

State of New Hampshire HOUSE RECORD

First Year of the 159th General Court Calendar and Journal of the 2005 Session

Vol. 27

Concord N.H.

Wednesday, April 20, 2005

No. 35

Contains: Additional Floor Amendments

HOUSE CALENDAR WEDNESDAY, APRIL 20 ADDITIONAL FLOOR AMENDMENTS (LISTED IN NUMERICAL ORDER)

2005-1204h

Floor Amendment to HB 1-A Proposed by Reps. Hager and Wallner

Amend section 1 of the bill by making the following specified changes, and by changing subtotals and totals as hereinafter specified to reflect the specified changes.

01 GENERAL GOVERNMENT

08 TREASURY DEPARTMENT

06 LCHIP

Strike out

90 LCHIP	2,500,000	2,500,000
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Insert in place thereof

90 LCHIP	5,000,000	5,000,000
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TOTAL	5,000,000	5,000,000
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ESTIMATED SOURCE OF FUNDS FOR
LCHIP

Strike out

GENERAL FUND	2,500,000	2,500,000
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Insert in place thereof

GENERAL FUND	5,000,000	5,000,000
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TOTAL	5,000,000	5,000,000
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05 HEALTH AND SOCIAL SERVICES

01 DEPT OF HEALTH AND HUMAN SVCS

02 OFF OF MEDICAID & BUSINESS POL

01 OFF OF MEDICAID & BUSINESS POL

05 PROVIDER PAYMENTS

ESTIMATED SOURCE OF FUNDS FOR
PROVIDER PAYMENTS

Strike out

09 AGENCY INCOME	I	2,776,688	2,857,870
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Insert in place thereof

09 AGENCY INCOME	I	250,000	250,000
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Strike out

GENERAL FUND	169,563,060	168,022,097
Insert in place thereof		
GENERAL FUND	172,089,748	170,629,967
TOTAL	353,447,426	346,623,823
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
09 BUREAU OF BEHAVIORAL HEALTH		
04 COMMTY MENTAL HEALTH SVCS		
01 COMMTY MENTAL HEALTH SVCS		
Strike out		
40 INDIRECT COSTS	3,037	2,997
Insert in place thereof		
40 INDIRECT COSTS	4,338	4,498
Strike out		
41 AUDIT FUND SET ASIDE D	40,404	42,406
Insert in place thereof		
41 AUDIT FUND SET ASIDE D	41,905	43,908
Strike out		
91 FAMILY SUPPORT	14,646,389	15,280,713
Insert in place thereof		
91 FAMILY SUPPORT	15,101,389	15,805,713
Strike out		
92 CASE MANAGEMENT	9,960,845	10,393,086
Insert in place thereof		
92 CASE MANAGEMENT	10,285,845	10,768,086
Strike out		
93 EMERG INTAKE & HOSP SVCS	6,560,585	6,718,844
Insert in place thereof		
93 EMERG INTAKE & HOSP SVCS	6,794,585	6,988,844
Strike out		
94 COMMUNITY SUPPORT	28,581,538	29,869,068
Insert in place thereof		
94 COMMUNITY SUPPORT	29,569,538	31,009,068
Strike out		
95 HOUSING	19,912,381	21,548,358
Insert in place thereof		
95 HOUSING	20,510,381	22,238,358
TOTAL	85,663,729	90,319,821
ESTIMATED SOURCE OF FUNDS FOR		
COMMTY MENTAL HEALTH SVCS		
Strike out		
00 FEDERAL FUNDS	40,604,318	42,406,405
Insert in place thereof		
00 FEDERAL FUNDS	41,907,120	43,909,408
Strike out		
GENERAL FUND	42,456,609	44,910,413
Insert in place thereof		
GENERAL FUND	43,756,609	46,410,413
TOTAL	85,663,729	90,319,821
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
10 BUREAU OF DEVELOPMENT SERVICES		
01 DEVELOPMENTAL SERVICES		
Strike out		
41 AUDIT FUND SET ASIDE D	72,953	77,955
Insert in place thereof		
41 AUDIT FUND SET ASIDE D	76,260	81,678
Strike out		

91 CASE MANAGEMENT	9,997,998	10,400,265
Insert in place thereof		
91 CASE MANAGEMENT	10,674,495	11,169,729
Strike out		
92 DAY PROGRAMS	45,389,845	47,369,263
Insert in place thereof		
92 DAY PROGRAMS	48,079,805	50,310,708
Strike out		
94 FAMILY SUPPORT	2,360,297	2,502,871
Insert in place thereof		
94 FAMILY SUPPORT	2,446,600	2,559,143
Strike out		
95 COMMUNITY RESIDENCES	70,033,634	72,970,277
Insert in place thereof		
95 COMMUNITY RESIDENCES	73,001,613	76,387,438
Strike out		
96 CHRONICALLY ILL CHILDREN	602,363	630,072
Insert in place thereof		
96 CHRONICALLY ILL CHILDREN	615,906	644,237
Strike out		
97 ACQUIRED BRAIN DISORDER	11,332,284	11,858,376
Insert in place thereof		
97 ACQUIRED BRAIN DISORDER	11,614,468	12,153,541
Strike out		
98 ABD WAITLIST	617,035	1,262,454
Insert in place thereof		
98 ABD WAITLIST	617,035	1,290,838
Strike out		
99 EARLY INTERVENTION	4,341,346	4,519,969
Insert in place thereof		
99 EARLY INTERVENTION	4,417,466	4,622,472
TOTAL	156,002,295	167,095,463
ESTIMATED SOURCE OF FUNDS FOR DEVELOPMENTAL SERVICES		
Strike out		
00 FEDERAL FUNDS	73,010,934	78,082,168
Insert in place thereof		
00 FEDERAL FUNDS	76,319,540	81,805,865
Strike out		
GENERAL FUND	76,145,468	81,335,013
Insert in place thereof		
GENERAL FUND	79,632,755	85,239,598
TOTAL	156,002,295	167,095,463

Amend the bill by replacing all after section 20 with the following:

21 Revenue Estimates; 2005. General fund revenue estimates for fiscal year 2005 for the business enterprise tax, business profits tax, real estate transfer tax, and interest and dividends tax are hereby increased by \$4,000,000.

22 Estimates of Unrestricted Revenue:

<u>GENERAL FUND</u>	<u>FY 2006</u>	<u>FY 2007</u>
Beer Tax	\$ 12,500,000	\$ 12,600,000
Board and Care Review	13,500,000	14,000,000
Business Profits Tax	230,750,000	247,300,000
Business Enterprise Tax	71,650,000	72,150,000
Estate and Legacy Tax	6,800,000	4,100,000
Insurance Tax	91,500,000	94,300,000
Securities Revenue	30,000,000	31,500,000
Interest and Dividends	66,900,000	70,800,000

Liquor Sales & Distribution	120,000,000	126,000,000
Meals and Rooms Tax	198,700,000	209,900,000
Dog Racing	1,400,000	1,400,000
Horse Racing	2,000,000	2,000,000
Real Estate Transfer Tax	112,650,000	121,050,000
Communications Tax	71,300,000	74,100,000
Tobacco Tax	71,100,000	71,100,000
Tobacco Settlement	2,000,000	2,000,000
Utility Consumption Tax	6,400,000	6,600,000
Court Fines and Fees	30,400,000	30,400,000
Other	<u>58,100,000</u>	<u>59,800,000</u>
Subtotal	1,197,200,000	1,251,100,000
Medicaid Enhancement Revenue	73,000,000	75,800,000
Medicaid Recovery - Long-Term Care	15,000,000	14,200,000
Medicaid Recovery - Regular Care	<u>1,950,000</u>	<u>1,850,000</u>
Total	\$ 1,287,150,000	\$ 1,342,950,000
HIGHWAY FUND	<u>FY 2006</u>	<u>FY 2007</u>
Gasoline Road Toll	\$ 132,000,000	\$ 134,200,000
Motor Vehicle Fees	87,200,000	93,900,000
Miscellaneous	<u>10,400,000</u>	<u>10,400,000</u>
Total	\$ 229,600,000	\$ 238,500,000
FISH AND GAME FUND	<u>FY 2006</u>	<u>FY 2007</u>
Fish and Game Licenses	\$ 8,300,000	\$ 8,300,000
Fines and Penalties	170,000	170,000
Miscellaneous Sales	375,000	375,000
Indirect Costs	<u>655,000</u>	<u>655,000</u>
Total	\$ 9,500,000	\$ 9,500,000
EDUCATION TRUST FUND	<u>FY 2006</u>	<u>FY 2007</u>
Business Profits Tax	\$ 48,500,000	\$ 50,800,000
Business Enterprise Tax	137,900,000	144,800,000
Meals and Rooms Tax	7,100,000	7,200,000
Real Estate Transfer Tax	55,100,000	56,700,000
Tobacco Tax	72,400,000	72,400,000
Tobacco Settlement	40,000,000	40,000,000
Utility Property Tax	22,800,000	24,100,000
Transfer from Sweepstakes	<u>73,100,000</u>	<u>73,200,000</u>
Total	\$ 456,900,000	\$ 469,200,000

23 Effective Date. This act shall take effect July 1, 2005.

2005-1203h

Floor Amendment to HB 2-FN-A
Proposed by Reps. Hager and Wallner

Amend the bill by deleting section 16 and renumbering the original sections 17-62 to read as 16-61, respectively.

Amend the bill by replacing section 26 with the following:

26 Purpose. Sections 27-55 of this act are increases to current motor vehicle fines contained in the uniform fine schedule which, pursuant to RSA 502-A:19-b, V, may be changed only by statute. For the purposes of the increases in fines provided in this act, no penalty assessment shall be added to the increase in the fine if the statute containing the fine states that the penalty assessment is in addition to the specified fine amount.

Amend the bill by replacing section 59 with the following:

59 Applicability. Section 58 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 2005 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.

Amend the bill by replacing 61 with the following:

61 Effective Date.

I. Paragraph II of section 20 of this act shall take effect July 1, 2005 at 12:01 a.m.

II. Section 56 of this act shall take effect June 30, 2005.

III. The remainder of this act shall take effect July 1, 2005.

AMENDED ANALYSIS

This bill:

I. Authorizes the office of information technology to transfer funds within and among all PAU's within the office, with the approval of the fiscal committee, for the biennium ending June 30, 2007.

II. For the biennium ending June 30, 2007, allows the department of fish and game, the department of transportation, and the department of regional community-technical colleges to lease vehicles and equipment at the discretion of the agency head.

III. Directs the commissioner of transportation to allocate funds to the local highway aid fund prior to deducting collection and administrative costs, and prohibits the department of safety from expending funds for collection and administration costs in the current fiscal year if the department has not yet filed the previous year's collection cost report.

IV. Appropriates the sum of \$275,000, for the biennium ending June 30, 2007, to the department of education for the support of the kindergarten program in the town of Merrimack.

V. Lapses the balance of funds for special education at the youth services center to the general fund.

VI. Limits the ability of the department of health and human services to change program eligibility standards and rates in the biennium ending June 30, 2007.

VII. Provides that, for the biennium ending June 30, 2007, the department of health and human services may accept and expend additional revenues above budgeted amounts for provider payments and certain other programs and services, subject to approval of the fiscal committee and governor and council.

VIII. Authorizes the department of health and human services to transfer funds within and among all PAUs within the department for certain purposes, subject to approval of the fiscal committee and governor and council.

IX. Provides that, for the biennium ending June 30, 2007, revenue generated by the liquor commission shall be deposited in the general fund.

X. Reduces, for the biennium ending June 30, 2007, the amount of tobacco settlement funds deposited in the tobacco use prevention fund.

XI. Establishes a \$4,000 cap on community mental health services benefits available to persons identified as adults with low service utilization of such services, and requires the department to establish, by rule, a procedure to waive the financial cap.

XII. Extends the current funding formula relative to county nursing homes and proportionate share payments to July 1, 2007, and provides that, in calculating such expenditures, pharmaceutical services include the Medicare prescription drug benefit.

XIII. 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.

XIV. Establishes the judicial branch family division.

XV. Appropriates federal emergency assistance funds to the department of transportation.

XVI. Defines a family mutual support organization as a nonprofit corporation that provides certain assistance to families and individuals with mental illness.

XVII. Requires that the oversight committee on health and human services include a member of the house finance committee and a member of the senate finance committee.

XVIII. Suspends reporting requirements for community mental health services, absent subsequent approval of the fiscal committee of the general court.

XIX. Provides that for the biennium ending June 30, 2007, interest income on appropriations to the land and community heritage investment program (LCHIP) fund shall be deposited in the LCHIP administrative fund.

XX. Increases motor vehicle fines.

XXI. Provides that the budget surplus as of June 30, 2005 shall remain in the general fund.

XXII. Provides that any charges or discounts under the E-Z Pass system shall be sufficient to offset the cost of the E-Z Pass system.

XXIII. Increases the tobacco tax.

XXIV. Provides for the rehiring of laid off state employees for available state positions.

**Floor Amendment to HB 2-FN-A
Proposed by Rep. Vaillancourt**

Amend the bill by replacing section 59 with the following:

59 Tobacco Tax Increased. 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 cents]~~ **\$.74** 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.

Amend the bill by inserting after section 60 the following and renumbering the original sections 61 and 62 to read as 62 and 63, respectively:

61 Beverage Fee. Amend RSA 178:26 to read as follows:

178:26 Additional Fees.

I. In addition to the annual license fees provided in this chapter, a fee ~~[of \$.30 for each gallon of]~~ **at the rate of 9 percent of the wholesale value of** beverage sold or transferred for retail sale or to the public shall be required for licenses issued to wholesale distributors, beverage manufacturers, and brew pubs; ~~provided, however, that if beverage container mandatory deposit legislation is enacted, such fee shall be \$.18 per gallon as of the effective date of such legislation. For failure to pay any part of the fees provided or under this section when due, 10 percent of such fees shall be added and collected by the commission from the licensee].~~ **Such fee shall be paid to the department of revenue administration as provided in paragraph III.**

~~[II. A sum of money from all sources of funds available to the department of transportation equivalent to 1/15 of all fees collected under paragraph I of this section shall be dedicated and used exclusively for the purpose of increased roadside litter removal for class I through class V highways; provided, however, that in the event beverage container mandatory deposit legislation is enacted, such amount shall cease to be so dedicated as of the effective date of such legislation.~~

~~III.]~~ **II.** Each wholesale distributor, beverage manufacturer, or brew pub shall on or before the tenth day of each month pay the ~~[license fees]~~ **fee** as provided by paragraph I covering sales or transfers made during the preceding calendar month. **For failure to pay any part of the fee provided for under this section when due, 10 percent of such fee shall be added and collected by the department from the licensee.**

III. The names and information of licensees required to pay the fee under this section shall be provided by the commission to the department of revenue administration for the purpose of the administration of the fee.

IV. The commissioner of revenue administration shall adopt rules, under RSA 541-A, relative to:

- (a) The form and method of the payment of the fee required by this section.**
- (b) The administration of the fee required by this section.**
- (c) The recovery of any fee or penalties imposed pursuant to RSA 21-J.**

AMENDED ANALYSIS

This bill:

I. Authorizes the office of information technology to transfer funds within and among all PAU's within the office, with the approval of the fiscal committee, for the biennium ending June 30, 2007.

II. For the biennium ending June 30, 2007, allows the department of fish and game, the department of transportation, and the department of regional community-technical colleges to lease vehicles and equipment at the discretion of the agency head.

III. Directs the commissioner of transportation to allocate funds to the local highway aid fund prior to deducting collection and administrative costs, and prohibits the department of safety from expending funds for collection and administration costs in the current fiscal year if the department has not yet filed the previous year's collection cost report.

IV. Appropriates the sum of \$275,000, for the biennium ending June 30, 2007, to the department of education for the support of the kindergarten program in the town of Merrimack.

V. Lapses the balance of funds for special education at the youth services center to the general fund.

VI. Limits the ability of the department of health and human services to change program eligibility standards and rates in the biennium ending June 30, 2007.

VII. Provides that, for the biennium ending June 30, 2007, the department of health and human services may accept and expend additional revenues above budgeted amounts for provider payments and certain other programs and services, subject to approval of the fiscal committee and governor and council.

VIII. Authorizes the department of health and human services to transfer funds within and among all PAUs within the department for certain purposes, subject to approval of the fiscal committee and governor and council.

IX. Provides that, for the biennium ending June 30, 2007, revenue generated by the liquor commission shall be deposited in the general fund.

X. Provides that, for the biennium ending June 30, 2007, \$1,000,000 of New Hampshire tobacco settlement funds shall be deposited in the tobacco use prevention fund.

XI. Establishes a \$4,000 cap on community mental health services benefits available to persons identified as adults with low service utilization of such services, and requires the department to establish, by rule, a procedure to waive the financial cap.

XII. Extends the current funding formula relative to county nursing homes and proportionate share payments to July 1, 2007, and provides that, in calculating such expenditures, pharmaceutical services include the Medicare prescription drug benefit.

XIII. 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.

XIV. Increases the local medical assistance contribution from counties.

XV. Establishes the judicial branch family division.

XVI. Appropriates federal emergency assistance funds to the department of transportation.

XVII. Defines a family mutual support organization as a nonprofit corporation that provides certain assistance to families and individuals with mental illness.

XVIII. Requires that the oversight committee on health and human services include a member of the house finance committee and a member of the senate finance committee.

XIX. Suspends reporting requirements for community mental health services, absent subsequent approval of the fiscal committee of the general court.

XX. Provides that for the biennium ending June 30, 2007, interest income on appropriations to the land and community heritage investment program (LCHIP) fund shall be deposited in the LCHIP administrative fund.

XXI. Increases motor vehicle fines.

XXII. Provides that the budget surplus as of June 30, 2005 shall remain in the general fund.

XXIII. Provides that any charges or discounts under the E-Z Pass system shall be sufficient to offset the cost of the E-Z Pass system.

XXIV. Increases the tobacco tax.

XXV. Changes the method of calculating the fee paid by wholesale distributors, beverage manufacturers, and brew pubs on beer sold or transferred for retail sale or to the public, and transfers the authority to collect and administer the beverage fee from the liquor commission to the department of revenue administration.

XXVI. Provides for the rehiring of laid off state employees for available state positions.
2005-1202h

Floor Amendment to HB 2-FN-A
Proposed by Reps. Kurk, Hess, Jasper and Spang

Amend the bill by replacing section 16 with the following:

16 Health and Human Services; Local Medical Assistance; County Contribution. RSA 167:18-f is repealed and reenacted to read as follows:

167:18-f Local Medical Assistance Contribution. In addition to any other reimbursement required by law, each county shall, within 60 days from notice thereof, reimburse the public assistance fund at the rate of \$6.23 per month for each recipient of old age assistance and \$23.88 per month for each recipient of aid to the permanently and totally disabled for whom the county would be liable under the provisions of RSA 166, except that no reimbursement shall be required for any recipient for whom the county has an obligation under RSA 167:18-b.

Amend the bill by replacing all after section 61 with the following:

62 New Paragraph; Register of Deeds; Surcharge. Amend RSA 478:17-g by inserting after paragraph I the following new paragraph:

I-a.(a) In addition to paragraph I, for recording each deed, mortgage, attachment of real estate, lease, agreement, assignment, release, partial discharge, or any like document, a surcharge shall be assessed of \$8 for the first recorded page, plus \$3 for each additional recorded page.

(b) Each register of deeds, or county if the register of deeds is paid by salary, shall retain 4 percent of the total revenues collected. Such retention shall be payment for the service of collecting the surcharge and shall be deducted prior to the remittance made in subparagraph (c).

(c) Each register of deeds shall remit the revenues collected, minus payment for services, to the state treasurer each month for deposit in the land and community heritage program trust fund, established under RSA 227-M:7.

63 Land and Community Heritage Investment Program; Funding. Amend PAU 01, 08, 06 as inserted by HB 1-A of the 2005 legislative session to read as follows:

01 GENERAL COURT

08 TREASURY DEPARTMENT

06 LCHIP

90 LCHIP	[2,500,000] 1	[2,500,000] 1
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TOTAL	[2,500,000] 1	[2,500,000] 1
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ESTIMATED SOURCE OF FUNDS FOR
LCHIP

GENERAL FUND	[2,500,000] 1	[2,500,000] 1
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TOTAL	[2,500,000] 1	[2,500,000] 1
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64 Health and Human Services; Estimated Source of Funds For Provider Payments. Amend the total estimated source of funds for provider payments for PAU 05, 01, 02, 01, 05 as inserted by HB 1-A of the 2005 legislative session to read as follows:

TOTAL	328,273,907	319,955,475
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ESTIMATED SOURCE OF FUNDS FOR
PROVIDER PAYMENTS

00 FEDERAL FUNDS	163,041,115	157,058,238
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05 PRIVATE LOCAL FUNDS I	1,857,239	1,753,787
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06 AGENCY INCOME	3,500,000	3,500,000
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09 AGENCY INCOME I	[2,776,688] 276,688	[2,857,870] 357,870
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GENERAL FUND	[169,563,060] 172,063,030	[168,022,097] 170,522,097
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TOTAL	353,447,426	346,623,823
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65 Effective Date.

I. Paragraph II of section 21 and sections 62-64 of this act shall take effect July 1, 2005 at 12:01 a.m.

II. Section 57 of this act shall take effect June 30, 2005.

III. The remainder of this act shall take effect July 1, 2005.

AMENDED ANALYSIS

This bill:

I. Authorizes the office of information technology to transfer funds within and among all PAU's within the office, with the approval of the fiscal committee, for the biennium ending June 30, 2007.

II. For the biennium ending June 30, 2007, allows the department of fish and game, the department of transportation, and the department of regional community-technical colleges to lease vehicles and equipment at the discretion of the agency head.

III. Directs the commissioner of transportation to allocate funds to the local highway aid fund prior to deducting collection and administrative costs, and prohibits the department of safety from expending funds for collection and administration costs in the current fiscal year if the department has not yet filed the previous year's collection cost report.

IV. Appropriates the sum of \$275,000, for the biennium ending June 30, 2007, to the department of education for the support of the kindergarten program in the town of Merrimack.

V. Lapses the balance of funds for special education at the youth services center to the general fund.

VI. Limits the ability of the department of health and human services to change program eligibility standards and rates in the biennium ending June 30, 2007.

VII. Provides that, for the biennium ending June 30, 2007, the department of health and human services may accept and expend additional revenues above budgeted amounts for provider payments and certain other programs and services, subject to approval of the fiscal committee and governor and council.

VIII. Authorizes the department of health and human services to transfer funds within and among all PAUs within the department for certain purposes, subject to approval of the fiscal committee and governor and council.

IX. Provides that, for the biennium ending June 30, 2007, revenue generated by the liquor commission shall be deposited in the general fund.

X. Provides that, for the biennium ending June 30, 2007, \$1,000,000 of New Hampshire tobacco settlement funds shall be deposited in the tobacco use prevention fund.

XI. Establishes a \$4,000 cap on community mental health services benefits available to persons identified as adults with low service utilization of such services, and requires the department to establish, by rule, a procedure to waive the financial cap.

XII. Extends the current funding formula relative to county nursing homes and proportionate share payments to July 1, 2007, and provides that, in calculating such expenditures, pharmaceutical services include the Medicare prescription drug benefit.

XIII. 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.

XIV. Increases the local medical assistance contribution from counties.

XV. Establishes the judicial branch family division.

XVI. Appropriates federal emergency assistance funds to the department of transportation.

XVII. Defines a family mutual support organization as a nonprofit corporation that provides certain assistance to families and individuals with mental illness.

XVIII. Requires that the oversight committee on health and human services include a member of the house finance committee and a member of the senate finance committee.

XIX. Suspends reporting requirements for community mental health services, absent subsequent approval of the fiscal committee of the general court.

XX. Provides that for the biennium ending June 30, 2007, interest income on appropriations to the land and community heritage investment program (LCHIP) fund shall be deposited in the LCHIP administrative fund.

XXI. Increases motor vehicle fines.

XXII. Provides that the budget surplus as of June 30, 2005 shall remain in the general fund.

XXIII. Provides that any charges or discounts under the E-Z Pass system shall be sufficient to offset the cost of the E-Z Pass system.

XXIV. Increases the tobacco tax.

XXV. Provides for the rehiring of laid off state employees for available state positions.

XXVI. Provides for the funding of the land and community heritage investment program with a register of deeds surcharge.

XXVII. Reduces the appropriation made in HB 1-A to LCHIP and allocates the funds previously allocated to LCHIP to reduce the county contribution for local medical assistance.

2005-1168h

Floor Amendment to HB 535-FN-A

Proposed by Rep. Solomon

Amend RSA 78:32, I(a) as inserted by section 2 of the bill by replacing it with the following:

I.(a) For the amount of annual revenue produced by the tax imposed by RSA 78:7 up to the amount of \$100,000,000, the sum of \$3,000,000 shall be deposited in the tobacco use prevention fund established under RSA 126-K:15 and, of the remainder, 71.1 percent shall be deposited in the general fund and 28.9 percent shall be deposited in the education trust fund established by RSA 198:39.

Amend the bill by replacing section 4 with the following:

4 Tobacco Use Prevention Fund. Amend RSA 6:12, I(b)(67) to read as follows:

(67) Moneys received under RSA 126-K:15 **and RSA 78:32, I(a)**, which shall be credited to the tobacco use prevention fund.

5 Tobacco Use Prevention Fund. Amend the introductory paragraph of RSA 126-K:15 to read is follows:

126-K:15 Tobacco Use Prevention Fund. There is hereby established in the office of the state treasurer a fund to be known as the tobacco use prevention fund. Of tobacco settlement funds received by the state of New Hampshire, \$3,000,000 annually, commencing with fiscal year 2001, shall be deposited in the tobacco use prevention fund. ***The sum of \$3,000,000 from tobacco tax revenues shall be deposited annually in the fund, pursuant to RSA 78:32, I(a).*** Moneys in

this fund shall be nonlapsing and continually appropriated, beginning with fiscal year 2001, for tobacco use prevention and cessation programs, which shall include but not be limited to:

6 Effective Date. This act shall take effect July 1, 2005.

AMENDED ANALYSIS

This bill increases the tobacco tax. Under this bill, the current distribution of tobacco tax revenue between the education trust fund and general fund is maintained for annual revenue produced by the tax up to \$100,000,000, except that \$3,000,000 annually is designated for the tobacco use prevention fund. Annual revenue produced by the tax greater than \$100,000,000 shall be deposited in the education trust fund.

2005-0718h

Floor Amendment to HB 535-FN-A

Proposed by Reps. Mirski, Buhlman, Dickinson and Bettencourt

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

AN ACT decreasing the tobacco tax.

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

1 Tobacco Tax Increased. 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 cents~~] **\$.47** 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.

2 Applicability. Section 1 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 2005 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 refunded by the state. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

3 Revenue Estimates. The commissioner of revenue administration shall make quarterly estimates for fiscal years 2007 and 2008 of the amount of additional revenues which could be produced by incremental \$.05 reductions in the tobacco tax to a minimum tax of \$.05.

4 Effective Date. This act shall take effect July 1, 2005.

AMENDED ANALYSIS

This bill decreases the tobacco tax.

2005-1186h

Floor Amendment to HB 616-FN-LOCAL

Proposed by Reps. W.P. Campbell, Carter, D. Eaton, Dunn and Snyder

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

AN ACT relative to the education property tax and the education equity index.

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

1 New Section; Cost of an Adequate Education. Amend RSA 193-E by inserting after section 3 the following new section:

193-E:3-a Cost of an Adequate Education.

I. The risk of a community's ability to provide an adequate education and the fiscal capacity of a community to provide an adequate education along with the cost of an adequate education varies from community to community.

II. The state underwrites and guarantees an adequate education by targeting aid to communities based on fiscal capacity and educational risk factors. In addition, the state authorizes local municipalities to collect property taxes to fund educational opportunities.

III. The cost of adequacy varies based on the changing variables in the education funding targeting formulas. The state meets its obligation to provide for the opportunity for an adequate education through the use of base grant calculations along with education equity index grants.

2 Persons and Property Taxable. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Taxes.

I. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall determine an average tax rate that is sufficient to fund

average per pupil cost of all municipalities pursuant to RSA 198:40 multiplied by the statewide average daily membership in residence. The rate calculated shall be uniform on each \$1,000 of the value of taxable property of all persons and property taxable pursuant to RSA 72 and RSA 73, and except property subject to tax under RSA 82 and RSA 83-F.

II. Municipalities may assess local property taxes necessary to fund school district appropriations not funded by the state education base grants, transition grants, and state education assistance grants, paid from the education trust fund under RSA 198:39, or by other revenue sources.

III. The commissioner of the department of revenue administration shall use the most recent available equalized property tax assessment data in calculating the tax rate under paragraph I.

3 Persons and Property Taxable; Commissioner's Warrant. RSA 76:8 is repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the cost of education in a municipality pursuant to RSA 198:40.

II. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations in excess of base grants, education assistance grants, and transition grants.

4 School Money; Determination of Average Per Pupil Cost. Amend RSA 198:40, I(b) to read as follows:

(b) The department shall identify those school districts where ~~[40 to]~~ 60 **to 80** 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. From these school districts, the department shall then identify those school districts that have the lowest cost 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.

5 New Sections; Education Equity Index. Amend RSA 198 by inserting after section 40 the following new sections:

198:40-a Education Equity Index.

I. Beginning July 1, 2005, and every fiscal year thereafter, the department shall determine an education equity index (EEI) for each municipality that had any resident pupils during the applicable determination year as follows:

(a) Each municipality's education equity index shall be computed by dividing one by the sum of:

(1) 0.25 times the statewide average equalized valuation per pupil divided by the equalized valuation per pupil for the municipality;

(2) 0.2 times the statewide median household income divided by the municipality's median household income;

(3) 0.095 times the percentage of the municipality's pupils in grades 1-12 eligible to receive a free or reduced price meal during the determination year as reported to the department divided by the statewide percentage of pupils in grades 1-12 eligible to receive a free or reduced price meal during the determination year as reported to the department;

(4) 0.005 times the percentage of the municipality's pupils in grade one through grade 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year as reported to the department divided by the statewide percentage of pupils in grades one through 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year;

(5) 0.15 times the statewide average test score divided by the municipality's average test score; and

(6) 0.075 times the statewide graduation rate for the determination year as reported by the department divided by the municipality's graduation rate for the determination year as reported to the department, where each municipality's graduation rate shall be equal to the graduation rate for the particular high school attended by the municipality's resident pupils that attend high school.

(b) For the fiscal years beginning July 1, 2005 and July 1, 2006, the department shall determine the education equity index for each municipality within 15 days after the effective date of this section.

(c) Beginning July 1, 2007, and every fiscal year thereafter, the department shall determine the education equity index for each municipality not later than October 1 in the calendar year preceding the beginning of the fiscal year for which the education equity index is calculated.

II. In determining the education equity index for any municipality that sends pupils to more than one school or school district, the department shall consider only data from schools or school districts within this state attended by 5 percent or more of the municipality's resident pupils, and the department shall determine each value necessary to calculate the education equity index for such municipality by weighting the corresponding values for each school or school district to which the municipality sends pupils by the number of resident pupils from the municipality that attend such school or school district. If a municipality sends all of its resident pupils that are relevant to the determination of any value necessary to calculate the education equity index for such municipality to one or more schools not operated by any school district, then the municipality shall be assigned the statewide value for such value.

198:40-b State Education Assistance.

I. For the fiscal year beginning July 1, 2005, and for the first year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) The annual amount of state education assistance shall be distributed among the municipalities as state education assistance grants as follows:

(1) For each municipality with an education equity index for the applicable biennium year less than 1.2, the department shall determine a number of education equity units equal to the number of resident pupils in the municipality during the applicable determination year multiplied by the excess of 1.2 over the municipality's education equity index for such biennium. Each other municipality shall be assigned zero education equity units for such biennium.

(2) Each municipality shall receive a state education grant for such fiscal year equal to the total amount of state education grants for the fiscal year multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

II. For the fiscal year beginning July 1, 2006, and for the second year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) Each municipality shall receive a state education assistance grant for such fiscal year equal to the total amount of state education assistance grants for the fiscal year as determined pursuant to paragraph III below multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

III. For the fiscal year beginning July 1, 2005, and for each fiscal year thereafter, the department shall determine the amount of state education assistance under this section as follows:

(a) For the fiscal year beginning July 1, 2005, the amount of state education assistance shall be \$267,000,000, to be distributed as determined in this section using the education equity index in RSA 198:40-a.

(b) For the fiscal year beginning July 1, 2006, the amount of state education assistance shall be the amount of assistance under this paragraph for such fiscal year multiplied by the sum of one plus the percentage change in the state average daily membership in attendance plus the average annual percentage rate of inflation for the immediately preceding 4 calendar years based on

the northeast region consumer price index for all urban consumers, as published by the Bureau of Labor Statistics, United States Department of Labor.

IV. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the amount of state education assistance for each such municipality shall be the lesser of the following:

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

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

6 School Money; Calculation of Base Education Cost. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Base Education Cost; Base Grant; Transition Grant.

I. A municipality's base education cost shall be determined by multiplying the state average per pupil cost, pursuant to RSA 198:40, by the average daily membership in residence in the municipality.

II. A municipality which cannot raise sufficient revenue at the average rate established under RSA 76:3 to fund its base education cost shall receive a base grant from the education trust fund established in RSA 198:39, in an amount sufficient to fund its base education cost.

III. Transition grants shall be paid from the education trust fund and shall be determined as follows:

(a) For the 2006 and 2007 fiscal years, a municipality with an education equity index which is less than or equal to 0.92 shall receive a transition grant for the amount that the state base grant and the state education assistance grant under RSA 198:40-b is less than 95 percent of the amount received in the 2005 fiscal year. For each one-hundredth of one point increase in a municipality's education equity index, such municipality's transition grant percentage shall decrease by one percent.

(b) For the 2008 fiscal year, and every fiscal year thereafter, a municipality with an education equity index which is less than or equal to 0.92 shall receive a transition grant of 95 percent of the amount received in the preceding fiscal year. For each one-hundredth of one point increase in a municipality's education equity index, such municipality's transition grant percentage shall decrease by one percent. Provided, however, that after fiscal year 2008, if a municipality's the transition grant is equal to or less than \$100 per pupil, then the transition grant shall terminate.

(c) Beginning in the 2006 fiscal year, and every fiscal year thereafter, the commissioner of the department of education shall determine if the amount needed to fund transitions grants under RSA 198:41 for the current fiscal year is less than the amount that was needed to fund transition grants in the preceding fiscal year. Any savings identified shall be used to supplement existing appropriations for the education equity index grants distributed to municipalities under RSA 198:40-a.

(d) Notwithstanding the provisions of subparagraphs (a) and (b), in any fiscal year, the transition grant percentage assigned to a municipality shall not be less than the transition grant percentage assigned to such municipality in the preceding fiscal year.

7 School Money; Distribution Schedule. Amend the section heading of RSA 198:42 and RSA 198:42, I-II to read as follows:

198:42 **Funding** Distribution Schedule [~~of Adequate Education Grant~~]; Appropriation.

I. The [~~adequate education grant~~] **base grants** determined in RSA 198:41, **state educational assistance grants under RSA 198:40-b, and transition grants under RSA 198:41, V** shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for educationally disabled children, as the case may be, from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the [~~grant~~] **base grants** determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. For the fiscal year beginning July 1, 2004, 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. 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 ~~[adequate]~~ education grants.

8 Additional Education Expenditures. Amend RSA 198:43 to read as follows:

198:43 Additional Education Expenditures. School districts are authorized to develop **additional** educational programs ~~[beyond those required for an adequate education]~~ and to raise and appropriate amounts necessary for such programs.

9 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 are based on ~~[adequate]~~ education costs determined in RSA 198:40 and are independent of how the municipalities 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]~~ **State** education grants ~~[and hardship grants]~~ shall not be considered unanticipated funds under RSA 198:20-b.

10 State Treasurer; Application of Receipts. Amend RSA 6:12, I(b)(65) to read as follows:

(65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B, RSA 83-F, ~~[RSA 198:46,]~~ and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

11 School Attendance; Duty of Parent; Compulsory Attendance. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and ~~[adequate education]~~ grants under RSA 198:41.

12 Subdivision Heading Amended. Amend the subdivision heading preceding RSA 198:38 to read as follows:

State Aid for ~~[Educational Adequacy]~~ **Education**; Education Trust Fund

13 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]~~ **base, education assistance, and transition** education grants to municipalities' school districts pursuant to RSA 198:42, ~~[and]~~ to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61, **and to fund the performance improvement fund established in RSA 193-H:4-a**. The state treasurer shall deposit into this fund immediately upon receipt:

14 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education, the pupil's resident district shall pay tuition beginning July 1, 2004 and every fiscal year thereafter, in an amount per pupil equal to the amount determined in RSA 198:40, I. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of ~~[adequacy]~~ grants under RSA 198:42 or on such other terms as are mutually acceptable.

15 School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4, I (b) to read as follows:

(b) If a school or school district has been designated as in need of improvement, then the school or school district may request assistance from the department ~~[of education]~~ **and may**

request funding from the performance improvement fund established in RSA 193-H:4-a.

The department shall provide technical assistance to those schools that request assistance under this section.

16 New Paragraph; School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4 by inserting after paragraph IV the following new paragraph:

V. Three years following the designation, a school or school district which is still not making satisfactory progress in implementing the plan required under subparagraph I(a) shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41. For each year thereafter in which such designation persists, a school or school district shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41.

17 New Section; School Performance and Accountability; Performance Improvement Fund. Amend RSA 193-H by inserting after section 4 the following new section:

193-H:4-a Performance Improvement Fund. There is hereby established in the department a performance improvement fund which shall be administered by the commissioner. The purpose of the fund is to provide funding for approved improvement plans required under RSA 193-H:4, I. Approved improvement plans shall be funded to the extent of available funds in a fiscal year.

18 Repeals. The following are repealed:

I. 2004, 195:3 and 2004, 200:27, relative to the education property tax.

II. 2004, 200:16-200:23, relative to contingent applicability.

III. 2004, 200:25-200:28, relative to prospective versions of the education property tax and contingent applicability.

IV. RSA 198:38, VII, relative to the definition of adequate education costs.

V. RSA 198:44, relative to duties of the department of education and the board of education.

VI. RSA 198:46-47, relative to excess education property tax payment and forms.

VII. RSA 198:49, relative to the adequate education and education financing commission.

VIII. RSA 198:39, I(g), relative to excess education property tax payments.

IX. RSA 21-I:18, I(i) relative to purchase of services from private contractors by the department of revenue administration.

X. RSA 198:56-61, relative to the low and moderate income homeowners property tax relief program.

19 Nonseverability. If the New Hampshire supreme court declares any provision of sections 1-18 of this act to be unconstitutional under either the New Hampshire constitution or the United States Constitution, then sections 1-18 of this act are hereby repealed on the date such unconstitutionality is declared.

20 Effective Date. This act shall take effect July 1, 2005 at 12:02 a.m.

AMENDED ANALYSIS

This bill:

I. Replaces the education property tax with a provision requiring the commissioner of the department of revenue administration to establish a tax rate sufficient to fund state education assistance payments.

II. Distributes state education assistance in the form of state education grants, which are determined on a municipality-by-municipality basis under a formula that calculates a municipality's need for assistance based on a broad range of factors, including fiscal capacity, resource challenges, performance, and student population, with the state education grants being adjusted in future years by the consumer price index and changes in statewide pupil population.

III. Provides that for the 2006 and 2007 fiscal years, a municipality shall receive a total grant equal to a percentage of the total grant received in the 2005 fiscal year, and for the 2008 fiscal year, and every fiscal year thereafter, a municipality shall receive a total grant which is equal to a percentage of the total grant received in the preceding fiscal year. Any savings realized from funding transition grants shall supplement existing appropriations to the education equity index grants to municipalities.

IV. Repeals the statutory provisions authorizing excess education property tax payments.

V. Sets forth the state's responsibility relative to the cost of an adequate education.

VI. Repeals the law and moderate income homeowners property tax relief program.

2005-1199h

Floor Amendment to HB 616-FN-LOCAL

Proposed by Reps. Bickford and Vaillancourt

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

AN ACT relative to the education property tax and the education equity index and relative to increasing the rooms and meals tax rate.

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

1 Persons and Property Taxable. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Taxes.

I. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall determine an average tax rate that is sufficient to fund average per pupil cost of all municipalities pursuant to RSA 198:40 multiplied by the statewide average daily membership in residence. The rate calculated shall be uniform on each \$1,000 of the value of taxable property of all persons and property taxable pursuant to RSA 72 and RSA 73, and except property subject to tax under RSA 82 and RSA 83-F.

II. Municipalities may assess local property taxes necessary to fund school district appropriations not funded by the state education base grants, transition grants, and state education assistance grants, paid from the education trust fund under RSA 198:39, or by other revenue sources.

III. The commissioner of the department of revenue administration shall use the most recent available equalized property tax assessment data in calculating the tax rate under paragraph I.

2 Persons and Property Taxable; Commissioner's Warrant. RSA 76:8 is repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the cost of education in a municipality pursuant to RSA 198:40.

II. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations in excess of base grants, education assistance grants, and transition grants.

3 New Sections; Education Equity Index. Amend RSA 198 by inserting after section 40 the following new sections:

198:40-a Education Equity Index.

I. Beginning July 1, 2005, and every fiscal year thereafter, the department shall determine an education equity index (EEI) for each municipality that had any resident pupils during the applicable determination year as follows:

(a) Each municipality's education equity index shall be computed by dividing 0.925 by the sum of:

(1) 0.4 times the statewide average equalized valuation per pupil divided by the equalized valuation per pupil for the municipality;

(2) 0.2 times the statewide median household income divided by the municipality's median income;

(3) 0.095 times the percentage of the municipality's pupils in grades 1-12 eligible to receive a free or reduced price meal during the determination year as reported to the department divided by the statewide percentage of pupils in grades 1-12 eligible to receive a free or reduced price meal during the determination year as reported to the department;

(4) 0.005 times the percentage of the municipality's pupils in grade one through grade 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year as reported to the department divided by the statewide percentage of pupils in grades one through 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year;

(5) 0.15 times the statewide average test score divided by the municipality's average test score; and

(6) 0.075 times the statewide graduation rate for the determination year as reported by the department divided by the municipality's graduation rate for the determination year as reported to the department, where each municipality's graduation rate shall be equal to the graduation rate for the particular high school attended by the municipality's resident pupils that attend high school.

(b) For the fiscal years beginning July 1, 2005 and July 1, 2006, the department shall determine the education equity index for each municipality within 15 days after the effective date of this section.

(c) Beginning July 1, 2007, and every fiscal year thereafter, the department shall determine the education equity index for each municipality not later than October 1 in the calendar year preceding the beginning of the fiscal year for which the education equity index is calculated.

II. In determining the education equity index for any municipality that sends pupils to more than one school or school district, the department shall consider only data from schools or school districts within this state attended by 5 percent or more of the municipality's resident pupils, and the department shall determine each value necessary to calculate the education equity index for such municipality by weighting the corresponding values for each school or school district to which the municipality sends pupils by the number of resident pupils from the municipality that attend such school or school district. If a municipality sends all of its resident pupils that are relevant to the determination of any value necessary to calculate the education equity index for such municipality to one or more schools not operated by any school district, then the municipality shall be assigned the statewide value for such value.

198:40-b State Education Assistance.

I. Beginning July 1, 2005, and in the first year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) The annual amount of state education assistance shall be distributed among the municipalities as state education assistance grants as follows:

(1) For each municipality with an education equity index for the applicable biennium year less than 1.2, the department shall determine a number of education equity units equal to the number of resident pupils in the municipality during the applicable determination year multiplied by the excess of 1.2 over the municipality's education equity index for such biennium. Each other municipality shall be assigned zero education equity units for such biennium.

(2) Each municipality shall receive a state education grant for such fiscal year equal to the total amount of state education grants for the fiscal year multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

II. For the fiscal year beginning July 1, 2006, and for the second year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) Each municipality shall receive a state education assistance grant for such fiscal year equal to the total amount of state education assistance grants for the fiscal year as determined pursuant to paragraph III below multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

III.(a) For the biennium beginning July 1, 2005 and ending June 30, 2007, the amount of state education assistance shall be \$289,438,147, to be distributed as determined in this section using the education equity index in RSA 198:40-a.

(b) For the biennium beginning July 1, 2007, and every biennium thereafter, the amount of state educational assistance to be distributed to a municipality under this section for the biennium shall be adjusted as follows:

(1) Determine the sum of the percentage change in the state average daily membership in attendance plus the average annual percentage rate of inflation for the immediately preceding 4 calendar years based on the northeast region consumer price index for all urban consumers, as published by the Bureau of Labor Statistics, United States Department of Labor.

(2) Multiply the sum obtained in subparagraph (b)(1) by 2.

(3) Add one to the product obtained in subparagraph (b)(2).

(4) Multiply the sum obtained in subparagraph (b)(3) by the amount of state educational assistance calculated for a municipality for the previous biennium.

IV. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the amount of state education assistance for each such municipality shall be the lesser of the following:

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

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

4 School Money; Calculation of Base Education Cost. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Base Education Cost; Base Grant; Transition Grant.

I. A municipality's base education cost shall be determined by multiplying the state average per pupil cost, pursuant to RSA 198:40, by the average daily membership in residence in the municipality.

II. A municipality which cannot raise sufficient revenue at the average rate established under RSA 76:3 to fund its base education cost shall receive a base grant from the education trust fund established in RSA 198:39, in an amount sufficient to fund its base education cost.

III. Transition grants shall be paid from the education trust fund and shall be determined as follows:

(a) For the 2006 and 2007 fiscal years, a municipality shall receive a transition grant for the amount that the state base grant and the state education assistance grant under RSA 198:40-b is less than 90 percent of the amount received in the 2005 fiscal year.

(b) For the 2008 fiscal year, and every fiscal year thereafter, a municipality shall receive a transition grant which is not less than 90 percent of the amount received in the preceding fiscal year. Provided, however, that after fiscal year 2008, if for a municipality the transition grant is equal to or less than \$100 per pupil, then the transition grant shall terminate.

(c) For the 2006 fiscal year, each municipality shall be eligible to receive a grant amount for such fiscal year not to exceed 110 percent of the adequate education grant determined for such municipality for the 2005 fiscal year, under the version of RSA 198:41 in effect on July 1, 2004. For the 2007 fiscal year, and for every fiscal year thereafter, each municipality shall be eligible to receive a grant amount for such fiscal year equal to 110 percent of the state education assistance amount determined for such municipality for the immediately preceding fiscal year.

(d) Beginning in the 2007 fiscal year, and every fiscal year thereafter, the commissioner of the department of education shall determine if the amount needed to fund transition grants under RSA 198:41 for the current fiscal year is less than the amount needed to fund transition grants in the preceding fiscal year. Fifty percent of any such savings identified shall be used to supplement existing funding of education equity index grants under RSA 198:41, III and shall be distributed to municipalities based on the education equity index set forth in RSA 198:40-a.

5 School Money; Distribution Schedule. Amend the section heading of RSA 198:42 and RSA 198:42, I-II to read as follows:

198:42 **Funding** Distribution Schedule [~~of Adequate Education Grant~~]; Appropriation.

I. The [~~adequate education grant~~] **base grants** determined in RSA 198:41, *state educational assistance grants under RSA 198:40-b, and transition grants under RSA 198:41, III* shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for educationally disabled children, as the case may be, from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the [~~grant~~] **base grants** determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. For the fiscal year beginning July 1, 2004, 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. 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 [~~adequate~~] education grants.

6 Additional Education Expenditures. Amend RSA 198:43 to read as follows:

198:43 Additional Education Expenditures. School districts are authorized to develop **additional** educational programs [~~beyond those required for an adequate education~~] and to raise and appropriate amounts necessary for such programs.

7 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 are based on [~~adequate~~] education costs determined in RSA 198:40 and are independent of how the municipalities 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~~] **State** education grants [~~and hardship grants~~] shall not be considered unanticipated funds under RSA 198:20-b.

8 State Treasurer; Application of Receipts. Amend RSA 6:12, I(b)(65) to read as follows:

(65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B, RSA 83-F, [~~RSA 198:46,~~] and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

9 School Attendance; Duty of Parent; Compulsory Attendance. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and [~~adequate education~~] grants under RSA 198:41.

10 Subdivision Heading Amended. Amend the subdivision heading preceding RSA 198:38 to read as follows:

State Aid for [~~Educational Adequacy~~] **Education**; Education Trust Fund

11 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~~]**base, education assistance, and transition** education grants to municipalities' school districts pursuant to RSA 198:42, and to provide 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:

12 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education, the pupil's resident district shall pay tuition beginning July 1, 2004 and every fiscal year thereafter, in an amount per pupil equal to the amount determined in RSA 198:40, I. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of [~~adequacy~~] grants under RSA 198:42 or on such other terms as are mutually acceptable.

13 School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4, I (b) to read as follows:

(b) If a school or school district has been designated as in need of improvement, then the school or school district may request assistance from the department [~~of education~~] **and may request funding from the performance improvement fund established in RSA 193-H:4-a.** The department shall provide technical assistance to those schools that request assistance under this section.

14 New Paragraph; School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4 by inserting after paragraph IV the following new paragraph:

V. Three years following the designation, a school or school district which is still not making satisfactory progress in implementing the plan required under subparagraph I(a) shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41. For each year thereafter in which such designation persists, a school or school district shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41.

15 New Section; School Performance and Accountability; Performance Improvement Fund. Amend RSA 193-H by inserting after section 4 the following new section:

193-H:4-a Performance Improvement Fund. There is hereby established in the department a performance improvement fund which shall be administered by the commissioner. The purpose of the fund is to provide funding for approved improvement plans required under RSA 193-H:4, I. Approved improvement plans shall be funded to the extent of available funds in a fiscal year.

16 Low and Moderate Income Homeowners' Relief. Amend RSA 198:57, IV to read as follows:

IV. All or a portion of an eligible tax relief claimant's ~~[state]~~ 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 \$100,000 by the most current local equalization ratio as determined by the department of revenue administration;~~

~~(e)]~~ Multiply the ~~[lesser of the]~~ amount determined in subparagraph (a) ~~[or (b)]~~ by the current state **and local** education property tax rate as shown on the tax bill under RSA 76:11-a **up to a maximum equalized rate of \$5.60 per \$1,000 of the value of taxable property;**

~~[(d)]~~(c) Multiply the product of the calculation in subparagraph [(c)](b) 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, 60 percent;

(C) \$15,000 but less than \$17,500, 40 percent; or

(D) \$17,500 but less than or equal to \$20,000, 20 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, 60 percent;

(C) \$30,000 but less than \$35,000, 40 percent; or

(D) \$35,000 but less than or equal to \$40,000, 20 percent.

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

17 Tax on Meals and Rooms; Rate Increase. Amend RSA 78-A:6 to read as follows:

78-A:6 Imposition of Tax.

I. A tax of ~~[8]~~ **9** percent of the rent is imposed upon each occupancy.

II. A tax is imposed on taxable meals based upon the charge therefor as follows:

(a) ~~[Three]~~ **Four** cents for a charge between \$.36 and \$.37 inclusive;

(b) ~~[Four]~~ **Five** cents for a charge between \$.38 and \$.50 inclusive;

(c) ~~[Five]~~ **Six** cents for a charge between \$.51 and \$.62 inclusive;

(d) ~~[Six]~~ **Seven** cents for a charge between \$.63 and \$.75 inclusive;

(e) ~~[Seven]~~ **Eight** cents for a charge between \$.76 and \$.87 inclusive;

(f) ~~[Eight]~~ **Nine** cents for a charge between \$.88 and \$1.00 inclusive;

(g) ~~[Eight]~~ **Nine** percent of the charge for taxable meals over \$1.00, provided that fractions of cents shall be rounded up to the next whole cent.

II-a. A tax of ~~[8]~~ **9** percent is imposed upon the gross rental receipts of each rental.

III. The operator shall collect the taxes imposed by this section and shall pay them over to the state as provided in this chapter.

18 Collection of Tax; Decrease of Amount Retained. Amend RSA 78-A:7 to read as follows:

78-A:7 Collection of Tax.

I.(a) The operator shall either state the amount of the tax to each occupant, purchaser of a meal, or renter, or state that the tax is included in the price of the occupancy, meal, or gross rental

receipts received. If the amount of the gratuity is not separately stated, the purchaser's or occupant's contract or receipt shall include the following language:

"The [8] 9 percent tax on meals and rooms is included for the costs of meals and lodging only."

(b) The operator shall demand and collect the tax from the occupant, purchaser, or renter. The occupant, purchaser, or renter shall pay the tax to the operator. If the tax is included in the price of the meal, occupancy, or gross rental receipts received, upon request the operator shall state to the purchaser, occupant, or renter the amount of the tax.

II. Each operator shall keep books and records in a form acceptable to the department showing the amount of all taxes collected. The operator shall pay the taxes over to the state as provided in this section. If the department believes that special action is necessary because payment of taxes collected may be in jeopardy, it may direct an operator to keep all taxes collected separate from any other funds. The department may require that the taxes be periodically deposited in a bank designated by the department, in an account in the name of the department. The department may withdraw these tax collections from the bank account and apply them to the payment of the taxes due from the operator. When an operator commingles tax money with money belonging to him, the claim of the state for the tax is traceable, is enforceable against all other claims and takes precedence over all other claims against the commingled funds. No taxes collected by an operator under this chapter may be sent outside the state without the written consent of the department.

III. To compensate operators for keeping the prescribed records and the proper account and remitting of taxes by them, operators are allowed to retain 3 percent of the taxes due and to be remitted if the return and payment are timely received by the department of revenue administration, as provided in RSA 78-A:8, III.

IV. In lieu of keeping detailed records of taxes collected, and in lieu of payment of the taxes collected under this chapter, an operator may, in writing, elect to compute the amount of taxes due at [8] 9 percent of the total taxable rent, charge for meals, or gross rental receipts received by it, or both, exclusive of the taxes collected on such rents, charges, and gross rental receipts. If this election is made, the operator may not change the method of computing taxes without the written consent of the department. Any balance of the tax remaining in possession of the operator may be retained by it.

19 Tax on Rooms and Meals; Disposition of Revenue. Amend RSA 78-A:26, III to read as follows:

III.(a) 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.

(b) *Beginning July 1, 2005, and every fiscal year thereafter, the department shall pay over to the state treasurer for deposit in the education trust fund established in RSA 198:39, an amount collected pursuant to this chapter sufficient to fund claims made under the low and moderate income homeowners property tax relief program set forth in RSA 198:56-61.*

20 Appropriations to Education Trust Fund. No unexpended general fund moneys appropriated to the education trust fund shall, under any circumstances, lapse to the general fund.

21 Repeals. The following are repealed:

I. 2004, 195:3 and 2004, 200:27, relative to the education property tax.

II. 2004, 200:16-200:23, relative to contingent applicability.

III. 2004, 200:25-200:28, relative to prospective versions of the education property tax and contingent applicability.

IV. RSA 198:38, VII, relative to the definition of adequate education costs.

V. RSA 198:44, relative to duties of the department of education and the board of education.

VI. RSA 198:46-47, relative to excess education property tax payment and forms.

VII. RSA 198:49, relative to the adequate education and education financing commission.

VIII. RSA 198:39, I(g), relative to excess education property tax payments.

22 Nonseverability. If the New Hampshire supreme court declares any provision of sections 1-17 of this act to be unconstitutional under either the New Hampshire constitution or the United States Constitution, then sections 1-21 of this act are hereby repealed on the date such unconstitutionality is declared.

23 Effective Date. This act shall take effect July 1, 2005 at 12:02 a.m.

AMENDED ANALYSIS

This bill:

I. Replaces the education property tax with a provision requiring the commissioner of the department of revenue administration to establish a tax rate sufficient to fund state education assistance payments.

II. Distributes state education assistance in the form of state education grants, which are determined on a municipality-by-municipality basis under a formula that calculates a municipality's need for assistance based on a broad range of factors, including fiscal capacity, resource challenges, performance, and student population, with the state education grants being adjusted in future years by the consumer price index and changes in statewide pupil population.

III. Provides that for the 2006 and 2007 fiscal years, a municipality shall receive a total grant which is not less than 90 percent of the total grant received in the 2005 fiscal year, and for the 2008 fiscal year, and every fiscal year thereafter, a municipality shall receive a total grant which is not less than 90 percent of the total grant received in the preceding fiscal year.

IV. Provides that a municipality may receive a grant amount not to exceed 110 percent of the amount received in the preceding fiscal year.

V. Repeals the statutory provisions authorizing excess education property tax payments.

VI. Increases the meals and rooms tax rate from 8 to 9 percent and provides that the revenue raised shall be used to fund taxpayer claims under the low and moderate income homeowners property tax relief program.

2005-1189h

**Floor Amendment to HB 691-FN-LOCAL
Proposed by Reps. MacKay, Batula and O'Neil**

Amend the bill by replacing section 4 with the following:

4 Eligibility for Assistance; Asset Transfers. Amend RSA 167:4, I(b) to read as follows:

(b) In the case of an applicant for public assistance or medical assistance who has made an assignment or transfer of ~~[property]~~ **assets to an individual** for less than fair market value within ~~[36]~~ **60** months or in the case of ~~[payments from]~~ **transfers of real estate, or transfers of assets to** a trust or portions of a trust that are treated as assets disposed of by the individual within 60 months immediately preceding the date of application or while the application is pending, or in the case of a recipient of public assistance or medical assistance who makes such an assignment or transfer while in receipt of the assistance, the assistance sought shall only be granted or continue to be granted in accordance with rules establishing restrictions and eligibility criteria for such cases as adopted by the commissioner of the department of health and human services under RSA 541-A, subject to applicable federal regulations **and waiver approval, if any, and review by the oversight committee on health and human services, established in RSA 126-A:13. The oversight committee on health and human services shall make a report to the legislative fiscal committee which shall have final approval authority.**

Amend the bill by replacing section 9 with the following:

9 New Paragraph; Recovery of Assistance; Estates of Recipients. Amend RSA 167:14-a by inserting after paragraph V the following new paragraph:

VI. For purposes of recovering the costs of medical assistance, the estate of a recipient shall include all property, real or personal, which at the time of a recipient's death was held by the recipient in joint tenancy with rights of survivorship, tenancy in common, life estate, or living trust, without regard to the date that such title or interest was established. No sooner than 45 days from the death of the recipient, the department shall provide the other joint owner or owners notice of the department's claim. Within 30 days of the receipt of notification of the department's claim, the joint owner or owners shall acknowledge receipt of the department's claim and provided, that there shall not be undue hardship imposed upon the surviving joint owner or owners, either tender an amount equal to the deceased recipient's interest in the identified property and/or financial instrument to the state of New Hampshire toward the deceased's medical assistance bill, but such amount shall not exceed the total amount of medical assistance provided to the deceased recipient, or enter into a binding agreement to make such payment as soon as is practicable. If the joint owner or owners refuse to acknowledge receipt of the department's claim or to tender payment or fail to fulfill the agreement to pay without good cause, as required by this paragraph, the commissioner may bring an action in superior court to compel such payment. Nothing in this paragraph shall be interpreted or applied so as to violate RSA 167:16-a, IV or 42 U.S.C. section 1396p(b)(2)(A) prohibiting recovery when the recipient is survived by a spouse, minor children, or disabled children.

