

SB 158-FN-LOCAL - AS INTRODUCED

2021 SESSION

21-1052

06/10

SENATE BILL ***158-FN-LOCAL***

AN ACT relative to the formula for funding an adequate education.

SPONSORS: Sen. Kahn, Dist 10; Rep. Myler, Merr. 10; Rep. Luneau, Merr. 10

COMMITTEE: Education

ANALYSIS

This bill:

- I. Develops s a formula for funding an opportunity for an adequate education.
- II. Modifies the determination of education grants.
- III. Modifies the statewide education property tax and its collection.
- IV. Develops rates for special education services provided by chartered public schools.
- V, Modifies property tax relief for low and moderate income homeowners.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the formula for funding an adequate education.

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

1 1 Findings: The commission to study school funding identified a means of funding an adequate
2 education based upon each student in every school having an opportunity to achieve statewide
3 average performance outcomes. This formula differs from the current funding formula based on
4 input ratios that don't exist in any New Hampshire school and lead to a universal cost per student.
5 However, the cost of providing an opportunity for an adequate education, as required by RSA 198:40-
6 a, can be calculated by a district educating all of its students to a statewide average outcome based
7 on student needs and district characteristics. Average outcomes are based upon student
8 achievement scores, absentee rates, and graduation rates for every school in New Hampshire. The
9 commission recommends a costing formula using weighted enrollment that reflects factors that can
10 predict the cost for each New Hampshire school district. It is the obligation of the state to ensure
11 that every district has access to the resources necessary to provide an adequate education. The goal
12 is an allocation of state funds that provides greater student equity and taxpayer equity across the
13 state.

14 2 Cost of an Adequate Education. Amend RSA 193-E:2-b, I-II to read as follows:

15 I. The general court shall use the definition of the opportunity for an adequate education in
16 RSA 193-E:2-a to determine the resources necessary ~~[to provide essential programs, considering~~
17 ~~educational needs]~~ **for students to achieve measurable student outcomes, as defined in RSA**
18 **193-E:3, such that all students have a comparable opportunity for an adequate education**
19 **regardless of need or location of the district in which they are enrolled.**

20 The general court shall make an initial determination of the ~~[necessary specific resource elements to~~
21 ~~be included in]~~ **outcome performance measures to achieve** the opportunity for an adequate
22 education.

23 II. The general court shall create a process for the periodic determination of the ~~[specific~~
24 ~~resource elements essential to providing the substantive educational content of]~~ **outcome**
25 **performance measures to achieve the opportunity for** an adequate education. This review
26 should occur no less frequently than every ~~[10]~~ **5** years.

27 3 Cost of an Opportunity for an Adequate Education. RSA 198:40-a is repealed and reenacted to
28 read as follows:

29 198:40-a Cost of an Opportunity for an Adequate Education.

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I. Beginning July 1, 2022, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2 and RSA 193-E:2-a shall be as specified in paragraphs II through IV.

II. The allocation of state funds to schools and towns shall be based on an education cost formula that differentiates aid to school districts based on the average daily membership in attendance (ADMA) as defined in RSA 198:38, student differentiated need, and community characteristics.

III. Predicted costs are based upon weighted student ADMA calculated on the following base cost plus the base times each weighted student in a district:

(a) Base cost of \$6,107 per student in the ADMA, plus differentiated aid based on weighted cost per pupil that are multipliers to the base cost as follows:

(b) An additional weighted student of 1.49 for each student in the ADMA who is eligible for a free or reduced price meal; plus

(c) An additional weighted student of 2.20 for each student in the ADMA who is an English language learner; plus

(d) An additional weighted student of 4.29 for each student in the ADMA who is receiving special education services; plus

(e) An additional weighted student for each student in the ADMA based on enrollment in:

(1) Between 1 and 200 students - weighted student of $(-0.00451 * \text{enrollment} + 1.621)$

(2) Between 201 and 600 students - weighted student of $(-0.00065 * \text{enrollment} + 0.845)$.

(3) Between 601 and 1200 students - weighted student of $(-0.00006 * \text{enrollment} + 0.494)$.

(4) Between 1201 and 2000 students - weighted student of $(-0.00049 * \text{enrollment} + 1.008)$.

(f) An additional weighted student by level of instruction:

(1) Grades 6-8 – weighted student of 1.42

(2) Grades 9-12 - weighted student of 0.42

IV. The sum total calculated weighted student ADMA times the base cost under paragraph III shall be the a district's predicted cost of an adequate education. The department shall determine the cost of an adequate education for each municipality based on the weighted ADMA of students who reside in that municipality.

4 Determination of Education Grants. Amend RSA 198:41, I-II to read as follows:

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 total education grant for the municipality as follows:

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(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]~~ **to** such amount

(b) ~~[Subtract the amount of the education tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:8 for the next tax year; and]~~

~~[(e)]~~ add the municipality's additional aid for free or reduced-price meals pursuant to RSA 198:40-b and 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 total 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 tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:8 for the next tax year.]~~

5 Determination of Education Grants RSA 198:41, I is repealed and reenacted to read as follows:

I. For each municipality where the result is greater than zero, the department of education shall determine the education grant for the municipality as follows:

(a) Multiply the municipality's equalized valuation by 0.0075; and

(b) Deduct that amount from not less than 90 percent of district's predicted cost of an adequate education pursuant to RSA 198:40-a, I-III; however:

(c) If the result is greater than zero and the municipality's equalized local education property tax rate is less than \$7.50/mill, then the education grant shall be reduced by the same proportion.

6 Chartered Public Schools; Funding. Amend RSA 194-B:11, III(c) to read as follows:

(c) Consistent with section 5210(1) of the Elementary and Secondary Education Act and section 300.209 of the Individuals with Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. The child's resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services. ***The department of education shall develop rate setting for special education services provided by chartered public schools and charged to public school districts.***

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7 Education Tax. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Tax.

I. Beginning July 1, 2021, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education tax rate at \$2 per \$1,000 of equalized assessed valuation.

II. The education property tax rate is imposed on all persons and property taxable pursuant to RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The statewide education property tax rate shall be collected by the municipal tax collector and paid to the department of revenue administration for deposit to the education trust fund.

8 Property Taxation; Commissioner's Warrant. Amend RSA 76:8, II 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]~~, **after subtracting the municipality's actual cost carrying out the functions required by this subdivision, pay the remainder to the department of revenue administration for deposit in the education trust fund. Such payments by municipalities, and the subtractions for actual costs, shall be made in accordance with schedules, standards, and procedures established by rules adopted by the department of revenue administration after consultation with the commissioner of education.** Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

9 Property Tax Bill Information. Amend RSA 76:11-a, II to read as follows:

II. The tax bill shall also contain a statement informing the taxpayer of the types of tax relief for which the taxpayer has the right to apply. **The statement shall explicitly list the low and moderate income homeowners property tax relief program under RSA 198:57 and shall include information on how to apply for the program.** The following statement shall be considered adequate:

"If you are elderly, disabled, blind, a veteran, or veteran's spouse, or are unable to pay taxes due to poverty or other good cause, you may be eligible for a tax exemption, credit, abatement, or deferral, **which can reduce your current property tax bill.** For details and application information, contact (insert title of local assessing officials or office to which application should be made **and deadline for application**). **Depending on your income, you may also be eligible for a refund of some of your taxes under the low and moderate income homeowners property tax relief program. To find out how to get a refund, call the New Hampshire department of revenue administration at (insert current telephone number here) or visit the department's website (insert current website address here). Applications for refunds are due by June 30.**"

~~[This statement]~~ ***These statements*** shall be prominent and legible, ***printed in at least 12-point boldface type***, and may either be printed on the tax bill itself, or on a separate sheet of paper enclosed with the tax bill. A municipality may in its discretion choose to include more detailed information about the eligibility criteria for different forms of tax relief, provided, however, that the information in the above statement shall be considered a minimum.

10 Education Trust Fund. Amend RSA 198:39, I(l) to read as follows:

(l) ***The full amount of education property tax payments from the department of revenue administration pursuant to RSA 76:8, II.***

(m) Any other moneys appropriated from the general fund.

11 Low and Moderate Income Homeowners Property Tax Relief. Amend RSA 198:57, III and IV to read as follows:

III. An eligible tax relief claimant is a person who:

(a) Owns a homestead or interest in a homestead subject to the education tax;

(b) Resided in such homestead on ~~[April 1 of]~~ ***the date of the final tax bill as defined in RSA 76:1-a*** for the year for which the claim is made, except such persons as are on active duty in the United States armed forces or are temporarily away from such homestead but maintain the homestead as a primary domicile; and

(c) Realizes total household income of:

(1) ~~[\$20,000]~~ ***\$55,000*** or less if a single person;

(2) ~~[\$40,000]~~ ***\$70,000*** or less if a married person or head of a New Hampshire household.

IV. All or a portion of an eligible tax relief claimant's state education property taxes, RSA 76:3, shall be rebated as follows:

(a) Multiply the total local assessed value of the claimant's property by the percentage of such property that qualifies as the claimant's homestead;

(b) Multiply ~~[\$100,000]~~ ***\$150,000*** by the most current local equalization ratio as determined by the department of revenue administration;

(c) Multiply the lesser of the amount determined in subparagraph (a) or (b) by the ~~[education tax rate as shown on the tax bill under RSA 76:11-a;]~~ ***sum of the following:***

(1) ***The local education tax rate as shown on the tax bill under RSA 76:11 and;***

(2) ***The state education tax rate as shown on the tax bill under RSA 76:11.***

(d) Multiply the product of the calculation in subparagraph (c) by the following percentage as applicable to determine the amount of tax relief available to the claimant, ***provided that the maximum amount of tax relief available to any claimant in any fiscal year shall not exceed \$1,000:***

(1) If a single person and total household income is:

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- 1 (A) less than [~~\$12,500~~] **\$20,000**, 100 percent;
2 (B) [~~\$12,500~~] **\$20,000** but less than [~~\$15,000, 60 percent~~] **\$55,000, a percentage**
3 **that is reduced by 5 percent for each \$1,750 of household income above \$20,000;**
4 (C) [~~\$15,000 but less than \$17,500, 40 percent; or~~
5 (~~D) \$17,500 but less than or equal to \$20,000, 20 percent~~] **more than \$55,000,**
6 **zero percent.**

7 (2) If a head of a New Hampshire household or a married person and total household
8 income is:

- 9 (A) less than [~~\$25,000~~] **\$30,000**, 100 percent;
10 (B) [~~\$25,000~~] **\$30,000** but less than [~~\$30,000, 60 percent~~] **\$70,000, a percentage**
11 **that is reduced by 5 percent for each \$2,000 of household income above \$30,000;**
12 (C) [~~\$30,000 but less than \$35,000, 40 percent; or~~
13 (~~D) \$35,000 but less than or equal to \$40,000, 20 percent~~] **more than \$70,000,**
14 **zero percent.**

15 (e) The amount determined by subparagraph (d) is the allowable tax relief in any year,
16 **provided however that the aggregate of tax relief checks issued by the commissioner to all**
17 **taxpayers claiming eligibility for tax relief shall not exceed \$25,000,000 for the fiscal year**
18 **to which the claim applies, exclusive of late filed claims which are accepted by the**
19 **commissioner pursuant to subparagraph VI(b) which shall be counted against the**
20 **\$25,000,000 limit for the fiscal year in which the claims are received, and that the**
21 **commissioner shall reduce proportionally the amount of each taxpayer's tax relief check**
22 **for that fiscal year when a reduction is necessary to conform to the \$25,000,000 limit for**
23 **that fiscal year.**

24 12 New Paragraphs; Low and Moderate Income Homeowners Property Tax Relief; Adjustment
25 for Inflation; Forms. Amend RSA 198:57 by inserting after paragraph VIII the following new
26 paragraphs:

27 IX. The amounts specified in subparagraph III(c), IV(b), IV(d), and IV(e) shall be adjusted
28 annually for inflation and rounded to the nearest \$100 by the commissioner of the department of
29 revenue administration based on the average change in the Consumer Price Index for All Urban
30 Consumers, Northeast Region as published by the Bureau of Labor Statistics, United States
31 Department of Labor. The average change shall be calculated using the calendar year ending 12-
32 months prior to the beginning of the program year.

33 X. Each year, on or about May 1, the department of revenue administration shall mail the
34 current year forms necessary to apply for property tax relief to each homeowner who received
35 property tax relief under the provisions of paragraph IV in the prior year.

36 13 Repeal. 2019, 346:236, I-III, relative to the repeal of free or reduced price meals and fiscal
37 capacity disparity aid, is repealed.

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- 1 14 Repeal. RSA 198:41, IV, relative to relative to stabilization grants, is repealed.
- 2 15 Effective date.
- 3 I. Sections 2, 3, 5, and 14 of this act shall take effect July 1, 2022.
- 4 II. Section 13 of this act shall take effect June 30, 2021.
- 5 III. The remainder of this act shall take effect July 1, 2021.

SB 158-FN-LOCAL- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the formula for funding an adequate education.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill makes changes to the calculation of an adequate education and total education grants, modifies the statewide education property tax (SWEPT) and its collections, and modifies the Low and Moderate Income Homeowners Property Tax Relief program (L&M). Sections 1-6 and 13-14 make numerous changes to laws relating to the method and formula for funding the State's portion of the cost of public education in New Hampshire, while sections 7, 8, and 10 relate to SWEPT and sections 9, 11, and 12 relate to L&M. The Department of Education (DOE) has provided information on the sections relative to education grants and the Department of Revenue Administration (DRA) has provided information on changes relative to property taxes.

Changes to Education Grants

Effective FY 2022, this proposed bill would make the following changes:

- Extends additional aid based on free and reduced lunch populations and fiscal capacity disparity aid (RSA 198:40-b and RSA 198:40-c). Under current law, these aid components are effective only in FY 2021.
- Sets the rate of SWEPT at \$2.00/\$1,000 and eliminates it from the determination of total education grants. Also requires all SWEPT raised be credited to the state education trust fund (net of municipality's cost to carryout collection). Under current law, all SWEPT is raised and retained locally.

Based on these changes, and utilizing data available as of FY 2021, DOE estimates this would result in the following:

STATE TOTALS	FY 2022	
	Current Law	Proposed
Calculated Preliminary Grant	\$402,137,319	\$737,350,886
<i>Additional Aid:</i>		
Stabilization Grant	157,245,996	158,475,445
Based on F&R	-	7,521,820
Fiscal Capacity Disparity Aid	-	39,203,981
SWEPT Raised and Retained Locally	363,245,325	-
Total Education Grants	\$922,628,640	\$942,552,133

Based on these estimates, of the 245 municipalities as part of the DOE analysis, 166 would see an increase in total education grants, while 44 would see a decrease (35 would be unaffected). Below are the top ten municipalities with the greatest increase or decrease (in dollars):

TOP 10 INCREASES / (DECREASES)			
Manchester	4,036,340	Moultonborough	(4,556,899)
Rochester	3,526,655	Portsmouth	(2,698,806)
Derry	3,474,436	Rye	(2,362,847)
Claremont	2,566,816	Wolfeboro	(1,266,140)
Berlin	1,805,360	Lincoln	(1,260,771)
Brookline	1,288,637	New Castle	(1,227,864)
Keene	1,229,909	Bartlett	(1,187,856)
Milford	1,123,653	Sunapee	(1,055,843)
Goffstown	1,123,368	New London	(1,036,360)
Newport	965,360	Hampton	(884,328)

Ultimately, due to inability to predict future data (local tax rates, enrollments, etc...) and technical issues with the bill (discussed below), DOE is unable to provide an estimated fiscal impact for FY 2023 and beyond. However, DOE has provided the following information on this bill's changes (effective FY 2023):

- The proposed formula is written to first determine a cost of an adequate education based on weighting the cost of each average daily membership in attendance (ADMA) component and applying the weights against a base cost of \$6,107. These weights use existing metrics included in differential aid, but exclude 3rd grade reading proficiency. Additionally, metrics are added as weights, such as, grade-level and student enrollment size. The following technical issues have been identified by DOE:

- Enrollment is not clearly defined. Students may move throughout the school year between schools and even grade levels. ADMA is a number that encapsulates an entire school year. A moment in time, or “snapshot,” for enrollment is needed to calculate this weight.
 - Since ADMA is an average and not based on a single student count, ranges should use the word “equal to.” For example, an ADMA of 200.22 would not be included in this bill since it assumes student counts and not ADMA.
 - ADMA tracks students based on municipality location and not school enrollment location. This proposed bill appears to use these data sets interchangeably.
- Based on the newly calculated predicted costs, adequacy is calculated using the following steps:
 - Multiple the predicted cost by .0075 of the equalized valuation;
 - Deduct the amount in step one from at least 90 percent of the district’s predicted costs (DOE notes a technical error in the language as predicted cost is determined at the municipal level using ADMA and not at the district level); and
 - If the result is greater than zero and the municipality’s local school tax rate is less than \$7.50, then the grant is reduced by the same proportion (DOE notes a technical error that the same proportion is not clearly defined or referenced but appears to refer to the deduction in the previous step).

Changes to Statewide Education Property Tax (SWEPT)

The sections in this bill relative to SWEPT are effective July 1, 2021 which the DRA interprets to mean that it will first apply to property taxes assessed on April 1, 2022.

Under current law, the DRA sets the rate of the SWEPT at a level sufficient to generate \$363,000,000 for the education trust fund (ETF). Each municipality collects the SWEPT on behalf of the state and retains it locally to fund the state’s portion of education funding. Sections 7 and 8 of this bill would instead require the municipality to collect the SWEPT and it in full to the state for deposit into the ETF. Each municipality would be permitted to first deduct the actual cost of carrying out the collection function before remitting the remainder to the state. Additionally, Section 7 modifies the amount of SWEPT to be assessed by DRA to \$2.00 per \$1,000 of equalized assessed valuation. Section 10 of this bill modifies the statute to permit the deposit of SWEPT into the ETF.

The DRA is unable to predict property valuations in future years and is therefore unable to calculate the fiscal impact of the SWEPT components of this bill. However, using a prior year's total state equalized value (not including utilities) based on warrants for property taxes assessed on April 1, 2021 (total of assessed value of \$199,059,304,361), a new tax rate of \$2.00 per \$1,000 of equalized assessed value would have resulted in a total amount of SWEPT collected in the amount of approximately \$398,000.000, an increase of \$35,000,000 per year to the ETF. The DRA does not have data to determine the municipal costs of collection that may be deducted from the amount of SWEPT collected before remission to the DRA.

The DRA states it could administer the SWEPT provisions of this bill without any new positions, however, there would be an indeterminable cost associated with implementing the electronic filing and payment mechanism that would be required to facilitate payment of the SWEPT over to the state.

Low and Moderate Income Homeowners Property Tax Relief (L&M)

Section 9 of this bill requires information about the L&M program be printed on each municipal property tax bill and provides additional detail about how that information should be printed. Sections 11 and 12 amend RSA 198:57 to increase the income limitations for the receipt of L&M awards as well as the maximum amount of tax relief available to an awardee as follows:

- Increases the total household income that may qualify for an L&M award from \$20,000 to \$55,000 for single applicants and from \$40,000 to \$70,000 for married applicants or applicants that file as heads of household.
- For purposes of calculating the maximum award available, the maximum homestead value is increased from \$100,000 to \$150,000.
- For purposes of calculating the total award each recipient receives, the existing income brackets for single applicants are replaced with the following:
 - Income of less than \$20,000 will result in an award of 100% of the requested amount.
 - Income of \$20,000 but less than \$55,000 will result in an award that is a percentage that is reduced by 5% for each \$1,750 of household income above \$20,000.
 - Income of \$55,000 or more will result in an award of 0% of the requested amount.
- For purposes of calculating the total award each recipient receives, the existing income brackets for married applicants and applicants that file as heads of household are replaced with the following:
 - Income of less than \$30,000 will result in an award of 100% of the requested amount.
 - Income of \$30,000 but less than \$70,000 will result in an award that is a percentage that is reduced by 5% for each \$2,000 of household income above \$30,000.
 - Income of \$70,000 or more will result in an award of 0% of the requested amount.

- For both single applicants and applicants who are married or that file as heads of household, the maximum award will be capped at \$1,000.
- Allows for a refund of property taxes paid for both the local education tax rate and the state education tax rate. Currently, only a refund can be received for the state education tax rate under the L&M program.
- Total relief under the L&M program will be capped at \$25 million.
- All dollar values will be adjusted annually for inflation by the DRA.

The DRA is unable to determine the fiscal impact of sections 11 and 12 of this bill as it does not possess the necessary data to make an estimate. However, because the proposed legislation would increase the maximum qualifying household income, the maximum qualifying homestead value, and the income thresholds for award determination, all with respect to the amount of tax relief available to the claimant, the DRA assumes there will both an increase in claimants and an increase in relief amounts, which will result in an indeterminable increase to state expenditures in an amount up to \$25 million, which is the program cap. The application period for the program for property taxes assessed on April 1, 2022 will begin on May 1, 2023. Therefore, the DRA would require additional appropriations in an indeterminable amount to pay these additional claims beginning in FY 23.

AGENCIES CONTACTED:

Department of Education and Department of Revenue Administration