

**JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
ACCOUNTABILITY FOR AN ADEQUATE EDUCATION**



**REPORT AND FINDINGS OF THE JOINT LEGISLATIVE
OVERSIGHT COMMITTEE PURSUANT TO
2008 LAWS CHAPTER 173**

November 17, 2008

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I. INTRODUCTION

In *Londonderry School District SAU 12, et al. v. State of New Hampshire*, 154 N.H.153 (2006), the New Hampshire Supreme Court reaffirmed the State's constitutional obligation to (i) define an adequate education; (ii) determine its cost; (iii) fund an adequate education with constitutional taxes; and (iv) ensure the delivery of an adequate education through a system of accountability.

In response to the *Londonderry* decision, the legislature passed House Bill 927, 2007 Laws Chapter 270, defining the opportunity for an adequate education and Senate Bill 539, 2008 Laws Chapter 173, determining the cost of providing the opportunity for an adequate education. SB 539 also established a Joint Legislative Oversight Committee on Accountability ("Committee") to study the existing methods of reporting and assessment utilized by the Department of Education and to determine whether these accountability methods are sufficient or whether additional legislation is needed to ensure the delivery of the opportunity for an adequate education as defined by HB 927. The Joint Legislative Oversight Committee on Accountability is to report its findings and recommendations to the governor and the legislature by November 15, 2008.

House Speaker Terie Norelli and Senate President Sylvia B. Larsen appointed the respective House and Senate members of the Joint Legislative Oversight Committee in July, 2008. The Committee has held 8 meetings, at which it heard testimony from the Department of Education, the Attorney General's Office, and Measured Progress, an organization that has worked with 35 states to develop state-wide educational assessment programs; received written and oral testimony from a variety of education professionals, school administrators, and the public; reviewed existing laws and practices regarding ensuring compliance with school approval standards; studied existing laws and practices regarding student assessment; and discussed and deliberated over what accountability systems are necessary to ensure the availability of the opportunity for an adequate education as defined by HB 927, codified as RSA 193-E:2-a.

This report transmits the findings and recommendations of the Joint Legislative Oversight Committee to the legislature and the governor on the accountability systems the Committee believes will ensure the opportunity for an adequate education.

II. COMMITTEE MEMBERSHIP

SB 539 provided that the membership of the Committee be comprised of three members of the House of Representatives, of whom two are members of the House Education Committee and one is a member of the House Finance Committee, all appointed by the Speaker of the House.

Similarly, the legislation provided for the appointment of three members of the Senate, of whom two are members of the Senate Education Committee and one is a member of the Senate Finance Committee, all appointed by the President of the Senate.

The criteria for appointment to the Committee ensured the presence of individuals with extensive experience in the development of education policy, school administration, and school finance. Many of the same legislators had been extensively involved in formulating and adopting the statutory definition of an adequate education as provided in RSA 193-E:2-a which served as the foundation of this joint Committee's work. A brief biography for each of the Committee's members is provided below.

Members from the New Hampshire House of Representatives include:

Representative Emma Rous, Co-Chair (Education Committee appointee)

Representative Rous is currently in her 3rd term and serves as the Chair of the House Education Committee. Prior to her legislative service, Rous was an educator for over 25 years, teaching most recently within the English Department at Oyster River High School. Rous has published on education and has extensive experience in curriculum development and teacher education, working as a literacy consultant for the University of New Hampshire and a school improvement facilitator for the NH Department of Education. Rous holds a BA from Mount Holyoke College, an MA from Columbia University and she completed additional graduate work at the Harvard School of Education.

Representative Judith Reeve (Education Committee appointee)

Representative Reeve is currently in her 1st term and serves on the House Education Committee. She has served on the Laconia School Board for more than 20 years. Reeve also served as a member and the chair of the State Board of Education from 2002-2004. Additionally, she was a member of the NH School Boards Association from 1986-1997. She is a founder and trustee of the Laconia Endowment Educational Foundation and a 9-year member of the Board of Directors of LRGHealthcare. Reeve is also a former foster parent and has served as the President of the Belknap County Foster Parents' Association.

Representative Kenneth Gould (Finance Committee appointee)

Representative Gould is currently in his 7th term and serves on the Finance Committee. He has served on the Derry Budget Committee, the Derry School Building Committee, the New Hampshire Retail Merchants, the Derry Chamber of Commerce and the Derry Kiwanis. He holds a bachelor's degree from Babson College and retired in 2000 from a career in retail. A native of Wolfeboro, he and his wife have five children and live in Derry.

Members from the New Hampshire Senate include:

Senator Molly Kelly, Co-Chair (Education Committee appointee)

Senator Kelly is currently serving in her first term in the NH Senate. She is a member of the Senate Education Committee, the Senate Executive Departments and Administration Committee, the Senate Transportation Committee and the Capital Budget Committee. Senator Kelly works as a financial advisor. She is a former director of continuing education for Franklin Pierce

University (Keene campus) and is the former chair of the NH Commission on the Status of Women. In 2007 she served on the Joint Legislative Task Force on Adequacy and in that capacity assisted in developing the current definition of an adequate education. Senator Kelly graduated from Keene State University and the Franklin Pierce Law Center.

Senator Margaret Hassan (Finance Committee appointee)

Senator Hassan is currently serving in her 2nd term in the NH Senate. She is a member of the Senate Finance Committee and the Senate Environment, Energy and Economic Development Committee (Vice-Chair). She also chairs the Public and Municipal Affairs and the Capital Budget Committees. Senator Hassan is an attorney practicing with the Pierce Atwood law firm in Portsmouth, NH. Prior to her service in the NH Senate she served on the Adequacy in Education and Finance Commission (1999-2000) and on the SAU 16 Budget Committee. She currently serves as a Board member at the Disability Rights Center. Senator Hassan is a graduate of Brown University (AB) and the Northeastern University School of Law (JD).

Senator Peter Bragdon (Education Committee appointee)

Senator Bragdon is currently serving in his 2nd term in the NH Senate having previously served 1 term in the NH House of Representatives. He is a member of the Senate Education Committee and the Rules and Enrolled Bills Committee. Senator Bragdon is active in local government and has been a member of the Milford School Board since 1997, serving as chair for 9 of his 11 years of service. He is the owner and publisher of The Milford Observer, a weekly newspaper with a circulation of 7,000. Senator Bragdon is also a former high school math teacher. He attended public schools in Amherst and Milford before entering the University of Massachusetts at Lowell where he earned a BS in computer science.

III. COMMITTEE CHARGE

Senate Bill 539, enacted as Chapter 173 of the Laws of 2008, charged the Joint Legislative Oversight Committee on Accountability to:

- * Review and study the assessment and assistance methods, reporting requirements, and other methods of accountability presently being used by the Department of Education and local school districts to determine whether such methods, programs, and standards will ensure the delivery of an adequate education as set forth in RSA 193-E:2-a; and
- * Make findings and recommendations concerning the sufficiency of existing statutory law to provide accountability for the delivery of the opportunity for an adequate education as defined in RSA 193-E:2-a, and the possible need for additional legislation.

The statute further directed the Committee on Accountability to hold a public hearing and to report its findings and recommendations no later than November 15, 2008 to the governor, president of the senate, speaker of the house and state librarian. Senate Bill 539 appears as Appendix A to this report.

IV. WHAT CONSTITUTES AN ADEQUATE EDUCATION

The Committee reviewed the definition and substantive content of an adequate education in order to assess the current methods of accountability for the opportunity for an adequate education and to make recommendations regarding these methods.

Pursuant to RSA 193-E:2, an adequate education shall provide all students with the opportunity to acquire:

1. Skill in reading, writing, and speaking English to enable them to communicate effectively and think creatively and critically.
2. Skill in mathematics and familiarity with methods of science to enable them to analyze information, solve problems, and make rational decisions.
3. Knowledge of the biological, physical and earth sciences to enable them to understand and appreciate the world around them.
4. Knowledge of civics and government, economics, geography, and history to enable them to participate in the democratic process and to make informed choices as responsible citizens.
5. Grounding in the arts, languages, and literature to enable them to appreciate our cultural heritage and develop lifelong interests and involvement in these areas.
6. Sound wellness and environmental practices to enable them to enhance their own well-being, as well as that of others.
7. Skills for lifelong learning, including interpersonal and technological skills, to enable them to learn, work, and participate effectively in a changing society.

Pursuant to RSA 193-E:2a, the specific criteria and substantive educational program that deliver the opportunity for an adequate education is defined and identified as the school approval standards for kindergarten through grade 12 in the following areas:

- (a) English/language arts and reading.
- (b) Mathematics.
- (c) Science.
- (d) Social studies.
- (e) Arts education.
- (f) World languages.
- (g) Health education.
- (h) Physical education.
- (i) Technology education, and information and communication technologies.

The statute, RSA 193-E:2a (IV), makes clear that the school approval standards for the areas identified above shall constitute the opportunity for the delivery of an adequate education. These school approval standards set forth the opportunities to acquire the communication,

analytical and research skills and competencies, as well as the substantive knowledge expected to be possessed by students at the various grade levels, including the credit requirement necessary to earn a high school diploma.

In order to ensure that the high quality of these standards is maintained, no less frequently than every 10 years, the State Board of Education is required to review, revise, and update, as necessary, the school approval standards which are included as part of an adequate education.

However, any changes made by the board of education to them, must be adopted by the legislature before the changes will be included within the standards that constitute the opportunity for an adequate education. RSA 193-E:2a (IV).

The general court also requires the state board of education and the department of education to institute procedures for maintaining, updating, improving, and refining curriculum frameworks for each content area included in the opportunity for an adequate education. RSA 193-E:2a (V).

The curriculum frameworks present the educational goals, broad pedagogical approaches and strategies for assisting students in the development of the skills, competencies, and knowledge called for by the academic standards for each area of education included in an adequate education. While the curriculum frameworks do not establish a statewide curriculum, the frameworks serve as a guide and reference to what New Hampshire students should know and be able to do in each area of education. RSA 193-E:2a (IV).

V. CURRENT EDUCATIONAL ACCOUNTABILITY MECHANISMS

The Committee studied the existing educational accountability system in New Hampshire including its statutory basis, assessment tools, data analysis tools, accountability reports, and the system to support improvement. The Department of Education already employs numerous educational accountability systems in fulfillment of an array of existing requirements.

The Committee reviewed the following accountability requirements in place in New Hampshire:

- * The School Approval Process (RSA 21-N:6 V and Ed. 306.28).
- * New Hampshire School District Profiles (RSA 193-E:3)
- * The Statewide Education Improvement and Assessment Program (RSA 193-C).
- * The School Performance and Accountability Program (RSA 193-H).
- * The Follow The Child Growth Model
- * Follow the Child-Assistance Center
- * Corrective Actions and Support Systems for Schools
- * Other Accountability Measures Reported by DOE

A. The School Approval Process:

The Department of Education is charged with administering the school approval process for elementary and secondary schools. RSA 21- N:6 V. Through this process, each school must show that it meets the required school standards. These standards include the ones within the

definition of what constitutes the opportunity for an adequate education as well as other standards that are beyond the definition.

Currently, each school must complete a self-assessment checklist, developed by the Department of Education, to show whether it is in compliance with each of the school approval standards that apply to that type of school. There are different checklists for elementary, middle and high schools as different school standards apply to each setting. Note that the form is indeed a checklist. There are three available answers from which each school may choose for each standard (met, not met, or met alternatively¹).

The self-reporting form also requires a signed certification of the principal and the superintendent that the information submitted is accurate to the best of their knowledge. At the present time, each school must complete such a checklist every five years. Thus, 20% of schools complete the checklist each year.

In addition to the self-assessment checklist, the Division of Educational Improvement conducts site-visits to approximately 10% of the schools that submit the self-assessment each year. At these site visits, the division completes its own assessment of all of the standards.

The frequency that these site visits confirm the school's self assessment provides a very high degree of accuracy and reliability in the self-assessment process. In its two- year history of conducting these site visit "audits," the Department of Education has found only one instance where a school had reported compliance with standards that they were not addressing. Furthermore, that one instance involved an alternative school that has since been completely reorganized. The department reported that any other discrepancies between its site visits and the self report checklist were minor and due to a misunderstanding of a particular standard. In those rare cases, the department has also worked with the school to address the minor discrepancies which have never risen to a level where the Department found it necessary to change a school's approval status or take more serious action. Typically, the site visit process has resulted in suggestions for improvements, not directives for corrective actions. Additionally, the site-visits have provided an opportunity for the department to observe many exceptional programs and activities in our schools which may not otherwise have come to its attention.

Based on the self-assessment and the site visit, if applicable, each school is designated as

- (1) Approved (the school meets all requirements of school approval standards)²;
- (2) Conditionally approved (available for up to three consecutive one year periods provided that all the deficiencies are identified, a timetable for their correction is established and the DOE and the local school board are working together to correct the deficiencies); or
- (3) Unapproved.

¹ In order to meet the provisions of the approval rules and encourage innovation to achieve high standards for students, a local school board may request approval of the commissioner of Education for an alternative method of compliance with the relevant rule or rules. See Ed. 306.29

² Note that according to Ed.306.28(b) there is also a category known as "approved with distinction" which means that in addition to meeting all the school approval standards, the school achieves annual state performance targets. However, DOE representatives indicated to the committee, that it does not utilize that designation.

The Department collects the self- assessment checklists approximately six months prior to the expiration of a school’s current approval. If a school indicates on the self-assessment checklist that it is not meeting one or more standards, the Department of Education stays in close contact with that school and works to have the standard(s) met before taking the final annual approval list to the State Board of Education at its May or June meeting. The Department indicates that the reported shortcoming is often due to a misinterpretation of the approval requirement. When a school is in fact not meeting an approval standard, occasionally, the deficiency can be fixed in a relatively short period of time so that it is remedied prior to the State Board action on the approval list. For example, if a school is lacking a required policy, six months is often plenty of time to prepare a policy and have it approved by the local school board. At other times, the deficiency is something that can be corrected at the annual district meeting in March.

B. New Hampshire School District Profiles (RSA 193-E:3)

RSA 193-E:3 requires that every school district annually provide the Department of Education with school and district level performance data. While the statute provides the ability to add to the performance data required, the indicators must include:

- (a) Attendance rates.
- (b) Annual and cumulative drop-out rates of high school pupils and annual drop-out rates for pupils in grades 7 and 8.
- (c) School environment indicators, such as safe-schools data.
- (d) Number and percentage of graduating pupils going on to post-secondary education, military service, and advanced placement participation.
- (e) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.
- (f) Expulsion and suspension rates, including in-school and out-of-school suspensions, which shall be reported for each school year.
- (g) Number and percentage of classes taught by highly qualified teachers.
- (h) Teacher and administrative turnover rates at the school and district levels.

The Department of Education is required to issue annually the “New Hampshire School District Profiles” which report district-by-district and school-by-school data on the performance indicators required by the statute as well as other relevant statistics as determined by the Department of Education. The report must also include comparisons with the state averages for all the data reported and include comparisons with each district’s and school’s previous year’s data and its three year averages. Statewide rankings for each district and school are required, including a ranking based on the school and district’s comparison to the previous year.

The Statute further requires that the data reported by the districts be disaggregated as required by federal law and include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and multi-racial groups.

The Department of Education maintains a School District Profiles website, <http://www.reporting.measuredprogress.org/nhprofile/>, that posts the information required by RSA 193-E as well as the information related to the Federal No Child Left Behind Program. The “Report Card” tab on this site includes most of the information required by RSA 193-E. This information is available on a school-by-school and/or district-by district basis.

C. The Statewide Education Improvement and Assessment Program

RSA 193-C establishes the Statewide Education Improvement and Assessment Program. The program is not intended to be a minimum competency testing program. Rather it is meant to measure school performance, to improve instruction by establishing standards for what students should know, and if testing showed deficiencies, to improve curriculum and teaching to address those deficiencies. The statute lists the aims of the program as being to:

- (a) Define what students should know and be able to do.
- (b) Develop and implement methods for assessing that learning and its application.
- (c) Report assessment results to all citizens of New Hampshire.
- (d) Help to provide accountability at all levels.
- (e) Use the results, at both the state and local levels, to improve instruction and advance student learning.

In order to ensure that the assessment results give an accurate picture of student performance, the statutory purpose is that the assessment includes more than a one-time measure. Rather the assessment was intended to focus on the continuing growth of individual students.³

Pursuant to its enabling statute, the academic areas to be assessed shall include, but not be limited to: reading and language arts, mathematics, science, history, geography, civics, and economics. RSA 193-C:5. The statute requires that the statewide assessment shall be administered in all school districts in the state in grades 3 through 8 and one grade in high

³ The Statute requires that the assessment instruments include, but not be limited to:

- (a) Constructed response items which require students to produce answers to questions rather than to select from an array of possible answers.
- (b) A writing sample.
- (c) Other open-ended performance tasks.

It also requires that the following criteria shall be used in the development of the program:

- (a) Educational standards specifying what students should know and be able to do shall be clearly defined before assessment procedures and exercises are developed.
- (b) The assessment exercises or tasks shall be valid and appropriate representations of the standards the students are expected to achieve.
- (c) At each grade level assessed, the standards and expectations shall be the same for every New Hampshire student.
- (d) Teachers shall be involved in designing and using the assessment system.
- (e) Assessment frameworks and reports shall be understandable and widely disseminated to parents, teachers, administrators, other school personnel, school board members, teacher preparation programs, business people, government officials, and community members.
- (f) The assessment system shall be subject to continuous review and improvement. RSA 193-C:3 (II) & (III).

school. RSA 193-C:6.

In fulfillment of the Education Improvement and Assessment Program, the board and department of education created curriculum frameworks to serve as a guide and reference to what New Hampshire students should know and be able to do in each area of these academic areas. The Department has created and widely distributes curriculum frameworks for Kindergarten through grade 12 in the following areas:

- Reading
- Written and Oral Communication
- Mathematics,
- Science Literacy, and
- Social Studies (which includes, civics, government, economics, geography, history and world history).
- Arts
- Career Development (draft)
- Health (these are technically titled “curriculum guidelines” not frameworks)
- Physical Education (technically titled “curriculum guidelines” not frameworks)

These Curriculum Frameworks and guidelines are available at:
<http://www.ed.state.nh.us/frameworks/>.

The Department currently assesses student proficiency in Reading/Language Arts, Mathematics and Science as part of the School Performance and Accountability Program, codified in RSA 193-H, and the Federal No Child Left Behind Program (see below). The Department, however, does not utilize an assessment for the social studies curriculum frameworks.

When the Statewide Education Improvement and Assessment Program, RSA 193-C, was initially adopted in 1999, it also included a component that encouraged local school districts to develop and implement a local education improvement and assessment plan based on the assessment results. The Department of Education also provided funds to provide technical assistance and training to school districts in developing and implementing local education improvement and assessment plans to improve instruction and enhance student learning, and to identify and implement methods and models of instruction that have proven to be effective in helping students reach the educational standards identified in the New Hampshire curricular framework.

In 2003, the legislature removed the section of RSA 193-C which encouraged the development of these plans. Instead it required the development of these plans under RSA 193-H:4 for all Title I schools that were designated as Schools In Need of Improvement under the School Performance and Accountability Program and the Federal No Child Left Behind program (see below).

D. The School Performance and Accountability Program

RSA 193-H codifies in state law the requirements on the Department of Education as required by the federal No Child Left Behind Act (NCLB). The NCLB requirements and sanctions outlined in this section apply only to schools and districts receiving Title I funds.

Both NCLB (20 USC 6311 §1111(b)(2)(b) (2001)) and NH Statute (RSA 193-H-2) require that the state establish a process of determining if districts and schools have met statewide performance targets (Annual Measurable Objectives-AMOs) which measure the progress of elementary and secondary students on mastery of the state standards as defined in the frameworks and statewide assessment. NCLB and the state statute also require that a timeline be established to ensure that all students are performing at proficient or above by the 2013-2014 school year. Until then, to comply with the state and federal law, schools must meet annual performance targets each year.

To fulfill these requirements, the New Hampshire Department of Education, has collaborated with the Rhode Island Department of Education, and the Vermont Department of Education to develop The New England Common Assessment Program (NECAP). Together the three states have developed a common set of Grade-Level Expectations (NECAP GLEs) and standardized test in Mathematics, Reading, and Writing. Building on the success of this initial collaboration, the states have developed common assessment targets and test specifications for Science as well. Grade-Span Expectations (GSEs) for high school students in Mathematics, Reading and Writing have also been developed for grades 9-10 and 11-12.

NECAP tests are administered in October in grades 3-8 and 11 in Mathematics and Reading. Writing is assessed in grades 5, 8, and 11 at the same time. Science was administered for the first time in May 2008 in grades 4, 8, and 11. Based on the assessment results for each test students are identified as meeting one of four achievement levels:

- Level 1: Substantially Below Proficient
- Level 2: Partially Proficient
- Level 3: Proficient
- Level 4: Proficient with Distinction

Individual student assessment information is available to parents and teachers. Publicly available NECAP reports include the statewide results, School and District Results Reports and School and District Summary Reports. All NECAP school and district reports are available in two ways - Testing Year (which is the school where the student was administered the test in the fall) and Teaching Year (which is the school where the student received instruction during the school year prior to the fall test administration).

Copies of the NECAP assessment reports at the school, district, and state levels are available at: <http://www.reporting.measuredprogress.org/nhprofile/>.

For the small number of students with disabilities who cannot participate in the paper-and-pencil state assessment even with accommodations, New Hampshire provides the NH-Alternate Assessment. The NH-Alt reports include school-, district-, and state-level

Disaggregated Reports and a State Summary Report which are available from the state in Reading and Mathematics for grades 2-7 and 10; and at grades 4, 7 and 10 for Writing. Science is now included in the grade 5,8, and 11 portfolios.

The Department of Education combines the results of the NECAP and the NH-Alternative Assessment to determine if a school or school district meets the annual performance targets. Pursuant to the NCLB program, the determination as to whether Adequate Yearly Progress (AYP) is achieved is calculated not only for the whole school and the whole school district, but for designated subpopulations within the school system, such as special education students and limited English proficiency students. School and district- based AYP reports are available at <http://reporting.measuredprogress.org/nhprofile/>.

The Commissioner of Education is required to annually compile a list of all schools and school districts designated as “in need of improvement” because they failed to achieve the performance targets required under the law.⁴ A school or district that is so identified is required to submit to the State Board of Education a “Local Education Improvement Plan” to address the deficiencies. The Department of Education is also required to work with and provide assistance to the identified school or school district to assist in these efforts.

The thresholds and system for identifying schools and districts in need of improvement is also defined in law, but where decisions are left up to states, NH utilizes an Accountability Task Force, made up of representatives of all NH stakeholder groups, and also contracts with the National Center for the Improvement of Educational Assessment for technical assistance. Current members of the Accountability Task Force are attached as appendix I. These two groups have assisted NH in moving from a strict status model, where schools were only given “credit” for students who scored proficient on the state assessment, to our current “index” model, where schools are given full credit for all students who score proficient or better, and partial credit for students who are showing improvement as they move toward proficiency (see below).

E. The Follow the Child Growth Model

In 2006 and again in 2007, NH submitted a proposal to the United States Education Department to use a growth model as part of its NCLB Accountability System. The Follow the Child Growth Model is based on individual growth targets for each student in NH and also calculated growth targets for subgroups within schools, whole schools, districts and the state. Because the United States Education Department did not accept New Hampshire’s proposal, the NH DOE currently calculates growth information for schools and districts to use as additional information on each student. The DOE, with the support of the Task Force and the Center for Assessment, is still evaluating the two years of growth data in order to determine if the targets set are appropriate for NH.

⁴ A list of Districts in Need of Improvement can be found at:
<http://www.ed.state.nh.us/education/doe/organization/curriculum/School%20Improvement/DINI.htm>.
A list of Schools in Need of Improvement can be found at:
<http://www.ed.state.nh.us/education/doe/organization/curriculum/School%20Improvement/SINI.htm>.

Copies of the growth model reports at the school, district and state levels are available at: <http://reporting.measuredprogress.org/nhprofile/>.

F. Follow the Child-Assistance Center

RSA 193-E:4 established individual student identifiers. This allows the state, schools, and districts to have much more accurate attendance, drop-out, demographic, and other informative data on each student. It also allows districts to track the academic progress of each child. Currently, the DOE is paying for access to Performance Tracker (a software data analysis tool) for all NH districts so they can track the progress of each child using multiple academic measures and other indicators that address the physical, social, and personal growth of each student.

G. Other Accountability Measures Reported by DOE

1. Special Education Accountability

The Department of Education, in compliance with IDEA, prepares an annual Special Education Performance Report. This report is based on content proficiency (NECAP) and other indicators. A copy of the Special Education Performance Report is available at: <http://www.ed.state.nh.us/education/doe/organization/instruction/SpecialEd/2008%20SPP%20A%20PR/February2008APRSPP.htm>.

The indicators utilized to compile that report include the following factors: graduation rates, drop out rates, statewide assessment performance, rates of suspension and expulsion, removal rates from regular classrooms, service settings, improved outcomes, inappropriate SPED identification rates by race, evaluation rates, rates of inclusion of specific factors in IEP, and dispute resolution indicators.

2. Accountability for English Language Learners (ELL)

The Department of Education, in compliance with Title III of NCLB, prepares accountability reports for districts and consortia (groups of districts) who receive Title III funds. These reports are based on annual achievement objectives that combine three factors: progress toward English proficiency and achieving proficiency, as measured on the ACCESS for ELLs test; and academic content proficiency as measured by the general assessment, NECAP.

More information can be found at: <http://www.ed.state.nh.us/education/doe/organization/curriculum/Assessment/ACCESS%20for%20ELLs/ACCESSforELL.htm>

H. Corrective Action and Assistance to School Districts

1. School Approval Standards

Schools that have not corrected any identified shortcomings in the school approval process by May are then reported to the State Board as conditionally approved. Conditional approval is granted for one year at a time. During that year DOE continues to work with the school to meet the standard. The Department refers them to the appropriate specialists for

technical assistance depending on the particular standard(s) involved. As soon as the school provides evidence of having met all standards, the school's status is changed to "approved". If corrections have not been made by May of the second year, the school is again reported to the State Board as conditionally approved for a second year. After a third full year of conditional approval, if the standard(s) have still not been met, the school will be designated as unapproved unless the State Board of Education grants a delay in full compliance pursuant to Ed 306.30.⁵

According to the Department, building related issues are responsible for the majority of conditional approvals and delays in full compliance. In recent years the State Board of Education has taken a very hard line with safety violations as it is not inclined to grant delays in full compliance in those situations. Rather, the practice is to ask the State Fire Marshal to inspect the school and order corrective actions. The State Fire Marshal has placed restrictions on the use of buildings and/or directed corrective actions in six schools since 2004. Local fire chiefs have taken similar actions in at least three other cases. SB0376, passed in 2008, requires yearly fire safety school inspections by local fire departments.

If the State Board of Education does grant a delay in full compliance, as it sometimes will for non-safety related violations, it typically requires the school to submit a plan that includes timelines for corrections. The Department regularly reports progress on those plans to the State Board. In order to facilitate corrective action, delays in full compliance are granted only on a one-year basis and a local school board has to re-apply each year if corrections have not been completed.

Typically, most schools correct their deficiencies during the conditional approval process. Last June a total of 93 of 474 schools were in conditional approval. In addition, there are currently 11 schools in 6 districts that have been granted a delay in full compliance: 5 are for building issues, 3 for staffing levels all in the same district, and 3 in another district for program shortfalls in information technology because of the lack of sufficient computer equipment. The Department is working with these school districts to rectify the deficiencies.

The Minimum Standards for Public School Approval, Ed 306, do not authorize waivers of the school approval requirements. They do allow a school to request approval of alternative compliance for particular standards under Ed 306.29, by filing a clear and concise written justification of the request which describes the alternative and consists of a statement of intent, method of implementation, evaluation procedures, timetable for development and implementation, and an explanation of how the alternative is consistent with the statement(s) of philosophy, goals, and objectives of the existing standards. The Commissioner can approve the alternative if the school district has demonstrated that it is able to implement the alternative; and the alternative is educationally sound and is consistent with the intent of the standard. The Commissioner receives approximately ten to fifteen requests for alternative compliance a year. In reviewing these requests, the Department considers

⁵ A request for a delay in full compliance must specify the standard(s) to be delayed and provide written evidence to justify delay in full compliance, including the reason(s) for the request and a local plan and timetable for bringing the school/district into full compliance. The state board shall grant a delay in full compliance and approve the school for a period of one year if any of the following conditions exist: (1) Reduction in local tax base; (2) Closing of a major industry; (3) Sudden influx of school-age population; or (4) Emergency beyond the control of the school district, such as a fire or natural disaster.

past practices as well as information on performance. The Department reports that the Commissioner approves about half of the submitted requests for alternative compliance. . Those that are not approved must meet the standards as written.

2. Meeting Performance Targets: The School Performance and Accountability Program and NCLB.

The No Child Left Behind School Improvement sanctions are as follows:

No Child Left Behind School Improvement Sanctions for Schools Receiving Title I Funds						
First Year	Second Year	Third Year	Fourth Year (DNMAYP)	Fifth Year (DNMAYP)	Sixth Year (DNMAYP)	Seventh Year (DNMAYP)
Did not make Adequate Yearly Progress	Did not make Adequate Yearly Progress	Year 1 Improvement School must write: <u>School Improvement Plan</u> and School must offer: <u>Choice</u>	Year 2 Improvement School must offer: <u>Choice</u> and <u>Supplemental Educational Services (SES)</u>	Year 3 Corrective Action School must offer: <u>Choice</u> <u>SES</u> and <u>Take one Corrective Action</u>	Year 4 Restructuring School must offer: <u>Choice</u> <u>SES</u> and <u>Plan to Restructure</u>	Year 5 Implement Restructuring Plan School operates under: - <u>Alternative Governance Arrangement</u>

A School Improvement Plan must:

- Be developed in consultation with parents, school staff, the local educational agency and outside experts;
- Cover a two year period;
- Be written within the first three months of being identified as a school In Need of Improvement;
- Incorporate strategies based on scientifically based research;
- Adopt policies and practices that have the greatest likelihood of ensuring that all groups of students meet the State's proficient level of achievement on the State academic assessment;
- Assure that the school will spend not less than 10 percent of their Title I allocation for each year they are in school improvement status for the purpose of providing to the school's teachers and principal high-quality professional development;
- Specify how the funds reserved as part of the Title I allocation will be used to remove the school from school improvement status;
- Establish specific annual, measurable objectives for continuous and substantial progress by each group of students enrolled in the school;

- Describe how the school will provide written notice about the identification to parents of each student enrolled in the school, in a format and, to the extent practicable, in a language that the parents can understand;
- Specify the responsibilities of the school, the Local Education Agencies (LEA), and the State educational agency serving the school to promote effective parental involvement in the school;
- Incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and
- Incorporate a teacher mentoring program.

Requirements for Public School Choice

- Schools must offer choice in every year of school improvement
 - District must notify all parents of students enrolled in Title I schools that have been identified as having to provide choice
 - Notification must be comprehensive and in an easy-to-understand format
- o Inform parents that their child is eligible to attend another public school
 - o Identify each public school, including public charter schools, that the parent can select
 - o Describe the performance and overall quality of those schools
- If no schools are available parents must still be notified
 - The LEA must offer more than one choice to eligible students if the LEA has more than 2 schools at the grade level in question
 - Districts must provide transportation to the new school
 - Districts may establish a cooperative agreement with other LEAs
 - Districts may offer supplemental educational services to all eligible students in the first year of school improvement
- All students enrolled in the Title I School in Need of Improvement are eligible for choice
- Priority must be given to the lowest achieving, low income students
 - Receiving schools cannot be identified for improvement
 - Receiving school may include a public charter school within the LEA
 - An LEA must permit the student to remain in the new school until the student has completed the highest grade in the school
 - The LEA is no longer obligated to provide transportation when the student's school of origin is no longer identified for improvement.

Requirements for Supplemental Services

- Extra academic assistance for low-income students who are attending Title I schools that have failed to make AYP for three or more years
- Allowable services include tutoring, remediation and academic intervention
- Instruction must be provided outside the regular school day
- Students should be given services for an extended period of time, preferably the entire school year

- Eligible students must be from low-income families, and attending Title I schools in the 2nd year of improvement
- When more students request services than the LEA can fund, the LEA must prioritize serving students from low-income families who are the lowest achieving
- Parents must select a provider from the State-approved list
- Supplemental Educational Service Providers must be approved by the state,
- The State must develop objective criteria, geographically relevant lists for LEAs to use and monitor the quality and effectiveness of the services
- Providers may be a school or LEA, institution of higher education, educational service agency, nonprofit or for-profit entity or a faith-based organization.
- Providers must offer high quality instructional strategies, provide services consistent with the LEA's instructional programs and the State's academic content standards, be financially sound and show that their instructional program has a demonstrated a record of effectiveness
- Providers that utilize distance- learning technology do not have different criteria for eligibility.
- Responsibilities of the provider include setting specific achievement goals, describing how the student's progress will be measured, and establishing a timetable for improving the student's achievement
- An LEA must spend an amount equal to at least 5% of its Title I allocation for supplemental services, or up to 20% depending upon the need for choice-related transportation.

Requirements for Corrective Action

The district must take **one** of the following actions:

- Replace school staff relevant to the failure,
- Institute and implement a new curriculum,
- Significantly decrease management authority in the school,
- Appoint outside experts to advise the school,
- Extend school year or school day, or
- Restructure the internal organization of the school.

Requirements for a Restructuring Plan

A school plan must include **one** of the following alternative governance arrangements:

- Reopen school as a public charter school
- Replace all or most of school staff, including the principal
- Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness to operate the school
- Any other major restructuring of the school's governance arrangement

3. Limited English Proficiency - Title III

When Limited English Proficiency (LEP) students fail to make Annual Yearly Progress for two consecutive years, Title III of NCLB requires that a corrective action plan be implemented. The plan consists of two distinct phases. In phase one, actual LEP student performance on the assessments is compared to the Annual Measurable Objectives targets that were set. Root causes likely for failure to achieve the AMOs are identified and parents of LEP students are provided notice of the “in need of improvement” designation. In phase two, a strategy to address the root causes is developed and implemented, including developing proposed activities, identifying resources needed, setting a timeline, and monitoring effectiveness.

4. Statewide System of Support

The State Department of Education provides a comprehensive differentiated system of supports to schools and districts to assist them in increasing student achievement. The system of supports is quite broad and includes the following:

- a) School Improvement Coaches (content, data, special education, leadership, NH-Alt)
Exemplary educators have been identified as School Improvement Coaches who can work with districts to align curriculum, improve instructional strategies, analyze data, provide model lessons or other professional development activities, and work with both teachers and administrators. Coaches were formerly contracted by the Department and assigned to districts in most need, but now are contracted directly with districts.
- b) Leadership Institutes
These summer academies have addressed a variety of areas such as academic content areas, improvement planning, and literacy leadership. This summer will focus on instructional coaching and assessment literacy.
- c) The NH PreK-16 Literacy Action Plan for the 21st Century
The Literacy Action Plan provides guidance in the implementation of comprehensive literacy programs and the infrastructure and collaborations necessary for success. A Literacy Leaders Network has been developed to assist schools in the implementation of the Literacy Plan.
- d) The NH PreK-16 Numeracy Plan
This document currently in development will mirror the Literacy Plan and provide guidance in the implementation of comprehensive mathematics education programs.
- e) Ongoing Professional Development
The Department jointly sponsors and/or provides professional development to schools and districts around the state in areas of identified needs such as data analysis using the Performance Tracker software, alignment of curriculum to state standards, content

support, development of course competencies at high school, arts and performance assessments, instructional coaching, high school redesign, reading in the content areas, the development of professional learning communities, and other topics.

f) DINI support (NCLB and RSA 193-H, see above)

All Districts in Need of Improvement have identified coordinators who are the liaisons between their districts and the Department of Education. They come together on a regular basis to share successful practices and strategies and learn about specific topics and/or supports from the Department.

g) High School Vision Statement and High School Redesign Efforts

This document was a joint effort by educators in New Hampshire and lays out a plan for what high schools need to do to keep students engaged and focused on preparing for life in the 21st Century.

h) Special Education Focused Monitoring

A year- long process of root cause analysis is undertaken each year in seven districts identified as having significant achievement gaps between special and regular education students.

i) Root Cause Analysis Activities and other self assessment tools

The School Improvement Team in conjunction with Title I provide several different tools that districts can use to help them assess areas of strengths and weaknesses in the many facets of their education systems.

j) Technical Assistance

The Department offers technical assistance in the analysis and interpretation of the results of all state assessments and how they relate to the NH Follow the Child Growth Model and Adequate Yearly Progress

VI. FINDINGS AND RECOMMENDATIONS

A. Overview

The Committee finds that the opportunity for an adequate education is defined in our statute as providing students with educational opportunities that meet the school approval standards in the specific content areas identified in the statute. Thus one way, in fact the most direct way, to assess whether students have access to the opportunity for an adequate education is to determine whether they have access to schools that comply with the minimum standards in those content areas.

The Committee finds that one method to demonstrate whether students have access to an

adequate education is by utilizing a reliable assessment tool which shows that a school complies with all of the approval standards that are included in the opportunity for an adequate education. Thus, the Committee finds that if a student has access to a school where all the inputs that comprise an adequate education are present, the student has the opportunity for an adequate education.

The Committee further finds that if a school fails to meet some of the specific school approval standards included in adequacy, it can still demonstrate that its students have access to an adequate education through the school's successful performance on student assessment and performance measurements. A technical failure to meet a specific school approval standard does not mean that the students lack access to a quality education. The school's success on student performance measures can demonstrate that the opportunity for an adequate education is present in spite of the failure to comply with each approval standard.

The Committee, however, finds that that the reverse is not true. A school's lack of success on student assessment measurements does not establish that the opportunity for an adequate education is lacking. As long as a school complies with all the school standards that comprise the opportunity for an adequate education, the opportunity for an adequate education is available to the students. The duty to provide the opportunity for an adequate education does not make the school a guarantor of educational performance which is based on many factors outside the school's control. The school is only required to provide the opportunity for an adequate education.

Thus, the Committee recommends an accountability system that demonstrates the availability of the opportunity for an adequate education through either compliance with the relevant school approval standards or a demonstration of school success on student performance measurements. However, the committee finds and recommends that failure to provide the opportunity for an adequate education can and should only be demonstrated when a school fails to comply with the relevant school approval standards and is also unsuccessful on the applicable student performance measurements.

B. Compliance with the Relevant School Approval Standards

As described above, the committee has reviewed the process employed by the Department of Education to determine compliance with the school approval standards. The Committee finds that a number of improvements are needed in order to utilize that process as an accountability system to establish whether a student has access to an opportunity for an adequate education. With these recommendations, the Committee finds that an accountability system for adequacy can establish that the opportunity for an adequate education exists if a school demonstrates that it has complied with all of the relevant school approval standards that comprise adequacy.⁶ The Committee further recommends that the legislature require that by September 2009 the Department of Education implement a system of accountability based on compliance with the school approval standards as described in this

⁶ If a school can not demonstrate such compliance, it can still establish the existence of the opportunity for an adequate education by showing success in the identified performance measures discussed in section C and D below.

section.

1. Frequency of review

Currently, schools undergo the self assessment on a five year rolling basis. While this may be sufficient for the school approval process, the frequency of the review must be completed more frequently for purposes of ensuring accountability for a constitutionally adequate education. Preferably, the assessment of compliance with the standards that comprises the opportunity for an adequate education should occur annually, but not less frequently than every two years. The Committee further finds that for any schools that are “conditionally approved” because they fail to meet any standard that is part of the definition of an adequate education, those schools must complete and submit the assessment no less frequently than every year.

2. Nature of the Self-Assessment Questions

Currently, the self-assessment form requires a school to check off whether it meets, does not meet, or meets through an alternative process, each of the applicable school approval standards. The Committee finds that the use of a self- assessment whereby the school reports merely whether it complies with the standards is insufficient for purposes of accountability for a constitutionally adequate education.

The Committee finds that, as it pertains to the specific school approval standards that are included in those that provide the opportunity for an adequate education, the school must report the facts that exist in the school upon which the conclusion of compliance or noncompliance is based. Thus, the Committee recommends that for purposes of an accountability system for the opportunity to an adequate education, the self-assessment form be modified to require a narrative factual description for each of the school approval standards that are included within adequacy. For those standards that are not deemed to be a part of adequacy, the recommended modification is not required.

3. Use of Self- Assessment Measures

The Committee finds that the use of a self-assessment system is acceptable as long as it contains mechanisms to ensure the reliability of the self-assessment responses. At present, the self- assessment requires that both the principal and the superintendent certify that the responses are accurate. This certification must remain in order to ensure the accuracy of the responses. Additionally, the Department of Education must continue to engage in audit-like site visits of a subset of the schools to confirm a high degree of reliability and validity in the responses provided. If the Department audits indicate a lack of reliability in the responses, the continued use of a self-assessment process may not be warranted.

4. Review of Self- Assessment Forms by Department of Education

As described above, the Committee recommends a modification to the self-assessment form to require a factual narrative description of how the school complies with each standard. The committee finds that while each school can self-describe the facts that exist in that school, it is imperative that a uniform and consistent application of the approval standard to the facts at hand occur. Only a statewide entity like the Department of Education can ensure that the school approval standards are applied uniformly to each school. Thus, the Committee recommends that the Department of Education review each assessment to independently verify that the factual description as provided in the self-assessment indeed

complies with the school approval requirement.

5. Site-visits by Department of Education

The Committee finds that the continued use of site-visits by the Department of Education to audit the accuracy of the self-assessment forms is critical. The use of these audits establishes a level of reliability and validity to the continued use of the self-report forms. The Committee recommends that the Department of Education increase the number of schools it audits each year so that it can visit at least ten percent (10%) of all schools on an annual basis. The Committee recognizes that this entails a significant increase in the number of site-visits that the department currently conducts as part of the school approval process. As such, the Committee recognizes and recommends that this increase be achieved over a transition period of three years. For purposes of accountability, these site-visit audits need only investigate the responses that are related to the specific standards included in adequacy and not all of the school approval standards that are a part of the school approval process. The Committee further recommends that site-visits occur more frequently in those schools that indicate that they are unable to meet all the school approval standards that are included in adequacy.

The Committee further recommends that the legislature charge the Department of Education to investigate:

- a) The use of volunteer professional teams appointed by the Department, made up of respected educational professionals from across the state, to conduct these site-visits; and,
- b) The feasibility of using existing personnel who are already conducting site-visits to schools under other programs, such as Title I, to efficiently conduct the site-visits required for adequacy purposes; and,
- c) To report its findings on these matters and the department's plans for increasing site-visits to schools pursuant to this section by May of 2009 to the Legislative Oversight Committee on the Statewide Education Improvement and Assessment Program established pursuant to RSA 193-C:7.⁷

6. Approval Standards Included

State law requires that schools comply with all of the school approval standards. However, the opportunity for an adequate education comprises only a subset of these approval standards, specifically the ones needed to provide the content areas enumerated in RSA 193E:2-a. The Committee finds that for purposes of establishing an accountability system, the legislature must identify which of the specific approval standards comprise that opportunity. The committee recommends that the following specific approval standards which are part of the existing school approval process and assessment be included in the assessment for adequacy:

Ed 306.18 – school year

Ed 306.27 (f) & (m) – minimum credits for high school diplomas

⁷ Pursuant to these recommendations, the legislature should amend the duties of the Legislative Oversight Committee established under RSA 193-C:8 to reflect the additional duties of the Committee to assist in the development, implementation and monitoring of the accountability system for purposes of adequacy as detailed in this report.

Ed 306.31 – arts education

Ed 306.37 – English/language arts and reading program

Ed 306.40 – health education

Ed 306.41 – physical education

Ed 306.42 – information and communication technologies program

Ed 306.43 – mathematics

Ed 306.45 – science education program

Ed 306.46 – social studies program

Ed 306.47 – technology education program

Ed 306.48 – world languages program

C. Performance Measures

The Committee finds that in lieu of demonstrating compliance with all of the relevant school approval standards, a school can establish that the opportunity for an adequate education exists by showing success on student and school performance measures. The Committee reiterates that while success in performance measures can evidence the opportunity for an adequate education, lack of success in these measures does not establish the lack of that opportunity. The duty to provide the opportunity for an adequate education does not make the school a guarantor of educational performance which is based on many factors outside the school's control. The school is only required to provide the opportunity for an adequate education. Thus, even if a school does not exhibit success in these performance measures, it can establish that the opportunity exists by demonstrating compliance with all the relevant school approval standards that comprise the opportunity for an adequate education.

The Committee recommends that the legislature require the New Hampshire Department of Education to develop an outcome measurement- based process whereby every New Hampshire school or district could voluntarily demonstrate that it provides the opportunity to acquire an adequate education as defined in RSA 193-E, based on its educational outcomes. The system should be comprehensive in nature, using a point system, with identified performance measures that would demonstrate that the opportunity for an adequate education exists. This new system would offer school districts flexibility and will exemplify an integrated system of shared responsibility between state and local government in implementing diverse educational approaches tailored to multiple indicators that measure progress to meet the needs of the whole child personally, socially, physically, and academically.

A great deal of the outcome data needed for this new system is already collected through the myriad of accountability systems already in place and discussed above. Shifting to this comprehensive point system of accountability as one possible means of demonstrating the

opportunity for an adequate education will cause the Department to reduce the collection of the same information for multiple purposes and will cause all Divisions to work collectively and share the overall responsibility for a system of accountability regarding the opportunity for an adequate education.

The Committee recommends that participation of a school in this alternative, outcome-based scoring system should be optional. If a school meets the school approval standards that comprise the opportunity for an adequate education, it has successfully demonstrated that it has provided that opportunity. However, if it chooses, it can demonstrate the availability of the opportunity for an adequate education by compiling a score on this new outcome based accountability system which is sufficiently high to demonstrate the availability of that opportunity. If a school evidences a cumulative score on the selected performance measures at that level, it need not, for purposes of establishing the existence of the opportunity for an adequate education, show that it meets all of the relevant school approval standards.

Developing the point system: process and timeline:

The Committee recommends that a task force should be assembled by the Department of Education during the 2008-2009 school year made up of experts, department staff, and representatives of local school districts to identify performance measures, set performance targets, define the process, and document the basis for the assignment of points to each school and district. The Task Force should also be charged with ensuring the validity of the scoring system as a means of demonstrating that the opportunity for an adequate education was indeed present.

The Task Force should be required to present its recommendations for this outcome based accountability system to the Legislative Oversight Committee on the Statewide Education Improvement and Assessment Program established pursuant to RSA 193-C:7. The Task Force, in its recommendation, should be required to identify which of the recommended performance measures are already required to be provided by schools to the department under other programs. The Task Force should also be required to specifically identify any recommended, optional performance measures which are not currently collected and/or required of schools.

The legislature should direct the Department of Education, upon approval of the proposed scoring system by the Legislative Oversight Committee on the Statewide Education Improvement and Assessment Program, to pilot this new system with a group of interested schools, during the 2009-2010 school year and to create data collection systems for the pilot program. The department should be required to report to the Legislative Oversight Committee on the Statewide Education Improvement and Assessment Program in October 2009 and again in May 2010 on the development and piloting of this system and the Department's plans for full implementation for all schools and districts during the 2010-2011 school year.

The legislature should require that, beginning with the 2010-2011 school year, the Department of Education annually prepare a scoring report on each school based only on those

performance measures included in the new scoring system that schools are already required to track and provide to the department pursuant to other existing state and federal programs. This data includes assessment results as outlined in RSA 193-C and RSA 193-H, and the indicators required by law in RSA 193-E:3:

- a) the performance standards established for the New England Common Assessment Program (RSA 193-C)
- b) meeting established growth targets (for individual students)
- c) indicators in the Special Education Performance Report
- d) performance and targets for English Language Learners and other identified student subgroups (as required by NCLB: low income students, minority groups)
- e) teacher and administrative certification (“highly qualified teachers”)
- f) high school graduation rates
- g) attendance rates
- h) drop-out rates
- i) safe-schools data
- j) number and percentage of graduating pupils going on to post-secondary education or military service
- k) advanced placement participation
- l) expulsion and suspension rates
- m) teacher and administrative turnover rates

The Task Force would also recommend for legislative approval the optional indicators, to be selected for additional points, that measure progress to meet the needs of the whole child personally, socially, physically, and academically. Schools may elect but are not required to provide any new or additional data or performance measures included in the new outcome-based system which are not already required. If a school chooses to provide additional data, the department should annually prepare a second report showing a school’s score on the outcome-based scoring system which includes the additionally provided data. Examples of additional measures could include the following:

- a) student participation in extra-curricular activities, leadership
- b) parent participation in parent-teacher conferences
- c) physical fitness and utilization of student wellness plans
- d) exhibitions, portfolios, or demonstrations of work and learning
- e) teacher evaluations of work and growth
- f) locally administered standardized tests
- g) measures of professional development (for teachers and administrators)
- h) multiple measures of assessment that gauge student progress for those content areas identified in RSA 193-E:2-a
- i) local education plans that include measurement goals for student achievement;
- j) measurement of a school or district’s use of ongoing supervision and evaluation opportunities
- k) measures of learning practices and strategies that demonstrate opportunities for an adequate education.

The department should annually report the results of the comprehensive assessment system as provided above, and identify the schools that have succeeded in demonstrating opportunities for adequacy through the outcomes-based point system.

D. Demonstrating Adequacy, Summary:

The Committee recommends that the legislature adopt a system for demonstrating that a school provides the opportunity for an adequate education if:

1. It meets all of the standards for school approval *which are part of the definition of adequacy*,
2. It achieves adequacy as determined by a point system based on data already required and collected by DOE (data which is collected and rated by a point system for *all schools*), *or*
3. It passes the bar for adequacy as determined by a point system which includes existing, required data *plus* indicators it chooses from an optional set of data.

E. Corrective Action and Assistance to Schools

The Committee makes the following recommendations regarding corrective action and assistance to school districts when a school fails to provide the opportunity for an adequate education pursuant to the adopted accountability measurements.

The general court shall provide authority to the Department of Education to take the following action for those schools failing to demonstrate opportunities to access an adequate education for the following time periods:

After the first year:

Schools that fail to meet all the relevant school approval standards that are part of the opportunity to provide an adequate education⁸ and fails to acquire the necessary points on the outcome-based assessment to determine adequacy, must file, prior to obtaining the status of being conditionally approved, a corrective action plan with the commissioner that will set out the action steps and the timeline that the school and/or district will take to demonstrate there is an opportunity to access an adequate education. Such a plan should, at a minimum:

- (a) Identify the areas where the school failed to meet the school approval standards and the areas where the school failed to meet outcome performance measurements.
- (b) Identify and describe the strategy the school intends to implement to improve its compliance and performance.

(c) Detail how the school district budget reflects the goals of the local education improvement plan.

The department will provide technical assistance to each school so designated. Annually, the district will report progress regarding the success of the action steps identified.

After the Second Year:

Schools that for two consecutive years fail to comply with all the relevant school approval standards and fail to acquire the necessary points on the outcome-based assessment to determine adequacy, must file a corrective action plan with the Commissioner that will:

- (a) Provide and implement a plan by which mentoring or coaching will be provided to school leadership, and
- (b) Include ongoing technical assistance and a liaison from the Department of Education, and
- (c) Provide an accounting of how adequacy funds are being used to provide opportunities for an adequate education as defined in 193-E:2-a, and
- (d) Establish and explain a strategy designed to promote family and community involvement.

After the third year:

When a school fails to comply with all the relevant school approval standards and fails to acquire the necessary points on the outcome based assessment to determine adequacy for three consecutive years, the general court should provide the state board of education the authority to:

- (a) Redirect state adequacy funds to meet those areas established that are contributing to the failure of the district to provide access to opportunities for an adequate education.
- (b) Through the redirection of such funds, assign a coach or mentor to the school until such time, the school demonstrates sufficient progress as determined.
- (c) Provide an accounting of how adequacy funds are being used to provide opportunities for an adequate education as defined in 193-E:2-a,
- (d) Require, to the extent necessary, one or more of the following:
 - i. Professional development that is aligned with school improvement goals.
 - ii. External support and resources based on their effectiveness and alignment with the school improvement plan,
 - iii. Instructional models that incorporate research-based practices that have been proven to be effective in improving student achievement.

- iv. Formal and informal opportunities to assess and monitor each child's progress.
- v. Evidence of data-based decisions.
- vi. Improvements to the school's curriculum including curricular priorities and instructional materials.
- vii. External support and resources based on their effectiveness and alignment with the school improvement plan, and
- viii. Extended learning activities for students.
- ix.
- x. Structural reform strategies that may include changes in schedule, organization, support mechanisms, and resources.
- xi. Structural changes to school leadership to support school improvement.

In such circumstances, the department shall meet quarterly with such district to assess progress. Progress reports shall be made annually to the state board of education and the general court.

The Committee finds that these provisions for corrective action should apply to schools that fail to meet all the relevant school approval standards, even if the state school board of education has granted that school the status of conditionally approved or a delay in full compliance pursuant to RSA 194:23-c and Ed 306.30. The legislation developed to implement the recommendations contained in this report should make certain that the granting of conditional approval or a delay in full compliance as it pertains to the school approval process should not remedy a failure of a school to show that it provides the opportunity for an adequate education by either complying with the relevant school approval standards or by acquiring the necessary points on the outcome-based assessment to determine adequacy.

VIII. CONCLUSION

Legislation should be prepared and submitted to the appropriate committees reflecting the recommendations contained in this report.

Appendix A

CHAPTER 173

SB 539-FN-LOCAL – FINAL VERSION

03/13/08 0803s

03/20/08 1077s

16Apr2008... 1269h

07May2008... 1574h

2008 SESSION

08-2923

04/10

SENATE BILL ***539-FN-LOCAL***

T relative to the cost of an adequate education and provision of fiscal capacity disparity aid.

ORS: Sen. Estabrook, Dist 21; Sen. Foster, Dist 13; Sen. D'Allesandro, Dist 20; Rep. Rous, Straf 7; Rep. Foose, Merr 1; Rep. Reeveer, Belk 4

COMMITTEE: Education

AMENDED ANALYSIS

This bill:

I. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

II. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

III. Establishes a joint legislative oversight committee on accountability for an adequate education.

IV. Provides fiscal capacity disparity aid, in addition to aid for the cost of the opportunity for an adequate education, based on a municipality's equalized valuation, including utilities, per pupil and median family income.

V. Provides fiscal capacity disparity aid to state-approved charter school.

VI. Provides aid to certain municipalities for the 2010 and 2011 fiscal years by ensuring that no school district receives a total education grant exceeding that district's total education grant for the 2009 fiscal year by more than 15 percent and that no school district's total education grant is less than its total education grant for the 2009 fiscal year during that time period.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/13/08 0803s

03/20/08 1077s

16Apr2008... 1269h

07May2008... 1574h

08-2923

04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eight

T relative to the cost of an adequate education and provision of fiscal capacity disparity aid.

Be it Enacted by the Senate and House of Representatives in General Court convened:

173:1 Statement of Purpose.

I. The general court finds that the cost of the opportunity for an adequate education for public school students, as established in this act, is based upon the definition of the opportunity for an adequate education enacted in the 2007 Laws of New Hampshire, chapter 270. The methodologies for costing, determination of resources, and elements of cost included in this act are intended to and do fulfill the state's duty under the Encouragement of Literature clause of the New Hampshire constitution to deliver the opportunity for an adequate education.

II. The individual components of the cost were selected on the basis of their effectiveness in delivering educational opportunity and after extensive review, debate and discussion by the joint legislative oversight committee on costing an adequate education and the general court. The legislative process consisted of obtaining information from professional educators, government officials, education policy and finance experts, and the public on the establishment of the cost of an adequate education.

III. The joint legislative oversight committee on costing issued detailed findings and recommendations on the composition of the cost of an adequate education and how the funds for an

adequate education should be allocated and accounted for in order to ensure that the educational needs of all public school students are met. These findings and recommendations were submitted to the general court and are an integral basis of the costing determinations reflected in this act.

IV. The cost of the opportunity for an adequate education consists of several elements. All such elements must be provided in order to ensure the delivery of the state's constitutional duty. The universal cost represents the per pupil resources necessary to provide an adequate education where no additional aid is necessary to cover the increased costs of providing that opportunity to students who have special education needs, who have limited English language proficiency or are in schools with significant concentrations of economically disadvantaged students. The universal cost represents the costs attributable only to the subset of education that is included in the definition in RSA 193-E:2-a.

V. The general court further finds that additional aid, referred to as differentiated aid, is also required to fulfill the state's constitutional duty to provide the opportunity for an adequate education for certain students. This act allocates such differentiated aid to special education students, English language learners, and students in schools with significant concentrations of economically disadvantaged students, the latter category based upon eligibility for federally-provided free and reduced-price lunch programs and the concentration of such eligible students in a school.

VI. In determining the need for differentiated aid in addition to providing the universal cost for an adequate education, the general court recognizes that the resources needed to provide the opportunity for an adequate education are not the same for all students or at all schools.

VII. The general court recognizes that special education students face unique challenges that require educational support and instructional resources in addition to those provided by the universal cost. After reviewing the findings of the joint legislative oversight committee and conducting its own inquiry into forms of special education funding and the laws relevant to such funding mechanisms, the general court finds that each special education student should receive additional funding above the universal cost. This per pupil amount is not dependent upon a student's level of disability or learning environment because the general court wishes to encourage the placement of special education students in the least restrictive learning environment possible.

VIII. After reviewing the findings of the legislative oversight committee, including its survey of services provided to English language learners throughout the country and in New Hampshire, the general court finds that additional funding is required to provide English language learners with the opportunity for an adequate education. Accordingly, the general court finds that an amount should be distributed to each pupil receiving English language instruction in a district. This supplemental amount is based upon providing one teacher per 70 students receiving English language instruction and is in-line with funding provided throughout the United States to English language learners.

IX. The joint legislative oversight committee report recognized that economically disadvantaged students require supplemental funding in addition to the universal cost amount. During its deliberations, the committee heard testimony and thoroughly reviewed studies, research, and data about the challenges that school districts face when educating economically disadvantaged students and all pupils in schools with significant concentrations of economically disadvantaged pupils, as well as the costs and considerations involved in implementing programs designed to overcome those obstacles. As encouraged by the committee report, the general court reviewed the committee's conclusions and used the legislative process to craft a funding mechanism that would provide the opportunity for an adequate education to all pupils in schools with significant concentrations of economically disadvantaged pupils. The general court further finds it necessary to provide additional

aid to economically disadvantaged pupils in schools without significant concentrations of economically disadvantaged pupils to provide them with the opportunity for an adequate education.

X. The general court recognizes that the adequacy and need-based formula implemented by this legislation will significantly alter the manner in which funds for public education are distributed to school districts. In recognition of the impact and scope of these changes, and in an effort to avoid financial dislocations, the general court finds that the formula should be phased into operation over the course of 2 years. In consultation with school funding experts, the general court determines that a transition period will allow school districts whose funding will be altered by this formula time to adjust their budgets and their allocation and use of resources. Accordingly, for the fiscal years 2010 and 2011, the general court determines that the new funding system enacted as part of this legislation should be phased in a manner that allows all school districts to attain adequate funding while protecting districts during the transition period against disruptive reductions in funding in those instances where the legislation's adequacy computations may ultimately reduce the amount of state education funds allocated to a district.

XI. The general court recognizes that certain communities lack the relative wealth and fiscal capacity to fund local education to the extent desired by those communities. For this reason, the general court finds it appropriate to provide money above the cost of the opportunity for an adequate education based upon the fiscal capacity and relative need of certain communities.

XII. This act is not intended to stand in isolation from the other statutes and rules relating to educating New Hampshire students as required by state and federal law.

173:2 Commissioner's Warrant. RSA 76:8, II is repealed and reenacted to read as follows:

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

173:3 Adequate Education. Amend the subdivision heading preceding RSA 198:38 to read as follows:

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

173:4 Adequate Education; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions.

I. "Average daily membership in attendance" or "ADMA" means the aggregate half-day membership of pupils in kindergarten through grade 12 attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance shall include any pupil who is a resident of New Hampshire educated at public expense, including any pupil whose school district provides his or her education through a private or out-of-district placement.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Determination year" means the fiscal year that was 3 years prior to the fiscal year for which aid is to be determined. Unless otherwise indicated, determination year data shall be used to calculate aid.

V. "Educationally disabled child" or "educationally disabled pupil" shall mean "educationally disabled child" as defined in RSA 186-C:2, I.

VI. "English language learner" means a child who has a predominant language other than English or who is educationally disadvantaged by a limited English proficiency, and who is receiving regularly scheduled English language instruction. For the purposes of RSA 198:40-a, the department shall calculate the number of English language learners using ADMA data. The department shall use the ADMA of all pupils receiving English language learner services as of October 2006 in calculating 2006-2007 ADMA data.

VII. "Pupils eligible for a free or reduced-price meal" means pupils in grade 1 through grade 12 who are eligible for the federal free or reduced-price meal program. For the purposes of RSA 198:40-a, the department shall calculate the concentration of pupils eligible for free or reduced-price meals using ADMA data. The department shall use the ADMA of pupils eligible for a free or reduced-price meal as of October 2006 in calculating ADMA concentrations for 2006-2007 ADMA data.

VIII. "School district" means school district as defined in RSA 194:1 and shall include cooperative school districts as defined in RSA 195:1, I.

173:5 Cost of an Opportunity for an Adequate Education. RSA 198:40-a is repealed and reenacted to read as follows:

198:40-a Cost of an Opportunity for an Adequate Education.

I. Beginning July 1, 2009, and for every biennium thereafter, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be \$3,450 per pupil attending a public school, plus any applicable differentiated aid for which a pupil is eligible. Differentiated aid shall be calculated as follows:

(a) An additional \$431 per pupil in kindergarten through grade 12 eligible for the federal free and reduced-price meal program who attends a public school in which less than 12 percent of the pupils reported in the school's ADMA in the determination year are eligible for the federal free and reduced-price meal program.

(b) An additional \$863 per pupil in a public school in which at least 12 percent but less than 24 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(c) An additional \$1,725 per pupil in a public school in which at least 24 percent but less than 36 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(d) An additional \$2,588 per pupil in a public school in which at least 36 percent but less than 48 percent of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(e) An additional \$3,450 per pupil in a public school in which 48 percent or more of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

II. In addition to the amount in paragraph I, an additional \$675 for each pupil reported in the public school's ADMA in the determination year who is an English language learner and who is receiving English language instruction.

III. In addition to the amounts in paragraphs I and II, an additional \$1,856 for each pupil reported in the public school's ADMA in the determination year who is receiving special education.

IV. (a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education which shall be used in each year of the biennium.

(b) The department shall allocate the cost of an adequate education for each municipality by totaling the cost of an adequate education as determined in RSA 198:40-a, I-III for all children who reside in that municipality.

(c) Prior to or coinciding with the first disbursement of each fiscal year under RSA 198:42, the department shall notify a school district of the cost of an adequate education for the pupils in each school within its jurisdiction sorted by the pupil's municipality of residence. In addition, the department shall furnish to each school district a report showing the cost of an adequate education for pupils who are residents of that school district sorted by a pupil's school of attendance.

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the fiscal year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

173:6 Use of Differentiated Aid. RSA 198:40-b is repealed and reenacted to read as follows:

198:40-b Use of Differentiated Aid.

I. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for schools within its jurisdiction, shall separately account for such aid as part of its financial accounting procedures. Differentiated aid shall only be used to provide enhanced programs in schools within its jurisdiction for which such aid has been allocated that are known to improve pupil achievement, including but not limited to: pre-kindergarten programs, full-day kindergarten programs, extended learning time, professional development opportunities for teachers, hiring of additional instructional and non-instructional personnel, programs designed to reduce class size, parental involvement programs, additional technology resources, drop out prevention programs, principal incentive programs, and curriculum enrichment programs. The school district shall determine which programs are most needed and most appropriate for their pupils. The department shall annually review and update the list of approved programs from which a school district may choose.

II. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for use in schools within its jurisdiction shall annually submit a report to the commissioner documenting for each school within its jurisdiction for which such aid has been allocated, the enhanced programs selected for implementation, an explanation of the specific educational needs which the program is intended to address, an explanation of how the program will be implemented in the school, and an estimate of the cost of implementing the program. The commissioner shall review these reports to ensure that differentiated aid will be used to provide programs approved under paragraph I.

III. A school district which receives differentiated aid for schools within its jurisdiction pursuant to RSA 198:40-a, I-III shall direct such aid to the schools for which such aid was calculated. A school district which receives differentiated aid for pupils that attend schools in another school district, shall direct such aid to the school district where its pupils are being educated. Any differentiated aid directed from one school district to another pursuant to this paragraph shall be a credit against any existing financial liability between the school districts.

173:7 School Money; Fiscal Capacity Disparity Aid. RSA 198:40-c is repealed and reenacted to read as follows:

198:40-c Fiscal Capacity Disparity Aid.

I. In addition to aid for the cost of the opportunity for an adequate education provided under RSA 198:40-b, each biennium the department shall calculate fiscal capacity disparity aid and provide that amount of aid in each year of the biennium to a municipality's school districts and to charter schools approved under RSA 194-B:3-a as follows:

(a) The department shall calculate the equalized valuation per pupil for each municipality in the state and shall sort the results into quartiles based on equalized valuation per pupil and shall divide all quartiles in half. If there are an uneven number of municipalities in a quartile or half quartile, the department shall make the lower quartile or half quartile the one with fewer municipalities.

(b) A municipality with an equalized valuation per pupil in the lower half of the lowest quartile and which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$2,000 multiplied by the municipality's average daily membership in residence.

(c) A municipality with an equalized valuation per pupil in the upper half of the lowest quartile which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$1,250 multiplied by the municipality's average daily membership in residence shall be distributed pursuant to RSA 198:42.

(d) A charter school approved under RSA 194-B:3-a shall receive \$2,000 per pupil multiplied by the number of pupils enrolled. The calculation of charter school enrollment and aid distribution shall be pursuant to RSA 194-B:11, I(c).

II. Except as otherwise provided in this section, aid shall be distributed pursuant to RSA 198:42.

III. In this section:

(a) "Equalized valuation per pupil" means a municipality's equalized valuation, including properties subject to taxation under RSA 82 and RSA 83-F, as determined by the department of revenue administration, that was the basis for the local tax assessment in the determination year, divided by the school district's kindergarten through grade 12 average daily membership in residence, as defined in RSA 189:1-d for the determination year, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

(b) "Median family income" means the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce, as of October 1 preceding the beginning of the biennium for which aid is to be determined.

173:8 New Section; Consumer Price Index Adjustment. Amend RSA 198 by inserting after section 40-c the following new section:

198:40-d Consumer Price Index Adjustment. Beginning July 1, 2011 and every biennium thereafter, the department of education shall adjust the sum of the amounts determined under RSA 198:40-a based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the “services less medical care services” special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the 3 calendar years ending 18 months before the beginning of the biennium for which the calculation is to be performed.

173:9 School Money; Determination of Grants and Excess Tax. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Grants and Excess Tax.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the education grant for the municipality as follows:

(a) Add the per pupil cost of providing the opportunity for an adequate education for which each pupil is eligible pursuant to RSA 198:40-a, I-III, and from such amount;

(b) Subtract the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year, and from such amount; and

(c) Add the fiscal capacity disparity aid pursuant to RSA 198:40-c.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for each municipality as the lesser of the 2 following calculations:

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

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

III. For the fiscal years beginning July 1, 2009 and July 1, 2010, the department of education shall not:

(a) Distribute a total education grant on behalf of all pupils who reside in a municipality that exceeds that municipality's total education grant for the 2009 fiscal year by more than 15 percent; or

(b) Reduce the total state aid for an adequate education provided on behalf of all pupils who reside in a municipality to an amount less than that municipality's total state aid for an adequate education received in the 2009 fiscal year.

173:10 Excess Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. A municipality in which education property tax revenue collected exceeds the amount necessary to fund the cost of an adequate education in a fiscal year, as determined in RSA 198:40-a, shall collect and remit such excess to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

173:11 School Attendance; Duty of Parent; Version Effective July 1, 2009. Amend RSA 193:1, I(c) to read as follows:

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

173:12 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I.(a) There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For ~~[any other]~~ **a** charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department.

(b) For any charter school authorized by the state board of education pursuant to RSA 194-B:3-a, the state shall pay tuition **pursuant to RSA 198:40-a and RSA 198:40-c** directly to the charter school for each pupil who is a resident of this state in attendance at such charter school ~~[as follows:~~

~~(a) For the fiscal year beginning July 1, 2006, \$3,598 annual tuition.~~

~~(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined].~~

(c) **Notwithstanding RSA 198:42**, the commissioner of the department of education shall calculate and distribute charter school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible charter schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year.

(d) The source of funds for payments under this section shall be moneys from the education trust fund established in RSA 198:39.

173:13 Joint Legislative Oversight Committee on Accountability for an Adequate Education.

I. There is hereby established the joint legislative oversight committee on accountability for an adequate education. The members of the committee shall be as follows:

(a) Three members of the house of representatives, which shall include 2 members of the house education committee and one member of the house finance committee, appointed by the speaker of the house of representatives.

(b) Three members of the senate, which shall include 2 members of the senate education committee and one member of the senate finance committee, appointed by the president of the senate.

II. The committee shall review and study the assessment and assistance methods, reporting requirements, and other methods of accountability presently being used by the department of education and local school districts to determine whether such methods, programs, and standards will ensure the delivery of an adequate education as set forth in RSA 193-E:2-a.

III. Following a public hearing, the committee shall report its findings and recommendations concerning the sufficiency of existing statutory law to provide accountability for the delivery of the opportunity for an adequate education as defined in RSA 193-E:2-a, and the possible need for additional legislation, to the governor, the speaker of the house of representatives, the president of the senate, and the state librarian no later than November 15, 2008.

173:14 Joint Legislative Committee on Fiscal Capacity, Transition Aid, and Diseconomies of Scale.

I. There is hereby established a joint legislative committee on fiscal capacity, transition aid and diseconomies of scale. The members of the committee shall be as follows:

(a) Six members of the house of representatives, which shall include 2 members of the house finance committee, 2 members of the house ways and means committee, and 2 at-large members, appointed by the speaker of the house of representatives.

(b) Six members of the senate, which shall include 2 members of the senate finance committee, 2 members of the senate ways and means committee, and 2 at-large members, appointed by the president of the senate.

II. The committee shall study the need for providing fiscal capacity and transition aid to municipalities, as well as additional aid to address the lack of economies of scale in small school districts, and the source of funds for such aid.

III. Following a public hearing, the committee shall report its findings and recommendations concerning the need for fiscal capacity disparity aid, transition aid, and small school district aid, and the need for additional legislation, to the governor, the speaker of the house of representatives, the president of the senate, and the state librarian no later than December 1, 2008.

173:15 References Amended. Amend the following RSA sections by replacing “statewide enhanced education tax” with “education tax”: RSA 21-J:14-h; RSA 76:3; RSA 76:8, I; RSA 76:8, III; RSA 76:9; RSA 83-F:9; RSA 198:46; RSA 198:47; RSA 198:57, III(a); and RSA 198:57, IV(c).

173:16 Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

173:17 Repeal. The following are repealed:

I. 2005, 257:8, relative to determination of grants and excess enhanced education property tax payments.

II. 2005, 257:23, I, relative to the July 1, 2009 effective date for 2005, 257:8.

III. RSA 198:41, III as inserted by section 9 of this act, relative to total education grants distributed in the 2010 and 2011 fiscal years.

173:18 Effective Date.

I. Paragraphs I and II of section 17 of this act shall take effect June 30, 2009.

II. Section 8 and paragraph III of section 17 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect July 1, 2009.

Approved: Enacted in accordance with Article 44, Part II of New Hampshire Constitution, without signature of the governor, June 10, 2008.

Effective Date: I. Paragraphs I and II of section 17 shall take effect June 30, 2009.

II. Section 8 and paragraph III of section 17 shall take effect July 1, 2011.

III. Remainder shall take effect July 1, 2009.

Appendix B

New Hampshire Follow The Child Accountability Task Force

New Hampshire has convened a group of school and district administrators, special educators, and assessment directors; university professors; assessment consultants; and members of the Department of Education Curriculum and Instruction and Adult Education Divisions to review and make recommendations to New Hampshire's Accountability System. They are listed below.

Paul Bousquet, Superintendent Gorham, NH	Dr. Thomas Brennan, Superintendent Manchester, NH
Jean Briggs, Federal Projects Dover, NH	Keith Burke, former Superintendent Peterborough, NH
Diane Lurvey, NH Special Education Assn. Stoddard School District	Virginia Clifford, NHDOE Program Support
Maria Dreyer, Special Education Director Prospect Mt. HS, Alton, NH	Heather Cummings, Instructional Improvement Governor Wentworth School District
Tammy Davis, Superintendent Winnisquam Regional School District	Chris Demers, Assessment Director/Asst. Principal Concord, NH
Patrick Connors, Principal Epsom, NH	Karen Laba, Facilitator, New England Comprehensive Center
Gaye Fedorchak, NHDOE, Alternative Assessment	Sallie Fellows, NHDOE, Information Services
Kathy Skoglund, Consultant Special Education	Scott Fletcher, Department Chair, Education, University of New Hampshire
Jerry Frew, Superintendent Kearsarge Regional School District	Gail Paludi, Principal, SAU 41 Hollis, NH
Brian Gong, National Center for the Improvement of Educational Assessment	Scott Marion, National Center for the Improvement of Educational Assessment
Mary Heath, NH Deputy Commissioner	Damian Betebenner , National Center for the Improvement of Educational Assessment
Chris Harper, Assistant Headmaster Pinkerton Academy	Kathleen Murphy, Division Director - Instruction NHDOE
Stuart Kahl, President, Measured Progress	Tim Kurtz, NHDOE, Assessment Director

Kathleen McCabe, Assist. Superintendent Governor Wentworth School District	Chip McGee, Assessment Director & Assistant Superintendent, Bedford, NH
Brian Cochrane, Assessment Director Nashua, NH	Michael Schwartz, SASID & i4see Administrator, NHDOE
Steve Zdravec, Assistant Superintendent Portsmouth, NH	Charles Pugh, Assessment Director, Moultonborough, NH
Santina Thibedeau, NHDOE Special Education Administrator	Deb Wiswell, NHDOE, Accountability Administrator
Mary Lane, NHDOE, Special Education Consultant	Steve Bos, NHDOE, Career and Technical Education
Shannan Douglas, Measured Progress, Inc.	Merry Fortier, NHDOE, School Improvement
Mike Fournier, Principal, Bedford, NH	Melissa Gallagher, parent NH Children.org
Mariane Gfroerer, NHDOE Guidance and Career Education	Nicole Heimarck, Director of Curriculum & Professional Development, SAU 39