

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON COSTING AN ADEQUATE EDUCATION



**FINAL REPORT AND FINDINGS OF THE JOINT LEGISLATIVE
OVERSIGHT COMMITTEE PURSUANT TO
2007 LAWS CHAPTER 270**

February 1, 2008

TABLE OF CONTENTS

I.	Introduction	3
II.	Executive Summary	4
III.	Committee Charge	5
IV.	Committee Membership	6
V.	Committee Meetings and Hearings; Consultation with Education Policy and Finance Professionals	10
VI.	Selection of Methodology for Costing the Opportunity for an Adequate Education	11
VII.	The Universal Cost of the Opportunity for an Adequate Education	12
VIII.	Differentiated Aid for At-Risk Students And Enhanced Needs Schools	27
IX.	School Based Allocation and Accounting Formula	33
X.	Transitional Assistance for Kindergarten Programs	33
XI.	Recommendations and Anticipated Legislation	36

Appendices

- A. Meeting Schedule for Joint Legislative Oversight Committee on Costing An Adequate Education
- B. Bibliography of Education Policy and Finance Authorities
- C. HB 927, An Act relative to the specific criteria and substantive educational program that defines the opportunity for an adequate education
- D. Review of Additional Programs for Enhanced Needs Schools
- E. Committee Statement on Teacher Quality, Recruitment and Retention

I. INTRODUCTION

The issues of how to define, cost and fund the opportunity for an adequate public education have occupied center stage in New Hampshire since 1992, when the Claremont School District and four other school districts first challenged the system by which the state financed education. Over the past sixteen years, all three branches of government together with the citizens of New Hampshire have worked to resolve these issues.

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

In response to the *Londonderry* decision, the legislature passed House Bill 927, 2007 Laws Chapter 270, defining the opportunity for an adequate education. It also established a Joint Legislative Oversight Committee ("Committee") to study the cost of providing the opportunity for an adequate education and the educational needs and resources necessary to ensure its delivery to the public school children of the State. The legislation required the Joint Legislative Oversight Committee to report its findings and recommendations to the legislature by February 1, 2008

Senate President Sylvia B. Larsen and House Speaker Terie Norelli appointed the respective House and Senate members of the Joint Legislative Oversight Committee last July. Since August, 2007, the Committee has held 18 meetings, totaling over 50 hours, at which it heard testimony from state and national education policy and finance professionals on the methodologies and policy considerations employed in education costing and the costing experience of other states; received briefings from N.H. Department of Education staff on current and past education spending in New Hampshire, including the incidence and experience of special populations such as students who need special education, English Language Learners (ELL) and federal Free and Reduced Lunch eligible pupils (FRL); received written and oral testimony from a variety of educators, administrators, and the public; reviewed education finance data and studies from around the nation, and discussed and deliberated over the policies and costs that inform a determination of the cost of an adequate education.

This report transmits the findings and recommendations of the Joint Legislative Oversight Committee to the legislature and the governor on the cost of the opportunity for an adequate education in accordance with HB 927. The members of the Joint Legislative Oversight Committee now look forward to working with the legislature and the governor to enact legislation that will complete the costing process and fulfill the remaining obligations to provide each child with the opportunity for an adequate education.

II. EXECUTIVE SUMMARY

In fulfilling the requirement of HB 927 to make recommendations to the legislature and the governor for costing the opportunity for an adequate education, the Committee undertook an intensive five-month process to gather and review extensive amounts of data and educational costing studies from New Hampshire and around the country. Over the course of 18 meetings from August, 2007 to February 1, 2008, the Committee heard testimony and received information from the public, education stakeholders and professionals in education policy and finance.

On the basis of all of the information it reviewed, the Committee selected a legislative cost methodology to determine the cost of an opportunity for an adequate education. Utilizing this methodology, the Committee first engaged in a detailed analysis to determine the universal cost of such an educational opportunity. The Committee determined that the universal cost represents the per pupil resources to provide a public school student in New Hampshire with the educational opportunity required under RSA 193-E:2-a where no additional differentiated aid is needed to address the increased costs of this educational opportunity for students who have special educational needs, who have limited English proficiency, or who are economically disadvantaged, or are in schools with significant concentrations of economically disadvantaged pupils.

The Committee determined the universal cost to be \$3,456 per pupil. The universal cost includes amounts for teacher salary and benefits; principal and principal assistant salary and benefits; guidance counselor; library media specialist; technology coordinator, custodians; instructional materials; technology (e.g. computers); teacher professional development; facilities operation and maintenance, and transportation. It is important to note that this universal cost represents the cost attributable only to the subset of education that is included in the definition of the opportunity for an adequate education.

In addition, the Committee found that students with greater educational needs required additional aid above the universal cost in order to provide these students with the opportunity for an adequate education. The Committee characterizes these additional monies as “differentiated aid.” Such differentiated aid is needed for three distinct categories of pupils: (i) English language learners (ELL); (ii) special education students, and (iii) economically disadvantaged students and students in schools with significant concentrations of economically disadvantaged students.

The Committee determined that based upon an appropriate student – teacher ratio for ELL students additional differentiated aid in the amount of \$675 per student who received ELL instruction should be provided.

In regard to special education students, the Committee determined that additional differential aid should be made available in the amount of \$1,798 per special education student in grades kindergarten through 12 who is educated in a modified regular classroom and/or resource room. For special education students in the same grades who are educated in a self-contained or other restrictive placement program, the amount of differentiated aid should be \$3,610.

The Committee determined that eligibility for the federal free and reduced-price lunch program (FRL) should be used to identify economically disadvantaged students. Here, the

Committee further determined that as school concentration of students eligible for FRL increases, schools need an increasing amount of differentiated aid above the universal cost. Schools with the highest concentrations of FRL pupils need an additional amount of differentiated aid equal to the universal cost so that, combined, the universal cost and differentiated aid will equal twice the universal amount.

In order to ensure effective use of differentiated aid, the Committee also determined that schools that receive significant amounts of such aid because they have high concentrations of FRL pupils should implement one or more enhanced educational programs to support their students may be selected locally from a list of effective programs or interventions.

Underpinning the Committee's determinations concerning both the universal cost and differentiated aid is the informed position that the State should utilize a school-based allocation and accounting formula in calculating the cost of adequacy. Out of respect to the long tradition of local control, the Committee recommends that the legislature continue to distribute funding to the school district as is currently the case, but that the amount of adequacy should be allocated by school. School based costing, allocation and accounting will require administrative and accounting changes. The Committee recognizes and recommends that the legislature designs an implementation plan that is not administratively burdensome.

Part of the Committee's mandate was to study transition assistance for the school districts that do not presently provide a public kindergarten program. A specially designated sub-committee undertook a comprehensive review of this issue with the assistance of the Department of Education and input from affected stakeholders and the public. On the basis of the sub-committee work, the Committee makes several recommendations to implement kindergarten transition assistance for the 11 school districts for programs beginning in 2008 or 2009, including (i) reauthorizing the Kindergarten Construction Aid program; (ii) providing 100% financing to lease and set up portable classrooms on a temporary basis; and (iii) providing state funding for supplemental aid payments for projected half-day kindergarten enrollment in the 11 affected school districts that are prepared to implement a kindergarten program beginning in 2008.

Finally, the Committee recommends to the legislature and the governor that they accept the findings made by the Committee in this report and move expeditiously to introduce legislation that will cost the opportunity for an adequate education beginning for the 2009-2010 school year based upon all the Committee's findings and determinations.

III. COMMITTEE CHARGE

House Bill 927, enacted as Chapter 270 of the Laws of 2007, charged the Joint Legislative Oversight Committee to:

- * Review and study the analytical models and formulae for determining the cost of an adequate education and the educational needs and resources needed to deliver an adequate education for the children throughout the state;

- * Review and study transition assistance for school districts that do not presently provide public kindergarten in order to enable those school districts to provide public kindergarten in accordance with RSA 193-E:2-a;
- * Develop and propose criteria for identifying schools with enhanced needs and identify and propose resources these schools may need.

The statute further directed the Joint Legislative Oversight Committee to hold a public hearing and to report its findings and recommendations no later than February 1, 2008 to the governor, president of the senate, speaker of the house and state librarian. House Bill 927 appears as Appendix C to this report.

IV. COMMITTEE MEMBERSHIP

HB 927 provided that the membership of the Joint Legislative Oversight Committee be comprised of five members of the House of Representatives, of whom at least two are members of the House Education Committee and at least two are members of the House Finance Committee, all appointed by the Speaker of the House.

Similarly, the legislation provided for the appointment of five members of the senate, of whom at least two are members of the Senate Education Committee and two are members of the Senate Finance Committee, all appointed by the President of the Senate.

HB 927 also provided for the governor or his designee to serve in an *ex officio*, non-voting capacity.

The criteria for appointment to the Joint Legislative Oversight 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.

The Committee acknowledges that the depth of the skills and qualifications possessed by its members contributes significantly to its ability to objectively identify and determine the methodology and amount of resources needed to provide the opportunity for an adequate education. 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, a MA from Columbia University and she completed additional graduate work at the Harvard School of Education.

Representative Judith Reever (Education Committee appointee)

Representative Reever 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. Reever 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. Reever is also a former foster parent and has served as the President of the Belknap County Foster Parents' Association.

Representative David Hess (Education Committee appointee)

Representative Hess is serving his 8th term in the NH House of Representatives where he is also the Deputy Republican Leader. His is the ranking minority member on the House Education Committee and has previously served as the Chair of the Municipal and County Government Committee and the Vice Chair of the Judiciary and Family Law Committee. Hess is retired from a 35+ year career as an attorney. He is active in local government in Hooksett, NH where he has been the moderator for the Hooksett School District since 1989. Throughout his career, Hess has served a wide array of civic and non-profit organizations including the New Hampshire Charitable Foundation and the Hooksett Youth Athletic Association. He is a graduate of Dartmouth College, Yale Law School and has studied at the Kennedy School of Government.

Representative Robert A. "Randy" Foose (Finance Committee appointee)

Representative Foose is serving in his 2nd term in the NH House of Representatives where he is a member of the Finance Committee. He recently retired after a 35-year career in higher education, serving at both private and public institutions. Most recently, Foose was the Vice President for Administration and Finance, and Treasurer at the Vermont Law School. His prior positions include Chief Financial Officer for Colby Sawyer College in New London, NH and Chair of the Board of Trustees at Woodbury College in Montpelier, VT. During his professional life, Foose was consistently involved in the accreditation review and inspection of regional educational institutions. Foose has been active in local government, having served as the town budget chair for his hometown of New London. He serves as a member of the New Hampshire §529 College Savings Plan Commission. Foose is a graduate of the Harvard Business School.

Representative Kenneth Weyler (Finance Committee appointee)

Representative Ken Weyler is currently serving in his 10th term in the NH House of Representatives. He has been assigned to the Appropriations / Finance Committee for the entire duration of his service and he serves on that Committee's Division II which deals with education and education funding issues. Weyler was the Deputy Speaker for the NH House during the 2005-2006 term. He is a member of the Public Higher Education Oversight Committee and has served

on previous school funding study Committees. Weyler has a BS from the Massachusetts Institute of Technology (MIT) and served in the US Air Force prior to a career as a pilot with American Airlines. He lives in Kingston, N.H. with his wife.

Members from the New Hampshire Senate include:

Senator Iris Estabrook, Co-Chair (Education Committee appointee)

Senator Estabrook is currently serving her 3rd term in the NH Senate having previously served 3 terms in the NH House of Representatives where she was Assistant Democratic Leader for Education Policy. She serves as Chair of the Senate Education Committee, Chair of the Senate Health and Human Services Committee and Vice President for Policy for the NH Senate. Estabrook is a former elementary school teacher, educational researcher and school board member for the Oyster River Cooperative District. She was also a member of the New Hampshire Legislature's Adequate Education and Education Financing Commission (1998 – 2001). Estabrook holds a BS in Child Development from Cornell University and a Master of Science in Teaching from the University of Chicago.

Senator Joseph Foster (Education Committee appointee)

Senator Foster is serving his 3rd term in the NH Senate where holds the position of Senate Majority Leader. He is also the Chair of the Senate Judiciary Committee and a member of the Senate Education Committee. Prior to his Senate service, Foster served 2 terms in the NH House of Representatives.

Foster is an attorney and partner at the McLane law firm in Manchester, NH where he has practiced for over 20 years. He currently chairs the Bankruptcy Practice Group. He is active in the Nashua community where he is a past member of the Nashua Planning Board and a current member of the Board of Directors of the Nashua Chamber of Commerce.

Foster holds a BA from Tufts University and a JD from George Washington University. He is the father of three daughters who attend public schools in Nashua.

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.

Senator Lou D'Allesandro (Finance Committee appointee)

Senator D'Allesandro is serving his 5th term in the NH Senate, following 2 previous terms in the NH House of Representatives. D'Allesandro is the Chair of the Senate Finance Committee and the Vice Chair of the Senate Ways and Means Committee. He is the immediate past chair of the New England Board of Higher Education and former Vice-Chair of the Board of the Federal Home Loan Bank of Boston. Prior to these positions D'Allesandro enjoyed a long career in higher education. He is currently a lecturer at St. Anselm's College. His past positions include Vice President and Adjunct Faculty member at Franklin Pierce College, President / CEO of Nasson College (Springvale, ME) and President / CEO of Daniel Webster College. D'Allesandro was a member of the Manchester School Board from 1992-2002 where he chaired the curriculum committee. He holds a BA from the University of New Hampshire and an M Ed. from Rivier College.

Senator Bob Odell (Finance Committee appointee)

Senator Odell is serving in his 3rd term in the NH Senate following one prior term in the NH House of Representatives. He is the Chair of the Ways and Means Committee and he also serves on the Finance and Energy and Economic Development Committees.

He is the founder and owner of Odell & Simms, a non-profit strategy, fundraising and advocacy firm with domestic and international clients. In addition, he previously worked as the Executive Director of the Republican National Finance Committee and as a finance consultant to several presidential campaigns.

Odell holds a BA from American University. He is a native of Milford, attending Milford public schools and currently resides in Lempster.

The Governor's ex officio appointee:

Michael Delaney, Esq., (Legal Counsel to Governor John Lynch)

Michael Delaney has served as legal counsel to Governor John Lynch since December 2005. He is the former deputy attorney general of the State of New Hampshire, and in that capacity, he provided legal advice and representation to executive branch agencies regarding education funding matters. He served as an assistant attorney general and senior assistant attorney general at the department of justice for seven years. Prior to that, from 1994 to 1999, he was in private practice with the law firm of Wiggin & Nourie, P.A. in Manchester. Attorney Delaney is a 1994 graduate of the Georgetown University Law Center. He is a resident of Manchester, the father of 3 children, and his oldest daughter, Maggie, is a 3rd grader at the Webster Elementary School in Manchester.

V. COMMITTEE MEETINGS AND HEARINGS; CONSULTATION WITH EDUCATION POLICY AND FINANCE PROFESSIONALS

Following its organizational meeting on August 27, 2007, the Committee held an additional 17 meetings through February 1, 2008. These meetings devoted over 50 hours to hearing testimony provided by education policy and finance professionals, stakeholders, including school administrators and superintendents, and the public, as well as to discussion and deliberation by the Committee to formulate the findings and recommendations concerning the cost of the opportunity for an adequate education that are set forth in this report. As part of this work, the Committee undertook a comprehensive review of the State's present education system, including its components, costs, outcomes and achievements.

During its meetings, the Committee deliberated on the components of costing an adequate education, the relevant data related to that costing and the policy choices involved in determining those costs. It periodically voted on motions or undertook straw polls of the members on key components such as the methodology for cost analysis; the components of the universal cost of an adequate education; the identification of special populations and the additional resources required to provide an adequate education for at-risk students; how differentiated aid for at-risk students should be determined; the utilization of a school based allocation methodology, and the manner in which kindergarten transition assistance should be provided. The Committee considered and decided upon many other sub-issues which were subsumed within each of these major components. A list of the Committee's meetings and the subjects addressed at each meeting appears as Appendix A to the report.

In addition to the Committee's public meetings, individual members of the Committee devoted a significant amount of time reviewing education cost data from New Hampshire and other states, adequacy costing studies, and a variety of professional literature on education policy and funding. A bibliography of the data and studies that were consulted by the Committee or its members appears as Appendix B.

In order to inform its review of the educational needs and resources required for the opportunity for an adequate education, the Committee sought input from both local and national experts, ranging from the leadership and professional staff of the N.H. Department of Education to representatives of the Education Commission of the States and the National Conference of State Legislators, and the University of New Hampshire Department of Education faculty. The professionals who testified before the Committee are listed below.

Bryan Balke, Director of Pupil Services, Londonderry School District

Richard Cohen, Disabilities Rights Center

Sallie Fellows, NH Department of Education, Information Officer

Nate Greenberg, Superintendent of Schools, Londonderry, NH

Michael Griffith, School Finance Analyst, Education Commission of the States (ECS)

Mary Heath, Deputy Commissioner, NH Department of Education

Mark Joyce, Executive Director, NH School Administrators Association

Lisa Lavoie, Director, North Country Charter Academy

Dean Michener, NH School Boards Association

Steve Norton, Executive Director, NH Center for Public Policy Studies

Dr. Wendy Siebrands, Claremont School District

Daniel Thatcher, National Council of State Legislatures (NCSL)

Charlie Thibodeau, Director, North Country Early Education Services

Lyonel Tracy, Commissioner, NH Department of Education

Pat Remick, Coalition Communities

Josh Shaine, Kids College

VI. SELECTION OF METHODOLOGY FOR COSTING THE OPPORTUNITY FOR AN ADEQUATE EDUCATION

At the outset of its work, the Committee spent considerable time reviewing professional studies and receiving presentations concerning the available methodologies for costing-out the opportunity for an adequate education. Rebell (2006) and Mathis (2005) published detailed surveys of the principal costing-out methodologies such as the professional judgment model, the expert judgment model, the successful schools model, the cost function model, and the legislative cost analysis model. The Committee members received and reviewed copies of these surveys.

As discussed at length in the Rebell and Mathis articles, some of these models are evidence and statistical based; others rely on the judgment of appointed experts, or the determination of a successful school, which is then costed-out.

Policy experts from the Education Commission of the States (ECS) and the National Conference of State Legislatures (NCLS) made detailed presentations to the Committee on the history, basis and use of the models across the country. According to ECS and NCSL, some 62 costing studies have been undertaken in 37 states, 51 of which have been conducted since 2000. Not all costing studies have been used to develop state funding formulae; some have been undertaken for the more limited role of shaping sections of a funding system. Some costing studies have been initiated by state legislatures; others were ordered in litigation or sponsored by plaintiffs in anticipation of litigation.

The Committee spent several meetings reviewing and discussing the available models and the strengths and weaknesses that each presented for use in the costing process now being undertaken. It also received extensive testimony from affected stakeholders and the public on an appropriate model at its September 24, 2007 meeting.

The Committee ultimately determined that the legislative cost analysis model was the most appropriate for several reasons. First, the Committee acknowledged that the determination of the cost of an opportunity for an adequate education is particularly a legislative function. This point has been recognized by the Supreme Court on several occasions in the *Claremont* litigation. See *Claremont School District v. Governor*, 142 N.H. 462, 476 (1997); *Londonderry School SAU #12 v. State*, 154 N.H. 153, 166 (2006), concurring, Duggan, J, (education funding determination far better suited for elected decision-makers). The Committee determined that the large size and volunteer nature of the New Hampshire legislature results in a membership which possess a wealth of relevant experience and expertise in the fields of education, education administration and finance. The Committee itself, as indicated by the members' biographies, demonstrates that experience and knowledge.

The Committee also recognized that it had available to it extensive data from New Hampshire and other states regarding the costs associated with the components of an adequate education such as teacher salaries, class ratios, instruction materials, non-teacher personnel, as well as access to in-state and national experts who could validate the assumptions, data, and methods utilized in the costing process.

The "input-based" nature of the definition of the opportunity for an adequate education also informed the Committee's determination to adopt the legislative cost analysis model. This definition identifies the specific criteria and substantive educational content of an adequate education that lends itself to an input-based costing methodology.

For all these reasons, the Committee concluded that the legislative cost analysis was the most appropriate model for the present task of making recommendations and findings for the cost of an adequate education.

VII. THE UNIVERSAL COST OF AN OPPORTUNITY FOR AN ADEQUATE EDUCATION

1. Universal Cost Calculation

The Committee engaged in a detailed analysis to determine the universal cost necessary to provide children the opportunity for an adequate education. The Committee determined that the universal cost represents the per pupil resources necessary to provide a student in New Hampshire with the opportunity to acquire an adequate education as defined in RSA 193-E:2-a in situations where no additional differentiated aid is necessary to address the increased costs of providing that opportunity to students who have special education needs, who have limited English proficiency, who are economically disadvantaged and/or are in schools with significant concentrations of economically disadvantaged pupils. It is important to note that this universal cost represents the

cost attributable only to the subset of education that is included in the definition of the opportunity for an adequate education.

In order to arrive at a universal cost, the Committee heard testimony from the public as well as state and national experts. The Committee reviewed literature from the fields of education and school finance. It also considered costing studies previously completed in New Hampshire as well as costing studies from many other states. Finally, the Committee considered reams of relevant data provided by the New Hampshire Department of Education.

The Committee reviewed the statutory definition of an adequate education. The specific criteria and substantive educational program that deliver the opportunity for an adequate education are defined in RSA 193-E:2-a as being the New Hampshire school approval standards in nine specific content areas.¹ The statutory definition further provides that those “standards shall cover kindergarten through twelfth grade and shall clearly 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.” RSA 193-E:2-a (II). As the definition is based on the New Hampshire school approval standards, the Committee reviewed the school approval standards and relied on the relevant parts of those standards to calculate the universal cost.

As part of its deliberations, the Committee members engaged in extensive debate and discussion to decide upon the methodology to determine the universal cost and to make its findings regarding the calculation of that cost.

In its deliberations, the Committee found that as compared to the other states in the country, New Hampshire provides an excellent education to its students and typically ranks in the top 10 states in student achievement. Based on the 2007 National Assessment of Educational Progress test, New Hampshire ranked 2nd in the percentage of students in the 4th grade to score at or above the basic level in math and it ranked 3rd for fourth graders in reading. Similarly, New Hampshire ranked 10th for 8th grade students in math and 7th in reading. In light of the high quality education students receive in New Hampshire, the Committee is not attempting to revamp the educational system of New Hampshire by determining a universal cost. Rather, the Committee is determining the cost of providing the subset of educational opportunities that constitutes an adequate education based on the definition adopted by the legislature in RSA 193-E:2-a.

¹ (1) English/language arts and reading,
(2) Mathematics,
(3) Science,
(4) Social studies,
(5) Arts education,
(6) World languages.
(7) Health education.
(8) Physical education.
(9) Technology education, and information and communication technologies.

In calculating the universal cost, the Committee determined a ratio of students to each of the personnel positions the Committee determined to be necessary to provide the opportunity for an adequate education. The Committee further determined the salary and benefit amounts to be included in the universal cost for each of the necessary positions. Finally, the Committee determined the non-personnel costs needed to provide the opportunity for an adequate education.

2. Student to Personnel Ratios

a. Student-Teacher Ratio

Finding: The Committee finds that the student teacher ratio necessary to provide the opportunity for an adequate education in New Hampshire is 25 students to 1 teacher in kindergarten through grade two; and 30 students to 1 teacher in grades three through twelve.

Basis for decision: The Committee finds that the New Hampshire minimum standards for public school approval reflect the student-teacher ratios that are adequate in the state. According to those standards, ED 306.17(a)(1), the acceptable student-teacher ratios in the state to meet the school approval standards are 25 students to 1 teacher in kindergarten through grade two; and 30 students to 1 teacher in grades three through twelve.

b. Specialty Teachers

Finding: In addition to the number of teachers necessary to meet the student-teacher ratios included in the universal cost, the Committee finds that an additional 20% of teachers should be available to teach specialty courses including: physical education, art, music, media/technology, world languages and health. These content areas are included in the definition of an adequate education.

Basis for decision: The definition of an adequate education includes opportunities in specialty learning areas such as physical education, art, music, media/technology, world languages and health. The Committee determined that resources to teach these specialty subjects must be included in the universal cost.

The New Hampshire minimum standards for public school approval, ED 306.15(a)(4), also requires that a school provide teachers for art, music, health, and physical education. The Committee discussed the possibility that the general education teachers as provided for above could be utilized to teach these specialty subjects and result in no additional cost. It also considered whether the funding for general education teachers should be reduced by the amount provided for the specialty teachers, as the students would be in class with the specialty teachers during the school time that they study the specialty subjects. Nonetheless, the Committee concluded that these specialty teachers should be included in the universal cost in addition to the teachers necessary to achieve the general student-teacher ratio.

The Committee determined that when students are in specialty classes, the general teachers would have an opportunity to prepare for class and grade papers as part of the school day, a necessary component of teaching. As an example, the Committee determined that if each

elementary student had one specialty class a day, as is typical, that would result in about a 20% addition in specialty teachers and provide a general teacher with one preparation period a day. Costing studies from around the country confirm the Committees conclusion in that they overwhelmingly include a teacher calculation which utilizes a 20% increase for specialty teachers.

c. Principal Ratio

Finding: The universal cost should be based on one principal per 500 students.

Basis for decision: The Committee determined that services of a principal are vital for the provision of an opportunity for an adequate education. Furthermore, the New Hampshire minimum standards for public school approval, ED 306.15(a)(1), require each school to have the services of a certified principal. The school approval standards, ED 306.15(c), requires that when a school has more than 500 students additional principal positions must be added. The 500 students to one principal ratio is also supported by the costing methodology of numerous other states and information provided to the Committee from the Education Commission of the States.

The Committee considered, but rejected a ratio of one principal per existing school. The school approval standards require the services of a principal at a school, not the existence of a full time principal devoted solely to one school. Principals may be and are shared successfully between different schools. The Committee determined that the 500 to 1 ratio is reasonable and leaves the decision of how to staff smaller schools to local districts. Furthermore, the Committee determined that the 500 to 1 ratio is reasonable and leaves the decision of how to staff smaller schools to local districts.

d. Administrative Assistant Ratio

Finding: The universal cost should be based on one administrative assistant per 500 students.

Basis for decision: The Committee determined that the services of an administrative assistant to assist the principal and the teachers with the important roles of recordkeeping and student management are necessary to provide an opportunity for an adequate education. The need for the services of such a position is reflected in the New Hampshire minimum standards for public school approval, ED 306.10, which requires secretarial services be available. Based on its deliberations, the Committee determined that one administrative assistant per principal position was sufficient for the opportunity for an adequate education and so retained the 500 to 1 ratio for this position as well.

e. Guidance Counselor Ratio

Finding: The universal cost should be based on one guidance counselor per 400 students.

Basis for decision: The Committee determined that the services of a guidance counselor are needed to provide the opportunity for an adequate education as defined by RSA 193-E:2-a. The definition includes the “opportunities to acquire the communication, analytical and research

skills and competencies as well as the substantive knowledge expected to be possessed” in the identified subject areas. RSA 193-E:2-a (II). A guidance counselor is integral in providing students with those opportunities. The New Hampshire standards for public school approval indicate that the role of a guidance counselor includes identifying “measures of success for student competencies in each of the 3 areas of academic, individual/social, and career learning.” ED 306.39 (d) (4).

The school approval standards provide that a guidance counselor is responsible for developing and implementing a “guidance curriculum that provides all K-12 students the knowledge and skills appropriate to their developmental level through a collaborative model of delivery involving the school counselor, classroom teachers, and other appropriate education professionals, and including prevention and pre-referral activities.” ED 306.39 (e)(1). In light of the definition of an adequate education and the role of the guidance counselor in the public schools, the Committee, based on its independent deliberations, determined that the costs of a guidance counselor need to be part of the universal cost.

The Committee determined that the cost for guidance counselors should be calculated using a ratio of one counselor per 400 students, as this is the average of the guidance counselor caseload permitted for elementary, middle and high school students as provided in the New Hampshire school approval standards, ED. 306.39(f).

f. Library Media Specialist Ratio

Finding: The universal cost should be based on one library media specialist per 500 students.

Basis for decision: The Committee determined that the services of a library media specialist are needed to provide the opportunity for an adequate education as defined by RSA 193-E:2-a. That definition includes the substantive educational program as provided in the school approval standards in English, language arts and reading as well as technology education, and information and communication technologies. To carry out those educational programs the school approval standards require that the services of a library media specialist is needed to facilitate the language arts and reading program and to support the instructional resources necessary to provide the substantive educational programs included in the definition. See Ed 306.15(a)(3) &(4). Based on its independent deliberation, the Committee agrees that the services of a library media specialist is necessary to provide the opportunity for an adequate education and that a library media specialist should be included in the universal cost at a ratio of 1 to 500 students, consistent with the ratio applied to principals.

g. Technology Coordinator Ratio

Finding: The universal cost should be based on one technology coordinator based on a ratio of 1 per 1200 students.

Basis for decision: The Committee determined that the services of a technology coordinator are needed to provide the opportunity for an adequate education as defined by RSA

193-E:2-a. That definition includes the substantive educational program as provided in the school approval standards in technology education, and information and communication technologies.

Furthermore the definition requires “opportunities to acquire the communication, analytical and research skills and competencies” in addition to the substantive knowledge expected to be possessed. The Committee determined that central to those opportunities are the availability of computers and other technological tools. In order to provide these tools, schools need a technology coordinator to set up and maintain computers, and other technology equipment.

Based on its deliberations, the Committee determined that the services of a technology coordinator should be included in the universal cost at a ratio of 1 per 1200 students, which is slightly below the average size school district in the state.

h. Custodian Ratio

Finding: The universal cost should be based on one custodian per 500 students.

Basis for decision: The Committee determined that the services of a custodian are necessary to provide an opportunity for an adequate education. The need for custodial services is reflected in the New Hampshire standards for public school approval, ED 306.07(a)(1) which require a clean, healthy and safe learning environment. Based on its deliberations, the Committee determined that the cost of one custodian per 500 students should be included in the universal cost calculation, consistent with the ratio applied to principals.

i. Personnel not included

Finding: The Committee determines that no other personnel positions need be included in the calculation of the universal cost.

Basis for decision: The Committee considered whether other positions should be included in the universal cost. Among the positions it considered were central office, school district administration staff, school nurses, teacher aides and food service personnel. It concluded that since the definition of the opportunity for an adequate education is school and curriculum based, the central office administrative costs do not fit within that definition. Similarly, since the definition is based on substantive curriculum areas and associated skills, a school nurse who provides health care services, rather than educational or educationally related services are beyond the scope of the universal cost. The Committee determined that based on the statutory definition of adequacy and the New Hampshire school approval standards which are incorporated therein teacher aides do not constitute part of the universal cost. The Committee also concluded that since most food services programs are self supporting and furthermore outside the educational components of the school, they too are beyond the scope of the definition and need not be included in the universal cost.

3. Salary and Benefits

The Committee studied and debated the proper salary level and benefit percentages to be used in calculating the universal cost for each position it determined should be included in that cost.

To assist with this process the Department of Education (DOE) prepared reports in which it documented the 2007-2008 school-year salary schedules being utilized by public schools across New Hampshire. These DOE reports calculated the average minimum, maximum and mid-range salaries being offered to teachers with a bachelor or masters degree and various years of experience by quartile. The DOE prepared similar data for the Committee on 2007-2008 salary information for principals, administrative assistants and custodians. Similarly, the Department of Education briefed the Committee on the costs for personnel benefits, including the average rate for benefits as a percentage of teacher salary.

In making its decisions, the Committee considered and discussed many different salary levels and benefit percentage options to use in calculating the universal cost of providing the opportunity for an adequate education. At least one member of the Committee argued that since adequate means one iota above inadequate, salary levels should be set at the lowest salary level paid for a certain position anywhere in the state or at least the average of the lowest quartile of the minimum salaries paid for that position. The Committee rejected choosing the lowest salary figure paid anywhere in the state as not a reasonable approach to funding adequacy.

It is important to note, that in choosing a salary level based on a certain number of years of experience the Committee is not deeming that the selected level of experience is the minimum experience necessary to provide an adequate education. Rather, the Committee determined that the chosen salary scale which corresponds to the selected years of experience reflects the cost necessary to provide the opportunity for an adequate education as it relates to the position in question. The Committee recognizes and appreciates that teachers and other employees who have less than the number of years experience for costing purposes are fully qualified to provide students with an adequate education.

In calculating the universal costs related to personnel expenses, the Committee is utilizing data from the 2007-2008 school year. The Committee recognizes that any costing methodology which it develops will likely be implemented in the 2009-2010 school year, since the next biennial budget to adjust the funding for adequacy will take effect at that time. As such, the Committee determined that any salary figures used to cost an adequate education based on 2007-2008 data should be increased by 5% (2.5% per year) to reflect the increase in personnel costs between the application of the costing methodology and the period from which the current data was collected.

Finding: The Committee determines that any salary figures used to cost an adequate education based on 2007-2008 data should be increased by 5% (2.5% per year) to reflect the increase in personnel costs between the application of the costing methodology and the period from which the current data was collected.

a. Teachers

Finding: The Committee determines that the cost of adequacy should be calculated using a teacher salary calculated at the state average for a teacher with a bachelor's degree and three years experience plus benefits at 33% of salary.

Basis for decision: The Committee decided that a teacher with three years experience is the most appropriate salary to choose for costing purposes because after three years of experience a teacher completes a probationary period for employment purposes. Since school administrators have a three year period to evaluate new teachers, it is certain that a teacher with three years experience has successfully passed such a review.

Furthermore, the Committee decided that it is not practical to staff a school entirely with first year teachers, and a salary scale for teachers with three years experience is reasonable. In reaching this decision, the Committee considered many options for teacher salary ranging from the state average for a beginning teacher with a bachelors degree but no experience to the state average for all teachers in the state. The Committee considered basing teacher salary on a teacher with one year of teaching experience because under the state's Highly Objective Universal State Standard of Evaluation (HOUSS) such teachers are identified as highly qualified teachers for No Child Left Behind (NCLB) purposes. The Committee rejected this approach because it determined that a teacher with three years' experience was more appropriate for determining the universal cost.

b. Principals

Finding: The Committee determines that the universal cost of adequacy should be calculated using a principal's salary based on the weighted average of the bottom quartile of principal salaries by grade level in New Hampshire, plus benefits at 28% of salary.

Basis for decision: Salary data for principals in New Hampshire is more limited than that available for teachers. The Committee did not have principal salary data available in a format which permitted calculation of the average principal salary at a certain number of years experience. Instead, the data available provided the actual average salaries paid to principals in New Hampshire, regardless of the number of years of experience. Thus, the Committee could not determine the average salary for a principal with three years experience.

In order to compensate for this lack of data, the Committee decided to base the universal cost on the average principal salary of the bottom quartile of actual principal salaries. The Committee determined that by limiting the salary analysis for principals to the bottom quartile, it adjusted for the lack of experience rated data, as principals with three years experience would fall in that category. To determine this figure, the DOE calculated the principal salaries by grade level in New Hampshire based on the 2007-2008 salary survey distributed by the New Hampshire Association of School Principals. In deciding upon a benefits percentage, the Committee recognized that the cost of the health insurance, a major component in any benefits package is fixed. As a result, the health care costs do not rise as employee salary levels rise.

Thus, the Committee concluded that the 33% benefits rate applied to teachers whose salaries are significantly below the principal salary is too high in the case of principals. Rather, the Committee determined that the appropriate benefit rate for principals with their higher salary scale should be 28%.

c. Administrative Assistant

Finding: The Committee determines that the cost of adequacy should be calculated using an administrative assistant salary based on DOE's survey which determined the 2007-2008 average minimum salary plus one third the average salary range (or lacking that information, the current salary) for this position, plus benefits at 33% of salary.

Basis for decision: As the Committee lacked sufficient data to determine the salary of a school administrative assistant, it requested that the DOE survey school districts to determine the salary range for this position. Of the 163 school districts surveyed, 94 responded to the survey.

Using the data it received, the DOE calculated the 2007-2008 average minimum salary plus one third the average salary range (or lacking that information the current salary) for this position. One third the average salary range was utilized to mirror the Committee's determination that in calculating teacher costs, it would include a teacher with three years of experience. The methodology utilized by DOE in its survey is an attempt to cost an administrative assistant with a comparable level of experience. The Committee decided to use the data from the DOE survey in calculating the universal cost.

d. Guidance Counselor

Finding: The Committee determines that the cost of adequacy should be calculated using a guidance counselor salary based on the state average for a masters level school employee with three years experience plus benefits at 33% of salary.

Basis for decision: The Committee decided that a guidance counselor must have a master's degree. It further found that three years experience is the most appropriate salary to choose for costing purposes because it reflects a sufficient level of experience, the opportunity for administrative review, and a reasonable amount, on average, to realistically fill the position.

e. Library Media Specialist

Finding: The Committee determines that the cost of adequacy should be calculated using a library media specialist at the state average for a teacher salary with a bachelor's degree and three years experience plus benefits at 33% of salary.

Basis for decision: The DOE informed the Committee that library media specialists in New Hampshire schools overwhelmingly have a bachelor level education, as often as 90 % of the time. As such, the Committee determined that for costing purposes, library media specialist should be calculated at a bachelor's degree with three years experience, just as a teacher level position is calculated.

f. Technology Coordinator

Finding: The Committee determines that the cost of adequacy should be calculated using a technology coordinator at the state average for a teacher salary with a bachelor's degree and three years experience plus benefits at 33% of salary.

Basis for decision: The Committee determined that a technology coordinator needs to possess a bachelor level education. As such, the Committee determined that for costing purposes, the technology coordinator should be calculated at a bachelor's degree with three years experience, just as a teacher level position is calculated. It further found that three years experience is the most appropriate salary to choose for costing purposes because it reflects a sufficient level of experience and the opportunity for administrative review.

g. Custodian

Finding: The Committee determines that the cost of adequacy should be calculated using custodian salary based on DOE's survey which determined the 2007-2008 average minimum salary plus one third the average salary range (or lacking that information the current salary) for this position, plus benefits at 33% of salary.

Basis for decision: As the Committee lacked sufficient data to determine the salary of a school custodian, it requested that the DOE survey school districts to determine the salary range for this position. Of the 163 school districts surveyed, 98 responded to the survey. Using the data it received, the DOE calculated the 2007-2008 average minimum salary plus one third the average salary range (or lacking that information the current salary) for this position. One third the average salary range was utilized to mirror the Committee's determination that in calculating teacher costs, it would include a teacher with three years of experience. The methodology utilized by DOE in its survey is an attempt to cost a custodian with a comparable level of experience. The Committee decided to use the data from the DOE survey in calculating the universal cost. It further found that three years experience is the most appropriate salary to choose for costing purposes because it reflects a sufficient level of experience, the opportunity for administrative review, and a reasonable amount, on average, to realistically fill the position.

4. Non-Personnel Costs

In addition to the personnel costs, the Committee considered the non-personnel costs that need to be included in the universal cost in order to provide students in New Hampshire the opportunity for an adequate education pursuant to RSA 193-E:2-b.

a. Instructional Materials and Supplies

Finding: The universal cost should include \$250 per pupil for instructional materials and supplies.

Basis for decision: The Committee determined that the need for current, up-to-date instructional materials is critical. Newer materials contain more accurate information and

incorporate the most advanced educational approaches. While students in the younger grades need more disposable type of materials, high school students need current textbooks, as well as art, music, and science materials. Middle school students need a mixture of the two. These materials are vital to support the curriculum content areas that constitute the definition of the opportunity for an adequate education. The purpose section of the law which establishes the new statutory definition of adequacy states that “the opportunity for an adequate education includes a range of services, educational supports, and instructional resources.” 2007 Laws of NH, Chapter 270:1(II).

The New Hampshire school approval standards also reflect the need for current, comprehensive, and appropriate instructional resources that are necessary to support the curriculum and the needs of the school population. See Ed. 306.08(a)(1). The Committee recognizes that most secondary level schools have a rotating system of replacing textbooks by department every 5-7 years and that each textbook costs approximately \$100 apiece. The Committee decided that the \$250 per pupil figure is reasonable. A similar per pupil amount has been used in a number of other states.

b. Technology

Finding: The universal cost should include \$75 per pupil for technology.

Basis for decision: The definition of adequacy includes the substantive educational program as provided in the school approval standards in technology education, and information and communication technologies.

Furthermore the definition requires “opportunities to acquire the communication, analytical and research skills and competencies” in addition to the substantive knowledge expected to be possessed. The Committee determined that central to those opportunities are the availability of computers and computer software. According to DOE’s 2006-2007 school survey of computer availability, the average student to computer ratio in New Hampshire is 4 to 1. The Committee concluded that \$75 per student per year is sufficient to provide one computer and associated software per four students with a replacement schedule for computers of every 4 to 5 years. The Committee also found based upon the information before it that the 4:1 ratio is consistent with the practice in the New England region.

c. Teacher Professional Development

Finding: The universal cost should include \$20 per pupil for teacher professional development.

Basis for decision: The Committee determined that in order to provide the substantive educational program that deliver the opportunity for an adequate education as defined in RSA 193-E:2-a, teachers require ongoing training and professional development. The New Hampshire school approval standards which are incorporated into that definition recognize the need for ongoing teacher training in order to carry out the educational program established in the standards. See Ed 306.15(a)(2).

The Committee concluded that \$20 per student per year is sufficient to provide the necessary professional development. At the lower ratio of 25 students per teacher that per pupil figure equates to \$500 a year for a teachers professional development. The Committee concluded that based on the cost of professional development activities and current spending for teacher professional development, that amount is sufficient.

d. Facilities Operation and Maintenance

Finding: The universal cost should include \$195 per pupil for facilities operation and maintenance.

Basis for decision: The Committee determined that a clean, healthy and safe learning environment is needed for students to have the opportunity for an adequate education as defined in RSA 193-E:2-a. Schools are required to provide such an environment pursuant to the New Hampshire standards for public school approval, ED 306.07(a)(1). The Committee received information from the DOE, that according to the latest school district reporting forms, facilities operation and maintenance constitutes about 8% of the total school cost. By applying this percentage to the projected universal costs as calculated through the Committee's other decisions, the Committee determined that \$195 per student together with the amount included for custodial services is a reasonable and sufficient amount to include for facilities operation and maintenance.

e. Transportation

Finding: The universal cost should include \$315 per pupil for transportation costs.

Basis for decision:

The Committee recognized that neither the statutory definition of adequacy nor the school approval standards directly identify transportation as part of adequacy. Nevertheless, the Committee determined that transportation to school for students who reside far from school is an important consideration for students to have the opportunity for an adequate education. This principle is reflected in state law which requires school districts to provide transportation to all pupils in grade 1 through grade 8 who live more than 2 miles from the school to which they are assigned. RSA 198:6.

The Committee decided to include transportation costs in the universal cost calculation. In calculating the transportation amount to include, the Committee decided to use only the costs for elementary and middle school students as high school students are not entitled to transportation services. It reduced the statewide total of transportation costs for those students by subtracting any costs not attributable to transporting students, including the special education student, to or from school. For example, transportation costs attributable to athletics and co-curricular activities were eliminated. To arrive at the single per pupil amount of \$315, the Committee then divided the total statewide transportation costs included in the formula by the total number of students in grades K-12.

5. A Single, Per Student, Universal Cost

Finding: There should be a single, per student, universal cost calculated by averaging the different grade level universal costs to obtain a single per student amount.

Basis for decision: The Committee determined that it was important to increase predictability of funding to school districts and to ease the calculation of the amount of funding a district will receive in universal costs. To accomplish these ends, the Committee concluded that rather than have a different universal cost calculations for students in different grades, universal cost shall be calculated by averaging the different grade level universal costs to obtain a single per student amount.

6. Calculating the per pupil universal cost

The universal cost of providing the opportunity for an adequate education as defined by RSA 193-E:2-a based on the Committee's findings equals \$3,456 per pupil. The chart below exhibits the calculation of the universal cost based on the Committee's findings.

Per Pupil Amounts Grades K-2 Grades 3-12		
TEACHERS¹		
	Salary	\$ 33,847
	5% Salary Increase	\$ 1,692
	Total Salary	\$ 35,539
	Benefits (33%)	\$ 11,728
	Total Teacher	\$ 47,267
Grades K-2:	1 Teacher / 25	
	Students	\$ 1,891
	20% for Specialty Teachers	\$ 378
Grades 3-12:	1 Teacher / 30	
	Students	\$ 1,576
	20% for Specialty Teachers	\$ 315
PRINCIPAL		
	Salary	\$ 75,159
	5% Salary Increase	\$ 3,758
	Total Salary	\$ 78,917
	Benefits (28%)	\$ 22,097
	Total Principal	\$ 101,014
Grades K-12	1 Principal / 500	
	Students	\$ 202 \$ 202
PRINCIPAL ADMINISTRATIVE ASSISTANT		

	Salary	\$ 30,202			
	5% Salary Increase	\$ 1,510			
	Total Salary	\$ 31,712			
	Benefits (33%)	\$ 10,465			
	Total Admin. Asst.	\$ 42,177			
Grades K-12	1 Admin. Asst. / 500 Students		\$ 84	\$	84
GUIDANCE COUNSELOR					
	Salary	\$ 37,141			
	5% Salary Increase	\$ 1,857			
	Total Salary	\$ 38,998			
	Benefits (33%)	\$ 12,869			
	Total Guidance Counselor	\$ 51,867			
Grades K-12	1 Guidance Counselor / 400 Students		\$ 30	\$	130
LIBRARY MEDIA SPECIALIST					
	Salary	\$ 33,847			
	5% Salary Increase	\$ 1,692			
	Total Salary	\$ 35,539			
	Benefits (33%)	\$ 11,728			
	Total Media Specialist	\$ 47,267			
Grades K-12	1 Media Specialist / 500 Students		\$ 95	\$	95
TECHNOLOGY COORDINATOR					
	Salary	\$ 33,847			
	5% Salary Increase	\$ 1,692			
	Total Salary	\$ 35,539			
	Benefits (33%)	\$ 11,728			
	Total Tech. Coordinator	\$ 47,267			
Grades K-12	1 Tech. Coord. / 1,200 Students		\$ 39	\$	39
CUSTODIAN					
	Salary	\$ 26,229			
	5% Salary Increase	\$ 1,311			
	Total Salary	\$ 27,540			
	Benefits (33%)	\$ 9,088			
	Total Custodian	\$ 36,628			
Grades K-12	1 Custodian / 500 Students		\$ 73	\$	73
INSTRUCTIONAL MATERIALS			\$ 250	\$	250

TECHNOLOGY	\$	75	\$	75
TEACHER PROFESSIONAL DEVELOPMENT	\$	20	\$	20
FACILITIES OPERATION AND MAINTENANCE	\$	195	\$	195
TRANSPORTATION	\$	315	\$	315
TOTAL PER PUPIL UNIVERSAL COST	\$	3,747	\$	3,369
ESTIMATE OF "BLENDED" PER PUPIL UNIVERSAL COST²				
		$(\$3,747 \times 3) + (\$3,369 \times 10) / 13 =$		\$ 3,456

NOTES:

- 1) Per pupil amounts for salaried positions determined by dividing the total cost of salary and benefits by the number of pupils per position, rounded to the nearest dollar.
- 2) "Blended" per pupil universal cost is a weighted average of the Grades K-2 cost and the Grades 3-12 cost based on 13 grades.

VIII. DIFFERENTIATED AID FOR AT RISK STUDENTS AND ENHANCED NEEDS SCHOOLS

1. The Need for Differentiated Aid

The Committee engaged in a detailed analysis to determine what, if any, additional, differentiated aid above the universal cost amount is needed to provide children who have greater educational needs the opportunity for an adequate education.

Finding: The Committee finds that students with greater educational needs require additional differentiated aid above the universal cost in order to provide them with the opportunity for an adequate education.

Basis for Decision: The Committee found that there is an additional cost to educate at-risk student populations. Most states also recognize the increased cost to educate their at-risk student populations. This practice comports to the opinion of most school finance experts that it costs more to educate students from poor families and those students who are at risk of academic failure. These experts recognize that more school aid per pupil should be provided to disadvantaged children than to privileged ones. In a similar manner, the Supreme Court itself has acknowledged that educational adequacy does not require identical resources from school to school or district to district. *Claremont School District v. Governor*, 142 N.H. 462, 474 (1997).

2. At-Risk Populations

a. English Language Learners – The Need for Differentiated Aid

Finding: The Committee finds that English language learners need additional differentiated aid above the universal cost in order to obtain the opportunity for an adequate education.

Basis for Decision: English Language Learners (ELL) are students who are educationally disadvantaged by virtue of their limited English proficiency. They come from homes where a language other than English is predominantly or exclusively spoken. Most households of English Learners have no adult proficient speakers of English. There are usually few models of English in these homes. According to the DOE, there are over 3,000 students in New Hampshire who receive ELL instruction in primary or secondary public schools. Almost 2,000 of these students receive over 3 hours of ELL instruction per week. The vast majority of the ELL students in New Hampshire are concentrated in a relatively small number of school districts. Research demonstrates that ELL educational programs are more effective than English-only programs when the goal is academic attainment. The Committee concluded that English language learners need additional differentiated aid above the universal cost in order to obtain the opportunity for an adequate education.

b. English Language Learners – Calculating the Amount of Differentiated Aid

Finding: The Committee finds that differentiated aid should be provided for English language learners based on a ratio of 70 students who receive ELL instruction to one teacher. Based on the previous findings related to teacher salary, this equates to additional differentiated aid of \$675 per student who receives ELL instruction.

Basis for Decision: The additional ELL cost utilized in other states ranges widely. For example, in California each ELL student is provided an additional \$100. While in Colorado, ELL students can be provided up to an additional \$400 dollars. Many states add additional funds as a percentage of the base cost. These percentages vary greatly as well. In New Jersey, ELL students receive up to a 50% increase in the base amount and an average increase of \$1,274 per student. New York, however, provides a 31% increase and Texas a 10% increase in base aid. Arkansas calculates its educational funding using a ratio of students to full time teachers, similar to the approach taken by the Committee. In Arkansas, ELL students are provided extra funding based on a ratio of 100 ELL students to one teacher.

The Committee considered the amount of ELL services being received by students in the state. It also considered a DOE analysis of the amount of services being received by ELL students at one of the schools with a moderate to high concentration of ELL students. Based on this information, the Committee concluded that in New Hampshire differentiated aid for ELL students should be based on a ratio of 1 full time teacher per 70 students who receive ELL services.

c. Special Education Students - The Need for Differentiated Aid

Finding: The Committee finds that special education students need additional differentiated aid above the universal cost in order to obtain the opportunity for an adequate education.

Basis for Decision: In adopting the statutory definition of adequacy, the General Court found that an adequate education shall provide every child in New Hampshire with the opportunity to receive the substantive education programs that are included in the definition. 2007 Laws of NH, Chapter 270:1(II). This is consistent with the supreme court ruling that it is the “State’s obligation to underwrite the cost of an adequate education for each educable child.” Opinion of the Justices, 145 N.H. 474 at 478 (2000). According to the Education Commission of the States, all states provide some additional funding to districts to educate special education students.

The Committee finds that special education students need additional services and supports in order to be provided with the opportunity to receive an adequate education. In defining adequacy, the general court recognized the need for the state to provide “a range of services, educational supports, and instructional resources.” 2007 Laws of NH, Chapter 270:1(II). The Committee finds that based on the unique educational challenges faced by special education students, they require educational supports and instructional resources in addition to the universal cost in order to be provided the opportunity for an adequate education.

d. Special Education Students - Calculating the Amount of Differentiated Aid

Finding 1: The Committee finds that differentiated aid should be provided for special education students based on the educational setting in which they are taught.

Finding 2: The Committee further finds that additional differentiated aid should be provided for special education students who are taught in modified regular classrooms and/or resource rooms, based on a ratio of 30 students to one master's level teacher. Consistent with the Committee's previous findings, the amount of differentiated aid should be based on a teacher with three years of experience and benefits at 33%. Based on this formula, additional differentiated aid should be made available in the amount of \$1,789 per special education student in grades kindergarten through 12 who is educated in a modified regular classroom and/or a resource room.

Finding 3: The Committee further finds that additional differentiated aid should be provided for special education students who are taught in self-contained programs or other restrictive placements, based on a ratio of 10 students to one master's level teacher. Consistent with the Committee's previous findings, the amount of differentiated aid should be based on a teacher with three years of experience and benefits at 33%. Since students in these settings do not participate in a regular classroom, the amount of additional differentiated aid should be reduced by an amount equal to that portion of universal costs that is attributable to the regular classroom teacher. Based on this formula, additional differentiated aid should be made available in the amount of \$3,610 per special education student in grades kindergarten through 12 who is educated in a self-contained program or other restrictive placement.

Finding 4: The Committee finds that in the event that the two tiered approach for differentiated aid for special education set forth above is found to violate federal law, then it recommends that the legislature adopt a single amount of differentiated aid for all special education students calculated as the weighted average of the amounts identified in the two tiered approach.

Basis for Decision: According to the Education Commission of the States (ECS), studies have recognized that there is a great cost difference in providing educational services for students with mild, moderate and severe disabilities. Other state funding formulae recognize this cost difference. The Committee discovered that the range of additional funding for special education students varied greatly among the states. ECS informed the Committee that studies have discovered that too much money goes to students designated as having a "mild" disability and, at times, not enough is provided for individuals with more severe needs. In order to avoid that flaw, the Committee rejected a flat amount for all special education students. Instead, it decided to calculate the amount of additional differentiated aid needed for special education students based on student placement.

The definition of an adequate education is based on the opportunity to obtain the substantive educational program identified in the statute. Therefore, the Committee calculated the amount of differentiated aid for varying placements of special education students based on a ratio

of the professional teaching staff needed to provide the student with the opportunity for an adequate education. The Committee determined that the additional differentiated aid needed for special education students who are taught in modified regular classrooms and/or resource rooms should be based on a ratio of 30 students to one master's level teacher.

In contrast, the Committee determined that the additional differentiated aid needed for special education students who are taught in self-contained programs or other restrictive placements should be based on a ratio of 10 students to one master's level teacher. Since students in this latter category would not be participating in the regular classroom, the Committee determined that the differentiated aid for them need only be the increased teacher cost between the regular classroom teacher included in the universal cost and the special education teacher in the differentiated aid formula.

d. Economically Disadvantaged Students and Enhanced Need Schools

Finding 1: The Committee finds that eligibility for the federal free or reduced-price lunch program should be used to identify economically disadvantaged, at-risk students.

Finding 2: The Committee finds that as the school concentration of students eligible for the federal free or reduced-price lunch increases, schools need an increasing amount of differentiated aid above the universal cost in order to provide the opportunity for an adequate education.

Finding 3: The Committee further finds that in schools with the highest concentrations of free or reduced lunch eligibility, schools need additional differentiated aid equal to the universal cost amount, so that, combined, the universal and differentiated aid will equal twice the universal amount.

Basis for Decision: A large body of research shows that students who are poor or economically disadvantaged are at risk for academic failure. As a result, the overwhelming majority of states distribute education funding on the basis of poverty. Rather than develop new mechanisms for collecting student poverty data, states utilize existing means tested federal programs to identify these students. Most often, states use eligibility for the federal free or reduced-priced lunch (FRL) program to identify students who live in poverty. The Committee determined that while FRL eligibility may not be perfect, it is the best identifier available for economically disadvantaged students and should be used for that purpose.

Various studies have found that as the percentage of at-risk students increases in a school district so does the cost of educating each at-risk student. Researchers and educators indicate that high poverty schools face particular obstacles in educating their students. As a result, many states vary the amount of funding distributed for poverty by providing larger per-student grants to school districts with higher poverty concentrations. According to ECS, larger amounts of differentiated aid is needed for at-risk students when the base amount of adequacy is relatively low; while states with a high base amount tend to adopt smaller weights for at-risk students. Studies suggest that educating low-income children can cost as much as two to two-and-a-half times the cost of educating non-poor students. Maryland, for example, determined that it would require virtually double the base foundation aid to educate low income students.

A high concentration of low-income students in a school has negative effects on all students and the school as a whole. For example, researchers have reported that:

“In schools with above average poverty rates, the poverty level of the school influences the scores of all children, including those from more advantaged families. Low income students in high-poverty schools are doubly at risk...” (U.S. Department of Education, 1996). (See also Kennedy, Jung, and Orland, 1996)

In New Hampshire, 18.9% of all students in grades 1-12 are free and reduced lunch eligible. However, there are many schools that have significant or very high concentrations of students eligible for free and reduced lunch. In 29 schools 50% or more of the students are free or reduced lunch eligible and 59 schools have a concentration of over 40%. Practically 40% of all public schools in New Hampshire have a concentration of free and reduced lunch students that exceeds 25%. The Committee determined that the high concentration of free and reduced lunch students in many New Hampshire schools is a significant challenge and students in these schools require additional differentiated aid to receive the opportunity for an adequate education.

While the Committee did not specify in its finding a specific formula for providing increased differentiated aid as free and reduced lunch concentration increases, the general court, through the legislative process, will need to develop such a formula in order to provide the students in these schools with sufficient resources to obtain the opportunity for an adequate education. The Committee did determine that in schools with the highest concentrations of free or reduced lunch eligibility, students need additional differentiated aid in an amount that is equal to the universal cost of providing an adequate education so that, combined, the universal and differentiated aid will equal twice the universal amount.

Finding 4: The Committee finds that schools that receive significant amounts of differentiated aid because they have high concentrations of FRL students should be held accountable for providing and implementing a subset of additional programs chosen by the school from a menu of interventions known to be effective in increasing student achievement. The menu of programs shall include the following:

- (i) Pre-K programs
- (ii) Full day kindergarten
- (iii) Extended learning time: before or after school and summer programs
- (iv) Professional development
 - (a) Induction for new teachers
 - (b) Ongoing professional development
- (v) Additional non-instructional personnel
 - (a) School social workers and counselors
- (vi) School nurse
- (vii) Drug and alcohol counselor
- (viii) Additional Instructional personnel
 - (a.) Reading specialists
- (ix) Smaller class sizes

- (x). Parental Involvement programs
- (xi). Additional Technology resources
- (xii) Drop out prevention programs
- (xiii) Principal incentive programs
- (xiv) Curriculum enrichment programs

Finding 5: The Committee finds that schools that receive significant amounts of differentiated aid because they have high concentrations of free and reduced lunch eligible students should be required to provide plans and reports to the DOE documenting the selection and implementation of a subset of programs from this menu.

Basis for Decision: The Committee determined that when a school receives a significant amount of differentiated aid as a result of having a high concentration of at-risk students, it is imperative that the school be accountable to the students and the state by implementing programs known to be effective in such schools. The Committee determined that local school districts are best suited to decide which programs are needed. The school districts would choose the approaches it deems best from a list of options known to be effective in increasing student achievement in such situations. In making this finding, the Committee affirmatively declares that these schools do not need to provide all of the programs on the menu in order to offer its students the opportunity for an adequate education. Rather, the Committee determined that students in these schools need additional resources, but defers to the school to determine the appropriate additional services needed in its particular situation.

Many studies, including a RAND study cited in NH's Oct. 2000 MAP report conclude that additional resources have been effective for minority and disadvantaged students. The MAP report recommended "allow[ing] or require[ing] qualifying schools to choose from a menu of state-approved, research-based reform models". The Committee agrees and recommends additional state aid for the identified evidence-based enhancement programs, to be targeted to schools with high concentrations of students in the federal free and reduced lunch (FRL) program.

The Committee discussed the issue of accountability for the use of differentiated aid funds for schools with high concentrations of economically disadvantaged students and determined that schools should have flexibility and autonomy in deciding which programs are most needed and appropriate for their students, but that they should choose from a "menu" of evidence-based programs approved by the state as part of their school improvement plan, and that they should report to the state on implementation of the selected programs. The Department of Education will periodically review this list and add proven innovative programs brought forward by educators and researchers.

The Committee discussed the "menu of options" of appropriate, effective resources from which schools with high concentrations of FRL students could choose. A review of some of the research which support these programs is contained in Appendix D.

IX. SCHOOL BASED ALLOCATION AND ACCOUNTING FORMULA

Finding 1: The Committee recommends that the State utilize a school-based allocation and accounting formula in calculating the cost of adequacy, including differentiated aid.

Basis for Decision: The State's obligation is to underwrite the cost of an adequate education for each educable child. The Committee determined that every child is entitled to the universal cost of adequacy. However, the Committee also found that varying amounts of differentiated aid is necessary to provide certain students the opportunity for an adequate education based on the school environment where the child is being educated.

As a result, the Committee believes that to properly calculate the cost of adequacy and to ensure accountability, it is most appropriate to allocate and account for adequacy costs, including differentiated aid, on a school-by-school basis, rather than by school district or municipality. Increasingly, school finance experts are advocating that education adequacy be costed, allocated, and accounted for on a school basis rather than a school district or municipal basis. For example, Daphne Kenyon recommends that to the extent possible, states should not only make efforts to target funds to needy school districts, but to needy schools within school districts. The Committee finds that the state should utilize a school-based allocation and accounting formula in calculating the cost of adequacy, including differentiated aid, in order to provide each child with the opportunity for an adequate education.

Finding 2: Currently, adequacy aid is allocated by municipality pursuant to RSA 195:41, but distributed directly to the school districts pursuant to RSA 195:42. The Committee recommends that out of respect for the long tradition of local control, the legislature continue to distribute adequacy funding to the school district as is currently the case, even though the amount of adequacy aid should be allocated by school. The Committee recognizes that utilizing a school based costing, allocation and accounting formula, as envisioned in the previous finding, will necessitate administrative and accounting changes. As such, the Committee recommends that the general court attend to the design of an effective and efficient implementation of a school based allocation formula with the fewest possible administrative burdens.

X. TRANSITIONAL ASSISTANCE FOR KINDERGARTEN

At its organizational meeting on August 27, 2007, the Committee established a sub-committee to study and report on transition assistance for kindergarten programs for the communities that presently offer no public kindergarten program. The members of the subcommittee were: Rep. Weyler, chairman; Reps. Foose and Rous; and Senators Estabrook and Bragdon.

Commissioner Lyonel B. Tracy of the Department of Education offered the resources of the Department to survey the 11 school districts that presently do not offer any public kindergarten program and designated Helen Schotanus, the DOE Kindergarten Administrator and Ed Murdough, Administrator of the Bureau of School Approval and Facility Management, to oversee this effort. DOE met with the superintendent of each district and visited every elementary school in the 11 districts. This survey was performed from October 15 through October 23, 2007. The

purpose of these visits was to identify the number of kindergarten classrooms that would be required; the existing space that could be available for kindergarten classrooms; whether there was on-site space for portable classrooms if necessary to offer kindergarten in 2008, and to determine if space is available for construction of permanent kindergarten programs.

Administrator Schotanus and Mr. Murdough submitted a detailed written report to the Committee on the results of their survey of the 11 districts that is incorporated into the public record of the Committee and was reviewed and discussed by the Committee in formulating their recommendations.

The sub-committee met separately from the Committee to receive oral and written testimony and information from affected communities and other stakeholders on the kindergarten issue. On September 30, 2007, it formulated preliminary recommendations that were brought back to the full Committee for discussion. On the basis of these preliminary recommendations, the DOE report, public testimony, and further deliberations of the Committee, a Kindergarten Report was prepared and was approved by the Committee at its November 19, 2007 meeting.

The Kindergarten Report is as follows:

When it adopted HB 927 in June 2007, the general court required consideration of transition assistance to enable school districts without public kindergarten to offer a kindergarten program as a component of an adequate education in New Hampshire.

The general court charged the Joint Legislative Oversight Committee on Costing an Adequate Education to study and review the provision of transition assistance for school districts that do not currently provide public kindergarten.

In order to assist planning efforts and decision-making in those eleven school districts without public kindergarten, the Committee has expedited its study, review and recommendations regarding transition assistance.

During its review and study of transition assistance, the Committee tasked DOE to complete a comprehensive review of the facility and resource requirements for implementing public kindergarten in each of the 11 school districts without public kindergarten. DOE interviewed school administrators in each district and completed an on-site inspection at each school. DOE submitted a feasibility study addressing the facility requirements and resource needs in each school district.

The Commissioner of DOE also testified regarding program and curriculum challenges for kindergarten implementation. The Commissioner recommended that the general court consider some of the unique impact variables that will pose difficulties in implementing a kindergarten program in all of these 11 school districts by September 2008. He suggested that these unique impact variables may warrant some degree of flexibility for planning and implementing a kindergarten program at the local level but that any delay in implementing kindergarten be restricted to no later than September 2009.

The Committee has also received testimony and written comment regarding implementation of kindergarten from various educational professionals, including two superintendents from school districts without public kindergarten. The education professionals testified that further planning is needed at the local level to properly implement kindergarten programs in these 11 school districts, and they advocated for a transition period beyond September 2008 to as late as September 2012.

The Committee has also debated various options available to it, including the provision of short-term temporary facilities, capital investments for long-term permanent facilities, the funding of adequacy aid payments for projected kindergarten enrollment, and funding for private kindergarten.

Kindergarten Motion – As Adopted on 11/19/2007

The Committee should adopt the kindergarten report and make the following recommendations to the general court:

Expedite Legislation: Expedite legislation during the upcoming session to make transition assistance available to the 11 school districts without public kindergarten that are prepared to implement a kindergarten program effective September 2008. For school districts that do not offer kindergarten until September 2009, the same kindergarten transition assistance should be made available to them for the school year beginning September 2009.

Portables: Provide 100% state funding for transition assistance to lease and set up portable classrooms on a temporary basis beginning in September 2008, for a period of up to 3 years, for those school districts without public kindergarten that are prepared to implement a kindergarten program effective September 2008. Adopt the DOE recommendation to use the \$1.6 million dollars in the Kindergarten Construction Aid account to fund the rental of portables and furniture, fixtures and equipment (FFE) costs in these school districts.

Construction: Reauthorize the Kindergarten Construction Aid program.

Kindergarten Adequacy Aid: Provide state funding for supplemental adequacy aid payments for projected half day kindergarten enrollment in the 11 school districts without public kindergarten that are prepared to implement a kindergarten program effective September 2008. Adequacy aid payments should be calculated for half day kindergarten enrollment in these 11 school districts in the same manner as provided for under current law in communities that already offer half day kindergarten.

School Districts Requesting Extended Transition Period: For any school district that determines that it requires an extended transition period and is unable to implement a kindergarten program effective September 2008, the general court should require the school districts to so notify the Commissioner of DOE on or before April 1, 2008. The Commissioner shall require those school districts to submit a kindergarten transition plan, which has been approved by the school board on or before September 30, 2008. The transition plan must set forth the school district's transition plan for implementing a kindergarten program no later than September 2009, subject to

oversight, administration and enforcement authority granted to the department of education by the general court. The transition plan must provide a detailed plan with benchmarks and timetables for providing kindergarten classrooms, curriculum, staffing and equipment.

XI. RECOMMENDATIONS AND ANTICIPATED LEGISLATION

The Committee believes that it is imperative for the Legislature and the Governor to complete its work to cost, fund and make accountable the opportunity for an adequate education in order to ensure educational opportunity for the public schoolchildren of the State.

In order to complete the costing process, the Committee recommends that the Legislature and the Governor accept the findings made by the Committee in this report and move expeditiously to introduce legislation that will cost the opportunity for an adequate education beginning for the 2009-2010 school year based upon all the Committee's findings, including:

- * the universal cost, where no additional differentiated aid is necessary to address the increased costs of providing that opportunity to students who have special education needs, who have limited English proficiency, who are economically disadvantaged and/or are in schools with significant concentrations of economically disadvantaged pupils;
- * the need for differentiated aid for students who have special education needs, who have limited English proficiency, who are economically disadvantaged and/or are in schools with significant concentrations of economically disadvantaged students;
- * the amount of differentiated aid for schools with higher concentrations of economically disadvantaged students should receive an increasing amount of differentiated aid up to an amount that equals twice the universal cost for the schools that have the highest concentrations.
- * the use of a school-based allocation and accounting formula in calculating the cost of adequacy, including differentiated aid; and
- * the implementation of kindergarten transition assistance for the 11 schools districts that presently do not offer public kindergarten programs beginning in the 2008-2009 school year.

The Committee recognizes that over time the cost of adequacy will need to be adjusted to account for changes due to inflation. As a result, the Committee recommends that in passing costing legislation, the legislature should include in that legislation a method to periodically recalculate the cost based on current data or an appropriate index for inflation.

The Committee also recommends that the legislation introduced to implement the cost of the opportunity for an adequate education also establish the process and timetable for completing the funding and accountability measures for the opportunity for an adequate education.

The Committee will make available to the Legislature and Governor the complete record of its proceedings and deliberations and looks forward to completing this critical work.

Appendix A to Report of Joint Legislative Committee on Costing An Adequate Education

Meeting Schedule for Joint Legislative Oversight Committee on Costing an Adequate Education (RSA 193-E:2-d)

<u>DATE</u>	<u>TIME</u>	<u>PROCEEDINGS</u>
8/27/07	9:00 – 10:00 a.m.	Organizational Meeting
9/10/07	1:00 – 2:45 p.m.	Review of costing models
9/17/07	1:00 – 3:45 p.m.	DOE presentation on cost and funding of education in NH; continued discussion of costing models and Committee vote to approve the use of legislative statistical cost model; discussion of process for kindergarten subcommittee.
9/24/07	Full day session	Stakeholder and Public testimony: NH School Administrators Ass.; NH-NEA; NH School Boards Ass.; NH Center for Public Policy; Superintendent, Londonderry SAU 12; Disabilities Rights Center
10/1/07	1:00 – 4:00 p.m.	Presentations by Michael Griffith, Education Comm. of the States (ECS); Daniel Thatcher, National Conference of State Legislatures (NCSL) on specific education costing models and studies.
10/15/07	1:00 – 4:00 p.m.	Discussion on kindergarten transition assistance; review of NH DOE school approval standards and discussion of key policy questions related to calculation of universal adequacy costs; discussion of data needed for determination of universal costs.
10/22/07	1:00 -- 3:00 p.m.	Discussion of teacher-related costs and class size
10/29/07	1:00 – 3:00 p.m.	Discussion of non-teacher staff and instructional staff such as administrative personnel, guidance counselors, library/ media specialists; technology; nurses

11/5/07	1:00 – 3:15 p.m.	Review and discussion of Kindergarten Subcommittee Recommendations
11/13/07	9:30 – 12:00 p.m.	Presentation by DOE Comm. Tracy on kindergarten transition assistance to communities with no existing program; continued discussion of kindergarten transition assistance; discussion of policy issues and data relative to special populations (special education; ELL); DOE presentation of data on SPED, ELL.
11/19/07	10:00 – 1:00 p.m.	Review and discussion of cost methodology for universal adequacy cost; presentation, discussion and deliberation over report on kindergarten transition assistance; continued discussion teacher ratios.
12/10/07	1:00 – 3:00 p.m.	Presentations by educational professionals on special education and other at risk student populations.
12/17/08	1:00 – 3:00 p.m.	Review and discussion of components of universal costs, including student-teacher ratio, specialty teachers, teacher salaries, benefits, school principals, administrative staff, guidance counselors, media specialists technology coordinators, custodians, teacher professional development, facilities and transportation, special education.
1/7/08	1:00 – 3:00 p.m.	Presentation by Legislative Budget Assistant on draft calculation of universal cost based upon Joint Committee straw poll; discussion of policy factors and data relative to identification of at-risk students. Committee discussion and identification of differentiated aid and appropriate resources to which such aid could be applied.
1/18/08	2:15 – 3:30 p.m.	Presentation by Michael Griffith of Education Commission of States regarding funding at-risk students, including special education, English language learners; role of inflation adjustment in calculation of costs; extended discussion by Committee on presentation.
1/25/08	10:00 – 12:00 p.m.	Extended discussion among Committee of

factors for differentiated aid.

1/28/08	1:00 – 3:00 p.m.	Discussion and deliberations over policy choices relative to differentiated aid; deliberations relative to final report.
2/1/08	10:00 – 12:00 p.m.	Consideration of Final Report

Appendix B to Report of Joint Legislative Committee on Costing An Adequate Education

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**Appendix C to Report of
Joint Legislative
Oversight Committee
Report**

CHAPTER 270

HB 927-FN – FINAL VERSION

27Mar2007... 0900h

06/06/07 2064s

27Jun2007... 2334cofc

27Jun2007... 2374eba

2007 SESSION

07-1329

04/10

HOUSE BILL *927-FN*

AN ACT relative to the specific criteria and substantive educational program that define an adequate education, the resources required to provide an adequate education, and the establishment of a timetable for costing an adequate education.

SPONSORS: Rep. Rous, Straf 7; Rep. Stiles, Rock 15; Sen. Odell, Dist 8; Sen. Foster, Dist 13

COMMITTEE: Education

AMENDED ANALYSIS

This bill:

- I. Sets forth the substantive educational content of an adequate education.
- II. Requires the establishment of criteria to identify schools with greater educational challenges for the provision of additional education aid.
- III. Establishes a joint legislative oversight committee on costing education.

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.

27Mar2007... 0900h

06/06/07 2064s

27Jun2007... 2334cofc

27Jun2007... 2374eba

07-1329

04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seven

AN ACT relative to the specific criteria and substantive educational program that define an adequate education, the resources required to provide an adequate education, and the establishment of a timetable for costing an adequate education.

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

270:1 Statement of Purpose.

I. The general court embraces its duty to define the opportunity for a constitutionally adequate public education for every child in the state. The Encouragement of Literature clause of the New Hampshire constitution declares that knowledge and learning spread through a community are “essential to the preservation of a free government,” and that “spreading the opportunities and advantages of education” is a means to preserving a free, democratic state. Beyond competencies in reading, writing, and arithmetic, a broad exposure to the social, economic, scientific, technological, and political realities of today’s society is essential for New Hampshire students to compete, contribute, and flourish in the twenty-first century.

II. The general court finds that the opportunity for a constitutionally adequate education in New Hampshire consists of the substantive education programs from kindergarten through twelfth grade that deliver the essential opportunities to acquire skills, competencies, and knowledge in the subject areas of English/language arts and reading, mathematics, science, social studies, the arts, world languages, technology, information and communication technologies, health, and physical education. The general court finds that an adequate education shall provide every child in New Hampshire with the opportunity to receive these substantive education programs in accordance with the specific criteria and high standards for such education programs that are set forth in the applicable school approval standards. The opportunity for an adequate education includes a range of services, educational supports, and instructional resources.

III. In September 2006, the New Hampshire supreme court ruled in Londonderry School District SAU #12 & a. v. State of New Hampshire that the state had not met its duty to define a constitutionally adequate education for New Hampshire's public school students by not identifying the specific criteria and the substantive education program that delivers the opportunity for an adequate education.

IV. In responding to its responsibility to determine the specific criteria and substantive education program that deliver the opportunity for an adequate education, the general court analyzed the current education delivery system established jointly through the legislative and executive branches. Specifically, the general court reviewed the standards for public school approval and the state's curriculum frameworks. As part of its review, the general court determined which of the standards and curriculum frameworks provide the opportunity for an adequate education. In analyzing the school approval standards and curriculum frameworks, the general court recognized that they were developed with the widespread participation of educators, business people, government officials, community representatives, and parents. As a result of the quality of both the standards and the frameworks, the general court identifies the standards in RSA 193-E:2-a and the curriculum frameworks that support those standards as the specific criteria for an adequate education.

V. The general court reviewed and debated numerous bills attempting to determine the specific criteria which constitute the opportunity for an adequate education. An integral part of this legislative process was the gathering of public input through forums throughout the state at which educators, government officials, and members of the public offered their opinions on draft legislation.

VI. The specific criteria for an adequate education, as enacted in this act, are formulated to permit common understanding, foster meaningful application, and allow for objective measurement and assessment.

VII. 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.

270:2 New Sections; Substantive Educational Content of an Adequate Education; Cost of an Adequate Education; Resource Elements; Legislative Committee on Costing an Adequate Education. Amend RSA 193-E by inserting after section 2 the following new sections:

193-E:2-a Substantive Educational Content of an Adequate Education.

I. Beginning in the school year 2008-2009, the specific criteria and substantive educational program that deliver the opportunity for an adequate education shall be defined and identified as the school approval standards 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.

II. The standards shall cover kindergarten through twelfth grade and shall clearly 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.

III. Public schools and public academies shall adhere to the standards identified in paragraph I.

IV. The school approval standards for the areas identified in paragraph I shall constitute the opportunity for the delivery of an adequate education. The general court shall periodically, but not less frequently than every 10 years, review, revise, and update, as necessary, the standards identified in paragraph I and shall ensure that the high quality of the standards is maintained. Changes made by the board of education to the school approval standards through rulemaking after the effective date of this section shall not be included within the standards that constitute the opportunity for the delivery of an adequate education without prior adoption by the general court. The board of education shall provide written notice to the speaker of the house of representatives, the president of the senate, and the chairs of the house and senate education committees of any changes to the school approval standards adopted pursuant to RSA 541-A.

V. The general court requires the state board of education and the department of education to institute procedures for maintaining, updating, improving, and refining curriculum frameworks for each area of education identified in paragraph I. The curriculum frameworks shall present 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 identified in paragraph I. The curriculum frameworks shall serve as a guide and reference to what New Hampshire students should know and be able to do in each area of education. The frameworks do not establish a statewide curriculum. It is the responsibility of local teachers, administrators, and school boards to identify and implement approaches best suited for the students in their communities to acquire the skills and knowledge included in the frameworks, to determine the scope, organization, and sequence of course offerings, and to choose the methods of instruction, the activities, and the materials to be used.

VI. In this section, “school approval standards” shall mean the applicable criteria that public schools and public academies shall meet in order to be an approved school, as adopted by the state board of education through administrative rules.

193-E:2-b Cost of an Adequate Education.

I. The general court shall use the definition of the opportunity for an adequate education in RSA 193-E:2-a to determine the resources necessary to provide essential programs, considering educational needs. The general court shall make an initial determination of the

necessary specific resource elements to be included in the opportunity for an adequate education.

II. The general court shall create a process for the periodic determination of the specific resource elements essential to providing the substantive educational content of an adequate education. This review should occur no less frequently than every 10 years.

III. The general court shall complete the determination of the cost of an adequate education in accordance with the provisions of this chapter as expeditiously as possible following submission of the findings and recommendations of the joint legislative oversight committee pursuant to RSA 193-E:2-d but no later than the end of the 2008 fiscal year.

193-E:2-c Resource Elements. The general court recognizes that schools with greater educational challenges will benefit from varying resources. Schools with varying educational challenges often exist within a single school district. The general court is committed to addressing the varying educational challenges that exist among the schools of the state.

193-E:2-d Legislative Committee on Costing an Adequate Education.

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

(a) Five members of the house of representatives, which shall include at least 2 members of the house education committee and at least 2 members of the house finance committee, appointed by the speaker of the house of representatives.

(b) Five members of the senate, which shall include at least 2 members of the senate education committee and at least 2 members of the senate finance committee, appointed by the president of the senate.

(c) The governor or designee as ex officio member of the committee.

II. The committee shall review and study the analytical models and formulae for determining the cost of an adequate education and the educational needs and resources needed to deliver an adequate education for children throughout the state.

III. The committee shall also study and review transition assistance for school districts that as of the effective date of this section do not provide public kindergarten in order to enable those school districts to provide public kindergarten in accordance with RSA 193-E:2-a.

IV. The general court recognizes that the ability to benefit from educational opportunity varies from school to school. Schools with varying educational challenges often exist within a single school district. The committee shall develop and propose criteria for identifying schools with enhanced needs and identify and propose any resources these schools may need.

V. Following a public hearing, the committee shall report its findings and recommendations as required by this section, no later than February 1, 2008 to the governor, the speaker of the house, the president of the senate, and the state librarian.

270:3 Reference Changes. Amend the following RSA provisions by replacing "equitable" with "adequate": RSA 21-N:1, II(c); RSA 193:1, I(c); RSA 193-E:1, II; the section heading and

introductory paragraph of RSA 193-E:2; the section heading of RSA 193-E:3; RSA 194-B:3, II(i); RSA 195:14, I(c); RSA 195:14, I(d)(2)-(3); RSA 195:14-a, I; RSA 198:41, II(b); RSA 198:41, III; the section heading of RSA 198:42; RSA 198:42, I-II; RSA 198:43; RSA 198:48; and RSA 198:48-a, VII-VIII.

270:4 Effective Date. This act shall take effect upon its passage.

Approved: June 29, 2007

Effective: June 29, 2007

Appendix D to Report of Joint
Legislative Oversight Committee
On Costing An Adequate Education

Introduction

The Committee discussed the issue of accountability for the use of differentiated aid funds for schools with high concentrations of economically disadvantaged students and determined that schools should have flexibility and autonomy in deciding which programs are most needed and appropriate for their students, but that they should choose from a “menu” of evidence-based programs approved by the state as part of a school improvement plan, and that they should report to the state on the implementation of the selected programs. The Department of Education will periodically review this list and add proven innovative programs brought forward by educators and researchers.

The list is as follows:

Pre-K programs

Those New Hampshire school districts currently offering preschool do so mainly to meet the needs of special education children. Neuroscience points to the early years as critical for laying the groundwork for later learning. Research shows that early intervention is particularly effective for economically disadvantaged families and states with preschool programs report substantial savings and reductions in the need for later services.

Full day kindergarten

The definition of educational adequacy adopted by the NH legislature in 2007 includes kindergarten, and by 2009, all districts in NH will offer at least half-day kindergarten. Research comparing student achievement outcomes for half-day and full-day kindergarten students indicates positive gains for full-day students. Full-day students show greater gains on standardized assessments, are retained less often, have higher attendance rates, and are rated by their teachers as more ready for first grade. Full day kindergarten programs offer low-income students greater opportunity to enter first grade with proper preparation for first grade work.

Extended learning time: Before or after school and summer programs

After school programs take a variety of forms, including recreational, remedial, tutoring, mentoring, and comprehensive service programs or other community collaborations. A variety of studies show positive academic and social outcomes and decreased negative outcomes. Many NH schools participate in the 21st Century after school program.

Academic gains made by at-risk students are often lost over the summer, and summer programs or longer school years are one means to address this problem. These programs must consist of high quality instruction to be effective.

Professional development

Induction for new teachers

One third of beginning teachers leave during the first 3 years of teaching, and almost half leave after 5 years. High teacher turnover, low morale, and lack of instructional continuity in schools with high poverty populations, along with the high cost of recruiting and training new teachers, make initiatives to support and retain new teachers particularly important. Research on teacher satisfaction and retention indicates that mentoring and induction programs are an important factor in raising retention rates.

While salaries are important in attracting and retaining new teachers, a supportive, collegial environment facilitated by school administrators and teaching peers has been shown to be almost equally important. First year teachers who participate in induction or mentoring programs and have common planning time, particularly with teachers in their subject area, are less likely to leave teaching. Training for mentors is an important aspect of a mentoring program for new teachers.

Additional professional development

Several studies indicate that high quality professional development, conducted with peers in the context of a school program, can positively influence both teacher attitudes toward their profession and student outcomes. The most promising plans involve mentoring, modeling, and coaching, take place over time with teachers within a grade level, involve continuous learning and dialogue, and are embedded into school routines.

Additional non-instructional personnel

School social workers and counselors; Drug and Alcohol Counselor

Representatives from the North Country Charter School and Claremont School District told the committee that many students come to school with a wide range of social and emotional problems that interfere with their learning, including abuse of drugs and alcohol. They testified about the importance and efficacy of social workers in addressing these problems and connecting students and families with community resources. Social workers in a school setting can promote academic performance and social functioning, offer counseling, gather resources, provide crisis intervention for the student and family, be part of an IEP team, or represent a student's interest in court. Social workers work with parents, teach peer mediation skills and problem-solving, address aggressive and

hostile behaviors, reduce bullying, work on suicide prevention, and act as career counselors. It is particularly important to address the increased social and emotional needs experienced by economically disadvantaged students in order to bolster academic success.

School nurse

Students from low-income households often have less access to quality health care, including dental and eye care. Students cannot learn when they are sick or have impaired vision. Recognizing the need for dental care, NH's Claremont School District supports a Dental Initiative that serves 533 students. For families with limited health care options, the school nurse is critical for addressing immediate needs, screening, and referrals for further treatment. Nutrition and physical fitness are important for academic success, and the school nurse is an important member of a school wellness team.

Instructional personnel

Reading specialists

Reading skills are critical to academic success. Students with weak reading skills in 3rd grade are most likely to continue to fall below grade level in subsequent grades. Schools with high levels of economically disadvantaged children need the availability of supplemental reading instruction. Many programs for beginning and elementary level students have been tested and found effective for improving phonetics, fluency, and comprehension. The Londonderry School District testified that a three-tiered model of intervention (1-core instruction for all students, 2-supplemental instruction to 15% for targeted areas of weakness, and 3-intensive intervention for 5-10%), using a combination of reading programs, on-going assessment, and data analysis has resulted in a decline of under-performing early readers and a decline in children identified with learning disabilities or needing special education. Proven reading programs delivered by highly trained teachers are important resources to improve academic achievement, especially for children who enter school lacking literacy experiences or who struggle with the mechanics and thought processes of reading.

Smaller class sizes

Reports of average teacher-student ratios in New Hampshire indicate how many credentialed teachers are present in a school but do not indicate average class size. Further more, the numbers do not indicate how class sizes vary from school to school or district to district. Some research has shown that lower class sizes, particularly in the lower grades and particularly for low-income students, can result in improved results on standardized tests, lowered dropout rates, and lower costs for later remedial services.

Parental Involvement programs

At-risk students may come from families with adults who have not themselves experienced success in school or whose need to work long hours precludes involvement in school. Reaching out to families, creating a welcoming atmosphere for parents, and offering options for being more involved in their children's education are important priorities for schools with high concentrations of economically disadvantaged children. Programs that offer parenting skills and ways to support students' schoolwork are especially effective and may result in lower grade retention and special education placement rates.

Additional technology resources

Proficiency with computers for word processing, spreadsheets, and online research is an essential skill for today's students, with 70% of workers using a computer every day. A "digital divide" is created in urban and rural schools with limited technology resources, schools that lack up-to-date computers, network infrastructure, technical support, and training, leaving our poorest students behind. Distance learning can bring in-depth, specialized course work to rural schools. Computers facilitate individualized instruction with many excellent diagnostic and tutoring programs available and create opportunities for collaboration and real-world, hands-on projects. Professional development is necessary to equip teachers to use computers most effectively with students and for lesson planning. An investment in school technology is an investment in a skilled work force which in turn results in regional economic prosperity.

Drop out prevention programs

By raising the compulsory school attendance age to 18, NH has undertaken a major effort to help at-risk students complete their education, either through regular course work or through a variety of alternative pathways, including vocational education, GED preparation, tutoring, apprenticeships, and independent study. Schools with high concentrations of economically disadvantaged students need resources for programming to keep students engaged in learning and help them complete high school. Some successful dropout prevention programs include instruction in social problem-solving; personal recognition and bonding activities; intensive attendance, homework, and behavior monitoring with feedback to parents; direct instruction and modeling for parents; and integration of school and home needs with community services. Programs with these elements can cut course failure rates, improve attendance, and help students stay current with graduation credits

Principal Incentive programs

Research shows that high achieving schools have principals who encourage ongoing reflection, support a universally understood mission, and foster leadership at all levels, resulting in increased teacher quality. Some school districts in other states have instituted principal incentive programs to bring highly effective principals into the most

challenging schools. Recruitment, training, incentives, and evaluation are as important for principals as for teachers. Some studies conclude that recruiting future principals with outstanding leadership skills and educational vision and mentoring new principals are effective tools for raising achievement in under performing schools.

Curriculum enrichment programs

Too often, high expectations and standards and a rich curriculum are not the educational experience of the most economically disadvantaged students. They may lack opportunities as simple as a fieldtrip to the mountains or a city art museum. Challenging college preparatory courses; experiential, hands-on programs; career-oriented internships; and early identification programs that guide students through the college application process have shown positive results for keeping students in school and making the transition to post secondary education.

**Appendix E to the Report of
the Joint Legislative Oversight
Committee on Costing An
Adequate Education**

Statement On Teacher Quality, Recruitment and Retention

Of the in-school factors affecting student achievement, teacher quality is the most highly correlated with student achievement, but measuring teacher quality is difficult.

Measurable factors such as teacher experience, certifications, degree level, and academic achievement account for only a small part of teacher impact on student achievement. Qualities such as enthusiasm or communication skills are harder to measure. Several studies show that years of experience are positively correlated with student achievement in the first few years of teaching, leveling off at about 5 years.

Teacher shortages are more a result of retention problems than of recruitment or retirement. One third of beginning teachers leave during the first 3 years of teaching, and almost half leave after 5 years. While low salaries and pursuing better careers are prime reasons for leaving, teachers also list poor administrative support, lack of decision-making power, and student discipline problems as primary reasons for leaving.

Students in high poverty schools are more likely to have teachers with less experience, and weaker preparation and qualifications. Seniority practices within districts can result in novice and less experienced, lower salaried teachers being assigned to schools with low income populations, while experienced, more highly paid teachers gravitate toward schools with more affluent students.

While this cost study does not make recommendations about teacher pay, the committee recommends that incentives for teachers, career ladders, and seniority practices, along with quality, embedded staff development, be a focus of ongoing discussion within the New Hampshire education community.