trade zone or free port area previously under the jurisdiction of the former port authority, and all duties, responsibilities, and obligations associated therewith, shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority.

III. The authority shall have full power and authority to select and describe the location of the zone for which application to establish may be made and to make such rules and take such other actions concerning the operation, maintenance, and policing of same as may be necessary to comply with the Free Trade Zone Act and the regulations adopted thereunder, or as may be necessary to comply with such regulations made in accordance with the acts of Congress relating to foreign trade zones. The authority hereby granted to the authority confers on the authority the right and duty to do all things necessary and proper to carry into effect the establishing, maintaining, and operating of foreign trade zones with the state of New Hampshire to comply with the provisions of any acts of Congress or rules promulgated thereunder relating to foreign trade zones or free port areas. The authority shall also be authorized to set and collect fees for the management of any foreign trade zone or free port area established or maintained under this chapter.

IV. The authority shall have full power and authority to lease the right or to erect, maintain, and operate any structures or buildings or enclosures as may be necessary or proper for the establishing and operating of any such foreign trade zones that might be established at Pease Air Force Base or in the state of New Hampshire.

V. The authority shall have the power and the duty to establish areas at Pease Air Force Base and in and around the ports, harbors, and navigable tidal rivers of the state of New Hampshire wherein personal property in transit shall be exempt from the provisions of the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry. For the purpose of this section, personal property in transit through the areas established by the authority is defined as follows: goods, wares, and merchandise which is (a) moving in interstate or international commerce through or over the areas hereinbefore established, or (b) which was consigned to a warehouse, public or private, within the state, from outside the state, whether specified when transportation begins or afterward. Such property shall not be deprived of exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The exemption granted shall be liberally construed to effect the purposes of this chapter, provided, however, that the warehouse in which said goods, wares, or merchandise is stored shall not be owned, in whole or in part, by either the consignee or consignor.

Acquisition and Management of Division Property

12-G:39 Acquisition of Land for Port Purposes. In addition to any other power or authority conferred on the authority under this chapter, the authority, with the approval of the governor and council, may, in the name of the state, purchase, lease, or otherwise acquire lands or interests in land, including options, on, near, or adjacent to the tidal waters of the state suitable for constructing, establishing, and maintaining thereon piers, wharves, warehouses, or other facilities useful and necessary in the encouragement and development of commercial navigation. Before making any such purchase or acquisition, the authority shall submit to the governor and council a detailed description of the land or interests therein to be acquired, together with a statement of the purposes for which the property is suited and the cost of acquisition and estimated cost of development, as well as such other information as the governor and council shall require. The authority, with the approval of the governor and council, may accept gifts of land; and may in like manner accept and apply to the purchase of land or the development thereof, contributions, gifts, or aid in any form made or given for the purpose by any person, firm, or corporation, or by any municipality or by the United States, and may execute instruments necessary to qualify for such contributions, gifts, or aid. Any land or interest in land acquired by the authority pursuant to this section shall be considered division property and not airport property and shall not be included in the airport district.

12-G:40 Improvements. The authority, with the approval of the governor and council as to the nature and specifications of the intended project and the cost thereof, may undertake the improvement of any land acquired by it pursuant to RSA 12-G:39 by the construction thereon of piers, wharves, warehouses, or other facilities as specified in RSA 12-G:39. Any such improvement shall, insofar as possible, be self-liquidating; and the authority shall charge just and reasonable fees for the use thereof. All revenue received from such fees shall be considered division revenues, shall be accounted for separately from other revenues of the authority, and, after the deduction therefrom of the cost of operating such project, shall be applied to the amortization of any obligations of the authority related to division projects.

12-G:41 Reservation of Local Authority. All towns and cities within the confines of which there are ports, harbors, or navigable tide rivers of the state which are subject to the jurisdiction of the authority, or the division acting on behalf of the authority, shall retain all the powers of such town or city relative to such ports, harbors, and navigable tide rivers and the lands abutting the same, excluding lands located within the boundaries of the former Pease Air Force Base, so long as the authority has not by positive action or definite rule or regulation preempted the jurisdiction hereof. No town or city shall have any jurisdiction over the land or activities at the former Pease Air Force Base except as specifically authorized under other provisions of this chapter.

Division of Ports and Harbors

12-G:42 Additional Powers and Duties. The authority, acting through its division of ports and harbors, shall be responsible for the former functions, duties, and responsibilities of the port authority and shall have the following powers and duties in addition to any other powers and duties set forth in this chapter:

I. Have the authority to make all necessary arrangements with port authorities of other states and federal departments, agencies, and foreign countries and their port entities for the interchange of business, and for such other purposes as will facilitate and increase the commerce of the ports, harbors, and tidal navigable rivers of the state.

II. Establish offices for the transaction of division business at such places as, in the opinion of the authority, shall be advisable and necessary in carrying out the purposes hereof.

III. Be authorized and empowered to appoint and compensate a chief harbor master and harbor masters for communities within the confines of which there are ports, harbors, or navigable tide waters of the state who will enforce the directives of the authority and the division, such as the placement of moorings, the assignment of anchorage areas, and the movement of traffic. The authority may appoint an assistant harbor master at any such place to assist the harbor master of such place in carrying out the harbor master's duties.

IV. Be authorized and empowered to contract with and secure the services of a port terminal operating firm, subject to approval of governor and council, for the purpose of having such firm operate a part or all of the facilities of the authority, including piers, wharves, warehouses, parking and storage areas, or other facilities owned or leased by the authority acting through the division, with such operating firm having the exclusive right to operate the business of a port terminal operator and stevedore, including but not limited to the handling of cargo, the collection of fees from wharfage and dockage and other marine terminal operations, the maintenance and security of the premises, and the promotion, encouragement, and solicitation of business for such port facility or facilities. Such contract with an operating firm shall include the following provisions:

(a) Said firm shall file with the division for its approval a tariff clearly defining the terms "wharfage" and "dockage" and the charges to be made therefor;

(b) The amount of minimum payments per year satisfactory to the authority to be paid to it for the exclusive right to operate upon the marine terminal, as described in the contract, the business of a port terminal operator and stevedore;

(c) The amount retained by said firm from all fees for which it is accountable, said amount being a percentage to cover administrative costs of collection;

(d) Said firm to supply a ship's manifest for every vessel using said facilities;

(e) Said firm to provide a performance bond in an amount and form acceptable to the authority, as well as insurance in amounts acceptable to the authority for fire and extended coverage, public liability, property damage, and other risks as required by the authority, the insurance company or companies to be licensed to do business in New Hampshire and to be acceptable to the authority;

(f) Said firm to file quarterly reports with the division indicating the amount of all fees for which it is accountable to the authority, the amounts collected, and the amounts retained, with a certified audit prepared by a certified public accountant submitted annually;

(g) Such other appropriate provisions which in the opinion of the attorney general will carry out the intent of this section and best protect the interest of the authority and of the state.

V. Set and collect fees for mooring and slip permits and waiting lists for such permits. The authority shall establish fees for slips in harbors and tidal rivers that are equal to or proportional to the fees for moorings in harbors. Fees shall not be charged for slips at industrial piers along the Piscataqua River or at state-owned piers in harbors. The fees for slips shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46.

VI. Install and continually maintain a uniform system for marking the intercoastal waters of the state including the state ports, harbors, and navigable tidal rivers not presently marked by the United States Coast Guard, using funds collected from the fees required under RSA 270-E:3, III, and any other funds so appropriated. Said marking system shall be installed on an incremental basis and maintained as necessary.

VII. Have the responsibility for and jurisdiction over the state-owned commercial fishing piers and facilities at Portsmouth, Rye Harbor, and Hampton Harbor except as provided in RSA 12-A:7-a.

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

(a) Port captains, pilots, and pilotage.

(b) Harbors and harbor masters.

(c) Setting and collecting fees for moorings, slips, waiting lists, and pilotage. A table of such fees shall be attached to the commission of each pilot.

(d) Setting and collecting fees authorized in the foreign trade zone and free port areas.

(e) Civil and criminal penalties for violations of the rules of the division.

(f) Any matter necessary for the proper administration of the division.

IX. Encourage any contractor bidding on a division project at the port of Portsmouth which is funded through the division or the state of New Hampshire, to employ the maximum possible number of New Hampshire residents. For the purposes of this paragraph, "resident" shall mean any person maintaining a dwelling within the state of New Hampshire who has a present intent to remain within the state for a period of time.

12-G:43 Division of Ports and Harbors.

I. There is established within the authority a division of ports and harbors. The division of ports and harbors shall:

(a) Plan for the maintenance and development of the ports, harbors, and navigable tidal rivers of the state of New Hampshire from the head of navigation to the seaward limits within the jurisdiction of the state, in order to foster and stimulate commerce and the shipment of freight through the state's ports and, as an agency of the state, to assist shipping, and commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating

in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries.

(b) Aid in the development of salt water fisheries and associated industries.

(c) Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports, harbors, and navigable tidal rivers.

(d) Plan, develop, maintain, use, and operate a heliport facility on property owned or controlled by the division. The division shall cooperate with departments, agencies, authorities, or commissions of the federal, state, or local governments and accept grants, aid, or services from such agencies in the carrying out of this purpose. Such authorization relating to heliport facilities shall include and be governed by all other provisions of this chapter.

(e) Maintain at all times a complete inventory of division property and port projects.

(f) Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to division by the authority.

II. The board shall appoint a director of the division of ports and harbors, who shall be the administrative officer of the division and who shall have general and active supervision and direction over the day-to-day business and affairs of the division and its employees, subject, however, to the direction and control of the board and the executive director. The division director shall perform all such other duties as from time to time may be assigned by the board or the executive director. The division director shall hold office for an indefinite term at the pleasure of the board. The division director shall also be the secretary of the division of ports and harbors advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of all books, documents, and papers filed with the division or the ports and harbors advisory council. The division director shall have the power to cause copies to be made of all minutes and other records and documents of the council and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the division or authority may rely upon such certificates. In addition to the classified employees of the division, the division director, with the concurrence of the executive director, may employ such assistants and clerical and administrative staff as are within the limits of funds available for that purpose. The salary of the division director shall be established by the board.

12-G:44 Division of Ports and Harbors Advisory Council.

I. There is hereby established a division of ports and harbors advisory council consisting of 8 members, 6 of whom shall be appointed by the governor, with the advice and consent of the council. At least 3 of said appointive members shall be residents of the cities and towns of the seacoast region or tidal waters and at least one appointive member shall be a commercial fisherman engaged in that industry on the seacoast, and each shall serve for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the governor and council for the unexpired term. In addition to the 6 appointive members, the commissioner of the department of resources and economic development and the mayor of the city of Portsmouth shall be, by virtue of their offices, members of the council.

II. The council shall elect one of its members as a chairman, one as a vice-chairman, and one as a treasurer. The members of the council shall receive no compensation for their services; but their reasonable expenses, incurred in the performance of their duties, shall be paid by the state. The council shall have the right to establish bylaws for the management of its affairs within the meaning of this chapter and the laws of the state. The division shall provide the council with the administrative support necessary to carry out its responsibilities under this chapter.

III. The council shall consult with and advise the division director with respect to the policy, programs, and goals of the division, the operation of the port, the selection of harbor masters and assistant harbor masters, and the procurement of services of a port terminal operating firm. In order to accomplish said purposes, the council shall meet with the division director no less frequently than quarterly, or at the call of the chairman or 3 council members. All potential conflicts of interest shall be adequately disclosed. The council shall file annually a report of its deliberations and recommendations with the board and the executive director.

IV. The division director shall present all rules proposed to be implemented by the authority under RSA 12-G:42, VIII to the council for consideration prior to filing a notice of proposed rule under RSA 541-A:6. The council shall present any objections to the proposed rule to the division director and to the board in writing within 15 days of submission to the council by the division director. The authority may adopt a rule to which the council has objected only after presenting a written reply to the council

detailing the reasons for adopting the rule over the objections of the council.

12-G:45 Dredge Management in Tidal Waters. The division, subject to the supervision of the authority and in consultation with the division of ports and harbors advisory council, shall be responsible for managing harbor and channel dredging activities within the tidal waters of the state. The division shall:

I. Assess the existing dredge permitting process with state and federal permitting agencies for the purposes of identifying an improved review process.

II. Establish and implement a process to ensure that dredging projects are completed in a timely and cost effective manner, recognizing the need to:

(a) Coordinate with and utilize the services of the local and private sector to establish a reliable program; and

(b) Work in conjunction with other state and federal agencies to ensure uniform and timely compliance with other laws, regulations, and rules, including, but not limited to, permitting in accordance with RSA 482-A and RSA 485-A and to ensure that a certificate of consistency is obtained from the coastal zone management program; and

(c) Develop a long-range plan and schedule to serve as a guide for individual dredging activities.

III. Initiate and implement dredging projects, which may include dredging performed by the authority, to maintain and improve channels and harbors in accordance with the long-range plan and schedule.

IV. Submit an annual report to the senate president, the speaker of the house of representatives, and the governor and council on the status of current dredging projects and the projection of future dredging projects and costs.

12-G:46 Harbor Dredging and Pier Maintenance Fund Established.

I. There is hereby established a harbor dredging and pier maintenance fund to be used by the authority acting through the division to meet its obligation to initiate and implement dredging projects to maintain channels and harbors, and to initiate projects to maintain public piers in safe and efficient condition.

II. The fund shall be nonlapsing and continually appropriated for the purposes of initiating and implementing harbor dredging projects and maintaining public piers. The authority shall, in each biennium, request annual appropriations to the fund in an amount sufficient to provide for the funding of the authority's periodic harbor dredging and pier maintenance efforts. The state treasurer shall invest the moneys deposited in the fund as provided by law. Interest earned on moneys deposited in the fund shall be deposited into the fund.

III. The authority shall not encumber, obligate, or expend any funds from the harbor dredging and pier maintenance fund without the prior approval of the capital budget overview committee.

Pilots and Harbor Masters

12-G:47 Pilots. The authority, in consultation with the division director and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

12-G:48 Authority of Pilot. Any pilot appointed by the authority, who has given security for the faithful discharge of his or her duties, may take charge of any vessel, except pleasure or fishing vessels, or a vessel of 150 registered or enrolled tons and under, and shall pilot such vessel into and out of the river and harbor of the Piscataqua, first showing to the master thereof the pilot's appointment if requested.

12-G:49 Pilots Required. All vessels (except pleasure or fishing vessels, or vessels of 150 registered or enrolled tons or under, and U.S. flag coastwise vessels with a Federal pilot aboard) are required to be piloted by a pilot appointed by the authority into and out of the Piscataqua River and harbor from a point designated by the authority.

12-G:50 Chief Harbor Master.

I. Subject to the supervision of the authority and the division director, the chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted pursuant to RSA 12-G:42, VIII.

(b) Management of the assignment and placement of moorings.

(c) Designation of anchorage areas.

(d) Management of navigation aides outside of the federal channel.

(e) Management of the movement of traffic, as necessary.

(f) Direction of the removal or movement of vessels during emergencies.

(g) Overseeing the dredge management program.

(h) Overseeing the harbor management program.

(i) Inquiring into and prosecuting all offenses occurring within the chief harbor master's jurisdiction.

(j) Any other duties assigned by the authority or the division director.

II. The assistant harbor masters shall assist the chief harbor master in the performance of the chief harbor master's duties.

12-G:51 Power of Arrest. The chief harbor master shall have all of the powers of a police officer to make arrests for violations of the provisions of this chapter and rules adopted under the provisions of RSA 12-G:42, VIII.

12-G:52 Penalty. Whoever violates any of the rules of the authority adopted under the authority of RSA 12-G:42, VIII, or refuses or neglects to obey the lawful and reasonable orders of the chief harbor master, or resists the chief harbor master in the execution of the chief harbor master's duties, shall be guilty of a class B misdemeanor.

Construction and Effect of Other Laws

12-G:53 Construction and Effect of Other Laws.

I. All actions and proceedings of the authority shall be governed by the provisions of RSA 91-A.

II. Purchases and contracts of the authority may be made or let without regard to any provision of law relating to public purchases or contracts.

III. Except for rules adopted pursuant to RSA 12-G:42, VIII, the authority shall be exempt from the provisions of RSA 541-A and may adopt rules and bylaws in accordance with its own procedures. Except for rules adopted pursuant to RSA 12-G:42, VIII, the authority shall file in the office of legislative services a copy of all rules and bylaws adopted, amended, or repealed by the authority. All such rules and bylaws shall be filed in the office of legislative services within 7 days of such adoption, amendment, or repeal.

IV. Any rule adopted by the authority pursuant to RSA 12-G:42, VIII or RSA 12-G:47 shall be adopted in accordance with the provisions of RSA 541-A.

V. The provisions of this chapter shall be liberally construed in order to effect its purpose.

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

Amend the bill by deleting sections 7-9 and renumbering the original sections 10-22 to read as 7-19, respectively.

Amend the bill by replacing section 7 with the following:

7 Compensation of Certain State Officers; Group L Reference Deleted. Amend RSA 94:1-a, I by deleting in Group L:

Director, port authority

Amend the bill by replacing section 15 with the following:

15 Shoreland Exemptions; Reference Changed. Amend RSA 483-B:12, IV to read as follows:

IV. The [~~state port authority~~] ***Pease development authority, division of ports and harbors*** may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to RSA [~~271-A~~] ***12-G:39***.

Amend the bill by inserting after section 17 the following and renumbering the original sections 18-19 to read as 19-20, respectively:

18 Applicability; Appointments and Terms.

I. The appointments and terms of office of the members on the effective date of this act of the Pease development authority board of directors shall not be affected by the provisions of this act.

II. The members on the effective date of this act of the port authority board shall constitute the initial members of the division of ports and harbors advisory council pursuant to RSA 12-G:44. Such members appointed by the governor shall serve until such time as their respective terms were scheduled to expire pursuant to RSA 271-A:1.

III. The director of the port authority on the effective date of this act shall serve as the initial director of the division of ports and harbors pursuant to RSA 12-G:43, II until such time as the Pease development authority board of directors appoints a successor.

2001-0569h

Amendment to HB 545-FN

Proposed by the Committee on Criminal Justice and Public Safety - R

Amend RSA 635:9 as inserted by section 1 of the bill by replacing it with the following:

635:9 Trespassing on Railroad Property.

I. A person is guilty of a violation for trespassing on railroad property if that person, without the railroad carrier's consent, except to cross the property at a public highway or other authorized crossing, knowingly enters on the railroad property by:

(a) Standing, sitting, resting, walking, jogging, driving, or operating a vehicle including but not limited to a bicycle, motorcycle, snowmobile, car, or truck; or

(b) Engaging in recreational activity, including, but not limited to bicycling, hiking, fishing, camping, cross-country skiing, or hunting.

II. Notwithstanding RSA 651:2, II(c), a person violating this section shall be subject to:

(a) A fine not to exceed $100 for the first offense.

(b) A fine not to exceed $500 for the second offense.

(c) A fine not to exceed $1,000 for the third and subsequent offense.

Amend RSA 635:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. "Railroad property" means all tangible property owned, leased or operated by a railroad carrier, including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal or any other structure, appurtenance or equipment owned, leased or used in the operation of a railroad carrier including a train, locomotive, engine, railroad car, work equipment, rolling stock or safety device. "Railroad property" does not include a railroad carrier's administrative building or office, office equipment or intangible property such as computer software or other information, or an abandoned right-of-way.

AMENDED ANALYSIS

This bill establishes separate class A misdemeanor offenses for railroad stowaway and violation level offenses for trespassing on railroad property.

2001-0841h

Amendment to HB 547-FN

Proposed by the Committee on Finance - C

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Regional Electronic Toll Collection Authorized. Amend RSA 237 by inserting after section 9 the following new subdivision:

Regional Electronic Toll Collection

237:9-a Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of transportation.

II. "Department" means the department of transportation.

III. "Electronic toll collection system" means a system for electronically transmitting information from a device on a vehicle to receiving equipment in a toll collection facility, which information is used to charge a valid account holder the appropriate toll or charge for use of the turnpike system.

IV. "E-Z Pass" means a regional system of electronic toll collection operated by the members of the E-Z Pass Interagency Group, or when the context requires, means the registered service mark "E-Z Pass."

V. "Interagency group" means the agencies of this or any other state that have mutually agreed to operate the E-Z Pass regional electronic toll collection system by use of similar practices, procedures, and toll collection equipment.

VI. "Vehicle" means every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

237:9-b Regional Electronic Toll Collection Authorized. The commissioner is hereby authorized to execute all documents and perform all other acts necessary to enter into and carry out the provisions of a regional electronic toll collection system agreement with the Interagency Group in order to increase the efficiency of turnpike operation and to improve traffic management in the state and region.

237:9-c E-Z Pass Operations Interagency Agreement.

I. The commissioner shall represent the state as a member of the Interagency Group and shall participate in the determination of practices, policies, procedures, and in the selection of equipment and contractors used to provide consistent toll collections throughout the region in accordance with the terms of the Interagency Agreement for Operations, as the same may be amended from time to time.

II. Notwithstanding the variations in physical and operating characteristics of member agencies' toll collection equipment, it shall be the power and duty of the Interagency Group to assure that similar operating parameters and procedures are established to provide for consistent, safe E-Z Pass operation throughout the region.

III. This agreement shall be construed liberally to accomplish its purposes, but in the event a dispute arises, it shall be resolved in accordance with a provision establishing a procedure for the arbitration and resolution of disputes contained in the agreement.

237:9-d Rulemaking. The commissioner may adopt such rules as are necessary to enforce the terms of this agreement, which shall be exempt from the provisions of RSA 541-A and shall have the effect of law, and which shall provide for each of the member states or agencies to collect tolls and perform audits on behalf of the other member states or agencies. Nothing in this section shall be construed to authorize the adoption of rules which alter any existing or establish any new tolls, fees, penalties, or interest charges; provided, however, that the rules may include tolls, fees, penalties, or interest charges which are otherwise provided for by the laws of this state.

237:9-e Confidentiality of Records. Notwithstanding any other provision of law, all information received by the department that could serve to identify vehicles, vehicle owners, or vehicle occupants shall be for the exclusive use of the department for the sole

purpose of discharging its duties under this section, and shall not be open to any other organization or person, nor be used in any court in any action or proceeding, unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this section. If the department makes such information available to another organization or person in the course of discharging its duties under this section, it shall be on the condition that the organization or person receiving such information is subject to the limitations set forth in this section.

237:9-f Immunity. Nothing in this subdivision shall be construed to constitute a waiver of the sovereign immunity of the state, or any other defense, right, immunity, or other protection under law, including any statutory provision, as a result of participation in this agreement.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Subparagraph; Administrative Procedure Act Exceptions; Regional Electronic Toll Collection Rules. Amend RSA 541-A:21, I by inserting after subparagraph (x) the following new subparagraph:

(y) RSA 237:9-d, relative to the E-Z Pass Interagency Agreement for Operations.

AMENDED ANALYSIS

This bill authorizes participation in a regional electronic toll collection system with the Interagency Group and requires the department of transportation to keep certain information confidential.

2001-0810h

Amendment to HB 578

Proposed by the Committee on Science, Technology and Energy - C

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

AN ACT relative to requirements for nonpublic utility providers of telephone services and competitive telecommunications providers, and relative to the information technology management advisory board.

Amend RSA 378:17-c as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. Nonpublic utility providers of telephone services shall be considered telephone utilities for purposes of RSA 106-H:8. Nonpublic utility providers of telephone services shall comply with the telephone utility requirements of RSA 106-H:8 no later than January 1, 2007.

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

2 Regulation of Competitive Telecommunications Providers Limited; Competitive Toll Providers. Amend RSA 374:22-o to read as follows:

374:22-o Regulation of Competitive Telecommunications Providers Limited. Any person or business entity authorized by the commission to engage in business as a competitive local exchange carrier ***and any competitive toll provider having less than a 10 percent share of toll revenue in New Hampshire*** shall not be required to seek prior commission approval of financings or corporate organizational changes, including, without limitation, [~~the~~] ***mergers, acquisitions, corporate restructurings,*** issuance or transfer of [~~its~~] securities***,*** or the sale, lease***,*** or other transfer of [~~its~~] assets ***or control***. Nothing in this section shall exempt any such competitive telecommunications service provider from ***such advance notice as the commission may prescribe or from*** the requirements of RSA 374:28-a [~~, including such advance notice as the commission may prescribe~~] ***or RSA 378:46***.

3 Information Technology Management Advisory Board; Members. Amend RSA 21-I, 71, II(i) to read as follows:

(i) Two senior information technology executives from the private sector, appointed by the governor ***for a 3-year term.***

(j) One representative of municipal government, who shall serve as a non-voting member, appointed by the governor for a 3-year term.

(k) One representative of county government, who shall serve as a non-voting member, appointed by the governor for a 3-year term.

AMENDED ANALYSIS

This bill:

I. Establishes requirements for nonpublic utility providers of telephone services. Nonpublic utility providers of telephone services include, but are not limited to, hotels, motels, hospitals, universities, or similar places of temporary accommodation. The requirements include notice to the users of charges and access by the users to other providers.

II. Limits the regulation of competitive toll telecommunications providers.

III. Adds 2 members to the information technology management advisory board.

2001-0702h

Amendment to HB 580

Proposed by the Committee on Commerce - C

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

AN ACT requiring health insurance carriers to provide loss information to large employers at least once every 6 months.

Amend RSA 420-G:12-a as inserted by section 2 of the bill by replacing it with the following:

420-G:12-a Loss Information Provided to Large Employers.

I. Upon written request, every health carrier shall provide loss information concerning a large employer policy or contract at least once every 6 months from the date the policy becomes effective.

II. If a policyholder requests loss information from an insurance agent or other authorized representative, the representative or agent shall transmit the request for loss information to the health carrier within 4 working days.

III. A health carrier shall not be required to provide the loss information described in this section to employers who employ 100 or fewer employees.

AMENDED ANALYSIS

This bill requires health insurance carriers to provide loss information to large employers at least once every 6 months.

2001-0678h

Floor Amendment to HB 581-FN

Proposed by Rep. Bruno

Amend RSA 430:55 as inserted by section 1 of the bill by replacing it with the following:

430:55 Administrative Authority; Inspection; Rulemaking.

I. The commissioner of agriculture, markets, and food shall adopt rules in accordance with RSA 541-A for carrying out provisions of this subdivision. The commissioner [~~shall~~], in person or by deputy or agent, ***may, upon presentation of appropriate credentials and with permission,*** have [~~free~~] access at all reasonable hours to any place, building or vehicle [~~in which~~] ***to inspect for*** prohibited species [~~may be harbored~~] ***listed on the "New Hampshire prohibited invasive species list" as defined in RSA 430:53, III***.

II. If the property owner refuses to consent to the inspection, the commissioner or deputy or agent may obtain an administrative inspection warrant under RSA 595-B.

III. The commissioner shall have general authority to administer and enforce the provisions of this subdivision and the rules adopted under this subdivision, and to prosecute violations thereof.

AMENDED ANALYSIS

This bill allows the commissioner of agriculture, markets, and food to obtain an administrative inspection warrant to search for invasive species in any place, building, or vehicle, when the property owner refuses to consent to a search.

2001-0808h

Amendment to HB 584-FN-A

Proposed by the Committee on Executive Departments and Administration - C

Amend the introductory paragraph of RSA 215-A:23, IV-a as inserted by section 4 of the bill by replacing it with the following:

IV-a. Rental agency registration - $58 for each set of decals.

Amend RSA 215-A:26, V as inserted by section 5 of the bill by replacing it with the following:

V. The executive director shall adopt rules pursuant to RSA 541-A relative to the application for, further definitions, licensing requirements, design of, issuance, denial or revocation of, dealer or rental agent plates or decals.

2001-0575h

Amendment to HB 588

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Jurors; Examination. Amend RSA 500-A:12 by inserting after paragraph II the following new paragraphs:

III. The court shall instruct the panel of prospective jurors prior to jury selection as to:

(a) The nature and purpose of the selection process.

(b) The nature of the case to be presented.

(c) The specific issues for resolution.

(d) A summary of the law to be used in their consideration of the evidence.

(e) Any controversial aspects of the trial likely to invoke bias.

IV. Counsel for each party shall be allowed a reasonable amount of time to address the panel of prospective jurors for the purpose of explaining such party's claims, defenses, and concerns in sufficient detail to prompt jury reflection, probing, and subsequent disclosure of information, opinion, bias, or prejudices which might prevent a juror from attaining the requisite degree of neutrality required.

V. The trial judge shall examine the prospective jurors. Upon completion of the judge's initial examination, counsel for each party shall have the right to examine, by oral and direct questioning, any of the prospective jurors in order to enable counsel to intelligently exercise both peremptory challenges and challenges for cause. During any examination conducted by counsel for the parties, the trial judge shall permit liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case. The fact that a topic has been included in the judge's examination shall not preclude additional non-repetitive or non-duplicative questioning in the same area by counsel.

VI. The scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge's sound discretion. In exercising his or her sound discretion as to the form and subject matter of voir dire questions, the trial judge shall consider, among other criteria, any unique or complex elements, legal or factual, in the case and the individual responses or conduct of jurors which may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case. Specific unreasonable or arbitrary time limits shall not be imposed. The trial judge shall permit counsel to conduct voir dire examination without requiring prior submission of the questions unless a particular counsel engages in improper questioning. For purposes of this section, an "improper question" is any question which, as its dominant purpose, attempts to precondition the prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors concerning the

pleadings or the applicable law. A court shall not arbitrarily or unreasonably refuse to submit reasonable written questionnaires, the contents of which are determined by the court in its sound discretion, when requested by counsel.

2001-0800h

Amendment to HB 590

Proposed by the Committee on Transportation - R

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

AN ACT permitting life insurance companies access to certain motor vehicle records.

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

1 New Subparagraph; Administration of Motor Vehicle Laws; Access to Records by Life Insurance Companies. Amend RSA 260:14, V(a) by inserting after subparagraph (9) the following new subparagraph:

(10) For use by life insurance companies authorized to write life insurance policies in this state, or their authorized agents, on a case-by-case basis, and upon representation by the company or authorized agent, on a form satisfactory to the department, that the named person's written consent to the release of the record has been obtained and that the record will be used solely in connection with claims investigation, rating, and underwriting.

2 Administration of Motor Vehicle Laws; Written or Express Consent. Amend RSA 260:14, V(c)(1) to read as follows:

(1) No person shall be required to provide his or her ***written or*** express consent to the release of personal information as a condition of doing business with any other person ***or legitimate business***.

3 Administration of Motor Vehicle Laws; Clarification of Restriction on Re-release of Motor Vehicle Information. Amend RSA 260:14, VI(a) to read as follows:

(a) Except as provided in subparagraph (b), an authorized recipient of personal information for a particular use under the provisions of subparagraph V(a) may not [~~use the information,~~] sell, rent, transfer, or make the information available to another person for the same or for any other use.

4 Administration of Motor Vehicle Laws; Re-release of Motor Vehicle Information by Certain Motor Vehicle Businesses and Life Insurance Companies. Amend RSA 260:14, VI(b) to read as follows:

(b) An authorized recipient of personal information for a particular use under subparagraphs V(a)***(1),*** (4), (8), [~~and~~] (9)***, and (10)*** may sell, rent, transfer or make the information available to another person for the same use only, subject to the limitations in the particular subparagraph.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes the terms and conditions under which life insurance companies may access motor vehicle records. It also provides that written or express consent to the release of motor vehicle records shall not be required as a condition of doing business with another person or business. The bill further clarifies that an entity permitted to obtain motor vehicle records for a particular purpose may use the information but is restricted in the re-release of such information. Finally, the bill allows various motor vehicle businesses and life insurance companies to re-release motor vehicle information under certain circumstances.

2001-0865h

Amendment to HB 591

Proposed by the Committee on Commerce - C

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

1 New Chapter; Prescription Discount Cards. Amend RSA by inserting after chapter 358-Q the following new chapter:

CHAPTER 358-R

prescription Discount Cards

358-R:1 Prescription Discount Cards. Any entity which proposes to offer a prescription discount card, which is not an insurance card, and which is defined as a card or other mechanism that advertises discounts or access to discounts on prescription drug purchases, shall register with the consumer protection and antitrust bureau of the department of justice. Registration shall consist of providing the consumer protection and antitrust bureau with a certified statement that the company intends to offer or advertise offering a prescription discount card to citizens of the state of New Hampshire. The certified statement shall also contain the name, address, location, and phone number of the company offering the prescription discount card; shall verify that any promotional advertising for the card expressly states in at least 10-point bold type that not all pharmacies may accept the prescription discount card; shall verify that the card and any promotional advertising for the card expressly states in at least 10-point bold type that the card is not an insurance card; and shall verify that the discount offered by the card or other purchasing mechanism does not contain misleading or deceptive statements or claims.

358-R:2 Applicability. This chapter shall not apply to any prescription drug discount card or other device issued by any program operated by, or in cooperation with, or pursuant to an agreement with the state of New Hampshire.

358-R:3 Penalties. Any violation of this chapter shall constitute an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy or power set forth in RSA 358-A may be used to enforce the provisions of this chapter. The department of justice shall maintain and make available for inspection a record of the violations of this chapter.

2 Effective Date. This act shall take effect January 1, 2002.

2001-0859h

Amendment to HB 595

Proposed by the Committee on Commerce - R

Amend the bill by replacing all after section 12 with the following:

13 New Paragraph; Applicability. Amend RSA 416-A:15 by inserting after paragraph IV the following new paragraph:

V. Nothing herein shall be construed to require the licensing of a law firm acting as agent of a title insurance company; provided that any sale, solicitation, or negotiation of a contract of title insurance is conducted by a duly licensed title insurance producer.

14 Repeal. RSA 408:49, relative to renewal for agent, is repealed.

15 Effective Date. This act shall take effect 60 days after its passage.

2001-0853h

Amendment to HB 596

Proposed by the Committee on Municipal and County Government - C

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

1 Capital Reserve Funds; Acquisition of Land by Majority Vote of Town Selectmen. Amend RSA 35:15, II to read as follows:

II. Expenditures from any fund established for the acquisition of land pursuant to RSA 35:1 shall be made only as authorized:

(a) By a majority vote of the legal voters present and voting at an annual or special meeting, in the case of a town, school district or village district, or by majority vote of the county delegation, in the case of a county***, or***.

(b) By the selectmen, appointed as agents pursuant to RSA 41:14-a, provided that the selectmen shall not have authority to expend any sum in excess of the amount contained in any capital reserve account created for the purchase of land other than any grant moneys which may be received.

2 Town Officers; Sale of Town-Owned Land, Buildings or Both; Acquisition by Selectmen Permitted. Amend RSA 41-14-a to read as follows:

41:14-a ***Acquisition or*** Sale of [~~Town-Owned~~] Land, Buildings, or Both.

I. If adopted in accordance with RSA 41:14-c, [~~in towns with 10,000 or more inhabitants,~~] the selectmen shall have the authority to ***acquire or*** sell [~~town-owned~~] land, buildings, or both; provided, however, they shall first submit any such proposed ***acquisition or*** sale to the planning board and to the conservation commission for review and recommendation by those bodies, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed ***acquisition or*** sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed ***acquisition or*** sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner then 10 days nor later than 14 days after the second public hearing which is held.

II. The provisions of this section shall not apply to ***the sale of*** and the selectmen shall have no authority to sell:

(a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.

(b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes.

3 Town Officers; Sale of Town-Owned Land, Buildings or Both; Adoption Procedure. Amend RSA 41:14-c to read as follows:

41:14-c Adoption Procedure.

I. Towns may adopt the provisions of RSA 41:14-a at any duly warned meeting. Once adopted, these provisions shall remain in effect until specifically rescinded by the town at any duly warned meeting.

II. Towns with 10,000 or more inhabitants may adopt the provisions of RSA [~~41:14-a or 14-b or both,~~] ***41:14-b*** at any duly warned meeting. Once adopted, these provisions shall remain in effect until specifically rescinded by the town at any duly warned meeting.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill enables a town of any size to acquire real estate by a majority vote of the board of selectmen. The bill also clarifies that a town does not have the authority to sell real estate given to a town for charitable or community purposes.

2001-0884h

Floor Amendment to HB 604-FN

Proposed by Reps. Dickinson, McRae, Sapareto and Almy

Amend the bill by replacing sections 30 and 31 with the following:

30 Repeal. The following are repealed:

I. RSA 214:9, VIII(a), relative to the nonresident 15-day fishing license.

II. RSA 214:9, VIII-b, relative to the one-day family fishing license.

31 Effective Date.

I. Sections 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, and 28 of this act shall take effect July 1, 2003.

II. The remainder of this act shall take effect July 1, 2002.

001-0705h

Amendment to HB 610

Proposed by the Committee on Environment and Agriculture - R

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

1 Sale of Dairy Products; Sale of Raw Milk Cheese Allowed. Amend RSA 184:30-a to read as follows:

184:30-a Pasteurization Required. No milk or milk products as defined in RSA 184:79 shall be sold, offered for sale or served unless pasteurized. This shall not serve to prohibit the direct sale of raw milk or cream from the producer, store or milk pasteurization plant to the final consumer, or milk or cream from a producer to stores, nor the serving of raw milk at bona fide boarding houses where the milk is produced on the premises, provided that in the dining room of such boarding houses a sign is prominently displayed stating that such raw milk is served therein***, nor the sale within the state of cheese made from raw milk when such cheese has been aged a minimum of 60 days at 35 degrees fahrenheit or colder, and is clearly labeled as unpasteurized***.

2 New Paragraph; Manufacture and Sale of Unpasteurized Cider. Amend RSA 434:40-b by inserting after paragraph IV the following new paragraph:

V. That unpasteurized cider may be sold within the state if such cider is clearly labeled as unpasteurized.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows the sale of cheese made from raw milk if such cheese is aged for 60 days and the sale of unpasteurized apple cider within the state. Such products shall be clearly labeled as unpasteurized.

2001-0238h

Amendment to HB 616

Proposed by the Committee on Judiciary - C

Amend RSA 502-A:1, VII as inserted by section 1 of the bill by replacing it with the following:

VII. DOVER-SOMERSWORTH-DURHAM DISTRICT. The Dover-Somersworth-Durham district shall consist of the cities of Dover and Somersworth and the towns of Rollinsford, Durham, Lee, and Madbury. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. [~~Special sessions of said court for cases arising from the town towns of Durham shall be held at the principal a court location in the town of Durham as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.~~] ***Cases arising from the towns of Durham, Lee, and Madbury shall be held regularly at a court facility in the town of Durham.***

AMENDED ANALYSIS

This bill clarifies that cases arising from the towns of Durham, Lee, and Madbury are to be heard at the satellite district court in Durham.

2001-0544h

Amendment to HB 630

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT establishing a committee to study the need for the regulation of professions which are alternative or complementary to existing regulated health professions.

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

1 Committee Established. There is established a committee to study the need for the regulation of professions which are alternative or complementary to existing regulated health professions.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

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

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

II. The committee may seek input from the commissioner of the department of health and human services or other department officers, the members of the board of medicine, or any other interested persons.

III. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall examine the need for the regulation of professions which are alternative or complementary to existing regulated health professions in this state. The committee may develop a proposal for the regulation of such professions.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2002.

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

AMENDED ANALYSIS

This bill establishes a committee to study the need for the regulation of professions which are alternative or complementary to existing regulated health professions.

2001-0183h

Amendment to HB 652

Proposed by the Committee on Transportation - C

Amend the bill by replacing section 2 with the following:

2 New Section; Negligent Driving. Amend RSA 265 by inserting after section 79-a the following new section:

265:79-a Negligent Driving. Whoever upon any way drives a vehicle negligently or causes a vehicle to be driven negligently, as defined in RSA 626:2, II(d), or in a manner that endangers or is likely to endanger any person or property shall be guilty of a violation.

2001-0652h

Amendment to HB 653-FN

Proposed by the Committee on Public Works and Highways - C

Amend the bill by replacing all after section 2 with the following:

3 New Section; Location/Direction Signs for Businesses Within Highway Rights-of-Way. Amend RSA 236 by inserting after section 88 the following new section:

236:88-a. Location/Direction Signs for Businesses Within Highway Rights-of Way.

I. Notwithstanding RSA 236:88 or any other provision of law to the contrary, a business owner whose property abuts upon and has legal driveway access to the right-of-way of any class I, class II, or class III highway may, upon obtaining the approval of the department, place a sign within the adjacent right-of-way of his or her business being conducted at that location. The placement of such sign shall be in accordance with the Roadside Design Guide published by the American Association of State Highway and Transportation Officials (AASHTO).

II. Any such sign shall comply with all local municipal rules, regulations, and other requirements.

III. Any such sign shall:

(a) Not impose a danger to the traveling public.

(b) Not unreasonably interfere with the maintenance of the state right-of-way.

(c) Be permanently affixed to the ground.

(d) Meet reasonable size, style, and lighting standards consistent with the state of development and commercial activity in the area.

(e) Be removed if the business activity is no longer conducted at that location.

IV. The cost of construction, installation, maintenance, disposal, moving, and removing of such sign shall be at the expense of the business owner.

V. A sign placed in accordance with this section shall not be construed to give its owner any property or other rights in its location, and if the state changes or widens the highway, or redesigns its maintenance practices, the business owner shall move or remove the sign, as the department may determine necessary.

VI. The department shall be authorized to remove any sign if it determines that the provisions of this section have not been met; provided that 30 days' notice shall be given to the owner of the sign unless the sign constitutes a safety hazard.

VII. Notwithstanding any law or rule to the contrary, a municipality may place a sign within the right-of-way of any class I, class II, or class III highway if such sign meets the requirements of this section and with the approval of the department of transportation and the governing body of the municipality.

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

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill permits business owners to place location/direction signs within a highway right-of-way within certain guidelines.

2001-0540h

Amendment to HB 659-FN

Proposed by the Committee on Criminal Justice and Public Safety - C

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

1 New Paragraph; Convicted Felons; Attempt to Purchase Firearm. Amend RSA 159:3 by inserting after paragraph I the following new paragraph:

I-a. A person is guilty of a class B felony if such person completes and signs an application for purchase of a firearm and the person is a convicted felon under the provisions of paragraph I.

2 New Paragraph; Protection from Domestic Violence; Relief; Notice Requirement Inserted. Amend RSA 173-B:5 by inserting after paragraph IX the following new paragraph:

IX-a. If a criminal records check conducted by the department of safety indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a protective order issued under this chapter, the department of

safety shall notify the administrative office of the courts of the denial. The administrative office of the courts shall immediately notify the plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the protective order.

3 Effective Date. This act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill provides that a convicted felon who attempts to purchase a firearm shall be guilty of a class B felony. The bill also requires that the administrative office of the courts notify a plaintiff of a failed attempt by a defendant to purchase or obtain a firearm.

2001-0221h

Amendment to HB 663

Proposed by the Committee on Transportation - C

Amend RSA 265:57, IV as inserted by section 1 of the bill by replacing it with the following:

IV. If the school bus is equipped with strobe lights, the strobe lights shall be kept in continuous operation at all times throughout the regular route, home-to-school and school-to-home.

AMENDED ANALYSIS

This bill permits school buses equipped with strobe lights to be driven on the ways of the state. This bill also requires drivers of school buses equipped with strobe lights to operate the strobe lights throughout the regular route, and modifies other rules of the road relative to the driving of schoolbuses.

2001-0596h

Amendment to HB 669

Proposed by the Committee on Transportation - C

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 2002.

2001-0621h

Amendment to HB 676-LOCAL

Proposed by the Committee on Environment and Agriculture - R

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house, including one member of the environment and agriculture committee and one member of the municipal and county government committee.

(b) Three members of the senate, appointed by the president of the senate, including one member of the environment committee and one member of the ways and means committee.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the creation of enabling legislation for the formation of regional districts for collection and marketing of certain components in the solid waste stream including, but not limited to, aluminum, steel, various metals, newsprint, plastics, and glass, and the collection of other post-consumer wastes. The purpose of such districts shall be to reduce toxicity in the solid waste stream, reduce the amount of solid waste destined for disposal, and allow increased public sector management of waste materials. A component of proposed legislation shall be state reimbursement of costs to municipalities

that are members of such regional districts.

2001-0418h

Amendment to HB 677

Proposed by the Committee on Election Law - R

Amend RSA 655:41, II as inserted by section 2 of the bill by replacing it with the following:

II. The city clerk may perform the responsibilities of the supervisors of the checklist under this section.

Amend RSA 655:43, I as inserted by section 4 of the bill by replacing it with the following:

I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the Wednesday one week before the primary. ***Nomination papers to be filed shall be grouped by municipality.*** No nomination papers shall be accepted by the secretary of state unless the candidate shall have met the age and domicile qualifications for the office he ***or she*** seeks at the time of the general election and meets all the other qualifications at the time of filing; and if a candidate for the office of governor, executive councilor, state senator, or state representative, unless [~~he~~] ***the candidate*** shall file with the nomination papers an affidavit of qualifications as provided in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless [~~he~~] ***the candidate*** shall meet the qualifications for office under RSA 655:3 and 655:4.

AMENDED ANALYSIS

This bill requires a political organization to file a declaration of intent to be nominated as political party. This bill permits the city clerk to perform the responsibilities of the supervisors of the checklist for certifying nomination papers. This bill also requires nomination papers to be signed by registered voters and makes certain changes to the procedure for filing nomination papers.

2001-0493h

Amendment to HB 679

Proposed by the Committee on Education - C

Amend the bill by replacing section 3 with the following:

3 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house, one of whom shall be a member of the education committee, one of whom shall be a member of the criminal justice and public safety committee, and one of whom shall be a member of the health, human services and elderly affairs committee.

(b) Three members of the senate, appointed by the president of the senate, one of whom shall be a member of the education committee, one of whom shall be a member of the judiciary committee, and one of whom shall be a member of the public institutions, health and human services committee.

(c) The chair of the New Hampshire School Boards Association or designee.

(d) The chair of the New Hampshire School Administrator's Association or designee.

(e) A representative of the business community, appointed by the governor.

(f) A representative of the department of education, appointed by the commissioner of the department of education.

(g) Representatives of the bureaus of child care development and of juvenile justice, division of children youth and families, appointed by the commissioner of the department of health and human services.

(h) Three parents of children in kindergarten through grade 12, from different parts of the state, appointed by the governor.

(i) A member of the New Hampshire Kids Cabinet, appointed by the governor.

(j) A member of the New Hampshire Child Advocacy Network, specializing in the prevention of youth crime, appointed by the governor.

(k) A representative of a statewide organization whose focus is out-of-school programming for school age children, appointed by the governor.

(l) Two out-of-school care providers, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

2001-0811h

Amendment to HB 680

Proposed by the Committee on Commerce - C

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

AN ACT relative to foreign reinsurers.

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

1 New Paragraphs; Foreign Reinsurers. Amend RSA 405:47 by inserting after paragraph II the following new paragraphs:

III. Before any unauthorized reinsurer files or causes to be filed any pleading in any court action or an appearance in response to any court action or administrative proceeding, such reinsurer shall either:

(a) Deposit with the clerk of the court in which such action, suit or proceeding is pending, or with the commissioner in administrative proceedings, cash or securities or bond with good and sufficient sureties to be approved by the court, or the commissioner, in an amount to be fixed by the court or the commissioner sufficient to secure the payment of any final judgment which may be rendered in such court proceeding or in such administrative proceeding; or

(b) Procure a license to transact reinsurance business in this state.

IV. The court in any action, suit, or proceeding or the commissioner in any administrative proceeding referred to in paragraph III of this section, may, in its or his or her discretion, order such postponement as may be necessary to afford the reinsurer reasonable opportunity to comply with paragraph III of this section and to defend such court action or administrative proceeding.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill clarifies the statute relative to security provisions for foreign reinsurers.

2001-0863h

Amendment to HB 690

Proposed by the Committee on Commerce - C

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

AN ACT relative to disclosure of nonpublic personal health information.

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

1 New Chapter; Disclosure of Nonpublic Personal Health Information. Amend RSA by inserting after chapter 406-C the following new chapter:

CHAPTER 406-D

Disclosure of Nonpublic Personal Health Information

406-D:1 Definitions. In this chapter:

I. "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

II. "Commissioner" means the insurance commissioner.

III. "Consumer" means an individual who in this state seeks to obtain, obtains, or has obtained a health insurance product or service from a licensee.

IV. "Customer" means a consumer who has a customer relationship with a licensee.

V. "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides health insurance products or services to the consumer.

VI. "Department" means the insurance department.

VII. "Health information" means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provisions of health care to an individual.

VIII. "Licensee" means all licensed health insurers, and producers licensed or authorized or required to be authorized, or registered or required to be registered pursuant to the provisions of Title XXXVII.

IX. "Nonpublic personal health information" means health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

406-D:2 Authorization Required for Disclosure of Nonpublic Personal Health Information.

I. A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

II. Nothing in this chapter shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; ratemaking and guaranty fund functions; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service functions; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers' compensation policy or program; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U. S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process. Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

406-D:3 Authorizations.

I. A valid authorization to disclose nonpublic personal health information pursuant to this chapter shall be in written or electronic form and shall contain all of the following:

(a) The identity of the consumer or customer who is the subject of the nonpublic personal health information;

(b) A general description of the types of nonpublic personal health information to be disclosed;

(c) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used;

(d) The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed; and

(e) Notice of the length of time for which the authorization is valid and that the consumer or customer may revoke the authorization at any time and the procedure for making a revocation.

II. An authorization for the purposes of this section shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than 24 months.

III. A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this section at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

IV. A licensee that is subject to examination by the department shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information for a period of 6 years from the date the authorization ends or until the examination is completed, whichever is greater.

406-D:4 Authorization Request Delivery. A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information.

406-D:5 Relationship to Federal Rules. Irrespective of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services (the "federal rule"), if a licensee complies with all requirements of the federal rule except for its effective date provision, the licensee shall not be subject to the provisions of this section.

406-D:6 Applicability. Nothing in this chapter shall preempt or supercede existing state law related to medical records, health or insurance information privacy.

406-D:7 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the administration of this chapter.

406-D:8 Violation. A violation of this chapter shall be deemed to be an unfair method of competition or an unfair or deceptive act and practice in this state, in violation of RSA 417.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires an insurance licensee to obtain certain authorization before disclosing nonpublic personal health information about consumers or customers. The bill grants the insurance commissioner rulemaking authority to administer the provisions of the bill.

2001-0831h

Floor Amendment to HB 693

Proposed by Rep. Lars Christiansen

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

AN ACT enforcing the prohibition on the possession and use of tobacco products by minors through the juvenile statutes and expanding the definition of a child in need of services to specifically include a minor who possesses or uses tobacco products.

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

1 Youth Access to Tobacco Products; Possession and Use of Tobacco Products by Minors; Enforcement Through Juvenile Statutes. Amend RSA 126-K:6, IV to read as follows:

IV. [~~Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older~~] ***A minor*** who violates this section [~~shall not~~] ***may*** be considered a delinquent ***under RSA 169-B*** or a child in need of services ***under RSA 169-D***.

2 Youth Access to Tobacco Products; Possession and Use of Tobacco Products by Minors; Penalties. RSA 126-K:6, V is repealed and reenacted to read as follows:

V. Any minor who violates this section shall:

(a) Complete up to 20 hours of community service for a first offense.

(b) Complete up to 20 hours of community service and participate in an approved tobacco-use cessation program for a second offense.

(c) Complete up to 20 hours of community service, participate in an approved tobacco-use cessation program, and pay a fine not to exceed $100 for a third or subsequent offense.

3 Definition of Child in Need of Services Expanded. Amend RSA 169-D:2, IV(c)-(d) to read as follows:

(c) A child who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; [~~and~~] ***or***

(d) ***A child who violates RSA 126-K:6 relative to the possession and use of tobacco products by minors; and***

(e) Is expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.

4 Effective Date. This act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill enforces the prohibition on the possession and use of tobacco products by minors through the juvenile statutes and expands the definition of a child in need of services to specifically include a minor who possesses or uses tobacco products.

2001-0572h

Amendment to HB 698

Proposed by the Committee on Election Law - R

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-4 to read as 1-2, respectively.

AMENDED ANALYSIS

This bill adds persons who voted at a 2001 town election to the persons deemed reregistered for purposes of the 2001 verification of the checklist.

2001-0662h

Amendment to HB 699

Proposed by the Committee on Children and Family Law - C

Amend RSA 169-C:19-e as inserted by section 1 of the bill by replacing it with the following:

169-C:19-e Custody Hearing for Parent Not Charged With Abuse or Neglect. A parent who has not been charged with abuse or neglect shall be afforded, upon request, a full hearing in the district or family court regarding his or her ability to obtain custody. At the hearing, the parent shall be provided the opportunity to present evidence pertaining to his or her ability to provide care for the child and shall be awarded custody unless the state demonstrates, by a preponderance of the evidence, that he or she has abused or neglected the child or is otherwise unfit to perform his or her parental duties.

AMENDED ANALYSIS

This bill requires that parents who have not been charged with abuse and neglect be afforded a hearing regarding their ability to obtain custody of their children.

2001-0788h

Amendment to HB 702

Proposed by the Committee on Commerce - C

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

AN ACT relative to the duties of the committee to study the consumer protection effort in New Hampshire.

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

1 Duties. Amend 2001, HB 109 by replacing section 3 with the following:

3 Duties. The committee shall:

I. Assess the scope of need for consumer protection within New Hampshire; the ability of the attorney general's consumer protection bureau to meet this need; and any appropriate changes in funding, staffing, and/or agency structure that would better protect the state's consumers.

II. Study transactions that are exempt from RSA 358-A, the consumer protection act.

2 Contingency. If HB 109 of the 2001 legislative session becomes law, section 1 of this act shall take effect at 12:01 a.m. on the effective date of HB 109. If HB 109 does not become law, section 1 of this act shall not take effect.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

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

AMENDED ANALYSIS

This bill adds a duty to review the exemptions to the state consumer protection act to the committee to study the consumer protection effort in New Hampshire established by HB 109 of the 2001 legislative session.

2001-0653h

Amendment to HB 703

Proposed by the Committee on Judiciary - C

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraphs; Prevention of Frauds and Perjuries; Powers of Attorney, Disability or Incompetence of Principal; Gifts; Durable Power of Attorney Document; Notification. Amend RSA 506:6 by inserting after paragraph IV the following new paragraphs:

V. An attorney in fact is not authorized to make gifts to the attorney in fact or to others unless the durable power of attorney explicitly authorizes such gifts.

VI. The following disclosure statement, signed by the principal, shall accompany a durable power of attorney:

INFORMATION CONCERNING THE DURABLE POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to the Principal: As the 'Principal,' you are using this Durable Power of Attorney to grant power to another person (called the 'Agent' or 'Attorney in Fact') to make decisions, including, but not limited to, decisions concerning your money, property, or both, and to use your money, property, or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Under this document, your agent will continue to have these powers after you become incapacitated, and unless otherwise indicated your Agent will have these powers before you become incapacitated. You have the right to retain this Power and not to release this Power until you instruct your attorney or any other person who may hold this Power of Attorney to so release it to your Agent pursuant to written instructions. You have the right to revoke or take back this Durable Power of Attorney at any time, so long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should seek professional advice.

_____

Principal

The language required by this paragraph shall not confer any powers to the agent that are not otherwise contained in the durable power of attorney.

VII. An agent, prior to acting in the capacity of agent, shall execute and affix to the power of attorney an acknowledgment in substantially the following form:

I, _____, have read the attached power of attorney and am the person identified as the Agent for the Principal. I hereby acknowledge that when I act as Agent or "attorney in fact," I am given power under this Durable Power of Attorney to make decisions about money, property, or both belonging to the Principal, and to spend the Principal's money, property, or both on the Principal's behalf, in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. When acting in the capacity of Agent, I am under a duty (called a 'fiduciary duty') to observe the standards observed by a prudent person, which means the use of those powers that is reasonable in view of the interests of the Principal and in view of the way in which a person of ordinary judgment would act in carrying out that person's own affairs. If the exercise of my acts is called into question, the burden will be upon me to prove that I acted under the standards of a fiduciary. As the Agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the Durable Power of Attorney specifically gives me the authority to do so. As the Agent, my authority under this Durable Power of Attorney will end when the Principal dies and I will not have authority to manage or dispose of any property or administer the estate unless I am authorized to do so by a New Hampshire Probate Court. If I violate my fiduciary duty under this Durable Power of Attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

_____

Agent

VIII. Nothing in paragraphs V-XI of this section shall render ineffective a durable power of attorney validly executed under New Hampshire law prior to the effective date of paragraphs V-XI of this section.

IX. A durable power of attorney validly executed under the laws of another state or foreign jurisdiction shall be deemed valid under New Hampshire law. Foreign powers of attorney shall be subject to the provisions of RSA 506:7.

X. A person who seeks to validate or interpret the powers under a durable power of attorney which does not comply with paragraph VI or VII of this section may petition the courts under RSA 506:7.

XI. The failure to meet the requirements of paragraph VI shall not impair the legal validity of an otherwise valid durable power of attorney.

2 Powers of Attorney; Limitations on the Agent. Amend RSA 506:7, IV to read as follows:

IV.***(a)*** The court may hold hearings, make orders and decrees, and take other actions ***that are*** necessary or proper [~~to make~~] ***in making*** determinations on matters presented by a petition filed under paragraph III.

(b) When a gift or transfer made by an agent is challenged in a petition filed under paragraph III of this section, the gift or transfer shall be presumed to be lawful if the durable power of attorney is accompanied by the disclosure statement and acknowledgement drafted in accordance with RSA 506:6, VI and VII, and explicitly authorizes such gifts or transfers. However, if the petitioner establishes that the agent made a transfer for less than adequate consideration, and the transfer is not explicitly authorized by a durable power of attorney drafted in accordance with RSA 506:6, VI and VII, the agent shall be required to prove by a preponderance of evidence that the transfer was authorized and was not a result of undue influence, fraud, or misrepresentation.

2001-0869h

Amendment to HB 717

Proposed by the Committee on Resources, Recreation and Development - R

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

AN ACT establishing a committee to make recommendations on policy concerning state-operated trails for all terrain vehicles and trail bikes and relative to increasing the nonresident OHRV registration fees for snow traveling vehicles.

Amend the bill by replacing all after section 5 with the following:

6 OHRV Nonresident Registration; Increase for Snow Traveling Vehicles. Amend RSA 215-A:23, III to read as follows:

III. Individual nonresident registration-$36 for each 2-wheeled trail bike registration***, $60 for each snow traveling vehicle registration,*** or $45 for each other OHRV registration.

(a) The first $13 of each 2-wheeled trail bike registration***, $36 of each snow traveling vehicle registration,*** or $22 of each other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, ***$12.10 from each snow traveling vehicle registration or*** $11.10 ***from each 2-wheeled trail bike or other OHRV registration*** shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and $11.90 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

7 Effective Date.

I. Section 6 of this act shall take effect July 1, 2001.

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

AMENDED ANALYSIS

This bill establishes a committee to make recommendations on policy concerning state-operated trails for all terrain vehicles and trail bikes.

This bill also increases the nonresident OHRV registration fees for snow traveling vehicles.

2001-0789h

Amendment to HB 720

Proposed by the Committee on Fish and Game - R

Amend the bill by replacing section 3 with the following:

3 New Section; Taking of Deer; Pistols Permitted; Rounds Limited. Amend RSA 208 by inserting after section 3-c the following

new section:

208:3-d Pistols Permitted. Pistols permitted under RSA 208:3, 3-a, 3-b, and 3-c shall include a .357 Magnum, 10mm Automatic, .41 Remington, .44 Magnum, .45 Long Colt, .480 Ruger, provided that no pistol used for taking deer under this section shall be loaded with more than 5 rounds of ammunition at any time.

2001-0774h

Amendment to HB 723

Proposed by the Committee on Municipal and County Government - C

Amend the bill by replacing section 2 with the following:

2 Vacancies Among County Officers; Election by Members of County Convention. Amend RSA 661:9, I-II to read as follows:

I. If a vacancy occurs in the office of county sheriff, county attorney, register of deeds, or county treasurer, the [~~superior court~~] ***members of the county convention*** shall fill the vacancy for the unexpired term ***by majority vote***.

II.(a) If a vacancy occurs in the office of a county commissioner, the [~~superior court~~] ***members of the county convention*** shall fill the vacancy ***by majority vote*** until the next biennial election of county officers***, provided that, in counties with districts for commissioners, only those members of the county convention representing the towns in the district in which the vacancy occurs shall vote***. If the term filled is less than the unexpired term, then notwithstanding any provisions of RSA 653:1, VI, the commissioner district filled pursuant to this paragraph shall be added to the next biennial election ballot to be chosen by the inhabitants of the county for a 2-year term.

(b) The provisions of subparagraph (a) shall apply only where the vacancy occurred no later than 30 days preceding the printing of the ballots for the primary election.

(c) The provisions of RSA 655:32 and RSA 655:37 relating to nominations by appropriate party committees for vacancies in an office on a primary or general election ballot, respectively, shall apply to vacancies to be filled under this paragraph.

2001-0511h

Amendment to HB 731-FN

Proposed by the Committee on Commerce - C

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

1 Securities; Definition of Agent. Amend RSA 421-B:2, II (e) to read as follows:

(e) Effecting other transactions, if such individual is an officer or director of the issuer, no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, and upon application, such individual is specifically authorized by name in an order issued by the secretary of state. [~~A Form U-4 as prepared by the National Association of Securities Dealers and the Securities and Exchange Commission shall be filed and authorization obtained from the secretary of state before any offers are made.~~]

2 Securities; Definition of "Federal Covered Advisor". Amend RSA 421-B:2, V-d to read as follows:

V-d. "Federal covered adviser" means a person who is [~~(i)~~] registered under section 203 of the Investment Advisers Act of 1940[~~; or (ii) is excluded from the definition of "investment adviser" under section 202(a)(11) of the Investment Advisers Act of 1940~~].

3 Securities; Advisory Activities; Regulating Conduct of Investment Adviser Agents; Requiring Disclosure of Certain Material Facts; and Permitting Automatic Deduction of Investment Adviser Fees From Client Accounts in Certain Circumstances. Amend RSA 421-B:4 to read as follows:

421-B:4 Advisory Activities.

I. It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale whether through the issuance of analyses or reports or otherwise:

(a) To employ any device, scheme, or artifice to defraud another person; or

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

II. It is unlawful for any investment adviser ***or investment adviser agent*** to enter into, extend, or renew any investment advisory contract the terms of which are in contravention of such rules as the secretary of state may adopt as necessary or appropriate in the public interest or for the protection of investors.

III. It is unlawful for any investment adviser ***or investment adviser agent*** to take or have custody of any securities or funds of any client in contravention of such rules as the secretary of state may adopt as necessary or appropriate in the public interest or for the protection of investors.

IV. It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of paragraph I for any investment adviser ***or investment adviser agent*** who has custody or possession of any funds or securities in which any client has any beneficial interest, to do any act or take any action, directly or indirectly, with respect to any such funds or securities, unless:

(a) All such securities of each such client are segregated, marked to identify the particular client who has the beneficial interest therein, and held in safekeeping in some place reasonably free from risk of destruction or other loss; and

(b) All such funds of such clients are deposited in one or more bank accounts which contain only clients' funds, such account or accounts are maintained in the name of the investment adviser as agent or trustee for such clients, and the investment adviser maintains a separate record for each such account which shows the name and address of the bank where such account is maintained, the dates and amounts of deposits in and withdrawals from such account, and the exact amount of each client's beneficial interest in such account; and

(c) Such investment adviser, immediately after accepting custody or possession of such funds or securities from any client, notifies such client in writing of the place and manner in which such funds and securities will be maintained, and thereafter, if and when there is any change in the place or manner in which such funds or securities are being maintained, gives each such client written notice thereof; and

(d) Such investment adviser sends to each client, not less frequently than once every 3 months, an itemized statement showing the funds and securities in the custody or possession of the investment adviser at the end of such period, and all debits, credits, and transactions in such client's account during such period; and

(e)(1) All such funds and securities of clients are verified by actual examination at least once during each calendar year by an independent public accountant at a time that shall be chosen by such accountant without prior notice to the investment adviser. A certificate of such accountant stating that an examination of such funds and securities has been made, and describing the nature and extent of the examination, shall be attached to a completed Form ADV-E (17 C.F.R. 279.8) and transmitted to the secretary of state promptly after each examination.

(2) Subparagraph IV(e)(1) shall not apply to an investment adviser also registered as a broker-dealer under section 15 of the Securities Exchange Act of 1934 if (i) such broker-dealer is subject to and in compliance with Rule 15c3-1 (Reg. 240.15c3-1, 25,126) under the Securities Exchange Act of 1934, or (ii) such broker-dealer is a member of an exchange whose members are exempt from Rule 15c3-1 (Reg. 240.15c3-1, 25,126) under the provisions of paragraph (b)(2) thereof, and such broker-dealer is in compliance with all rules and settled practices of such exchange imposing requirements with respect to financial responsibility and the segregation of funds or securities carried for the account of customers.

(f)(1) Direct deduction (automatic payment) of investment adviser fees from a client account to the investment adviser does not constitute custody of client funds if:

(A) The client provides written authorization permitting the adviser's fees to be paid directly from the client's account held by an independent custodian.

(B) The adviser sends to the client and the custodian at the same time, a bill showing the amount of the fee, the value of the client's assets on which the fee was based, and the specific manner in which the adviser's fee was calculated.

(C) The custodian agrees to send to the client a statement, at least quarterly, indicating all amounts disbursed from

the account including the amount of advisory fees paid directly to the advisers.

(2) Absent any of the conditions in subparagraphs(f)(1)(A)-(C), the adviser is deemed to have custody of client funds.

IV-a. It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of paragraph I for any investment adviser licensed or required to be licensed to fail to disclose to any client or prospective client all material facts with respect to:

(a) A financial condition of the adviser that is reasonably likely to impair the ability of the adviser to meet contractual commitments to clients, if the adviser has discretionary authority (express or implied) or custody over such client's funds or securities, or requires prepayment of advisory fees of more than $500 from such client, 6 months or more in advance; or

(b) A legal or disciplinary event that is material to an evaluation of the advisers integrity or ability to meet contractual commitments to clients.

V. A person who is an investment adviser ***or investment adviser agent*** is a fiduciary and has a duty to act primarily for the benefit of the person's clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor and the clients and the circumstances of each case, an investment adviser ***or investment adviser agent*** shall not engage in unethical business practices which constitute violations of paragraph I, including the following:

(a) Recommending to a client to whom investment supervisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser ***or investment adviser agent***.

(b) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(c) Introducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account in light of the fact that an adviser in such situations can directly benefit from the number of securities transactions effected in a client's account. This subparagraph appropriately forbids an excessive number of transaction orders to be induced by an ***investment*** adviser ***or investment adviser agent*** for a client's account.

(d) Placing an order to purchase or sell a security for the account of a client without the authority to do so.

(e) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third party trading authorization from the client.

(f) Borrowing money or securities from a client unless a client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(g) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(h) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser***, investment adviser agent,*** or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such services, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(i) Providing a report or recommendation to any advisory client prepared by someone other than the ***investment*** adviser ***or investment adviser agent*** without disclosing that fact. This prohibition does not apply to a situation where the ***investment*** adviser ***or investment adviser agent*** uses published research reports or statistical analysis to render advice or where an adviser orders such a report in the normal course of providing service.

(j) Charging a client an unreasonable advisory fee.

(k) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the

investment adviser***, investment adviser agent,*** or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

(1) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients or such services; and

(2) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees.

(l) Guaranteeing a client that a specific result will be achieved, such as gain or no loss, with advice which will be rendered.

(m) Publishing, circulating, or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(n) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to ***in writing*** by the client.

(o) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser ***or investment adviser agent*** has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Reg. 206(4)-2 under the Investment Advisers Act of 1940.

(p) Entering into, extending, or renewing any investment adviser contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the ***investment*** adviser ***or investment adviser agent***, [~~and~~] that no assignment of such contract shall be made by the investment adviser without the ***written*** consent of the other party to the contract***, or that:***

(1) Provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client except that this subparagraph shall not:

(A) Be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date; or

(B) Apply to an investment advisory contract with a person (except a trust, governmental plan, collective trust fund, or separate account), provided that the contract relates to the investment of assets in excess of $1,000,000, if the contract provides for compensation based on the asset value of the company or fund under management averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the secretary of state by rule may specify.

(2) The provisions of subparagraph (1) shall not be deemed to prohibit an investment adviser from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, provided that the client entering into the contract subject to this section is a qualified client defined as:

(A) A natural person who or a company that immediately after entering into the contract has as least $750,000 under the management of the investment adviser.

(B) A natural person who or a company that the investment adviser entering into the contract (and any person acting on his behalf) reasonably believes, immediately prior to entering into the contract, either:

(i) Has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than $1,500,000 at the time the contract is entered into; or

(ii) Is a qualified purchaser as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 (14 U.S.C. 802-a(a)(51)(A)) at the time the contract is entered into:

(C) A natural person who immediately prior to entering into the contract is:

(i) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser; or

(ii) An employee of the investment adviser (other than an employee performing solely clerical, secretarial or administrative functions with regard to the investment adviser) who, in connection with his or her regular functions or duties, participates in the investment activities of such investment adviser, provided that such employee has been performing such functions and duties for or on behalf of the investment adviser, or substantially similar functions or duties for or on behalf of another company for at least 12 months.

(3) The secretary of state, by rule, upon his or her own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from subparagraph (1), if and to the extent that the exemption relates to an investment advisory contract with any person that the secretary of state determines does not need the protections of subparagraph (1), on the basis of such factors as financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a licensed investment adviser, and such other factors as the secretary of state determines are consistent with this paragraph.

(q) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of section 204A of the Investment Advisers Act of 1940.

(r) Entering into, extending, or renewing any advisory contract which would violate section 205 of the Investment Advisers Act of 1940 ***and the rules promulgated thereunder***. This provision shall apply to all [~~advisers registered or required to be registered under the Investment Advisers Act of 1940, notwithstanding whether such adviser would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940~~] ***investment advisers and investment adviser agents licensed or required to be licensed under this chapter***.

(s) Indicating, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of this chapter or of the Investment Advisers Act of 1940 or any other practice that would violate section 215 of the Investment Advisers Act of 1940.

(t) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contravention of section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

(u) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of this chapter or any rule adopted under it.

The conduct set forth above is not inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices, shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced in this paragraph shall apply to investment advisers ***and investment adviser agents***, regardless of whether the federal provision limits its application to advisers subject to federal registration.

4 Licensing Requirements; Retroactive License. Amend RSA 421-B:6, I-II to read as follows:

I. It is unlawful for any person to transact business in this state as a broker-dealer, issuer-dealer, investment adviser, or agent unless such person is licensed under this chapter. Except with respect to advisers whose only clients are those described in RSA 421-B:2, IX(f), it is unlawful for any federal covered adviser to conduct advisory business in this state unless such person complies with the provisions of RSA 421-B:7, [~~I-a~~] ***I-b***. An investment adviser representative is required to be licensed as an agent under this section, in addition to any agent license held as a representative of any broker-dealer.

II. It is unlawful for any broker-dealer, issuer-dealer, and investment adviser to employ an agent unless the agent is licensed, or for a federal covered adviser to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is licensed as an agent under this chapter, or is exempt from the licensing requirements. Under this chapter, an agent's license is only in effect when such agent is associated with a particular broker-dealer, investment adviser, federal covered adviser, ***issuer-dealer,*** or a particular issuer. No agent shall at any time represent more than one broker-dealer or issuer-dealer, except that where broker-dealers or issuer-dealers affiliated by direct common control are licensed under this chapter, an agent may represent any such broker-dealer or issuer-dealer. When an agent begins or terminates those activities [~~which~~] ***that*** make the person an agent, the broker-dealer, issuer-dealer, ***federal covered advisor,*** and investment adviser shall promptly notify the secretary of state. When an investment

adviser representative begins or terminates employment with a federal covered adviser, the investment adviser representative shall promptly notify the secretary of state.

5 New Paragraph; Securities; Licensing Requirements. Amend RSA 421-B:6 by inserting after paragraph III the following new paragraph:

III-a. A federal covered adviser who has paid a notice filing fee in this state for a particular calendar year and subsequently during that year becomes a state regulated investment adviser licensed in this state, shall not be assessed an additional fee (initial license fee) as it makes the transition to a licensed investment adviser in that year. A state regulated investment adviser who has paid a license fee in this state for a particular calendar year and subsequently during that year becomes a federal covered adviser, shall not be assessed an additional fee (notice filing fee) for the transition to a federal covered adviser in that year.

6 Securities; Licensing Requirements. Amend RSA 421-B:6, V to read as follows:

V.***(a)*** Prior to opening ***or closing*** a branch office ***in this state***, a broker-dealer or investment adviser shall send written notification directly to the secretary of state of the location of the branch office, telephone number, name of the individual supervising the office, ***the date of the opening or closing,*** and any other pertinent information required by the secretary of state.

(b) It is prohibited for any branch office or agent of a broker-dealer or investment adviser to conduct a securities or investment advisory business in this state under any name other than that of the broker-dealer or investment adviser with which the branch office is associated or agent is licensed. If more than one business enterprise is conducted from a branch office location, disclosures shall clearly and equally set forth what business activity is conducted by each organization and each licensed agent's relationship to each organization.

(c) Each branch office within this state shall be supervised by an on-site manager who shall have qualified as a principal by passing either the Series 8 (now 9 and 10) exam(s) or a principal's exam applicable to the licensee's business conducted at that location. Administration of exams shall be conducted by the National Association of Securities Dealers.

7 Securities; Licensing Procedure. Amend RSA 421-B:7, I- I-a to read as follows:

I. A broker-dealer, issuer-dealer, agent, or investment adviser may obtain an initial or renewal license by filing with the secretary of state ***or his or her designee*** an application together with ***the fees required by RSA 421-B:31 and*** a consent to service of process pursuant to RSA 421-B:30, VII***, and paying any reasonable costs charged by the designee for processing such filings***. The application shall be on a form prescribed by the secretary of state and shall contain whatever information the secretary of state requires concerning such matters as, but not limited to, the applicant's form and place of organization; the applicant's proposed method of doing business; the qualifications and business history of the applicant; in the case of a broker-dealer, issuer-dealer, or investment adviser, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer, issuer-dealer, or investment adviser; and, in the case of an investment adviser, ***Form ADV, specimens of investment advisor contracts, and*** the qualifications and business history of any employee; any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and the applicant's financial condition and history. The secretary of state may by rule or order require an applicant for initial license to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under RSA 421-B:10, licensing becomes effective at noon of the thirtieth day after an application is filed. The secretary of state may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the thirtieth day after filing of any amendment.

I-a. ***Unless otherwise provided, all investment adviser and investment adviser representative applications, renewals, amendments, reports, notices, related filings and fees required to be filed with the secretary of state pursuant to this chapter and rules adopted thereunder, shall be filed electronically with and transmitted to Investment Adviser Registration Depository (hereinafter referred to as the IARD). The following additional conditions relate to such electronic filings:***

(a) When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant and/or the applicant himself or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing

to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

(b) Solely for purposes of a filing made through IARD, a document is considered filed with the secretary of state when all fees are received and the filing is accepted by IARD on behalf of the state.

(c) Any documents or fees required to be filed with the secretary of state that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the secretary of state. The application shall not be complete until all documents and fees required by this chapter and rules adopted thereunder have been submitted through the IARD, where possible, or submitted to and received directly by the secretary of state.

(d) There shall be 2 "hardship exemptions" from the requirements to make electronic filings as required by this section:

(1) Temporary hardship exemption:

(A) Investment advisers licensed or required to be licensed under this chapter who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically.

(B) To request a temporary hardship exemption, the investment adviser shall:

(i) File Form ADV-H (17 CFR 279.3) in paper format with the administrator where the investment adviser's principal place of business is located, no later than one business day after the filing that is the subject of the Form ADV-H was due; and

(ii) Submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than 7 business days after the filing was due.

(C) The temporary hardship exemption will be deemed effective upon receipt by the secretary of state of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the secretary of state.

(2) Continuing hardship exemption:

(A) A continuing hardship exemption shall be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome.

(B) To apply for a continuing hardship exemption, the investment adviser shall:

(i) File Form ADV-H (17 CFR 279.3) in paper format with the secretary of state at least 20 business days before filing is due; and

(ii) If a filing is due to more than one administrator, the Form ADV-H shall be filed with the administrator where the investment adviser's principal place of business is located. The administrator who receives the application shall grant or deny the application within 10 business days after the filing of Form ADV-H.

(C) An exemption is effective upon approval by the secretary of state. The time period of the exemption may be no longer than one year after the date on which the Form ADV-H is filed. If the secretary of state approves the application, the investment adviser shall, no later than 5 business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

(3) The decision to grant or deny a request for a hardship exemption shall be made by the administrator where the investment adviser's principal place of business is located, which decision shall be followed by the secretary of state.

(e)(1) An investment adviser shall file with IARD, in accordance with the instructions in the Form ADV, any amendments to the investment adviser's Form ADV. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

(2) An investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. An investment advisor representative and the investment adviser shall file promptly with IARD any amendments to the representative's Form U-4.

(3) Within 90 days of the end of the investment adviser's fiscal year, an investment adviser shall file an updated Form ADV with IARD.

(f)(1) By June 30, 2001, each investment adviser licensed or required to be licensed under this chapter shall resubmit its Form ADV electronically (if it has not previously done so) with IARD unless it has been granted a hardship exemption under this section.

(2) If the amendment to Form ADV is made after June 30, 2001, or at an earlier date if an investment adviser has filed its Form ADV (17 CFR 279.1), or any amendments to Form ADV, electronically with IARD, the licensee shall file amendments to Form ADV required by this paragraph electronically with IARD, unless it has been granted a hardship exemption under this paragraph.

(g) By June 30, 2001, for each investment adviser representative licensed or required to be licensed under this chapter, Form U-4 must be resubmitted electronically if it has not previously been done with IARD, unless the investment adviser, filing on behalf of the investment adviser representative, has been granted a hardship exemption under this paragraph.

I-b. Except with respect to federal covered advisers whose only clients are those described in RSA 421-B:2, IX(f), a federal covered adviser shall file with the secretary of state ***or his or her designee***, prior to acting as a federal covered adviser in this state, a notice, which shall consist of a copy of the most recent complete Form ADV filed with the Securities and Exchange Commission ***(SEC)*** and a Form U-2, and shall pay initial and annual fees in accordance with 421-B:31. Initial fees shall be paid before business is transacted in this state, and annual fees shall be paid on or before December 31 of the current year for the ensuing year. Federal covered advisers shall submit copies to the secretary of state of all documents filed with the Securities and Exchange Commission pursuant to the securities laws within 10 business days of their submission to the Securities and Exchange Commission. ***Documents and fees that are accepted by IARD may be submitted through IARD. Other documents filed or deemed filed with the SEC shall be submitted directly to the secretary of state. Until IARD provides for the filing of Part 2 of Form ADV, the secretary of state shall deem filed Part 2 of Form ADV if a federal covered adviser provides, within 5 days of a request, Part 2 of Form ADV to the secretary of state. Because the secretary of state deems Part 2 of the Form ADV to be filed, a federal covered adviser is not required to submit Part 2 of Form ADV to the secretary of state unless requested.***

I-c.(a) The application for withdrawal of licensure as an investment adviser pursuant to Section 204(e) of the Investment Advisers Act of 1940 shall be completed by following the instructions on Form ADV-W. (Notice of Withdrawal from Registration as Investment Adviser) (17 CFR 279.2) and filed upon Form ADV-W with IARD.

(b) The application for withdrawal of licensure as an investment adviser representative pursuant to Section 204(e) of the Investment Advisers Act of 1940 shall be completed by following the instructions on Form U-5 (Uniform Termination Notice for Securities Industry Registration) and filed upon Form U-5 with IARD.

8 New Paragraph; Securities; Licensing Procedure; Examination Requirement for Investment Advisor Licensees. Amend RSA 421-B:7 by inserting after paragraph VI the following new paragraph:

VII.(a) Each applicant for individual broker-dealer licensure or licensure as an agent of a broker-dealer shall provide the secretary of state with proof of obtaining a passing score on the Uniform Securities Agent State Law Examination (Series 63 examination) or the Uniform Combined State Law Examination (Series 66 examination).

(b) Each applicant for individual investment adviser licensure, investment adviser agent licensure, or investment adviser representative licensure shall provide the secretary of state with proof of obtaining a passing score on one of the following examination requirements:

(1) The Uniform Investment Adviser Law Examination (Series 65 examination); or

(2) The General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination).

(c)(1) Any individual who was registered or licensed as an investment adviser, investment adviser agent, or investment adviser

representative in any jurisdiction in the United States on January 1, 2000 shall not be required to satisfy the examination requirements for investment adviser licensure in this state, except that the secretary of state may require additional examinations for any individual found to have violated any state or federal securities law.

(2) Any individual who has not been registered or licensed in any jurisdiction for a period of 2 years shall be required to comply with the examination requirements.

(d) The examination requirement shall not apply to an individual who upon application holds one of the following professional designations:

(1) Certified Financial Planner (CFP) awarded by the Certified Financial Planning Board of Standards, Inc.;

(2) Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania;

(3) Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;

(4) Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts;

(5) Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or

(6) Such other professional designation as the secretary of state may by rule or order recognize.

9 Securities; Required Records. Amend RSA 421-B:8, XII(c)(14) to read as follows:

(14)***(A)(i)*** A copy of each written statement and each amendment or revision thereof, given or sent to any client or prospective client of such investment adviser [~~and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.~~]***;***

(ii) Any summary of material changes that is required by Part 2 of Form ADV but is not contained in the written statement; and

(iii) A record of the dates that each written statement, each amendment or revision thereto, and each summary of material changes was given or offered to any client or to any prospective client who subsequently becomes a client.

(B) A memorandum describing any legal or disciplinary event listed in Item 8 of Part 2A or Item 3 of Part 2B of Form ADV and presumed to be material, if the event involved the investment adviser or any of its supervised persons and is not disclosed in the written statements described in subparagraph XII(c)(14)(A). The memorandum shall explain the investment adviser's determination that the presumption of materiality is overcome, and shall discuss the factors described in those items.

10 New Subparagraph; Securities; Required Records. Amend RSA 421-B:8, XII(c) by inserting after subparagraph (15) the following new subparagraph:

(16) Copies, with original signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Form U-4 and each amendment to Disclosure Reporting Pages (DRPs U-4) must be retained by the investment adviser (filing on behalf of the investment adviser representative), and shall be made available for inspection upon regulatory request.

11 Securities; Written Disclosure Statement. RSA 421-B:8, XIII is repealed and reenacted to read as follows:

XIII.(a)(1) Unless otherwise provided in this section, an investment adviser licensed or required to be licensed under this chapter shall, in accordance with the provisions of this section, furnish each advisory client and prospective advisory client with a written disclosure statement which may be a copy of Part II of its Form ADV or written documents containing at least the information then so required by Part II of Form ADV, and such other information as the secretary of state may require. When Form ADV, Part 2 replaces Form ADV, Part II, each investment adviser shall furnish each advisory client and prospective advisory client with a firm brochure and one or more supplements as required by this section. The brochure and supplements shall contain all information required by Part 2 of Form ADV, (17 C.F.R. 279.1), and such other information as the secretary of state may require.

(2) An investment adviser shall deliver:

(A) The current brochure required by this section to a client or prospective client, and

(B) The current brochure supplements for each investment adviser representative who will provide advisory services to the client. For purposes of this section, an investment adviser representative shall provide advisory services to a client if the investment adviser representative will:

(i) Regularly communicate investment advice to that client; or

(ii) Formulate investment advice for assets of that client; or

(iii) Make discretionary investment decisions for assets of that client; or

(iv) Solicit, offer or negotiate for the sale of or sell investment advisory services.

(3) An investment advisor shall deliver the disclosure statement required by this section to an advisory client or prospective advisory client not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client, or at the time of entering into any such contract, if the advisory client has the right to terminate the contract without penalty within 5 business days after entering into the contract.

(b) Any disclosure statement requested in writing by an advisory client pursuant to an offer required by this subdivision shall be mailed or delivered within 7 days of the receipt of the request.

(c) If the adviser is the general partner of a limited partnership, the manager of a limited liability company, or the trustee of a trust, then for purposes of this section the investment adviser shall treat each of the partnership's limited partners, the company's members, or the trust's beneficial owners as a client. For purposes of this section, a limited liability partnership or limited liability limited partnership is a "limited partnership."

(d) If an investment adviser renders substantially different types of investment advisory services to different advisory clients, the investment adviser may provide them with different disclosure documents or brochures, provided that each client receives all applicable information about services and fees. The brochure delivered to a client may omit any information required by Part 2A of Form ADV if such information is applicable only to a type of investment advisory service or fee that is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(e) The investment adviser shall amend its brochure and any brochure supplements and deliver the amendments to clients promptly when information contained in the brochure or brochure supplements becomes materially inaccurate. The instructions to Part 2 of Form ADV contain updating and delivery instructions that the investment adviser shall follow. An amendment will be considered to be delivered promptly if the amendment is delivered within 30 days of the event that requires the filing of the amendment.

(f) Nothing in this paragraph shall relieve any investment adviser from any obligation pursuant to any provision of this chapter or the rules and regulations thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this paragraph.

(g)(1) If the investment adviser is a sponsor of a wrap fee program, then the brochure, required to be delivered by subparagraph XIII(a) to a client or prospective client of the wrap fee program, must be a wrap fee brochure containing all information required by Form ADV. Any additional information in a wrap fee brochure shall be limited to information applicable to wrap fee programs that the investment adviser sponsors.

(2) The investment adviser does not have to offer or deliver a wrap fee brochure if another sponsor of the wrap fee program offers or delivers to the client or prospective client of the wrap fee program a wrap fee program brochure containing all the information the investment adviser's wrap fee program brochure must contain.

(3) A wrap fee brochure does not take the place of any brochure supplements that the investment adviser is required to deliver under this paragraph.

(h) All investment advisers licensed or required to be licensed under this chapter must deliver to each of their clients their current brochure and all required brochure supplements within 30 days from the date of effectiveness of Part 2 of Form ADV.

(i) For the purpose of this paragraph:

(1) "Current brochure" and "current brochure supplement" mean the most recent revision of the brochure or brochure

supplement, including all subsequent amendments (i.e., stickers).

(2) "Entering into" in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

(3) "Sponsor" of a wrap fee program means an investment adviser that is compensated under a wrap fee program for sponsoring, organizing, or administering the program, or for selecting, or providing advice to clients regarding the selection of other investment advisers in the program.

(4) "Wrap fee program" means an advisory program under which a specified fee or fees, not based directly upon transactions in a client's account, is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and the execution of client transactions.

12 Securities; Post-Licensing Provisions; Limitation on Scope of Investment Advisor Discretion. Amend RSA 421-B:8, XVI(e) to read as follows:

(e) ***For purposes of this rules an investment advisor shall not be deemed to be exercising discretion when it places trade order with an broker-dealer, pursuant to a third party trading agreement if:***

(1) The investment advisor has executed a separate investment advisor contract exclusively with its client which acknowledges that a third party trading agreement will be executed to allow the investment adviser to effect securities transactions for the client in the client's broker-dealer account;

(2) The investment adviser contract specifically state the client does not grant discretionary authority to the investment adviser, and the investment adviser in fact does not exercise discretion with respect to the account; and

(3) A third party trading agreement is executed between the client and a broker-dealer which specifically limits the investment adviser's authority in the client's broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

(f) Every investment adviser that has its principal place of business in a state other than this state shall maintain such minimal capital as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in such state and is in compliance with such state's minimal capital requirements.

13 Examination of Financial Affairs. Amend the introductory paragraph of RSA 421-B:9, I to read as follows:

I. For the purpose of determining the financial condition, fulfillment of its contractual obligations, and compliance with the law, whenever the secretary of state shall deem it expedient, [~~he~~] ***the secretary of state*** shall examine, either in person or by some examiner duly authorized [~~by him~~] the affairs, transactions, accounts, records, documents, and assets of each licensed broker-dealer, investment adviser, or issuer-dealer as to any matter relevant to the financial affairs or obligations of the broker-dealer, investment adviser, or issuer-dealer or any other fact relative to its business methods, management and its dealings with clients, as often and to the extent [~~he deems~~] ***deemed*** advisable. Except as otherwise provided, [~~he~~] ***the secretary of state*** shall examine each domestic broker-dealer, investment adviser, or issuer-dealer ***at least once every 4 years*** and domestic branches of [~~foreign~~] broker-dealers [~~or investment advisers~~] at least once every [~~4~~] ***6*** years. Examination of an alien broker-dealer, investment adviser, or issuer-dealer shall be limited to its broker-dealer, investment adviser, or issuer-dealer transactions, assets, trust deposits, and affairs in the United States except as otherwise required by the secretary of state.

14 Securities; Registration Requirement and Notice of Filing of Securities; Preemption of State Securities Registration Requirements. RSA 421-B:11, I-b is repealed and reenacted to read as follows:

I-b.(a) Whenever it appears to the secretary of state that a particular security or transaction offered or sold in this state has not been preempted by federal law or regulation from the registration requirements of this section, the secretary of state may issue an order requiring any person who claims the benefit of federal preemption with respect to the security or transaction to prove that the registration requirement of this section has been preempted. The order shall be calculated to give reasonable notice of the time and place for the hearing, which shall be held within 10 days of the issuance of the order, and shall state the reasons for the entry of the order.

(b) All hearings shall be conducted in accordance with this chapter. After the hearing, the secretary of state shall enter an order making such disposition of the matter as the facts require. If the person claiming the benefit of federal preemption fails to appear at a hearing of which he has been duly notified, such person shall be deemed in default, and the proceeding may be

determined against him upon consideration of the order, the allegations of which may be deemed to be true. The secretary of state may adopt rules of procedure concerning all proceedings conducted pursuant to this section.

(c) In any judicial or administrative proceeding under this chapter, the burden of proving an exemption, preemption or an exception from a definition is upon the person claiming it.

(d) Qualification for any of the notice filing provisions of RSA 421-B:11, I-a is predicated upon compliance with federal law, and associated regulations, cited in each provision, including but not limited to the timely filing of Form D with the Securities and Exchange Commission.

15 Securities; Financial Statements; Electronic Filing System. Amend RSA 421-B:15, II-a to read as follows:

II-a. Every corporation and partnership having securities registered in this state shall, within 120 days after the close of its fiscal year, file with the secretary of state annually a financial statement audited and certified by an independent certified public accountant. The audited statement shall be prepared in accordance with generally accepted accounting principles and such other standards as the secretary of state shall adopt by rule. Issuers of securities registered under this chapter shall also provide quarterly financial reports within 60 days of the end of each quarter to their shareholders, partners, and members. Such quarterly reports need not be independently audited. ***Filings may be made through the Securities and Exchange Commission's EDGAR system.*** The secretary of state may extend the time for filing such statement for good cause shown.

16 Securities; Exemptions; Filing of Offering/Disclosure Documents with the Secretary of State. Amend RSA 421-B:17, II(l) to read as follows:

(l) The issuance and delivery of any securities of one corporation to another corporation or its securities holders in exchange for the acquisition by the issuer or a subsidiary of the issuer of all or substantially all of the assets of such other corporation, or in connection with a consolidation or merger of such corporation or a share exchange between the issuer or a subsidiary of the issuer and such other corporation, provided that the secretary of state has been furnished with a general description of the transaction***, with the documents to be distributed to offerees,*** and with such other information as he prescribes by rule not less than 10 business days prior to such issuance and delivery.

17 Administration. Amend RSA 421-B:21, I to read as follows:

I. This chapter shall be administered by the secretary of state ***who may appoint a deputy to administer the provisions of this chapter***. The secretary of state shall, to the greatest extent practical, physically and substantively consolidate the activities and functions related to corporations, limited partnerships, and other business organizations and entities administered by the department of state with the activities and functions related to the registration of securities.

18 Repeal. The following are repealed:

I. RSA 421-B:9, VII, relative to examination charges for broker-dealers.

II. RSA 421-B:13, I-a, relative to registration by coordination.

19 Effective Date. This act shall take effect 60 days after its passage.

2001-0188h

Amendment to HB 738

Proposed by the Committee on Executive Departments and Administration - C

Amend subparagraph I(e) as inserted by section 3 of the bill by replacing it with the following:

(e) Assess the administrative efficiency, public accountability and effectiveness of the executive, legislative and judicial branches of state government.

(f) Focus on the need for every executive agency, board, and commission with regard to 3 key areas:

(1) The need for each agency, board and commission;

(2) Public accountability and effectiveness of each agency, board and commission; and

(3) The general administrative efficiency of each agency, board and commission.

2001-0548h

Amendment to HB 742-FN-LOCAL

Proposed by the Majority Committee on Ways and Means - R

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

1 Education Property Tax to be Collected by Department of Revenue Administration. Amend RSA 76:3 to read as follows:

76:3 Education Property Tax.

I. An annual education property tax at the uniform rate of $6.60 on each $1000 of the value of taxable property***, to be assessed annually as of April 1 and every year thereafter,*** 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.

II. The commissioner of revenue administration shall determine the amount owed by each taxpayer under this section and bill each taxpayer for ½ the amount payable by July 1 and ½ the amount payable by December 1 of each year.

III. Taxes not paid when due shall be subject to appropriate penalties and interest under RSA 21-J; except that, notwithstanding the provisions of RSA 21-J:33, I, if the failure to pay is due to willful neglect or intentional disregard of law or rules but without intent to defraud, the penalty for taxes which are delinquent 60 days or more shall be equal to 20 percent of the amount of the nonpayment or underpayment.

IV. The commissioner shall collect and shall pay over to the state treasurer the taxes, interest, additions to tax, and penalties imposed under this chapter. The state treasurer shall deposit all taxes, interest, additions to tax, and penalties collected in the education trust fund established by RSA 198:39.

V. A municipality may collect delinquent taxes, interest on or additions to delinquent taxes, or penalties imposed by this section. If a municipality recovers such amount, the municipality may retain 10 percent of the amount owed to the state. If a municipality does not pursue the collection of delinquent taxes, 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 section.

VI. In the collection of the tax imposed by this section, 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. The state shall indemnify and hold harmless the commissioner and any state officials and employees acting to recover any tax, interest on tax, additions to tax, or penalties under this section.

VII. Appeals regarding valuation of property shall be made to the board of tax and land appeals or the superior court of the county in which the taxpayer resides in the manner prescribed in RSA 76:16-a and RSA 76:17. 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.

VIII. Prior to January 1 of each year, each municipality shall transmit to the department information required by the department for the billing of taxpayers under paragraph II of this section.

2 Determination of Adequate Education Grants. Amend RSA 198:41, I to read as follows:

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 education shall determine the amount of the adequate education grant for the municipality as follows:

(a) Multiply the average base cost per pupil of an elementary pupil by the weighted average daily membership in residence for

the municipality;

(b) Add to the product of subparagraph (a), 70 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 76:9 for the next tax year.~~]

3 Reference Change. Amend RSA 198:41, II(b) to read as follows:

(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 76:9 for the next tax year~~].

4 New Subdivision; Education Property Tax Relief. Amend RSA 198 by inserting after section 55 the following new subdivision:

Education Property Tax Relief

198:56 Definitions. In this subdivision:

I.(a) "Claimant" means a person who:

(1) Has filed a claim with the department for reduction in such claimant's property taxes under this subdivision; and

(2) During the 3 fiscal years preceding the year in which the person files a claim for relief under this chapter:

(A) Has had an ownership interest in a homestead and was domiciled in the homestead upon which education property taxes have accrued and for which the person is making a claim for tax relief from education property taxes in this state; and

(B) Was not a full-time student claimed as a dependent by any taxpayer under the United States Internal Revenue Code; and

(3) Did not during the prior federal income tax year, pay the alternative minimum tax.

(b) In this paragraph, the term "ownership interest" includes:

(1) A vendee in possession under a land contract;

(2) One or more joint tenants or tenants in common; or

(3) A person who has equitable title, or the beneficial interest for life in the homestead.

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

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

IV. "Education property taxes" means the sum of the statewide education property tax under RSA 76:3 and the education portion of property taxes assessed by a municipality.

V. "Equalized assessed value" or "equalized assessed valuation" means the modified assessed valuation of property equalized by the commissioner pursuant to RSA 21-J:3, XIII. In this paragraph, "modified assessed valuation" means the sum of the assessments of taxable property in a municipality less the statutory exemptions provided in RSA 72:12-a, 72:12-b, 72:37, 72:39-a, and 72:39-b. "Modified assessed valuation" shall not include optional exemptions provided in RSA 72:37-b, 72:62, 72:66, and 72:70.

VI.(a) "Excessive education property taxes" means the sum of the state education rate determined under RSA 76:3 multiplied by the equalized value of the claimant's qualifying homestead and the amount of the local education portion of property taxes assessed on a claimant's homestead; which is in excess of 10 percent of a claimant's household income for the calendar year preceding the tax year of the excessive education property tax claim.

(b) In this paragraph, "equalized assessed value of the qualifying homestead" means the local assessed value of the homestead equalized by applying the equalization ratio for the municipality, as determined by the commissioner pursuant to RSA 21-J:3, XIII, for the year of the claim.

(c) A qualifying homestead is the first $100,000 of equalized value of a homestead. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities are not members of the claimant's household, "excessive education property taxes" applies to that part of statewide education property taxes levied on the homestead which reflects the ownership percentage of the claimant and the claimant's household. If a homestead is an integral part of a larger unit such as a multi-dwelling building, the statewide education property taxes shall be that percentage of the total education property taxes accrued as the total inhabitable area of the claimant's dwelling is of the total inhabitable area of the building. For purposes of this paragraph "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part.

VII.(a) "Homestead" means the dwelling owned by a claimant which is used as the claimant's principal place of residence for not less than 240 days in a calendar year and includes the following:

(1) The land upon which the dwelling stands;

(2) Visual and ordinary appurtenant structures such as but not limited to garages, wood sheds, barns, and other outbuildings;

(3) The land upon which such appurtenant structures stand;

(4) Land contiguous to such dwelling and appurtenant structures that is groomed and maintained around them; and

(5) Land necessary to the support and service of the dwelling such as but not limited to driveways and maintained rights-of-way for purposes of ingress and egress to the dwelling.

(b) A homestead may consist of a part of a multi-unit dwelling and its proportionate share of the land upon which it stands and other ordinary appurtenant common facilities.

(c) 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.

(d) "Homestead" shall not include personal property such as furniture, furnishings or appliances, or structures.

(e) Manufactured housing shall be considered a dwelling.

VIII. "Household income" means any and all income received by a household, including disability income, social security income, and other sources of income which are nontaxable under the United States Internal Revenue Code. "Household income" shall also include all income of any trust through which the claimant holds equitable title, or the beneficial interest for life, in the homestead.

IX. "Education property tax" means the tax levied under RSA 76:3.

X. "United States Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended.

198:57 Claims for Education Property Tax Relief.

I.(a) Except as provided in RSA 198:66, a claimant shall be entitled to make claim to the department for education property tax relief equal to the excessive education property taxes levied under RSA 76:3 on the first $100,000 of equalized valuation of the claimants homestead.

(b) Claims for tax relief under this subdivision shall be filed with the department of revenue administration between May 1 and June 30 following the due date of the education property taxes.

(c) Each claim shall be accompanied by a copy of the claimant's federal income tax return filed by the claimant for the corresponding tax period. Claimants who were not required to file a federal tax return for the immediately prior tax period may submit an affidavit to such effect in lieu of a tax return which document shall include the claimant's social security number. A claimant who asserts ownership in a homestead because he or she holds equitable title, or the beneficial interest for life, in the homestead shall also submit a copy of the document creating such interest and a copy of the federal tax return, if any, for the immediately prior tax period, of the trust holding legal title to the homestead. Any documents submitted shall be considered confidential, and protected under RSA 21-J:14.

(d) The provisions of RSA 359-C shall not apply to the documents required to be submitted under this section.

II. No interest shall be allowed on any relief to which a claimant may be entitled under this subdivision.

198:58 Payment of Tax Claims. The department of revenue administration shall review a claim for tax relief filed with it and, if such claim is determined to be valid, shall certify such amount to the state treasurer within 120 days. The state treasurer shall pay the claim to the claimant from funds in the education trust fund. The department shall notify a claimant whose claim is rejected in whole or in part of such determination within 90 days of the department's receipt of the claim and all required documentation.

198:59 One Claimant Per Household. Only one claimant per household per year shall be entitled to relief under this subdivision.

198:60 Claim is Personal. The right to file a claim under this subdivision shall be personal to the claimant. The right to file a claim under this subdivision shall survive the claimant's death to the extent that this right may be exercised on behalf of a claimant by a legal guardian, attorney, spouse, or another person who could have qualified as the claimant had the decedent not filed.

198:61 Administration; Rulemaking.

I. This subdivision shall be administered and enforced by the department.

II. The department shall adopt rules, pursuant to RSA 541-A, necessary to administer and enforce this subdivision.

198:62 Forms for Claim. The commissioner of revenue administration shall make available suitable forms with instructions for claimants. Such forms may require claimants to provide all information reasonably necessary to determining the accuracy of claims, including, but not limited to, property taxes accrued, changes of homestead, household membership, household income, size and nature of property claimed as the homestead, and a statement that the property taxes have been or will be paid by the claimant.

198:63 Fraudulent Claims; Penalty. A person shall be guilty of a class B felony who:

I. Files a fraudulent claim.

II. With fraudulent intent, assisted in the preparation or filing of the fraudulent claim or supplied information upon which the fraudulent claim was prepared.

198:64 Appeals. Any person aggrieved by the denial in whole or in part of a claim under this subdivision, except when the denial is based upon late filing of claim, may appeal the denial to the board of tax and land appeals or to the superior court in the county in which the person resides by filing a petition within 30 days after such denial. Procedures for an appeal of a denial of a claim shall be the same as the procedures for an appeal of a denial of an abatement of property tax under RSA 76:16-a–76:17.

198:65 Claim Applied Against Outstanding Liabilities. The amount of any claim otherwise payable under this subdivision may be applied by the department against any liability outstanding against the claimant or against anyone who was a member of the household in the taxable year to which the claim relates.

198:66 Appeals for Local Abatements. A person who applies for local abatement of property taxes under RSA 76:16 or RSA 76:16-a shall not be eligible to make a claim based on the same property taxes for education property tax relief under this subdivision.

5 Education Trust Fund; Purpose; Hardship Relief Deleted. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. 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' school districts pursuant to RSA 198:42, and to provide education property tax [~~hardship~~] relief [~~under RSA 198:55~~]. The state treasurer shall deposit into this fund immediately upon receipt:

6 Reference Change; Source of Funds; Education Trust Fund. RSA 198:39, I(g) is repealed and reenacted to read as follows:

(g) Education property taxes paid over to the state treasurer by the department of revenue administration pursuant to RSA 76:3.

7 Effective Date of Hardship Relief Repeals Amended. Amend 1999, 338:25, II to read as follows:

II. Section 22 of this act shall take effect July 1, [~~2003~~] ***2002***.

8 Repeal of Prospective Repeals of Education Property Tax and Adequate Education Grant Determination Provisions. The following are repealed:

I. 1999, 338:21, relative to the repeal of RSA 76:3, RSA 198:40, and RSA 198:41.

II. 1999, 338:25, I, relative to the effective date of 1999, 338:21.

9 Repeal. The following are repealed:

I. RSA 76:8, I and II, relative to the commissioner's warrant.

II. RSA 76:9, relative to the commissioner's report.

III. RSA 198:46, relative to excess education property tax payment.

IV. RSA 198:47, relative to forms for reporting and remitting of excess education property tax.

10 Effective Date.

I. Sections 7-9 of this act shall take effect July 1, 2002.

II. The remainder of this act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill transfers the authority to collect the education property tax from the municipalities to the department of revenue administration. The bill establishes a program for the rebate of excessive education property tax payments made by eligible taxpayers in the state.

2001-0903h

Floor Amendment to HB 742-FN-LOCAL

Proposed by Rep. Sapareto

Amend RSA 76:3, I as inserted by section 1 of the bill by replacing it with the following:

I. An annual education property tax at the uniform rate of [~~$6.60~~] ***$6.30*** on each $1000 of the value of taxable property***, to be assessed annually as of April 1 and every year thereafter,*** 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.

Amend the bill by replacing all after section 9 with the following:

10 Utility Property Tax. Amend RSA 83-F:2 to read as follows:

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 [~~$6.60~~] ***$6.30*** 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.

11 Effective Date.

I. Sections 7-9 of this act shall take effect July 1, 2002.

II. The remainder of this act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill transfers the authority to collect the education property tax from the municipalities to the department of revenue administration. The bill establishes a program for the rebate of excessive education property tax payments made by eligible taxpayers in the state.

The bill also reduces the rate of the education property tax and the utility property tax.

2001-0530h

Amendment to HB 745

Proposed by the Committee on Commerce - C

Amend RSA 382-A:9-406(i) as inserted by section 25 of the bill by replacing it with the following:

(i) Inapplicability. This section does not apply to:

(1) an assignment of a health-care-insurance receivable; or

(2) an assignment or transfer of or creation of a security interest in:

(A) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. §104(a)(1) or (2), as amended from time to time; or

(B) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. §1396p(d)(4), as amended from time to time.

Amend RSA 382-A:9-525(a) as inserted by section 25 of the bill by replacing it with the following:

(a) Initial financing statement or other record: general rule. Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection (b), is the amount specified in subsection (c), if applicable, plus:

(1) $48 if the record is communicated in writing and consists of not more than 2 pages; or

(2) $83 if the record is communicated in writing and consists of more than 2 pages; or

(3) $48 if the record is communicated by another medium authorized by filing-office rule.

Amend RSA 382-A:9-525(i) as inserted by section 25 of the bill by replacing it with the following:

(i) Allocation of fees. Fees collected under this section shall be allocated as follows:

(1) $18 of each fee collected under subsection (a) or (b), to the general fund as unrestricted revenue;

(2) $15 of each fee collected under subsection (a) or (b) for any filing associated with an initial financing statement that shows a mailing address in this state for the first-listed debtor, to the clerk of the town or city shown in such mailing address, provided such clerk is at the time of such filing in compliance with subsection (j); and

(3) all remaining amounts collected under subsections (a), (b), (c), (d), (g), or (h), for the purposes specified in Section 9-527(a).

Amend the bill by replacing section 42 with the following:

42 New Chapter; Personal Property Lien Index. Amend RSA by inserting after chapter 454-B the following new chapter:

CHAPTER 454-C

PERSONAL PROPERTY LIEN INDEX

454-C:1 Index of Liens.

I. The secretary of state shall maintain a consolidated index of certain liens affecting personal property and filed with the secretary of state and city and town clerks. The liens to be included in the index are as follows:

(a) Federal tax liens (RSA 454-B);

(b) State tax liens (RSA 21-J:28-c);

(c) Aircraft registration fee liens (RSA 450:4);

(d) Writs of attachment (RSA 511:23 and RSA 511-A:5);

(e) Child support liens (RSA 458:17);

(f) Housing finance authority liens (RSA 204-C:19);

(g) Hazardous waste liens (RSA 147-B:10-b);

(h) Employment security liens (RSA 282-A:143 & 165);

(i) State Food Security Act liens (RSA 439);

(j) Manufactured housing tax liens (RSA 72:7-a);

(k) Road toll liens (RSA 260:63); and

(l) Creditor's bill liens (RSA 498:14).

II. The index shall include the following information with regard to each such lien, or any full release thereof:

(a) Name and address of every debtor;

(b) Name and address of first-listed lienor;

(c) Type of lien and statutory authority;

(d) Location of filing of lien;

(e) Date and time of filing of lien or full release; and

(f) File number, if any.

454-C:2 Notice of Filing or Full Release. Any person or agency filing such a lien, or a full release of such a lien, with the secretary of state or a city or town clerk shall submit with the lien or release documentation a notice of filing of lien or notice of full release of lien, as applicable, on a form prescribed by the secretary of state, containing the information specified in RSA 454-C:1, II(a) through (c). The secretary of state or the city or town clerk that receives the filing shall enter on the notice the information specified in RSA 454-C:1, II(d) through (f). If a federal agency files such a lien or full release with a city or town clerk without an accompanying notice of filing or full release, the clerk shall complete a notice of filing or full release, as appropriate.

454-C:3 Entry of Information in Index.

I. Except as otherwise provided in RSA 454-C:7, whenever any such lien, or a full release of any such lien, is filed with the secretary of state, an image of the notice of filing or full release, or the information contained in such notice, shall be entered in the index within 3 business days.

II. Except as otherwise provided in RSA 454-C:7, and only as to federal, state, and manufactured housing tax liens, whenever any such lien, or a full release of any such lien, is filed with a city or town clerk, the clerk shall within 2 business days transmit to the secretary of state, by mail or other medium prescribed or authorized by the secretary of state, a copy of, or an electronic record of all information contained in, the notice of filing of lien or notice of full release of lien submitted by the person or agency filing the lien or release pursuant to RSA 454-C:2. The term "business day" as used in the preceding sentence shall mean a day on which the clerk's office is open for business. Only the notice itself or electronic record thereof shall be so transmitted, not the other lien documentation filed with the notice. The secretary of state within 3 business days of such receipt shall enter an image of the notice or the information contained therein in the index, and shall periodically transmit to each such clerk an acknowledgment of receipt of such notices or electronic records. Pursuant to the statutes providing for the filing of each type of lien listed in RSA 454-C:1, I, no such liens other than federal, state, and manufactured housing tax liens will be filed with city or town clerks subsequent to the effective date of this chapter.

454-C:4 Period of Retention. The secretary of state shall maintain the image of the notice or the information therefrom regarding each lien and any full release thereof in the index until at least the earlier of one year after the secretary of state

receives a full release or notice of full release of the lien, or the expiration of the time period noted herein for each category of lien:

I. Federal tax liens (RSA 454-B) – 12 years from date of filing or latest refiling;

II. State tax liens (RSA 21-J:28-c) – 7 years from date of filing;

III. State Food Security Act liens (RSA 439) – one year from lapse;

IV. All other liens – 12 years from date of filing.

454-C:5 Request for Information. Any response to a request to the secretary of state for information on a particular debtor made under RSA 382-A:9-523(c), (f), (g), or (h), shall include at a minimum the date and time of filing of every lien against that debtor included in the index. The response shall include information on all such liens as to which either the lien itself (in the case of a lien filed with the secretary of state) or a notice of filing of lien (in the case of a lien filed with a city or town clerk) was received on or before a date specified in the response, which shall not be a date earlier than 3 business days before the request for information was received. The response shall also specify the beginning date of the period covered by the report. If requested, the response shall also include copies of all or any specified lien notices or documentation on file with the secretary of state.

454-C:6 Extension of Time Periods. The time periods specified in RSA 454-C:3 and RSA 454-C:5 are subject to extension for reasons set forth in RSA 382-A:9-524.

454-C:7 Transition Period.

I. "Pre-effective-date" with regard to a lien means filed with the secretary of state or a city or town clerk on or after July 1, 1996, and before July 1, 2001.

II. Not later than June 30, 2003, city and town clerks shall prepare and transmit to the secretary of state a notice of filing for every pre-effective-date federal tax lien not lapsed or fully released as of the date of such transmission, such notice of filing to be on a form prescribed by the secretary of state and containing the information specified in RSA 454-C:1, II; or, if authorized by the secretary of state, an electronic record containing such information. No city or town clerk shall have any liability on account of any error in preparing or transmitting such notices or electronic records. The secretary of state shall transmit to each such clerk an acknowledgment of receipt of such notices or electronic records, and not later than June 30, 2006, shall enter in the index the information specified in RSA 454-C:1, II regarding each such lien, or an image of the notice of filing thereof.

III. Not later than June 30, 2006, the secretary of state shall also enter in the index equivalent information or images regarding all pre-effective-date liens of all types originally filed with the secretary of state and not lapsed or fully released as of the date of such entry. Prior to the date of such entry, the secretary of state shall include all applicable information on any such liens not yet entered in the index in any response to a request for information made under RSA 382-A:9-523(c), (f), (g), or (h).

IV. Notwithstanding the provisions of RSA 454-C:3, whenever a full release of any pre-effective-date federal, state, or manufactured housing tax lien is filed with a town or city clerk, and (in the case of federal tax liens) a notice of filing of such lien or electronic record thereof has not previously been transmitted to the secretary of state pursuant to paragraph II, such clerk shall remove the lien being released from the file, and shall not forward the notice of full release to the secretary of state; and whenever a full release of any pre-effective-date lien of any type is filed with the secretary of state, and information regarding such lien has not previously been entered in the index pursuant to paragraph III, the secretary of state shall remove the lien being released from the file, and shall not enter an image of the notice of full release, or the information contained therein, in the index.

454-C:8 Rules. The office of the secretary of state may adopt and publish rules to implement this chapter. Such rules shall not be subject to the provisions of RSA 541-A.

2001-0850h

Amendment to HB 748-FN-A-LOCAL

Proposed by the Majority of the Committee on Finance - R

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

AN ACT revising the definition of an adequate education and revising the weighted pupil formula used to calculate the cost of

an adequate education.

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

1 School Money; Definition of Weighted Pupil. RSA 198:38, VII (d) is repealed and reenacted to read as follows:

(d) Additional weights based on pupils eligible to receive a free or reduced-price meal shall be calculated by multiplying each municipality's elementary average daily membership in residence by the fraction of the district's pupils eligible to receive a free or reduced-price meal multiplied by:

(1) If less than 15 percent of the district's pupils are eligible to receive a free or reduced-price meal, zero.

(2) If at least 15 percent but less than 20 percent of the district's pupils are eligible to receive a free or reduced-price meal, 0.11.

(3) If at least 20 percent but less than 25 percent of the district's pupils are eligible to receive a free or reduced-price meal, 0.22.

(4) If 25 percent or more of the district's pupils are eligible to receive a free or reduced-price meal, 0.33.

Nothing in this subparagraph shall result in a decrease in the adequate education grant amount calculated and distributed under RSA 198:40 and 198:41 to a municipality in the fiscal year ending June 30, 2002, or any fiscal year thereafter.

2 School Money; Definitions. Amend RSA 198:38, X to read as follows:

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no ***preschool or*** kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

3 School Money; Definitions. Amend RSA 198:38, XI to read as follows:

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~~] ***DOE-25*** form.

4 School Money; Determination of Per Pupil Adequate Education Grants. Amend RSA 198:40, I to read as follows:

I. For the biennium beginning July 1, [~~1999~~] ***2003***, and every biennium thereafter, the cost per pupil shall be established using the following formula:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where [~~40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above~~]***, for each of the 3 previous years, a minimum of 11 pupils were assessed in each subject area of the statewide assessment program administered to pupils in the third and sixth grades. For each grade and year, the department shall determine the average percentage of pupils performing at the basic level or above. The average shall be based on the number of pupils enrolled on the test date. A basic level or above percentage for each district shall be computed using the average of each grade and year. Districts where the 3-year average performance at the basic level or above is between 50 percent and 70 percent shall be selected***.

(2) From the school districts [~~identified~~] ***selected*** in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate [~~the~~] ***an*** average base cost per pupil of an adequate education at the elementary

school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

(4) The department shall calculate an alternative base cost per pupil by multiplying the base cost per pupil calculated in the immediately preceding biennium by an amount equal to one plus 2 times the average annual rate of inflation taken from the 4 calendar years immediately preceding the calendar year in which the calculation in this subparagraph is made. Inflation shall be measured by the northeast consumer price index as published by the United States Department of Labor.

(5) The base cost per pupil for the biennium shall be the lower of the base cost per pupil calculated in subparagraphs I(b)(3) and I(b)(4).

5 School Money; Determination of Per Pupil Adequate Education Grants. Amend RSA 198:40, III to read as follows:

III. For each fiscal year, the statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education ***as determined in RSA 198:40, I*** by the statewide weighted average daily membership in residence of pupils ***as determined in RSA 198:40, II*** and then adding 70 percent of total statewide transportation costs ***less local transportation revenue***.

6 School Money; Duties of the Department of Education. Amend RSA 198:44, I to read as follows:

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 ***of each year*** 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.

7 School Boards, Teachers; Definitions; Attendance Added. Amend RSA 189:1-d, I to read as follows:

I. ***"Attendance" means full-time participation in a program of instruction under the direction of teachers employed by the school district.***

I-a. "Average daily attendance" means the aggregate half-day attendance divided by the number of half-days actually in session for a given school district in a given school year.

8 School Boards, Teachers; Definitions; Average Daily Membership in Residence. Amend RSA 189:1-d, IV to read as follows:

IV. "Average daily membership in residence" means the average daily membership of students [~~enrolled~~] ***in attendance*** in public schools within the district or students whose tuition is being paid by the district to another approved public or private school for a given school district in a given school year.

9 Procedure for Formation of Cooperative School Districts; Apportioning Operating Expenses; Exclusion of Home Education Pupils Deleted. Amend RSA 195:18, III(e) to read as follows:

(e) The method of apportioning the operating expenses 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.~~]

10 Procedure for Formation of Cooperative School Districts; Apportioning Capital Expenses; Exclusion of Home Education Pupils Deleted. Amend RSA 195:18, III(g) to read as follows:

(g) The method of apportioning the capital expenses of the cooperative school district among the several preexisting districts, which need not be the same as the method for apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the costs of acquiring land and buildings for school purposes, including property owned by a preexisting district; the construction, furnishing**,** and equipping of school buildings and facilities; and the payment of the

principal and interest of any indebtedness which is incurred to pay for the same or which is assumed by the cooperative school district. [~~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.~~]

11 Effective Date. This act shall take effect July 1, 2002.

AMENDED ANALYSIS

This bill:

I. Revises the pupil weighting formula used to calculate the cost of an adequate education based on the number of pupils eligible to receive a free or reduced-price lunch.

II. Makes changes to the formula for calculating adequate education grants by using 3 years of statewide assessment program results administered in the third and sixth grades.

III. Defines "attendance" for purposes of determining average daily membership in attendance and average daily membership in residence.

IV. Deletes the home education pupil exclusions from the cooperative school district apportionment of expenses laws.

2001-0708h

Amendment to HB 753

Proposed by the Committee on Commerce - C

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

1 New Paragraphs; Applications for Issuer-Dealer Licenses for Certain Securities Sales. Amend RSA 421-B:6 by inserting after paragraph I the following new paragraphs:

I-a. In connection with an offering of securities made pursuant to section 18(b)(4)(D) of the Securities Act of 1993 that requires only a notice filing in this state pursuant to RSA 421-B:11, I-a(e), a completed application for licensure as an issuer-dealer, an agent of an issuer-dealer and for an agent of the issuer, or authorization without licensure for an officer or director pursuant to RSA 421-B:2, II(e), shall be filed with the secretary of state no later than 15 days after the first sale of securities in this state, and the license or authorization will become effective without further action or review by the secretary of state. Provided that the application is complete and accompanied by the appropriate fees, the effective date of the license or authorization shall for all purposes be the date of first sale as certified by the issuer in such issuer-dealer license application.

I-b. The applications referred to in paragraph I-a shall set forth and be limited to the name of the issuer, the state of the issuer's formation, a description of the securities sold, the date of first sale of such securities in this state, the name or names of the representative or representatives of the issuer who are engaged in the sale of the securities, and confirmation that no agent has been convicted of a felony. The applications need only be signed by that person or those persons who are authorized to do so by the issuer's board of directors or other governing body. At the same time, the issuer shall submit a consent to service of process pursuant to RSA 421-B:30, VII, and shall pay the fees required by RSA 421-B:31. Each application shall be on a form prescribed by the secretary of state, consistent with the provisions of this section.

2 New Paragraph; Exemptions From Issuer-Dealer Licensing Requirements by Secretary of State. Amend RSA 421-B:6 by inserting after paragraph VII the following new paragraph:

VII-a. The secretary of state shall have the authority to issue orders exempting otherwise non-exempt sales of securities from the issuer-dealer and issuer-dealer agent licensing requirements of RSA 421-B:6 if the secretary of state determines:

(a) That all or substantially all of the proposed sales of securities fall within one or more of the exemptions set forth in:

(1) RSA 421-B:17; or

(2) RSA 421-B:6; and

(b) That granting the exemption will be consistent with the purposes fairly intended by the policy and provisions of this title.

3 Securities Sales Transactions Exempted From Registration. Amend RSA 421-B:17, II(a) to read as follows:

(a) Any isolated sales, whether or not effected through a broker-dealer, provided that no person shall make more than [~~5~~] ***10*** sales, in total, of securities of the same issuer, in all jurisdictions combined, other than ***to*** those designated in RSA 421-B:17, I(h), II(g), II(l) and II(p)(1), during any period of 12 consecutive months; provided further that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, the seller reasonably believes that all buyers are purchasing for investment. ***The secretary of state, on a case by case basis, may by rule or order increase the number of persons to whom sales may be made under this exemption.***

4 Effective Date. This act shall take effect July 1, 2001.

2001-0874h

Amendment to HB 758

Proposed by the Committee on Science, Technology and Energy - R

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

1 Purpose. In order to minimize the contamination of our water resources and to protect the public from potentially harmful health effects, New Hampshire must dramatically reduce or eliminate the amount of methyl tertiary-butyl ether (MTBE) and other ethers in gasoline supplied to New Hampshire. Since the oxygen mandate specified for federal reformulated gasoline (RFG) by the Clean Air Act has led to a dramatic increase in MTBE concentrations in gasoline, opting out of the federal RFG program and then limiting or banning MTBE and other ethers are the most effective ways to permanently reduce the concentrations of MTBE and other ethers in gasoline sold in New Hampshire. The state may be required by the Environmental Protection Agency to make up for emission reductions lost as a result of this action, and authorization is provided to do so.

2 Penalties. Amend RSA 485:16-b, I and II to read as follows:

I. ***Except as provided for in RSA 485:16-d,*** the commissioner shall seek all necessary [wai~~vers~~] ***authorizations*** from the Environmental Protection Agency [~~such that conventional gasoline, or some other substitute gasoline that is readily available and reasonably priced, may immediately replace reformulated gasoline in Strafford, Rockingham, Hillsborough, and Merrimack counties. The waivers shall expire on January 1, 2002. The temporary waivers shall not be predicated upon the state implementing substitute air emissions reduction strategies in order to comply with the state implementation plan~~] ***to opt out of the federal reformulated gasoline program as soon as possible, but in no case later than January 1, 2004. The department of environmental services shall prepare and submit to the Environmental Protection Agency as soon as possible, but in no case later than January 1, 2002, all documentation necessary to accomplish this task***.

II. In addition to the [~~authority to seek waivers under~~] ***provisions of*** paragraph I, the commissioner, after consultation with the commissioner of health and human services, [~~may~~] ***shall*** limit ***to the greatest extent practicable***, with the approval of the governor and council, the concentration of MTBE allowed in any gasoline sold in all or part of the state after first holding a public hearing on the issue and certifying to the air pollution advisory committee established in RSA 125-J:11 that gasolines which meet such limit are:

(a) Readily available to New Hampshire consumers at a reasonable price;

(b) Less hazardous overall to humans and the environment than gasoline having higher MTBE concentrations taking into account all exposure routes, including air and water; and

(c) Approved for use in New Hampshire by the Environmental Protection Agency without a requirement to substitute additional air emissions reductions beyond those adopted under RSA 485:16-c.

3 New Sections; Air Pollution Control Measures. Amend RSA 485 by inserting after section 16-b the following new sections:

485:16-c Adoption of Other Air Pollution Control Measures. In order to fulfill federal air pollutant emission reduction obligations that may be created by opting out of the federal reformulated gasoline program under RSA 485:16-b or by implementing an alternative regional or federal approach under RSA 485:16-d, the commissioner shall be authorized to establish limits on the manufacture, use, or sale of consumer products in accordance with RSA 125-C:6, XVII.

485:16-d Regional and Federal Efforts.

I. The commissioner is authorized to promote such regional or federal efforts as may be required to reduce the ongoing contamination threat posed by MTBE and other gasoline ethers, including but not limited to efforts to eliminate the federal oxygen mandate in the federal Clean Air Act, secure waivers from federal fuel requirements, or implement cleaner, more protective reformulation of gasoline.

II. If an alternative regional or federal approach to cleaner gasoline is developed which provides equal or greater effectiveness in reducing concentrations of MTBE and other gasoline ethers than opting out of the federal reformulated gasoline program under RSA 485:16-b, I, or does so in a manner that requires less costly substitute emission control measures under RSA 485:16-c, then the commissioner may implement such alternative regional or federal approach. Such alternative regional or federal approach may substitute for opting out of the federal reformulated gasoline program under RSA 485:16-b, I if undertaken prior to January 1, 2004.

4 New Paragraph; Definitions; Consumer Products. Amend RSA 125-C:2 by inserting after paragraph V-b the following new paragraph:

V-c. "Consumer products," any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of air contaminants.

5 New Subparagraph; Rulemaking. Amend RSA 125-C:4, I by inserting after subparagraph (m) the following new subparagraph:

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

6 New Paragraph; Duties of Commissioner. Amend RSA 125-C:6 by inserting after paragraph XVI the following new paragraph:

XVII. Implementing a program to control the emissions of air contaminants from consumer products for purposes of RSA 485:16-c, by establishing limits on the manufacture, use, or sale of such products, provided that such limits are not less stringent than those established under the Clean Air Act and amendments thereto, and in regulations promulgated under the Clean Air Act.

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

AMENDED ANALYSIS

This act authorizes the state to opt out of the federal reformulated gasoline program no later than January 1, 2004, and requires the department of environmental services to prepare and submit to the U.S. Environmental Protection Agency all documentation necessary to accomplish this task.

2001-0840h

Amendment to HB 759-FN-A-LOCAL

Proposed by the Minority of the Committee on Ways and Means - R

Amend paragraph VII and VIII as inserted by section 1 of the bill by replacing them with the following:

VII. The general good, benefit and welfare of the state is advanced by promoting home ownership and that an exemption of the first $150,000 of equalized value of primary residences (homesteads) from the state education property tax is reasonable. The education income tax is being enacted to supplement, and in part replace, the state property tax as a proportionate and reasonable form of taxation. It is therefore reasonable that residents who are now required to pay a personal income tax to the state of New Hampshire be allowed a nonrefundable credit against such state income tax liability equal to the amount of the state education property tax levied on their homestead in excess of the exempt portion of homestead value.

VIII. It is reasonable to exempt only the first $150,000 of equalized value of homestead property from the statewide education property tax as that amount is slightly more than the current average selling price of a home and as such represents a reasonable price or value within which residents can obtain a basic home. Residents owning homesteads with value in excess of the basic exempt amount may reduce their state education income tax liability by the amount of any state education property taxes on their homestead so that they pay one or the other tax, but not both.

Amend RSA 76-A:1, I as inserted by section 2 of the bill by replacing it with the following:

I. "Consumer price index" means the consumer price index for all urban consumers, U.S. city average, published by the United States Department of Labor.

Amend RSA 76-A:3, II(a) as inserted by section 2 of the bill to read as follows:

(a) Decreased by ***the following amounts, if included in the taxpayer's adjusted gross income for federal income tax purposes***:

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

(2) Interest and dividend income received from funds invested in the college tuition savings plan under RSA 195-H if used in accordance with RSA 195-H;

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

(4) The amount of capital gains income directly derived from sales of timber subject to taxation under RSA 79;

(5) The amount of any social security income that is included the taxpayers' adjusted gross income for federal income tax purposes;

(6) The amount of income attributable to pension or retirement income that the taxpayer receives in lieu of social security income (due to employment where the employer was obligated to contribute to a pension plan in lieu of social security contributions), which amount when combined with any social security income shall not exceed the maximum potential regular social security benefit per beneficiary for that year might have otherwise been available to such taxpayer, all as determined by rules adopted by the commissioner;

(7) ***The amount of annuities, as defined in 45 U.S.C. §231(p), including Tier I and Tier II railroad retirement benefits, and supplemental annuities, as described in 45 U.S.C. §231a(b), the taxation of which by states is prohibited under 45 U.S.C. §231m; and***

(8) The amount of income attributable to pension payments where the taxpayer's contributions to the pension fund were previously subject to federal personal income taxation, as determined by rules adopted by the commissioner.

Amend RSA 76-A:5, III as inserted by section 2 of the bill by replacing it with the following:

III. An annual renter's credit of $330 on a dwelling unit subject to RSA 76-B rented by the taxpayer as his or her primary residence prorated for each full month of residence or alternatively, a renter's credit, likewise prorated monthly which is annually equal to the full equalized value of the rented dwelling unit which may determined by dividing the local assessed value of the rented dwelling unit by the municipality's equalization ratio determined according to RSA 21-J:9-a multiplied by the rate of taxation in RSA 76-B: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 a 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 in an amount approximately equal to the state education property tax indirectly paid by the taxpayer through rent, charges or fees for care, pursuant to rules adopted by the commissioner. Persons who have claimed a homestead exemption pursuant to RSA 76-B:4 may claim a renter's credit during the same year only if the exempt homestead is bought or sold during the tax year, in which case the renter's credit may be claimed for the period rent is paid before or after the date of the purchase or sale of the exempt homestead, as the case may be; or in the situation where the taxpayer owns and resides in a manufactured housing dwelling unit and rents the underlying lot or land, in which case a limited or prorated renter's credit for the state education property tax on the home lot may be allowed pursuant to rules adopted by the commissioner. In no case shall the renter's credit exceed the tax due under this chapter after applying any credit claimed under paragraph IV of this section.

Amend RSA 76-A:5, IV(a) as inserted by section 2 of the bill by replacing it with the following:

(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 ***plus active duty military pay earned while stationed out-of-state, whether subject to another state's income tax or not***;

Amend RSA 76-A:5 as inserted by section 2 of the bill by inserting after paragraph V the following:

VI. A credit equal to the state education property tax paid by the taxpayer on his or her homestead under RSA 76-B during the taxable year. In no case shall this credit exceed the tax due under this chapter after applying any credits claimed under paragraphs III and IV of this bill.

Amend the section heading following RSA 76-A:8 as inserted by section 2 of the bill by replacing it with the following:

76-A:9 Time for Payment of Withheld Taxes and Filing Withheld Taxes Returns.

Amend RSA 76-B:2 as inserted by section 2 of the bill by replacing it with the following:

76-B:2 State Education Property Tax Imposed. An annual state education property tax at the uniform rate of $4.50 on each $1,000 of equal full value taxable real estate is hereby imposed.

Amend RSA 76-B:5, I as inserted by section 2 of the bill by replacing it with the following:

I. The first $150,000 of equalized full value of homesteads of qualifying taxpayers are exempt from the tax due under this chapter.

Amend RSA 76-B:5, V(d) and (e) as inserted by section 2 of the bill by replacing them with the following:

(d) The procedure, or exclusion of value resulting from the procedure, in subparagraph (b) shall be waived to the extent it pertains to a single additional dwelling unit on the homestead property that is occupied by a direct lineal ascendant or descendant, sibling, aunt, uncle, niece or nephew, by blood, marriage, or law, of the qualifying taxpayer who does not pay rent, other than for utilities, as annually certified by the claimant

(e) In no case shall the total homestead exemption exceed a total equalized full value of $150,000.

Amend RSA 76-C:3, I as inserted by section 2 of the bill by replacing it with the following:

I. The commissioner of revenue administration shall provide municipalities with notices of the availability of and instructions for claiming property tax abatements under this subdivision, to be mailed with property tax bills beginning in November 2001 and with all property tax bills for each billing thereafter.

Amend RSA 76-C:5, I as inserted by section 2 of the bill by replacing it with the following:

I. By September 30 of each year, the commissioner of revenue administration shall pay abatements due on approved applications that were received prior to May 1 of that year. Abatements due on approved applications that were received on or after May 1 may be paid at the convenience of the department of revenue administration as funds are available during the remainder of that fiscal year or rejected if funds are not available.

Amend the bill by replacing all after section 4 with the following:

5 Meals and Rooms Tax; Rate of Tax on Motor Vehicle Rentals. RSA 78-A:6, II-a is repealed and reenacted to read as follows:

II-a. A tax of 5 percent is imposed upon the gross rental receipts of each rental.

6 New Paragraph; Exemption From Meals and Rooms Tax for Certain Motor Vehicle Rentals. Amend RSA 78-A:6-a by inserting after paragraph V the following new paragraph:

VI. The following rentals of motor vehicles are exempt from the tax imposed under

RSA 78-A:6, II-a:

(a) Rentals paid by the federal government, the state, or any political subdivision of the

state.

(b) Rentals by nonprofit corporations, associations, or organizations operated exclusively

for religious, educational, or charitable purposes.

7 Meals and Rooms Tax; Distribution of Motor Vehicle Rentals Revenue. Amend RSA 78-A:26, III to read as follows:

III. Beginning on July 1, 1999, and for each fiscal year thereafter, the department shall pay over all revenue collected pursuant to RSA 78-A:6, II-a to the state treasurer [~~for deposit in the education trust fund established by RSA 198:39~~]. ***One half of such revenues shall be deposited in the general fund and ½ of such revenues shall be deposited in the travel and tourism development fund established in RSA 12-A:43-A***.

8 Fiscal Year 2002 Meals and Rooms Tax Motor Vehicle Rentals Revenue. Notwithstanding the provisions of RSA 78-A:26, III as inserted by section 5 of this act, ½ of the revenues collected shall be deposited in the education trust fund instead of the general fund for the fiscal year ending June 30, 2002 only.

9 New Section; Department of Resources and Economic Development; Travel and Tourism Development; Travel and Tourism Development Fund. Amend RSA 12-A by inserting after section 43 the following new section:

12-A:43-a Travel and Tourism Development Fund.

I. There is hereby established in the office of the state treasurer a fund to be known as the travel and tourism development fund. Moneys dedicated by RSA 78-A:26, III shall be deposited in the fund, as well as any other appropriations to the fund. Moneys in the fund and any interest earned on the fund shall be used for the purpose of promoting and developing appropriate travel and tourism initiatives through the division of travel and tourism development and shall not be used for any other purpose. The director of travel and tourism development shall oversee expenditures from the fund. The moneys in the fund shall be nonlapsing and shall be continually appropriated to the department of resources and economic development.

II. The commissioner of resources and economic development shall prepare an annual report to be presented no later than December 1 of each year to the president of the senate, the speaker of the house of representatives, and the governor and council, and filed with the state library. The report shall detail the specific activities supported by, and expenditures from, the fund during the past year.

10 Real Estate Transfer Tax; 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.

11 Real Estate Transfer Tax; Distribution of Funds. RSA 78-B:13 is repealed and reenacted to read as follows:

78-B:13 Distribution of Funds.

I. The commissioner shall determine the amount of revenue produced by $.104 per $100 and $.096 per $100 in the rate of tax imposed by RSA 78-B:1 for each fiscal year based upon prior year experience and shall certify such amounts to the state treasurer by October 1 of that year.

II. The state treasurer shall deposit the amount of revenue produced by $.104 per $100 as determined by the commissioner into the property tax abatement program fund established under RSA 76-C:5, V and the amount of revenue produced by $.096 per $100 as determined by the commissioner into the trust fund for the New Hampshire land and community heritage investment program under RSA 227-M.

12 Land and Community Heritage Investment Program; Trust Fund. Amend RSA 227-M:7, I to read as follows:

I. There is established in the office of the state treasurer the trust fund for the New Hampshire land and community heritage investment program. ***Moneys dedicated for such program by RSA 78-B:13, II shall be deposited in the fund.*** Moneys in the fund and any interest earned on the fund shall be used for the purpose of this chapter and shall not be used for any other purpose. The trust fund shall be non-lapsing.

13 New Chapter; Early Literacy and Reading Improvement. Amend RSA by inserting after chapter 193-F the following new chapter:

CHAPTER 193-G

EARLY LITERACY AND READING IMPROVEMENT

193-G:1 Purpose. The general court finds that in order to implement New Hampshire's policy of providing all pupils with the opportunity to acquire an adequate public elementary and secondary education, it is essential that by the end of grade 3

virtually all children shall demonstrate that they have developed the interest and ability to read with fluency and understanding materials appropriate for third grade pupils.

193-G:2 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of education.

II. "Department" means the department of education.

III. "State board" means the state board of education.

IV. "Primary school" means a school that includes grades K-3 or any grouping thereof.

V. "Pre-school children" means children from birth through age 5 that are not enrolled in a primary school.

VI. "Early child care providers" means individuals that are paid to provide care and education to children from birth through age 5 that are not enrolled in a primary school.

VII. "Master teacher" means an experienced teacher who by virtue of specialized training, appropriate experience, and demonstrated success has the knowledge and skills necessary to provide early learning and/or reading assistance to other individuals.

VIII. "Fund" means the early literacy and reading improvement fund established in RSA 193-G:3.

193:G-3 Early Literacy and Reading Improvement Fund.

I. There is hereby established an early literacy and reading improvement fund in the department of education. This fund shall be used for the purpose of providing instruction and support to parents, grandparents, guardians, and early child care providers in the development by pre-school children of early literacy skills that are aligned with reading instruction in the schools as well as for the purpose of improving reading instruction in public primary schools. This fund shall be nonlapsing and shall be administered by the department. Beginning July 1, 2003, and each July 1 thereafter, 2/3 of one percent of the statewide cost of providing an adequate education for that fiscal year as calculated in accordance with RSA 198:40, III shall be transferred from the education trust fund to the early literacy and reading improvement fund. Moneys transferred to this fund shall be in addition to the funds required to distribute adequate education grants to school districts pursuant to RSA 198:42. The governor is authorized to draw a warrant from the education trust fund to satisfy the provisions of this paragraph.

II. To carry out the purposes for which this fund is established, the department is authorized to use the amounts transferred to the fund to provide early literacy and reading improvement assistance, including grants, to local school districts as well as to administer the fund, to develop and provide research-based programs and courses, and to provide technical assistance and professional development activities through grants, contracts with consultants, and the employment of individuals to fill authorized full-time, permanent positions. Funds shall be used for no other purposes.

III. For the fiscal year beginning July 1, 2001, and each fiscal year thereafter, grants to local school districts shall be used to address the areas specified in RSA 193-G:4, as well as other demonstrated needs related directly to early literacy and the improvement of reading. In administering the early literacy and reading improvement grant program, the department shall be responsible for the following:

(a) Establishing forms and procedures for districts to use for the development and submission of early literacy and/or reading improvement grant requests, including:

(1) A detailed plan and budget, with the opportunity to request up to 3 years of financial assistance and the further opportunity to apply for additional assistance based on demonstrated need.

(2) An assurance that grant funds will be used only to supplement and not supplant on-going local efforts.

(3) A description, if applicable, of how grant activities were planned in consultation with and will be implemented in coordination with the department of education, the department of health and human services, institutions of higher education, early child care providers, and parents, grandparents, and guardians.

(4) A delineation of the geographic area to be served by the project.

(b) Providing assistance to districts in the development of grant requests.

(c) Establishing an equitable grant review process that:

(1) Includes an evaluation of each proposal's adequacy, educational appropriateness, and cost effectiveness, and the extent to which additional revenues are required to implement the proposed plan and activities.

(2) Gives priority to districts with lower-performing schools in reading that have satisfactorily addressed the review criteria in subparagraph (1) and are proposing reasonable efforts to address early literacy needs and/or improve reading performance

(d) Reviewing grant requests and forwarding them to the commissioner and the state board with recommendations for approval, including level of funding.

(e) Distributing grant payments to school districts in accordance with the payment schedule specified by the commissioner in the district's grant approval notification.

(f) Monitoring the implementation of funded plans and activities.

193-G:4 Comprehensive Early Literacy and Reading Improvement Initiative. The department of education shall provide research-based support and education to the parents, grandparents, guardians, early child care providers, and primary school teachers and administrators that shape the language and literary development of children from birth through the end of grade 3 through a comprehensive early literacy and reading improvement initiative that shall:

I. Provide structured, research-based, school-wide professional development in reading instruction to primary school teachers and administrators, through the use of intensive summer institutes, regional meetings, and reading master teachers who will provide follow-up activities and continuous technical assistance during the school year.

II. Utilize early childhood education master teachers to provide instruction and support to center-based and home-based early child care providers in the development by pre-school children of early literacy skills that are aligned with reading instruction in the schools.

III. Provide scholarships for early child care providers to enable them to participate in college credit courses in the development by pre-school children of early literacy skills that are aligned with reading instruction in the schools.

IV. Implement a research-based program that utilizes school-based parent educators to provide information and examples as well as demonstrate to parents, grandparents, and guardians the key elements in developing a pre-school child's early literacy knowledge and skills.

V. Involve institutions of higher education in partnerships to better prepare new teachers to deliver research-based early literacy knowledge and skills and/or reading instruction.

VI. Coordinate opportunities for local school districts, the department of education, the department of health and human services, institutions of higher education, early child care providers, and parents, grandparents, and guardians to work together to deliver high-quality, research-based reading instruction to primary school children as well as provide research-based support for the development of early literacy in pre-school children.

14 Cooperative School Districts; Certification of District Taxes; 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 the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42 as a setoff against the amount appropriated.***

15 Cooperative School Districts; Certification of District Taxes Amended. Amend RSA 195:14, I(c) to read as follows:

(c) The commissioner of revenue administration shall certify to the state department of education the total amount [~~to be apportioned among the pre-existing school districts. Such total shall include the adequate education cost for the district under RSA 198:38, XII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes~~] ***of taxes to be raised for the support of the cooperative school district***.

16 Cooperative School Districts; Certification of District Taxes; Determination of Proportional Share Amended. RSA 195:14, I (d) is repealed and reenacted to read as follows:

(d) 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.

17 Cooperative School Districts; Educational Adequacy Grant Computation Amended. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. [~~For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, XII credited against its share of the cooperative school district budget. However,~~] cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section.

18 Cooperative School Districts; Formation Procedures; Adequate Education Grant Apportionment Amended. 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 the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42 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.

19 School Money; Kindergarten Construction Program Extended. Amend RSA 198:15-r, I to read as follows:

I. There is established in the department of education a kindergarten construction program. For the [~~5-year~~] ***6-year*** period starting July 1, 1997, and ending June 30, [~~2002~~] ***2003***, the commissioner of education shall make grants available to eligible districts that currently do not operate a public kindergarten program to cover 75 percent of the actual cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities. The commissioner shall also make grants available to eligible districts that currently operate a public kindergarten program for 75 percent of the cost of construction, exclusive of site acquisition, needed to provide the kindergarten program with classrooms that meet the appropriate standards for school building construction established by the state board of education, pursuant to RSA 541-A and under the authority of RSA 21-N:9, II(c). Grants shall also cover the cost of initial equipment needed to operate a kindergarten program.

20 Kindergarten Construction Program; Appropriation Amended. Amend 1997, 348:6 to read as follows:

348:6 Appropriation; Kindergarten Construction. A sum not to exceed [~~$22,500,000~~] ***$32,500,000*** is hereby appropriated to the department of education for the purposes of constructing kindergarten classrooms. ***The appropriation in paragraph V for the fiscal year ending June 30, 2003 shall be made from the education trust fund established in RSA 198:39.*** This appropriation shall be nonlapsing and in addition to any other appropriation to the department of education; provided, however, that the department of education shall not approve grant requests for such purposes for more than:

I. $6,000,000 in the biennium ending June 30, 1999.

II. $5,000,000 in the fiscal year ending June 30, 2000.

III. $5,000,000 in the fiscal year ending June 30, 2001.

IV. $6,500,000 in the fiscal year ending June 30, 2002.

V. $10,000,000 in the fiscal year ending June 30, 2003.

21 New Section; School Money; Kindergarten Funding. Amend RSA 198 by inserting after section 42 the following new section:

198:42-a Adequacy Funds for New Kindergarten Programs. A school district that implements a new public kindergarten program on July 1, 1999 or thereafter, shall receive annually starting in fiscal year 2002 a kindergarten adequacy payment from the education trust fund established in RSA 198:39 to be calculated as follows:

I. Payments for each eligible kindergarten pupil shall be made at the rate of ½ the average base cost per pupil of an adequate education at the elementary level as determined in accordance with RSA 198:40.

II. The number of eligible pupils shall be the number of kindergarten pupils who reside in the district and on October 1 of each school year are enrolled in an approved public kindergarten operated by the district, or are enrolled under a tuition agreement in an approved public kindergarten operated by the district, or are enrolled under a tuition agreement in an approved public kindergarten operated by another district, or are enrolled in an approved alternative kindergarten program approved in accordance with RSA 198:48-a.

III. The annual new kindergarten adequacy payment shall be calculated by multiplying the amount established in paragraph I by the number of pupils determined in accordance with paragraph II.

IV. The annual new kindergarten adequacy payment calculated in accordance with paragraph III shall be distributed to eligible districts on or before January 1 or each school year.

V. Notwithstanding the provisions of RSA 198:39, for the fiscal year beginning July 1, 2001, and every fiscal year thereafter, a sum sufficient to distribute annual new kindergarten adequacy payments in accordance with this section shall be appropriated from the education trust fund to the department of education. For each fiscal year, the governor is authorized to draw a warrant for said sum from any moneys available in the education trust fund.

VI. When enrollments in a new public kindergarten program are included in the school district's average daily membership in residence for the purpose of determining adequate education costs and distributing adequate education grants in accordance with RSA 198L40 through RSA 198:42, the school district shall no longer be eligible to receive a new kindergarten adequacy payment calculated in accordance with paragraph III.

22 School Money; State Aid for Educational Adequacy; Free and Reduced Price Lunches Amended. RSA 198:38, VII(d) is repealed and reenacted to read as follows:

VII.(d) An elementary school pupil who is eligible to receive a free or reduced-price meal shall receive an additional weight as follows:

(1) If the pupil is in a district in which less than 8 percent of the elementary school pupils are eligible to receive a free or reduced-price meal, an additional weight of zero.

(2) If the pupil is in a district in which 8 percent or more of the elementary school pupils are eligible to receive a free or reduced-price meal, an additional weight equal to the lesser of 1.3 or a number equal to 5 times the difference between the percentage of elementary school pupils eligible to receive a free or reduced-price meal and .08, provided there are 10 or more elementary

school pupils in the district. If there are less than 10 elementary school pupils in the district, and such pupils attend a school in another school district, the percentage of elementary school pupils eligible to receive a free or reduced-price meal shall be equal to the eligible percentage at the school which the pupils attend.

23 School Money; Definitions Amended. Amend RSA 198:38, X and XI to read as follows:

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no ***preschool or*** kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the costs of transporting pupils to and from school and other school activities ***less any local transportation revenues*** reported by school districts on the [~~MS-25~~] ***DOE-25*** form.

24 Education Trust Fund. RSA 198:39 is repealed and reenacted to read as follows:

198:39 Education Trust Fund Created and Invested.

I. 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 fund:

(a) Adequate education grants to municipalities' school districts pursuant to RSA 198:42 and RSA 198:42-a.

(b) The early literacy and reading improvement fund established in RSA 193-G:3.

(c) Costs to implement improved assessment, accountability and performance standards for public schools, including technical assistance, instructional improvement and local school improvement grants.

(d) Special education programs including catastrophic aid.

(e) Local education tax effort caps pursuant to RSA 198:40-a.

(f) Kindergarten construction aid pursuant to RSA 198:15-r.

(g) Other public school building aid programs including the payment of principal and interest on public debt for educational facilities including those of the state's public primary and secondary schools, the community-technical colleges, and the university system of New Hampshire.

(h) The necessary costs of administration of the education trust fund and taxes dedicated to it including refunds due taxpayers for overpayment of taxes pursuant to 76-A:6, III, or due municipalities for reimbursement of abatements or uncollectable tax amounts pursuant to RSA 76-B:10-11.

II. The state treasurer shall deposit into this fund immediately upon receipt:

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

(b) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

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

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

(f) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

(g) The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

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

(i) Tobacco settlement funds in the amount of $40,000,000 annually.

(j) The net revenue from the education income tax from the department of revenue administration pursuant to RSA 76-A:15, after deducting the necessary costs of collection and administration including taxpayer refunds under RSA 76-A:6, III.

(k) Revenue from the state education property tax under RSA 76-B.

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

III. The education trust fund shall be nonlapsing, except as provided in paragraph V. 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.

IV. The state treasurer shall maintain a separate accounting within the education trust fund for all moneys received from any state run lottery and all the interest received on such moneys and ensure that all such moneys are used exclusively for the school districts of the state.

V. At the end of each fiscal year the state treasurer shall account for any surplus funds in the education trust fund, exclusive of unexpended lottery funds which shall not lapse and shall carry over as a balance to fund future state aid to education. Surplus funds, excluding lottery funds, shall be divided into equal thirds. One third shall carry forward as general surplus toward future appropriations from the fund; 1/3 shall lapse into a dedicated account for local education tax effort cap grants pursuant to RSA 198:40-a; and the remaining 1/3 shall lapse into a dedicated account for public education facilities, including specifically kindergarten construction aid pursuant to RSA 198:15-r and debt service on state bonds for the university system of New Hampshire.

25 Education Trust Fund; July 1, 2002. RSA 198:39, II is repealed and reenacted to read as follows:

II. The state treasurer shall deposit into this fund immediately upon receipt:

(a) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

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

(c) The net revenue from the education income tax from the department of revenue administration pursuant to RSA 76-A:15, after deducting the necessary costs of collection and administration including taxpayer refunds under RSA 76-A:6, III.

(d) Revenue from the state education property tax under RSA 76-B.

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

26 School Money; Determination of Per Pupil Adequate Education Grants Amended. Amend RSA 198:40, I and II to read as follows:

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the [~~biennium~~] ***fiscal year*** beginning July 1, [~~1999~~] ***2002***, and every [~~biennium~~] ***fiscal year*** thereafter, the cost per pupil shall be established using the following formula:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where [~~40 to 60 percent of the elementary pupils enrolled in~~

~~the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above~~]***, for each of the 3 previous years, a minimum of 11 pupils were assessed in each subject area of the statewide assessment program administered pursuant to RSA 193-C to pupils in the third and sixth grades. For each grade and year, the department shall determine the average percentage of pupils performing at the basic level or above. The average shall be based on the number of pupils enrolled on the test date. A basic level or above percentage for each district shall be computed using the average of each grade and year. Districts where the 3-year average performance at the basic level or above is between 50 percent and 70 percent shall be selected***.

(2) From the school districts [~~identified~~] ***selected*** in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate [~~the~~] ***an*** average base cost per pupil of an adequate education at the elementary school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

(4) The department shall calculate an alternative base cost per pupil of an adequate education at the elementary level by adjusting the base cost per pupil calculated in the immediately preceding fiscal year by the 3-year rolling average percentage of change in the unadjusted northeast consumer price index-u as published by the United States Department of Labor.

(5) The base cost per pupil for each fiscal year shall be the lower of the base cost per pupil calculated in subparagraphs I(b)(3) and I(b)(4).

II. [~~The~~] ***For the fiscal year beginning July 1, 2002 and each fiscal year thereafter,*** weighted average daily membership in residence for each municipality shall be calculated by combining the elementary average daily membership in residence with the weighted high school average daily membership in residence, the average daily membership in residence resulting from educationally disabled children, and the [~~additional~~] ***weighted*** average daily membership in residence [~~resulting from elementary pupils eligible to receive a free or reduced-price meal~~] ***calculated in accordance with RSA 198:38, VII(d)***. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

27 New Paragraph; School Money; Determination of Per Pupil Adequacy Grants. Amend RSA 198:40 by inserting after paragraph III the following new paragraph:

IV. Beginning July 1, 2004, and in the second fiscal year of each biennium thereafter, the average base cost per pupil shall be increased by multiplying the average base cost per pupil in the first fiscal year of the current biennium by one plus ½ of a fraction whose numerator is a number equal to the difference between the average base cost per pupil in the first fiscal year of the current biennium and the average base cost per pupil of the first fiscal year of the immediately preceding biennium, and whose denominator is the average base cost per pupil of the first fiscal year in the immediately preceding biennium.

28 Average Base Cost Per Pupil of an Elementary School Pupil; Per Pupil Amount for Fiscal Year 2003. Notwithstanding the provisions of RSA 198:40 and 198:41, the average base cost per pupil of an elementary school pupil for the fiscal year ending June 30, 2003 shall be $3,425. Moneys from the education trust fund shall be used, as necessary, to provide this average base cost per pupil amount.

29 New Sections; Local Education Tax Effort Cap Program. Amend RSA 198 by inserting after section 40 the following new section:

198:40-a Local Education Tax Effort Cap Grant Program.

I. In conjunction with issuing local school tax warrants beginning in 2002, the commissioner shall calculate local education tax effort cap grants by computing a local education tax effort ratio for each municipality in the state by first computing for each municipality the equalized property value per pupil and then dividing that by the average equalized property value per pupil for all municipalities in the state that have an average daily membership in residence of at least 5.

II. The equalized property value per pupil is the equalized assessed value of real property in each municipality (the sum of modified local assessed value plus the department of revenue administration's inventory adjustment including utility property but excluding any capitalized railroad tax, revenue sharing payments or payments in lieu of taxes) divided by the latest available average daily membership in residence for the municipality.

III. The sum of equalized assessed value for all municipalities with an average daily membership in residence of at least 5, divided by the sum of average daily membership in residence for those communities is the state average.

IV. The commissioner of revenue administration shall determine the tax effort cap grant for each municipality by allocating a portion of available dedicated funds to the municipality with the smallest tax effort ratio toward the local school property tax amount to be raised, such that the effective tax effort ratio for that year is raised to that of the municipality with the next smallest ratio. Then another portion of available funds shall be allocated to the municipalities with the smallest effective tax effort ratio to raise them to the level of the municipality with the next smallest ratio, and so on until the available funds are exhausted.

V. Once all available funds for local education tax effort cap grants are allocated, then the commissioner shall calculate the local school property tax rate by using the grants as an offset against the amount to be raised. The grants shall be paid to the municipality for transfer to and use by their school districts from the dedicated account for local education tax effort cap grants established within the education trust fund under RSA 198:39, V.

30 Education; School Money; Maintenance of Local Control. Amend RSA 198:48 to read as follows:

198:48 Maintenance of Local Control. Distributions under RSA 198:42 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~~] ***school districts*** decide to spend the distributions or other funds they may raise for education. 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***, except that adequate education grants must be expended for educational purposes. Adequate education grants and local education tax effort cap grants shall not be considered unanticipated funds under RSA 198:20-b. In determining the local school property tax rate, the commissioner of revenue administration shall apply the total amount of adequate education grants and local education tax effort cap grants received by school districts as a setoff against the amount appropriated in the officially approved budget***.

31 New Subparagraphs; Travel and Tourism Development Fund; Land and Community Heritage Investment Program. Amend RSA 6:12, I by inserting after subparagraph (dddd) the following new subparagraphs:

(eeee) Transfer of real property tax moneys pursuant to RSA 78-A:26, III which shall be deposited in the travel and tourism development fund established by RSA 12-A:43-a, I.

(ffff) Moneys received in accordance with RSA 78-B:13, II, which shall be deposited in the trust fund for the New Hampshire land and community heritage investment program established in RSA 227-M:7, I.

(gggg) Moneys received for the property tax abatement program, in accordance with RSA 78-B:13, II, which shall be deposited in the property tax abatement fund established in RSA 76-C:5, V.

32 Business Profits Tax; Rate Reduced; January 1, 2002. Amend RSA 78-B:13, II to read as follows:

77-A:2 Imposition of Tax. A tax is imposed at the rate of [~~8~~] ***7.5*** percent upon the taxable business profits of every business organization.

33 Initial Funding; Bonds Authorized. To provide initial funding for start-up costs including consultants, facilities, equipment and computer purchases, and other administrative and enforcement costs under RSA 76-A, RSA 76-B and RSA 76-C, in excess of funds appropriated, 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.

34 Appropriations.

I. The sum of $15,000,000 for the fiscal year ending June 30, 2002 is hereby appropriated to the department of revenue administration to fund the costs necessary to implement RSA 76-A and RSA 76-B including measures necessary to ensure that

the state education property tax is applied and administered in a constitutional manner and may include reasonable costs reimbursed to municipalities for the cost of implementing RSA 76-B. This appropriation shall be non-lapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury, including the education trust fund, not otherwise appropriated.

II. The sum of $1,000,000 for the fiscal year ending June 30, 2002 and $3,000,000 for the fiscal year ending June 30, 2003 is hereby appropriated to the department of education to fund the costs to implement improved accountability and performance standards for public schools, including local school improvement grants for local school district costs. The governor is authorized to draw a warrant for said sums out of any money in the treasury, including the education trust fund, not otherwise appropriated.

III. The sum of $1,200,000 for the fiscal year ending June 30, 2002 and $4,800,000 for the fiscal year ending June 30, 2003 is hereby appropriated to the department of education for the early literacy and reading improvement fund established under RSA 193-G:3. The governor is authorized to draw a warrant for said sums out of any money in the treasury, including the education trust fund, not otherwise appropriated.

35 First Taxable Year of Income Tax. The first taxable period under RSA 76-A, as inserted by section 2 of this act, begins January 1, 2002, and ends December 31, 2002. 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-A 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-A. 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-A, all penalties, but not interest, shall be waived for underpayment of estimated taxes and insufficient withholding for calendar year 2002.

36 Returns for Certain Taxes. All persons who are liable for a tax under RSA 77 as of December 31, 2001, 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, 2001, 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.

37 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.

38 Prospective Repeal Date of Education Property Tax Changed; Repeals of Adequate Education Grants Determination Deleted. 1999, 338:21 is repealed and reenacted to read as follows:

338:21 Repeal. RSA 76:3, relative to the education property tax is repealed.

39 Effective Dates of Repeal of Education Property Tax and Hardship Relief Provisions. Amend 1999, 338:25, I and II to read as follows:

I. Section 21 of this act shall take effect [~~January 2, 2003~~] ***March 31, 2002***.

II. Section 22 of this act shall take effect July 1, [~~2003~~] ***2002***.

40 Repeals; Effective July 1, 2001. The following are repealed:

I. RSA 86:6, relative to taxable property and the rate of the legacies and succession tax.

II. RSA 198:48-a, VII, relative to aid for new alternative kindergarten programs.

III. 2000, 289:2, relative to aid for new kindergarten aid programs.

41 Repeals; Effective January 1, 2002. The following are repealed:

I. RSA 76:8, relative to the commissioner's warrant.

II. RSA 76:9, relative to the commissioner's report.

III. RSA 77, relative to taxation of incomes.

IV. RSA 77-A:20-a, relative to the distribution of business profits tax revenues.

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

VI. RSA 77-E:2, relative to the imposition of the business enterprise tax.

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

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

42 Repeals; April 1, 2002. The following are repealed:

I. RSA 198:39, I(b), relative to excess education property tax payments in the education trust fund.

II. RSA 198:46, I-III, relative to excess education property tax payments.

III. RSA 198:47, relative to forms for reporting and remitting excess education property tax.

43 Repeals; Effective July 1, 2002. The following are repealed:

I. RSA 78:32, relative to distribution of tobacco tax revenues.

II. 1999, 281:4, relative to apportioning the costs of an adequate education within a cooperative school district.

III. RSA 281:12, relative to the definition of state aid for educational adequacy.

44 Repeal; Effective December 31, 2002. RSA 77-E, relative to the business enterprise tax, is repealed.

45 Effective Date.

I. Sections 2-5, 10, 32, and 41 of this act shall take effect January 1, 2002.

II. Section 42 of this act shall take effect April 1, 2002.

III. Sections 25 and 43 of this act shall take effect July 1, 2002.

IV. Section 44 of this act shall take effect December 31, 2002.

V. The remainder of this act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill establishes a flat rate education income tax.

This bill repeals the education property tax under RSA 76:3 and establishes a new state education property tax.

The bill also:

I. Establishes a local education tax effort cap grant program and a program for abatement of excessive property taxes.

II. Repeals the interest and dividends tax, and the legacies and successions tax, and the business enterprise tax, and reduces the rate of the business profits tax and the real estate transfer tax.

III. Changes certain sources of funding of the education trust fund. Provides that the department of revenue administration shall credit all adequate education grant payments to the cooperative school district as a whole for the purpose of determining the amount of taxes to be raised to support the cooperative school district.

IV. Extends the kindergarten construction program through the fiscal year ending June 30, 2003 and increases by $10,000,000 the amount of the appropriation for the kindergarten construction program. Increases the amount of funding for new

kindergarten programs from $750 per pupil to ½ of the base cost per elementary pupil for adequacy.

V. Modifies the formula for calculating the portion of the adequate education grant based on free and reduced-price lunches.

VI. Provides a new formula for adjusting the average base cost per pupil in the second fiscal year in each biennium beginning July 1, 2005. The bill also specifies that the average base cost per pupil for the fiscal year ending June 30, 2003 shall be $3,425.

VII. Implements an early literacy and reading improvement program and an associated fund within the department of education, appropriates funds therefor in fiscal years 2002 and 2003, and dedicates an amount equal to 2/3 of one percent of the statewide cost of providing an adequate education for the fiscal year beginning July 1, 2003 and each fiscal year thereafter, to the early literacy and reading improvement fund.

2001-0615h

Amendment to HB 760-FN

Proposed by the Committee on Fish and Game - R

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

AN ACT relative to the use of silencing devices for taking game.

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

1 Fish and Game; Silencing Devices Amended. Amend RSA 207:4 to read as follows:

207:4 Silencing Devices.

I. No person shall [~~sell, offer for sale, use, have in his possession, any gun,~~] ***possess a rifle,*** pistol, or other firearm fitted or contrived with any silencer or device for deadening the sound of explosion***, for the purpose of taking wildlife***. Nothing in this section shall prohibit the use of a muzzle brake, polychoke, or compensator.

II. Nothing in this section shall prohibit a person who has obtained a depredation permit issued by the executive director of fish and game from taking wildlife under such permit using a lawfully obtained silencing device.

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

AMENDED ANALYSIS

This bill clarifies existing law prohibiting the taking of wildlife using a silencing device, and provides that a person who has obtained a depredation permit shall be exempt from this prohibition for the purpose of taking wildlife under the permit.

2001-0890h

Floor Amendment to HB 761-FN-A-LOCAL

Proposed by Rep. DiFruscia

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

AN ACT ordering a statewide valuation of property.

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

1 Valuation Ordered. In accordance with part 2, article 6 of the New Hampshire constitution, which permits the general court to order valuations, the general court hereby orders a statewide valuation of property to be completed by December 31, 2002.

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

AMENDED ANALYSIS

This bill orders a statewide valuation of property to be completed by December 31, 2002.

2001-0817h

Amendment to HB 764-FN

Proposed by the Committee on Criminal Justice and Public Safety - C

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

1 Interference With Custody; Felony Level Offense. Amend RSA 633:4, I to read as follows:

I.***(a)*** A person is guilty of a class B felony if such person knowingly takes from this state or entices away from this state any child under the age of 18, or causes any such child to be taken from this state or enticed away from this state, with the intent to detain or conceal such child from a parent, guardian or other person having lawful physical custody or physical custodial rights as described in RSA 458:17, IV.

(b) A person is guilty of a class B felony if such person knowingly takes, entices away, detains, or conceals any child under the age of 18, or causes such child to be taken, enticed away, detained, or concealed, with the intent to detain or conceal such child from a parent, guardian, or other person having lawful physical custody of such child. This subparagraph shall not apply to law enforcement personnel or department of health and human services personnel engaged in the conduct of their lawful duties.

2 Effective Date. This act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill adds a felony level offense for interference with custody in circumstances where a child is detained or concealed from a parent, guardian, or other person having lawful physical custody of such child, and where such child is not taken from the state.

2001-0900h

Floor Amendment to HB 766-FN-A-LOCAL

Proposed by Reps. Peterson and Ward

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

AN ACT establishing a New Hampshire education tax on gross receipts from the consumption of sales of goods and services, repealing the business enterprise tax and reducing the rates of other state taxes, and increasing certain exemptions to the interest and dividends tax.

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

1 Intent. The legislature intends by this act to establish a durable foundation of funding in response to the state's obligation to adequately provide educational opportunities to the youth of New Hampshire. In addition, the legislature finds that since Claremont II necessitated action with regard to changing the funding mechanisms for public education and the tax structure of the state, it is also timely for the legislature to recognize the importance that consideration be given to funding for the university system, the regional-community technical colleges, and early childhood programs in order to best meet the goals and requirements of Part II, article 83 of the New Hampshire constitution. To achieve this purpose the legislature may consider it appropriate to establish a program of targeting aid for education beyond the adequacy requirement for state-funded public education utilizing funds provided in this act. Funding for education realized by this act which is in addition to the sums required for providing an adequate education may appropriately be used for higher education improvement, reduction of local property tax effort for additional local education, or targeted aid to school districts in need of additional state assistance beyond the adequacy requirement.

2 Education Trust Fund; New Hampshire Education Tax Added. Amend RSA 6:12, I (www) to read as follows:

(www) Money received under ***RSA*** 77-A, [~~RSA 77-E,~~] RSA 78, RSA 78-A, [~~RSA 78-B,~~] ***RSA 78-D,*** RSA 83-F, RSA 198:46, and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

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

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

4 Education Property Tax; Rate Reduced. Amend RSA 76:3 to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of [~~$6.60~~] ***$4.60*** 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.

5 Individuals, Businesses, Fiduciaries. Amend RSA 77:3, I(a)-(c) to read as follows:

(a) Individuals who are inhabitants or residents of this state for any part of the taxable year whose gross interest and dividend income from all sources exceeds [~~$2,400~~] ***$5,200*** during that taxable period.

(b) Partnerships, limited liability companies, associations, and trusts, the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds [~~$2,400~~] ***$5,200*** during the taxable year, but not including a qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

(c) Fiduciaries deriving their appointment from a court of this state whose gross interest and dividend income from all sources exceeds [~~$2,400~~] ***$5,200*** during the taxable year.

6 Increase in Exemption. Amend RSA 77:5, I to read as follows:

I. Income of [~~$2,400~~] ***$5,200***.

7 Filing of Returns. Amend RSA 77:18, IV(a) and (b) to read as follows:

(a) Every individual whose total interest and dividend income is less than [~~$2,400~~] ***$5,200*** for a taxable period.

(b) For joint filers whose total interest and dividend income is less than [~~$4,800~~] ***$10,400*** for a taxable period.

8 Business Profits Tax; Credit; Education Tax Included. Amend RSA 77-A:5, X to read as follows:

X. Taxes paid pursuant to ***RSA 78-D, or paid pursuant to*** RSA 77-E[~~.~~] provided such credit shall be applied in accordance with RSA 77-E:13. No amount of tax paid pursuant to ***RSA 78-D or*** 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.

9 Transfer Tax; Rate Reduced. Amend RSA 78-B:1, I(b) to read as follows:

(b) The rate of the tax is [~~$.75~~] ***$.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.

10 New Chapter; New Hampshire Education Tax. Amend RSA by inserting after chapter 78-C the following new chapter:

CHAPTER 78-D

NEW HAMPSHIRE EDUCATION TAX

78-D:1 Definitions. In this chapter:

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

II. "Business activity" means a group of actions performed by a person or persons for the purpose of earning income or profit from such actions and includes every operation which forms a part of, or a step in, the process of earning income or profit from such group of actions. The actions ordinarily include, but are not limited to, the receipt of money, property, or other items of value and the incurring or payment of expenses. "Business activity" shall include all activity of a wholly-owned subsidiary or an independent contractor exclusively performing operations for income or profit for the parent or employing business, provided the gross receipts of the wholly-owned subsidiary or exclusive independent contractor are exempted from this chapter for tax on

such gross receipts.

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

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

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

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

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

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

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

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

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

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

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

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

XV.(a) "Service" means all activities engaged in for other persons for a consideration, which activities involve predominately the performance of labor or intellectual activity as distinguished from selling or leasing property. The term "service" includes construction activities. The commissioner shall adopt rules relative to the determination of such service component. The term "service" does not include labor or intellectual activity performed for or on behalf of other persons when:

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

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

(b) The term "service" shall not include the sale of services for resale.

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

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

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

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

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

(e) Property subject to the tax on communication services, pursuant to RSA 82-E.

(f) Property subject to the electricity consumption tax under RSA 83-A.

XVII. "United States Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended, without the rules, regulations, forms, and procedures of the United States Internal Revenue Service. The rules, regulations, forms, and procedures of the United States Internal Revenue Service may, however, be used by the commissioner of revenue administration in formulating rules for adoption under RSA 541-A.

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

XIX. "Vendor" means any person, including a governmental unit engaged in the business activity of making sales to a consumer.

78-D:2 Imposition of Tax. A tax is imposed on the gross receipts from applicable transactions and sales at retail of tangible personal property or services in this state to consumers, at the rate of one percent upon the taxable receipts from such sale.

78-D:3 Liability for Tax; Prior Sales Exempted.

I. Except as provided in paragraph III, every vendor shall be liable for the tax and such liability shall not be extinguished until the tax has been paid to the state.

II. Except as provided in paragraph III, any tax required to be paid, shall become a personal debt of the vendor until paid to the state.

III. Vendors who are wholly-owned subsidiaries or independent contractors exclusively performing business activity for a parent company or employing business shall not be liable for the tax on their gross receipts provided such business activity is included in the taxable receipts of the parent or employing company.

IV. Vendors shall not be required to pay any tax on any tangible personal property or services sold or used in this state prior to the effective date of this chapter.

78-D:4 Financial Services Transactions.

I. For purposes of this section the following definitions shall apply:

(a) "Billing address" means the location indicated by the consumer to which any notice, statement, invoice, or bill relating to the consumer’s account with the vendor is mailed.

(b) "Commercial domicile" means the place from which a trade or business is principally managed and directed.

(c) "Financial institution" means any state or national bank, bank holding company, savings and loan, federal savings bank, credit association, credit union, or other similar institution.

(d) "Financial products vendor" means any vendor of stocks, bonds, securities, or other similar products who is not a financial institution.

(e) "Financial services transaction" means any transaction with respect to which the vendor is a financial institution or a financial products vendor.

II. The taxes imposed under RSA 78-D:2 shall apply to any financial services transaction within New Hampshire. Notwithstanding any other provision of this chapter, financial services transactions are within New Hampshire if:

(a) The consumer is an individual or business organization engaged in a trade or business which maintains its commercial domicile in the state; or

(b) The consumer is an individual whose residence is in this state.

(c) In the absence of clear evidence of commercial domicile or residence relative to subparagraphs (a) or (b) a transaction shall be

presumed to be within New Hampshire if the consumer's billing address is within the state.

III. The taxable amount of receipts from financial service transactions shall be calculated by deducting from the gross receipts the amount of direct cost to the vendor in procuring the subject matter of the transaction. In the event that payment of the receipt is made in installments, a proportional amount of direct cost shall be allocated and deducted from each installment.

IV. The tax on financial services transaction receipts paid in installments may be paid in one lump sum at the commencement of the installment payments or pro rata over the number of installments.

78-D:5 Tax Returns; Date Payment Due.

I. Except as provided in this section, every vendor having gross receipts in excess of $50,000, shall, on or before the fifteenth day of the third month in the case of businesses required to file a United States corporation tax return, and the fifteenth day of the fourth month in the case of all other businesses, following expiration of its taxable period, make a return to the commissioner. All returns shall be signed subject to the pains and penalties of perjury and the penalties provided in RSA 21-J:39.

II. Every vendor shall in addition file a declaration of its estimated tax for its subsequent taxable period; provided, however, if the estimated tax is less than $200, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which estimated tax exceeds $200. The declaration shall be filed when payments are due.

III. All vendors required to make payments of estimated tax shall make such payments in installments as follows: 25 percent is due and payable on the fifteenth day of the fourth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the sixth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the ninth month of the subsequent taxable year; and 25 percent is due and payable on the fifteenth day of the twelfth month of the subsequent taxable year.

IV. If the return required by paragraph I shows an amount to be due, such amount is due and payable on the prescribed payment date. If such return shows an overpayment of the tax due, the commissioner shall refund such overpayment to the taxpayer or shall allow the taxpayer a credit against a subsequent payment or payment due, to the extent of the overpayment, at the taxpayer's option.

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

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

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

78-D:6 Books, Records, Papers, and Other Documents.

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

II. Every vendor maintaining a place of business in this state or required to file or actually filing in this state under this chapter shall keep books, records, papers, and other documents which are adequate to reflect the information required by this chapter to be reported to the department by the filing of timely returns with the department.

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

78-D:7 Determination of Tax; Additional Returns.

I. If a return required by this chapter is not filed, or if a return when filed, is incorrect or insufficient, the amount of tax due

shall be determined and assessed by the commissioner from any information available. If necessary, the tax may be estimated on the basis of external indices, such as stock on hand, purchases, rental paid, location, scale of rents or charges, comparable rents or charges, type of accommodations and service, number of employees, or other factors.

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

III. When the commissioner has reason to believe that a vendor has failed to file a return or to include any part of the taxable receipts of sales by such vendor in a filed return, the commissioner may require the vendor to file a return or a supplementary return showing such additional information as the commissioner prescribes. The making of such additional return does not relieve the vendor of any penalty for failure to make a correct original return, or relieve it from liability for interest imposed under RSA 21-J:28 or for any 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.

78-D:8 Administration; Rulemaking.

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

II. The commissioner shall adopt rules, under RSA 541-A, relative to:

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

(b) The administration of the New Hampshire education tax.

(c) The recovery of any tax, interest on tax, additions to tax, or penalties imposed by RSA 78-D or RSA 21-J.

78-D:9 Surety Bonds.

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

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

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

78-D:10 Deferred Payment Purchases. The commissioner may provide that the tax upon receipts from purchases on installment plan, seasonal purchases, or deferred payment purchases may be paid on the amount of each deferred payment and upon the date when the payment is received.

78-D:11 Exemptions. The following receipts or uses shall be exempted from the tax imposed under RSA 78-D:2:

I. Rent payments for lease or rental of real estate, except that this subparagraph shall not be construed to exempt admissions

from the taxes imposed by this chapter.

II. Tuition payments.

III. Any property or service purchased or used by the following:

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

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

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

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

IV. Receipts from the isolated or occasional sale of or leasing of property or a service by persons who are neither regularly engaged nor holding themselves out as engaged in the business of selling or leasing the same or similar property or service.

V. Receipts from dues of nonprofit social, fraternal, political, trade, labor, or professional organizations and business leagues. For purposes of this subparagraph, "dues" means amounts that a member of an organization pays at recurring intervals to retain membership in an organization or business league where such amounts are used for the general maintenance and upkeep of the organization or business league.

VI. Receipts from services provided by nonprofit organizations expressly made exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent that such receipts are not from services provided by such nonprofit organization as a result of unrelated trade or business as defined by section 513 of the United States Internal Revenue Code.

VII. Services purchased in state but used or consumed without the state. The value of services purchased out-of-state but used or consumed both within and without New Hampshire shall be apportioned according to the percentage of the total sales, including charges for services, made within this state. Sales of tangible personal property are made in this state if the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of f.o.b. point or other conditions of sale, or the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government, or (2) the business organization is not taxable in the state of the purchaser. Sales other than sales of tangible personal property are in this state if the income-producing activity is performed in this state, or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

78-D:12 Deductions.

I. The following may be deducted from taxable receipts:

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

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

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

(d) Receipts from leasing tangible personal property or licenses if the lease is made to a lessee who delivers a nontaxable

transaction certificate to the lessor. The lessee delivering the nontaxable transaction certificate may not use the tangible personal property or license in any manner other than for subsequent lease in the ordinary course of business.

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

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

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

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

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

78-D:13 Credits.

I. When the receipts from the sale of real property constructed by a person in the ordinary course of a construction business are subject to the gross receipts tax, the amount of tax previously paid by the person on receipts from construction services performed upon the construction project may be credited against the tax due on the sale.

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

78-D:14 Certificate or Affidavit of Exemption. Unless a vendor shall have taken from the purchaser a certificate, signed by the purchaser and bearing the purchaser's name and address and the number of the purchaser's registration certificate, to the effect that the property was purchased for resale, or the purchaser prior to taking delivery furnishes to the vendor any affidavit, statement, or additional evidence, documentary or otherwise, which the commissioner may require demonstrating that the purchaser is an exempt person described in RSA 78-D:11, the purchase shall be deemed a taxable receipt to the vendor. The commissioner shall adopt rules under RSA 541-A relative to the procedures for issuing and the requirements for the use of certificates or affidavits.

78-D:15 Proceedings to Recover Taxes.

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

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

78-D:16 Refunds.

I. Claims for refund or credit may be made by a person required to collect the tax, who has paid over the tax to the commissioner, provided that the claim is timely made in accordance with RSA 21-J:28-a and RSA 21-J:29. The commissioner may, in lieu of any refund, allow credit on payments due from the claimant.

II. If the commissioner determines, on a claim for refund or otherwise, that a person has paid an amount of tax under this

chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the person to the state, with respect to the current and all preceding taxable periods, under any provision of this chapter, the commissioner shall forthwith refund the excess amount to the person together with interest as provided in RSA 21-J:28.

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

11 Utility Property Tax; Rate Reduced. Amend RSA 83-F:2 to read as follows:

83-F:2 Tax Imposed. For taxable periods beginning April 1, 2001, a tax is imposed upon the value of utility property at the rate of [~~$6.60~~] ***$4.60*** 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.

12 Education Trust Fund. Amend RSA 198:39 to read as follows:

198:39 Education Trust Fund Created and Invested.

I. 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' school districts pursuant to RSA 198:42, [~~and~~] to provide education property tax hardship relief under RSA 198:55***, and to make taxpayer refunds under RSA 78-D:16***. The state treasurer shall deposit into this fund immediately upon receipt:

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

(b) [~~Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.~~] ***Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78-D:8, I.***

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

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

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

~~(f)~~] Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

[~~(g)~~] ***(f)*** The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

[~~(h)~~] ***(g)*** All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

[~~(i)~~] ***(h)*** Tobacco settlement funds in the amount of $40,000,000 annually.

[~~(j)~~] ***(i)*** 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.

[~~(k)~~] ***(j)*** 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. ***Amounts in the fund which are not needed for immediate distribution under this subdivision may be appropriated by the general court for purposes of higher education, distributions to municipalities for additional relief beyond adequacy requirements, or may be retained for meeting future educational funding needs of the state.***

13 New Subdivision; Low Income Homeowners Property Tax Relief. Amend RSA 198 by inserting after section 55 the following new subdivision:

Low Income Homeowners Property Tax Relief

198:56 Definitions. In this subdivision:

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

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

(a) A vendee in possession under a land contract;

(b) One or more joint tenants or tenants in common; or

(c) A person who has equitable title, or the beneficial interest for life in the homestead.

III. "Household income" means the sum of the adjusted gross income for federal income tax purposes of the claimant and any member of the claimant's household who resides in the homestead for which a claim is made. "Household income" shall also include all income of any trust through which the claimant holds equitable title, or the beneficial interest for life, in the homestead.

IV. "New Hampshire household" means any person filing a federal income tax return as head of household or 2 or more adults who jointly share the benefit of the homestead. "New Hampshire household" shall not include those adults who share the homestead under a landlord-tenant relationship.

198:57 Low Income Homeowners Property Tax Relief

I. Pursuant to the provisions of this subdivision, eligible claimants shall be granted tax relief following the effective date of this act.

II. Residents shall apply to the department of revenue administration for tax relief under this subdivision.

III. An eligible claimant is a person who:

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

(b) Resides in such homestead at the time of application for relief under this subdivision, except such persons as are on active duty in the United States armed forces or are temporarily away from such homestead but maintain the homestead as a primary domicile; and

(c) Realizes total household income of $40,000 or less.

IV. All or a portion of an eligible claimant's education property taxes, exclusive of municipal and county taxes, shall be rebated as follows:

(a) Deduct the municipal, county, and local education property tax rate from the claimant's total annual property tax rate;

(b) Multiply the net property tax rate computed in subparagraph (a) by the following percentage as applicable to determine the amount of the tax relief. For a claimant, whether single, married or head of household, with total household income of:

(1) Less than $20,000, 100 percent of the net tax rate;

(2) $20,000 but less than $22,000, 95 percent of the net tax rate;

(3) $22,000 but less than $24,000, 90 percent of the net tax rate;

(4) $24,000 but less than $26,000, 85 percent of the net tax rate;

(5) $26,000 but less than $28,000, 80 percent of the net tax rate;

(6) $28,000 but less than $30,000, 75 percent of the net tax rate;

(7) $30,000 but less than $32,000, 70 percent of the net tax rate;

(8) $32,000 but less than $34,000, 65 percent of the net tax rate;

(9) $34,000 but less than $36,000, 60 percent of the net tax rate;

(10) $36,000 but less than $38,000, 55 percent of the net tax rate; or

(11) $38,000 but less than or equal to $40,000, 50 percent of the net rate.

(c) Multiply the rate computed in subparagraph (b) by the local assessed valuation of the homestead from the claimant's current property tax bill;

(d) Multiply the rate computed in subparagraph (b) by the value of a homestead with an equalized value of $150,000 in the claimant's municipality for the current tax year;

(e) The total amount of tax relief allowable in any year shall be the amount computed in subparagraph (c) or (d), whichever is the lesser amount.

V. If a homestead is owned by 2 or more persons as joint tenants or tenants in common, and one or more of such joint owners do not principally reside at such homestead, tax relief applies to the proportionate share of the homestead value that reflects the ownership percentage of the claimant. Only one claim may be filed for a single homestead.

VI. Claims for tax relief filed with the department of revenue administration shall be filed

within 60 days of the due date of the taxes.

VII. Each claim shall be accompanied by a copy of the claimant's federal income tax return filed by the claimant for the immediately prior tax period. Claimants who were not required to file a federal tax return for the immediately prior tax period may submit an affidavit to such effect in lieu of a tax return which document shall include the claimant's social security number. A claimant who asserts ownership in a homestead because he or she holds equitable title, or the beneficial interest for life, in the homestead shall also submit a copy of the document creating such interest and a copy of the federal tax return, if any, for the immediately prior tax period, of the trust holding legal title to the homestead. Any documents submitted shall be considered confidential, and protected under RSA 21-J:14.

VIII. The provisions of RSA 359-C shall not apply to the documents required to be submitted under this section.

198:58 Rulemaking; Forms; Notice.

I. The commissioner shall adopt emergency rules under RSA 541-A relative to the administration of the provisions of this subdivision. Notwithstanding RSA 541-A:18, II, such emergency rules shall be effective for 180 days. After 180 days the commissioner shall adopt rules pursuant to RSA 541-A.

II. The commissioner shall approve and provide forms relative to the administration of this subdivision.

III. Claim forms shall include the following:

(a) Instructions on completing and filing the form;

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

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

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

IV. The commissioner shall publicize notice of the property tax relief provisions in a suitable manner.

198:59 Penalties; Assessment of Erroneous Claims.

I. Any person who files a claim under this subdivision with fraudulent intent and any person who assisted in the preparation or filing of the claim or supplied information upon which the claim was prepared shall be guilty of a misdemeanor.

II. The commissioner may assess and collect the amount of any sums granted for hardship relief relative to a fraudulent or erroneously paid claim for tax relief including interest provided under RSA 21-J:28 and an additional penalty of 25 percent for the erroneous amount of such claim or an additional penalty of the greater of 25 percent or $1,000 for a fraudulent claim.

198:60 Appeals.

I. Whenever the commissioner refuses to grant a claimant a tax relief claim, the claimant may appeal in writing within 30 days of notice of such refusal to the board of tax and land appeals.

II. When a taxpayer appeals the commissioner's refusal 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 commissioner's action to be arbitrary or unreasonable.

198:61 Refund of Tax Claims. The department of revenue administration shall review a claim for relief filed with it and, if such claim is determined to be valid, shall certify such amount to the state treasurer within 90 days. The state treasurer shall pay the claim to the claimant from funds in the education trust fund. The department shall notify a claimant whose claim is rejected in whole or in part of such determination within 90 days of the department's receipt of the claim and all required documentation.

14 Insurance; Credit Against Taxes. Amend RSA 400A:34-a to read as follows:

400-A:34-a ***Credit for New Hampshire Education tax or*** Business Enterprise Tax. The tax imposed under ***RSA 78-D or*** 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 78-D, or 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 78-D or*** RSA 77-E exceeds the taxes imposed under this chapter, such excess shall be deemed to be taxes imposed under ***RSA 78-D or*** 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.

15 Statewide Property Tax Hardship Relief Repeal; Effective Date Changed. Amend 1999, 338:25, II to read as follows:

II. Section 22 of this act shall take effect July 1, [~~2003~~] ***2002***.

16 Repeal. The following are repealed:

I. RSA 77-E:14, relative to the business enterprise tax rate.

II. RSA 78-B:13, relative to distribution of funds to the education trust fund from the increase in the real estate transfer tax rate.

III. RSA 86:6, relative to the tax rate for the legacies and successions tax.

17 Repeal of Prospective Repeals of Education Property Tax and Adequate Education Grant Determination Provisions. The following are repealed:

I. 1999, 338:21, relative to the repeal of RSA 76:3, RSA 198:40, and RSA 198:41.

II. 1999, 338:25, I, relative to the effective date of 1999, 338:21.

18 Effective Date.

I. Sections 3, 4, and 11 of this act shall take effect April 1, 2003.

II. Sections 8, 10, and 14 of this act shall take effect January 1, 2002.

III. The remainder of this act shall take effect July 1, 2002.

AMENDED ANALYSIS

This bill:

I. Establishes a New Hampshire education tax on gross receipts from the consumption of sales of goods and services at a rate of one percent. A one percent tax is imposed on the taxable receipts from the sale at retail of tangible personal property or services in this state to consumers. Revenues from the New Hampshire education tax are continually appropriated to the education trust fund to be used to fund an adequate public education.

II. Repeals the business enterprise tax.

III. Reduces the rates of the education property tax, the utility property tax, and the real estate transfer tax, repeals the legacies and successions tax, and increases certain exemptions to the interests and dividends tax.

IV. Establishes low income homeowner's property tax relief.

2001-0844h

Amendment to HB 769-FN-LOCAL

Proposed by the Committee on Resources, Recreation and Development - R

Amend RSA 482-A:3, X(b) as inserted by section 1 of the bill by replacing it with the following:

(b) For tidal dredging projects with the primary purpose to improve navigation for a municipality, the maximum application fee for a municipality shall be $10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with a municipality to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

2001-0612h

Amendment to HCR 12

Proposed by the Committee on State-Federal Relations and Veterans Affairs - R

Amend the resolution by replacing the title with the following:

A RESOLUTION requesting that the federal government authorize greater state regulation of gas pipelines and pipelines carrying other hazardous substances.

Amend the resolution by replacing the first paragraph after the title with the following:

Whereas, ensuring the safety of citizens residing near pipelines carrying hazardous substances and protecting the surrounding environment from the deleterious effects of pipeline spills are vital state and local responsibilities, yet the federal government is responsible for the oversight of interstate pipelines; and

AMENDED ANALYSIS

This house concurrent resolution requests that the federal government clarify that the regulation of pipelines carrying gas and other hazardous substances be integrated with concurrent state and federal oversight.

2001-0447h

Amendment to HJR 5

Proposed by the Committee on Public Works and Highways - C

Amend the resolution by replacing all after the title with the following:

Whereas, the cost and performance benefits of incorporating renewable energy technologies such as daylighting, photovoltaics, active solar water heating, or wind, biomass and hydroelelctric energy systems in state construction projects have been evaluated and recommended in other states; and

Whereas, over the life of a building, the energy cost savings due to the use of renewable energy systems far outweigh any increased construction costs; and

Whereas, policies that require or encourage the consideration of renewable energy options in the construction or rehabilitation of state buildings are a potentially important mechanism for promoting the increased use of renewable energy in other areas of the state; and

Whereas, current regulatory codes affecting construction do not adequately facilitate the use of renewable energy technologies in the construction or rehabilitation of buildings; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the general court hereby encourages the evaluation and use of renewable energy options in the construction and rehabilitation of all state buildings where feasible; and

That the general court encourages the revision of regulatory codes affecting construction to better accommodate the use of renewable energy technologies in the construction or rehabilitation of buildings.