

**NEW ISSUE – Book Entry Only**

*In the opinion of Palmer & Dodge LLP, Bond Counsel, based upon an analysis of existing law and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986. Interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. Under existing law, interest on the Bonds is exempt from the New Hampshire personal income tax on interest and dividends. (See “TAX EXEMPTION” and Appendix A herein.)*

**\$60,000,000**  
**STATE OF NEW HAMPSHIRE**  
**GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS**

**\$30,000,000**  
**2004 Series A**

**\$30,000,000**  
**2004 Series B**

Dated: Date of Delivery

Due: See Inside Cover

The Bonds will be issued as fully registered bonds, registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”). Purchases of beneficial interests in the Bonds will be made in book-entry form (without certificates) in the denomination of \$25,000 or any integral multiple thereof. (See “THE BONDS--Book-Entry Only System” herein.) The Bonds are variable rate bonds that may be in the Daily Mode, Weekly Mode, Flexible Mode, Term Mode, or ARS Mode. The Bonds will be issued initially in the ARS Mode in a seven-day Auction Period, except for the Initial Period for which the last day will be January 6, 2005 for the Series A Bonds and January 11, 2005 for the Series B Bonds. The Bonds will bear interest from the date of delivery for the applicable Initial Period set forth on the inside front cover of this Official Statement at the rate established by the applicable Broker-Dealer prior to their date of delivery and thereafter at the applicable ARS Rate (as defined herein) pursuant to the Auction Procedures (as defined herein). While the Bonds are in a seven-day Auction Period, interest on the Bonds will be payable on the Business Day immediately following such Auction Period.

Deutsche Bank Trust Company Americas will serve as Auction Agent and Paying Agent for the Bonds. Merrill Lynch, Pierce, Fenner & Smith Incorporated will initially serve as Broker-Dealer with respect to the Series A Bonds. UBS Financial Services Inc. will initially serve as Broker-Dealer with respect to the Series B Bonds.

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under an insurance policy for each Series to be issued concurrently with the delivery of the Bonds by Financial Security Assurance Inc. (the “Bond Insurer”).



*The Bonds are offered when, as and if issued and accepted by the Underwriters subject to the final approving opinion of Palmer & Dodge LLP, Boston, Massachusetts, Bond Counsel, and to certain other conditions referred to herein. Certain legal matters will be passed upon for the Underwriters by their counsel, Rath, Young and Pignatelli, Professional Association, Concord, New Hampshire. Public Resources Advisory Group has acted as Financial Advisor to the State with respect to the Bonds. Delivery of the Bonds to DTC is expected on or about December 21, 2004.*

**Merrill Lynch & Co.**

**UBS Financial Services Inc.**

December 10, 2004

**\$60,000,000**

**STATE OF NEW HAMPSHIRE  
GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS**

**\$30,000,000 2004 Series A  
Broker-Dealer: Merrill Lynch, Pierce, Fenner & Smith Incorporated  
CUSIP No. 644682 RX6**

<u>Final Maturity</u>	<u>Last Day of Initial Period</u>	<u>Initial Auction Period</u>	<u>First Auction Date</u>	<u>First Interest Payment Date</u>
April 1, 2025	January 6, 2005	Seven-Day Mode	January 6, 2005	January 7, 2005

**\$30,000,000 2004 Series B  
Broker-Dealer: UBS Financial Services Inc.  
CUSIP No. 644682 RY4**

<u>Final Maturity</u>	<u>Last Day of Initial Period</u>	<u>Initial Auction Period</u>	<u>First Auction Date</u>	<u>First Interest Payment Date</u>
April 1, 2025	January 11, 2005	Seven-Day Mode	January 11, 2005	January 12, 2005

**Price of Bonds: 100%**

The information set forth herein has been obtained from the State of New Hampshire and other sources which are believed to be reliable but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriters. The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances, create any implication that there has been no change in any of the information set forth herein since the date hereof.

Other than with respect to information concerning Financial Security Assurance Inc. (“Financial Security”) contained under the caption “Bond Insurance” and “Appendix D - Specimen Form of Municipal Bond Insurance Policy” herein, none of the information in this Official Statement has been supplied or verified by Financial Security and Financial Security makes no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information; (ii) the validity of the Bonds; or (iii) the tax exempt status of the interest on the Bonds.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibility to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

This Official Statement is not to be construed as a contract or agreement between the State of New Hampshire and the purchasers or owners of any of the Bonds. Any statements made in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended merely as opinion and not a representation of fact.

This Official Statement is provided only in connection with the sale of the Bonds by the State of New Hampshire and may not be reproduced or used in whole or in part for any other purpose without the express written consent of the State Treasurer.

***In connection with an offering of the Bonds, the Underwriters may over allot or effect transactions which stabilize or maintain the market price of such Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.***

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### PART II. STATE OF NEW HAMPSHIRE INFORMATION STATEMENT DATED DECEMBER 10, 2004

STATEMENT PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 421-B:20:

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE STATE AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

**STATE OF NEW HAMPSHIRE**

**GOVERNOR**  
CRAIG R. BENSON

**EXECUTIVE COUNCIL**  
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**OFFICIAL STATEMENT**  
**OF**  
**THE STATE OF NEW HAMPSHIRE**  
**\$60,000,000**  
**GENERAL OBLIGATION**  
**CAPITAL IMPROVEMENT BONDS**

**\$30,000,000**  
**2004 Series A**

**\$30,000,000**  
**2004 Series B**

**PART I: INFORMATION CONCERNING THE BONDS**

This Official Statement, including the cover page, is provided for the purpose of presenting certain information relating to the State of New Hampshire (the “State”) in connection with the issuance of its General Obligation Capital Improvement Bonds, 2004 Series A in the aggregate principal amount of \$30,000,000 (the “Series A Bonds”) and 2004 Series B in the aggregate principal amount of \$30,000,000 (the “Series B Bonds,” and together with the Series A Bonds, the “Bonds”).

This Official Statement consists of two parts: Part I (including the cover and Appendices A through E and Part II, the State’s Information Statement dated December 10, 2004 (the “Information Statement”). The Information Statement will be provided to the nationally recognized municipal securities information repositories (“NRMSIRs”) currently recognized by the Securities and Exchange Commission for purposes of Rule 15c2-12. The Information Statement includes as Exhibit A the State’s audited financial statements for fiscal year 2003. Promptly after the State’s audited financial statements for fiscal year 2004 become available, the State intends to file them with the NRMSIRs.

**THE BONDS**

**General**

The following is a summary of certain provisions of the Bonds relating to their auction rate security features. The Bonds while bearing interest at an Auction Rate are hereinafter referred to as “ARS Bonds.” This Official Statement, in general, describes the ARS Bonds only during an ARS Rate Period, which is the period beginning on the delivery date of the ARS Bonds of each Series and ending on the date on which the ARS Bonds are no longer outstanding or are converted to a Mode other than an ARS Mode. For definitions of certain terms and additional detailed information relating to the Bonds, see “Appendix C – Summary of Certain Auction Rate Provisions of the Bonds.”

**Description of the ARS Bonds**

The Bonds will be issued initially in the ARS Mode, will be dated their date of delivery and will bear interest at the ARS Rate, until maturity, earlier redemption, or conversion to a different mode. The Bonds will mature on April 1, 2025.

The ARS Bonds will be issued initially as bonds that bear interest at an ARS Rate with a seven-day Auction Period (except for the Initial Period, the last day of which is January 6, 2005 for the Series A Bonds and January 11, 2005 for the Series B Bonds), but may be converted at the option of the State, subject to certain restrictions, to any of the following modes: the Daily Mode, the Weekly Mode, the Flexible Mode, or the Term Mode. Each Series of the ARS Bonds will bear interest from their date of delivery for the applicable Initial Period set forth on the inside front cover of this Official Statement at the rates established by Merrill Lynch, Pierce,

Fenner & Smith Incorporated for the Series A Bonds and UBS Financial Services Inc. for the Series B Bonds, and thereafter at the applicable ARS Rate determined pursuant to the Auction Procedures (as hereinafter defined). Following the Initial Period, each Series of the ARS Bonds initially will bear interest for seven-day Auction Periods, but all (and not less than all) of each Series may be converted to a seven-day, 28-day, 35-day, three-month or six-month Auction Period or a Special Auction Period. The Special Auction Period is any period of not less than seven days nor more than 1,080 days which is not another Auction Period. Interest on the ARS Bonds of each Series in a seven-day, 28-day, 35-day or three-month Auction Period or Special Auction Period of 180 days or less shall be computed on the basis of a 360-day year for the actual number of days elapsed. Interest on the ARS Bonds of a Series in a six-month Auction Period or a Special Auction Period of more than 180 days shall be computed on the basis of a 360-day year of twelve 30-day months. See “Appendix C – Summary of Certain Auction Rate Provisions of the Bonds.”

Payments of principal of and interest on each Series of the ARS Bonds are insured by a municipal bond insurance policy provided by the Bond Insurer. See “Bond Insurance.”

While the ARS Bonds of each Series provide that the ARS Bonds of such Series may, under certain circumstances set forth therein, be converted to a Mode other than an ARS Mode, this Official Statement describes each Series of ARS Bonds only during the period in which they bear interest at an ARS Rate. The ARS Bonds of each Series are subject to mandatory tender in the event of any such conversion. See “Conversion of ARS Bonds to Another Mode” herein.

The ARS Bonds of each Series will be issued as fully registered bonds without coupons and in denominations of \$25,000 or any integral multiple thereof while such ARS Bonds bear interest at an ARS Rate. The ARS Bonds of each Series will be registered in the name of Cede & Co., as nominee of DTC, pursuant to DTC’s Book-Entry-Only System. Purchases of beneficial interests in the ARS Bonds of each Series will be made in book-entry form, without certificates. If at any time the Book-Entry-Only System is discontinued for any Series of ARS Bonds, the ARS Bonds of such Series will be exchangeable for other fully registered certificated ARS Bonds of the same Series in any authorized denominations, maturity and interest rate. See “Book-Entry-Only System” herein. The State may impose a charge sufficient to reimburse the State for any tax, fee or other governmental charge required to be paid with respect to such exchange or any transfer of an ARS Bond. The cost, if any, of preparing each new ARS Bond issued upon such exchange or transfer, and any other expenses of the State incurred in connection therewith, will be paid by the person requesting such exchange or transfer.

Interest on the ARS Bonds of each Series will be payable by check mailed to the registered owners thereof. However, interest on the ARS Bonds of each Series will be paid to any owner of \$1,000,000 or more in aggregate principal amount of ARS Bonds of such Series by wire transfer to a wire transfer address within the continental United States upon the written request of such owner received by the Trustee not less than five days prior to the Record Date. As long as the ARS Bonds of any Series are registered in the name of Cede & Co., as nominee of DTC, such payments with respect to such Series will be made directly to DTC. See “Book-Entry-Only System” herein.

### **Certain Definitions Relating to the ARS Bonds**

In addition to the following definitions, certain defined terms used in this Official Statement to describe certain terms and conditions applicable to the ARS Bonds are set forth in Appendix D attached hereto.

“ARS Rate” means with respect to each Series of ARS Bonds, while such Series of ARS Bonds bear interest at an ARS Rate, the rate of interest to be borne by such Series of ARS Bonds during each Auction Period which (other than for the Initial Period) shall equal the Auction Rate for each Auction Period; provided, however, that if a failure by the State to pay principal, premium or interest on any ARS Bond of any Series when due (a “Payment Default”) shall have occurred (provided, however, that solely for purposes of this provision, payment by the Bond Insurer of such principal, premium or interest shall be deemed to cure such Payment Default and no suspension of the Auction Procedures shall occur), the ARS Rate for such Series for the Auction Period during which such Payment Default shall have occurred and each Auction Period thereafter commencing prior to the date on which the Payment Default shall have ceased to be continuing, shall be the Maximum Interest Rate for such Auction Period; provided, further, in the event of a failed conversion of Bonds to a Daily Rate Period, a Weekly

Rate Period, a Flexible Rate period or a Term Rate Period, or a failed conversion from one Auction Period to another Auction Period, the ARS Bonds of the affected Series will continue as ARS Bonds with a seven-day Auction Period and bear interest at the Maximum Interest Rate for the next Auction Period. If the Auction Agent shall have failed to calculate or provide the Auction Rate for any Auction Period with respect to the ARS Bonds of any Series, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the Auction Rate for the new Auction Period shall be the same as the Auction Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Rate in effect for the preceding Auction Period shall continue in effect for the Auction Period as so extended. In the event the Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended. Notwithstanding the foregoing, no Auction Rate shall be extended for more than 35 days. If at the end of 35 days the Auction Agent fails to calculate or provide the Auction Rate, the Auction Rate shall be the Maximum Interest Rate.

“Auction Date” means with respect to each Series of ARS Bonds, during any period in which the Auction Procedures are not suspended in accordance with the provisions of such Series of ARS Bonds, (i) if the ARS Bonds of such Series are in a Special Auction Period, the last Business Day of the Special Auction Period, and (ii) if the ARS Bonds of such Series are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Series of ARS Bonds (whether or not an Auction shall be conducted on such date); provided, however, that the last Auction Date with respect to the ARS Bonds of each Series in an Auction Period other than a Special Auction Period shall be the earlier of (a) the Business Day next preceding the Interest Payment Date next preceding the conversion date for the ARS Bonds of such Series and (b) the Business Day next preceding the Interest Payment Date next preceding the final maturity date for the ARS Bonds of such Series. The last Business Day of a Special Auction Period shall be the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any.

“Auction Period” means, with respect to each Series of ARS Bonds,

- (i) with respect to such Series of ARS Bonds in a Special Auction Period, such Special Auction Period;
- (ii) in the case of the Series A Bonds, with respect to such Series of ARS Bonds in a seven-day mode, a period of generally seven days beginning on a Friday (or the Business Day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);
- (iii) in the case of the Series B Bonds, with respect to such Series of ARS Bonds in a seven-day mode, a period of generally seven days beginning on a Wednesday (or the Business Day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);
- (iv) in the case of the Series A Bonds, with respect to such Series of ARS Bonds in the 28-day mode, a period of generally 28 days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);
- (v) in the case of the Series B Bonds, with respect to such Series of ARS Bonds in the 28-day mode, a period of generally 28 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(vi) in the case of the Series A Bonds, with respect to such Series of ARS Bonds in the 35-day mode, a period of generally 35 days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(vii) in the case of the Series B Bonds, with respect to such Series of ARS Bonds in the 35-day mode, a period of generally 35 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(viii) with respect to such Series of ARS Bonds in a three-month mode, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period;

(ix) with respect to such Series of ARS Bonds in a six-month mode, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding June 1 and December 1.

“Business Day” means a day except a Saturday, Sunday, any holiday or other day on which the business offices of the State are closed, any other day on which banks in New York, New York are required or authorized to remain closed, or on which the New York Stock Exchange or the payment system of the Federal Reserve is closed.

“Interest Payment Date” means, with respect to each Series of ARS Bonds, January 7, 2005 for the Series A Bonds, and January 12, 2005 for the Series B Bonds for the Initial Period of each such Series, respectively, and thereafter: (a) when used with respect to any Auction Period other than a Special Auction Period, the Business Day immediately following such Auction Period; (b) when used with respect to a Special Auction Period of (i) seven or more but fewer than 92 days, the Business Day immediately following such Special Auction Period, or (ii) 92 or more days, each thirteenth Friday with respect to the Series A Bonds, and each thirteenth Wednesday with respect to the Series B Bonds, after the first day of such Special Auction Period or the next Business Day if such Wednesday or Friday (as appropriate) is not a Business Day and on the Business Day immediately following such Special Auction Period; (c) each Mandatory Tender Date, and (d) the Maturity Date.

### **Auction Agent**

The State will enter into the Auction Agreement initially with Deutsche Bank Trust Company Americas, New York, New York (“DBTCA”), pursuant to which DBTCA shall perform the duties of Auction Agent. The Auction Agent Agreement will provide, among other things, that the Auction Agent will determine the Auction Rate for each Auction in accordance with the Auction Procedures.

### **Auction Date**

An Auction to determine the interest rate with respect to each Series of the ARS Bonds for the next succeeding Auction Period will be held on each Auction Date. The first Auction Date for the Series A Bonds and the Series B Bonds is January 6, 2005 and January 11, 2005, respectively. So long as each Series of the ARS Bonds is in a seven-day mode, then (subject to adjustment as provided above in the definition of “Auction Date”), the Auction Date for the Series A Bonds and the Series B Bonds shall be Thursday and Tuesday, respectively.

### **Orders of Existing Owners and Potential Owners**

The procedure for submitting orders prior to the Submission Deadline on each Auction Date is described in Appendix C, as are the details regarding the determination of the Auction Rate and the allocation of ARS Bonds of each Series bearing interest at ARS Rates (collectively, the “Auction Procedures”).



## **Amendment of Auction Procedures**

The provisions of the ARS Bonds concerning the Auction Procedures, including without limitation the definitions of Maximum Interest Rate, Minimum ARS Rate, ARS Index, and the ARS Rate may be amended by obtaining the consent of the owners of each Series of ARS Bonds. All owners will be deemed to have consented if on the first Auction Date occurring at least 20 days after the Auction Agent mailed notice to such owners the ARS Rate determined for such date is the Winning Bid Rate.

## **Conversion from One Auction Period to Another**

The ARS Bonds of each Series may be converted at the option of the State from one Auction Period to another Auction Period. Such conversion shall only occur, however, if Sufficient Clearing Bids exist at the Auction immediately preceding the conversion. On the conversion date for a Series of ARS Bonds selected for conversion from one Auction Period to another, any ARS Bonds of such Series which are not the subject of a specific Hold Order or Bid will be deemed to be subject to a Sell Order. In the event of a failed conversion to another Auction Period due to the lack of Sufficient Clearing Bids, the ARS Bonds of the affected Series will automatically convert to a seven-day Auction Period and will bear interest at the Maximum Interest Rate. In connection with a conversion from one Auction Period to another, written notice of such conversion will be given in accordance with the Auction Procedures; however, the ARS Bonds of the affected Series will not be subject to mandatory tender on such conversion date.

## **Conversion of ARS Bonds to Another Mode**

At the option of the State, on any Interest Payment Date, all (but not less than all) of any Series of the ARS Bonds may be converted to bear interest at a Daily Rate, Weekly Rate, Flexible Rate, or Term Rate. On the Conversion Date applicable to the ARS Bonds of the Series to be converted, the ARS Bonds of such Series shall be subject to mandatory tender at a purchase price equal to 100% of the principal amount thereof, plus accrued interest. The purchase price of the ARS Bonds so tendered is payable solely from the proceeds of the remarketing of such ARS Bonds. In the event that the conditions of a conversion are not satisfied, including the failure to remarket all applicable ARS Bonds on a mandatory tender date, such ARS Bonds will not be subject to mandatory tender and will be returned to their owners, and all of the ARS Bonds of such Series will automatically convert to a seven-day Auction Period and will bear interest at the Maximum Interest Rate. It is currently anticipated that, should any of the Bonds be converted to a Mode other than the ARS Mode, a remarketing memorandum or remarketing circular will be distributed describing the Bonds during such Mode.

## **Special Considerations Relating to the ARS Bonds Bearing Interest at ARS Rates**

The ARS Bonds provide that the Auction Agent may resign from its duties as Auction Agent by giving at least 90 days' notice or 30 days' notice, if it has not been compensated for its services, to the State, the Bond Insurer, and the Paying Agent and do not require, as a condition to the effectiveness of such resignation, that a replacement Auction Agent be in place if it has not been compensated for its services. The Auction Agent may be removed at any time by the State, by written notice to the Auction Agent, the Bond Insurer, and the Paying Agent. Each Broker-Dealer Agreement provides that the Broker-Dealer thereunder may resign upon five Business Days' notice or immediately, in certain circumstances, and does not require, as a condition to the effectiveness of such resignation, that a replacement Broker-Dealer be in place. A Broker-Dealer may be removed by the State on five Business Days' notice. For any Auction Period during which there is no duly appointed Auction Agent, or during which there is no duly appointed Broker-Dealer, it will not be possible to hold Auctions, with the result that the interest rate on the ARS Bonds of each affected Series Bonds will be the Maximum Interest Rate.

Bondholders may not be able to sell their ARS Bonds in an Auction if there are not Sufficient Clearing Bids, in which case Bondholders may be required to hold their ARS Bonds and such ARS Bonds will bear interest at the Maximum Interest Rate until a new ARS Rate has been established pursuant to the Auction Procedures.

Changes to the Auction Periods and Auction Dates do not require the amendment of the Auction Procedures or any consents.

For further information with respect to the Auction Procedures, see “Appendix C – Summary of Certain Auction Rate Provisions of the Bonds.”

**Redemption Provisions**

*Mandatory Sinking Fund Redemption.* Each Series of the ARS Bonds will be subject to mandatory sinking fund redemption and shall be redeemed by sinking fund installments on April 1 in each of the years and in the amounts set forth below at a redemption price equal to the principal amount thereof, plus accrued interest to the date of redemption, as follows (provided, however, that if such April 1 is not an Interest Payment Date, the redemption shall occur on the Interest Payment Date immediately preceding such April 1):

<u>Year</u>	<u>Amount of Series A Bonds</u>	<u>Amount of Series B Bonds</u>
2016	\$3,000,000	\$3,000,000
2017	3,000,000	3,000,000
2018	3,000,000	3,000,000
2019	3,000,000	3,000,000
2020	3,000,000	3,000,000
2021	3,000,000	3,000,000
2022	3,000,000	3,000,000
2023	3,000,000	3,000,000
2024	3,000,000	3,000,000
2025*	3,000,000	3,000,000

\* Final maturity.

*Optional Redemption of the ARS Bonds.* During an ARS Rate Period, the ARS Bonds of each Series may be redeemed in whole or in part on any Interest Payment Date, at the principal amount of the ARS Bonds of such Series to be redeemed without premium.

**Security for the Bonds**

In the opinion of Bond Counsel, the Bonds when duly issued will constitute valid general obligations of the State and the full faith and credit of the State will be pledged for the punctual payment of the principal of and interest on the Bonds.

Each Bond when duly issued and paid for will constitute a contract between the State and the owner of the Bond. While the doctrine of sovereign immunity (the sovereign right of a state not to be sued without its consent) applies to the State, the Legislature has conferred jurisdiction on the Superior Court to enter judgment against the State founded upon any express or implied contract. The Supreme Court of New Hampshire has stated that that statutory provision constitutes a waiver of the State’s right of sovereign immunity in such a case. Although a bond of the State constitutes a contract with the owner of the bond, the State Supreme Court has not considered the issue of sovereign immunity in a case expressly involving the enforceability of a bond. Under State law, the Attorney General of the State is directed to present any claim founded upon a judgment against the State to the department or agency which entered into the contract for payment from available appropriations or, if such appropriations are insufficient, to present the claim to the Legislature. Payment of a claim against the State for which available appropriated funds are insufficient would require appropriation by the Legislature. Enforcement of a claim for payment of principal of or interest on the Bonds may also be subject to the provisions of federal or State statutes, if any, hereafter enacted extending the time for payment or imposing other constraints upon enforcement, insofar as those provisions may be constitutionally applied.

The State Constitution provides that the public charges of government may be raised by taxation upon polls, estates and other classes of property including franchises and property when passing by will or inheritance, and authorizes the Legislature to impose and levy proportional and reasonable assessments, rates and taxes upon all the inhabitants of, and residents within, the State and upon all property within the State.

## **Authorization, Purpose and Application of Proceeds**

The Bonds are being issued pursuant to a vote of the Governor and Council under Chapter 6-A of the New Hampshire Revised Statutes Annotated (“RSA”) and various other laws. Proceeds from the sale of the Bonds are expected to be used to finance all or a portion of the costs of a number of capital projects, including payment of \$50 million of outstanding bond anticipation notes of the State issued as commercial paper, and to pay issuance costs.

## **Book-Entry Only System**

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each Series of the Bonds, in the aggregate principal amount of such Series, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the securities on DTC’s records. The ownership interest of each actual purchaser of each security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the securities is discontinued.

To facilitate subsequent transfers, all securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent to vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the State as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the State or the Agent, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC (nor its nominee), the State or the Agent, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the State or the Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the State or the Agent. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The State may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the State believes to be reliable, but the State takes no responsibility for the accuracy thereof.

### **Securities and Exchange Commission Inquiry Regarding Auction Procedures**

The Broker-Dealer Agreements each will provide that a Broker-Dealer may submit Orders in Auctions for its own account. In the Broker-Dealer Agreements, each Broker-Dealer will agree to handle customers' orders in accordance with its duties under applicable securities laws and rules. The following information in this paragraph and the next paragraph has been furnished by the Underwriters for inclusion in this Official Statement. Any Broker-Dealer submitting an Order for its own account in any Auction could have an advantage over other Potential Holders in that it would have knowledge of other Orders placed through it in that Auction. A Broker Dealer would not, however, have knowledge of Orders submitted by other Broker-Dealers, if any. As a result of bidding by a Broker-Dealer in an Auction, the Auction Rate may be higher or lower than the rate that would have prevailed had the Broker-Dealer not bid. A Broker-Dealer may also bid in an Auction in order to prevent what would otherwise be (a) a failed Auction, (b) an "all-hold" Auction, or (c) the implementation of an Auction Rate that the Broker-Dealer believes, in its sole judgment, does not reflect the market for such securities at the time of the Auction. A Broker-Dealer may also encourage additional or revised investor bidding in order to prevent an "all-hold" Auction.

According to published news reports, the Securities and Exchange Commission (the "Commission") has requested information from a number of broker-dealers, including Merrill Lynch, Pierce, Fenner & Smith Incorporated and UBS Financial Services Inc., regarding certain of their practices in connection with auction rate securities, such as the practices described above. The Broker-Dealers have advised the State that (i) they, as

participants in the auction rate securities markets, have each received a letter from the Commission requesting that they voluntarily conduct an investigation regarding certain of their practices and procedures in connection with those markets, and (ii) they are cooperating and expect to continue to cooperate with the Commission in providing the requested information. No assurance can be given as to whether the results of this process will affect the market for the Bonds or the Auctions therefor. During an Auction Period a beneficial owner of an ARS Bond may sell, transfer or dispose of an ARS Bond only pursuant to a Bid or Sell Order in accordance with the Auction Procedures (see Appendix C) or through a Broker-Dealer. The ability to sell an ARS Bond in an Auction may be adversely affected if there are not sufficient buyers willing to purchase all the ARS Bonds at a rate equal to or less than the Maximum Interest Rate. Each Broker-Dealer has advised the State that it intends initially to make a market in the ARS Bonds underwritten by it between Auctions; however, they are not obligated to make such markets, and no assurance can be given that secondary markets therefor will develop or be maintained. A Broker-Dealer may, in its own discretion, decide to sell the ARS Bonds in the secondary market to investors at any time and at any price, including at prices equivalent to, below, or above the par value of the ARS Bonds.

## **BOND INSURANCE**

### **Bond Insurance Policy**

Concurrently with the issuance of the Bonds, Financial Security Assurance Inc. ("Financial Security") will issue a Municipal Bond Insurance Policy for each Series of Bonds (each, a "Policy"). Each Policy guarantees the scheduled payment of principal of and interest on such Series of Bonds when due as set forth in the form of Policy included as Appendix D to this Official Statement.

The Policies are not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Financial Security Assurance Inc.**

Financial Security is a New York domiciled financial guaranty insurance company and a wholly owned subsidiary of Financial Security Assurance Holdings Ltd. ("Holdings"). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation, and of Dexia Credit Local, a direct wholly-owned subsidiary of Dexia, S.A. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance, banking and asset management in France, Belgium and other European countries. No shareholder of Holdings or Financial Security is liable for the obligations of Financial Security.

At September 30, 2004 Financial Security's total policyholders' surplus and contingency reserves were approximately \$2,255,933,000 and its total unearned premium reserve was approximately \$1,561,771,000 in accordance with statutory accounting practices. At September 30, 2004, Financial Security's total shareholder's equity was approximately \$2,612,989,000 and its total net unearned premium reserve was approximately \$1,286,985,000 in accordance with generally accepted accounting principles.

The financial statements included as exhibits to the annual and quarterly reports filed by Holdings with the Securities and Exchange Commission are hereby incorporated herein by reference. Also incorporated herein by reference are any such financial statements so filed from the date of this Official Statement until the termination of the offering of the Bonds. Copies of materials incorporated by reference will be provided upon request to Financial Security Assurance Inc.: 350 Park Avenue, New York, New York 10022, Attention: Communications Department (telephone (212) 826-0100).

The Policy does not protect investors against changes in market value of the Bonds, which market value may be impaired as a result of changes in prevailing interest rates, changes in applicable ratings or other causes. Financial Security makes no representation regarding the Bonds or the advisability of investing in the Bonds. Financial Security makes no representation regarding the Official Statement, nor has it participated in the preparation thereof, except that Financial Security has provided to the Issuer the information presented under this caption for inclusion in the Official Statement.

## **TAX EXEMPTION**

In the opinion of Palmer & Dodge LLP, Bond Counsel to the State (“Bond Counsel”), based upon an analysis of existing laws, regulations, rulings, and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”). Bond Counsel is of the further opinion that interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income.

Bond Counsel is also of the opinion that, under existing law, interest on the Bonds is exempt from the New Hampshire personal income tax on interest and dividends. Bond Counsel has not opined as to other New Hampshire tax consequences arising with respect to the Bonds or as to the taxability of the Bonds or the income therefrom under the laws of any state other than New Hampshire. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix A hereto.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The State has covenanted to comply with certain restrictions designed to ensure that interest on the Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the value of, or the tax status of interest on, the Bonds. Further, no assurance can be given that any pending, proposed or future legislation, including amendments to the Code, if enacted into law, or any regulatory or administrative development with respect to existing law, will not adversely affect the value of, or the tax status of interest on, the Bonds. Prospective holders of the Bonds are urged to consult their own tax advisors with respect to proposals to restructure the federal income tax.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from the New Hampshire personal income tax on interest and dividends, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect the federal or state tax liability of a holder of the Bonds. Among other possible consequences of ownership or disposition of, or the accrual or receipt of interest on, the Bonds, the Code requires recipients of certain social security and certain railroad retirement benefits to take into account receipts or accruals of interest on the Bonds in determining the portion of such benefits that are included in gross income. The nature and extent of all such other tax consequences will depend upon the particular tax status of the holder or the holder’s other items of income or deduction. Except as indicated in the following paragraph, Bond Counsel expresses no opinion regarding any such other tax consequences, and holders of the Bonds should consult with their own tax advisors with respect to such consequences.

## **LEGAL MATTERS**

Legal matters incident to the authorization and sale of the Bonds are subject to the approval of Palmer & Dodge LLP, Boston, Massachusetts, Bond Counsel. The proposed form of the approving opinion of Palmer & Dodge LLP is set forth in Appendix A. The opinion will be dated the date of the issuance of the Bonds and will speak only as of that date. Certain legal matters will be passed upon for the Underwriters by their counsel, Rath, Young and Pignatelli, Professional Association, Concord, New Hampshire.

## **FINANCIAL ADVISOR**

Public Resources Advisory Group has acted as financial advisor to the State with respect to the issuance of the Bonds.

## **RATINGS**

Fitch Ratings (“Fitch”), One State Street Plaza, New York, New York, Moody’s Investors Service, Inc. (“Moody’s”), 99 Church Street, New York, New York, and Standard & Poor’s (“Standard & Poor’s”), 55 Water Street, New York, New York are expected to assign ratings of “AAA”, “Aaa”, and “AAA”, respectively, based on the issuance of the bond insurance policy by the Bond Insurer. See “Bond Insurance”. In addition, Fitch, Moody’s and Standard & Poor’s have assigned their underlying ratings of “AA”, “Aa2”, and “AA”, respectively, on the Bonds without regard to the bond insurance policy.

Such ratings reflect only the respective views of such organizations, and an explanation of the significance of such ratings may be obtained from the rating agency furnishing the same. There is no assurance that a rating will continue for any given period of time or that a rating will not be revised or withdrawn entirely by any or all of such rating agencies, if, in its or their judgment, circumstances so warrant. Any downward revision or withdrawal of a rating could have an adverse effect on the market prices of the Bonds.

## **UNDERWRITING**

The Underwriter for the Series A Bonds, Merrill Lynch, Pierce, Fenner & Smith Incorporated, has agreed, subject to certain conditions, to purchase all of the Series A Bonds from the State at an aggregate discount of \$94,000 from the initial offering price of the Series A Bonds. The Underwriter may offer and sell the Series A Bonds to certain dealers and others (including dealers depositing Bonds into investment trusts) at prices lower than the public offering prices (or yields higher than the offering yields) stated on the inside cover page hereof.

The Underwriter for the Series B Bonds, UBS Financial Services Inc., has agreed, subject to certain conditions, to purchase all of the Series B Bonds from the State at an aggregate discount of \$95,500 from the initial offering price of the Series B Bonds. The Underwriter may offer and sell the Series B Bonds to certain dealers and others (including dealers depositing Bonds into investment trusts) at prices lower than the public offering prices (or yields higher than the offering yields) stated on the inside cover page hereof.

## **CONTINUING DISCLOSURE**

In order to assist the Underwriters in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission (the “Rule”), the State will covenant for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the State (the “Annual Report”), by not later than 270 days after the end of each fiscal year and to provide notices of the occurrence of certain enumerated events, if material. The covenants will be contained in a Continuing Disclosure Certificate, the proposed form of which is provided in Appendix B. The Certificate will be executed by the signers of the Bonds, and incorporated by reference in the Bonds. The State has never failed to comply in all material respects with any previous undertakings to provide annual reports or notices of material events in accordance with the Rule.

STATE OF NEW HAMPSHIRE

By: /s/ Michael A. Ablowich  
*State Treasurer*

December 10, 2004

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PROPOSED FORM OF OPINION OF BOND COUNSEL



(Date of Delivery)

The Honorable Michael A. Ablowich  
State Treasurer  
State House Annex  
Concord, New Hampshire 03301

\$60,000,000  
General Obligation Capital Improvement Bonds, 2004 Series A and 2004 Series B  
Dated December \_\_, 2004

We have acted as Bond Counsel to the State of New Hampshire (the "State") in connection with the issuance by the State of the above-referenced bonds (the "Bonds"). In such capacity, we have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion.

As to questions of fact material to our opinion we have relied upon representations and covenants of the State contained in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based on this examination, we are of the opinion, under existing law, as follows:

1. The Bonds are valid and binding general obligations of the State, and the full faith and credit of the State are pledged for the punctual payment of the principal of and interest on the Bonds.
2. The interest on the Bonds is exempt from the New Hampshire personal income tax on interest and dividends. We express no opinion as to other New Hampshire tax consequences arising with respect to the Bonds.
3. Interest on the Bonds is excluded from the gross income of the owners of the Bonds for federal income tax purposes. In addition, interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes. However, such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. We call your attention to the fact that failure by the State to comply subsequent to the issuance of the Bonds with certain requirements of the Internal Revenue Code of 1986 (the "Code") may cause interest on the Bonds to become includable in the gross income of the owners of the Bonds for federal income tax purposes retroactive to the date of issuance of the Bonds. The State has covenanted to take all lawful action necessary under the Code to ensure that interest on the Bonds will remain excluded from the gross income of the owners of the Bonds for federal income tax purposes and to refrain from taking any action which would cause interest on the Bonds to become included in such gross income. We express no opinion regarding any other federal tax consequences arising with respect to the Bonds.

This opinion is expressed as of the date hereof, and we neither assume nor undertake any obligation to update, revise, supplement or restate this opinion to reflect any action taken or omitted, or any facts or circumstances or changes in law or in the interpretation thereof, that may hereafter arise or occur, or for any other reason.

The rights of the holders of the Bonds and the enforceability of the Bonds may be subject to insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, and their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Palmer & Dodge LLP

**PROPOSED FORM OF  
CONTINUING DISCLOSURE CERTIFICATE**

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the State of New Hampshire (the “State”) in connection with the issuance of its \$30,000,000 General Obligation Capital Improvement Bonds, 2004 Series A (the “Series A Bonds”) and \$30,000,000 General Obligation Capital Improvement Bonds, 2004 Series B (the “Series B Bonds,” and together with the Series A Bonds, the “Bonds”). The State covenants and agrees as follows:

**SECTION 1. Purpose of the Disclosure Certificate.** This Disclosure Certificate is being executed and delivered by the State for the benefit of the Owners of the Bonds and in order to assist the Participating Underwriters in complying with the Rule.

**SECTION 2. Definitions.** For purposes of this Disclosure Certificate the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the State pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“National Repository” shall mean any nationally recognized municipal securities information repository for purposes of the Rule. The current National Repositories are listed on Exhibit A attached hereto.

“Owners of the Bonds” shall mean the registered owners, including beneficial owners, of the Bonds.

“Participating Underwriter” shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Depository.

“Rule” shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State Depository” shall mean any public or private depository or entity designated by the State of New Hampshire as a state information depository for the purpose of the Rule. (As of the date of this Disclosure Certificate there is no State Depository).

“Transmission Agent” shall mean any central filing office, conduit or similar entity which undertakes responsibility for accepting filings under the Rule for submission to each Repository. The current Transmission Agent is listed in Exhibit A.

**SECTION 3. Provision of Annual Reports.**

(a) The State shall, not later than 270 days after the end of each fiscal year, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the State may be submitted when available separately from the balance of the Annual Report.

(b) If the State is unable to provide to the Repositories an Annual Report by the date required in subsection (a), the State shall send a notice to the Municipal Securities Rulemaking Board and the State Depository, if any, in substantially the form attached as Exhibit B.

SECTION 4. Content of Annual Reports. The State's Annual Report shall contain or incorporate by reference the following:

- (a) quantitative information for the preceding fiscal year of the type presented in the State's Information Statement dated December \_\_, 2004 regarding (i) the revenues and expenditures of the State relating to its General Fund and Education Fund, (ii) capital expenditures, (iii) fund balances, (iv) revenue information, (v) indebtedness of the State, and (vi) pension obligations of the State, and
- (b) the most recently available audited financial statements of the State, prepared in accordance with generally accepted accounting principles.

If audited financial statements for the preceding fiscal year are not available when the Annual Report is submitted, the Annual Report will include unaudited financial statements for the preceding fiscal year.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements for debt issues of the State or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The State shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Material Events.

(a) The State shall give notice, in accordance with subsection 5(b) below, of the occurrence of any of the following events with respect to the Bonds, if material:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds.
7. Modifications to rights of the Owners of the Bonds.
8. Bond calls.
9. Defeasance of the Bonds or any portion thereof.
10. Release, substitution or sale of property securing repayment of the Bonds.
11. Rating changes.

As of the date of this Disclosure Certificate events of the types listed in paragraphs 2, 3 and 10 above are not applicable to the Bonds.

(b) Whenever the State obtains knowledge of the occurrence of a Listed Event, the State shall as soon as possible determine if such an event would be material under applicable federal securities laws and if so, the State shall promptly file a notice of such occurrence with the Municipal Securities Rulemaking Board and the State Depository, if any.

SECTION 6. Alternative Methods for Reporting. The State may satisfy its obligations to make a filing with each Repository hereunder by transmitting the same to a Transmission Agent if and to the extent such Transmission Agent has received an interpretive advice from the Securities and Exchange Commission, which has not been withdrawn, to the effect that an undertaking to transmit a filing to such Transmission Agent for submission to each Repository is an undertaking described in the Rule.

SECTION 7. Termination of Reporting Obligation. The State's obligations under this Disclosure Certificate shall terminate upon the legal defeasance in accordance with the terms of the Bonds, prior redemption or payment in full of all of the Bonds.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the State may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived if such amendment or waiver is permitted by the Rule, as evidenced by an opinion of counsel expert in federal securities law (which may also include bond counsel to the State), to the effect that such amendment or waiver would not cause the Disclosure Certificate to violate the Rule. The first Annual Report filed after enactment of any amendment to or waiver of this Disclosure Certificate shall explain, in narrative form, the reasons for the amendment or waiver and the impact of the change in the type of information being provided in the Annual Report.

If the amendment provides for a change in the accounting principles to be followed in preparing financial statements, the Annual Report for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information in order to provide information to investors to enable them to evaluate the ability of the State to meet its obligations. To the extent reasonably feasible, the comparison shall also be quantitative. A notice of the change in the accounting principles shall be sent to each Repository.

SECTION 9. Default. In the event of a failure of the State to comply with any provision of this Disclosure Certificate any Owner of the Bonds may seek a court order for specific performance by the State of its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not constitute a default with respect to the Bonds, and the sole remedy under this Disclosure Certificate in the event of any failure of the State to comply with this Disclosure Certificate shall be an action for specific performance of the State's obligations hereunder and not for money damages in any amount.

SECTION 10. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Owners of the Bonds from time to time, and shall create no rights in any other person or entity.

Date: \_\_\_\_\_, 2004

STATE OF NEW HAMPSHIRE

By: \_\_\_\_\_  
State Treasurer

\_\_\_\_\_  
Governor

[EXHIBIT A: List of National Repositories and Transmission Agent – to be attached]

[EXHIBIT B: Form of Notice of Failure to File Annual Report – to be attached]

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**SUMMARY OF CERTAIN AUCTION RATE  
PROVISIONS OF THE BONDS**

**Definitions**

The following words and terms have the following meanings with respect to Bonds in an ARS Rate Period unless the context or use indicates another or different meaning or intent:

“*Agent Member*” means a member of, or participant in, the Securities Depository who shall act on behalf of a Bidder.

“*ARS*” means the Bonds while they bear interest at the ARS Rate.

“*ARS Index*” shall have the meaning specified below under the heading “Auction Procedures – ARS Index”.

“*ARS Rate*” means the rate of interest to be borne by the Bonds during each Auction Period determined as described below under the heading “Auction Procedures – Determination of ARS Rate”; provided, however, in no event may the ARS Rate exceed the Maximum Interest Rate.

“*ARS Rate Period*” means with respect to each Series of Bonds after the Initial Period for such Series, any period of time commencing on the Business Day following the Initial Period and ending on a Variable Rate Conversion Date, a Flexible Rate Conversion Date or a Term Rate Conversion Date.

“*Auction*” means each periodic implementation of the Auction Procedures.

“*Auction Agent*” means the auctioneer appointed in accordance with the terms described below and shall initially be Deutsche Bank Trust Company Americas.

“*Auction Agent Agreement*” means the Auction Agent Agreement dated as of December 1, 2004, among the State, the Auction Agent, and the Paying Agent pursuant to which the Auction Agent agrees to follow the procedures specified in the Bonds, with respect to the Bonds while bearing interest at an ARS Rate, as such agreement may from time to time be amended or supplemented.

“*Auction Date*” means during any period in which the Auction Procedures are not suspended in accordance with the provisions hereof, (i) if the Bonds are in a Special Auction Period, the last Business Day of the Special Auction Period, and (ii) if the Bonds are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Bonds (whether or not an Auction shall be conducted on such date); provided, however, that the last Auction Date with respect to the Bonds in an Auction Period other than a Special Auction Period shall be the earlier of (a) the Business Day next preceding the Interest Payment Date next preceding the Conversion Date for the Bonds and (b) the Business Day next preceding the Interest Payment Date next preceding the final maturity date for the Bonds. The last Business Day of a Special Auction Period shall be the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any. The first Auction Date for the Series A Bonds is January 6, 2005 and the first Auction Date for the Series B Bonds is January 11, 2005.

“*Auction Period*” means (i) a Special Auction Period, (ii) (a) with respect to Series A Bonds in a seven-day mode, a period of generally seven days beginning on a Friday (or the Business Day following the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (b) with respect to Series B Bonds in a seven-day mode, a period of generally seven days beginning on a Wednesday (or the Business Day following the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) (a) with respect to Series A Bonds in the 28-day mode, a period of generally 28 days beginning on a Friday (or the

day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (b) with respect to Series B Bonds in the 28-day mode, a period of generally 28 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) (a) with respect to Series A Bonds in the 35-day mode, a period of generally 35 days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (b) with respect to Series B Bonds in the 35-day mode, a period of generally 35 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (v) with respect to Bonds in a three-month mode, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period, and (vi) with respect to Bonds in a six-month mode, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding June 1 or December 1.

“*Auction Procedures*” means the procedures for conducting Auctions for Bonds during an ARS Rate Period described herein.

“*Auction Rate*” means for each Series of Bonds for each Auction Period, (i) if Sufficient Clearing Bids exist, the Winning Bid Rate, provided, however, if all of the Bonds of such Series are the subject of Submitted Hold Orders, the Minimum ARS Rate with respect to such Series of Bonds and (ii) if Sufficient Clearing Bids do not exist, the Maximum Interest Rate with respect to such Series of Bonds.

“*Available Bonds*” means for each Series of Bonds on each Auction Date, the aggregate principal amount of such Series of Bonds that are not the subject of Submitted Hold Orders.

“*Bid*” has the meaning specified below in subsection (a) under “Auction Procedures – Orders by Existing Owners and Potential Owners”.

“*Bidder*” means each Existing Owner and Potential Owner who places an Order.

“*Bond Insurer*” means Financial Security Assurance Inc.

“*Broker-Dealer*” means any entity that is permitted by law to perform the function required of a Broker-Dealer described herein that is a member of, or a direct participant in, the Securities Depository, that has been selected by the State, with the consent of Merrill Lynch, Pierce, Fenner & Smith, Incorporated with respect to the Series A Bonds or UBS Financial Services Inc. with respect to the Series B Bonds, so long as Merrill Lynch, Pierce, Fenner & Smith, Incorporated is a Broker-Dealer for the Series A Bonds and for so long as UBS Financial Services, Inc. is a Broker-Dealer for the Series B Bonds, and that is a party to a Broker-Dealer Agreement with the Auction Agent.

“*Broker-Dealer Agreement*” means an agreement among the Auction Agent, the State and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described herein, as such agreement may from time to time be amended or supplemented.

“*Business Day*” means a day except a Saturday, Sunday, any holiday or other day on which the business offices of the State are closed, any other day on which banks in New York, New York, are required or authorized to remain closed or on which the New York Stock Exchange or the payment system of the Federal Reserve System is closed.

“*Conversion Date*” means the date on which the Bonds of such Series begin to bear interest in the Daily Mode, Weekly Mode, Flexible Mode or Term Mode.



“*Existing Owner*” means (a) with respect to and for the purpose of dealing with the Auction Agent in connection with an Auction, a Person who is a Broker-Dealer listed in the Existing Owner registry at the close of business on the Business Day immediately preceding the Auction Date for such Auction and (b) with respect to and for the purpose of dealing with a Broker-Dealer in connection with an Auction, a Person who is a beneficial owner of Bonds.

“*Fitch*” means Fitch Ratings and its successors and assigns.

“*Hold Order*” has the meaning specified below in subsection (a) under the heading “Auction Procedures – Orders by Existing Owners and Potential Owners”.

“*Initial Period*” means for the Series A Bonds, the period from the date of initial delivery of the Bonds to but not including January 7, 2005, and for the Series B Bonds, the period from the date of initial delivery of the Bonds to but not including January 12, 2005.

“*Interest Payment Date*” with respect to Bonds bearing interest at ARS Rates, means for the Initial Period for the Series A Bonds, January 7, 2005, and for the Initial Period for the Series B Bonds, January 12, 2005, and thereafter (a) when used with respect to any Auction Period other than a Special Auction Period, the Business Day immediately following such Auction Period, (b) when used with respect to a Special Auction Period of (i) seven or more but fewer than 92 days, the Business Day immediately following such Special Auction Period, or (ii) 92 or more days, each thirteenth Thursday for the Series A Bonds and each thirteenth Tuesday for the Series B Bonds after the first day of such Special Auction Period or the next Business Day if such Thursday or Tuesday is not a Business Day and on the Business Day immediately following such Special Auction Period, (c) each Mandatory Tender Date, and (d) the Maturity Date.

“*Maximum Interest Rate*” means the lesser of twelve percent (12%) or the maximum rate permitted by applicable law.

“*Minimum ARS Rate*” means, as of any Auction Date, with respect to such Series of Bonds, the rate determined by multiplying the Percentage of ARS Index set forth below, based on the Prevailing Rating of such Series of Bonds in effect at the close of business on the Business Day immediately preceding such Auction Date, by the ARS Index:

<u>Prevailing Rating</u>	<u>Percentage of ARS Index</u>
AAA/AAA/Aaa	65%
AA/AA/Aa	70
A/A/A	85
Below A/A/A	100

provided, however, in no event shall the Minimum ARS Rate exceed the Maximum Interest Rate.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors and assigns.

“*Order*” means a Hold Order, Bid or Sell Order.

“*Paying Agent*” means Deutsche Bank Trust Company Americas, its successors and assigns, or any replacement Paying Agent appointed by the Issuer with notice to the Auction Agent and the Broker-Dealers.

“*Person*” means any natural person, corporation, limited liability company, partnership, trust, joint venture, association, company, estate, unincorporated organization or government or any agency or political subdivision thereof.

“*Potential Owner*” means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in the Bonds in addition to the Bonds currently owned by such Person, if any.

*“Prevailing Rating”* means (a) AAA/AAA/Aaa, if the Bonds shall have a rating of AAA or better by each of S&P and Fitch and a rating of Aaa or better by Moody’s, (b) if not AAA/AAA/Aaa, AA/AA/Aa if the Bonds shall have a rating of AA- or better by each of S&P and Fitch and a rating of Aa3 or better by Moody’s, (c) if not AAA/AAA/Aaa or AA/AA/Aa, A/A/A if the Bonds shall have a rating of A- or better by each of S&P and Fitch and a rating of A3 or better by Moody’s and (d) if not AAA/AAA/Aaa, AA/AA/Aa or A/A/A, then below A/A/A, whether or not the Bonds are rated by any securities rating agency, in each case giving effect to the provision of the municipal bond insurance policy issued by the Bond Insurer. For purposes of this definition, S&P’s rating categories of “AAA”, “AA” and “A-”. Fitch’s rating categories of “AAA”, “AA” and “A” and Moody’s rating categories of “Aaa,” “Aa3” and “A3,” shall be deemed to refer to and include the respective rating categories correlative thereto in the event that any such Rating Agencies shall have changed or modified their generic rating categories or if any successor thereto appointed in accordance with the definitions thereof shall use different rating categories. If the Bonds are not rated by a Rating Agency, the requirement of a rating by such Rating Agency shall be disregarded. If the ratings for the Bonds are split between two of the foregoing categories, the lower rating shall determine the Prevailing Rating. If there is no rating, then the ARS Rate shall be the Maximum Interest Rate.

*“Principal Office”* means, with respect to the Auction Agent, the office thereof designated in writing to the State, the Paying Agent and each Broker-Dealer.

*“Rating Agency”* means each of Fitch, Moody’s and S&P.

*“Record Date”* means during an ARS Rate Period, the second Business Day preceding an Interest Payment Date therefor.

*“S&P”* means Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, Inc., and its successors and assigns.

*“Securities Depository”* means The Depository Trust Company and its successors and assigns or any other securities depository selected by the State which agrees to follow the procedures required to be followed by such securities depository in connection with the Bonds.

*“Sell Order”* has the meaning specified below in subsection (a) under the heading “Auction Procedures – Orders by Existing Owners and Potential Owners”.

*“Special Auction Period”* means any period of not less than seven nor more than 1,080 days which begins on an Interest Payment Date and ends on a date designated by the Broker-Dealer unless such date is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day.

*“Submission Deadline”* means 1:00 p.m., New York City time, on any Auction Date or such other time on any Auction Date by which Broker-Dealers are required to submit Orders to the Auction Agent as shall be specified from time to time by the Auction Agent pursuant to the Auction Agent Agreement.

*“Submission Processing Deadline”* means the earlier of (i) 40 minutes after the Submission Deadline and (ii) the time when the Auction Agent begins to disseminate the results of the Auction to the Broker-Dealers.

*“Submission Processing Representation”* has the meaning specified below under the heading “Auction Procedures – Submission Processing Representation”.

*“Submitted Bid”* has the meaning specified below in subsection (b) under the heading “Auction Procedures – Determination of ARS Rate”.

*“Submitted Hold Order”* has the meaning specified below in subsection (b) under the heading “Auction Procedures – Determination of ARS Rate”.

*“Submitted Order”* has the meaning specified below in subsection (b) under the heading “Auction Procedures – Determination of ARS Rate”.

“*Submitted Sell Order*” has the meaning specified below in subsection (b) under the heading “Auction Procedures – Determination of ARS Rate”.

“*Sufficient Clearing Bids*” means with respect to a Series of Bonds, an Auction for which the aggregate principal amount of Bonds of such Series that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Interest Rate is not less than the aggregate principal amount of Bonds of such Series that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Interest Rate.

“*Winning Bid Rate*” means with respect to a Series of Bonds the lowest rate specified in any Submitted Bid for such Series which if selected by the Auction Agent as the ARS Rate would cause the aggregate principal amount of Bonds of such Series that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Bonds of such Series.

## **Auction Procedures**

### *Orders by Existing Owners and Potential Owners*

(a) Prior to the Submission Deadline on each Auction Date:

(i) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as shall be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of such Series of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period,

(B) the principal amount of such Series of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period shall not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date if the rate determined by the Auction Procedures for the next succeeding Auction Period shall be less than the rate per annum then specified by such Existing Owner), and/or

(C) the principal amount of such Series of Bonds, if any, held by such Existing Owner which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period; and

(ii) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on such Series of Bonds, the Broker-Dealers shall contact Potential Owners, including Persons that are Existing Owners, to determine the principal amount of such Series of Bonds, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof, an Order containing the information referred to in clause (i)(A) above is herein referred to as a “Hold Order”, an Order containing the information referred to in clause (i)(B) or (ii) above is herein referred to as a “Bid”, and an Order containing the information referred to in clause (i)(C) above is herein referred to as a “Sell Order.”

(b)(i) A Bid by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of such Series of Bonds specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be less than the rate specified therein; or

(B) such principal amount or a lesser principal amount of such Series of Bonds to be determined as described below in subsection (a)(v) under the heading “Allocation of Bonds” if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate; or

(C) a lesser principal amount of such Series of Bonds to be determined as described below in subsection (b)(iv) under the heading “Allocation of Bonds” hereof if such specified rate shall be higher than the Maximum Interest Rate and Sufficient Clearing Bids do not exist.

(ii) A Sell Order by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of such Series of Bonds specified in such Sell Order; or

(B) such principal amount or a lesser principal amount of such Series of Bonds as described below in subsection (b)(iv) under the heading “Allocation of Bonds” if Sufficient Clearing Bids do not exist.

(iii) A Bid by a Potential Owner shall constitute an irrevocable offer to purchase:

(A) the principal amount of such Series of Bonds specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Bonds as described below in subsection (a)(vi) under the heading “Allocation of Bonds” if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding:

(i) for purposes of any Auction, any Order which specifies Bonds to be held, purchased or sold in a principal amount which is not \$25,000 or an integral multiple thereof shall be rounded down to the nearest \$25,000, and the Auction Agent shall conduct the Auction Procedures as if such Order had been submitted in such lower amount;

(ii) for purposes of any Auction, any portion of an Order of an Existing Owner which relates to a Bond which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be invalid with respect to such portion and the Auction Agent shall conduct the Auction Procedures as if such portion of such Order had not been submitted;

(iii) for purposes of any Auction, no portion of a Bond which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be included in the calculation of Available Bonds for such Auction; and

(iv) the Auction Procedures shall be suspended during the period commencing on the date of the Auction Agent’s receipt of notice from the Paying Agent or the State of the occurrence of a failure to pay principal, premium or interest on any Bond when due (provided, however, that for purposes of this provision only payment by the Bond Insurer shall be deemed to cure such failure and no such suspension of the Auction Procedures shall occur) but shall resume two Business Days after the date on which the Auction Agent receives notice from the Paying Agent that such failure has been waived or cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter.

*Submission of Orders by Broker-Dealers to Auction Agent.*

(a) Each Broker-Dealer shall submit to the Auction Agent in writing or by such other method as shall be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and, if requested, specifying with respect to each Order:

(i) the name of the Bidder placing such Order;

- (ii) the aggregate principal amount of Bonds of each Series, if any, that are the subject of such Order;
  - (iii) to the extent that such Bidder is an Existing Owner:
    - (A) the principal amount of Bonds of such Series, if any, subject to any Hold Order placed by such Existing Owner;
    - (B) the principal amount of Bonds of such Series, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and
    - (C) the principal amount of Bonds of such Series, if any, subject to any Sell Order placed by such Existing Owner;
  - (iv) to the extent such Bidder is a Potential Owner, the rate specified in such Bid.
- (b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth of one percent (0.001%).
- (c) If an Order or Orders covering all of the Bonds of such Series held by an Existing Owner is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such Series held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion from one Auction Period to another Auction Period and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Bonds of the Series to be converted held by such Existing Owner, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such Series to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent.
- (d) If one or more Orders covering in the aggregate more than the principal amount of Outstanding Bonds of a Series held by any Existing Owner are submitted to the Auction Agent, such Orders shall be considered valid as follows:
- (i) all Hold Orders shall be considered Hold Orders, but only up to and including in the aggregate the principal amount of Bonds of such Series held by such Existing Owner;
  - (ii) (A) any Bid of an Existing Owner shall be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of the Bonds of such Series subject to Hold Orders referred to in paragraph (i) above;
    - (B) subject to clause (A) above, all Bids of an Existing Owner with the same rate shall be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of Bonds of such Series held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above;
    - (C) subject to clause (A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of Bonds of such Series held by such Existing Owner over the principal amount of Bonds of such Series held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above; and
    - (D) the principal amount, if any, of such Bonds of such Series subject to Bids not considered to be Bids of an Existing Owner under this paragraph (ii) shall be treated as the subject of a Bid by a Potential Owner;
  - (iii) all Sell Orders shall be considered Sell Orders, but only up to and including a principal amount of Bonds of such Series equal to the excess of the principal amount of Bonds of such Series held by such Existing Owner over the sum of the principal amount of the Bonds considered to be subject to Hold Orders pursuant to

paragraph (i) above and the principal amount of Bonds of such Series considered to be subject to Bids of such Existing Owner pursuant to paragraph (ii) above.

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate shall be aggregated and considered a single Bid and each Bid submitted with a different rate shall be considered a separate Bid with the rate and the principal amount of Bonds specified therein.

(f) Any Bid submitted for Bonds by an Existing Owner or a Potential Owner specifying a rate lower than the Minimum ARS Rate shall be treated as a Bid specifying the Minimum ARS Rate.

(g) None of the State, the Paying Agent or the Auction Agent shall be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner.

#### *Determination of ARS Rate*

(a) Not later than 9:30 a.m., New York City time, on each Auction Date for each Series of Bonds, the Auction Agent shall advise the Broker-Dealers and the Paying Agent by telephone or other electronic communication acceptable to the parties of the Minimum ARS Rate, the Maximum Interest Rate and the ARS Index for such Series of Bonds.

(b) Promptly after the Submission Deadline on each Auction Date for each Series of Bonds, the Auction Agent shall assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, and collectively as a "Submitted Order") and shall determine (i) the Available Bonds, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subsection (b) above, the Auction Agent shall advise the Paying Agent by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the parties of the Auction Rate for the next succeeding Auction Period and the Paying Agent shall promptly notify DTC of such Auction Rate.

(d) In the event the Auction Agent shall fail to calculate or, for any reason, shall fail to provide the Auction Rate for any Auction Period for a Series of Bonds, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period for such Series of Bonds shall be the same as the preceding Auction Period and the Auction Rate for the new Auction Period for such Series of Bonds shall be the same as the Auction Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period for such Series of Bonds shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Rate in effect for the preceding Auction Period shall continue in effect for the Auction Period as so extended. In the event the Auction Period for such Series of Bonds is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended. Notwithstanding the foregoing, no Auction Rate shall be extended for more than 35 days. If at the end of 35 days the Auction Agent fails to calculate or provide the Auction Rate, the Auction Rate for such Series of Bonds shall be the Maximum Interest Rate.

(e) In the event of a failed conversion of a Series of Bonds to a Weekly Rate Period, a Flexible Rate Period or a Term Rate Period or in the event of a failure to change the length of the current Auction Period of a Series of Bonds due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period, the ARS Rate for such Series of Bonds for the next Auction Period shall be the Maximum Interest Rate and the Auction Period for such Series of Bonds shall be a seven-day Auction Period.

(f) If the Bonds of a Series are not rated, then the ARS Rate for such Series of Bonds shall be the Maximum Interest Rate.

(g) For any Auction Period of a Series of Bonds during which there is no duly appointed Auction Agent, or during which there is no duly appointed Broker-Dealer, such that no Auction is held, the ARS Rate for such Series of Bonds shall be the Maximum Interest Rate.

*Allocation of Bonds*

(a) In the event of Sufficient Clearing Bids for a Series of Bonds, subject to the further provisions of subsections (c) and (d) below, Submitted Orders for such Series of Bonds shall be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of such Series that are the subject of such Submitted Hold Order;

(ii) the Submitted Sell Order of each Existing Owner shall be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected, thus requiring each such Existing Owner to sell the Bonds of such Series that are the subject of such Submitted Sell Order or Submitted Bid;

(iii) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of such Series that are the subject of such Submitted Bid;

(iv) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of such Series that are the subject of such Submitted Bid;

(v) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of such Series that are the subject of such Submitted Bid, but only up to and including the principal amount of Bonds of such Series obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of such Series which are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii) or (iv) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of such Series held by such Existing Owner subject to such Submitted Bid and the denominator of which shall be the aggregate principal amount of Outstanding Bonds of such Series subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid shall be rejected, thus requiring each such Existing Owner to sell any excess amount of Bonds of such Series;

(vi) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of such Series that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of Bonds of such Series obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds which are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of such Series subject to such Submitted Bid and the denominator of which shall be the sum of the aggregate principal amount of Outstanding Bonds of such Series subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid shall be rejected; and

(vii) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected.

(b) In the event there are not Sufficient Clearing Bids for a Series of Bonds, subject to the further provisions of subsections (c) and (d) below, Submitted Orders, for such Series of Bonds shall be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of such Series that are the subject of such Submitted Hold Order;

(ii) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Interest Rate with respect to Bonds shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of such Series that are the subject of such Submitted Bid;

(iii) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Interest Rate with respect to Bonds shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of such Series that are the subject of such Submitted Bid;

(iv) the Submitted Sell Orders of each Existing Owner shall be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Interest Rate with respect to such Series of Bonds shall be deemed to be and shall be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of Bonds of such Series obtained by multiplying (A) the aggregate principal amount of Bonds of such Series subject to Submitted Bids described in paragraph (iii) of this subsection (b) by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of such Series held by such Existing Owner subject to such Submitted Sell Order or such Submitted Bid deemed to be a Submitted Sell Order and the denominator of which shall be the principal amount of Outstanding Bonds of such Series subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid shall be deemed to be and shall be accepted as a Hold Order and each such Existing Owner shall be required to continue to hold such excess amount of Bonds of such Series; and

(v) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Interest Rate with respect to the Bonds of such Series shall be rejected.

(c) If, as a result of the procedures described in subsection (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of Bonds which is not an integral multiple of \$25,000 on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, round up or down the principal amount of Bonds to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of Bonds purchased or sold by each Existing Owner or Potential Owner on such Auction Date shall be an integral multiple of \$25,000, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any Bonds on such Auction Date.

(d) If, as a result of the procedures described in subsection (a) above, any Potential Owner would be required to purchase less than \$25,000 in principal amount of Bonds on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, allocate Bonds for purchase among Potential Owners so that the principal amount of Bonds purchased on such Auction Date by any Potential Owner shall be an integral multiple of \$25,000, even if such allocation results in one or more of such Potential Owners not purchasing Bonds on such Auction Date.

#### *Notice of ARS Rate*

(a) On each Auction Date, the Auction Agent shall notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to the Series of Bonds for which an Auction was held on such Auction Date:

(i) the ARS Rate determined on such Auction Date for the succeeding Auction Period;

(ii) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(iii) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner, whether such Bid or Sell Order was accepted or rejected and the principal amount of such Series of Bonds, if any, to be sold by such Existing Owner;

(iv) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected and the principal amount of Bonds of such Series, if any, to be purchased by such Potential Owner;



(v) if the aggregate principal amount of such Series of Bonds to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of such Series of Bonds to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of each such other Broker Dealer) and the principal amount of Bonds to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids; and

(vi) the immediately succeeding Auction Date for such Series of Bonds.

(b) On each Auction Date, with respect to a Series of Bonds, each Broker-Dealer that submitted an Order on behalf of any Existing Owner or Potential Owner shall: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the ARS Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Owner was accepted or rejected and (C) the immediately succeeding Auction Date; (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of such Series of Bonds to be purchased pursuant to such Bid against receipt of such Bonds; and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected, in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of such Series of Bonds to be sold pursuant to such Bid or Sell Order against payment therefor.

#### *ARS Index*

(a) The ARS Index on any Auction Date with respect to such Series of Bonds in any Auction Period shall be the Bond Market Association Municipal Swap Index ("BMA Municipal Swap Index"). If such rate is unavailable, the ARS Index shall be an index or rate agreed to by all Broker-Dealers and consented to by the State.

"BMA Municipal Swap Index" means The Bond Market Association<sup>TM</sup> Municipal Swap Index as disseminated by Municipal Market Data, a Thomson Financial Services Company, or its successor, for the most recently preceding Business Day.

(b) If for any reason on any Auction Date for a Series of Bonds, the ARS Index shall not be determined as hereinabove provided in this section, the ARS Index shall be the ARS Index for the Auction Period ending on such Auction Date.

(c) The determination of the ARS Index as provided herein shall be conclusive and binding upon the State, the Paying Agent, the Broker-Dealers, the Auction Agent and the Owners of the Bonds.

#### *Miscellaneous Provisions Regarding Auctions*

(a) Each reference herein to the purchase, sale or holding of "Bonds" shall refer to beneficial interests in such Series of Bonds, unless the context clearly requires otherwise.

(b) During an ARS Rate Period with respect to a Series of Bonds, the provisions and the definitions contained and described herein, including without limitation the definitions of Maximum Interest Rate, Minimum ARS Rate, ARS Index, and the ARS Rate, may be amended by obtaining the consent of the owners of all Outstanding Bonds of such Series bearing interest at an ARS Rate as follows. If on the first Auction Date occurring at least 20 days after the date on which the Paying Agent mailed notice of such proposed amendment to the registered owners of the Outstanding Bonds of such Series, (i) the ARS Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the State and the Paying Agent an opinion of Bond Counsel to the effect that such amendment shall not adversely affect the validity of such Series of Bonds or any exemption from federal income tax to which the interest on such Series of Bonds would otherwise be entitled, the proposed amendment shall be deemed to have been consented to by the owners of all affected Outstanding Bonds of such Series bearing interest at an ARS Rate.

(c) During an ARS Rate Period with respect to a Series of Bonds, so long as the ownership of such Series of Bonds is maintained in book-entry form by the Securities Depository, an Existing Owner or a beneficial owner may sell, transfer or otherwise dispose of a Bond of such Series only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions such Existing Owner or its Broker-Dealer or its Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of Bonds of such Series from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of the Bonds so sold, transferred or disposed of immediately after such sale, transfer or disposition.

*Changes in Auction Period or Auction Date*

(a) Changes in Auction Period.

(i) During any ARS Rate Period, the State may from time to time on any Interest Payment Date, change the length of the Auction Period with respect to all of the Bonds of a Series among seven-days, 28-days, 35-days, three months, six months and a Special Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by the Bonds of such Series; provided, however, in the case of a change from a Special Auction Period the date of such change shall be the Interest Payment Date immediately following the last day of the final Auction Period. The State shall initiate the change in the length of the Auction Period by giving written notice to the Paying Agent, Bond Insurer, the Auction Agent, the Broker-Dealers and the Securities Depository that the Auction Period shall change if the conditions described herein are satisfied and the proposed effective date of the change, at least ten Business Days prior to the Auction Date for such Auction Period.

(ii) Any such changed Auction Period shall be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Special Auction Period and shall be for all of the Bonds of such Series in an ARS Rate Period.

(iii) The change in the length of the Auction Period for the Bonds not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date on which the notice of the proposed change was given as provided in this subsection (a) and the Auction immediately preceding the proposed change.

(iv) The change in length of the Auction Period for a Series of Bonds shall take effect only if (A) the Paying Agent and the Auction Agent receive, by 11:00 a.m., New York City time, on the Business Day before the Auction Date for the first such Auction Period, a certificate from the State consenting to the change in the length of the Auction Period specified in such certificate and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period only, each Existing Owner shall be deemed to have submitted Sell Orders with respect to all of its Bonds of such Series except to the extent such Existing Owner submits an Order with respect to such Bonds. If the condition referred to in (A) above is not met, the Auction Rate for the next Auction Period shall be determined pursuant to the Auction Procedures and the Auction Period shall be the Auction Period determined without reference to the proposed change. If the condition referred to in (A) is met but the condition referred to in (B) above is not met, the Auction Rate for the next Auction Period shall be the Maximum Interest Rate, and the Auction Period shall be a seven-day Auction Period.

(v) On the conversion date for Bonds of a Series selected for conversion from one Auction Period to another, any Bonds of such Series which are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order.

(b) Changes in Auction Date.

During any ARS Rate Period for a Series of Bonds, the Auction Agent, with the written consent of the State, may specify an earlier Auction Date for such Bonds (but in no event more than five Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of "Auction Date" in order to conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the

interest rate borne on such Series of Bonds. The Auction Agent shall provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least 45 days prior to the proposed changed Auction Date to the Paying Agent, the State, the Broker-Dealers and the Securities Depository.

#### *Submission Processing Representation*

Broker-Dealers may submit an Order after the Submission Deadline and prior to the Submission Processing Deadline if the Order was (i) received by the Broker-Dealer from Existing Owners prior to the Submission Deadline or (ii) initiated internally by the Broker-Dealer for its own account prior to the Submission Deadline. Each Order submitted to the Auction Agent after the Submission Deadline and prior to the Submission Processing Deadline shall constitute a representation by the Broker-Dealer that such Order was (i) received from an Existing Owner or Potential Owner prior to the Submission Deadline or (ii) initiated internally by the Broker-Dealer for its own account prior to the Submission Deadline (the "Submission Processing Representation").

#### **Auction Agent**

(a) The Auction Agent shall be appointed by the Paying Agent at the written direction of the State, to perform the functions specified herein and in the Auction Agent Agreement. The Auction Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it by a written instrument, delivered to the State, the Paying Agent and each Broker-Dealer which shall set forth such procedural and other matters relating to the implementation of the Auction Procedures as shall be satisfactory to the State and the Paying Agent.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in Bonds with the same rights as if such entity were not the Auction Agent.

#### *Qualifications of Auction Agent; Resignation; Removal*

The Auction Agent shall be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof having a combined capital stock, surplus and undivided profits of at least \$30,000,000, or (b) a member of NASD having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it pursuant to the Bonds of each Series and the Auction Agent Agreement and a member of or a participant in, the Securities Depository. The Auction Agent may at any time resign and be discharged of the duties and obligations created hereby and by the Auction Agent Agreement by giving at least ninety (90) days notice to the State, the Bond Insurer, and the Paying Agent. The Auction Agent may be removed at any time by the State by written notice, delivered to the Auction Agent, the Bond Insurer and the Paying Agent. Upon any such resignation or removal, the Paying Agent shall appoint a successor Auction Agent meeting the requirements of this section. In the event of the resignation or removal of the Auction Agent, the Auction Agent shall pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor. The Auction Agent shall continue to perform its duties until its successor has been appointed by the State. In the event that the Auction Agent has not been compensated for its services, the Auction Agent may resign by giving thirty (30) days notice to the State and the Paying Agent even if a successor Auction Agent has not been appointed.

#### **Amendments**

In connection with conversion of a Series of Bonds to the ARS Mode, the State may amend any of the Auction Rate provisions relating such Series of Bonds, provided that on or prior to the date of such conversion, the State obtains the prior written consent of the Bond Insurer and delivers to the Auction Agent an opinion of Bond Counsel to the effect that such amendment will not affect the exclusion of interest on such Series of Bonds from gross income for federal income tax purposes.

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**SPECIMEN FORM OF MUNICIPAL BOND INSURANCE POLICY**

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**FINANCIAL  
SECURITY  
ASSURANCE®**

## **MUNICIPAL BOND INSURANCE POLICY**

ISSUER:

Policy No.: -N

BONDS:

Effective Date:

Premium:

FINANCIAL SECURITY ASSURANCE INC. ("Financial Security"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of Financial Security, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which Financial Security shall have received Notice of Nonpayment, Financial Security will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by Financial Security, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in Financial Security. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise it will be deemed received on the next Business Day. If any Notice of Nonpayment received by Financial Security is incomplete, it shall be deemed not to have been received by Financial Security for purposes of the preceding sentence and Financial Security shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, Financial Security shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by Financial Security hereunder. Payment by Financial Security to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of Financial Security under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless Financial Security shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to Financial Security which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

Financial Security may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to Financial Security pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to Financial Security and shall not be deemed received until received by both and (b) all payments required to be made by Financial Security under this Policy may be made directly by Financial Security or by the Insurer's Fiscal Agent on behalf of Financial Security. The Insurer's Fiscal Agent is the agent of Financial Security only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of Financial Security to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, Financial Security agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud, whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to Financial Security to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of Financial Security, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, FINANCIAL SECURITY ASSURANCE INC. has caused this Policy to be executed on its behalf by its Authorized Officer.

[Countersignature]

FINANCIAL SECURITY ASSURANCE INC.

By \_\_\_\_\_

By \_\_\_\_\_  
Authorized Officer

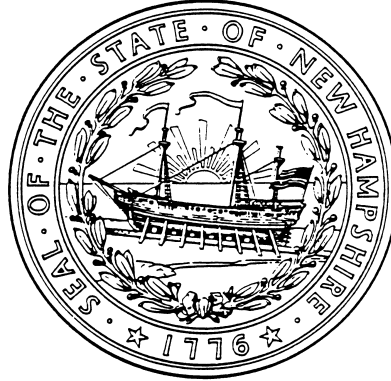
A subsidiary of Financial Security Assurance Holdings Ltd.  
350 Park Avenue, New York, N.Y. 10022-6022

(212) 826-0100

Form 500NY (5/90)



# The State of New Hampshire



## INFORMATION STATEMENT

This Information Statement, including Exhibit A, which is included herein by reference, contains certain financial and economic information concerning the State of New Hampshire (the "State") that has been furnished by the State and the other sources indicated herein. The information is authorized by the State to be distributed to prospective purchasers in connection with bonds or notes offered for sale by the State or debt securities offered by its authorities, agencies or political subdivisions guaranteed by the State, or for the payment of which the State may otherwise be directly or contingently liable, and to the nationally recognized municipal securities information repositories currently recognized by the Securities and Exchange Commission for purposes of its Rule 15c2-12. The Information Statement may not be reproduced or used in whole or in part for any other purpose without the express written consent of Michael A. Ablowich, State Treasurer, State House Annex, Concord, New Hampshire.

Any statements in this Information Statement involving matters of opinion, whether or not expressly so stated, are intended merely as opinion and not as representations of fact. The information and expressions of opinions herein are subject to change without notice and neither the delivery of this Information Statement nor any sale made pursuant to any official statement or offering memorandum to which it is appended, in which it is included by reference or with which it is distributed shall, under any circumstances, create any implication that there has been no change in the affairs of the State, or its agencies, authorities and political subdivisions, since the date hereof.

**STATE OF NEW HAMPSHIRE**

Michael A. Ablowich  
State Treasurer

December 10, 2004

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**STATE OF NEW HAMPSHIRE**

**GOVERNOR**

CRAIG R. BENSON

**EXECUTIVE COUNCIL**

RAYMOND S. BURTON  
RUTH L. GRIFFIN  
PETER J. SPAULDING  
DAVID K. WHEELER  
RAYMOND J. WIECZOREK

**STATE TREASURER**

MICHAEL A. ABLOWICH

**SECRETARY OF STATE**

WILLIAM M. GARDNER

**ATTORNEY GENERAL**

KELLY A. AYOTTE

**COMMISSIONER OF ADMINISTRATIVE SERVICES**

DONALD S. HILL

**BUDGET DIRECTOR**

PETER YAO

**COMPTROLLER**

SHERI L. ROCKBURN

## STATE GOVERNMENT

### Executive Branch

The executive officers of the State consist of the Governor, the State Treasurer, the Secretary of State and the five-member Executive Council (the "Council"). The Governor, who holds office for a two-year term, is responsible for the faithful execution of all laws enacted by the Legislature and the management of the executive departments of the State. The State Treasurer and the Secretary of State are elected by joint ballot of the House and Senate for two-year terms. The Council is elected by the people biennially, one Councilor for each of the five Councilor districts in the State. The Council's chief function is to provide advice and consent to the Governor in the executive function of government. The Governor and Council can negate each other in nominations of and appointments to executive positions in the judicial and executive branches.

On November 2, 2004, John Lynch was elected governor and Debora Pignatelli was elected councilor for District Five. They will take office on January 6, 2005.

The executive branch is organized into a number of departments, each headed by a Commissioner. Major departments of the executive branch include: Health and Human Services, Transportation, Education (including departments for primary and secondary education, post-secondary education and the university system), Resources and Economic Development, Treasury, Corrections, Environmental Services and Administrative Services. The agencies and authorities which have borrowing authority are discussed in more detail in the section entitled "STATE INDEBTEDNESS-Agencies, Authorities and Bonded Indebtedness." In addition, a State liquor commission manages the sale and distribution of beer and alcohol statewide. A sweepstakes commission operates various games, the net proceeds of which are restricted for appropriation to primary and secondary education. A number of other boards and commissions regulate licensing and standards in areas such as public accounting, real estate, sports and medicine.

### Legislative Branch

The legislative power of the State is vested in the General Court (the "Legislature") consisting of the 400-member House of Representatives and the 24-member Senate, both meeting annually. Members of the House are elected biennially from districts apportioned among cities and towns of the State on the basis of population. Senate members are elected biennially from single-member Senate districts.

Money bills originate in the House, but the Senate may propose or concur in amendments. Every bill which passes both houses of the Legislature is presented to the Governor for approval or veto. If a bill is vetoed by the Governor, that veto may be overridden by a vote of two-thirds of the members of each house of the Legislature. If the Governor fails to act within five days (except Sundays) on a bill presented for approval, the bill automatically becomes law unless the Legislature is not then in session.

### Judicial Branch

The judicial branch of the government consists of a Supreme Court, Superior Court, Judicial Council, 10 probate courts (one in each county), 41 district courts and 4 municipal courts. With the exception of the Judicial Council, all justices and judges are appointed by the Governor and Council and serve until seventy years of age.

## STATE DEMOGRAPHIC AND ECONOMIC DATA

### General

New Hampshire is located in the New England census region and is bordered by the states of Maine, Massachusetts and Vermont and the Province of Quebec, Canada. The State is 9,304 square miles in area and has 18 miles of general coastline on the Atlantic Ocean and 131 miles of tidal shoreline.

### Population

New Hampshire experienced a significant increase in population between 1970 and 2003, primarily as a result of net migration from neighboring states. The State's population was 1,287,687 in July 2003 according to the U.S. Census Bureau. The table below shows New Hampshire's resident population and the change in its population relative to New England and the nation.

#### Population Trends (In Thousands)

<u>Year</u>	<u>New Hampshire</u>	<u>Change During Period</u>	<u>New England</u>	<u>Change During Period</u>	<u>United States</u>	<u>Change During Period</u>
1970.....	742	21.8%	11,878	12.8%	203,799	13.3%
1980.....	921	24.1	12,348	4.0	226,546	11.2
1990.....	1,109	20.4	13,207	7.0	248,710	9.8
1991.....	1,108	(0.1)	13,201	(0.1)	252,137	1.4
1992.....	1,115	0.6	13,196	0.0	255,078	1.2
1993.....	1,125	0.9	13,230	0.3	257,908	1.1
1994.....	1,137	1.1	13,270	0.3	260,341	0.9
1995.....	1,148	1.0	13,312	0.3	262,755	0.9
1996.....	1,160	1.0	13,328	0.1	265,228	0.9
1997.....	1,173	1.1	13,378	0.4	267,783	1.0
1998.....	1,185	1.0	13,428	0.4	270,248	0.9
1999.....	1,201	1.4	13,495	0.5	272,691	0.9
2000.....	1,235	2.8	13,922	3.2	281,421	3.2
2001.....	1,259	1.9	14,022	0.7	284,797	1.2
2002.....	1,275	1.3	14,145	0.9	288,369	1.3
2003.....	1,288	1.0	14,205	0.4	290,810	0.8
<u>Percent Change:</u>						
1970–2003.....	--	73.6	--	19.6	--	42.7
1980–2003.....	--	39.8	--	15.0	--	28.4
1990–2003.....	--	16.1	--	7.6	--	16.9

Source: U.S. Census Bureau.

### Personal Income

The State's per capita personal income increased 67.1% between 1990 and 2003 (as contrasted with an increase of 64.0% in the per capita personal income for the United States and a 66.9% increase for the New England region). The State's rank improved from 10<sup>th</sup> in 1990 to 6<sup>th</sup> in 2003 with the State's per capita personal income 110% of the national average in that year. The State's per capita personal income in 2003 was \$34,703. The State's total personal income for 2003 was \$44.7 billion. The following table sets forth information on personal income for New Hampshire, New England and the United States since 1980.

**Comparisons of New Hampshire Personal Income  
to New England and United States, 1980-2003**

	New Hampshire Total Personal Income (In Millions)	Per Capita Personal Income			Percent Change			New Hampshire Per Capita Personal Income Ranking <sup>(1)</sup>
		New Hamp- shire	New England	United States	New Hamp- shire	New England	United States	
1980.....	\$ 9,166	\$ 9,917	\$10,705	\$10,062	--	--	--	25
1985.....	15,839	15,891	16,474	14,448	60.2%	53.9%	43.6%	8
1990.....	23,089	20,767	22,783	19,188	30.7	38.3	32.8	10
1991.....	23,765	21,462	23,158	19,687	3.3	1.6	2.6	10
1992.....	24,881	22,438	24,253	20,631	4.1	4.7	4.8	9
1993.....	25,484	22,719	24,896	21,220	1.7	2.7	2.9	10
1994.....	27,337	24,119	25,934	22,056	6.2	4.2	3.9	9
1995.....	29,014	25,008	27,426	23,562	5.0	5.8	4.5	7
1996.....	30,633	26,042	28,820	24,651	4.4	5.1	4.8	8
1997.....	32,546	27,746	30,676	25,924	5.1	5.4	4.7	7
1998.....	34,943	29,488	32,373	27,203	5.2	6.5	4.7	7
1999.....	38,379	31,114	34,173	28,542	5.5	5.8	4.9	8
2000.....	41,126	33,169	35,784	29,469	6.6	4.7	3.2	6
2001.....	42,779	33,969	37,096	30,413	2.4	3.7	3.2	6
2002.....	43,703	34,276	37,494	30,832	0.9	1.1	1.4	6
2003.....	44,686	34,703	38,018	31,459	1.2	1.4	2.0	6

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

<sup>(1)</sup> Does not include the District of Columbia.

**Civilian Labor Force, Employment and Unemployment**

Employment in New Hampshire grew faster than in the region and in the nation from 1980 to 2003. The following table sets forth the level of employment in New Hampshire, the other New England states and the United States.

**Employment in New Hampshire, New England States and the United States**

	Employment (In Thousands)			Average Annual Growth	
	1980	1990	2003	1980-1990	1980-2003
New Hampshire.....	447	508	688	1.29%	1.89%
Connecticut.....	1,507	1,624	1,704	0.75	0.54
Maine.....	468	535	658	1.35	1.49
Massachusetts.....	2,706	2,985	3,217	0.99	0.75
Rhode Island.....	437	451	543	0.32	0.95
Vermont.....	235	258	335	0.94	1.55
New England.....	5,800	6,361	7,145	0.93	0.91
United States.....	99,303	118,793	137,736	1.81	1.43

Source: U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Division.

Throughout the 1980s, New Hampshire's unemployment rate was lower than the rate for New England and the United States, and was often the lowest in the nation. For the period 1990-1992, however, unemployment increased faster in New Hampshire than in the United States as a whole and, as a result, New Hampshire's unemployment rate was greater than that of the United States during that period. Since 1993, New Hampshire's annual unemployment rate has again been lower than or equal to the regional and national rates. Monthly unemployment data for September, 2004, the latest available, show that New Hampshire's unemployment rate was below both the regional and the national level. The table below sets forth information on the civilian labor force, employment and unemployment statistics since 1980.

Year	Labor Force Trends New Hampshire Labor Force (In Thousands) <sup>1</sup>			Unemployment Rate		
	Civilian	Employed	Unemployed	New	New	United
	Labor Force			Hampshire	England	States
1980.....	469	447	22	4.7%	6.0%	7.2%
1985.....	538	517	21	3.9	4.4	7.2
1990.....	630	595	36	5.6	5.7	5.5
1991.....	634	589	46	7.2	8.0	6.7
1992.....	633	586	47	7.5	8.0	7.4
1993.....	620	579	41	6.6	6.8	6.8
1994.....	628	599	29	4.6	5.9	6.1
1995.....	633	607	26	4.0	5.4	5.6
1996.....	624	598	26	4.2	4.8	5.4
1997.....	645	625	20	3.1	4.4	4.9
1998.....	652	633	19	2.9	3.5	4.5
1999.....	668	649	18	2.7	3.3	4.2
2000.....	685	666	19	2.8	2.8	4.0
2001.....	689	664	24	3.5	3.7	5.8
2002.....	706	672	33	4.7	4.9	5.8
2003.....	719	688	31	4.3	5.1	6.0
September 2004.....	722	699	24	3.3	4.0	5.1

Source: U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Division.

<sup>1</sup>Not seasonally adjusted.

### Composition of Employment

The service sector was the largest employment sector in New Hampshire in 2003, accounting for 39.1% of nonagricultural employment, as compared to 25.2% in 1990. This sector surpassed retail and wholesale trade as the primary economic activity of New Hampshire in 1991. This upward trend in service sector employment parallels the shift in the national economy, where services was the largest employment sector, accounting for 41.0% of employment in 2003, up from 25.6% in 1990.

The second largest employment sector in New Hampshire during 2003 was wholesale and retail trade, accounting for 19.9% of total employment as compared to 15.8% nationally. In 1990, wholesale and retail trade accounted for 25.5% of total employment in New Hampshire.

Manufacturing remains an important economic activity in New Hampshire although the percentage has dropped in recent years. Manufacturing accounted for 13.0% of nonagricultural employment in 2003, down from 20.8% in 1990. For the United States as a whole, manufacturing accounted for 11.2% of nonagricultural employment in 2003, versus 17.3% in 1990. The following table sets out the composition of nonagricultural employment in the State and the United States.



**Composition of Nonagricultural Employment in  
New Hampshire and the United States**

	New Hampshire			United States		
	1980	1990	2003	1980	1990	2003
Manufacturing.....	30.3%	20.8%	13.0%	22.4%	17.3%	11.2%
Durable Goods.....	19.3	14.5	9.6	13.5	10.1	6.9
Nondurable Goods .....	11.0	5.5	3.4	9.0	7.2	4.3
Nonmanufacturing.....	69.7	79.2	87.0	77.5	82.7	88.8
Construction & Mining.....	5.1	4.5	4.8	5.9	5.3	5.6
Wholesale and Retail Trade.....	22.2	25.5	19.9	22.5	23.7	15.8
Service Industries .....	18.8	25.2	39.1	19.8	25.6	41.0
Government.....	14.9	14.4	14.6	18.0	16.6	16.6
Finance, Insurance & Real Estate.....	5.1	6.2	6.0	5.7	6.2	6.1
Transportation & Public Utilities.....	3.6	3.4	2.5	5.7	5.3	3.7

Source: U.S. Department of Labor, Bureau of Labor Statistics.

**Largest Employers**

The following table lists the twenty largest private employers in the State and their approximate number of employees as of December, 2003.

**Largest Employers  
(Excluding Federal, State and Local Governments)**

<u>Company</u>	<u>Employees</u>	<u>Primary New Hampshire Site</u>	<u>Principal Product</u>
1. Wal-Mart Stores, Inc. ....	8,530	Multiple	Retail Department Stores
2. Dartmouth Hitchcock Medical Center .	7,100	Lebanon	Acute Care Hospital
3. DeMoulas & Market Basket .....	5,800	Multiple	Supermarkets
4. Hannaford Brothers-Shop 'N Save .....	4,700	Multiple	Supermarkets
5. Shaw's Supermarket .....	4,600	Multiple	Supermarkets
6. Dartmouth College .....	4,074	Hanover	Private College
7. Liberty Mutual.....	3,829	Multiple	Financial Services
8. Fidelity Investments.....	3,349	Merrimack	Financial Services
9. Home Depot.....	2,500	Manchester	Hardware Products
10. Concord Hospital.....	2,487	Concord	Acute Care Hospital
11. Elliot Hospital.....	2,098	Manchester	Acute Care Hospital
12. Southern New Hampshire Medical Center	1,830	Nashua	Acute Care Hospital
13. Verizon Communications .....	1,750	Multiple	Telecommunications
14. Sears at Fox Run Mall .....	1,626	Newington	Home and Automotive
15. New Hampshire International Speedway	1,500	Loudon	Motor Sports Facility
16. St. Joseph Hospital .....	1,500	Nashua	Acute Care Hospital
17. Catholic Medical Center .....	1,400	Manchester	Acute Care Hospital
18. United Parcel Service .....	1,344	Multiple	Shipping Services
19. Public Service of New Hampshire.....	1,250	Manchester	Electric Utility
20. Citizens Bank.....	1,225	Multiple	Banking Services

Source: *New Hampshire Business Review*, December, 2003.

Pease Air Force Base in the Portsmouth area closed on April 1, 1991. In 1989, the facility had a military population of approximately 3,600 and approximately 1,180 civilian employees. Under State legislation, the Pease Development Authority was established to prepare a comprehensive plan and to implement all aspects of the plan including taking title to the property, marketing, and developing the property. As of January, 2003, the Pease International Tradeport had 3.8 million square feet of new or renovated office/R&D/manufacturing space with over 165 companies employing over 5,000 people. The Portsmouth Naval Shipyard, located on the border of New Hampshire

and Maine, currently provides direct employment for approximately 3,300 workers, somewhat fewer than half of whom are New Hampshire residents.

### State and Local Taxation

The State finances its operations through a combination of specialized taxes, user charges and revenues received from the State liquor sales and distribution system. The most important taxes are the business profits tax and a meals and rooms tax. The State does not levy any personal earned income tax or general sales tax. The State believes its tax structure has played an important role in the State's economic growth. According to the U.S. Bureau of the Census, in 2003, individual income and general sales taxes represented 2.8% of the State's total government taxes. New Hampshire's per capita state taxes of \$1,521 in 2003 were among the four lowest in the nation.

New Hampshire has generally been the highest among all states in local property tax collections per \$1,000 of personal income, because local property taxes were traditionally the principal source of funding for primary and secondary education. See "SCHOOL FUNDING" below for a description of the State's current statutory system of financing operation of elementary and secondary public schools.

### Housing

According to the 2000 federal census, housing units in the State numbered 547,024, of which 86.8% were occupied. In 1990, housing units in the State numbered 503,904, of which 81.6% were occupied. The median purchase price of owner-occupied housing units was \$125,400 according to the 1990 census, a rise of 170% over the 1980 median value of \$48,000. The median purchase price in 2003 was \$229,400, an increase of 82.9% over 1990. The table below sets forth housing prices and rents in recent years.

#### Housing Statistics Median Purchase Price and Gross Rent

	Owner-Occupied Non-Condominium Housing Unit Median <u>Purchase Price</u>	Percent <u>Change</u>	Renter-Occupied Housing Unit Median <u>Gross Rent</u> <sup>(1)</sup>	Percent <u>Change</u>
1990	\$125,400	(3.5)%	\$583	(1.9)%
1991	114,000	(9.1)	554	(5.0)
1992	108,000	(5.3)	560	1.1
1993	110,000	1.9	564	0.7
1994	111,000	0.9	573	1.6
1995	114,360	3.0	563	(1.7)
1996	117,500	2.7	596	5.9
1997	117,000	(0.4)	606	1.7
1998	127,000	8.5	636	5.0
1999	136,500	7.5	665	4.6
2000	152,500	11.7	697	4.8
2001	174,500	14.4	738	5.9
2002	200,880	15.1	810	9.8
2003	229,400	14.2	854	5.4

Source: New Hampshire Housing Finance Authority.

<sup>(1)</sup> Includes utilities.

### Building Activity

The pattern of building activity in New Hampshire in recent years, as evidenced by the issuance of residential building permits, has paralleled that of the New England region. There was significant growth in the 1980 to 1986 period, at a level much higher than that of the nation as a whole, followed by a substantial decrease in activity in 1987 through 1991. This decrease was also at a level greater than that of the United States. The major growth in New

Hampshire housing units from 1980 to 1986 was in single-family homes, which increased 233.7% over the period, versus 190.5% in New England and 51.7% in the United States.

From 1986 to 1991, however, building activity slowed each year in New Hampshire, the region and nationwide. In 1992, building activity increased for the first time since 1986 in New Hampshire, New England and the nation. The growth continued through 2002. In 2003, building permits totaled 8,095, with a value of \$1,208 million. This represents a decrease of 7.0% in number of permits, and an increase of 0.4% in dollar value, over 2002. Set out in the following table are the number and value of building permits issued for housing units in New Hampshire, New England and the United States.

**Building Permits Issued  
By Number of Units and Value  
(Value in millions)**

	<u>1980</u>	<u>1990</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
New Hampshire									
Single Family	3,678	3,439	4,598	5,310	5,696	6,097	5,910	6,754	6,583
Multi-Family	<u>1,600</u>	<u>687</u>	<u>806</u>	<u>461</u>	<u>630</u>	<u>583</u>	<u>714</u>	<u>1,954</u>	<u>1,512</u>
Total.....	5,278	4,126	5,404	5,771	6,326	6,680	6,624	8,708	8,095
Value.....	\$198	\$361	\$572	\$658	\$782	\$937	\$950	\$1,203	\$1,208
New England									
Single Family	26,115	28,189	35,838	40,772	40,666	38,670	37,240	39,928	39,486
Multi-Family	<u>14,964</u>	<u>7,980</u>	<u>5,272</u>	<u>7,236</u>	<u>6,966</u>	<u>6,665</u>	<u>7,354</u>	<u>9,103</u>	<u>9,663</u>
Total.....	41,079	36,169	41,110	48,008	47,632	45,335	44,594	49,031	49,149
Value.....	\$1,545	\$3,079	\$4,738	\$5,731	\$6,178	\$6,441	\$6,559	\$7,268	\$7,825
United States									
Single Family	710,390	793,924	1,062,396	1,187,602	1,246,665	1,198,067	1,235,550	1,332,620	1,460,887
Multi-Family	<u>480,210</u>	<u>316,842</u>	<u>378,740</u>	<u>424,658</u>	<u>416,868</u>	<u>394,200</u>	<u>401,126</u>	<u>415,058</u>	<u>345,814</u>
Total.....	1,190,600	1,110,766	1,441,136	1,612,260	1,663,533	1,592,267	1,636,676	1,747,678	1,806,701
Value.....	\$ 47,156	\$ 86,522	\$ 141,004	\$ 165,265	\$ 181,246	\$ 185,743	\$ 196,243	\$ 219,188	\$249,693

Source: U.S. Census Bureau.

### Transportation

New Hampshire has more than 4,000 miles of State and federal highways. In 1986, the State Legislature enacted a highway plan to serve as a guideline for highway development in the State. A major component of the 1986 highway plan legislation as amended in 1991 provides for continued development of the State's Turnpike System.

There are twenty-four public commercial airports in the State, three of which have scheduled air service, eight private commercial airports and nine private non-commercial airports. Manchester Airport, the State's largest commercial airport, undertook a major terminal expansion and renovation project in 1992. Bonds guaranteed by the State were issued in June 1992 (and subsequently refunded and paid on January 1, 2002 with the proceeds of non-guaranteed airport revenue bonds of the City); the new terminal opened on January 1, 1994. Since that time, the airport has grown from 427,657 enplanements in fiscal year 1994 to 1,627,348 enplanements in fiscal year 2001. Manchester Airport is currently undertaking a number of additional significant expansion, improvement and renovation projects, which have been financed by the City of Manchester through the issuance of airport revenue bonds in October, 1998, April, 2000, and June, 2002. The projects are expected to enhance the airport's capacity for increased passenger and freight traffic. The 1998, 2000, and 2002 bonds are not guaranteed by the State.

Rail freight service is provided by twelve railroads. The Portsmouth Harbor is an important commercial shipping center that can accommodate deep-draft vessels. The State Port Authority Marine Terminal is located on Noble's Island in Portsmouth Harbor.

## **Utilities**

Approximately 70% of the electric power in the State is supplied by Public Service Company of New Hampshire ("PSNH") and the remainder by four investor-owned utilities, the New Hampshire Electric Cooperative, Inc. ("NHEC") and five municipal electric systems. Legislation was enacted in May, 1996 to provide for the restructuring of the New Hampshire electric utility industry in order to establish a competitive market for retail access to electric power and thereby reduce the State's high average electric rates. The legislation directed the Public Utilities Commission ("PUC") to produce a statewide restructuring plan no later than February 28, 1997, with provision made for determination of interim stranded cost recovery charges. On such date, the PUC issued its statewide restructuring plan and interim stranded cost recovery order, and PSNH challenged the order in court. On June 14, 1999, the Governor, the Attorney General and staff of the PUC announced that a Memorandum of Understanding (MOU) had been signed with PSNH resolving the dispute. A definitive agreement was filed with the PUC on August 2, 1999 and finally approved by the PUC in September, 2000. In January 2001, the Supreme Court of New Hampshire affirmed the settlement order.

The effectiveness of the agreement with PSNH was contingent upon, among other matters, the securitization of up to \$725 million of stranded costs of PSNH. On April 25, 2001, PSNH issued \$525 million of rate reduction bonds. Effective May 1, 2001, PSNH customers received a rate reduction of approximately 10%, which was in addition to an interim 5% rate decrease that began in October, 2000. Although the State Treasurer had oversight responsibility of the terms and conditions of such bonds, the bonds do not constitute a debt or obligation of any kind of the State or any political subdivision thereof.

PSNH has begun the process of divesting its generation assets pursuant to PUC administered competitive bid processes. During the interim period while the assets are being sold, PSNH will provide its customers with Transition Service. On November 1, 2002, PSNH sold its stake in the Seabrook Plant to a subsidiary of Florida Power and Light. PSNH expects the sale to result in an additional 6% to 7% rate reduction to customers by calendar year 2005.

## **Education**

New Hampshire provides a mix of public and private educational opportunities. The education function of the State is carried out through the State Board of Education, the Department of Education and the University System of New Hampshire. The State Board and the Department of Education provide curriculum guidance and administrative support to 177 public school districts ranging in grades from kindergarten through grade twelve. In addition to public education, there are numerous private preparatory schools in the State, including Phillips Exeter Academy in Exeter and St. Paul's School in Concord. See also "SCHOOL FUNDING" and "LITIGATION."

At the university level, the State offers undergraduate and graduate programs in liberal arts and various sciences through the University System of New Hampshire, which includes the University of New Hampshire, Keene State College and Plymouth State University. The University System also operates the College for Lifelong Learning, which offers continuing education to the non-traditional student. In addition to the state-supported university system, eighteen private higher educational institutions are located in New Hampshire, including Dartmouth College in Hanover. The State also supports a network of technical colleges comprised of the New Hampshire Technical Institute in Concord and six other colleges located throughout the State. The Institute and colleges offer a two-year associates degree and a variety of certificates in approximately 100 different industrial, business and health programs. Since 1983, over 50% of New Hampshire high school graduates have continued their education beyond the high school level.

As the following table indicates, the educational level of New Hampshire residents over the age of 25 is higher than that of the nation as a whole.

<u>Level of Education</u>	<b>Level of Education</b>			
	1990		2000	
	<u>New Hampshire</u>	<u>United States</u>	<u>New Hampshire</u>	<u>United States</u>
9-11 years .....	93.3%	89.6%	N/A	84.5%
12 years.....	82.2	75.2	88.1%	78.5
1-3 years post-secondary .....	50.5	45.2	N/A	47.5
4 or more years post-secondary .....	24.4	20.3	30.1	21.9

Source: 2000 U.S. Census of Population, Census Bureau.

## STATE FINANCES

### General

Responsibility for financial management of the State is vested in several State officials. The State Treasurer is responsible for investment, debt and cash management. The Commissioner of the Department of Administrative Services is responsible for managing statewide administrative and financial functions including general budget oversight, maintaining the State's accounting system and issuing the State's Comprehensive Annual Financial Report ("CAFR").

The Department of Administrative Services prepares the State's CAFR in accordance with generally accepted accounting principles ("GAAP"). New Hampshire was one of the first states to present audited statements on a GAAP basis. The financial statements were independently audited each year from 1979 to 1996 by Ernst & Young LLP (or its predecessors), certified public accountants. The State contracted with KPMG LLP to provide audit services for fiscal years 1997 through 2004. The audited financial statements of the State for fiscal year 2003, together with the report thereon of KPMG LLP, are included by reference as Exhibit A hereto, copies of which have been filed with each Nationally Recognized Municipal Securities Information Repository currently recognized by the Securities and Exchange Commission. The audited financial statements for fiscal year 2003 are also available as part of the State's fiscal year 2003 CAFR (pages 14 through 63 of the CAFR) at the website of the State's Department of Administrative Services, Bureau of Financial Reporting at <http://admin.state.nh.us/accounting/reports.htm>. The audited financial statements for fiscal year 2004 are not yet available as of the date of this Information Statement, but will be provided to each Nationally Recognized Municipal Securities Information Repository currently recognized under SEC Rule 15c2-12 upon release to the public, which is expected by December 31, 2004. All fiscal year 2004 information referenced or set forth in this Information Statement is unaudited and preliminary.

The CAFR currently includes comparisons to budgetary basis accounting and is presented as Required Supplementary Information (RSI). Accounting on a GAAP basis differs from accounting on a budgetary basis by recognizing revenues and related assets when earned rather than when cash is received and by recording expenditures and related liabilities when incurred rather than when cash is paid. For example, GAAP accounting calls for full recognition of accounts payable, accrued payroll and pension costs incurred at the close of a fiscal year even though those items are appropriated and paid in the following fiscal year under budgetary accounting. Reconciliation of the budgetary basis with GAAP appears in a Note to the RSI in the CAFR.

The State budget (the overall financial plan for the two years of the biennium) is enacted by a series of bills that establish appropriations and estimated revenues for each subunit (department, division, bureau, section and commission) within State Government. Appropriations are also established by supplemental and special legislation during annual legislative sessions.

The State controls expenditures against appropriations through an integrated financial system. Under this system accumulated total expenditures and encumbrances are compared with the amount of remaining available appropriations, prior to creating an expenditure (a charge against an appropriation which generates a payment) or an encumbrance (a charge against an appropriation pending payment). When the appropriated amount is fully expended or encumbered, no further obligations are incurred or paid until additional appropriations are made available.

By State law, unexpended and unencumbered balances of appropriations lapse to undesignated fund balance in the applicable fund at fiscal year-end, with certain exceptions. Generally, revenues in excess of official estimates, unless appropriated by supplemental appropriation legislation, also lapse to undesignated fund balance in the applicable fund. Such amounts, whether unexpended or unencumbered appropriations or unappropriated revenue, are known as lapses. Lapses constitute a credit to undesignated fund balance at the end of each fiscal period and may become available for subsequent appropriation by the Legislature.

*GASB Statement 34.* Beginning with fiscal 2002, the State's GAAP financial statements were revised and reorganized in accordance with the implementation of GASB Statement 34. The changes effectively added an additional layer of reporting to the current fund perspective reports, which also continue. The financial statements are presented on a government-wide perspective, which includes incorporating debt, fixed assets (infrastructure and depreciation) and recording revenues and expenditures on a full accrual basis. Also the State's CAFR presents additional information including a new section entitled Management's Discussion and Analysis (MD&A). The Basic Financial Statements of the CAFR include reconciliations of the Balance Sheet and Statement of Revenues

and Expenditures prepared on a fund basis to the Statement of Net Assets and Statement of Activities presented on the Government-wide basis in accordance with GASB Statement 34. See Exhibit A to this Information Statement.

## **Fund Types**

The budgets and operations of State departments and their subunits are accounted for in a number of funds fitting into three types: Governmental, Proprietary and Fiduciary.

### **Governmental Funds**

*General Fund.* The General Fund is the principal fund and includes all State activities and functions not allocated by law to other funds. By law, all revenues received by any department or agency of the State (other than revenues allocated by statute directly to specific agencies or other funds) are paid at least weekly into the State Treasury. All such revenues are credited to the General Fund, and expenditures for all State activities and functions not allocated by law to other funds are charged to the General Fund. Revenues that are dedicated to fund specific activities including federal grants are recorded as restricted revenue and are subtracted from total appropriations to arrive at appropriations net of estimated revenues as shown on the fund balance schedules.

*Highway Fund.* Under the State Constitution, all revenues in excess of the necessary cost of collection and administration accruing to the State from motor vehicle registration fees, operator's licenses, gasoline taxes or any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels are appropriated and used exclusively for the construction, reconstruction, and maintenance of public highways within the State, including the supervision of traffic thereon, and for the payment of principal and interest on bonds issued for highway purposes. All such revenues, together with federal grants-in-aid received by the State for highway purposes, are credited to the Highway Fund. While the principal of and interest on State highway bonds are paid from the Highway Fund, the assets of the Fund are not pledged to such bonds.

*Fish and Game Fund.* The operations of the State Fish and Game Department, including the operation of fish hatcheries, inland and marine fisheries and wildlife areas and related law enforcement functions, land acquisition, and wildlife management and research, and the payment of principal and interest on bonds issued for fish and game purposes, are financed through the Fish and Game Fund. Principal revenues to this Fund include fees from fish and game licenses, the marine gas tax, a portion of off-highway vehicle registration fees, penalties and recoveries and federal grants-in-aid related to fish and game management, all of which are appropriated annually by the Legislature for the use of the Fish and Game Department.

*Capital Projects Fund.* The State credits to the Capital Projects Fund appropriations for certain capital improvements, primarily those that are funded by the issuance of State debt (other than debt for highway or turnpike purposes), or by the application of certain federal matching grants.

*Education Fund.* The Education Fund was established by Chapter 17 of the Laws of 1999 ("Chapter 17"). See "SCHOOL FUNDING." Adequate education grants to school districts are appropriated from this fund. Additionally, a number of revenues are dedicated to this fund including the State's rental car tax and sweepstakes revenues. Chapter 17 also dedicates portions of the State's business, cigarette, and real estate transfer taxes and tobacco settlement funds. While the uniform education property tax on utility property is deposited directly to the Education Fund, only that portion of the uniform education property tax on all other types of properties collected by municipalities above local State adequacy levels is deposited to the Education Fund.

### **Proprietary (Enterprise) Funds**

*Liquor Commission.* By statute, all liquor sold in New Hampshire must be sold through a sales and distribution system operated by the State Liquor Commission. The Commission is comprised of three members appointed by the Governor with the consent of the Council. The Commission is directed by statute to set liquor prices at levels sufficient to pay all costs of liquor purchased and operating expenses of the Commission and the State stores and to impose additional charges for overhead and a profit for the State.

*Sweepstakes Commission.* The State conducts daily and weekly lotteries and instant games through tickets sold by or on behalf of the State Sweepstakes Commission in State liquor stores, at horse and dog race tracks and at

authorized retail outlets in the State. Monthly net profit from Sweepstakes games and lotteries are transferred to the Education Fund for distribution to school districts in the form of adequate education grants.

*Turnpike System.* The State constructs, maintains and operates transportation toll roads and bridges. The State has covenanted in the General Bond Resolution authorizing the issuance of Turnpike System revenue bonds that it will establish and collect tolls and charges for the use of the Turnpike System adequate at all times, with other available funds, to provide for the proper operation and maintenance of the System and for the timely payment of principal of and interest on Turnpike System revenue bonds and all other required payments in connection with the System. Under RSA 237-A any funds established in connection with the issuance of Turnpike System revenue bonds thereunder are kept separate from other funds of the State.

*Unemployment Trust Fund.* The Unemployment Trust Fund previously reported as a Fiduciary Fund has been reclassified in accordance with GASB Statement 34. This fund is used to account for contributions from employers and the benefit payments to eligible unemployed workers.

*Internal Service Fund.* Beginning in Fiscal Year 2004, as a result of Chapter 251 of the Laws of 2001, the State created a new internal service fund titled the Employee Benefit Risk Management Fund. The fund was created to manage the State's new self-insurance program and to pool all resources to pay for the cost associated with providing employee benefits for active state employees and retirees.

### **Fiduciary Funds**

Transactions related to assets held by the State in a trustee or agency capacity are accounted for in Fiduciary Funds. The State's Pension Funds are included in this category. In accordance with GASB 31, beginning with the fiscal year 1998 annual report, the State reported the external portion of the New Hampshire public deposit investment pool as a trust fund.

### **Budget and Appropriation Process**

The Legislature meets annually but adopts a State budget on a biennial basis. Prior to the beginning of each biennium, all departments of the State are required by law to transmit to the Commissioner of the Department of Administrative Services (the "Commissioner") requests for capital expenditures and estimates of operating expenditures, including personnel, equipment and program expenditures, for each fiscal year of the ensuing biennium.

Capital budget requests are summarized by the Commissioner and submitted to the Governor. After holding public hearings and evaluating additional information, the Governor prepares a capital budget for submission to the Legislature.

Operating budget requests and revenue estimates for each fiscal year of the ensuing biennium submitted by State agencies are also summarized and submitted to the Governor. Following public hearings, analysis of the tentative operating budget and consultation with the various department heads, the Governor prepares the final operating budget proposal, setting forth the financial program for the following two fiscal years.

By February 15th of each odd numbered year, the Governor must submit both a capital budget and an operating budget to the Legislature for its consideration. The Governor's budget message sets forth, among other things, a program for meeting the expenditure needs of the State for the next biennium. Although there is no constitutional requirement that the Governor propose or the Legislature adopt a balanced budget, there is currently a statutory requirement that the Governor propose and the Legislature adopt a balanced budget. In addition, if there is a budget deficit from a prior biennial budget, the Governor's budget proposal must address how this deficit will be eliminated in the current budget proposal. The Legislature has a similar statutory responsibility to approve a plan for addressing any past year's budget deficit in the budget it adopts for the ensuing biennial budget. If there is a budget deficit, the Governor is required by statute to make recommendations to the Legislature as to the manner in which the deficit shall be met.

After final budget bills are approved by the Legislature, they are presented to the Governor to be signed into law or vetoed. The State Constitution does not provide for a line item veto of appropriation bills by the Governor. If the Governor vetoes a budget bill, it is returned to the Legislature for an override vote or further legislative action.



Once the budget bills become law, they represent the authorized appropriation spending for each State department during each of the next two fiscal years.

## **Financial Controls**

All bills and obligations of the State are paid from the State Treasury. Under the State Constitution all payments except debt obligations made from the State Treasury must be authorized by a warrant signed by the Governor with advice and consent of the Council. Debt obligations of the State are exempt from the warrant requirement and are paid by the State Treasurer under statutory authority to pay principal and interest on all loans which may at any time come due.

Financial control procedures in the State are maintained by both the executive and legislative branches. In the executive branch, the Commissioner of the Department of Administrative Services is directed by statute to conduct a continuous study of the State's financial operations, needs and resources and to install and operate a system of governmental accounting. At the start of fiscal year 1986, the State's automated accounting operations were converted to an integrated financial system, allowing on-line data entry and inquiry.

The Comptroller, within the Department of Administrative Services, is directed by statute to maintain the State's accounting system in accordance with generally accepted accounting principles and report monthly to each State agency its total dollars expended, total encumbrances outstanding and appropriation balances then available for each agency through the previous month of the fiscal year. When it appears that a State department or agency is incurring operating expenditures at levels that will deplete its available appropriation prior to the close of the fiscal year, the Comptroller is required to report this fact to the Governor who shall investigate and may, if necessary, order the department head to reduce expenditures in proportion to the balance available and time remaining in the fiscal year.

Legislative financial controls involve the Office of the Legislative Budget Assistant (the "Office"), acting under the supervision of the Fiscal Committee, and the Joint Legislative Capital Budget Overview Committee. The Office is responsible for the overall post-audit and review of the budgetary process on behalf of the Legislature. This responsibility involves conducting selected departmental audits and program result audits including, but not limited to, examinations as to whether the results contemplated by the authorizing body are being achieved by the department and whether such results could be obtained more effectively through other means. The Joint Legislative Capital Budget Overview Committee reviews the status of capital budget projects, and each State agency with capital budget projects is required to submit to the committee a status report on projects every sixty days.

## **Revenue Stabilization Account**

Legislation was enacted in 1986 to establish a Revenue Stabilization Account (or "rainy day fund") within the General Fund as of July 1, 1987. Pursuant to RSA 9:13-e, in the event of a General Fund undesignated deficit at the close of a fiscal biennium and a shortfall in revenue (as compared with the official budget), the Comptroller shall notify the Fiscal Committee and the Governor of such deficit and request to transfer from the Revenue Stabilization Account, to the extent available, an amount equal to the lesser of the deficit or the revenue shortfall. No monies in the Revenue Stabilization Account (except for interest earnings, which are deposited as unrestricted General Fund revenue) can be used for any purpose other than deficit reduction or elimination except by specific appropriation approved by two-thirds of each house of the Legislature and by the Governor.

Chapter 158:41 of the Laws of 2001 amended RSA 9:13-e regarding funding the Revenue Stabilization Account. At the close of each fiscal biennium, any surplus, as determined by the official audit, shall be transferred by the comptroller to the Revenue Stabilization Account, provided, however, that in any single fiscal year the total of such transfers shall not exceed one half of the total potential maximum balance allowable for the Revenue Stabilization Account. The maximum amount in the account is equal to 10% of General Fund unrestricted revenue for the most recently completed fiscal year.

Chapter 319 of the Laws of 2003 amended RSA 9:13-e by authorizing a transfer from the Revenue Stabilization Account, subject to fiscal committee approval, to the General Fund in the event of a fiscal year 2003 deficit as determined by the official audit. As of June 30, 2003, \$37.9 million was transferred to the General Fund to eliminate the deficit which reduced the balance in the Revenue Stabilization Account to \$17.3 million.

## Health Care Fund

Chapter 122 of the Laws of 1994 established the State Health Care Transition Fund. The fund has since been renamed the Health Care Fund (“HCF”). The purpose of the fund is to provide financial resources for future changes in the State’s health care system in order to increase the access to quality health care for the citizens of New Hampshire. The HCF was initially funded with \$99 million of the \$129 million one-time receipt by the State that resulted from the amendment to the State’s Medicaid Plan relative to the New Hampshire Hospital disproportionate share revenues. Only the interest earnings on the principal assets held in the fund shall be expended for the purposes of the HCF and such interest shall be continually appropriated.

Over the years, legislation has allowed for the use of the HCF to offset General Fund deficits that resulted from increased Medicaid costs and Health and Human Services revenue initiatives that fell short of expectations. Chapter 351 of the Laws of 1997 budgeted \$14.8 million of Health Care Funds for fiscal years 1998 and 1999 for computer system initiatives at the Department of Health and Human Services. Finally, as of June 30, 2003, in accordance with Chapter 319 of the Laws of 2003, the balance of \$33.9 million of the HCF lapsed to the General Fund.

## State Revenues

The State derives most of its revenues from a combination of specialized taxes, user charges and the operation of a statewide liquor sales and distribution system. The State of New Hampshire is the only state that imposes neither a personal income tax on earned income nor a statewide general sales or use tax.

Unrestricted revenues may be appropriated by the Legislature for any State purpose, including the payment of debt service on outstanding bonds of the State, without constitutional limitations (or program limitations, as in the case of federal grants).

The following are the principal sources of unrestricted revenues credited to the General Fund or, where noted, the Education Fund:

*Meals and Rooms Tax.* A tax is imposed equal to 8% of hotel, motel and other public accommodation charges and 8% of charges for meals served in restaurants, cafes and other eating establishments. Effective July 1, 1999, this tax was extended to cover rental cars, the receipts from which have been earmarked for the Education Fund.

Beginning in fiscal year 1995 a portion of the revenue derived from the meals and rooms tax is distributed to the cities, towns and certain unincorporated subdivisions of the State, eventually increasing to 40% of such revenue annually. For fiscal years 1997 and thereafter, the amount to be distributed is the sum of the prior year’s distribution plus an amount equal to 75% of any increase in the income received from the tax for the preceding fiscal year, not to exceed \$5,000,000. The fiscal year 2004 distribution to cities and towns was equal to 22.3% of the meals and rooms tax collections for fiscal year 2003.

*Business Profits Tax.* The business profits tax rate has been increased to 8.5% for tax years ending on or after July 1, 2001. Previously, the rate had been 8% for tax years ending on or after July 1, 1999 and 7% prior to that time. The increases (1.5%) have been dedicated to the Education Fund. The tax is imposed on the taxable business profits of business organizations deriving gross business profits from activities in the State, or both in and outside of the State. Business profits subject to the tax but derived from activities conducted outside the State are adjusted by the State’s apportionment formula to allocate to the State a fair and equitable proportion of such business profits.

*Business Enterprise Tax.* Effective July 1, 1993, the State established a business enterprise tax. The rate is currently .75% for tax years ending on or before July 1, 2001 and previously had been .50% for tax years ending on or before July 1, 1999 and .25% prior to that time. The increases (.50%) have been dedicated to the Education Fund. The tax is assessed on wages paid to employees, interest paid on debt and dividends paid to shareholders. Businesses with less than \$150,000 (\$100,000 prior to July 1, 2001) in gross receipts and an enterprise value base of less than \$75,000 (\$50,000 prior to July 1, 2001) are exempt from the business enterprise tax. Effective for returns of taxable periods ending on and after January 1, 1997, every business enterprise shall make quarterly estimated tax payments due on the fifteenth day of the fourth, sixth, ninth and twelfth months of its taxable year.

*Board and Care Revenue.* These revenues are payments primarily from health insurers and the federal government (through the Medicaid program) to reimburse the State for costs of health and mental care services and board provided at State institutions, including the New Hampshire Hospital for the mentally ill.

*Liquor Sales and Distribution.* The State Liquor Commission is comprised of three members appointed by the Governor with the consent of the Council. The Commission makes all liquor purchases directly from the manufacturers and importers and operates State liquor stores in cities and towns that accept the provisions of the local option law. The Commission is authorized to lease and equip stores, warehouses and other merchandising facilities for liquor sales, to supervise the construction of State-owned liquor stores at various locations in the State, and to sell liquor at retail and to restaurants, hotels and other organizations. Revenues from the State Liquor Commission are credited to the Enterprise Fund for accounting purposes and the cash flow from operations is unrestricted and deposited into the State's pooled bank accounts.

Chapter 328 of the Laws of 2000 requires fifty percent of any current year's gross profits from liquor sales that exceed fiscal year 2001 actual gross profits be deposited into the alcohol abuse prevention and treatment fund established by RSA 176-A:1. This amount is limited to no more than 5 percent of the current year gross profits derived from the sale of liquor and other revenues. This law became effective July 1, 2001 and a General Fund appropriation of \$3.3 million was recorded in fiscal year 2002. Chapter 319 of the Laws of 2003 suspended this allocation for the biennium ending June 30, 2005.

*Tobacco Tax.* Effective July 6, 1999, the cigarette tax rate increased by 15 cents to a rate of 52 cents per package of 20 cigarettes. The increase has been dedicated for the Education Fund. The rate had previously been increased by 12 cents on July 1, 1997. Smokeless tobacco is also subject to the tax at a rate proportionate to the cigarette tax.

*Medicaid Enhancement Revenues.* Effective July 1, 1993, the State lowered the Medicaid enhancement tax rate from 8% to 6%. Currently, the tax is assessed against the gross patient services revenue of hospitals operating in the State. "Gross patient services revenue" is defined as the amounts that a hospital records at the hospital's established rates for patient services, regardless of whether full payment of such amounts is expected or paid. Effective July 1, 2005, the tax will be assessed against net patient services revenue, which means the gross charges of the hospital, less any deducted amount for bad debts, charity care and payor discounts. The revenue collected pursuant to the tax is placed in the Uncompensated Care Fund. In addition, effective July 1, 1993, the State repealed the supplemental Medicaid enhancement tax on each hospital's Medicaid patient discharges, which had been in effect since November 12, 1991.

Also, under the State's federally approved Medicaid Plan, disproportionate share revenues are received by the State's institutions on a quarterly basis. The Commissioner of Health and Human Services continuously reviews and revises the State Medicaid plan to maximize the receipt of additional federal matching funds.

*Insurance Tax.* The State imposes a tax on licensed insurance companies equal to 2% of net premiums written in the State (5% of taxable underwriting profit in the case of ocean marine insurance companies). Under a retaliatory statute, the State also collects a tax in excess of such 2% on insurance companies in approximately 28 states. There is also a tax of 4% of gross premiums written in the State by insurance companies not licensed to do business in New Hampshire. Effective July 1, 1995, certain nonprofit health insurers and dental insurers became subject to the insurance tax. Chapter 207 of the Laws of 2002 changed the due dates for quarterly and final payments to the fifteenth of the month from the first of the month. This change has no fiscal impact.

*Interest and Dividends Tax.* A tax of 5% is imposed on income in excess of \$2,400 received from interest and dividends on stocks, bonds and other types of investments. Chapter 188 of the Laws of 1995 made several changes to the interest and dividends tax which became effective June 12, 1995. The minimum amount of interest and dividend income requiring a taxpayer to file a return was raised from \$1,200 to \$2,400 for individuals and from \$2,400 to \$4,800 for joint filers. The minimum exemption was also increased from \$1,200 to \$2,400 for individuals, partnerships, limited liability companies, associations, and certain trusts and fiduciaries. Interest and dividend income derived from New Hampshire and Vermont banks is no longer exempt from the tax. Chapter 163 of the Laws of 1998 allows for a deduction from taxable interest and dividend income any amount equal to any cash distributions made to a qualified investment capital corporation.

Litigation challenging the constitutionality of the tax structure, particularly the exemptions formerly granted for interest earnings from New Hampshire and Vermont financial institutions has been resolved. (See “LITIGATION”.)

*Estate and Legacy Tax.* The State imposes an estate tax equal to the maximum amount of the credit for state taxes allowed under the federal estate tax. For decedents dying after December 31, 2004, Congress terminated the federal credit for state death taxes. Accordingly, the State’s estate tax is not anticipated to raise material revenue in the future. In addition to this estate tax, the State had imposed a legacies and succession tax and a transfer tax on personal property of nonresident decedents, but these taxes were repealed for decedents dying after December 31, 2003.

*Communications Tax.* For the 2002-03 biennium, the communications tax was increased to a 7% aggregate tax applicable to the gross charges collected for most retail communication services. The 7% tax rate was made permanent pursuant to Chapter 319 of the Laws of 2003. The tax was initially a 3% tax. For the 1992-93 biennium an additional 3 percentage point surcharge was added to the tax. For the biennium ended June 30, 1995, the aggregate tax rate was lowered to 5.5%, which rate remained in effect through the 2000-01 biennium.

*Real Estate Transfer Tax.* The real estate transfer tax was increased by \$2.50 to a rate of \$7.50 per \$1,000 of the selling price or consideration is assessed by the State upon each party involved in the transfer of real property with the exception of transfers made upon death. The increase has been dedicated to the Education Fund. Chapter 158 of the Laws of 2001 extended the tax to cover transfers of business properties.

*Court Fines and Fees.* The Unified Court System was established during the 1984-1985 biennium. All fines and fees collected by the various components of the court system are credited to the General Fund.

*Uniform Education Property Tax.* The State imposes an education property tax at the rate of \$3.33 for each \$1,000 of the equalized value of real estate. The statewide property tax was revitalized in 1999 in response to litigation challenging the State’s method of financing public schools. See “School Funding” and “Litigation” herein. Since 1999, when the tax rate was established at \$6.60 per \$1,000, the State has periodically reduced the tax rate as real property valuations have risen. In addition, for fiscal years after June 30, 2004, the law requires the Commissioner of the Department of Revenue Administration to set the education property tax rate at a level sufficient to generate revenue equal to the revenue generated by the tax in the immediately preceding fiscal year.

*Statewide Utility Property Tax.* Chapter 17 of the Laws of 1999 also established a statewide tax on utility property. A tax is imposed upon the value of utility property at the rate of \$6.60 on each \$1,000 of such value. During State fiscal year 2000, utilities were required to make both payments for the 1999 tax year as well as estimated payments on tax year 2000 liabilities. The proceeds from this tax have been dedicated to the Education Fund.

*Utility Tax.* The utility tax is currently a franchise tax on electric utilities, other than municipal utilities, equal to 1% of gross receipts. Prior to fiscal year 1995, the franchise tax was also imposed on gas utilities. Businesses are allowed a credit against their business enterprise tax liability for franchise taxes paid. The franchise tax has been repealed contingent on the implementation of a statewide electric deregulation plan by the Public Utilities Commission, which plan is currently being challenged and is the subject of litigation. If effective, the repealed franchise tax would be replaced with a tax on electricity consumption. See “STATE DEMOGRAPHIC AND ECONOMIC DATA – Utilities.” The utility tax also previously included a tax on nuclear station property, which tax was repealed by Chapter 17 of the Laws of 1999.

*Beer Tax.* The State Liquor Commission charges permit and license fees for the sale of beer through manufacturers, wholesalers and retailers plus a tax on beer sold by such manufacturers and wholesalers for resale and by manufacturers at retail at the rate of 30 cents per gallon. If a mandatory beverage container deposit requirement is enacted, the current statute requires the beer tax to be reduced to 18 cents per gallon.

*Securities Revenue.* Broker dealers and investment advisors are required to pay various registration, license or annual fees to conduct business in the State. Additionally, fees are charged for registrations of securities and mutual funds to be offered in the State.

*Racing Revenue.* The operation of greyhound, harness and thoroughbred racing in the State is conducted under the supervision of the New Hampshire Pari-Mutuel Commission. The State now imposes a tax ranging from 1% to 1.25% of the contributions plus one-quarter of the breakage of all harness and thoroughbred racing pari-mutuel

pools. For greyhound racing pari-mutuel pools, the tax ranges from 1.25% to 1.5% of contributions plus one-quarter of the breakage.

*Other.* This revenue category includes over 200 individual types of fees, fines, assessments, taxes and income. These revenues are reported in the following nine broad subcategories: reimbursement of indirect costs; interest on surplus funds; corporate filing fees; interstate vehicle registration fees; corporate record fees; agricultural fees; non-highway motor vehicle fees and fines; and miscellaneous.

The State also derives substantial revenues from federal grant programs and certain independent divisions or activities of State government which operate in whole or in part from revenues collected from users. In some cases these revenues are restricted by statute for use by specific agencies. The following are the principal sources of restricted revenues derived by the State:

*Sweepstakes Receipts.* The State conducts daily and weekly lotteries and instant games throughout the State through tickets sold by or on behalf of the Sweepstakes Commission in State liquor stores, at horse and dog tracks and at authorized retail outlets in the State. In addition to the sweepstakes, the State together with the states of Maine and Vermont operates a tri-state lotto. Beginning November 1995, the State became a participant in the multistate Powerball lottery. Revenues are initially recorded in the Sweepstakes Enterprise Fund and are netted with expenses and transferred monthly to the Education Fund.

*Turnpike System Tolls.* The State collects tolls and charges for the use of the Turnpike System. Toll revenues are credited to the Turnpike System Enterprise Fund with the restriction that these revenues be used to pay expenses of operation and maintenance of the Turnpike System and debt service on bonds or notes issued for Turnpike System purposes.

*Fuel Tax.* The State imposes a tax upon the sale of each gallon of motor fuel sold in the State at the rate of 18 cents per gallon for motor vehicle and marine fuels and 4 cents per gallon for aviation fuel. The proceeds of the motor vehicle gasoline tax are credited to the Highway Fund and, while not pledged, are required to be used first for the payment of principal of and interest on bonds or notes of the State issued for highway purposes. A portion of the motor vehicle fuel tax, 2.64 cents, is allocated to a separate account in the Highway Fund, the Highway and Bridge Betterment Account.

*Federal Receipts.* The State receives funds from the federal government which represent reimbursement to the State for expenditures for various health, welfare, transportation and educational programs and distribution of various restricted or categorical grants-in-aid. Federal grants-in-aid and reimbursements are normally conditioned to some degree on matching resources by the State. The largest categories of federal grants and reimbursements are made for the purposes of providing medical assistance payments for the indigent and medically needy, temporary assistance for needy families, and transportation and highway construction programs.

In addition to the taxes and activities described above, there are various taxes the revenues from which are available only to political subdivisions of the State. Such taxes are either collected by the political subdivisions directly or are collected by the State and distributed to the political subdivisions. Such taxes include a real and personal property tax, a resident tax, and a forest conservation tax based on the stumpage value of timber lands.

## **Expenditures**

Expenditures are charges against appropriations for the expenses related to specific programs of individual departments and related subunits of the State government. Expenditures are accounted for by specific classes of expenses, such as personnel, supplies and equipment, within those programs. Statewide expenditures are grouped into the six categories described below.

General Government includes the legislative branch, office of the Governor and executive staff departments.

Administration of Justice and Public Protection includes the judicial branch, correctional and state police activities and those expenses relating to regulatory boards established to protect persons and property.

Resource Protection and Development includes the operation of State parks, the promotion of economic development, environmental protection and the management of wildlife resources.

Transportation includes design, construction and maintenance of highways and bridges, the operation of the Turnpike System and the Public Works Department and management of other transportation activities.

Health & Social Services includes programs for individuals who are physically, mentally and/or economically unable to provide essential needs for themselves. Programs include those for institutional and community-based care and mental health, programs for troubled youth, programs for the elderly and programs to support economically disadvantaged and chemically dependent individuals.

Education includes management and administration of statewide primary and secondary education and support of public post-secondary educational institutions, both academic and technical. See also "SCHOOL FUNDING."

## **Results of Operations**

*Fiscal Year 2000.* In fiscal year 2000, in response to the education funding lawsuit (see "SCHOOL FUNDING"), the State dramatically increased funding for education and made significant changes to its tax structure. The following is a list of the tax changes and revenue sources that were dedicated to funding education as of fiscal year 2000:

- Establishment of a new state property tax and utility property tax at \$6.60 per \$1,000 of value of taxable property;
- Increase in the business profits tax from 7% to 8% and increase in the business enterprise tax from .25% to .50%;
- Increase in the real estate transfer tax from \$5.00 per thousand to \$7.50 per thousand;
- Extension of the 8% meals and rooms tax to rental cars;
- Increase in the cigarette tax from \$.37 per pack to \$.52 per pack;
- Allocation of a portion of tobacco settlement funds (\$53.8 million); and
- Allocation of sweepstakes net profits.

Since many of these revenue sources dedicated for education are increases in the State's traditional taxes, the General and Education Funds are presented together. Unrestricted revenue for the General and Education Funds for fiscal year 2000 was approximately \$1,775.5 million. General and Education Fund revenue totaled \$1,046.3 million and \$729.2 million, respectively. Revenue allocated to the General Fund showed minimal increase since the anticipated revenue growth and changes in tax rates were earmarked to the Education Fund. In addition, the effects of changing the tax rates for the business taxes, utility property tax, and cigarette tax resulted in one-time gains of approximately \$38.4 million that do not reoccur in future years.

Due to the combined filing of the business profits tax and the business enterprise tax, it is not possible to measure accurately the individual effects of each tax increase. On a combined basis, business taxes increased to \$317.3 million, which was 23.1% over fiscal year 1999 and 1.3% below plan. The collections generated by the business tax rate increases were estimated at \$76.5 million and were transferred to the Education Fund in equal quarterly amounts pursuant to Chapter 303 of the Laws of 1999. The meals and rooms tax performance remained strong and increased to \$156.1 million, of which \$6.3 million was generated from the extension of the meals and room tax to rental cars. Also, in fiscal year 2000 the State received \$54.2 million from the national tobacco settlement, of which \$53.8 million was applied to education purposes and \$0.4 million was deposited into the General Fund. This amount included an initial tobacco settlement payment of \$16.4 million.

Revenue generated from the newly created uniform education property tax totaled \$442.1 million. Only \$24.2 million, which is the portion of the tax collected by municipalities above the local State adequacy level, was remitted to the State; approximately \$418 million was retained locally. A total of \$825.8 million of education adequacy grants were expended in fiscal year 2000.

In addition to the new revenue sources to fund education, \$124.8 million of General Fund accumulated surplus at June 30, 1999 was reserved for the Education Fund. Also, previous General Fund appropriations for education aid to schools in the amount of \$39.6 million were continued as an appropriation and was transferred to the Education Fund. The Education Fund undesignated fund balance at June 30, 2000 totaled \$66.3 million.

Significant increases in General Fund spending over fiscal year 1999 include: 3% pay raise effective October 1, 1999 (\$5.5 million); start up and operating costs for the new corrections facility in Berlin (\$6.6 million); an increase in normal contributions to the retirement system and retirees health insurance (\$3.5 million); and an increase in revenue sharing to cities and towns (\$5.0 million). While Medicaid enhancement revenues exceeded plan by \$10.3 million, pursuant to Chapter 225 of the Laws of 1999, the Department of Health and Human Services was allowed to appropriate these funds to cover budgetary shortfalls in other programs.

The June 30, 2000 General Fund surplus balance increased to \$4.0 million. Due to the tight labor markets and high turnover among state employees, year-end lapses of salary appropriations were greater than anticipated and totaled \$12.3 million. Also, the Department of Health and Human Services was again able to maximize federal revenue that support program appropriations in amounts greater than anticipated. The Revenue Stabilization account remained at \$20 million and the Health Care Fund increased by \$1.5 million to \$45.0 million.

*Fiscal Year 2001.* Fiscal Year 2001 General and Education Fund unrestricted revenue increased approximately 2.9% over fiscal year 2000 unrestricted revenue. This growth occurred despite one-time gains in fiscal year 2000 of approximately \$38.4 million that did not reoccur in fiscal year 2001. Business taxes increased \$37.0 million or 11.7%. Some of this growth can be attributed to the tax rate increases that occurred in fiscal year 2000. The meals and rooms tax increased approximately 5.0% over fiscal year 2000. Other strong revenue tax performers included the interest and dividends tax (17.1%) and the insurance tax (12.1%). The first \$3.0 million of revenue from the tobacco settlement was earmarked for tobacco prevention programs and the balance, \$38.7 million, was deposited into the Education Fund. Tobacco consumption continued to decline resulting in a 9.1% decrease in revenue generated by the tobacco tax.

Due to long-term concerns associated with education funding, management actions were taken at the start of the fiscal year to reduce the overall rate of spending. Executive Order 2000-8 reduced departmental appropriations, subject to certain exemptions, by 3.0%. This action saved approximately \$17.9 million. In addition Executive Order 2000-5 implemented a hiring freeze, subject to waiver. This action saved approximately \$3.3 million. Additional expenditures were incurred associated with recruiting and retention of nursing staff and correctional officers. Health insurance expenditures showed dramatic increase with contractual increases of 18.2% in October and an additional 11.8% increase in February. Overall General Fund expenditures increased only 2.2% over fiscal year 2000 expenditures.

The General Fund current year balance totaled \$80.2 million. The cumulative year-end General Fund balance was first utilized by transferring \$48.1 million to the Education Fund to eliminate the deficit in that fund. The balance of \$35.2 million was then transferred to the Revenue Stabilization Account bringing the balance in that account to \$55.2 million. The Health Care Fund closed fiscal year 2001 with a balance of \$45.8 million.

*Fiscal Year 2002.* Due to the sluggish economic conditions, business tax revenues for fiscal year 2002 fell short of expectations. General Fund and Education Trust fund unrestricted revenues totaled \$1,957.2 million, which was below plan by \$53.1 million, but above fiscal year 2001 revenues by \$130.8 million. The increase over the prior year can be primarily attributed to changes in tax rates and growth in the uniform education property tax, the real estate transfer tax and the insurance tax.

Business taxes, which include the business profits tax (BPT) and business enterprise tax (BET) were increased effective July 1, 2001. The BPT rate increased from 8.0% to 8.5% and the BET rate increased from .5% to .75%. The revenue generated from these tax rate increases as well as the increases in rates approved in fiscal year 2000 have been dedicated to the Education Trust Fund. Business tax receipts for fiscal year 2002 totaled \$383.4 million, which was an increase over the prior year of \$29.1 million, but below plan by \$60.5 million. Due to the combined filing of BPT and BET it is not possible to accurately measure the individual effects of each tax increase at the time of collection. Another legislative change affecting the business tax categories was a tax amnesty program authorized by Chapter 15:21 of the Laws of 2001. This amnesty program, the State's second, ran from December 1, 2001 to February 15, 2002. The State collected \$14.9 million under this amnesty program of which \$10.7 million related to business tax collections.

Other legislative actions affecting fiscal year 2002 tax receipts included increasing the communications tax rate from 5.5 % to 7.0%. Revenue from this tax totaled \$64.7 million, which was an increase of \$15.7 million over prior year. Real estate transfer tax receipts totaled \$99.5 million, which was a \$10.3 million increase over prior year. Chapter 158:27 of the Laws of 2001 repealed the exemption from the real estate transfer tax for certain

business transactions. The tobacco tax rate remained unchanged and revenue from this tax totaled \$84.3 million, which was a \$2.1 decrease from prior year and \$1.7 million below plan.

Due to the increasing cost of health insurance and the hardening of premiums in other insurance lines, the insurance tax generated \$76.1 million, which was a 14.4% increase over prior year. The meals and rooms tax totaled \$170.7 million, which was a 4.1% increase over prior year but fell short of the plan by \$5.3 million. The uniform education property tax, including both the portion retained locally and the portion not retained locally, totaled \$483.1 million, which was an increase of \$40.9 million over prior year and equal to plan.

The downturn in the national economy and experiences in other states, made worse by the September 11th terrorist attack, were strong indications of a shortfall in revenues soon to affect the State. On October 1, 2001, then Governor Shaheen directed State agencies to develop budgetary contingency plans. Further steps taken during fiscal year 2002 included: (1) directing the Department of Resources and Economic Development to accelerate its tourism promotion efforts, with a particular focus on attracting those who are within driving distance of New Hampshire, (2) asking State regulatory agencies to review their procedures and redirect resources to attempt to speed the review process, (3) directing the Bureau of Public Works to accelerate the start of construction projects included in the State's capital budget in order to begin work on the capital budget projects in the first year of the biennium, (4) directing the Department of Health and Human Services to carefully monitor trends in public assistance and Medicaid caseload increases so necessary budget adjustments could be made, and (5) reinvigorating the consensus revenue estimating panel by issuing Executive Order 2001-4, which expanded the membership of the panel with an effort toward obtaining more realistic revenue estimates.

On January 15, 2002, Executive Order 2002-1 was issued which saved \$6.5 million in fiscal year 2002. Of this amount, \$5.8 million was a direct reduction of General Fund appropriations and \$.7 million was the estimated increase in interest revenue from delaying payments to the University System. On March 13, 2002, Executive Order 2002-2 was issued which established a freeze on Executive Branch hiring, equipment and out-of-state travel for the balance of fiscal year 2002. On June 12, 2002, Executive Order 2002-5 was issued which saved an estimated \$15.2 million. Of this amount, \$13.5 million was a direct reduction of General Fund appropriations and \$1.7 million was the estimated increase in interest revenue from delaying payments to the University System.

*Fiscal Year 2003.* Despite the recent economic recession, General and Education Fund unrestricted revenues for fiscal year 2003 showed modest increases over the prior year. Unrestricted revenues totaled \$2,049.0 million, which was a \$19.0 million (.9%) increase over plan and a 4.7% increase over prior year. The plan represents the legislative estimates contained in the original budget that was adopted in June 2001. Any significant shortfalls or gains over plan in the first year (fiscal year 2002) of the biennium were expected to reoccur in the second year (fiscal year 2003) of the biennium.

Business tax collections (business profits tax and business enterprise tax) totaled \$392.8 million, which was \$36.8 million below plan but \$9.4 million (2.5%) over prior year. Meals and rooms taxes totaled \$175.4 million, which was below plan by \$18.0 million and had a small increase of \$4.8 million (2.8%) over prior year. Insurance taxes totaled \$82.2 million, which exceeded plan by \$19.2 million and increased \$6.1 million (8.0%) over prior year. Tobacco tax receipts totaled \$94.1 million, which increased substantially (11.6%) over prior year due to the tax rate advantage as compared to neighboring states. Real estate transfer taxes again performed strongly, totaling \$118.2 million, which exceeded both the plan and prior year by more than 15%. This increase can be attributed to increases in the prices of homes; increases in sales activity spurred by record low interest rates; and the repeal of the exemption from this tax for certain transfers of business property, including the Seabrook nuclear power station, which generated approximately \$6.2 million in real estate transfer tax payments in December, 2002. The uniform education property tax rate for fiscal year 2003 was reduced from \$6.60 to \$5.80 per \$1,000 of total equalized value. With increasing property values, the uniform education property tax (both retained locally and not retained locally) generated a total of \$485.7 million, which was \$2.6 million above the prior year and equal to plan.

On May 28, 2003, President Bush signed into federal law the "The Jobs and Growth Reconciliation Act of 2003." The funding to the State would be comprised of temporary direct fiscal relief characterized as a flexible grant to the State in the amount of \$50 million and increased Federal Medicaid Assistance Percentage (FMAP). The State received the flexible grant in two installments. As a result, \$25 million was recognized as revenue in fiscal year 2003 and the remaining \$25 million was recognized in fiscal year 2004. In addition, the State recognized \$4.7 million of the FMAP funds in fiscal year 2003 and \$19.2 million in fiscal year 2004. No additional funds will be recognized in fiscal year 2005.



Medicaid enhancement revenues (MER) totaled \$117.0 million, which was a \$23.0 million increase over plan and \$18.8 million over prior year. Included in the MER is \$15.3 million that was recorded under the proportionate share program (Proshare). This amount represents the resolution of prior year claims that were deferred by the Federal Government in fiscal year 2002. Due to the uncertainty with the delay associated with receiving federal approval for the Medicaid Plan amendment, the fiscal year 2003 Proshare billing estimated at \$6.5 million and restricted revenue of \$3.8 million has not been recorded as revenue. The other major MER activities include the 6% hospital tax, which totaled \$84.6 million and disproportionate share revenues associated with New Hampshire Hospital which totaled \$14.0 million and other recoveries of \$3.1 million.

General and Education Fund net appropriations for fiscal year 2003 after lapses totaled \$2,153.2 million which was a \$63.6 million (3.0%) increase over prior year. In response to financial pressures brought on by the recession, the State made various budgetary adjustments in fiscal year 2003. The following three executive orders were issued to reduce spending:

- Executive Order 2002-05 issued on June 12, 2002, reduced appropriations by \$8.9 million.
- Executive Order 2003-01, issued on January 15, 2003, reduced expenditures by freezing vacant positions, equipment, out of state travel, consultants and IT hardware.
- Executive Order 2003-05 issued on April 16, 2003, reduced appropriations by \$18.8 million.

Year-end lapses totaled \$16.0 million, which is less than lapse amounts from prior years and is due, in part, to the above-mentioned executive orders and lapses associated with benefits for state employees that did not materialize. Even though appropriations for benefits were increased by \$4.4 million, the overall amounts were not sufficient to fund the increasing cost of health insurance coverage. In October, 2003, the State shifted to a self-insurance environment with stop-loss coverage to manage the growth of this cost.

In accordance with Chapter 158:43 of the Laws of 2001, the Department of Health and Human Services was authorized to expend revenue in excess of amounts budgeted. A total of \$20.1 million of Medicaid enhancement revenues described above was appropriated to fund budgetary shortfalls in the Medicaid provider payments program.

The combined year end General and Education Fund balances (including reserve accounts) at June 30, 2003 was a total of \$17.3 million. Fund balances have steadily declined from a peak of \$188.3 million in fiscal year 1999. Prior to year-end transfers, the fiscal year 2003 operating deficit was a negative \$33.9 million for the General and Education Funds combined. The original budget projected a fiscal year 2003 shortfall of \$17.2 million. The cumulative deficit of \$71.8 million (fiscal year 2003 deficit of \$33.9 million and a carry forward deficit of \$37.9 million) was eliminated by year-end transfers from the Health Care Fund (HCF) and Revenue Stabilization Account. In accordance with Chapter 319 of the Laws of 2003, the HCF balance of \$33.9 million was closed out to the General Fund, and an additional \$37.9 million was transferred from the Revenue Stabilization Account to eliminate the entire General Fund deficit. This transfer reduced the June 30, 2003 balance in the Revenue Stabilization Account from \$55.2 million to \$17.3 million.

#### *Fiscal Year 2004 (Unaudited).*

On September 4, 2003, the Governor signed into law the fiscal year 2004-2005 operating budget, Chapters 318 and 319 of the Laws of 2003. The Governor had vetoed in June, 2003 earlier versions of these bills on the basis that, in his view, the then proposed operating budget relied on one-time revenue sources with an unsustainable expenditure plan that resulted in an insufficient balance in the Revenue Stabilization Account. To maintain State services, a continuing resolution was adopted for a period of three months, at the proposed budget level. In the interim, a Joint Budget Advisory Group was formed to negotiate a compromised budget. The group comprised members from both House and Senate with participation from the Governor. After two months, a compromise agreement was reached.

The compromise budget for the 2004-2005 biennium included conservative revenue forecasts. Traditional revenue (revenue before Medicaid enhancement revenues and property tax) was projected to increase by less than 1% in fiscal years 2004 and 2005. The fiscal year 2004 slow growth rate was primarily attributable to the phase out of the legacy and succession tax and the estate tax, which was expected to result in a \$40 million decrease in fiscal year 2004 revenue. The fiscal year 2005 slow growth rate was primarily attributable to the one-time federal flexible

grant, which resulted in \$25 million being recognized as revenue in each of fiscal years 2003 and 2004. (See “Results of Operations– Fiscal Year 2003.”) Business taxes, which represent 28% of traditional revenue, were projected to increase less than 3% per year and the meals and rooms tax was projected to increase on average less than 5% per year.

The original budget, as initially approved by the Legislature, projected a surplus for fiscal year 2004 of \$44.6 million (excluding the Revenue Stabilization Account). The unaudited combined General and Education Fund Balances at June 30, 2004 was \$15.3 million, which, together with \$17.3 million from the Revenue Stabilization Account, brought the total surplus to \$32.6 million.

General and Education Fund unrestricted revenue for fiscal year 2004 was better than anticipated. Unrestricted revenue totaled \$2,158.6 million, which was a \$109.6 million (5.3%) increase over prior year and a \$44.8 million (2.1%) increase over plan. (The plan represents the legislative estimates contained in the original budget that was adopted in September 2003.)

Strong revenue performance was seen in several tax categories, as noted below, which offset the weak performance from the Interest and Dividends Tax, which was down 9.7% over prior year due to interest rates remaining at historic lows.

- Business Taxes totaled \$408.0 million, \$4.2 million above plan and \$15.2 million (3.9%) over prior year.
- Meals and Rooms totaled \$185.4 million, \$1.9 million above plan and \$10.0 million (5.7%) over prior year.
- Insurance Tax totaled \$86.2 million, \$3.3 million above plan and \$4.0 million (4.9%) over prior year.
- Tobacco Tax totaled \$100.1 million, which experienced moderate increase over prior year (6.4%) due to the continued tax advantage over neighboring states.
- Real Estate Transfer Tax (RET) again performed strongly compared to plan and prior year. RET collections of \$142.7 million were 20.2% over prior year resulting from: increased home prices, sales activity spurred by low interest rates, the repeal of the tax exemption from business property transfers, and targeted audit collections.
- Estate and Legacy Tax benefited from large one-time gains earlier in fiscal year 2004, which contributed to the \$7.6 million increase over plan. Due to the phase out of the tax, collections were significantly less than in previous years.
- Uniform Property Tax rate was reduced to \$4.92 per \$1,000 (now \$3.33 per \$1,000) of total equalized value from \$5.80 per thousand in fiscal year 2003. Despite rate reductions, increasing property values helped generate a total of \$473.2 million from the tax, slightly behind prior year by 2.6%.
- Medicaid Enhancement Revenues (MER) and Recoveries totaled \$170.2 million, which was a \$16.0 million increase over plan and \$53.2 million over prior year.
- Nursing Facility Assessment Fee. On July 1, 2004, the Legislature passed Chapter 260 of the Laws of 2004 which among several measures, amended RSA 84-C:2 to include a new assessment of 6 percent of net patient services revenues imposed on all nursing facilities on the basis of patient days in each nursing facility. The initial assessment period was retroactively applied to May 1, 2003. Since there is uncertainty as to when Federal approval or disallowance will be granted and as to how the new fee will impact the State’s proportionate share program (proshare) revenue already claimed in fiscal year 2004, a conservative adjustment of \$6 million was recorded to reduce the proshare for fiscal year 2004.

Net appropriations, including anticipated budget reductions, savings from budget initiatives, and lapses, were \$71.9 million behind estimates. The largest shortfalls were from Information Technology, Self-Insurance, and DHHS program savings and one-time revenue adjustments that did not materialize to expected levels.

Although fiscal year 2004 revenues grew over fiscal year 2003, the State authorized 2 executive orders to reduce spending:

- Executive Order 2004-02 issued on March 24, 2004 reduced expenditures by ordering a hiring freeze on all vacant full-time classified and unclassified positions funded in whole or in part by the General Fund and a spending freeze on equipment purchases, consultants, and out of state travel.
- Executive Order 2004-03 issued on March 24, 2004 reduced expenditures by ordering a direct reduction of \$2.7 million of General Fund appropriations.

Lastly, the State moved to a self-insurance environment during fiscal year 2004 with respect to health insurance coverage for active and retired State employees. In previous years, General Fund expenditures included premiums paid to the State's health insurance carrier. The long-term liability associated with insurance claims, commonly referred to as "incurred but not reported" or "IBNR", was not included on the State's financial statements since the liability and risk was transferred to the insurance carrier. As a result of the self-funding alternative, the State created a new fund, titled the Employee Benefit Risk Management Fund during fiscal year 2004 to manage the State's self-insurance program needs and to pool resources to pay for the costs associated with the new program. The new fund ended this transition year with a deficit of \$12.1 million. The deficit was primarily the result of the State recognizing the IBNR for the first time. On a cash basis, the fund had a positive \$3.2 million balance. New rates have been set for fiscal year 2005. These rates are expected to be sufficient to cover expected costs and offset some of the projected IBNR at the end of fiscal year 2005. The State, in consultation with its consultant, may adjust these rates during the fiscal year if it finds during this evaluation that the current rates are insufficient to cover the costs associated with self-insurance requirements.

The following tables present a comparison of General Fund and Education Fund unrestricted revenues and General Fund and Education Fund net appropriations for fiscal years 2000 through 2004. The information for fiscal years 2000 through 2003 is derived from the State's audited financial statements. The fiscal year 2004 information is unaudited.

**GENERAL FUND AND EDUCATION FUND UNRESTRICTED REVENUES**  
**FISCAL YEARS 2000-2004**  
**(GAAP Basis-In Millions)**

Revenue Category	FY 2000			FY 2001			FY 2002			FY 2003			FY 2004		
	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total
Business Profits Tax	\$146.4	\$22.4	\$168.8	\$179.6	\$15.8	\$195.4	\$128.6	\$32.6	\$161.2	\$137.7	\$37.1	\$174.8	\$131.6	\$41.0	\$172.6
Business Enterprise Tax	94.4	54.1	148.5	122.2	36.7	158.9	121.0	101.2	222.2	96.6	121.4	218.0	118.5	116.9	235.4
Subtotal	240.8	76.5	317.3	301.8	52.5	354.3	249.6	133.8	383.4	234.3	158.5	392.8	250.1	157.9	408.0
Meals & Rooms Tax	149.8	6.3	156.1	157.2	6.8	164.0	164.0	6.6	170.6	168.7	6.7	175.4	178.5	6.9	185.4
Tobacco Tax	68.4	26.6	95.0	61.0	25.4	86.4	60.3	24.0	84.3	67.1	27.0	94.1	71.5	28.6	100.1
Liquor Sales and Distribution	86.0	-	86.0	89.3	-	89.3	96.2	-	96.2	99.0	-	99.0	106.7	-	106.7
Interest & Dividends Tax	65.5	-	65.5	76.7	-	76.7	70.3	-	70.3	55.1	-	55.1	55.6	-	55.6
Insurance Tax	59.3	-	59.3	66.5	-	66.5	76.1	-	76.1	82.2	-	82.2	86.2	-	86.2
Communications Tax	47.8	-	47.8	49.0	-	49.0	64.7	-	64.7	62.4	-	62.4	65.8	-	65.8
Real Estate Transfer Tax	56.8	28.2	85.0	59.5	29.7	89.2	66.4	33.1	99.5	78.8	39.4	118.2	95.2	47.5	142.7
Estate and Legacy Tax	56.4	-	56.4	59.3	-	59.3	57.0	-	57.0	59.1	-	59.1	27.0	-	27.0
Sweepstakes Transfers	-	61.5	61.5	-	59.4	59.4	-	66.1	66.1	-	66.6	66.6	-	73.7	73.7
Tobacco Settlement	0.4	53.8	54.2	-	38.7	38.7	5.7	40.0	45.7	5.9	40.0	45.9	1.8	40.0	41.8
Utility Property Tax	-	31.2	31.2	-	15.6	15.6	-	18.2	18.2	-	18.8	18.8	-	20.2	20.2
Property Tax Not Retained Locally	-	24.2	24.2	-	24.2	24.2	-	29.0	29.0	-	32.7	32.7	-	29.8	29.8
Property Tax Retained Locally	-	418.0	418.0	-	418.0	418.0	-	454.1	454.1	-	453.0	453.0	-	443.4	443.4
Other	128.0	2.9	130.9	137.4	0.2	137.6	127.5	-	127.5	160.1	-	160.1	167.0	-	167.0
Subtotal	959.2	729.2	1,688.4	1,057.7	670.5	1,728.2	1,037.8	804.9	1,842.7	1,072.7	842.7	1,915.4	1,105.4	848.0	1,953.4
Net Medicaid Enhancement Revenues	74.2	-	74.2	85.2	-	85.2	98.2	-	98.2	117.0	-	117.0	149.8	-	149.8
Recoveries	-	-	-	-	-	-	-	-	-	-	-	-	20.4	-	20.4
Subtotal	1,033.4	729.2	1,762.6	1,142.9	670.5	1,813.4	1,136.0	804.9	1,940.9	1,189.7	842.7	2,032.4	1,275.6	848.0	2,123.6
Other Medicaid Enhancement Revenues to Fund Net Appropriations	12.9	-	12.9	13.0	-	13.0	16.3	-	16.3	16.6	-	16.6	35.1	-	35.1
Total	\$1,046.3	\$729.2	\$1,775.5	\$1,155.9	\$670.5	\$1,826.4	\$1,152.3	\$804.9	\$1,957.2	\$1,206.3	\$842.7	\$2,049.0	\$1,310.7	\$848.0	\$2,158.7

**GENERAL FUND AND EDUCATION FUND NET APPROPRIATIONS**  
**FISCAL YEARS 2000-2004**  
(In Millions)

Category of Government	FY 2000			FY 2001			FY 2002			FY 2003			FY 2004		
	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total
General Government	\$216.4	\$1.4	\$217.8	\$213.9	\$0.7	\$214.6	\$220.6	\$5.0	\$225.6	\$227.1	\$5.0	\$232.1	237.2		237.2
Justice and Public Protection	166.5		166.5	170.8		170.8	181.1	-	181.1	184.5	-	184.5	164.4		164.4
Resource Protection and Development	36.0		36.0	37.6		37.6	40.7	-	40.7	39.5	-	39.5	71.4		71.4
Transportation	2.7		2.7	2.8		2.8	2.8	-	2.8	2.7	-	2.7	2.4		2.4
Health and Social Services	467.5		467.5	479.0		479.0	515.5	-	515.5	531.6	-	531.6	605.6		605.6
Education	<u>170.1</u>	<u>825.9</u>	<u>996.0</u>	<u>178.8</u>	<u>824.8</u>	<u>1,003.6</u>	<u>241.7</u>	<u>882.2</u>	<u>1,123.9</u>	<u>263.3</u>	<u>899.5</u>	<u>1,162.8</u>	<u>246.8</u>	<u>895.0</u>	<u>1,141.8</u>
Net Appropriations	<u>\$1,059.2</u>	<u>\$827.3</u>	<u>\$1,886.5</u>	<u>\$1,082.9</u>	<u>\$825.5</u>	<u>\$1,908.4</u>	<u>\$1,202.4</u>	<u>\$887.2</u>	<u>\$2,089.6</u>	<u>\$1,248.70</u>	<u>\$904.5</u>	<u>\$2,153.2</u>	<u>\$1,327.8</u>	<u>\$895.0</u>	<u>\$2,222.8</u>

The following table sets out the General Fund and Education Fund undesignated fund balances and the amounts reserved for the Revenue Stabilization Account and Health Care Fund for each of the fiscal years 2000 through 2004. The information for fiscal years 2000 through 2003 is derived from the State's audited financial statements. The fiscal year 2004 information is unaudited.

**GENERAL FUND AND EDUCATION FUND BALANCES**  
**FISCAL YEARS 2000-2004**  
**(GAAP Basis - In Millions)**

	FY 2000			FY 2001			FY 2002			FY 2003			FY 2004		
	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total	General	Education	Total
Undesignated Fund Balance, July 1	-	\$124.8	\$124.8	\$4.0	\$66.3	\$70.3	\$0.0	\$0.0	\$0.0	\$(37.9)	\$0.0	\$(37.9)	\$0.0	\$0.0	\$0.0
Additions:															
Unrestricted Revenue	\$1,046.3	729.2	1,775.5	1,155.9	670.5	1,826.4	1,152.3	804.9	1,957.2	1,206.3	842.7	2,049.0	1,310.7	848.0	2,158.7
Transfers from General Fund	-	39.6	39.6	-	40.6	40.6	-	65.7	65.7	-	83.4	83.4	-	62.6	62.6
Total Additions	1,046.3	768.8	1,815.1	1,155.9	711.1	1,867.0	1,152.3	870.6	2,022.9	1,206.3	926.1	2,132.4	1,310.7	910.6	2,221.3
Deductions:															
Appropriations Net of Estimated Revenues	(1,094.0)	(827.3)	(1,921.3)	(1,116.0)	(825.5)	(1,941.5)	(1,228.5)	(887.6)	(2,116.1)	(1,264.7)	(904.5)	(2,169.2)	(1,362.3)	(895.0)	(2,257.3)
Less: Lapses	34.8	-	34.8	33.1	-	33.1	26.1	0.4	26.5	16.0	-	16.0	34.5	-	34.5
Total Net Appropriations	(1,059.2)	(827.3)	(1,886.5)	(1,082.9)	(825.5)	(1,908.4)	(1,202.4)	(887.2)	(2,089.6)	(1,248.7)	(904.5)	(2,153.2)	(1,327.8)	(895.0)	(2,222.8)
GAAP and Other Adjustments	11.0	-	11.0	7.1	-	7.1	16.9	-	16.9	(17.8)	-	(17.8)	1.5	(7.7)	(6.2)
Other One-Time Revenue															
Adjustments:															
HHS Revenue Enhancements	7.4	-	7.4	-	-	-	-	-	-	4.7	-	4.7	19.2	-	19.2
Other Revenue Adjustments	-	-	-	-	-	-	-	-	-	-	-	-	3.8	-	3.8
Current Year Balance	5.5	(58.5)	(53.0)	80.1	(114.4)	(34.3)	(33.2)	(16.6)	(49.8)	(55.5)	21.6	(33.9)	7.4	7.9	15.3
Transfers (to)/from:															
Revenue Stabilization Account	-	-	-	(35.2)	-	(35.2)	-	-	-	-	-	-	-	-	-
Health Care Fund	(1.5)	-	(1.5)	(0.8)	-	0.8	11.9	-	11.9	33.9	-	33.9	-	-	-
Education Fund	-	-	-	(48.1)	48.1	-	(16.6)	16.6	-	21.6	(21.6)	-	7.9	(7.9)	-
Undesignated Fund Balance, June 30	\$4.0	\$66.3	\$70.3	\$0.0	\$0.0	\$0.0	\$(37.9)	\$0.0	\$(37.9)	\$0.0	\$0.0	\$0.0	\$15.3	\$0.0	\$15.3
Reserved for Revenue Stabilization Account	\$20.0	-	\$20.0	\$55.2	-	\$55.2	\$55.2	-	\$55.2	\$17.3	-	\$17.3	\$17.3	-	\$17.3
Reserved for Health Care Fund	\$45.0	-	\$45.0	\$45.8	-	\$45.8	\$33.9	-	\$33.9	-	-	-	-	-	-
Total Equity	\$69.0	\$66.3	\$135.3	\$101.0	\$0.0	\$101.0	\$51.2	\$0.0	\$51.2	\$17.3	\$0.0	\$17.3	\$32.6	\$0.0	\$32.6

## **Fiscal Year 2005 Budget**

The original budget for fiscal year 2005 projected a combined General Fund and Education Fund surplus at June 30, 2005 of \$55.4 million, including a Revenue Stabilization Account balance of \$17.3 million. The targeted surplus for fiscal year 2005 included a total of \$77.3 million of operational budget reductions, program savings and one-time revenue adjustments detailed as follows:

- \$20.7 million of department and operational budget reductions,
- \$20.0 million from self insurance savings and \$8.0 million from information technology savings,
- \$17.5 million in DHHS program specific savings, and
- \$11.1 million from one-time revenue adjustments.

Currently, it is not expected that all the budgeted savings will materialize as planned. As a result, the revised surplus for the combined General and Education Funds is currently expected to be \$29.9 million, including the Revenue Stabilization Account balance of \$17.3 million. Currently in the fiscal year 2005 revised surplus estimates, a total of \$29.5 million of the above savings are expected. The information technology savings are projected to be \$2.7 million. Self-insurance savings have been difficult to project, and therefore no savings are included in the revised surplus estimate for fiscal year 2005. In addition, no program specific savings are projected for DHHS.

Under State law, Governor-Elect Lynch is required to submit his proposed budget for the 2006-2007 biennium to the Legislature by February 15, 2005.





The following table compares on a cash basis, for the five months ended November 30, 2004, General Fund and Education Fund unrestricted revenues for the fiscal years 2004 and 2005 and a comparison to the revenue estimates for fiscal year 2005. The revenue estimates reflected in the plan are based on those revenues defined in Chapter 318, Laws of 2003, the State budget law for Fiscal Year 2005. Due to the combined filing of the business profits tax and business enterprise tax, it is not possible to measure accurately the individual effects of each of these taxes. They should be evaluated in their entirety. All information in this table is preliminary and unaudited.

**GENERAL FUND AND EDUCATION FUND UNRESTRICTED REVENUES  
FOR THE FIVE MONTHS ENDED NOVEMBER 30, 2004**  
(Cash Basis-In Millions)

Revenue Category	FY04 Actual	FY05 Actual	FY05 Plan	FY05 vs Plan Variance	FY05 vs Plan %Change	FY05 vs FY04 Variance	FY05 vs FY04 %Change
Business Profits Tax	\$34.1	\$35.8	\$53.2	\$(17.4)	(32.7)%	\$1.7	5.0
Business Enterprise Tax	67.1	83.0	53.2	29.8	56.0	15.9	23.7
Subtotal	101.2	118.8	106.4	12.4	11.7	17.6	17.4
Meals & Rooms Tax	89.5	94.2	93.0	1.2	1.3	4.7	5.3
Tobacco Tax	42.4	43.3	41.5	1.8	4.3	0.9	2.1
Liquor Sales and Distribution	46.2	48.8	48.8	--	--	2.6	5.6
Interest & Dividends Tax	10.3	12.7	13.9	(1.2)	(8.6)	2.4	23.3
Insurance Tax	20.7	22.2	21.8	0.4	1.8	1.5	7.2
Communications Tax	26.9	28.7	28.7	--	--	1.8	6.7
Real Estate Transfer Tax	63.9	76.9	57.9	19.0	32.8	13.0	20.3
Estate and Legacy Tax	10.6	6.9	5.0	1.9	38.0	(3.7)	(34.9)
Transfers from Sweepstakes	25.2	26.0	23.6	2.4	10.2	0.8	3.2
Tobacco Settlement	0.4	0.5	-	0.5	100.0	0.1	25.0
Utility Property Tax	4.8	6.1	5.2	0.9	17.3	1.3	27.1
Property Tax Not Retained Locally	-	-	-	-	-	-	-
Property Tax Retained Locally	-	-	-	-	-	-	-
Flexible Grant	25.0	-	-	-	-	(25.0)	(100.0)
Other	46.8	46.6	46.2	0.4	(0.9)	(0.2)	(0.4)
Subtotal	513.9	531.7	492.0	39.7	8.1	17.8	3.5
Net Medicaid Enhancement Revenues	104.7	115.5	120.5	(5.0)	(4.1)	10.8	10.3
Recoveries	4.9	6.4	6.5	(0.1)	(1.5)	1.5	30.6
Subtotal	623.5	653.6	619.0	34.6	5.6	30.1	4.8
Other Medicaid Enhancement Revenues to Fund Net Appropriations	8.2	14.8	11.0	3.8	34.5	6.6	80.5
Total	\$631.7	\$668.4	\$630.0	\$38.4	6.1%	\$36.7	5.8%

Revenues for the first five months of fiscal year 2005 are \$668.4 million, or 6.1%, ahead of plan. Year-to-date revenue is ahead of fiscal year 2004 by \$36.7 million, or 5.8%, which can be attributed mainly to increased collections from business taxes and the Real Estate Transfer Tax. Business tax revenue exceeded the year-to-date plan by \$12.4 million and was \$17.6 million, or 17.4%, above fiscal year 2004. Real Estate Transfer Tax revenue exceeded the year-to-date plan by \$19.0 million and was \$13.0 million, or 20.3%, above fiscal year 2004.

The following table presents a comparison of General Fund and Education Fund net appropriations for fiscal years 2003, 2004 and 2005. The fiscal year 2003 information is audited. The fiscal year 2004 information is unaudited, and the fiscal year 2005 information for the General Fund is based on the current estimate.

**GENERAL FUND AND EDUCATION FUND NET APPROPRIATIONS  
ACTUAL AND BUDGET  
FISCAL YEARS 2003-2005  
(GAAP Basis)  
(In Millions)**

<u>Category of Government</u>	<u>Actual FY 2003</u>		<u>Actual FY 2004</u>		<u>Current Estimate FY 2005</u>				
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>			
General Government	\$227.1	\$5.0	\$232.1	\$237.2	\$0.0	\$237.2	\$245.6	\$5.0	\$250.6
Justice and Public Protection	184.5	-	184.5	164.4	-	164.4	188.9	-	188.9
Resource Protection and Development	39.5	-	39.5	71.4	-	71.4	43.5	-	43.5
Transportation	2.7	-	2.7	2.4	-	2.4	2.2	-	2.2
Health and Social Services	531.6	-	531.6	605.6	-	605.6	600.9	-	600.9
Education	<u>263.3</u>	<u>899.5</u>	<u>1,162.8</u>	<u>246.8</u>	<u>895.0</u>	<u>1,141.8</u>	<u>251.9</u>	<u>804.8</u>	<u>1,056.7</u>
Net Appropriations	<u>\$1,248.7</u>	<u>\$904.5</u>	<u>\$2,153.2</u>	<u>\$1,327.8</u>	<u>\$895.0</u>	<u>\$2,222.8</u>	<u>\$1,333.0</u>	<u>\$809.8</u>	<u>\$2,142.8</u>

The following table sets out the General Fund and Education Fund undesignated fund balances and the amounts designated for the Revenue Stabilization Account and Health Care Fund for fiscal years 2003, 2004 and 2005. The fiscal year 2003 information is audited. The fiscal year 2004 information is unaudited and the fiscal year 2005 information is based on the current estimate.

**GENERAL FUND AND EDUCATION FUND BALANCES  
FISCAL YEARS 2003 – 2005  
(GAAP Basis - In Millions)**

	FY 2003			FY 2004			FY 2005		
	General	Actual Education	Total	General	Actual Education	Total	General	Current Estimate Education	Total
Undesignated Fund Balance, July 1	<u>\$ (37.9)</u>	<u>\$ 0.0</u>	<u>\$ (37.9)</u>	<u>\$ 0.0</u>	<u>\$ 0.0</u>	<u>\$ 0.0</u>	<u>\$ 15.3</u>	<u>\$ 0.0</u>	<u>\$ 15.3</u>
Additions:									
Unrestricted Revenue	1,206.3	842.7	2,049.0	1,310.7	848.0	2,158.7	1,311.9	764.0	2,075.9
Transfers from General Fund	-	83.4	83.4	-	62.6	62.6	-	61.4	61.4
Total Additions	<u>1,206.3</u>	<u>926.1</u>	<u>2,132.4</u>	<u>1,310.7</u>	<u>910.6</u>	<u>2,221.3</u>	<u>1,311.9</u>	<u>825.4</u>	<u>2,137.3</u>
Deductions:									
Appropriations Net of Estimated Revenues	(1,264.7)	(904.5)	(2,169.2)	(1,362.3)	(895.0)	(2,257.3)	(1,381.8)	(809.8)	(2,191.6)
Less: Lapses	16.0	-	16.0	34.5	-	34.5	48.8	-	48.8
Total Net Appropriations	<u>(1,248.7)</u>	<u>(904.5)</u>	<u>(2,153.2)</u>	<u>(1,327.8)</u>	<u>(895.0)</u>	<u>(2,222.8)</u>	<u>(1,333.0)</u>	<u>(809.8)</u>	<u>(2,142.8)</u>
GAAP and Other Adjustments	(17.8)	-	(17.8)	1.5	(7.7)	(6.2)	-	-	-
Other One-Time Revenue									
Enhancements:									
DHHS Enhancement Revenue	4.7	-	4.7	19.2	-	19.2	-	-	-
Other Revenue Adjustment	-	-	-	3.8	-	3.8	2.8	-	2.8
Current Year Balance	<u>(55.5)</u>	<u>21.6</u>	<u>(33.9)</u>	<u>7.4</u>	<u>7.9</u>	<u>15.3</u>	<u>(18.3)</u>	<u>15.6</u>	<u>(2.7)</u>
Transfers (to)/from:									
Revenue Stabilization Account	37.9	-	37.9	-	-	-	-	-	-
Health Care Fund	33.9	-	33.9	-	-	-	-	-	-
Education Fund	21.6	(21.6)	-	7.9	(7.9)	-	15.6	(15.6)	-
Undesignated Fund Balance, June 30	<u>\$ 0.0</u>	<u>\$ 0.0</u>	<u>\$ 0.0</u>	<u>\$ 15.3</u>	<u>\$ 0.0</u>	<u>\$ 15.3</u>	<u>\$ 12.6</u>	<u>\$ 0.0</u>	<u>\$ 12.6</u>
Reserved for Revenue Stabilization Account	<u>\$ 17.3</u>	-	<u>\$ 17.3</u>	<u>\$ 17.3</u>	-	<u>\$ 17.3</u>	<u>\$ 17.3</u>	-	<u>\$ 17.3</u>
Reserved for Health Care Fund	-	-	-	-	-	-	-	-	-
Total Equity	<u>\$ 17.3</u>	<u>\$ 0.0</u>	<u>\$ 17.3</u>	<u>\$ 32.6</u>	<u>\$ 0.0</u>	<u>\$ 32.6</u>	<u>\$ 29.9</u>	<u>\$ 0.0</u>	<u>\$ 29.9</u>

*Medicaid General and Rehabilitative Disproportionate Share Hospital Program.* On June 15, 2000, the Federal Centers for Medicare and Medicaid Services (CMS) (formerly the Health Care Financing Administration) sent a letter to nine states, including New Hampshire, Massachusetts, New York and Florida, indicating that portions of their Medicaid programs may be funded with impermissible taxes on health care providers, jeopardizing federal reimbursements collected on any Medicaid program expenditures funded with such taxes. In the case of New Hampshire, the letter related to the portion of the State's Medicaid program funded by the uncompensated care pool. The Medicaid program is 50% funded by federal reimbursements. CMS promulgated regulations in 1992 and 1993 regarding the collection of taxes imposed on health care providers and establishing a process for waiver approval of state taxes subject to the regulations. The State Department of Health and Human Services (DHHS), which administers the Medicaid program in the State, filed a waiver request in February 1993 relating to the permissibility of the State's assessment on general and rehabilitative hospitals to fund the uncompensated care pool in New Hampshire. DHHS has submitted additional information to CMS since the time of the original waiver request. DHHS believes that the original waiver request addressed the concerns that have been recently articulated by CMS and that this waiver was automatically approved in 1993 because of CMS's failure to take action within the federally required timeframes. Moreover, DHHS believes that the State's uncompensated care pool complies with federal law.

The June 15, 2000 HCFA letter requested the State to resubmit its original waiver request by June 30, 2000. (The State requested a 180 day extension of this deadline, but was only granted a 30-day extension.) The letter further stated that if CMS makes a final determination that the State has imposed an impermissible provider tax, CMS will undertake an audit of the State's uncompensated care pool program and seek retroactive repayment of federal Medicaid reimbursements. Under federal regulations, recoupment of federal Medicaid reimbursements is generally accomplished by withholding a portion of future Medicaid reimbursements to the state owing the repayment. States can appeal a request for repayment to an appeals panel within the U.S. Department of Health and Human Services and then to a federal district court. Since 1991, prior to when the waiver request was submitted, the State has received an estimated \$900 million in federal Medicaid reimbursements related to expenditures associated with the uncompensated care pool.

Officials from DHHS met with officials from CMS to review the State's program in an effort to show the State meets the automatic waiver provision for approval of the State's current uncompensated care pool. Clarification of the law surrounding permissible provider taxes is a national issue and resolution could take several years. In addition, and more fundamentally, the State believes its waiver was automatically approved in 1993 because of CMS's failure to take action within the federally required timeframes. Finally, the State believes its uncompensated care pool complies with applicable federal law.

On July 26, 2000, DHHS sought a time extension for submittal of the waiver due to the new data and information demands required by CMS. On July 28, 2000, CMS agreed to extend the waiver submittal deadline to August 31, 2000.

DHHS submitted the waiver to CMS on August 25, 2000, indicating the Inpatient Hospital formula and the Outpatient Hospital formula exceeded the standard contained in the federal regulations and warranted CMS approval. Since that time, CMS has requested and DHHS has supplied additional information to support its waiver request, culminating with updated information being provided to CMS on September 19, 2000. The formula ratios for both Inpatient and Outpatient remain unchanged using this new information. A CMS representative obtained copies of the 1992 hospital cost reports from the Department in October 2000. No further communication has been received from CMS on this matter as of the date of this Information Statement.

During late fiscal year 2003 and early to mid-fiscal year 2004, new questions arose about the general hospital tax as part of a CMS review of an unrelated Medicaid state plan amendment to increase the disproportionate share hospital payments for the single government owned and operated psychiatric hospital for the two year period from July 1, 2003 to June 30, 2005. The questions were unrelated to those detailed above. The new questions focused on the taxation basis of gross patient services revenue rather than net patient services revenue. The outcome of lengthy discussions between CMS and New Hampshire was that New Hampshire would change the tax basis to net patient services revenue effective July 1, 2005. The Medicaid state plan was revised accordingly and approved by CMS on February 20, 2004. State law was changed by Chapter 260 of the Laws of 2004 which will become effective July 1, 2005.

The final agreement with CMS resulted in the retention of all prior year claimed expenditures with no retroactive settlements or adjustments. CMS did require that the State, as noted above, change the general hospital tax program prospectively by changing the basis of the Medicaid Enhancement Tax to net patient services revenue from gross patient services revenue. This issue has now been resolved.

*Medicaid Proportionate Share Program.* In July 2000, newspaper accounts reported CMS was concerned about states using a Medicaid regulation to increase payments from Medicaid, using the gain to benefit programs in each state, including medical programs. CMS indicated that at least fifteen states, including Pennsylvania, New York, Illinois, and Nebraska were being audited, with additional states possibly being reviewed in coming months. CMS's focus was on states which were using a process called intergovernmental transfers. New Hampshire's Proportionate Share Program utilizes such a process. Part of the CMS approved state plan is based on the federal requirement that payments to each group of health care facilities may not exceed the amount which can reasonably be estimated would have been paid had those services been provided using Medicare payment principles. The State's process is a comparison between actual Medicaid and comparable Medicare nursing home rates. The State makes payment to the county governments to reimburse their expenses at the Medicare level. The federal government then pays the State its 50% of the expense and these are apportioned to the State and county governments using a formula in State law. It is important to note that federal law explicitly permits county and local governments to contribute to the State's Medicaid match requirement. Under New Hampshire law, the counties pay fifty percent of the non-federal share of long-term nursing services, home and community-based care services for the elderly and chronically ill, mid-level services for the elderly, and long-term care-related medical provider payments. Since 1994, the State has realized a gain to State and county governments totaling \$112 million from these intergovernmental transfers.

In October 2000, CMS indicated that new rules would be proposed that would curtail and possibly phase out intergovernmental transfers over a four year period beginning in State fiscal year 2003. The new proposed rules were published in the Federal Register of October 10, 2000. The new proposed rules indicated that facilities eligible for inclusion in the calculation of the Medicare/Medicaid differential would be limited to non-state government owned and operated public facilities, such as county government owned and operated nursing homes.

Congress passed and the President signed the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106-554) on December 21, 2000, directing CMS to implement their proposed rules, phasing out certain intergovernmental transfers in a three-tiered approach. CMS issued their final rules on January 12, 2001 in the Federal Register (Vol. 66, Number 9) to be effective March 13, 2001. The final rules established three transition schedules; one for Medicaid plans approved prior to October 1, 1992, a second for plans approved after October 1, 1992 and before October 1, 1999, and a third for plans approved or pending approval after October 1, 1999.

The State's plan was approved on October 7, 1994 and thus is subject to the second transition period. This transition period remains the same as that in the earlier proposed rules, specifically, a four-year period beginning in State Fiscal Year 2003.

Based on CMS interpretations as of October 18, 2001, DHHS estimated a cumulative lesser amount of previously anticipated revenue to the General Fund over the four year period for State fiscal years 2003 through 2006 of approximately \$17 million. Thereafter, revenues were estimated to be approximately \$3 million per year lower than would have been realized had Congress and CMS not implemented the new laws and regulations.

In June 2002, CMS notified the State that an evolving interpretation of how the transition period was being defined would enable the State to claim costs in full for non-state government owned and operated public facilities, such as county government owned and operated nursing homes. Costs for private facilities would still be limited to the amount paid in fiscal year 2000.

In March 2003, the State agreed with the federal government on a revised billing methodology for the Medicaid Proportionate Share Program with respect to Fiscal Years 2000, 2001 and 2002. For the quarter ended March 31, 2003, the State claimed the revised costs for such fiscal year and also received refunds from the counties. The gain from these prior year transactions totaled \$47.2 million to the State, with \$23.6 million accruing to the counties and \$23.6 million to the State (\$12.35 million to unrestricted revenue and \$11.25 million to restricted revenue). This agreement on billing methodology resolved a number of outstanding issues with respect to the program.

The State submitted a Medicaid State Plan amendment to CMS in March, 2003. The amended plan changed the calculation method to acuity-based Resource Utilization Groups (from trend factor-based Prospective Payment System), made one payment each year in June (from an initial payment in March or April and a final payment in June), and affirmed the value of the private nursing home portion of the payment that will be phased out over the four year period beginning in state fiscal year 2003 per the above-mentioned law.

In June, 2003, CMS sent the State a letter, seeking additional clarifying information about the Medicaid state plan amendment. The State submitted a revised Medicaid state plan amendment with additional supporting information to the CMS on June 9, 2003. In July, 2003 and August, 2003, CMS sent the State letters seeking further clarifying information about the plan amendment. On September 5, 2003 the State responded to the CMS, supplementing the June 9, 2003 State letter and further responding to the CMS requests for additional information.

In September, 2003 CMS indicated that the State's September 5, 2003 letter was generally non-responsive to the CMS requests because the answers were not complete. CMS further indicated that a disapproval package was in the review process, and encouraged the State to withdraw their responses. The State then withdrew the June 9, 2003 and September 5, 2003 responses to CMS, essentially leaving CMS' June, 2003 request for additional information unanswered.

CMS then indicated that the Medicaid state plan amendment needed to be addressed because it could not be left open for an indefinite time. The state submitted a final Proportionate Share Payment plan amendment at CMS' direction that was approved by CMS on February 9, 2004. The plan amendment changes the payment computation method for supplemental payments to nursing homes in accordance with a federal law change, to be effective retroactive to Fiscal Year 2003. The retrospective payment system is being replaced with a prospective payment system. This method is based on the more detailed resource utilization groups, acuity-based method. In addition, the county nursing homes will retain the federal funds paid to them and no longer return some of the federal funds to the state effective July 1, 2005. These changes were further enacted by the State under Chapter 260 of the Laws of 2004. This issue has now been resolved.

*Medicaid Enhancement Revenues.* As part of changes made by Chapter 260 of the Laws of 2004 regarding the State's Medicaid program, beginning in fiscal year 2006, the Medicaid enhancement tax will be assessed against net patient service revenue as opposed to gross patient service revenue. This change will result in the State receiving approximately \$50 million less from this revenue source per year in future years as compared to the amount expected to be received in State fiscal year 2005.

Through an amendment to the State's Medicaid Plan, changes were made to the billing methodology for the State's single, government owned and operated psychiatric hospital so that the amount claimed for the two-year period of July 1, 2003 to June 30, 2005 could be made at 175% of cost in accordance with federal law. This was a special provision enacted by Congress so that the amount to be received through the disproportionate share hospital program could be increased for a temporary two-year period. The Medicaid State Plan was further amended effective July 1, 2005 to return to the prior 100% of cost rate. The impact of the change will be a reduction of \$12 million per year from the amounts received and expected to be received in State fiscal years 2004 and 2005.

Additionally, federally required changes were made to the Medicaid Proportionate Share Payment program to implement a prospective acuity-based reimbursement from a retrospective method effective February 17, 2003. A second federally required change effective July 1, 2005 will allow counties to keep all of the federal funds from the Proportionate Share Payment program and no longer return some of the federal funds to the State. The State expects that general fund revenue will be reduced by \$12 million per year, as compared to the amount expected to be received in State fiscal year 2005. While this change will impact the State's general fund, it will also benefit county government by a like amount beginning July 1, 2005.

## SCHOOL FUNDING

*Litigation.* In June, 1991, five school districts and taxpayers and students in those school districts commenced an action (*Claremont School District v. Governor*) against the State, challenging the constitutionality of the State's statutory system of financing the operation of elementary and secondary public schools. In December, 1997, the New Hampshire Supreme Court ruled that the State's system of financing elementary and secondary public education

primarily through local property taxes was unconstitutional. In its decision, the State Supreme Court noted that several financing models could be fashioned to fund public education, but it was for the Legislature to select one that passed constitutional muster. The State Supreme Court did not remand the matter for consideration of remedies, but instead allowed the then existing funding mechanism to continue in effect through the property tax year ending March 31, 1999, and stayed all further proceedings to permit the Legislature to address the issues raised in the case. Since that time, the Legislature has considered various plans to establish a new educational funding system.

The first responsive plan was enacted on April 29, 1999, when the Legislature passed and the Governor signed Chapter 17 of the Laws of 1999 (“Chapter 17”) that addressed the school funding issues. Chapter 17 contained the methods to be followed in determining the per pupil adequate education cost for each biennium and each municipality’s adequate education grant for each fiscal year. In order to fund the adequate education cost, Chapter 17, as subsequently amended, established the Education Fund and earmarked funding from various State taxes including a portion from the newly instituted uniform education property tax.

Under Chapter 17, as originally enacted, the adequate education grant to a municipality was the difference between the amount raised by applying the \$6.60 uniform education property tax to the equalized value of taxable property in the municipality (exclusive of certain utility property) and the amount of the adequate education cost for the municipality. In those municipalities where the amount raised by the uniform education property tax exceeds the adequate education cost for that municipality (a “donor” municipality), the excess is to be deposited in the newly created State Education Fund and distributed to other municipalities entitled to an adequate education grant (a “receiver” municipality).

In August, 1999, the plaintiffs in the *Claremont* matter challenged the constitutionality of Chapter 17, including the five-year phase-in of the uniform education property tax. In October, 1999, the State Supreme Court held that the phase-in of the uniform education property tax was unconstitutional and that because the phase-in was not severable from the uniform education property tax, the uniform education property tax itself was unconstitutional. The Court did not invalidate any other provisions of Chapter 17.

In November, 1999, the Legislature approved and the Governor signed into law Chapter 338 of the Laws of 1999 (“Chapter 338”), which reenacted the uniform education property tax imposed under Chapter 17 at the rate of \$6.60 per \$1,000 of total equalized value to provide funding for an adequate public education. Chapter 338 did not contain a phase-in provision, but did provide education property tax hardship relief to qualifying low and moderate income taxpayers throughout the State.

In December, 1999, residents of three “donor” communities filed a lawsuit in the Rockingham County Superior Court against the State alleging that the uniform education property tax reenacted by Chapter 338 was not proportional and reasonable as required by the State Constitution nor was there any assurance that the revenue generated by the tax would actually help fund a constitutionally adequate public education.

In May, 2001, the State Supreme Court overturned a Superior Court decision that had declared the uniform education property tax unconstitutional and instead found that the petitioners had not proven that the property tax system was unconstitutional. The Supreme Court also held that the State must institute a system, by 2003, to ensure that all local property assessments are brought to full value at least once every five years pursuant to Part II, Article 6 of the New Hampshire Constitution. Through various legislation, the Legislature and Governor enacted such a system by the end of June 2001.

In September, 2001, the plaintiffs in the original school funding matter (*Claremont School District v. Governor*) filed a Motion with the New Hampshire Supreme Court to have the then current school funding system declared unconstitutional. In December, 2001, the Supreme Court dismissed all of the plaintiffs’ claims except one alleging that the State’s definition of an adequate education was insufficient. In its order, the Supreme Court requested legal memoranda on the issue of whether the Supreme Court should invoke its continuing jurisdiction to determine if the State has met its obligation to define an adequate education. The State filed a legal memorandum arguing that the Court should not invoke its continuing jurisdiction and the plaintiffs filed one arguing that the Court should invoke its continuing jurisdiction. The Court subsequently decided to invoke its continuing jurisdiction, and in April, 2002, the Supreme Court declared that accountability is an essential component of the State’s duty to provide an adequate education and that the then existing statutory scheme had deficiencies that were inconsistent with the State’s duty. The Supreme Court’s conclusion was that the State “needs to do more work” on creating a delivery system. There was no



timeline imposed in the decision for the completion of the delivery system. The Court continues to hold jurisdiction in this matter.

During the 2003 legislative session, the Legislature enacted Chapter 241 of the Laws of 2003 (“Chapter 241”), which amended the then-existing school funding law. Generally, Chapter 241 reduced the education property tax; and it calculated the base cost per pupil for an adequate education in Fiscal Year 2004 by taking the base cost from Fiscal Year 2003 and increasing that amount by the average annual percentage rate of inflation for the four immediately preceding calendar years. Chapter 241 also included Targeted Education Grants which compared each school district’s local tax valuation per pupil with the State average tax valuation per pupil. If a school district had a tax valuation per pupil that was lower than the State’s average, that school district received a Targeted Education Grant. A total of \$10 million was appropriated for Fiscal Year 2004’s Targeted Education Grants.

During the 2004 legislative session, the Legislature enacted Chapter 200 of the Laws of 2004 (“Chapter 200”) replacing Chapter 241. Chapter 200 established the statewide education property tax rate at a rate necessary to generate revenue equal to the revenue generated in the previous year. As a result, the property tax rate is currently adjusted based on either an increase or a decrease in the statewide equalized valuation of property. The rate for fiscal year 2005 is \$3.33 per \$1,000 of equalized value. The per pupil adequacy cost is calculated using the 2004 Fiscal Year per pupil cost which is then adjusted every biennium through multiplying it by two times the average annual percentage rate of inflation for the immediately preceding four calendar years. Chapter 200 also has Targeted Aid which was directed to municipalities that had students receiving free or reduced-price meals and/or was directed to municipalities that were considered “property poor” because they had equalized tax valuation per pupil that was less than or equal to 90 percent of the statewide average equalized tax valuation per pupil. As a result, a municipality’s total amount of adequate education grants include its per pupil adequacy cost multiplied by its average daily membership in residence, and the addition of either or both types of Targeted Aid.

There are two lawsuits challenging Chapter 200. The first is *Baines, et al. v. Eaton*, Merrimack County Superior Court, Docket No. 04-E-256, filed in July, 2004, which challenged the constitutionality of the enactment of Chapter 200 by alleging that the Legislature could not pass a money bill in a Senate Bill, that the Legislature did not follow its own internal rules in enacting this law, and that the enrolled bill amendment used to make technical corrections to the law was unlawful. The State defended against these claims and in August, 2004, the Court denied the petition. The petitioners appealed to the New Hampshire Supreme Court. The case was accepted and is being briefed during December, 2004, and January, 2005.

The second lawsuit is *Hughes v. Chandler, et al.*, Merrimack County Superior Court, Docket No. 04-E-228. This case challenges Chapter 200 based on alleged violations of RSA 91-A, New Hampshire’s Right-to-Know law. The petitioners allege that the Legislature’s Committee of Conference on SB 302 (Chapter 200) did not meet in public session while deciding final changes to the legislation thereby violating RSA 91-A. The petitioners argue that the appropriate remedy for this violation of RSA 91-A is the voiding of Chapter 200. The State is represented by counsel other than the Attorney General’s Office as this is a defense of the Legislature’s internal practices. The State filed a motion to dismiss the petition which was denied by the Court in October, 2004, based on the Court’s finding that the petitioners’ claim, taken in the light most favorable to them, did state a cause of action that could proceed. Discovery in the case is proceeding and a trial date has not been set.

*LBA Audit.* The Office of the Legislative Budget Assistant (“LBA”) performed an audit of the Department of Education (“DOE”) which included a review of the calculation of the cost of an adequate education for the years 1999 - 2001. The LBA concluded that the State may have both overpaid and underpaid the cost of an adequate education in certain circumstances. The Office of the Attorney General disagrees with certain of the legal conclusions contained in the report. As of the date of this Information Statement, there are no pending or threatened claims against the State alleging that it is liable to school districts or students for additional monies to pay for the cost of an adequate education, nor is the State contemplating action to recoup possible overpayments made to school districts. The State is unable to predict the likelihood of success of any such claim that might be brought. As of the date of this Information Statement, in response to the LBA report, one school district asked the Commissioner of the Department of Education and the State Treasurer to pay approximately \$146,000 to it representing an alleged underpayment for the 1997-1998 period. The State has denied this school district’s request and no lawsuit has been initiated.

## STATE INDEBTEDNESS

### Debt Management Program

The State has a debt management program, one purpose of which is to avoid the issuance of short-term debt for operating purposes. (See “Temporary Loans” for information on recent short-term debt issuances.) Another purpose of the State’s debt management program is to hold long-term tax-supported debt to relatively low levels in the future. An additional purpose is to coordinate the issuance of tax-exempt securities by the State, its agencies and public authorities.

### Authorization and Classification of State Debt

The State has no constitutional limit on its power to issue obligations or incur indebtedness and there is no constitutional requirement that a referendum be held prior to the incurrence of any such debt. The authorization and issuance of State debt, including the purpose, amount and nature thereof, the method and manner of the incurrence of such debt, the maturity and manner of repayment thereof, and security therefor, are wholly statutory.

Pursuant to various general or special appropriation acts, the Legislature has from time to time authorized the State Treasurer, with the approval of the Governor and Council, to issue bonds or notes for a variety of specified projects or purposes. In general, except for the Turnpike System revenue bonds, such borrowing constitutes general obligation debt of the State for which its full faith and credit are pledged but for the payment of which no specific State revenues are segregated or pledged. There is general legislation, however, under which the Governor and Council may authorize the State Treasurer to issue revenue bonds for revenue-producing facilities and to pledge the revenue from such facilities for the payment of such bonds. On several occasions, moreover, the Legislature has authorized and the State has issued debt which, while a general obligation of the State, additionally bears a guarantee that the State shall maintain a certain level of specified State receipts. The Legislature has also authorized the guarantee of certain obligations issued by political subdivisions of the State and by various State agencies, which guarantee constitutes a pledge of the State’s full faith and credit, and has authorized two State-wide agencies to incur debt for the financing of revenue producing projects and programs and authorized such agencies to create certain funds which may be maintained by State appropriation (see “Agencies, Authorities and Bonded or Guaranteed Indebtedness”). However, most of this indebtedness is supported by revenues produced by the project or entity for which the debt was issued. Consequently, such self-supported debt is not considered net General Fund debt of the State.

State finance law generally limits the term of general obligation bonds of the State to no more than twenty years. However, Chapter 319 of the Laws of 2003 extends the permissible term of general obligation bonds of the State to no more than thirty years for bonds issued by June 30, 2005.

The Legislature has also authorized certain State agencies to issue revenue bonds for various projects, including industrial, health, educational and utility facilities. Except to the extent that State guarantees may be awarded for certain bonds of the New Hampshire Business Finance Authority and the Pease Development Authority, indebtedness of those agencies does not constitute a debt or liability of the State.

## Debt Statement

The following table sets forth the debt of the State as of June 30, 2004.

### Debt Statement as of June 30, 2004 (Unaudited) (In Thousands)

General Obligation Bonds:		
General Improvement <sup>(1)</sup> .....	\$484,957	
Turnpike <sup>(2)</sup> .....	14,038	
Highway .....	31,652	
University System of New Hampshire .....	<u>95,452</u>	
Total Direct General Obligation Debt .....		\$626,099
Revenue Bonds:		
Turnpike System <sup>(3)</sup> .....		309,775
Contingent (Guaranteed) Debt:		
Water Pollution Control Bonds issued by Political Subdivisions.....	38,344	
Business Finance Authority .....	53,898	
Local School District School Bonds .....	23,690	
Pease Development Authority Revenue Bonds.....	0	
Local Landfill Bonds.....	535	
Division of Water Resources Board.....	0	
Housing Finance Authority-Child Care Providers .....	<u>0</u>	
Total Contingent Debt.....		<u>116,467</u>
Total Debt.....		1,052,341
Less: Self-Supporting and Contingent Debt:		
General Fund Self-Supporting Debt <sup>(4)</sup> .....	29,490	
Turnpike System Revenue Bonds .....	309,775	
Turnpike System General Obligation Bonds.....	14,038	
Highway .....	31,652	
University System of New Hampshire <sup>(5)</sup> .....	4,275	
Water Pollution Control Bonds .....	38,344	
Business Finance Authority .....	53,898	
Local School District School Bonds .....	23,690	
Pease Development Authority General Obligation Bonds .....	22,688	
Pease Development Authority Revenue Bonds.....	0	
Local Landfill Bonds.....	535	
Other <sup>(6)</sup> .....	<u>1,924</u>	
Total Self-Supporting and Contingent Debt.....		<u>530,309</u>
Total Net General Fund Debt <sup>(7)</sup> .....		<u>\$ 522,032</u>
(Columns may not add to totals due to rounding.)		

<sup>(1)</sup> This includes \$50 million bond anticipation notes (commercial paper) initially issued on February 11, 2004.

<sup>(2)</sup> In accordance with the statutes authorizing the issuance of general obligation bonds for turnpike purposes, the State Treasurer has established accounts into which Turnpike tolls are deposited, after deduction for payments of all expenses of operation and maintenance of the Turnpike System, payments of debt service on Turnpike System revenue bonds, and the funding of reserves and other payments required by the General Bond Resolution securing the revenue bonds. The monies deposited in such accounts are reserved but not pledged by statute for the payment of the principal and interest on the bonds issued for the respective roadways. To the extent the balance in such funds is insufficient to pay such principal and interest, the Governor is authorized to withdraw funds from the Highway Fund, to the extent available, and then from the General Fund.

- (3) Turnpike System revenue bonds are limited obligations of the State payable solely out of net revenues of the Turnpike System. Neither the full faith and credit nor the taxing power of the State is pledged for the payment of the Turnpike System revenue bonds.
- (4) Includes bonds paid from General Fund restricted revenues (primarily user fees, criminal penalty assessments and lease revenues).
- (5) In accordance with State statutes, the Board of Trustees of the University System maintains special funds and accounts for the deposit of dormitory rentals and income from housing facilities, dining halls, student unions, bookstores and other capital improvements constructed with the proceeds of such bonds. Revenues so deposited are used for the payment to the State Treasurer of amounts equal to the annual principal and interest requirements of the bonds issued by the State to construct such facilities. The Legislature has anticipated that such income will be sufficient to pay all debt service requirements on such bonds.
- (6) Includes, among others, bonds paid from the Fish and Game Fund and other self supporting debt.
- (7) Net General Fund debt is debt for which debt service payments are made directly by the State from its taxes and other unrestricted General Fund revenues. Also included is \$6.9 million general obligation bonds paid by the State on behalf of the Pease Development Authority. If the Authority has sufficient funds, these bonds will be paid by the Authority.

The State's debt management program has resulted in the State maintaining relatively low debt levels in recent years. The table below sets out the State's debt ratios over the past five years.

**Certain General Obligation Debt Statistics**  
(Dollars in Thousands)

	June 30,				
	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Direct General Obligation Debt.....	\$576,763 <sup>(4)</sup>	\$610,536 <sup>(4)</sup>	\$610,606	\$606,585 <sup>(4)</sup>	\$626,099 <sup>(4)</sup>
Contingent (Guaranteed) Debt.....	198,080	187,021	149,222	127,538	116,467
Less: Self-Supporting Debt.....	<u>(327,635)</u>	<u>(314,048)</u>	<u>(275,493)</u>	<u>(230,851)</u>	<u>(220,534)</u>
<b>Total Net General Fund Debt .....</b>	<b><u>\$447,208</u></b>	<b><u>\$483,509</u></b>	<b><u>\$484,335</u></b>	<b><u>\$503,272</u></b>	<b><u>\$522,032</u></b>
Per Capita Debt <sup>(1)</sup> :					
Direct General Obligation Bonds .....	\$467	\$485	\$479	\$471	\$486
Net General Fund Debt.....	362	384	380	391	405
Ratio of Debt to Personal Income <sup>(1)</sup> .....					
Direct General Obligation Bonds .....	1.4%	1.4%	1.4%	1.4%	1.4%
Net General Fund Debt.....	1.1	1.1	1.1	1.1	1.2
Ratio of Debt to Estimated Full Value:					
Direct General Obligation Bonds .....	0.7%	0.6%	0.5%	0.5%	0.5%
Net General Fund Debt.....	0.5	0.5	0.4	0.4	0.4
General Fund Unrestricted Revenues <sup>(2)</sup> .....	\$1,046,400	\$1,155,900	\$1,152,300	\$1,206,300	1,310,711
Debt Service Expenditures <sup>(3)</sup> .....	68,502	67,795	69,570	74,086	75,468
Debt Service as a Percent of General Fund Unrestricted Revenues .....	6.5%	5.9%	6.0%	6.1%	5.8%
Population (in thousands) .....	1,235	1,259	1,275	1,288	1,288
Total Personal Income (in millions) .....	\$41,126	\$42,779	\$43,703	\$44,686	\$44,686
Estimated Full Value (in thousands).....	\$86,256,715	\$99,836,264	\$115,610,880	\$132,019,011	\$132,019,011

(1) Based on U.S. Department of Commerce and U.S. Bureau of the Census estimates for population and personal income.

(2) For fiscal years 2000 through 2004, includes medicaid enhancement revenues to fund net appropriation for uncompensated care pool.

(3) Debt service on Net General Fund Debt. Does not include interest paid on revenue anticipation notes

(4) Includes \$50 million outstanding commercial paper. See "Temporary Loans."

**Rate of Debt Retirement<sup>(1)</sup>**  
**(as of June 30, 2004)**

	<u>General Obligation Debt</u>	<u>Net General Fund Debt</u>
5 years.....	48%	47%
10 years.....	80	79
15 years.....	94	93
20 years.....	100	100

(1) Does not include refunding of bond anticipation notes.

**Recent Debt Issuances**

In recent years, the State has issued bonds and bond anticipation notes for a variety of authorized purposes, including turnpike construction, highway construction and other capital construction. The following table compares the amount of issuances and retirements of direct State general obligation indebtedness for each of the past five fiscal years.

**Issuances and Retirements of Direct General Obligation Debt**  
**(In Thousands)**

	<u>Fiscal Year Ended June 30,</u>				
	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Beginning Debt.....	\$584,313	\$576,763	\$610,536	\$610,606	\$606,585
Bonds Issued.....	0	90,000	105,130	106,215	80,000
Bond Anticipation Notes Issued.....	<u>50,000</u>	<u>50,000</u>	<u>0</u>	<u>50,000</u>	<u>50,000</u>
Total Net Debt.....	<u>634,313</u>	<u>716,763</u>	<u>715,666</u>	<u>766,821</u>	<u>736,585</u>
Less: Bonds Paid.....	57,550	56,227	55,060	63,061	60,486
Defeasance.....	0	0	0	97,175	0
Bond Anticipation Notes Paid.....	<u>0</u>	<u>50,000</u>	<u>50,000</u>	<u>0</u>	<u>50,000</u>
Ending Debt.....	<u>\$576,763</u>	<u>\$610,536</u>	<u>\$610,606</u>	<u>\$606,585</u>	<u>\$626,099</u>

## Schedule of Debt Service Payments

The following table sets forth the projected principal and interest requirements of all general obligation bonds of the State at June 30, 2004.

### Direct General Obligation Debt as of June 30, 2004<sup>(1)</sup> (In Thousands)

<u>Fiscal Year</u> <u>Ending June 30,</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2005.....	60,157	34,281	94,438
2006.....	58,849	31,445	90,294
2007.....	55,187	28,416	83,603
2008.....	52,713	25,831	78,544
2009.....	52,192	24,659	76,851
2010.....	46,635	23,079	69,714
2011.....	42,816	20,792	63,608
2012.....	34,910	15,225	50,135
2013.....	30,463	10,498	40,961
2014.....	24,148	8,405	32,553
2015.....	19,965	12,332	32,297
2016.....	16,990	8,730	25,720
2017.....	15,874	5,958	21,832
2018.....	14,200	2,785	16,985
2019.....	14,200	2,126	16,326
2020.....	11,200	1,539	12,739
2021.....	11,200	1,002	12,202
2022.....	7,600	551	8,151
2023.....	3,600	297	3,897
2024.....	3,200	144	3,344
Total	<u>\$576,099</u>	<u>\$258,095</u>	<u>\$834,194</u>

<sup>(1)</sup> Columns may not add to totals due to rounding. Does not include debt service on \$50 million outstanding principal amount of commercial paper.

### Temporary Loans

To the extent monies in the General Fund, Highway Fund or Fish and Game Fund are at any time insufficient for the payment of obligations payable from such funds, the State Treasurer, under the direction of the Governor and Council, is authorized to issue notes to provide funds to pay such obligations. Outstanding revenue anticipation notes issued for the General Fund may not exceed \$200 million; for the Highway Fund, \$15 million; and for the Fish and Game Fund, \$0.5 million. The State issued \$75 million of revenue anticipation notes in March 2003 which matured and were paid in May 2003. Prior to this issue, the State had not issued revenue anticipation notes since Fiscal Year 1991.

In November, 2004, the Governor and Council approved a resolution authorizing the issuance of up to \$75 million of revenue anticipation notes. The State Treasurer currently expects to issue such notes by the end of December, 2004, in part due to the obligation of the State to pay approximately \$135 million of funds to cities and towns by December 31, 2004 for adequate education grants. The notes are expected to mature no later than June 1, 2005. The specific timing and amount of the issue will depend upon the State's cash flow during the remainder of December.

In general, the State Treasurer, with the approval of the Governor and Council, is authorized to issue bond anticipation notes maturing within five years of their dates of issue. Refunding notes must be paid within five years of the dates of issue of the original notes.

The State Treasurer established a commercial paper program during Fiscal Year 1998 for the purpose of issuing bond anticipation notes. As of the date of this Information Statement, \$50 million of commercial paper is outstanding. The maximum amount of commercial paper to be outstanding at any time is currently \$50 million.

### **Authorized But Unissued Debt**

As of July 1, 2004, the State had statutorily authorized but unissued direct general obligation debt in the total principal amount of \$179.9 million (unaudited), under various laws. This amount has not been reduced to reflect \$50 million of bond anticipation notes outstanding as of July 1, 2004. This amount does not include the State's Turnpike System authorizations or statutorily authorized guarantees, nor its authority to issue bonds in lieu of all or a portion of the State's guarantee of bonds of the Pease Development Authority.

The State has various guarantee programs, which are described under the caption "Agencies, Authorities and Bonded or Guaranteed Indebtedness" below. The statutes authorizing the guarantee programs require approval by the Governor and Council of any award of a State guarantee. In addition, statutory limitations apply to all of the guarantee programs, but they vary in two major respects. First, the limit may be either on the total amount guaranteed or on the total amount guaranteed that remains outstanding at any time; the latter is a revolving limit, allowing additional guarantees to be awarded as guaranteed debt is retired. Second, the statutory dollar limit may represent either the total amount of principal and interest or only the total amount of principal that may be guaranteed; in the latter case interest on that principal amount may also be guaranteed but is not otherwise specifically limited. As of June 30, 2004 the remaining unused guarantee authorizations under the various statutory limitations were as follows:

<u>Purpose</u>	<u>Guarantee Limit</u>	<u>Remaining Guarantee Capacity</u>
Local Water Pollution Control Bonds	\$175.0 million <sup>(1)(2)</sup>	\$126.6 million
Local School Bonds	95.0 million <sup>(1)(2)</sup>	61.8 million
Local Superfund Site Bonds	50.0 million plus interest	50.0 million plus interest
Local Landfill and Waste Site Bonds	30.0 million <sup>(1)(2)</sup>	29.3 million
Business Finance Authority Bonds, Loans	95.0 million plus interest <sup>(1)</sup>	41.1 million
Pease Development Authority	75.0 million plus interest	36.4 million
Division of Water Resources Bonds	5.0 million plus interest	5.0 million plus interest
Housing Finance Authority Child Care Loans	0.3 million (principal only)	0.3 million

<sup>(1)</sup> Revolving limit.

<sup>(2)</sup> Limit applies to total principal and interest.

## Capital Budget

The following table sets out the State's capital appropriations as amended for the 2004-2005 biennium.

<b>Biennium Capital Budget</b>	<b>Biennium Ending <u>June 30, 2005</u></b>
Adjutant General.....	\$ 13,696,800
Administrative Services.....	29,780,000
Community-Technical College System .....	20,022,000
Secretary of State .....	2,549,330
Education .....	10,676,000
Environmental Services.....	15,817,528
Health & Human Services.....	88,000
Liquor Commission .....	2,128,000
Resources & Economic Development .....	4,305,200
DAS Walker Building Relocation.....	165,000
Transportation.....	9,909,125
Veteran's Home .....	2,571,000
Youth Development Services <sup>(1)</sup> .....	30,264,597
University System of New Hampshire <sup>(2)</sup> .....	31,000,000
Fish & Game.....	2,100,000
Safety .....	<u>5,417,000</u>
Gross Appropriations.....	180,489,580
Less-Federal, Local & Other Funds .....	<u>34,614,835</u>
Net Bonds Authorized .....	<u>\$145,874,745</u>
 <b>Funding of Bonds</b>	
Highway Funded.....	14,008,615
Other Funded .....	6,500,000
General Funded.....	<u>125,366,130</u>
Net Bonds Authorized .....	<u>\$145,874,745</u>

<sup>(1)</sup> The State portion of the appropriation for Youth Development Services is \$19.4 million, all of which is to be financed with bonds payable from the General Fund. Of the \$19.4 million included in this appropriation, \$9.4 million of bonds may be issued in the 2004-2005 biennium, and the \$10.0 million balance in the 2006-2007 biennium.

<sup>(2)</sup> This appropriation was made in the capital budget for the 2002-2003 biennium.

In addition to the capital budget, Chapter 348 of the Laws of 1997, as amended, appropriates a total of \$28,500,000 for the Kindergarten Construction Program over a seven-year period. This appropriation is non-lapsing and shall not exceed \$6 million for the biennium ending June 30, 1999; \$5 million for fiscal year 2000; \$5 million for fiscal year 2001; \$6.5 million for fiscal year 2002; \$2 million for fiscal year 2003 and \$4 million for fiscal year 2004. The Department of Education is authorized to make grants available to eligible districts that currently do not operate a kindergarten program for 75% of the cost of construction, exclusive of site acquisition. This appropriation is funded with general obligation bonds. In addition, Chapter 148 of the Laws of 2002 appropriated \$10 million for the acquisition of and certain rights relative to specific tracts of land. Additionally, \$2.5 million in each of the fiscal years 2003 and 2004 was appropriated for affordable housing initiatives through Chapter 26 of the Laws of 2002.

Chapter 311 of the Laws of 2003 established a contributory defined benefit judicial retirement plan for State judges. The chapter appropriated \$42.8 million to the board of trustees of the newly established judicial retirement system, which amount is to be used for the payment of the unfunded accrued liability attributable to the judicial retirement system. The chapter further authorized the issuance of bonds by the State to fund this payment. The bonds shall have a term not later than 30 years from the date of issue. The chapter further provides that the provisions regarding appropriation for the unfunded liability and the issuance of bonds shall be implemented beginning on the later of July 1, 2004 or 180 days after the system receives a favorable determination from the Internal Revenue Service as to the tax qualified nature of the plan under the Internal Revenue Code. The State received a favorable



determination from the Internal Revenue Service during Fiscal Year 2004 and expects to issue the bonds in January, 2005.

### **Agencies, Authorities and Bonded or Guaranteed Indebtedness**

Described below are the principal State agencies or programs for which the State (a) issues revenue bonds, (b) provides State guarantees of payments of indebtedness, or (c) issues general obligation bonds supported in whole or in part by restricted revenues, rather than taxes or unrestricted General Fund revenues. (A summary of the State guarantee programs is also provided under the caption "Authorized But Unissued Debt" above.) Also described briefly below are the other independent State authorities that issue revenue bonds and notes that do not constitute a debt or obligation of the State.

*New Hampshire Turnpike System.* Effective July 1, 1971, the New Hampshire Turnpike System was established to administer certain toll highways in the State. State statutes establishing the Turnpike System require the collection of tolls on such turnpikes and improvements or extensions thereof at levels sufficient to pay expenses of operations and maintenance and to pay debt service on general obligation bonds issued for Turnpike System purposes. Payment of debt service on such general obligation bonds from Turnpike System revenues is subordinate, however, to payments required with respect to Turnpike System revenue bonds.

Chapter 237-A of the New Hampshire Revised Statutes Annotated, as amended, provides for the issuance by the State Treasurer of revenue bonds of the State for the Turnpike System in such amounts as the Governor and the Council shall determine, from time to time, subject to the current statutory limit of \$586.05 million (excluding bonds issued for refunding purposes). RSA 237-A expressly provides that the bond resolution authorizing Turnpike System revenue bonds may include provisions setting forth the duties of the State in relation to the fixing, revision and collection of tolls and further provides that the State has pledged to perform all such duties as set forth in such bond resolution. Turnpike System revenue bonds constitute limited obligations of the State, and the State has not pledged its full faith and credit for the payment of such bonds. Approximately \$309.8 million of such bonds were outstanding as of June 30, 2004.

*The University System of New Hampshire.* The University System is a body politic and corporate created by State law under the control and supervision of a 25 member board of trustees. The board of trustees is entrusted with the management and control of all property comprising the University System and maintains the financial affairs of the University System separate and apart from the accounts of the State. Income received by the University System, except where specifically segregated, is retained by the University System for its general purposes. State statutes additionally provide for annual appropriations by the Legislature to be used for the general purposes of the University System. General obligation bonds issued by the State for the construction of capital improvements at the University System are supported in part by revenues from the University System. Approximately \$95.5 million of such bonds were outstanding June 30, 2004, of which \$4.3 million are self-supporting from dormitory rentals and other income. The University System has the power to borrow through the issuance of revenue bonds for dormitory or other housing facility purposes by the New Hampshire Higher Educational and Health Facilities Authority, without pledging the full faith and credit of the State or the University System for payment.

*State Guaranteed Local Water Pollution Control Bonds.* The State's programs for the protection of adequate water supplies and the control and elimination of water pollution are under the supervision of the Department of Environmental Services' Water Division. In order to assist municipalities in the financing of sewerage systems and sewage treatment and disposal plants for the control of water pollution, the Governor and Council are authorized to guarantee unconditionally as a general obligation of the State the payment of all or some portion of the principal of and interest on bonds or notes issued by any town, city, county or district for construction of such facilities. The outstanding State guaranteed amount of principal and interest of such bonds and notes may not exceed \$175 million. As of June 30, 2004, \$48.4 million of principal and interest was guaranteed under this program.

In addition, the Legislature has provided in RSA 486 that the State shall pay annually an amount equal to 20% of the yearly principal and interest expense on the original costs resulting from the acquisition and construction of sewage disposal facilities by counties, cities, towns or village districts in the State and, with respect to certain specified facilities, the State shall pay annually an amount, after completion thereof, equal to the yearly principal and interest expense on the remaining portion of the eligible costs (after application of available federal funds and the 5% local share). Such assistance payments are made to the municipalities, are not binding obligations of the State and require appropriation by the Legislature.

*New Hampshire Department of Environmental Services-Water Division.* The Department of Environmental Services' Division of Water Resources (formerly the New Hampshire Water Resources Board) is charged with authority to construct, maintain and operate reservoirs, dams and other waterworks systems (including hydro-energy production facilities) and to charge and collect fees and tolls for the use of water and other services supplied by the division. Projects constructed by the division are intended to be self-liquidating and self-supporting through user fees. The division is authorized to issue self-supporting revenue bonds from time to time for the acquisition and construction of projects and, except to the extent guaranteed by the State as described below, such bonds shall not constitute a debt of the State but are payable solely from the revenues of the projects.

The Governor and Council are authorized to guarantee the payment of the principal and interest of not more than \$5 million principal amount of bonds issued by the division. The full faith and credit of the State are pledged for such guarantee. As of June 30, 2004, no debt is guaranteed under this program.

*State Guaranteed Local School Bonds.* The Governor with the advice and consent of the Council may agree to award an unconditional State guarantee for the payment of not more than \$95 million of the principal and interest on bonds or notes issued by school districts for school projects of not less than \$100,000 involving construction, enlargement or alteration of school buildings. The supervision of the guarantee program is the responsibility of the New Hampshire School Building Authority, consisting of the State Treasurer, the State Commissioner of Education and three members appointed by the Governor and Council. Guarantees may be awarded on either a split issue basis, where the payment of not in excess of 75% of the aggregate principal amount of bonds issued for a project and interest thereon may be guaranteed, or on a declining balance basis, where a specified percentage of the principal of and interest on each bond or note issued is guaranteed. The full faith and credit of the State are pledged to such guarantees. As of June 30, 2004, \$33.2 million of principal and interest was guaranteed under this program.

*State Guaranteed Local Superfund Site Bonds and Landfill and Waste Site Bonds.* The Governor with the advice and consent of the Council may award an unconditional State guarantee for the payment of not more than \$50 million in aggregate principal amount (plus the interest thereon) of bonds issued by municipalities in the State for costs of cleanup of "superfund" hazardous waste sites for which the municipalities are named potentially responsible parties (including bonds issued by a municipality on behalf of other potentially responsible parties at the same site). No bonds have been guaranteed under this program.

In addition, the Governor and Council may award an unconditional State guarantee for the payment of principal and interest on bonds issued by municipalities in the State for closing or cleanup of landfills, other solid waste facilities or hazardous waste sites. The outstanding State guaranteed amount of principal and interest on such bonds may not exceed \$30 million at any one time. As of June 30, 2004, \$0.7 million of principal and interest was guaranteed under this program.

*New Hampshire Business Finance Authority.* The Legislature created the Business Finance Authority of the State of New Hampshire (formerly the Industrial Development Authority) as a body politic and corporate as an agency of the State to provide financial assistance to businesses and local development organizations in the State. Legislation enacted in 1992 and 1993 significantly expanded the power of the Authority, with the concurrence of the Governor and Council, to issue State guaranteed bonds and to award State guarantees of other indebtedness for the purpose of promoting business development in the State.

In order to carry out its programs, the Authority was authorized to issue up to \$25 million in principal amount of bonds as general obligations of the Authority, the principal of and interest on which is guaranteed by the State. The Authority issued \$25 million State-guaranteed bonds in November, 1992. In April, 2002, the Authority issued an additional \$10 million of State guaranteed bonds, half of which were used to refund then outstanding 1992 bonds. The Authority issued an additional \$10 million of State guaranteed bonds in December 2002 to refund an equal amount of then outstanding 1992 bonds. The last \$1.3 million of then outstanding 1992 bonds was redeemed on November 1, 2003, leaving the Authority with a total balance of \$20 million of outstanding bonds.

The Authority was authorized until June 30, 2002, to issue revenue bonds that are limited obligations of the Authority secured solely by specified revenues and assets. The principal of and interest on up to \$15 million in principal amount of the Authority's revenue bonds may be guaranteed by the State with the approval of the Governor and Council; \$5.8 million of such guaranteed revenue bonds are currently outstanding. In addition, the Authority was previously authorized to issue State-guaranteed revenue bonds for capital improvements to Manchester Airport. The

Authority issued State guaranteed bonds for the Manchester Airport project in 1992 in the principal amount of \$42.7 million. All of such remaining State guaranteed bonds were redeemed on January 1, 2002 with the proceeds of general airport revenue bonds issued by the City of Manchester. The State has no further liability with respect to such bonds.

The Authority may also recommend that the Governor and Council award state guarantees of certain indebtedness of businesses, but the total principal amount of indebtedness guaranteed, when combined with the outstanding principal amount of State guaranteed bonds of the Authority, may not exceed \$95 million at any time. As of June 30, 2004, \$28.1 million of State-guaranteed loans were outstanding under those Authority programs. The Authority expects that over the next five years it will seek Governor and Council approval of State bond and loan guarantees at or near the maximum authorized amount.

In addition to its loan and guarantee programs, the Authority is also authorized to issue notes or bonds for the construction of industrial facilities, and certain commercial, recreational, railroad, small scale power and other facilities, for lease or sale to specific private entities. Except for the guaranteed bonds described above, such bonds or notes are not a debt or obligation of the State and no State funds may be used for their payments.

*Pease Development Authority.* The Pease Development Authority was established in 1990 to develop and implement a comprehensive conversion and redevelopment plan relating to the Pease Air Force Base. The Authority is authorized to issue bonds, not exceeding in the aggregate \$250 million, and the Governor and Council may award an unconditional State guarantee to secure up to \$85 million in principal amount plus interest on those bonds.

The State is authorized to issue up to \$50 million general obligation bonds in lieu of a portion of the guarantee, with the maximum amount to be guaranteed then reduced by the amount of such bonds issued by the State. In April 1993 the State issued \$30 million of general obligation bonds for a project at the Tradeport consisting of construction and acquisition of certain manufacturing facilities to be leased to Celltech Biologics, Inc. (Celltech was acquired in June, 1996 by a British subsidiary of Alusuisse-Lonza of Switzerland, and is now called Lonza Biologics, Inc.) The State has also issued \$7.6 million of general obligation bonds in lieu of state guarantees to make loans to the Pease Development Authority with respect to its operations.

*New Hampshire Housing Finance Authority.* The New Hampshire Housing Finance Authority is a body politic and corporate having a distinct existence separate from the State and not constituting a department of State government. The Authority is generally authorized to provide direct construction and mortgage loans for residential housing and to make loans to and to purchase loans from lending institutions in order to expand available mortgage funds in the State. In order to carry out its corporate purposes, the Authority is authorized to issue its bonds or notes in an amount outstanding at any one time not to exceed \$1.4 billion. Such bonds or notes are general obligations of the Authority, but do not constitute a debt or obligation of the State. As additional security for any of its bonds, the Authority is authorized to establish one or more reserve funds and to maintain in each fund for a specific series of bonds a bond reserve fund requirement established by resolution of the Authority in an amount not to exceed one year's debt service on the bonds secured by such fund. The chairman of the Authority is directed to request an appropriation of the sum, if any, needed to maintain the bond reserve funds at their required levels. Amounts so requested are subject to appropriation by the Legislature and do not constitute a debt of the State.

Legislation enacted in 1989 authorizes the Authority to issue certificates of guarantee equal to 50% of the principal of loans made to eligible child care agencies or organizations, such principal guarantee not to exceed \$10,000 per recipient. The full faith and credit of the State are pledged for such guarantees, provided that the total obligation of the State shall at no time exceed \$300,000. As of June 30, 2004, no outstanding debt was guaranteed under this program.

*New Hampshire Municipal Bond Bank.* The New Hampshire Municipal Bond Bank was established by the State in 1977 for the purpose of aiding local governmental units in the financing of public improvements. The powers of the Bank are vested in a board of five directors, including the State Treasurer and four members appointed by the Governor and Council. The Bank is authorized to issue revenue bonds in unlimited principal amount and to make loans to political subdivisions of the State through the purchase by the Bank of general obligation bonds and notes of the political subdivisions. The obligations of the political subdivisions bear interest at a rate equal to the rate on the Bank's bonds plus administrative costs. Bonds of the Bank do not constitute a debt or obligation of the State. The Bank is authorized to establish one or more reserve funds to additionally secure its bonds and is directed to request such appropriations from the Legislature as are necessary to (1) maintain such reserve funds at required cash levels or (2) reimburse the payor of any sums paid by such payor under any insurance policy, letter or line of credit or other credit

facility maintained by the Bank for the purpose of meeting the reserve fund requirements in lieu of the deposit of cash. Amounts so requested are subject to appropriation by the Legislature and do not constitute a debt of the State. See also "SCHOOL FUNDING."

The Bank is also authorized to issue revenue bonds in unlimited principal amount for small scale power facilities and to make loans to public utilities and to certain elementary and secondary educational institutions through the purchase by the Bank of bonds of such public utilities and educational institutions. Such bonds are issued through a separate division of the Bank and are not a debt or obligation of the State and no State funds may be used for their payment.

*New Hampshire Health and Education Facilities Authority.* This authority, formerly known as the New Hampshire Higher Educational and Health Facilities Authority, was established to provide financing for the State's private colleges and hospitals; the Authority can now also provide financing for the University System. The State is not directly or indirectly responsible for any obligations of this Authority issued for private entities. Moreover, bonds issued for the University System by the Authority constitute limited obligations of the University System payable solely from designated revenues.

### **STATE RETIREMENT SYSTEM**

Prior to 1967 four separate retirement systems were operated by the State involving State and local employees, teachers, police officers and firefighters. Effective July 1, 1967, these four systems were combined under a common board of trustees in a new system known as the New Hampshire Retirement System (the "System") to include all employees hired subsequent to such time and to also include all members of the prior systems who elected to transfer to the new system. At June 30, 2004, there were approximately 57,117 active and inactive members and 17,790 retired members of the System. The System provides service, disability, death and vested retirement benefits to its members and their beneficiaries. It also provides a health insurance subsidy to qualified members and their beneficiaries.

The financing of the System as well as its predecessor programs is provided through both member contributions and employer contributions from the State and political subdivisions. The State's normal contribution rate is based on the actuarial valuation of the amount necessary to provide the State annuity for current service.

The State funds 100% of the employer cost for all State employees and 35% of the employer cost for teachers, firefighters and police officers employed by political subdivisions. The total State contribution has increased from \$39.0 million in fiscal year 2003 to \$55.4 million in fiscal year 2004. The Board of Trustees of the System has certified employer contribution rates that would result in total contributions by the State during fiscal year 2005 of approximately \$56 million.

In addition to providing pension benefits, RSA 21-I:30 specifies that the State provide certain health care insurance benefits for retired employees. These benefits include group hospitalization, hospital medical care, and surgical care. Substantially all of the State's employees who were hired on or before June 30, 2003 may become eligible for these benefits if they reach normal retirement age while working for the State and receive their pensions on a periodic basis rather than a lump sum. During fiscal year 2004, legislation was passed that requires State Group I employees hired on or after July 1, 2003 to have 20 years of State service in order to qualify for health insurance benefits. These and similar benefits for active employees are authorized by RSA 21-I:30 and provided through the Employee Benefit Risk Management Fund, which is the State's new self-insurance fund implemented in October 2003 for active State employees and retirees. The State recognizes the cost of providing benefits by paying actuarially determined insurance premiums into the fund. The State paid approximately \$26.76 million of insurance premiums for approximately 7,931 State retirees and covered dependents receiving a periodic pension benefit for the fiscal year ended June 30, 2004. Of the amount paid, \$9.4 million was received from self-supporting State agencies. An additional major source of funding for retiree benefits is from the New Hampshire Retirement System's medical premium subsidy program for Group I and Group II employees, which totaled approximately \$11.9 million for the fiscal year ended June 30, 2004.

As of June 30, 2004, the net assets available to pay pension benefits of the combined retirement and health insurance subsidy programs, at fair value, were reported by the System to be \$4,065.8 million. The total pension liability at June 30, 2004 was \$5,284.6 million, resulting in an unfunded pension liability at June 30, 2004 of \$1,218.8 million.

In addition to the regular pension benefit obligations described above, the State has medical insurance benefit obligations, which are described in Note 8 of Exhibit A. That Note also contains a more complete description of the System and other employee benefit plans.

See also "Capital Budget" for information pertaining to a newly established judicial pension system.

### **EMPLOYEE RELATIONS**

The State Employees' Association of New Hampshire Inc.-SEIU Local 1984 (the "SEA") is the exclusive bargaining representative of the majority of classified (merit system) employees in the State with the exception of sworn non-commissioned employees of the Division of State Police, who are represented by the New Hampshire Troopers Association (the "Troopers"). The employees of the University System are not included in these bargaining units. The State has collective bargaining agreements with the SEA and the Troopers that were effective July 1, 2001 and expired June 30, 2003. Previous negotiations for new agreements have been unsuccessful. New negotiations are anticipated to begin shortly with the expectation that new agreements will be reached prior to July 1, 2005.

### **LITIGATION**

The State has resolved a longstanding challenge by taxpayers to the constitutionality of the State's interest and dividends tax law in effect from 1989 through June 30, 1994. Under the resolution, which was approved by Merrimack County Superior Court on December 10, 2003, the State agreed to pay refunds, including interest and attorney's fees, in a total amount of approximately \$2.3 million. Substantially all of these refunds were paid in fiscal year 2004.

See "SCHOOL FUNDING" for detailed information concerning litigation against the State challenging the constitutionality of the State's statutory system of financing the operation of elementary and secondary public schools.

The State and certain of its agencies and employees are defendants in numerous other lawsuits which assert claims regarding social welfare program funding, breach of contract, negligence and 42 U.S.C. §1983. Although the Attorney General is unable to predict the ultimate outcome of the majority of these suits, which seek monetary awards that do not exceed \$50 million in the aggregate, the State believes that the likelihood of such litigation resulting, either individually or in the aggregate, in final judgments against the State which would materially affect its financial position is remote. Accordingly, no provision for the ultimate liability, if any, has been made in the State's financial statements.

### **FINANCIAL STATEMENTS**

Specific reference is made to the State's financial statements for the fiscal year ended June 30, 2003, presented in accordance with generally accepted accounting principles, and the report of the State's independent auditors with respect thereto, which have been filed with each Nationally Recognized Municipal Securities Information Repository currently recognized by the Securities and Exchange Commission.

The audited financial statements for fiscal year 2004 are not yet available as of the date of this Information Statement, but will be provided to each Nationally Recognized Municipal Securities Information Repository currently recognized under SEC Rule 15c2-12 upon release to the public, which is expected by December 31, 2004.

### **ADDITIONAL INFORMATION**

The references herein to the Constitution and Laws of the State of New Hampshire are brief summaries of certain provisions thereof. Such summaries do not purport to be complete and reference is made to the Constitution and such laws for full and complete statements of such provisions. Additional information concerning the State and certain of its departments and agencies, including periodic public reports relating to the financial position of the State and annual or biennial reports of such departments and agencies, may be obtained upon request from the office of the State Treasurer, Michael A. Ablowich, State House Annex, Concord, New Hampshire.

**STATE OF NEW HAMPSHIRE  
AUDITED FINANCIAL STATEMENTS  
FOR FISCAL YEAR 2003**

**(Included by Reference and Filed with Each Nationally  
Recognized Municipal Securities Information Repository)**