

Bill as Introduced

HB 308 - AS INTRODUCED

2005 SESSION

05-0507

04/10

HOUSE BILL

308

AN ACT

relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.

SPONSORS:

Rep. Claire Clarke, Merr 6; Rep. Dunn, Ches 3; Rep. Rush, Merr 7

COMMITTEE:

Education

ANALYSIS

This bill amends the special education payment distribution schedule for children in certain court ordered placements and clarifies the department of education's jurisdiction in alternative dispute resolution proceedings.

This bill is a request of the department of education.

Explanation:

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

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

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.

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

1 1 Special Education; Liability for Educationally Disabled Children in Certain Court Ordered
2 Placements. Amend RSA 186-C:19-b, II(c) to read as follows:

3 (c) The department of education shall distribute special education payments under
4 subparagraph II(a) ~~[on or before January 1]~~ ***within 60 days of receipt of invoice from the school***
5 ***district***. School districts shall submit education service providers costs to the department ~~[by~~
6 ~~June 30 of each fiscal year]~~ ***within 30 days of receipt of such costs***. The department shall then
7 verify the cost and distribute the appropriate amounts ~~[for the previous fiscal year on or before~~
8 ~~January 1 of each year]~~ ***to the education service provider***.

9 2 Special Education; Alternative Dispute Resolution. Amend RSA 186-C:23 to read as follows:

10 III. Alternative dispute resolution proceedings shall be ~~[nonbinding]~~ ***confidential*** and shall
11 not impair the right of the participants to demand a due process hearing. ~~[Alternative dispute~~
12 ~~resolution proceedings shall be confidential.]~~ Information, evidence, or the admission of any party
13 shall not be disclosed or used in any subsequent proceeding. Statements made and documents
14 prepared by a party, attorney, or other participant in aid of such proceeding shall be privileged and
15 shall not be disclosed. In addition, the parties shall not introduce into evidence in any subsequent
16 proceeding the fact that there was an alternative dispute resolution proceeding or any other matter
17 concerning the conduct of such proceedings. ***The authority of the department of education in***
18 ***alternative dispute resolution proceedings initiated under this section shall be limited to***
19 ***the provisions of paragraphs I and II.***

20 3 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

Education Committee

Hearing Report

To: Members of the Senate

From: Tim Healy
Legislative Aide

Re: **HB 308 – Relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.**

Hearing date: April 5, 2005

Members present: Sen. Bragdon, Sen. Johnson, Sen. Gatsas, Sen. Estabrook

Members absent: Sen. Green, Sen. Foster

Sponsor(s): Rep. Snyder

What the bill does: This bill amends the special education payment distribution schedule for children in certain court ordered placements and clarifies the department of education's jurisdiction in alternative dispute resolution proceedings.

Who supports the bill: Rep. Clarke, Rep. Snyder, Rep. Dunn, Rep. Rush, Virginia Irwin – DOE

Who opposes the bill: No one appeared in opposition

Summary of testimony received:

Background:

- This bill was brought on request of the New Hampshire Department of Education to clarify RSA 186-C:19-b, with regard to payment of special education payment contracts as well as RSA 186-C:23 regarding Special Education Alternative Dispute Resolution.
- The impetus of this bill is that the current and modern way in which the bills are paid, within 60 days or receipt invoice from the school district, does not match the statute, which says that the bill just needs to be paid on or before January 1.
- This will also make alternative dispute resolutions non-binding and clarify that they are to remain confidential.

Funding: *no financial impact*

Future action: OTP 4-0, Johnson to the floor.

TPH

[File: HB 308 report]

Date: April 5, 2005

JAE

Date: April 5, 2005
Time: 8:36 AM
Room: State House Room 105-A

The Senate Committee on Education held a hearing on the following:

House Bill 308 relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.

Members of Committee present: Senator Bragdon
Senator Johnson
Senator Gatsas
Senator Estabrook

The Chair, Senator Peter E. Bragdon, opened the hearing and called upon Representative Claire Clarke, prime sponsor of the bill to provide testimony.

Rep. Claire Clarke, Merr. 6: Thank you, my name is Rep. Claire Clarke and I am here to show support for House Bill 308.

This bill has been requested by the Department of Education to clarify RSA 186-C:19(b)II(c) and C:23 III because of inconsistency of language with practice.

In audits conducted by the Legislative Budget Office in 2000 and 2002, it was noted that the Department of Education was not in compliance to (c) regarding payments for service for those students in court ordered placements. The current RSA states that the payment for these services will be made once a year on or before January 1st. The Department is asking to change the RSA to agree with the current practice of department which is to pay the vendor invoicing for services within 60 days after receipt of the invoice.

The second part of the bill is to clarify RSA 186-C:23 to eliminate the work "nonbinding" and replace it with confidential. We also propose striking the sentence "Alternative dispute resolution proceedings shall be confidential" and adding at the end of that paragraph the sentence "The authority of the Department of Education in alternative dispute resolution proceedings

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initiated under this section shall be limited to the provisions of paragraphs I and II.

This is my testimony and if you have any questions, I am sure Ms. Irwin from the Department of Education will be able to better answer them. Thank you.

Senator Peter E. Bragdon, D. 11: Thank you Representative Clarke. I now call on Virginia Irwin from the New Hampshire Department of Education.

Virginia Irwin, Director of NH Dept. of Education: Good morning Mr. Chairman and fellow Senators. I am Virginia Irwin the Director of the Division of Instruction.

As you heard from Representative Clarke this is a piece of legislation that we requested based on an audit finding that we were not in keeping with the statute and we would like to align it with practice.

Court ordered placements: we are required to pay the expenses a child who is in upholding facility or facility or someone by the Court. Whenever the costs occur they don't always occur the same time every year or we don't really know when the payments are going to be made because we don't know who's going to be in that situation. It has been department practice to pay the invoices when they arrive. Within 60 days after arrival. This will allow us to actually do or do what we've been doing.

The second section is a language clarification by swapping the words confidential for nonbinding then we don't need this following sentence it would be a redundancy.

And the last sentence is to give us clarity on how we would perceive the alternative dispute resolutions which is outlined in paragraph 17. I would answer any questions anyone might have.

Senator Peter E. Bragdon, D. 11: Thank you very much. Any questions?
Senator Johnson.

Senator Carl R. Johnson, D. 2: Thank you, Mr. Chairman. Do you find school districts get their information from the service providers in a timely manner? Here it says 30 days, do you find they will be getting that information in a timely manner within that 30 days?

Virginia Irwin: It has been the practice that they are getting the information because then they pass it on to us. I don't know of a situation that I could

JAE

give you an example of. I could certainly find out what the timing is, but we've not had any direct complaints about that that I'm aware of.

Senator Carl R. Johnson, D. 2: Okay. Thank you.

Senator Peter E. Bragdon, D. 11: Further question. Question about the nonbinding being struck. Why is that? Is it stated elsewhere or is it conflict with something else? There's a difference between nonbinding and confidential.

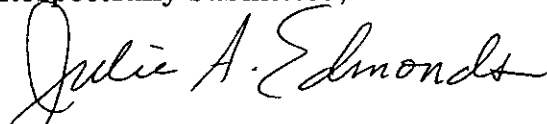
Virginia Irwin: There is a huge difference, exactly. It was conflicting. Alternative Dispute Resolutions I think are more clarified in the earlier paragraphs but I don't happen to have the law book with me so it was a conflict of language.

Senator Peter E. Bragdon, D. 11: I thought I saw a few which I thought might explain it. Okay. Any further questions? Seeing none. Thank you very much. Is there a Motion to go into Executive Session? Senator Gatsas votes to go into Executive Session. Senator Johnson?

Senator Carl R. Johnson, D. 2: I second.

Hearing concluded at 8:38 a.m.

Respectfully submitted,



Julie A. Edmonds
Senate Committee Secretary
4/11/05

No attachments

Speakers

Voting Sheets

Senate Education Committee

EXECUTIVE SESSION

Bill # HB 308

Hearing date: 4/05/05

Room: State House Rm. 105-A

Executive session date: 4/05/05

Motion of: OTP

VOTE: 4-0

Made by Bragdon
Senator: Johnson
 Gatsas
 Green
 Estabrook
 Foster

Seconded Bragdon
by Senator: Johnson
 Gatsas
 Green
 Estabrook
 Foster

<u>Committee Member</u>	<u>Present</u>	<u>Vote (Y/N)</u>	<u>Reported out by</u>
Senator Bragdon, Chairman	X	Y	<input type="checkbox"/>
Senator Johnson, Vice-Chair	X	Y	X
Senator Gatsas	X	Y	<input type="checkbox"/>
Senator Green			<input type="checkbox"/>
Senator Estabrook	X	Y	<input type="checkbox"/>
Senator Foster			<input type="checkbox"/>

*Amendments: _____

NOTES:

Committee Report

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HB308 Docket

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Bill Title: relative to the special education payment distribution schedule and relative to alternative dispute resolution proceedings in special education.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/26/2005	H	Introduced and ref to Education; HJ 15, p 232
1/27/2005	H	Report due Early
2/3/2005	H	Hearing Feb 8 1:00 RM207,LOB
2/17/2005	H	Comm Report OTP for Mar 9 (vote 14-0;CC)
3/9/2005	H	Passed (Cons Cal by nec 2/3); HJ 26, p 675 + 743
3/17/2005	S	Introduced and Referred to Education; SJ 9, Pg.140
3/28/2005	S	Hearing; April 5, 2005, Room 105-A, SH, 8:35 a.m.; SC14
4/5/2005	S	Committee Report; Ought to Pass [04/14/05]

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Docket Abbreviations

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 308 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMMITTEE SECRETARY WILL CONFIRM ALL ENTRIES CHECKED AND SIGN THIS INVENTORY.
5. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT (For calendar and floor)

HEARING REPORT (Written summary of hearing testimony, if produced)

HEARING TRANSCRIPT (Verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: _____

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

None _____ - AMENDMENT # _____ _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

None PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: _____

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A NEW FILE FOLDER WITH THE CHAIRMAN'S COPY OF THE BILL AND THE LATEST DOCKET AND KEEP THOSE FILES IN YOUR OFFICE. PLEASE KEEP YOUR MASTER SHEET CURRENT AS YOU CLOSE OUT YOUR FILES AND PROVIDE THE SECRETARIAL SUPERVISOR WITH A COPY WHEN COMPLETED.

DATE DELIVERED TO SENATE CLERK 4/11/05

Julie A. Edmonds
COMMITTEE SECRETARY