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Contains: Additional Floor Amendments

HOUSE CALENDAR WEDNESDAY, MAY 5 AMENDMENTS (LISTED IN NUMERICAL ORDER)

2004-1494h

Floor Amendment to SB 302-FN-LOCAL Proposed by Reps. Kurk, Wendelboe, Wallner and Major

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

AN ACT relative to education funding and relative to the tobacco tax.

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

1 Statewide Enhanced Education Tax. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on the most recent available state equalized valuation ~~[-and such]~~ **as released in the year in which the rate is calculated.** Such rate shall be 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. The commissioner of the department of revenue administration shall set the rate ~~[which shall be effective for the fiscal year in which the calculation is made]~~ **pursuant to RSA 76:8 and RSA 76:9.**

2 Assessment; Commissioner's Warrant; Commissioner's Report. Amend RSA 76:8, I to read as follows:

I. The commissioner of revenue administration shall annually calculate the proportion of **uniform** statewide enhanced education tax to be raised by each municipality by multiplying the uniform **statewide enhanced** education ~~[property]~~ tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII ~~[for the preceding year, except]~~ **as released in the year in which the rate is calculated, excluding property taxable subject to** ~~[property taxable under]~~ RSA 82 or RSA 83-F.

3 School Money; Education Trust Fund. 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 ~~[statewide enhanced education property tax hardship relief under RSA 198:55]~~ **low and moderate income homeowners property tax relief under RSA 198:56-198:61.** The state treasurer shall deposit into this fund immediately upon receipt:

4 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, IX to read as follows:

IX. "Transportation cost" means the cost of transporting pupils in grades kindergarten through grade 8, **excluding educationally disabled pupils,** to and from school as reported by school districts on the DOE-25 form.

5 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, XI to read as follows:

XI. "Calculated rate" means the total revenue raised statewide by the local education tax ***from the second year preceding the year in which the calculation is made*** multiplied by 1,000, and then divided by the ~~[total]~~ statewide ***total*** equalized valuation ***from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F.***

6 State Aid for Educational Adequacy; Local Equalization Aid; Per Pupil Valuation. RSA 198:40 is repealed and reenacted to read as follows:

198:40 Local Equalization Aid. Beginning July 1, 2004, and every fiscal year thereafter, local equalization aid shall be calculated by the department as follows:

I. The statewide total equalized valuation of all municipalities from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F, shall be divided by the total statewide average daily membership in residence from the second school year preceding the year in which the calculation is made. The result shall be the statewide average equalized valuation per pupil.

II. The equalized valuation of all property in a municipality from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F, shall be divided by the average daily membership in residence in the municipality from the second school year preceding the year in which the calculation is made. The result shall be the local equalized valuation per pupil.

III. Eligibility for local equalization aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is equal to, or greater than, the statewide average equalized valuation per pupil as calculated in paragraph I, no local equalization aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive local equalization aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the calculated rate, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality from the second school year preceding the year in which the calculation is made and shall be available to a municipality as local equalization aid.

7 Targeted Per Pupil Aid; State Enhanced Education Aid. Amend RSA 198:40-a and 198:40-b to read as follows:

198:40-a Targeted Per Pupil Aid.

I. A municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to ~~[200]~~ **150** percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be eligible to receive targeted per pupil aid for such municipality's transportation costs as reported on the DOE-25 form, and for such municipality's educationally disabled pupils, pupils eligible for free or reduced-price meals, and English for speakers of other languages which shall be determined by multiplying the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, by the calculated rate. The product shall be divided by 1,000 resulting in a per pupil amount which shall be available to a municipality as follows:

(a) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence of educationally disabled pupils in the municipality ***from the second school year preceding the year in which the calculation is made.*** This amount shall be available as targeted aid for educationally disabled pupils in the municipality.

(b) ~~[(1) For the 2005 fiscal year, the per pupil amount calculated in paragraph I, less \$300, shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.]~~

~~[(2) For the 2006 fiscal year and every fiscal year thereafter,]~~ The per pupil amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in residence]~~ ***head count of pupils in residence from the second school year preceding the year in which the calculation is made*** eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality. ***In this subparagraph, "residence" means the municipality in which such pupils reside.***

(c) The per pupil amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in attendance]~~ ***headcount of pupils in attendance*** receiving English for speakers of other languages services ~~[in the municipality]~~ ***from the second school year preceding the year in which the calculation is made.*** This amount shall be available as targeted aid for ~~[pupils in the]~~ ***a*** municipality ~~[receiving]~~ ***providing*** English for speakers of other languages services. ~~[In this subparagraph "average daily membership in attendance" shall be as defined in RSA 189:1-d, III.]~~

(d) ***Effective July 1, 2007, no municipality shall count the same pupil in subparagraphs (a)-(c) more than once.***

(e) A municipality eligible to receive targeted per pupil aid under this paragraph shall also receive 100 percent of transportation costs in such municipality.

II. A municipality with a local equalized valuation per pupil, as calculated in RSA 198:40, II, which is greater than [200] **150** percent of the statewide average equalized valuation per pupil as calculated in RSA 198:40, I shall not receive targeted per pupil aid under this section.

198:40-b State Enhanced Education Aid. Beginning July 1, 2004, and every fiscal year thereafter, state enhanced education aid shall be calculated by the department as follows:

I. Divide the [total] statewide **total** equalized valuation of all municipalities [~~excluding utilities, as determined by the department of revenue administration~~] **for the year preceding the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F**, by the total statewide average daily membership in residence **from the second school year preceding the year in which the calculation is made**. The result shall be the statewide average equalized valuation per pupil.

II. Divide the equalized valuation of all property in a municipality [~~excluding utilities, as determined by the department of revenue administration~~] **for the year preceding in the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F**, by the average daily membership in residence in the municipality **from the second school year preceding the year in which the calculation is made**. The result shall be the local equalized valuation per pupil.

III. Eligibility for state enhanced education aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is greater than or equal to the statewide average equalized valuation per pupil as calculated in paragraph I, no state enhanced aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive state enhanced education aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the statewide enhanced education tax **rate** imposed statewide in the fiscal year in which this calculation is made, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality **from the second school year preceding the year in which the calculation is made** and shall be available to a municipality as state enhanced education aid.

~~[IV.(a) In any fiscal year, if the amount raised by the statewide enhanced education property tax in any municipality, except an unincorporated place or a town with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.~~

~~(b) The amount of such excess to be remitted shall not include any income derived from the investment of funds by the municipal treasurers under RSA 41:29 and RSA 48:16. Any funds remaining after full payment of the excess tax required in subparagraph (a) shall become available for unrestricted use by the municipality.~~

~~(c) The commissioner of the department of revenue administration shall collect from the municipality the excess tax and pay the excess tax over to the state treasurer for deposit in the education trust fund established in RSA 198:39.~~

~~(d) The commissioner of the department of revenue administration shall calculate the excess amount owed by each municipality pursuant to subparagraph (a).]~~

[V] IV. In any fiscal year, a municipality shall appropriate all state enhanced education aid funds received under this section to pay for local education costs before raising any additional local education tax revenues [~~locally~~].

8 New Section; School Money; Consumer Price Index Adjustments. Amend RSA 198 by inserting after section 40-c the following new section:

198:40-d Consumer Price Index Adjustments; Transition Grants.

I. For the 2006 fiscal year, and every fiscal year thereafter, the transition grant as calculated under this section shall be adjusted as follows:

(a) Multiply the total state aid for education as calculated in RSA 198:40-c, I for the previous year by 100 percent plus the average annual rate of inflation for the 3 immediately preceding calendar years, as measured by the northeast region consumer price index (CPI) for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The result shall be the CPI-adjusted total state aid for education. In any fiscal year, the CPI-adjusted total state aid for education shall not be less than 100 percent of the CPI-adjusted total state aid for education in the previous fiscal year.

(b) Divide the CPI-adjusted total state aid for education by the total state aid for education pursuant to RSA 198:40-c, I. The result shall be the adjustment factor.

(c) Multiply the municipality's total grant amount as calculated pursuant to RSA 198:40, RSA 198:40-a, and RSA 198:40-b by the adjustment factor.

II. For fiscal years 2005 through 2007, a municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, and which is scheduled to receive less than 90 percent of the grant such municipality received in the previous

fiscal year, shall receive a transition grant in an amount sufficient to increase the municipality's education grant to 90 percent of the amount received by such municipality in the previous fiscal year. If a municipality has a local equalized valuation per pupil which is greater than 150 percent of the statewide average equalized valuation per pupil, such municipality's transition grant shall be zero.

9) Determination of Education Grants. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Education Grants.

I. Except as provided in paragraph II, the department of education shall determine the amount of the education grant for the municipality by adding all sums received by a municipality under RSA 198:40, RSA 198:40-a, and RSA 198:40-b, as adjusted pursuant to RSA 198:40-d.

II. 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 education grant for each municipality as the lesser of the following:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education.

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year by November 1.

10 School Money; Distribution of Education Grants. Amend RSA 198:42, II to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA ~~[198:40-c]~~ **198:41** is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education ~~[according to the following formula: from the amount calculated in accordance with RSA 198:40-c, subtract the aggregate amount of the statewide enhanced education tax warrants to be issued by the commissioner of revenue administration for municipalities reported pursuant to RSA 76:9 for the next tax year]~~. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

11 Excess Statewide Enhanced Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. In any fiscal year, if the amount raised by the statewide enhanced education tax in any municipality, except an unincorporated place or a municipality with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

12 Alternative Kindergarten Programs. Amend RSA 198:48-a, VII-VIII to read as follows:

VII.(a) For each fiscal year through June 30, 2003, an ~~[adequate]~~ education grant of \$1200 per pupil shall be distributed to school districts, from the education trust fund created in RSA 198:39, for the education of its resident kindergarten pupils enrolled in an approved alternative kindergarten program established under this section.

(b) Once pupils enrolled in an approved alternative kindergarten program have been counted in the average daily membership in residence, school districts shall receive, for each such pupil, an ~~[adequate]~~ education grant calculated in accordance with RSA 198:41.

VIII. Notwithstanding the provisions of this section, alternative kindergarten programs which were approved and in effect prior to April 29, 1999 may continue to operate and shall continue to receive per pupil ~~[adequate]~~ education grant amounts in accordance with RSA 198:41.

13 Repeal. The following are repealed:

I. RSA 198:40-c, II, relative to the consumer price index adjustment for total state aid for education.

II. RSA 198:40-c, IV, relative to the pro rata reduction in total state aid to education.

14 Tobacco Tax; Tax Imposed Effective July 1, 2004. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[52]~~ **69** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

15 Tobacco Tax; Tax Imposed Effective July 1, 2005. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 59 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at

retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word “package” as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

16 Tobacco Tax; Tax Imposed Effective July 1, 2006. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word “package” as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

17 Applicability. Section 14 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 90 days after the effective date of this act. The tax rate effective July 1, 2004 shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

18 Education Property Tax; Rate Established. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$4.92 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.

19 Assessment; Commissioner’s Warrant; Commissioner’s Report. RSA 76:8 and 76:9 are repealed and reenacted to read as follows:

76:8 Commissioner’s Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

II. The commissioner shall issue a warrant under the commissioner’s hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality by December 15 directing them to assess such sum and pay it to the municipality for the use of the school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

III. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations not funded by the education property tax, by distributions from the education trust fund under RSA 198:39, or by other revenue sources.

76:9 Commissioner’s Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

20 Utility Property Tax; Exemption. RSA 83-F:9 is repealed and reenacted to read as follows:

83-F:9 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.

21 School Boards, Teachers; Definitions Amended. RSA 189:1-d is repealed and reenacted to read as follows:

189:1-d Definitions. In this chapter:

I. “Attendance” means full-time participation in a program of instruction under the direction of a teacher employed by the school district. Educationally disabled home educated pupils educated at school district expense under the direction of a teacher employed by the school district shall be included.

II. “Membership” means pupils of whom attendance is expected, whether a pupil is present or absent on any given day.

III. “Average daily membership in attendance” means the aggregate half-day membership of pupils attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance for preschool and kindergarten pupils shall be divided by the number of instructional days offered to higher-level elementary grades.

IV. “Average daily membership in residence” means the average daily membership in attendance of pupils who are legal residents of the school district pursuant to RSA 193:12 or RSA 193:27, IV and are attending any public school, or who are attending any charter school or private school program approved by the department of education at the expense of the school

district.

22 School Money; Definitions; Education Trust Fund; Determination of Per Pupil Adequate Education Cost; Determination of Adequate Education Grants. RSA 198:38-41 are repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

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

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

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" for each school district that operates an elementary school means the amounts calculated in accordance with RSA 198:40, I(a).

VI. "Average base cost per pupil of an elementary school pupil" means the amount as determined in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils weighted as follows:

(a) Every pupil, including kindergarten pupils, 1.0.

(b) A high school pupil, an additional weight of 0.2.

(c) An educationally disabled child, an additional weight of 1.0.

(d)(1) 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 percentage of elementary pupils eligible to receive a free or reduced-price meal in the district of residence, and multiplied by:

(A) If the district percent is less than or equal to the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, zero.

(B) If the district percentage is greater than the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, the lesser of 1.0 or a number equal to 5 times the difference between the district percentage and the state average percentage multiplied by 0.85.

(2) If the elementary average daily membership of the district of residence is less than 10, the percentage of elementary pupils eligible to receive a free or reduced-price meal shall be equal to the percentage eligible in that district in which the majority of the elementary pupils attend.

(e) Each pupil who is home educated pursuant to a program approved under RSA 193-A shall be added as follows:

(1) 0.1 for each home educated pupil participating in a public school activity; and

(2) An additional 0.15 for each academic course taken in a public school, provided that no co-curricular activity, as defined by the department of education, shall count as an academic course under this subparagraph.

VIII. "Educationally disabled child" means an educationally disabled child as defined in RSA 186-C:2, I.

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

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the cost of transporting pupils in kindergarten through grade 8, excluding educationally disabled pupils, to and from school as reported by school districts on the DOE-25 form.

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41, I(a) and (b). In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

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. 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 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) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the biennium beginning July 1, 1999, 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.

(2) From the school districts identified 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 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.

II. The 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 average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-price meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

III. 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 by the statewide weighted average daily membership in residence of pupils and then adding 100 percent of transportation costs as defined in RSA 198:38, XI.

198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of 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; and

(b) Add to the product of subparagraph (a), 100 percent of the municipality's apportioned transportation costs as defined in RSA 198:38, XI;

(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.

II. 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 each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

23 School Money; Distribution of Education Grants. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

24 School Money; Targeted Education Grants. RSA 198:45-a is repealed and reenacted to read as follows:

198:45-a Targeted Education Grants.

I. In this section:

(a) "Median family income" and "median home value" shall be as defined in the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce. County values shall be used for unincorporated places not reported in the census data.

(b) "Total equalized valuation" shall mean the most recent available total equalized valuation, including utilities and railroads, as determined by the department of revenue administration.

(c) "Adjustment percentage" shall mean the percentage which will result in a total targeted education grant distribution in a fiscal year that will match, as nearly as possible without exceeding, the appropriation in such fiscal year for targeted education grants.

II. The department of education shall annually calculate each municipality's targeted education grant as set forth in this paragraph.

(a) The department of education shall calculate the statewide average per pupil target amount as follows:

(1) Multiply the statewide median family income by 0.5 percent; and

(2) Divide the product by the statewide median home value; and

(3) Multiply the result by the statewide total equalized valuation and divide the product by the statewide average daily membership in residence. The result shall be the statewide average per pupil target amount.

(4) Multiply the statewide average per pupil target amount by 2 and multiply the result by the adjustment percentage.

(b) The department of education shall calculate the local valuation per pupil as follows:

(1) Multiply the average median family income in the municipality by 0.5 percent; and

(2) Divide the product by the median home value in the municipality; and

(3) Multiply the result by the total equalized valuation in the municipality and divide the product by the average daily membership in residence in the municipality. The result shall be the local per pupil amount.

(c) The department of education shall subtract the amount obtained in subparagraph (b) from the amount obtained in subparagraph (a) and multiply the difference by the adjustment percentage. The result, if greater than zero, shall be multiplied by the average daily membership in residence in the municipality and shall be distributed to the municipality as a targeted education grant.

III. The sum of \$10,000,000 shall be appropriated to the education trust fund established in RSA 198:39 for the purpose of providing targeted education grants to school districts. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

IV. Targeted education grants made under this section shall be distributed in accordance with RSA 198:42.

25 Excess Education Property Tax Payment; Subdivision Heading Amended. The subdivision heading immediately preceding RSA 198:46 is repealed and reenacted to read as follows:

Excess Education Property Tax Payment

26 Excess Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. Municipalities for which the education property tax exceeds the amount necessary to fund an adequate education determined by RSA 198:40 shall assess and remit such excess amount to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

27 Excess Education Property Tax Payment; Forms. RSA 198:47 is repealed and reenacted to read as follows:

198:47 Forms. The commissioner shall approve and provide forms relative to the reporting and remitting of excess education property tax by the municipalities.

28 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, III(a) is repealed and reenacted to read as follows:

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

29 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, IV(c) is repealed and reenacted to read as follows:

(c) Multiply the lesser of the amount determined in subparagraph (a) or (b) by the current state education property tax rate as shown on the tax bill under RSA 76:11-a;

30 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. The base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

31 Repeal. The following are repealed:

I. RSA 198:40-a, relative to targeted per pupil aid.

II. RSA 198:40-b, relative to state enhanced education aid.

III. RSA 198:40-c, relative to total state aid for education.

32 Contingent Applicability. If any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is declared to be contrary to the New Hampshire constitution, or if the applicability thereof to any agency, person, or circumstance is held invalid, then sections 18-31 of this act shall take effect immediately upon the determination of such unconstitutionality or invalidity, and shall remain in effect thereafter.

33 Effective Date.

I. Sections 1 and 15 of this act shall take effect July 1, 2005.

II. Section 16 of this act shall take effect July 1, 2006.

III. Sections 17 and 32 of this act shall take effect upon its passage.

IV. RSA 198:40-a, I(d) as inserted by section 7 of this act shall take effect July 1, 2007.

V. Sections 18-31 of this act shall take effect as provided in section 32 of this act.

VI. The remainder of this act shall take effect July 1, 2004 at 12:01 a.m.

AMENDED ANALYSIS

This bill:

I. For the 2005-2007 fiscal years, allows municipalities to receive 90 percent of the education grant received in the previous fiscal year.

II. Amends certain statutory provisions concerning the distribution of state aid for education.

III. Increases the tobacco tax from 52 to 69 cents for the 2005 fiscal year.

IV. Decreases the tobacco tax from 69 to 59 cents for the 2006 fiscal year.

V. Decreases the tobacco tax from 69 to 52 cents for the 2007 fiscal year and thereafter.

VI. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is found to be unconstitutional or invalid.
2004-1491h

Floor Amendment to SB 534-FN-A Proposed by Reps. Woods, Almy and Sorg

Amend the bill by replacing sections 1-13 with the following:

❶ New Paragraph; Pari-Mutuel Commission; Additional Duties. Amend RSA 284:6-a by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall administer RSA 287-E relating to bingo and lucky 7.

❷ New Paragraph; Pari-Mutuel Commission; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

❸ New Subparagraph; Purchase of Supplies; Exemption. Amend RSA 21-I:18, I by inserting after subparagraph (m) the following new subparagraph:

(n) The purchase of gaming tickets and their dispensing equipment by the pari-mutuel commission under RSA 287-E. The pari-mutuel commission shall make such purchases under competitive bidding requirements, except when waived by the pari-mutuel commission or its authorized agent with written justification.

❹ Sweepstakes Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Sweepstakes Commission. There shall be and hereby is created a state sweepstakes commission consisting of 3 members who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. One member shall be appointed for one year, one for 2 years and one for 3 years, and upon the expiration of their terms of office their successors shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. No member of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[-or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,] or in any licensee licensed under the provisions of this chapter.~~

❺ Sweepstakes Commission. Amend RSA 284:21-i, I to read as follows:

I. The sweepstakes commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive

compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[, or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,] or in any licensee licensed under this chapter.~~

6 Sweepstakes Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the sweepstakes commission **and all moneys received from the pari-mutuel commission under RSA 287-E**, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and **all administration expenses of the pari-mutuel commission under RSA 287-E**. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

7 Reference Change; Raffles Held in Conjunction With Bingo Games. Amend RSA 287-A:8, III to read as follows:

III. Notwithstanding RSA 287-A:4, raffle tickets sold in conjunction with bingo games shall be sold only by members of a charitable organization licensed by the ~~[sweepstakes]~~ **pari-mutuel** commission to conduct bingo and only at bingo games being operated by the charitable organization.

8 Bingo and Lucky 7; Definitions. Amend RSA 287-E:1, VI to read as follows:

VI. "Commission" means the state ~~[sweepstakes]~~ **pari-mutuel** commission.

9 Bingo; Administration and Enforcement. Amend RSA 287-E:2 to read as follows:

287-E:2 Administration and Enforcement. The ~~[sweepstakes]~~ **pari-mutuel** commission shall administer and the commissioner of safety shall enforce this subdivision relating to bingo.

10 Lucky 7; Administration and Enforcement. Amend RSA 287-E:16 to read as follows:

287-E:16 Administration and Enforcement. The ~~[sweepstakes]~~ **pari-mutuel** commission shall administer and the commissioner of safety shall enforce this subdivision relating to the sale of lucky 7 tickets.

11 Gambling Offenses; Exceptions. Amend RSA 647:2, V(a) to read as follows:

(a) Dispenser devices approved by the ~~[sweepstakes]~~ **pari-mutuel** commission which are located at the regular meeting place of, or at a facility owned, leased, or utilized by, a charitable organization licensed under RSA 287-E:20.

12 Transfer of Authority. The pari-mutuel commission shall assume all authority, functions, duties, and responsibilities of the sweepstakes commission regarding administration and licensing under RSA 287-E. All existing rules adopted by the sweepstakes commission for administration and licensing under RSA 287-E shall remain in effect and be enforced by the pari-mutuel commission.

13 Transfer; Status of State Employees. Classified employees of the sweepstakes commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the pari-mutuel commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the sweepstakes commission for administration and licensing of bingo and lucky 7. The transfer provided for in this paragraph shall include the following personnel from the sweepstakes commission: position numbers 14418, 14424, and 14393.

Amend the bill by deleting sections 14-17 and renumbering sections 18-43 to read as 15-40, respectively.

Amend the bill by replacing section 38 with the following:

38 Applicability. Section 37 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

Amend the bill by replacing section 40 with the following:

40 Effective Date.

I. Sections 24 and 29-32 of this act shall take effect upon its passage.

II. Section 39 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill:

I. Transfers administration of bingo and lucky 7 to the pari-mutuel commission.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Changes the appointment authority for department of education officials.

XIV. Permits an appeal from the final decision of a board or regulatory commission to the highest ranking official of the department to which the board or commission is administratively attached.

2004-1492h

Floor Amendment to SB 534-FN-A
Proposed by Reps. Almy, Woods and Sorg

Amend the bill by deleting sections 1-16 and renumbering the original sections 17-43 to read as 1-27, respectively.

Amend the bill by replacing section 1 with the following:

□ **Committee Established.**

I. There is established a committee to determine whether there are more efficient and effective means of providing state oversight of charitable gaming.

II.(a) The members of the committee shall be as follows:

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

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

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall conduct a study to determine whether there are more efficient and effective means of providing state oversight of charitable gaming, including bingo, lucky 7, and games of chance.

IV. 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.

V. 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, 2004.

Amend the bill by replacing section 25 with the following:

25 Applicability. Section 24 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

Amend the bill by replacing section 27 with the following:

27 **Effective Date.**

I. Sections 1, 10, and 15-18 of this act shall take effect upon its passage.

II. Section 26 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill:

I. Establishes a study committee to determine whether there are more efficient and effective means of providing state oversight of charitable gaming.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of

transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Changes the appointment authority for department of education officials.

XIV. Permits an appeal from the final decision of a board or regulatory commission to the highest ranking official of the department to which the board or commission is administratively attached.