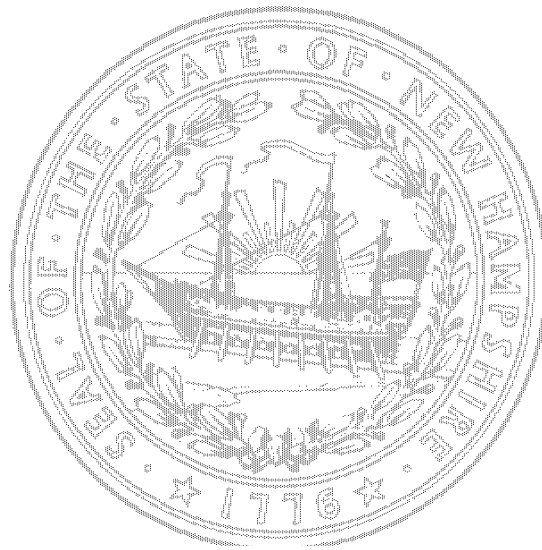


June 8, 2001
No. 31

STATE OF NEW HAMPSHIRE



Legislative

SENATE CALENDAR

AMENDMENT TO HOUSE BILL 375

Senate Finance
June 9, 2001
2001-1577s
05/04

Amendment to HB 375

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

AN ACT relative to state fees, funds, revenues, and expenditures.

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

1 Rate of Tax for Biennium Ending June 30, 2003; Intrastate and Interstate Communications Services Tax. Notwithstanding RSA 82-A:3 and RSA 82-A:4, for the period beginning July 1, 2001 and ending June 30, 2003, the rate of tax shall be 6.5 percent on the gross charge for communications services purchased at retail from a retailer.

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

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

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

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

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

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

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

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

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

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

defined in this section, or who is a member or attache of the general court or member of the executive council.

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

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

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

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

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

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

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

(a) Any person, who has at least 20 years of creditable service as a group I member if age 60 or older, or at least 30 years of creditable service as a group I member if age 55-59, retired on or before July 1, 2004 as a group I ~~[teacher member or political subdivision employee]~~ member of the New Hampshire retirement system on service or ordinary disability retirement, provided that such person shall be entitled to retirement on the basis of group I creditable service, or any person retired on or before July 1, 2004, as a group I member whose service retirement benefit is based upon the provisions of RSA 100-A:19-c and who has a minimum of 20 years of creditable service as a group I member.

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

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

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

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

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

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

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

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

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

(h) The spouse of a qualified retiree.

I-a. Notwithstanding the provision of RSA 100-A:4, III-b, for the purpose of calculating creditable service for eligibility for medical benefits payment under paragraph I, each full year of job-sharing service of a teacher in a job-sharing position shall be calculated at 1/2[5] of one year of such service credit.

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

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

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

III-b. As of January 1, 2002, in the case of group I members retired from state employment on or after July 1, 1991, and their beneficiaries who are eligible for coverage under this subdivision and also under the provisions of RSA 21-I:26-36, the amount payable by the retirement system on account of such persons shall be paid over to the state and used to pay for all or part of the medical benefits provided under RSA 21-I:26-36 for such persons, and the state shall pay its portion as provided in RSA 21-I:26-36. If the cost of the premium for any retired group I member and spouse, surviving spouse, or any other person entitled to benefits under

paragraph I shall exceed the maximum under paragraph II, and the state does not elect to pay the excess cost above the amount to be paid under RSA 21-I:26-36, the excess cost shall be paid by the retiree or qualified surviving spouse and may be deducted from retirement benefits as provided in RSA 100-A:51. The state may require, as a condition for coverage, that the retiree or surviving spouse apply for deduction of such excess cost from retirement benefits as provided in RSA 100-A:51.

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

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

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

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

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

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

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

I. The benefits provided under RSA 100-A:52-a shall be provided by a 401(h) subtrust of the New Hampshire retirement system. The 401(h) subtrust shall be funded by allocating 25 percent of future group I state employer contributions made for group I state employees in accordance with RSA 100-A:16 to the subtrust until such time as the benefits

are fully funded. Thereafter, the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.

II. All contributions made to the retirement system to provide medical benefits under RSA 100-A:52-a shall be maintained in a separate account, the 401(h) subtrust. All funds and accumulated interest shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in this chapter may be used or diverted to provide medical benefits under RSA 100-A:52-a. The funds, if any, providing medical benefits under RSA 100-A:52-a may be invested pursuant to the provisions of RSA 100-A:15.

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

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

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

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

the obligation of any insurance carrier or company under a policy or policies of insurance or any other third party under a similar obligation.

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

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

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

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

227-M:7-a Administrative Fund.

I. There is established in the office of the state treasurer a fund to be known as the land and community heritage investment program administrative fund into which the state treasurer shall credit any revenue generated pursuant to RSA 261:97-b, I-a. For the biennium ending June 30, 2003 there shall also be deposited, on a monthly basis, interest income generated on appropriations made to the land and community heritage investment program trust fund pursuant to RSA 227-M:7. If the revenues generated to the administrative fund from these two sources for said biennium do not total \$335,000 during each year of the biennium, then, on or after the first day of the last month of the fiscal year, the treasurer shall be authorized to credit the administrative fund from the principal of the trust fund, not to exceed this total.

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

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

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

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

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

227-M:6-a Status of Employees.

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

II. Notwithstanding the provisions of paragraph I, any individual employed by the authority whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state provided, however, that the election is made in writing within 30 days of the start of employment. Upon election by such

individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority.

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

V. The initial funding mechanism and the appropriation made pursuant to this section shall not lapse until June 30, 2003.

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

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

18 Business Enterprise Tax; Rate Increase. Amend RSA 77-E:2 to read as follows:

77-E:2 Imposition of Tax. A tax is imposed at the rate of ~~[1/2 of]~~ one percent upon the taxable enterprise value tax base of every business enterprise. ~~[A 2/3 majority of those present and voting of each house of the general court shall be necessary to increase the tax rate under this section.]~~

19 Business Enterprise Tax; Distribution of Funds. RSA 77-E:14 is repealed and reenacted to read as follows:

77-E:14 Distribution of Funds. All revenue received from the tax imposed by RSA 77-E:2 for each fiscal year shall be deposited in the education trust fund established in RSA 198:39. The commissioner shall certify such amounts to the state treasurer by October 1 of each year.

20 Applicability. Section 18 of this act shall apply to returns and taxes due on account of taxable periods ending on or after July 1, 2001. In the case of any business organization or enterprise which has elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code and the fiscal year of which ends on the last day of the week nearest to June 30, 2001, the taxable period shall be deemed to have ended on June 30, 2001, for the purposes of this act.

21 Business Enterprise Tax Rate Study Committee.

I. There is established a committee to study the impact of raising the business enterprise tax rate.

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

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

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

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

III. The committee shall study the economic impact on New Hampshire's economy of raising the business enterprise tax rate from $\frac{1}{2}$ of one percent to one percent.

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 senate 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 senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2002.

22 Tax Amnesty. Notwithstanding the provisions of any other law, with respect to taxes administered by the department of revenue administration, an amnesty from the assessment or payment of all penalties and interest greater than 7 percent shall apply with respect to unpaid taxes reported and paid in full during the period from December 1, 2001, through and including February 15, 2002, regardless of whether previously assessed. This amnesty shall only apply to taxes due but unpaid on or before February 15, 2002.

23 Imposition of Tax; Intrastate Communications Services; Rate Changed. Amend RSA 82-A:3 to read as follows:

82-A:3 Imposition of Tax; Intrastate Communications Services. A tax is imposed upon intrastate communications services furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of [3] 4 percent of the gross charge therefor. However, such tax is not imposed on any communications services to the extent a tax on such services may not, under the Constitution and statutes of the United States, be made the subject of taxation by the state.

24 Imposition of Tax; Interstate Communications Services; Rate Changed. Amend RSA 82-A:4 to read as follows:

82-A:4 Imposition of Tax; Interstate Communications Services. A tax is imposed upon interstate communications services furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of [3] 4 percent of the gross charge when such service is originated in this state and terminated outside this state or originated outside this state and terminated in this state. To prevent actual multi-state taxation of communications services that are subject to taxation under this section, any taxpayer, upon proof that that taxpayer has paid a tax in another state on such services, shall be allowed a credit against the tax imposed in this section to the extent of the amount of such tax properly due and paid in such other state. However, such tax is not imposed on communications services to the extent such services may not, under the Constitution and statutes of the United States, be made the subject of taxation by the state.

25 Rate of the Legacies and Succession Tax. Amend RSA 86:6, I to read as follows:

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

(b)(1) For the period beginning January 1, 2002 and ending December 31 2002, the rate of the tax shall be 13.5 percent.

(2) For the period beginning January 1, 2003 and ending December 31 2003, the rate of the tax shall be 9 percent.

(3) For the period beginning January 1, 2004 and ending December 31 2004, the rate of the tax shall be 4.5 percent.

26 Repeal. RSA 86:6, relative to taxable property and tax rate, is repealed.

27 New Subparagraph; Purchase of Supplies; Exemptions; Assessing Enforcement Contractors. Amend RSA 21-I:18, I by inserting after subparagraph (l) the following new subparagraph:

(m) Purchases of services from private contractors by the department of revenue administration with respect to the establishment of assessing enforcement procedures.

28 New Section; Department of Revenue Administration; Division of Community Services Established. Amend RSA 21-J by inserting after section 10 the following new section:

21-J:10-a Division of Community Services. There is established within the department the division of community services, under the supervision of an unclassified director of community services who shall be responsible for providing technical support and assistance to municipalities.

29 Compensation of State Officers; Salaries Established; Director of Community Services. Amend RSA 94:1-a, I by inserting in group M the following:

Director, community services

30 Authority to Establish Positions; Department of Revenue Administration. Notwithstanding any other provision of law, the commissioner of the department of revenue administration is authorized to establish positions necessary to implement assessing enforcement procedures.

31 Betterment Assessments; Liens Created. Amend RSA 231:30 to read as follows:

231:30 Liens For Assessments. All assessments made under the provisions of RSA 231:29 shall create a lien upon the lands on account of which they are made, which shall continue following the assessment until fully discharged in accordance with the terms set by each governing board or in compliance with any court judgment. Such assessments shall be subject to interest and such other charges as are applicable to the collection of delinquent taxes. ~~[-The landowner shall have the same right of appeal and follow the same procedures as are applicable to the assessment of taxes.]~~

32 Betterment Assessments; Abatement and Appeal. RSA 231:32 is repealed and reenacted to read as follows:

231:32 Abatement and Appeal of Betterment Assessments.

I. Any person aggrieved by a betterment assessment made pursuant to RSA 231:29 may, within 2 months of the notice of tax date and not afterwards, apply in writing to the selectmen or assessors for an abatement of the betterment assessment.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and shall grant or deny the application in writing within 6 months after the notice of tax date.

III.(a) If the selectmen or assessors neglect or refuse to abate the betterment assessment, any person aggrieved may either:

(1) Appeal in writing to the board of tax and land appeals, upon payment of a \$65 filing fee; or

(2) Petition the superior court in the county where the property is located.

(b) The appeal to either the board of tax and land appeals or superior court shall be filed within 8 months of the notice of tax date and not afterwards.

IV. For purposes of this section, "notice of tax date" means the date the taxing jurisdiction mails the betterment assessment tax bill.

V. Each betterment assessment tax bill shall require a separate abatement request and appeal.

33 New Section; Adequacy Funds for New Kindergarten Programs. Amend RSA 198 by inserting after section 42 the following new section:

198:42-a Adequacy Funds for New Kindergarten Programs. A school district that implements a new public kindergarten program on July 1, 1999 or thereafter, shall receive annually, beginning in fiscal year 2002, a kindergarten adequacy payment from the education trust fund established in RSA 198:39 to be calculated as follows:

I. Payments for each eligible kindergarten pupil shall be made at the rate of $\frac{1}{2}$ the average base cost per pupil of an adequate education at the elementary level as determined under RSA 198:40 for the fiscal year ending June 30, 2002. Payments for each eligible kindergarten pupil shall be made at the rate of \$1,650 for the fiscal year ending June 30, 2003, and shall increase by 3 percent in each fiscal year thereafter.

II. The number of eligible pupils shall be the number of kindergarten pupils who reside in the district and who, on October 1 of each school year, are enrolled in an approved public kindergarten operated by the district, or are enrolled under a tuition agreement in an approved public kindergarten operated by another district, or are enrolled in an approved alternative kindergarten program operated under RSA 198:48-a.

III. The annual new kindergarten adequacy payment shall be calculated by multiplying the amount established in paragraph I by the number of pupils determined in accordance with paragraph II.

IV. The annual new kindergarten adequacy payment calculated under paragraph III shall be distributed to eligible districts on or before January 1 of each school year.

V. Notwithstanding RSA 198:39, for the fiscal year beginning July 1, 2001, and every fiscal year thereafter, a sum sufficient to distribute annual new kindergarten adequacy payments in accordance with this section shall be appropriated from the education trust fund to the department of education. For each fiscal year, the governor is authorized to draw a warrant for said sum from any moneys available in the education trust fund.

VI. When enrollments in a new public kindergarten program are included in the school district's average daily membership in residence for the purpose of determining adequate education costs and distributing adequate education grants under RSA 198:40 through 198:42, the school district shall not be eligible to receive a new kindergarten adequacy payment calculated under this section.

34 Repeal. The following are repealed:

I. RSA 198:48-a, VII, relative to certain pupils enrolled in an approved alternative kindergarten program.

II. 1999, 65:9, I, as amended by 2000, 289:2, relative to per pupil reimbursements for new public kindergarten programs.

35 Lapse Date Extended to June 30, 2003. The appropriation made to the department of administrative services, division of plant and property management, bureau of general services in 1999, 226:1, II, A, 8 for executive/legislative budget system is hereby extended to June 30, 2003.

36 Committee to Study the Development of a New Budget System.

I. There is established a committee to study the development of a new budget system.

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

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

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

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

III. The committee shall study the development of a new budget system. The committee shall coordinate its activities with the department of administrative services and the legislative budget assistant.

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 senate 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 senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2002.

37 Budget System Appropriation; Availability. The department of administrative services shall make the appropriation made to the department of administrative services, division of plant and property management, bureau of general services in 1999, 226:1, II, A, 8 for executive/legislative budget available to the committee to study the development of a new budget system established by this act.

38 Deficit Control; Revenue Stabilization Reserve Account; Suspension of Provisions. Notwithstanding the provisions of RSA 9:13-e, IV, the provisions of RSA 9:13-e are hereby suspended for the biennium ending June 30, 2001.

39 Education Trust Fund Budget Deficit; Transfer of Funds. In the event of an education trust fund budget deficit at the close of the fiscal biennium ending June 30, 2001 as determined by the official audit performed pursuant to RSA 21-I:8, I(h), the comptroller shall notify the fiscal committee and the governor of such deficit and request that sufficient funds, to the extent available, be transferred from the general fund operating surplus to eliminate such deficit.

40 County Reimbursements. Amend RSA 170-G:5-a to read as follows:

170-G:5-a County Reimbursement. County payments due under RSA 169-B:40, 169-C:27, and 169-D:29 shall be paid to the department of health and human services on a monthly basis within ~~[30]~~ 45 days' notice of the amount due to the state. Delinquent payments due under these chapters, with interest at the rate of 12 percent per annum, may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

41 Additional Revenues; Department of Health and Human Services. Notwithstanding any provision of the law to the contrary, the legislative fiscal committee and the governor and council may authorize the commissioner of the department of health and human services to accept and expend additional revenues, in excess of or in addition to the budgeted amounts, from any source, which become available to the department. Such additional revenues shall be available to the department of health and human services to supplement funds in the following programs and services: direct care provider wage increases across all department programs, community and public health and elderly and adult services provider payments, tobacco use prevention funds, and any other such program or service that requires deficit reduction or for which revenue has been specifically obtained. If any direct care provider wage increases the department may effect during the biennium pursuant to this section results in a net increase in expenditures to a county government, and that net increase is not offset with proportionate share payments in excess of budgeted amounts, the department of health and human services shall make a payment to any such county government for each year of the biennium in the amount necessary to eliminate any such loss.

42 Repeal. 1999, 225:45, relative to reports of productivity gains from investments in information technology, is repealed.

43 Postsecondary Education Commission; Granite State Scholars; Appropriations for Fiscal Years 2002 and 2003.

I. Notwithstanding any provision of RSA 188-D to the contrary, the postsecondary education commission shall expend funds appropriated for fiscal years 2002 and 2003 to PAU 06, 01, 01, 95 either for scholarships to students qualifying for granite state scholar designation or to match gifts and contributions to participating institutions for purposes of the granite state scholars program.

II. To the extent the postsecondary education commission elects to expend the appropriations for scholarships, the commission shall award scholarships directly to students qualifying for granite state scholar designation under RSA 188-D:39, I. The commission shall adopt rules under RSA 188-D:8-a, III for awarding the scholarships.

III. To the extent the postsecondary education commission elects to expend the appropriations to match gifts and contributions to participating institutions for purposes of the granite state scholars program, the commission shall, notwithstanding RSA 188-D:41, provide a match of up to 100 percent of each gift and contribution. In addition, a participating institution shall, in the year following the receipt of the state match, disburse as scholarships to granite state scholars an amount equal to $\frac{1}{2}$ of the state match received by the institution.

44 Maintenance of Funds Collected Pursuant to Electric Utility Restructuring Orders; Plans for Administration. Amend RSA 6:12-b to read as follows:

6:12-b Maintenance of Funds Collected Pursuant to Electric Utility Restructuring Orders. On request of the public utilities commission, the state treasurer shall maintain custody over funds collected by order of the public utilities commission consisting of only that portion of the system benefits charge directly attributable to programs for low income customers as described in RSA 374-F:4, VIII(c). All funds received by the state treasurer pursuant to this section shall be kept separate from any other funds and shall be administered in accordance with terms and conditions established by the public utilities commission. ***Plans for the administration of such funds shall be approved by the fiscal committee of the general court and the governor and council prior to submission to the public utilities commission.***

45 Rehiring; Laid-Off State Employees. The provisions of 1990, 261:1, as amended by 1991, 4:10 and 355:103, relative to rehiring of laid-off state employees, shall apply to any person laid-off between July 1, 2001, and June 30, 2003, as a result of any state law, regardless of the funding source for the person's position. The head of each department or agency shall submit the names and classification of individuals laid-off from July 1, 2001, to June 30, 2003, to the director of the division of personnel within 10 days of the layoff.

46 Emergency Medical Transport Services. The department of health and human services shall reimburse municipal and private emergency medical ambulance transport providers in the class 90 account of PAU 05, 01, 07, 06, 03, as inserted by HB 1-A of the 2001 legislative session, for the emergency and non-emergency transportation of New Hampshire Medicaid patients at the same transport and mileage rate as the Federal Health Care Financing Authority pays for the emergency and non-emergency transportation of Medicare patients.

47 Longevity Payment Authorized; Department of Health and Human Services. Notwithstanding any provision of law to the contrary, payment is hereby authorized in the amount of \$3,000 for longevity to position 9U201, deputy commissioner, department of health and human services for the years 1994 through 1999. Funding for the longevity payment shall be from appropriations made to the department of health and human services in the 2000-2001 operating budget for positions which are not filled.

48 Commissioner of Health and Human Services; Authority to Establish Positions. For the biennium ending June 30, 2003, the commissioner of health and human services may exercise the authority granted by RSA 126-A:9, II(a) as necessary to support and carry out the purposes of any laws enacted to transfer the youth development center and the youth services center to the department of health and human services and to establish a juvenile justice services unit within the department.

49 Operation of Beach Parking Facilities; Hampton Beach Capital Improvement Fund. Amend RSA 216:3 to read as follows:

216:3 Operation of Beach Parking Facilities.

I. The department of resources and economic development shall operate, maintain, and manage the parking facilities at Hampton Beach, and shall be authorized to charge for the use of the parking facilities by meters or fees, including parking violation fines, whichever is determined most practical.

II. The state treasurer shall establish a special nonlapsing fund, which shall only lapse pursuant to paragraph III, for the revenues from ~~[this source which shall be expended to retire 59]~~ ***the parking facilities at Hampton Beach. Fifty percent of the payments for principal and interest of bonds and notes that are issued for the project of replacing the steel seawall with a concrete seawall in the Hampton Beach area shall be paid from this fund. If the revenues from the parking facilities at Hampton Beach exceed \$1,000,000 for the fiscal year, all revenues in excess of \$1,000,000 shall be transferred prior to the close of the fiscal year from this fund to the Hampton Beach capital improvement fund established in paragraph IV.***

III. The balance of any funds in this special nonlapsing fund shall be lapsed at the close of each fiscal year to the state park fund.

IV.(a) There is established a nonlapsing revolving fund to be known as the Hampton Beach capital improvement fund in the department of resources and economic development. The revolving fund shall be used for capital improvements for the parking facilities at Hampton Beach.

(b) The commissioner of resources and economic development shall submit a report detailing the activities of the revolving fund annually to the governor and council and the fiscal committee within 60 days of the close of each fiscal year.

50 New Paragraphs; Board of Tax and Land Appeals; Authority; Duties. Amend RSA 71-B:5 by inserting after paragraph III the following new paragraphs:

IV. To hear and determine all matters relating to orders for reassessment properly brought pursuant to RSA 71-B:16.

V. To hear and determine petitions filed by the commissioner of revenue administration pursuant to RSA 21-J:11-a, II(b). The board shall give such petitions priority for scheduling hearings and for final rulings. In addition to the standards utilized by the commissioner of revenue administration in the certification of assessments pursuant to RSA 21-J:11-a, the board shall consider the criteria in a RSA 71-B:16-a. The board's decision on such petitions shall be final, subject to appeal to the supreme court. Any appeal shall be filed with the clerk of the supreme court within 20 days after the date the decision is issued. The supreme court shall give any appeal it hears under this section priority in the court calendar.

51 Appraisal of Taxable Property; How Appraised. RSA 75:1 is repealed and reenacted to read as follows:

75:1 How Appraised. The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, and all other taxable property at its market value. Market value means the property's full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

52 Appraisal of Taxable Property; Oath. Amend RSA 75:7 to read as follows:

75:7 Oath. The selectmen and assessors shall take and subscribe upon the copies or original inventories and assessments of both resident and nonresident taxes, furnished by them to the town clerks in their respective towns, to be recorded in the clerk's records, the following oath, which may be subscribed before any justice of the peace or notary public: We, the selectmen and assessors of _____, ~~[do solemnly swear that in making the inventory for the purpose of assessing the foregoing taxes we appraised all taxable property at its full value, and as we would appraise the same in payment of a just debt due from a solvent debtor. So help us God]~~ ***certify under the penalty of perjury that in making the inventory for the purpose of assessing the foregoing taxes, all taxable property was valued in accordance with RSA 75:8, to the best of our knowledge and belief.***

53 Annual Revised Inventory. RSA 75:8 is repealed and reenacted to read as follows:

75:8 Revised Inventory.

I. Annually, and in accordance with state assessing standards, the assessors and selectmen shall adjust assessments to reflect changes so that all assessments are reasonably proportional within that municipality. All adjusted assessments shall be included in the inventory of that municipality and shall be sworn to in accordance with RSA 75:7.

II. Assessors and selectmen shall consider adjusting assessments for any properties that:

- (a) They know or believe have had a material physical change;
- (b) Changed in ownership;

- (c) Have undergone zoning changes;
- (d) Have undergone changes to exemptions, credits or abatements;
- (e) Have undergone subdivision, boundary line adjustments, or mergers; or
- (f) Have undergone other changes affecting value.

54 New Section; Appraisal of Taxable Property; Five-Year Valuation. Amend RSA 75 by inserting after section 8 the following new section:

75:8-a Five-Year Valuation. At least as often as every fifth year, beginning with the first year the commissioner of the department of revenue administration certifies a municipality's assessments pursuant to RSA 21-J:3, XXVI, the assessors and/or selectmen shall value all real estate within the municipality so that the assessments are valued in accordance with RSA 75:1.

55 New Paragraph; Department of Revenue Administration; Duties of Commissioner. Amend RSA 21-J:3 by inserting after section XXV the following new paragraph:

XXVI. Review each municipality's assessments once within every 5 years and certify the assessments of the municipality if such assessments are valued in accordance with RSA 75:1. In carrying out the duty to certify the assessments of property, the commissioner shall follow the procedures set forth in RSA 21-J:11-a.

56 New Sections; Department of Revenue Administration. Amend RSA 21-J by inserting after section 11 the following new sections:

21-J:11-a Certification of Assessments.

I. The commissioner shall certify that the assessments of a municipality comply with the provisions of RSA 75:1 when the commissioner determines that:

- (a) Level of assessments and uniformity of assessments are within acceptable ranges as prescribed by state assessing standards by considering, where appropriate, an assessment-to-sales-ratio study conducted by the department for the municipality;
- (b) Assessment practices substantially comply with applicable statutes and rules;
- (c) Exemption, credit, and abatement procedures substantially comply with applicable statutes and rules;
- (d) Assessments are based on reasonably accurate data; and
- (e) Assessments of various types of properties are reasonably proportional to other types of properties within the municipality.

II. If the commissioner does not certify that the assessments of a municipality comply with RSA 75:1, the commissioner shall order in writing those corrective actions, including the time for completion, deemed necessary to assess the municipality's property in accordance with RSA 75:1; and:

(a) If the governing body of the municipality agrees with the commissioner's determination, the municipality shall complete the corrective actions within the time prescribed by the commissioner.

(b) If the governing body of the municipality does not agree with the commissioner's determination not to certify its assessments, with the corrective actions ordered, or the time allowed for completion, the commissioner shall petition the board of tax and land appeals to order that the municipality's property is not assessed in accordance with RSA 75:1 and to order such corrective action necessary to ensure that the municipality's assessment are in accordance with RSA 75:1.

III. The commissioner shall adopt rules under RSA 541-A relative to acceptable ranges of level of assessments and uniformity of assessments, procedures for review of assessment practices, and procedures and forms for the commissioner's certification of assessments. Rules adopted by the commissioner under this paragraph shall remain effective until the assessing standards board adopts rules under RSA 21-J:14-b, II.

IV. Within 60 days of the certification of a municipality's assessments, the commissioner shall reimburse the municipality on a per parcel basis to defray assessing expenses associated with certification according to the following formula: \$10 per parcel for

the first 1,000 parcels, \$8 per parcel for the next 5,000 parcels, and \$5 per parcel for all remaining parcels.

21-J:11-b Implementation of Certification.

I. The commissioner of revenue administration shall adopt a schedule so that each city, town, and unincorporated place has its assessments reviewed within 5 years of April 1, 2002, and shall notify each city, town, and unincorporated place, within 60 days of passage of this act, of the property tax year for which their initial certification review shall occur.

II. The department shall offer training and technical assistance to municipal officials to assist in complying with the provisions of RSA 75:8, RSA 75:8-a, and RSA 21-J:11-a.

III. The commissioner of revenue administration shall report in its annual report, the number of communities assisted and the types of assistance and training provided pursuant to RSA 21-J:10, RSA 21-J:11, and RSA 21-J:11-b, II.

57 Setting of Tax Rates by Commissioner. Amend RSA 21-J:35, I to read as follows:

I. The commissioner of revenue administration shall compute and establish the tax rate of each town, city, or unincorporated place. ***Any decision by the commissioner not to certify the assessments of a municipality pursuant to RSA 21-J:11-a shall not delay or otherwise affect the setting of the tax rate for that municipality.***

58 Real Estate. Amend RSA 73:10 to read as follows:

73:10 Real Estate. Real and personal property shall be taxed to the person claiming the same, or to the person who is in the possession and actual occupancy thereof, if such person will consent to be taxed for the same; but such real estate shall be taxed in the town in which it is situate. ***Any decision by the commissioner not to certify the assessments of a municipality pursuant to RSA 21-J:11-a shall not affect the obligation of the taxpayer to pay property taxes otherwise lawfully assessed.***

59 Powers of Collector. Amend RSA 80:4 to read as follows:

80:4 Powers of Collector. Every collector, in the collection of taxes committed to him and in the service of his warrant, shall have the powers vested in constables in the service of civil process, which shall continue until all the taxes in his list are collected. ***Any decision by the commissioner not to certify the assessments of a municipality pursuant to RSA 21-J:11-a shall not affect the authority of the tax collector to issue tax bills and to exercise all powers contained in this chapter for the collection of taxes.***

60 Petition for Order of Reassessment; SB 193 Provision Amended. Amend RSA 21-J:9-b to read as follows:

21-J:9-b Petition for Order of Reassessment. The commissioner, in petitioning for an order of reassessment pursuant to RSA 21-J:3, XXV, may consider any information that indicates that property in a city, town, or unincorporated place is valued disproportionately to other property within that municipality in determining whether to petition the board of tax and land appeals to issue an order for reassessment. Additionally, the commissioner shall petition the board of tax and land appeals to issue an order for reassessment of property if the following criteria are met:

I. The commissioner's most recent annual sales-assessment ratio study indicates that the coefficient of dispersion exceeds 20 employing a 95-percent level of confidence, provided however that if the sample size for a sales-assessment ratio study is less than 30, the commissioner may use a level of confidence as low as 70 percent;

II. The municipality has not ~~[conducted a full revaluation within 6 years]~~ ***complied with the provisions of RSA 75:8-a; and***

~~[III. A municipality has not contracted for a full revaluation of the property within such municipality to be effective no later than the tax year following such determination.]~~

61 Certification Required; SB 193 Provision Amended. Amend RSA 21-J:14-f, I to read as follows:

I. Every person, whether working individually, for a firm or corporation, or as a municipal ~~[or department of revenue administration]~~ employee, making appraisals of a municipality for tax assessment purposes, except elected officials making appraisals

pursuant to RSA 75:1, shall be certified by the department. ***Department of revenue employees shall be certified at the level appropriate to their duties.*** The commissioner shall adopt rules, pursuant to RSA 541-A, relative to qualifications for certification, standards for continuing education, and standards for revocation or suspension of certification. Rules adopted by the commissioner under this paragraph shall remain effective until the assessing standards board adopts rules under RSA 21-J:14-b, I(c).

62 Property Taxes; What Taxes Assessed; Expenses of Reassessment; SB 193 Provision Amended. Amend RSA 76:5 to read as follows:

76:5 What Taxes Assessed. The selectmen shall seasonably assess all state and county taxes for which they have the warrants of the commissioner of revenue administration and county treasurers respectively; all taxes duly voted in their towns; and all school and village district taxes authorized by law or by vote of any school or village district duly certified to them; and all sums required to be assessed by RSA 33 ***and RSA 21-J:9-c. Any decision by the commissioner not to certify the assessments of a municipality pursuant to RSA 21-J:11-a shall not affect the authority of the selectmen to assess taxes.***

63 Initial Assessment Review Schedule. The commissioner of revenue administration shall adopt a schedule so that each city, town, and unincorporated place has its assessments reviewed within 5 years and shall notify each municipality, within 60 days of passage of this act, of the property tax year for which their initial certification review shall occur. The department shall offer training and technical assistance to municipal officials to assist in complying with the provisions of RSA 21-J:11-a, as inserted by this act.

64 Contingency. If SB 193 of the 2001 legislative session becomes law, then section 60 of this act shall take effect at 12:01 a.m. on the effective date of section 17 of SB 193. If SB 193 of the 2001 legislative session becomes law, then section 61 of this act shall take effect at 12:01 on the effective date of section 2 of SB 193. If SB 193 of the 2001 legislative session becomes law, then section 62 of this act shall take effect at 12:01 a.m. on the effective date of section 18 of SB 193. If SB 193 does not become law, then sections 60-62 of this act shall not take effect.

65 Purpose. Since the agricultural fairs of New Hampshire contribute greatly to the economic, cultural, and social well-being of the state, it is important that the state assist the fairs to assure their continued viability.

66 Appropriation. The sum of \$1 is hereby appropriated to the department of agriculture, markets, and food for each year of the biennium ending June 30, 2003, for purposes of making distributions to agricultural fairs as provided in RSA 425:19-a – 19-f. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

67 Distribution Formula. The commissioner of agriculture, markets, and food shall distribute sums appropriated under section 66 of this act to agricultural fairs qualified under RSA 425:19-b according to the following formula: To each fair for capital improvements, \$10,000; to each fair for marketing and promotional activities, \$8,000; and to each fair a pro rata share based upon premiums paid and qualified under RSA 425:19-b of the remaining sums appropriated under section 66 of this act.

68 Statement of Purpose. The general court recognizes that a small number of individuals with complex diagnostic presentations such as individuals who have significant cognitive limitations as well as affective or thought disorders, severe emotional disturbances and significant functional limitations engage in behavior that potentially endangers their communities. Intervention, treatment, and supervision are effective means of assisting such individuals while providing for the safety of the public. Extended periods of treatment may be required in order for such individuals to benefit from therapeutic programs due to their learning difficulties. The general court intends to provide these individuals with appropriate treatment so that they may gain the skills needed to live safely in a community setting.

69 Definition of Mental Retardation Clarified. Amend RSA 171-B:2, IV to read as follows:

IV. The person has mental retardation, *as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association*; and

70 New Subparagraph; Responsibility of Guardian. Amend RSA 464-A:25, I by inserting after subparagraph (g) the following new subparagraph:

(h) The guardian of any ward who has a history of engaging in behavior which substantially endangers others shall consider the security and protection of the community while ensuring that the ward receives appropriate care, treatment, and supervision.

71 Commission Established. There is established a commission to review and approve proposed locations for the provision of residential treatment to individuals with complex and significant disabilities who have engaged in behavior which endangers the community and who require intensive therapeutic interventions and close supervision.

72 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) One member of the house of representatives, appointed by the speaker of the house.

(c) The attorney general.

(d) Two public members, appointed by the governor.

II. The legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

73 Duties.

I. The commission shall receive recommendations from the department of health and human services of proposed program sites. The commission shall review the programs, services, and security provisions for each prospective program site, shall consult with representatives of the community in which a proposed program site is located, and shall give due consideration to local concerns. The commission shall conduct a public hearing in those communities where such a proposed site would be located. The department of health and human services shall make a presentation at each public hearing regarding the proposed program, including the number of individuals to be served and the staffing and security provisions incorporated into the proposed program.

II. Following consideration of the public input and information provided by the department of health and human services about the proposed programs, the commission shall approve at least 5 sites equitably distributed across the state to meet the needs of the state's population in rural as well as densely populated communities. A site shall be approved only if it is:

(a) Out of visual range of any existing child care programs, playgrounds and other locations where children gather;

(b) Within a 30 minute drive of a general hospital; and

(c) In reasonable proximity of the community's emergency services such as police, fire, and medical response.

III. Following approval by the commission, or after 4 months from the submission of a proposed site by the department if the commission fails to approve or deny a proposed site, the department shall be authorized to establish a program at the proposed site, provided, that the program conforms to local building and fire codes applicable to single family residences.

74 Chairperson; Support.

I. The chairperson of the commission shall be the attorney general. The first meeting of the commission shall be called by the attorney general. The first meeting shall be held within 45 days of the effective date of this section.

II. The department of health and human services shall provide any administrative support the commission deems necessary.

75 Repeal. Sections 71-74, relative to a commission to review certain proposed sites, is repealed.

76 New Chapter; Specialized Treatment Program. Amend RSA by inserting after chapter 135-D the following new chapter:

CHAPTER 135-E

SPECIALIZED TREATMENT PROGRAM

135-E:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of health and human services.

II. "Department" means the department of health and human services.

135-E:2 Specialized Treatment Program.

I. The department shall establish, subject to available appropriations, a specialized therapeutic program including secure residential care and community-based after-care treatment which is designed to meet the needs of individuals with significant cognitive limitations as well as affective or thought disorders, severe emotional disturbances, and significant functional limitations who engage in behavior that potentially endangers their community. Such programs shall be utilized when less restrictive alternatives do not provide adequate safety and security to the community.

II. One component of the program shall be designed specifically to meet the needs of young adults with serious emotional disturbance or significant learning disabilities who have been in placement through the department under RSA 169-B or RSA 169-C and who continue to need intensive treatment in order to receive the support and supervision they require until they achieve the full benefit of the treatment that has been initiated during their minority. A young adult who meets admission criteria for the program shall be admitted on a voluntary basis, or by consent of his or her guardian.

III. The department may, if necessary, request the appointment of a guardian as provided in RSA 464-A for an individual who may be legally incapacitated and who is determined to need a specialized treatment program established pursuant to this chapter.

IV. Individuals receiving treatment from a specialized treatment program established pursuant to this chapter shall have all the rights guaranteed by RSA 171-A to persons with developmental disabilities, except to the extent necessary for safety or security.

V. A comprehensive clinical assessment shall occur prior to any admission, discharge, or transfer from the program.

135-E:3 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. Admission and discharge criteria for the program.

II. Program requirements.

III. The rights of individuals receiving treatment.

IV. Periodic review of each individual's treatment to determine if the individual is served in the least restrictive setting consistent with the safety and security of the community.

V. Quality assurance processes and criteria for the program.

VI. Any other matter necessary to the administration of this chapter.

77 Rights Guaranteed. Amend RSA 171-A:29 to read as follows:

171-A:29 Rights Guaranteed. All rights guaranteed by RSA 171-A to persons with developmental disabilities shall be retained by persons involuntarily admitted under RSA 171-B except ~~[where safety or security mandates restriction of such rights]~~ **to the extent necessary for safety or security.** Any restriction of rights under this section may be appealed to the commissioner pursuant to rules adopted by the commissioner under RSA 171-A:3.

78 Order of the Court. Amend RSA 171-B:12 to read as follows:

171-B:12 Order of Court. If, after the hearing, the court finds by clear and convincing evidence that the person meets the standard set forth in RSA 171-B:2, the court shall order

the person to submit to ***the least restrictive alternative of the following alternative consistent with the security and protection to the public:***

I. Treatment and services in a receiving facility within the state developmental services delivery system ***or the residential settings specified in RSA 135-E:2;***

II. Treatment and services within the state developmental services delivery system ***pursuant to RSA 171-A:4*** other than in-patient treatment; or

III. Treatment and services in the secure psychiatric unit if the court determines that the programs and placements enumerated in paragraph I or II do not provide sufficient security and protection to the public.

79 Appropriation. The sum of \$1 for operations and administration and the sum of \$1 for capital expenditures for the fiscal year ending June 30, 2002 and the sum of \$1 for operations and administration and the sum of \$1 for capital expenditures for the fiscal year ending June 30, 2003 are hereby appropriated to the department of health and human services for the purposes of sections 68-78. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

80 Effective Date.

I. Sections 8, 9, 40, 44, 50-59 and 63 of this act shall take effect 60 days after its passage.

II. Sections 21, 31, 32, 35-39, 47, and 64 of this act shall take effect upon its passage.

III. Sections 60-62 of this act shall take effect as provided in section 64.

IV. Section 15 of this act shall take effect June 30, 2001.

V. Sections 10 and 25 of this act shall take effect January 1, 2002.

VI. Section 75 of this act shall take effect July 1, 2004.

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

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

2001-1577s

AMENDED ANALYSIS

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

II. Establishes a travel and tourism development fund.

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

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

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

VI. Provides that the initial funding mechanism and appropriation for the telecommunications planning and development initiative shall not lapse until June 30, 2003.

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

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

IX. Increases the rate of the business enterprise tax from $\frac{1}{2}$ of one percent to one percent of the taxable enterprise value tax base and provides that all revenue received from the business enterprise tax shall be deposited in the education trust fund.

X. Establishes a committee to study the economic impact on New Hampshire's economy of raising the business enterprise tax rate from $\frac{1}{2}$ of one percent to one percent.

XI. Provides for an amnesty period on payment of penalties and interest on unpaid taxes owed to the state.

XII. Increases the rate of taxes on communications services from 3 percent of the gross charge to 4 percent of the gross charge.

XIII. Reduces the rate of the legacies and succession tax by 4.5 percent per year until the tax is repealed effective January 1, 2005.

XIV. Establishes the division of community services within the department of revenue administration and enables certain purchases and positions relating to assessing enforcement.

XV. Provides specific time lines and abatement and appeal procedures for betterment assessments.

XVI. Sets forth a formula for distributing new kindergarten adequacy payments to pupils enrolled in new public kindergarten programs or an approved alternative kindergarten program.

XVII. Establishes a committee to study the development of a new budget system; extends the lapse date of an appropriation to the department of administrative services; and makes the appropriation available to the study committee.

XVIII. Suspends the provisions of law relating to the revenue stabilization account for the biennium ending June 30, 2001, and provides for a transfer of funds from the general fund operating surplus in the event of an education trust fund budget deficit at the close of the fiscal biennium ending June 30, 2001.

XIX. Changes the date monthly payments are due from the counties to the state for certain services from 30 days to 45 days of notice such payments are due.

XX. Enables additional revenues to be made available for certain health and human services programs.

XXI. Makes an appropriation to the postsecondary education commission for administration of the granite state scholars program.

XXII. Requires approval by the fiscal committee of the general court and the governor and council prior to submission to the public utilities commission of plans for the administration of system benefits charge funds which are in the custody of the treasurer pursuant to a request of the public utilities commission.

XXIII. Grants laid-off state employees certain rights with regard to rehiring.

XXIV. Requires the department of health and human services to reimburse municipal and private emergency medical ambulance transport providers for transporting medicaid patients at the same transport and mileage rate as the federal Health Care Financing Authority pays for transportation of Medicare patients.

XXV. Authorizes a longevity payment for the deputy commissioner of the department of health and human services.

XXVI. Authorizes the commissioner of the department of health and human services to establish certain unclassified positions as necessary for the biennium ending June 30, 2003.

XXVII. Establishes a revolving fund to be used for capital improvements for the parking facilities at Hampton Beach.

XXVIII. Requires valuations of taxable property every 5 years, and certification of municipal assessments by the commissioner of revenue administration of compliance with state assessing standards.

XXIX. Makes a \$1 appropriation to the department of agriculture, markets, and food for the purpose of distribution to agricultural fairs.

XXX. Clarifies the definition of mental retardation for the purposes of involuntary admission; establishes a commission to review possible sites for the provision of specialized treatment for certain individuals; requires the department of health and human services to establish the specialized treatment program, subject to available appropriations; and makes an appropriation of \$1 for this purpose.