Bill as Introduced

21mar02...2943h

HB 1483 – AS AMENDED BY THE HOUSE

2002 SESSION

02-2466
03/09

HOUSE BILL ***1483***

AN ACT relative to municipal budget committees.

SPONSORS: Rep. Gleneck, Hills 29; Rep. Albert, Straf 17; Rep. Drabinowicz, Hills 36; Rep. Artz, Hills 34

COMMITTEE: Education

AMENDED ANALYSIS

This bill eliminates the automatic applicability of the municipal budget committee laws to school districts located wholly within towns adopting those provisions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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02-2466
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT relative to municipal budget committees.

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

1 Municipal Budget Law; Application; Budget Committee; School Districts. Amend RSA 32:2 to read as follows:

32:2 Application. RSA 32:1-13, shall apply to all towns, school districts, cooperative school districts, village districts, and any other municipal entities, including those created pursuant to RSA 53-A or 53-B, which adopt their budgets at an annual meeting of their voters. RSA 32:14-23, concerning budget committees, shall apply only in those towns or districts adopting that subdivision pursuant to RSA 32:14, I, and shall apply automatically in [~~school districts or~~] village districts located wholly within towns adopting that subdivision.

2 Municipal Budget Law; Budget Committee; Adoption; School District or Village District. Amend RSA 32:14, I(d) to read as follows:

(d) By any school district or village district which adopts its budget at an annual meeting of its voters[~~, but which lies wholly within a municipality that lacks authority to adopt this subdivision~~].

3 Municipal Budget Law; Budget Committee Membership; School Board Members. Amend RSA 32:15, I(b) to read as follows:

(b) One member of the governing body of the municipality and, if the municipality is a town, one member of the school board of each school district ***which has adopted the provisions of this subdivision and which is*** wholly within the town and one member of each village district wholly within the town, all of whom shall be appointed by their respective boards to serve for a term of one year and until their successors are qualified. Each such member may be represented by an alternate member designated by the respective board, who shall, when sitting, have the same authority as the regular member.

4 Municipal Budget Law; Budget Committee; Duties, Authority, and Limitations; School Districts. Amend RSA 32:16 through 32:18-a to read as follows:

32:16 Duties and Authority of the Budget Committee. In any town ***or school district*** which has adopted the provisions of this subdivision, the budget committee shall have the following duties and responsibilities:

I. To prepare the budget as provided in RSA 32:5 for submission to each annual or special meeting of the voters of the municipality ***or school district***, and, if the municipality is a town, the budgets of any school district ***to which this subdivision applies*** or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

II. To confer with the governing body or bodies and with other officers, department heads, and other officials, relative to estimated costs, revenues anticipated, and services performed to the extent deemed necessary by the budget committee. It shall be the duty of all such officers and other persons to furnish such pertinent information to the budget committee.

III. To conduct the public hearings required under RSA 32:5, I.

IV. To forward copies of the final budgets to the clerk or clerks, as required by RSA 32:5, VI, and, in addition, to deliver 2 copies of such budgets and recommendations upon special warrant articles to the respective governing body or bodies at least 20 days before the date set for the annual or special meeting, to be posted with the warrant.

32:17 Duties of Governing Body and Other Officials. The governing bodies of municipalities ***or school districts*** adopting this subdivision, or of ***village*** districts which are wholly within towns adopting this subdivision, shall review the statements submitted to them under RSA 32:4 and shall submit their own recommendations to the budget committee, together with all information necessary for the preparation of the annual budget, including each purpose for which an appropriation is sought and each item of anticipated revenue, at such time as the budget committee shall fix. In the case of a special meeting calling for the appropriation of money, the governing body shall submit such information not later than 5 days prior to the required public hearing. Department heads and other officers shall submit their departmental statements of estimated expenditures and receipts to the budget committee, if requested.

32:18 Limitation of Appropriations. In any municipality ***or school district*** electing this subdivision, or any ***village*** district wholly within a town electing this subdivision, the total amount appropriated at any annual meeting shall not exceed by more than 10 percent the total amount recommended by the budget committee for such meeting. These totals shall include appropriations contained in special warrant articles. Money may be raised and appropriated for purposes included in the budget or in the warrant and not recommended by the budget committee, but not to an amount which would increase the total appropriations by more than the 10 percent allowed under this paragraph. The 10 percent increase allowable under this paragraph shall be computed on the total amount recommended by the budget committee less that part of any appropriation item which constitutes fixed charges. Fixed charges shall include appropriations for:

I. Bonds, and all interest and principal payments thereon.

II. Notes, except tax anticipation notes, and all interest and principal payments thereon.

III. Mandatory assessments imposed on towns by the county, state, or federal governments.

32:18-a Legislative Body Override of Limitation of Appropriations.

I. Notwithstanding any other provision of law, in any municipality ***or school district*** electing this subdivision, or any ***village*** district wholly within a town electing this subdivision, if a bond request is not recommended in its entirety by the budget committee, the governing body of such municipality ***or school district***, after a majority vote by the governing body of the municipality ***or***

school district in favor of the bond request at a duly posted meeting, shall place the bond request on the warrant.

II. The legislative body of any municipality ***or school district*** described in RSA 32:18-a, I, may approve a bond request despite the 10 percent limitation provided in RSA 32:18 in the following manner:

(a) The governing body shall place the following statement at the beginning of the warrant article for such bond request: "Passage of this article shall override the 10 percent limitation imposed on this appropriation due to the non-recommendation of the budget committee.' Immediately below the bond request on the warrant shall be displayed (1) the recommendation of the governing body and (2) the recommendation of the budget committee, as included in the budget forms for the annual meeting pursuant to RSA 32:5, IV.

(b) If those voting "Yes' on the bond request satisfy the requirements of RSA 33:8, the bond request is thereby approved.

III. If the bond request is approved pursuant to RSA 32:18-a, the governing body of such municipality ***or school district*** shall forward a copy of the minutes of the duly posted meeting described in RSA 32:18-a, I to the commissioner of the department of revenue administration.

5 Municipal Budget Law; Budget Committee; At Special Meetings; School District. Amend RSA 32:20 to read as follows:

32:20 At Special Meetings. So long as the provisions of this subdivision remain in force in any municipality ***or school district***, no appropriation shall be made at any special meeting for any purpose not approved by the budget committee, unless it is within the allowable 10 percent increase if RSA 32:18 has been adopted, except as provided in RSA 32:19 or 32:18-a.

6 Municipal Budget Law; Budget Committee; Exceptions; Village District. Amend RSA 32:21 to read as follows:

32:21 Exceptions. In cases where the town or a ***village*** district wholly within the town has been ordered by the department of environmental services, under the provisions of RSA 147, 485, or 485-A, to install, enlarge, or improve waterworks or to install, enlarge, or improve sewerage, sewage, or waste treatment facilities, the 10 percent limitation of RSA 32:18 and 20, shall not apply.

7 Municipal Budget Law; Budget Committee; Initiation of Removal Proceedings; School District. Amend RSA 32:23 to read as follows:

32:23 Initiation of Removal Proceedings. Upon receipt of the reports provided for by RSA 32:22, the budget committee shall examine the same promptly, and if it shall be found that the governing body or town manager have failed to comply with the provisions of this chapter concerning expenditures, a majority of the committee, at the expense of the municipality ***or school district***, may petition the superior court for removal as provided in RSA 32:12.

8 Applicability. The provisions of RSA 32:14-23 shall continue to apply to school districts to which the provisions of RSA 32:14-23 applied prior to the effective date of this act by virtue of their

being wholly within a town adopting the provisions of RSA 32:14-23. Any such school district may rescind the applicability of the provisions of RSA 32:14-23 pursuant to RSA 32:14.

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

Committee Minutes

Date: April 17, 2002
Time: 1:00 PM
Room: SH 105-A

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

House Bill 1483 (New Title) relative to municipal budget committees.

Members of Committee present: Senator Jane O'Hearn
Senator Carl Johnson

The Chair, Senator Jane E. O'Hearn, opened the hearing on House Bill 1483 by calling on Representative David Gleneck.

Representative David Gleneck: Thank you Senator O'Hearn. Well first, I'm not the sponsor of this particular bill as its currently stated. I was the sponsor of an original bill that was intended to have, (sic) be relative to filling vacancies on school boards with elected people as opposed to appointed people.

So that I'm not in favor of this current bill, because its been a (non-germane) amendment that was substituted for the original bill. And in turn, I have offered an amendment which I would like to in turn substitute as an amendment for the current listing, which would reestablish the original bill itself.

On the original bill was supposedly it was sent out because there was a slight problem in it, in that it required people to be appointed based upon their tally in the election. And they were concerned that if the town drunk signed his name to the form and got one vote, his own, and it was taken down to the point of having that one vote, that he would be elected.

So there was an amendment offered which was not passed and not voted on. And in turn another bill was substituted, a (non-germane) amendment was substituted for the original bill.

So I'd like to speak to the thing of filling vacancies on elected school boards, because in many communities I have had numerous conversations with

several communities where they had the same problem where the school board appoints people who have not run for the election, and their qualifications are not presented to the public, but they are then appointed to the board. And people who have ran and presented their qualifications are not allowed to run for those positions.

So that's what I'd like to do, is re, (sic) reestablish the basic bill, which is relative to filling vacancies, and submit that. And I would be in favor of that. And I am opposed to the bill as it currently stands. Thank you.

Senator Jane E. O'Hearn, D. 12: Questions? Representative Gleneck, if this, (sic) is this the original legislation that, (sic) that we have here?

Representative David Gleneck: Yes. Yes, with one minor alteration which changes that they go sequentially down the number of elected people. And they give the board the option to either elect the next person or to call for a special election.

Senator Jane E. O'Hearn, D. 12: So this, (sic) this, (sic) that's new language?

Representative David Gleneck: That's new language, yes.

Senator Jane E. O'Hearn, D. 12: If the school board does not, (sic) if this, (sic) this is requiring a special election then?

Representative David Gleneck: No. No it does not require.

Senator Jane E. O'Hearn, D. 12: As you go down the line?

Representative David Gleneck: No. It says if no person accepts the board position, the school board may call a special election.

Senator Jane E. O'Hearn, D. 12: Oh, may call. Thank you. What about the local policy...in, (sic) in the Nashua district?

Representative David Gleneck: The local policy has been, for up until about three or four years ago, had been to always appoint the next highest vote getter (sic) to the vacant position.

But then the person who was, (sic) who filled that position and became chairman of the board, has adhered to a policy of ignoring the people who have ran for election, and appointing other people.

So the committee is comprised of nine members. Five of which have been appointed, never elected, never ran. And the longer it goes on, the more appointed people there will be and less elected people.

Senator Jane E. O'Hearn, D. 12: Do you object to school board or towns having their own policy on how school board members are, (sic) are replaced if someone is, (sic) if there is a vacancy?

Representative David Gleneck: Yes I do, if its an elective school board and its suppose to be elected officials. If they're bypassing that requirement and substituting their own criteria for replacing people, and not going through the elected process, then I think that's incorrect.

Senator Jane E. O'Hearn, D. 12: Thank you. Questions? Thank you very much...

Representative David Gleneck: Thank you.

Senator Jane E. O'Hearn, D. 12: ...Representative. I'm looking at all the, (sic) the sponsors from the legislature. Lets see. Representative Albert?

Representative Russell Albert: Yes. Good afternoon.

Senator Jane E. O'Hearn, D. 12: Good afternoon. Welcome.

Representative Russell Albert: My testimony will be very brief. I served on a school board for two terms.

And I believe a very difficult situation exists today in even finding candidates to run for these offices. And I believe taking that into consideration, if, (sic) if, (sic) if an individual has run and been defeated, and then a vacancy becomes available, that someone is appointed.

Ya know, it seems very unfair for the energy and time and possible the amount of money that individual who was defeated and was the next step down, is not (sic) unable to move into that position. Because I'm sure you will agree with me that, ya know, finding candidates is really a primary effort, I think in all communities today.

And we should give those people who have ran for office, gone to that, (sic) gone through that process, we should give them priority first. That's the reason I'm supporting this legislation.

Senator Jane E. O'Hearn, D. 12: I, (sic) I, (sic) I have here that you are in favor of the bill. Are you in favor of the bill that was passed by the House as well...

Representative Russell Albert: No.

Senator Jane E. O'Hearn, D. 12: ...as the amendment?

Representative Russell Albert: No. I'm in favor of the amendment that Mister Gleneck has submitted.

Senator Jane E. O'Hearn, D. 12: Gets noisy up there. I'm sorry.

Representative Russell Albert: I'm in favor of, (sic) of, (sic) Mister, (sic) of Representative's, his amendment. Representative Gleneck's amendment. Yes.

Senator Jane E. O'Hearn, D. 12: Okay. And are you in support of the rest of the legislation that's on that bill?

Representative Russell Albert: Gee, I, (sic) I don't have that in front of me. But I, (sic) I am in favor of the original bill, as written, before it was, (sic) it was, (sic) before it was rewritten.

Senator Jane E. O'Hearn, D. 12: Okay. Questions? Thank you very much.

Representative Russell Albert: Thank you.

Senator Jane E. O'Hearn, D. 12: Thank you. Representative Drabinowicz? (Muffled) Welcome to Senate Education.

Representative Theresa Drabinowicz: Thank you Madam Chairman and members of the committee. I'm for the amendment. I am not for the original bill.

I believe (mumbled) I believe that the next runner up in an election should replace the one that steps down, just like they do in Miss America pageants. If she steps down, the next one steps in.

And I believe that's only fair, because I don't believe that being appointed is not the same as a person running and spending money to run for office. And that's what they're interested in.

Senator Jane E. O'Hearn, D. 12: Representative, do you, (sic) do you have any concerns about the policy that was set in Nashua then?

Representative Theresa Drabinowicz: Way back when, yes. But not now.

Senator Jane E. O'Hearn, D. 12: No. I have, (sic) I have a draft policy proposed by City of Nashua. Are you in opposition to the policy?

Representative Theresa Drabinowicz: I don't have that policy, so I, (sic) I don't want to say the wrong thing. So I'm gonna keep my mouth shut.

Senator Jane E. O'Hearn, D. 12: School board members will be appointed in a manner until the next district election is basically what, going through a process of how they'll fill the, (sic) the school board. This is their draft policy.

Representative Theresa Drabinowicz: Okay. I, (sic) I believe that, say you would run, and Representative, I mean Senator Johnson runs. Okay. You come in first, but you...

[Laughter]

Senator Carl R. Johnson, D. 3: Thank you Theresa.

Representative Theresa Drabinowicz: Hey, I tell it like it is. And he, (sic) he comes in second, right? Okay. You have to drop out for some reason or other. I think the next one that got the next best vote should replace you. That's how I believe down deep in my heart, and I, (sic) I will never change that.

Senator Jane E. O'Hearn, D. 12: Okay. Questions? Senator Johnson?

Senator Carl R. Johnson, D. 3: Would you believe twenty years ago I did not run for school board, but there was a vacancy...

Representative Theresa Drabinowicz: And you got...

Senator Carl R. Johnson, D. 3: ...and I got...

Representative Theresa Drabinowicz: Good.

Senator Carl R. Johnson, D. 3: ...appointed to the board, and I've been on there ever since? So I would have a hard time taking that decision away from the school board.

Representative Theresa Drabinowicz: That's alright. You're, (sic) you're established. That's from twenty years ago. I'm talking about the present.

Five minutes ago to me is history. I don't worry about that. I worry about what's coming ahead of me. Otherwise I wouldn't get along very well.

Congratulations that you've been up there that long. And I think you're deserving of it anyway.

Senator Jane E. O'Hearn, D. 12: Thank you. Any further questions?

Representative Theresa Drabinowicz: He's a nice man.

Senator Jane E. O'Hearn, D. 12: Yes he is. Thank you very much Theresa. Next I'd like to call Representative Artz.

Representative Lawrence Artz: Thank you Madam Chair...

Senator Jane E. O'Hearn, D. 12: Are you on the list?

Representative Lawrence Artz: I'm one of the co-sponsors of the...

Senator Jane E. O'Hearn, D. 12: I know. I'm looking to see if you're on the list...Welcome to Senate Education.

Representative Lawrence Artz: Okay. I wasn't gonna testify on, (sic) on this bill, but I wanted to support the original amendment that Gleneck, that Representative Gleneck proposed. That the next person that, (sic) if a member steps down, then the next person that is in line in the election process (would be replaced)...

Senator Jane E. O'Hearn, D. 12: Okay. Thank you. Questions? Thank you very much Representative. Next I'd like to call Representative Henderson.

Representative Warren Henderson: Thank you Madam Chairman.

Senator Jane E. O'Hearn, D. 12: Welcome.

Representative Warren Henderson: (Please see Attachments #1 and #2) Members of the committee, thank you. For the record my name is Warren Henderson. I represent Rockingham District 20. Carl, at least she gave you second place.

The, (sic) the process that you're going through here is precisely the one that we went through at House Education on the original bill. And what we found, and by the way, two amendments were offered, including one that, (sic) that embodies the language that, (sic) that Representative Gleneck provided today. One of the amendments died for lack of a second. The other one was withdrawn.

In, (sic) in our deliberations on the, (sic) on the original concept of the bill, we found that there is virtually no support in House Education. And the reason was, fundamentally, that, (sic) that contested elections aren't like beauty pageants.

The contested elections, often times, are gonna be about the competition between ideas. The competition between philosophies. Liberal versus conservative. Cut the budget or raise the taxes. Creationism versus evolution. Build a school, renovate a school. Or neither.

And when you have contested elections where, (sic) where, (sic) where one candidate and thus one philosophy wins, and the other candidate and thus the other philosophy loses, it doesn't seem at all appropriate that, (sic) that if, (sic) that if there, (sic) not just that candidate that won withdraws, but if any vacancy is created on the board, that you elevate the philosophy that the voters rejected.

So what we found was that, (sic) was that fundamentally, that while, (sic) while it was appealing at first (blush) that in practice, it was, (sic) it would have been a bad idea to, (sic) for the state to have dictated this change in every city charter, as it relates to elections, as well as to, (sic) to dictate it, (sic) to have dictated this uniform change in local elections. We find it to be without merit.

And, (sic) and when that outcome was clear, in a manner in accordance with House rules, I drafted and introduced a non-germane amendment duly posted, which was considered by the committee. The committee vote on that was, I believe, fourteen to four. It was presented on the House. It was passed by the House. And that's what, (sic) what is before you today.

And what it deals with is a situation that, (sic) that, (sic) that came to my attention only very, (sic) very recently as a result of the recent Exeter election.

I want to show you the Exeter ballot. Exeter is a Municipal Budget committee times three. Our local school board, our cooperative school board, and our town, are all SB2. So this is what our ballot looks like. Now I've, (sic) I've reduced the size of the pages in order to show you what we did (in a theory).

This is Exeter. Now these, (sic), this, (sic) that orange page on the, (sic) on the end is the Exeter school district. The next two blue pages are the cooperative districts. Then the next eight pages are the town district. Each has a separate meeting. Each has a separate, (sic) and meaning, by meeting that means a (deliberative) session. Each has, (sic) and each has a separate ballot as you can see.

Well, shortly before the election we discovered, (sic) oh by the way, I brought a copy of this, (sic) of this page which I'll present to you with your, (sic) with your...I circled, on the town ballot, Article 44.

Now, Article 44 was, (sic) was duly submitted with the appropriate local signatures. It was certified as by the, (sic) by the division of elections. And placed on the ballot in, (sic) in all the normal, (sic) in all the normal process. And it deals with whether, (sic) whether or not the town shall adopt the provisions of RSA 32 and create a Municipal Budget committee.

Now if you just read that Article, it seems pretty clear that it'll have to do with the, (sic) with the annual meeting, the town selectmen, the town's operating budget, and a, (sic) and a town or district.

But when, (sic) when, (sic) when I and others read the law, it wouldn't just effect the town. It would effect every school that is within the boundaries of the municipality. So it just struck me that if the, (sic) that if something you can put way over here on this ballot, can have just as profound effect on these separate governments over here, that that's not right.

So all the amendment says, is that if you want to make a school district subject to the provisions of the Municipal Budget Act, then that, (sic) that Article has to appear on the school district ballot. The law already says that, (sic) that if you want to, (sic) that if you want to make a multi-town school district, (sic) a multi-town school district subject to the provisions of the Municipal Budget Act, that it has to be on the, (sic) on the municipal school, (sic) municipal, I'm sorry, on the multi-town school district ballot.

And, because to me, this is simply a matter of, (sic) of giving the voters enough information and enough, (sic) enough notice to have a better, clearer, more accurate, more complete sense of the real ramifications of the vote they're about to cast.

The amendment isn't for or against the formation of Municipal Budget committees. It doesn't change the current status of any school district or any town. If you're in it, you're still in it. If you're not in it, you're still not in it.

But what it says, that if you looked at it through the amendment, you could see that, (sic) that the only reason it's a couple of pages is because it goes through and reference after reference after reference, and says, or school district, or school district, or school district. And that's anywhere to set them out and treat the separately.

The, (sic) it was, (sic) it was worthy of note that the evolution of the debate of this issue in Exeter, as people became aware of the fact that this would have an equal effect, in our case only on our elementary school, because, (sic) because our middle school and high schools are part of a multi-(day) six town cooperative.

That, (sic) that as people became more aware of it, the, (sic) the level of the discussion was elevated. The volume of the discussion was elevated. The numbers, (sic) number of people who became involved in the discussion was, (sic) was increased. And I have every reason to believe that it effected the outcome.

In my judgement, these are healthy things. But you shouldn't have to, (sic) have to, (sic) have to rely on, (sic) on some guy to, (sic) to read the ballot, and go read the law, and find out what it says to figure out what it really does. It would be much, (sic) much more democratic, in my judgement, if the law was, (sic) was clear that, (sic) that, (sic) that just as currently the case for multi-jurisdictional school districts, that if you want your local school to be covered by the municipal ballot, then, (sic) then you put it on the school ballot as well.

Some, (sic) some questions have been, (sic) have been raised about it. Does this provide people with more information? Well of course it is. If you had any information, you'd have more then we had on our ballot. And this was, (sic) this was an officially certified ballot. So clearly that has to change. You could care about knowing what they're voting on.

It doesn't form to, (sic) to Budget committees. It merely, (sic) it merely indicates who, (sic) which governments will be represented on the one Budget

committee. It, (sic) it doesn't, (sic) it, (sic) it allows more flexibility for the communities either that have it or don't have it. That school districts also, (sic) that are currently covered by Municipal Budget committees would be able to withdraw as towns concurrently withdraw. Again, treating them simply equally.

Right now, a community can not create a Budget committee to focus only on the town budget. They can't create a Budget committee to focus only on the school budget. They can't rescind the town Budget committee to focus on the school budget. They can't rescind a school Budget committee to focus on the town budget.

Now, any of those things may be the way that a municipality wants to go, but none of them are currently allowed because of the way the process now works. Merely passing this amendment will make all of those provisions available. And in my judgement, once again, all it does is provide options and empowerment to local voters.

In the, (sic) in the deliberation of the bill it was, (sic) someone said well, voters, (sic) voters ought to have the whole budget in front of them. Well of course all they have to do in order to do that is to, (sic) is to exercise their rights at the poles, and put all the districts underneath the one Budget committee. It would be precluded from doing that. They would just be separate votes.

But its worthy of note that the way the process works now, voters still don't, in many cases, have the whole budget in front of them. It never covers the county budget. And in some communities, the county budgets getting to be a pretty substantial part of the overall budget.

But more importantly, if you're in an area agreement, if you're in a cooperative, if you are a sending or receiving town, or you tuition kids, then, (sic) then you're likely for junior high or high school, those budgets aren't covered by this either. And in most cases that's gonna be the biggest single budget.

So not only does the current law not provide, in many cases, for covering the whole budget, it doesn't even provide for covering the largest single share that, (sic) junior high or high school.

So, and then somebody said, well it should, (sic) it should all be under the town because the towns the taxing district. Okay, well that's true, but its not really all that relevant. I mean, the town doesn't set the, (sic) the tax rate for the school, (DRA) sets it. Town doesn't, (sic) doesn't decide that school

liability, the school calculates that. And the, (sic) and the town doesn't vote for the school budget. People vote for it either deliberative, (sic) school deliberative session, or on the, (sic) on the school district ballot. So the, (sic) so the, (sic) the taxing district argument is, (sic) is factually accurate, but, (sic) but not practically relevant.

So I guess its my judgement, I know, that they're, (sic) that they're folks that like the way the process works because it allows them to kind of gain the, (sic) the, (sic) some of the folks that, (sic) that want to vote differently on ballot items then they do. But I hope we don't, (sic) don't use the process to tilt it towards some voters and against other voters.

I, (sic) those people who feel that, (sic) that, (sic) that all the, (sic) all the budgets ought to be within one Budget committee, if that's such a good argument, pass the bill, give the local voters the, (sic) the option, and let them decide to do exactly that. But give them more options as well.

I'll tell you that I'm, (sic) I, (sic) I've called the Secretary of States Offices because I just practically couldn't believe that you could put something on one ballot, and remember, we're SB2, so all these, (sic) all these ballots, while they're all spread out over your, (sic) over your voting booth, at least there its all at one time.

In communities that where they still had traditional town meeting and school district meeting, they may go to the, (sic) to the gym to vote on the school budget, and find out that last week at the, (sic) at the town hall, that the, (sic) that the voters who showed up there voted to create a Municipal Budget committee for the school.

Once again, it just doesn't, (sic) it doesn't seem unreasonable that you would provide equal footing at equal status an equal vote with equal weight for people who (sic) who are, (sic) who are voting on school issues as on municipal issues. That's all this amendment accomplishes, (sic) this bill accomplishes.

And gosh, I sure hope that you support it. Thank you Madam Chairman.

Senator Jane E. O'Hearn, D. 12: Questions? I'm sorry, I think I just heard...That was an easy 330 in the affirmative, 18 in the negative. You just missed a role call.

[Muffled]

Senator Jane E. O'Hearn, D. 12: ...I don't know (Senate Bill 210s) exactly how they work. So I just didn't (sic) try to understand what it is that you're doing. You, (sic) you vote by ballot...

Representative Warren Henderson: Yes.

Senator Jane E. O'Hearn, D. 12: ...on a school budget. And you vote on the, (sic) and you vote also on the same ballot your municipal budget.

Representative Warren Henderson: Well they aren't the same ballots. But they're, (sic) but they're ballots that are presented...

Senator Jane E. O'Hearn, D. 12: At the same time.

Representative Warren Henderson: ...they are different ballots. And they look, (sic) they look kind of like this, in that, (sic) in that they're all different colors on purpose. And the numbering is different. Each will have an Article One for instance.

So, (sic) and this actually, (sic) this was, (sic) this wasn't too bad a one for Exeter. We, (sic) we've had ones that were, (sic) that were like war and peace. And, (sic) and in fact that's in half reference in some cases.

But, (sic) but what happens is, is the process is begun. The timing is dictated by law. Each, (sic) each of your, (sic) of your governments that has a, (sic) that is governed by SB2 has a certain, (sic) has to have a deliberative session after the period for, (sic) for posting, (sic) posting Warrants as well as citizen petitions.

Its all approved by the, (sic) by the town clerk. Then the deliberative sessions are held. Each deliberative session has the power to, (sic) to amend the, (sic) the Articles with certain exceptions related to bonding and other, (sic) other, (sic) other ones where the statute dictates that the warning can't be amended. And then it all goes to the ballot.

The timing of the deliberative sessions, there is a bill that, (sic) that is coming to you guys I think, that would allow municipalities that have more then, (sic) more then one government that's SB2 to, (sic) to have their deliberative sessions, I think, at the same time. To blend them if they, (sic) if they so choose.

The way its worked, and maybe that's a good idea, I don't know, it could for sure put us back into the, (sic) into the breakfast lunch and dinner stage we used to be in. But it, (sic) the way the law works currently, each deliberative

session is, (sic) is at a different time and day, and its often in a different place. But then the whole thing ends up on a, (sic) on a series of ballots that you vote on, (sic) on, (sic) on town, (sic) traditional town meeting day.

So all this says is that...

Senator Jane E. O'Hearn, D. 12: And this would not create two Budget committees.

Representative Warren Henderson: No.

Senator Jane E. O'Hearn, D. 12: This would create one.

Representative Warren Henderson: Right.

Senator Jane E. O'Hearn, D. 12: Looking at both (mumbled) town, (sic) the municipality and the school board.

Representative Warren Henderson: Right. All it does is, (sic) is, (sic) is say that if, (sic) if you want to, (sic) if you want to govern the, (sic) the, (sic) the municipal budget within Municipal Budget Act, you put it on the town ballot, and its voted. And its, (sic) and on the town Warrant its voted on the town ballot.

If you, (sic) if you want to cover the, (sic) in our case it would just be the elementary school. Then you put that on the school district ballot, and it would be discussed at the school district deliberative session. And, (sic) and if, (sic) if the, (sic) if that was approved by the voters, then that too would be in the Municipal Budget committee.

It also contemplates, by the way, that either by withdrawing a town or, (sic) or adding a school, a community could have a Municipal Budget Act for just a school. Or just all the schools, if all the schools are, (sic) are within one jurisdiction.

Senator Jane E. O'Hearn, D. 12: (mumbled)

Representative Warren Henderson: Yeah. And, (sic) and is that a good thing? I don't know. Perhaps it is. I mean, is there anything wrong with giving, (sic) giving voters the option? I just can't see anything wrong with it. So...

Senator Jane E. O'Hearn, D. 12: So they have the option of whether to do this first.

Representative Warren Henderson: Right.

Senator Jane E. O'Hearn, D. 12: Okay.

Representative Warren Henderson: And, or, (sic) or, (sic) or to withdraw. All it does is, (sic) is, (sic) is put school ballots, school districts, and school voters on the same standing as those who vote on the municipal side.

Senator Jane E. O'Hearn, D. 12: Makes sense. Okay.

Representative Warren Henderson: Thanks.

Senator Jane E. O'Hearn, D. 12: (mumbled) Thank you very much. Representative Sova, in opposition, but I don't know what...opposition to everything, or?

Representative Charles Sova: Let me explain.

Senator Jane E. O'Hearn, D. 12: Okay.

Representative Charles Sova: Madam Chairman, Senator. Basically there are two issues in front of us. And one is the bill as you have it. And the other is the bill as it was originally presented.

I am opposed to the bill as you have it. And I'll get into those reasons. And I'm in favor of the original bill the way it was proposed or amended right now.

I'm opposed to the bill that you have, with regards to the Budget committee, for two basic reasons. And I spoke to this on the House floor. (Normal) process by which it got there.

The posting for a (non-germane) amendment was made on a Monday. And as you know, not many of us go up and down the hall looking for postings on Mondays. There's hardly anybody here. It was (tape change) that afternoon.

Basically, you may want to check the record because I have different numbers then Representative Henderson. I have it was, (sic) it was nine to four, not fourteen to four. And two of the people who voted in the affirmative came to me afterward and said they had changed their mind. And in fact, one of those people who voted in favor gave (muffled) to (muffled). So basically that's one of the reasons.

The other reason I'm opposed is that the last time this particular law was amended was when it was (recodified) in 1993. So, basically, there was at least no problem for the last nine years.

And the law has been on the books, in some form or other, for seventy years. And it seems to me that when something, (sic) something's been there for seventy years, perhaps changed slightly but not disappearing, and been out there for nine years with no, (sic) we ought to have a good debate about it. And we did not have that in House Education because I don't think anybody knew about it.

Then let me come to the second part, and that is the amendment that Representative Gleneck has proposed. I'm in favor of that. I would have voted for it, had it ever come to a vote. And the reason is that while he came to the committee and sited his particular case, we've had it in our district as well. Where basically the school board went out and ignored the voters (mumbled) second.

I want to correct something that Representative Henderson said, however. He said that they had to select the next highest vote-getter. And that's not true. The bill as I read it, said that they could either select the next highest vote-getter, provided they were willing, or call a special election.

So basically if they had philosophical difficulties with the next highest vote-getter, the school board then could call special election and turn it back to the voters. Which I think is the more democratic way. Thank you.

Senator Jane E. O'Hearn, D. 12: Questions? Senator Johnson? The legislation that is as amended by the House gives the option of the local districts to vote on whether to go in that direction or not.

Representative Charles Sova: Yes.

Senator Jane E. O'Hearn, D. 12: And yet the amendment would then wipe out all other policies in all other cities that have a policy on how someone fills a vacancy. And do you feel that's the place of a legislature that could wipe out the other policies from the other cities?

Representative Charles Sova: You alluded to something before, which may be worth looking into, if you, (sic) if you want to. And you said, well maybe they should have a policy adopted by the school board. And, (sic) and that could be a problem, because the policy may change, depending on who's in constantly.

It may be that you want to leave this up to the legislative body of the school district. And, ya know, basically have them take it to the voters to decide whether they want the school board to appoint, or whether they want to adopt the amendment as Representative Gleneck has proposed.

Senator Jane E. O'Hearn, D. 12: Which would then require this to be re-written? If you leave it up to the legislative body of the school district, which...

Representative Charles Sova: Yup. I'm just, (sic) I'm not advocating that. I'm suggesting that perhaps that, (sic) that's a way to compromise on something like this.

Senator Jane E. O'Hearn, D. 12: Okay. Thank you. Any further questions? Thank you.

Representative Charles Sova: Thank you.

Senator Jane E. O'Hearn, D. 12: Representative Allan, is he...he's not here. He is in, (sic) not wishing to speak and is in support of the bill. Which, (sic) that its confusing, because there's an amendment that was offered, so I'm not sure where that...

Next I'd like to call, lets see, I think we have all the alderman, (sic) I mean, all the alderman, all the (muffled) (sic) all the representatives that are speaking. I'd like to call Alderman Paula Johnson from Nashua. Welcome. And a former school board member.

Paula Johnson: Yes. Thank you Chairman O'Hearn, Senator Johnson. I guess this is all very confusing on what you're in favor of. So I'm in favor of Dave Gleneck's amendment, with the original bill.

I guess my concern is, and the reason I came up here today was that I am now an alderman. A little over two years ago I ran for board of ed, and I won. It was a five seat race, there was thirteen of us that ran.

What happened was, a year ago March, one of the school board members stepped down. So now that created a vacancy. And what's fair is fair basically, because I truly believe it should be the next highest vote getter, because it is the will of the people who vote. And when you don't take the next highest vote getter, you're disench, (sic) disenfranchising the voter, because they are the one who voted for those particular people.

Of the thirteen person race, the reason why we all knew why they wouldn't take the next highest vote getter, was because they didn't like him. Its not whether or not we like him on the board. We have to learn to work with everybody, like you do in the House and the Senate, whether you like them or not. It's the people who put us in.

So immediately, they rallied, and they got their friend in there. Several other members, people, candidates I should say, who did run for board of education, did come forward, giving them, (sic) giving a letter of interest saying that they would (like to they had run). And they ignored it.

Whether it was the next highest vote getter or number twelfth who was running. They did not allow it. And it was sad, because what happens is, when we don't take the next highest vote getter, we're taking who we like versus who the people wanted in.

And we're taking one of the cronies out there. And nobody likes to hear the words cronies or cronyism, but basically it is. You're gonna take the person who's gonna fit the needs of what you want to do. Whether you're very conservative in education, or you're liberal in education, you're taking who you want to stack the deck on the board.

Well this gets better now, because this past November I was elected to, (sic) to become the alderman at large in Nashua. So what happened was, a seat now became vacant again because I had to resign the day I got sworn in. But the issue was now, that a person ran as a (write-in) candidate. Now he ran he got the votes. By rights, when I had to step down, he should have been sworn in on that Board of Education. Why? He did actually get the votes.

Now I tried to change the policy, and it would have to go through the Board of Education Policies and Procedures committee, and become now part of their policies and procedures manual, which is called the POPs manual in Nashua.

And I tried to change it with Mister (Klemens). I said is should be the next highest vote getter should always be asked. And we should go in succession of who ran. If in fact nobody wanted or there was no other candidates, that's one thing. You can then say we'll take letters of interest or you could have a special election.

One of my colleagues on the Board of Education said, well if it was right of way within the first six months, I can understand. But its fifteen months later. Well he really contradicted himself, because it was not even six months after I got elected, that this person who did actually run out there, got votes, wasn't even asked or offered that position or even told by corporation counsel

that he is the next highest vote getter. He actually ran in that election and the seat should have been his.

And I think its sad, because when people just put their names in to get on the Board of Education, or any elected position actually, they haven't gone knocking at the doors, they haven't put themselves on the firing line. People don't know what their position is. And when we run, we run because we're running on a position. If the voters like us, they elect us. If the voters don't like us, well, next time. Next, move on.

When we're just appointed, we're really going in there because our friends have asked us. Now the sad thing was, two people who were appointed to the Board of Education because another board member had resigned at the end of the year cause she moved out of the city of Nashua, they appointed a former Board of Education member, and then they took somebody who ran the time before.

So they totally disregarded the fact that somebody had run, got written, (sic) was a write-in candidate, got votes, and ya know what, it disenfranchises the voter. And I think its sad.

So I appreciate you allowing me to come here today and speak before this committee.

Senator Jane E. O'Hearn, D. 12: Questions? Senator Johnson?

Senator Carl R. Johnson, D. 3: I have a hard time processing the idea that just because someone gets the second highest number of votes, that they automatically become the one that's most qualified. How do they automatically become the most qualified?

Paula Johnson: What qualifies a person to run for any office? There's no qualifications is that you have, you wanna help, you wanna serve, you wanna do something for, (sic) for the people that you represent.

The other question is here, why should anybody who just walks off the street and hands in the piece of paper and says, well gee, I want to be considered, and they didn't even do anything.

Lets face it, when you run, it is a hard thing. I've ran city wide twice. I haven't run for the House yet or the Senate, yet, I'm saying yet here, I haven't decided if I'm gonna do that when the election comes.

But lets face it, you have to knock on doors. You have to put a position out there. You're apt to be scrutinized. You're splattered all over the papers if the paper doesn't like you. And for somebody to just come in and say, well my friend asked me really, and I'm doing this because. I've seen it. I mean, you were very lucky. You, ya know, you had a different process.

But I think twenty years ago, like you've said, and what we have now, is two different ball games here. What's happening in, (sic) in any city or any town. Ya know. You really, (sic) if you want to do it, you should go out. You should be put in front of the people. You should answer the questions. And you should be voted on. Anybody could just hand them a letter a say, I would appreciate it if you would consider me, then going out and actually campaigning. Its two different worlds out there.

Senator Jane E. O'Hearn, D. 12: I'm gonna ask a question I think that someone had mentioned at the House Education Committee...

What if there was one seat open, two people ran. One was very qualified to run, the other was the local town drunk. And of course the one that was qualified won, the town drunk didn't win, but did get at least one vote. And now there's a vacancy on the board. Should it go to that person?

Paula Johnson: Well he got a vote. He was voted. Ya know, its like anything. How do you knowing anybody who comes in, what their private life is anyway. Ya know, they give a letter of interest to get on the board. You don't know how good they are. You don't know what goes on in their life. Ya know, they could be splattered across a piece, (sic) across the front paper the next day as, (sic) as an abuser of anybody. Ya know, you don't know.

And the issue is here, did he get the votes? Yes he did. Did that other person go out and put his name on the ballot? No he did not. So, I mean, the question is, if there is a line of succession here who people ran, they should have the first option. And sometimes they don't even want to get back. They, (sic) they turn it down, they say they're not interested. Then either you have a special election, or you open up for letters of interest for people to come in.

It was there because, (sic) I should say a final note here, that when I was at Board of Alderman meeting, one of my colleagues said on television that Representative Gleneck was trying to get a bill through in the House, so his friends could get on the Board of Education. Something to that affect. And I wish it was said before my (time) went around, because I would have commented on that. Wait a minute, what about your friends that are lining the Board of Education right now?

It is, (sic) and its sad that it has come to this in this world. Them against us or us against them. Ya know, we should have, (sic) although I'll use (differ), but I truly believe that when you run and you (pawn) a seat, you should have the first option of being on that elected body versus somebody...If they really wanted it, then they should have run.

Senator Jane E. O'Hearn, D. 12: I'm gonna ask you a question Paula because I don't know the answer. What happens if an alderman resigns or leaves the community? Who replaces the alderman and how is that done?

Paula Johnson: Ya know, its funny because I really don't know. I don't know what the charter really says. Haven't gotten into that. But I know that they have done, I think, basically letters of interest or taken their own. And I still feel that that's wrong either way. Ya know, people run for a reason, and just to take...Ya know, basically they do it to stack the board.

Senator Jane E. O'Hearn, D. 12: But if you were, (sic) lets say you, (sic) you, (sic) you moved out of the area and you had to resign from the board. How would they replace you?

Paula Johnson: I think it is letters of interest...

Senator Jane E. O'Hearn, D. 12: So they're appointed?

Paula Johnson: Appointed...

Senator Jane E. O'Hearn, D. 12: By?

Paula Johnson: By the Board. They just had to with Mister (Divany) It happened that somebody had stepped down, and Mister (Divany) came back on.

Senator Jane E. O'Hearn, D. 12: That's right. That's right.

Paula Johnson: And, is that really right? No. Again, ya know. I guess its not fair in politics, but unfortunately I think you'd need to widen the, (sic) the, (sic) the picture. And be able to start saying, ya know...

Things are said when things like this happen. And we all know what's said all the time. They got their friend on the board to get the votes the way they want it. To stack the votes. And its, (sic) and it's a shame, but that's, I mean, Nashua, although it's a city, its just like a town. The gossip that goes around. That everybody knows everything that goes around in Nashua. So, ya know,

when somebody gets appointed, everybody knows why they got appointed on either board.

Senator Jane E. O'Hearn, D. 12: Any further questions...

Senator Carl R. Johnson, D. 3: I think you've got a problem in Nashua, because I don't see a big hue and cry out there from any of the other districts that get into these multiple problems that entirely Nashua is in. I, (sic) I guess the thing to do is vote out the people that are on the board.

Paula Johnson: But ya know, Merrimack has, (sic) ya know, you see what goes on in Merrimack at times at school board meetings. But the difference is, ya know, towns are different then cities, and I've had many people in Nashua say to me, some of these big ticket items should be on the ballot versus the alderman voting for it.

So you know, you're already beginning to see things that people want the mentality more of a town coming back, because of the fact that, ya know, things are voted on by the people versus by your elected officials at times.

And I don't think its just Nashua, I think its out there. But ya know what, people don't speak up, and that's where the problem lies. When people don't speak up. And you hear it from your constituents who call you.

Senator Jane E. O'Hearn, D. 12: Thank you. Further questions?

Paula Johnson: Thank you very much for having me.

Senator Jane E. O'Hearn, D. 12: Thank you Paula. Next I'd like to call Rick Trombly, in support. I'm not sure what he's supporting right now...

Rick Trombly: Thank you. Rick Trombly, representing NEA New Hampshire. I'm testifying in support of the amended legislation. We didn't take a position in the House on the bill as it was originally sponsored.

It seems to me that the bill as amended is simply a truth in government type of situation. In my, (sic) in my private life I'm town moderator for the town of Boscawen for fifteen years. I also moderate the Merrimack Valley School district, which is a cooperative school district now, I think for five years.

And I think we're the people in the town of Boscawen to adopt the Municipal Finance Act, which we haven't, and then the people found out that it would apply to schools within the town, as this legislation would correct. There'd be probably hue and cry that they didn't understand that that was going on.

And I think the, (sic) the disagreement over the process that this bill corrects is simply, ya know, the people in town may then vote to apply the Municipal Finance Law to the jurisdiction of the school and the town.

But I think the people would have a philosophical problem with people going to town meeting and voting something that applies to an entirely different governmental body.

I know there are some people who choose specifically not to participate in town affairs. They don't want to do it. They do participate in school affairs. The reason they do that is that they're happy with town government, and sometimes they're not happy with what's happening in school affairs.

I think if they were, (sic) if they went to a school meeting and found out that the procedures were changed for how things were managed at the school level by what happened at a town vote, and there was no notice of that, because if you look at that ballot from Exeter that Representative Henderson gave you, there is no notice to the voters that if you vote to apply the Municipal Finance Act to the, (sic) to the town it also applies to the school.

And I think that's the problem that this bill, the amended bill, corrects. It simply says, hey folks, you take two votes within the two different bodies. Senator Johnson, you're on the school board. You're not a selectmen. Selectmen aren't members of the school boards. And school district is different from the town. It simply corrects that.

It doesn't add any money. You'll note that. It doesn't require additional hearings. It just simply requires that if the people in the town want to put it on their school ballot and have it apply to the school, that has to go on that ballot and, (sic) and you can't apply it to the backdoor, so to speak.

So we support that, because it just seems to be a truth in government type of legislation. And quite frankly, any information you give to the voters that's accurate helps the process.

Senator Jane E. O'Hearn, D. 12: Thank you very much. Questions? Thank you very much.

Rick Trombly: Thank you.

Senator Jane E. O'Hearn, D. 12: Howard Dilworth representing himself in opposition. But I'm not sure, again, in opposition to which part. Welcome to Senate Education.

Howard Dilworth: Good afternoon Madam Chairman, Senator Johnson. My name is Howard Dilworth, Jr. And I'm here today to testify against the adoption of House Bill 483 as amended, which is currently before this committee.

I come before you today as the chairman of the Municipal Budget committee for the town of Hudson. I have been involved in the preparation of town and school budgets in Hudson since 1992, both as a member of the Budget committee and as a selectmen. In this capacity I have become very familiar with the workings of the Municipal Budget Act.

The bill before you seeks to eliminate the automatic implacability of the Municipal Budget committee laws. The school districts located wholly within towns, adopting those provisions.

In reviewing this bill I ask two questions. Question on, what harm does this bill seek to avoid? It has been alluded that the passage of this bill would enable voters to be more informed before voting on adoption of this measure. If this action is not taken, then someone could vote to give away their rights.

The Municipal Budge Act was originally adopted in 1935. The entire Act was repealed and reenacted in 1993. Through all the years that the Budget Act has been in effect, it has been the understanding that in towns that adopt the Budget Act, the school districts located wholly within these towns, come under the provisions of the law.

Are school boards so naïve or uninformed that they are not aware of the goings on in a community? Do they not have the means to make citizens aware of the consequences of voting? Do they not have legal counsel to explain the ramifications on what voting certain issues needs? I believe they do, and I believe that they do exercise this quite effectively.

The other question is, why is this an issue now? Earlier this year a group of citizens in the town of Exeter petitioned to create a Municipal Budget committee. Several citizens in town were outraged that such an action would take place. It was voted on and failed. This is a local issue.

There may be other communities in New Hampshire where residents seek to do the same thing. We're now being asked to make the process more difficult for these citizens.

As I said earlier, the Municipal Budget Act has been a law in New Hampshire since 1935. If this wasn't going to work, it would have been

discovered a long time ago. My own community adopted the law through the petition process in the 1940s, long before t.v., the internet, and all of the other wonderful communications methods we have today.

In addition to the two questions I would make one additional point. This is a bad way to create a law. It has often been said that there are two things that you do not want to ever see made. One is sausage, the other is laws.

Relative to sausage we have the USDA and the FDA to serve as the police, to (mumbled) that we do not have bad sausages. I would ask, who are the sausage police for bad laws?

We have a wonderful system of government here in New Hampshire. A representative or senator proposes a bill. It is entered before the chamber that they belong to, and it is assigned to a committee that specializes in the area that is the subject matter of the bill. The bill and its authors are all available for citizens to go and read online. The dates of hearings, such as this one, are also online for citizens to read and act upon. That's how I knew this was here today.

It is an open system that deals with thousands of pieces of legislation. It works and the citizens are informed if they choose to be.

Earlier this season several state representatives introduced a bill that would have dictated how towns and cities were to fill vacant school board positions. Since it pertained to school boards it was referred to the House Education committee for action. The committee rejected the proposal and submitted the current bill as amended in its place.

Had the subject matter of the amended bill been submitted originally this way, it most likely would have been assigned to the Municipal and County Government committee. And if passed by the House, it most likely would have been referred to Public Affairs. There are other Budget Act bills in the session that have traveled that very path, but not this one.

If you look up this bill you will find that the sponsors of the original bill are still listed as the current sponsors. We heard several of them speak today. I know several of the representatives who sponsored the bill, but I can tell you that there is no way that they would ever sponsor any legislation that accomplish would this amended bill seeks to do. As a matter of fact, Representative Drabinowicz's son is on the Hudson Budget committee.

I would respectfully request of this committee that House Bill 1483 as amended is reported out of this committee as inexpedient to legislate. While

there may be an issue that this bill seeks to address, I do not believe that this is the proper way to have this brought forward. Any time that a bill seeks to cause such significant changes to such a well established law, it should stand on the merits of its own original submittal. It should never be moved under the cover of another piece of legislation.

I suggest that the true sponsor of this issue submit a bill that outlines what one seeks to do, and allow it to follow the process in the open, where everyone has been warned as its due in town. In this matter, the citizens will be truly served by the elected representatives of the people.

Thank you for your time. I'd be happy to answer any questions.

Senator Jane E. O'Hearn, D. 12: Thank you. (mumbled) Thank you very much. Rich McGraw? (tape change) (Alan Bailey) who is opposed from the Exeter Taxpayers Association, and wishes to speak. Welcome.

Alan Bailey: (Please see Attachment #3) Yes. Thank you. Madam Chairman, Senator Johnson, thank you for being here. And thank you for having this hearing. And especially having it scheduled in a way that we would know about it and have time to get here.

I make that remark because of the, (sic) this particular bill, 1483 as amended, that's come to you I believe its been mentioned before and will reiterate that the, (sic) it was amended, and the hearing was held on this within a 24-hour period. I think that...questions about the scheduling and the posting and the holding of it. I certainly would have testified at that hearing if there had been at least a few days between the announcement of the hearing and the holding of the hearing.

I would also indicate that there was probably nine days between the time the hearing was actually held and the time that there were any scheduled votes in the House. So there would have been plenty of time to have held it at another date.

I would also suggest that the confusion that we have here today, whether we're talking about Nashua's situation with replacing, (sic) filling vacancies, or whether we're talking about amending the Municipal Budget committee law. These, (sic) this confusion would not exist if this original bill had not been hijacked under these conditions. There would be no question about it.

I also agree that as lets take it for example that House Bill 1254 that was already proposed and passed this year that did amend this same legislation for Budget committees was first, (sic) first went to Municipal and County

Governments committee and then it went to, (sic) in the House, and then went to Public Affairs in the Senate.

That particular amendment dealt with what was a school board or a town board of selectmen to do if the Budget committee did in fact, not produce the budget as they're statutorily required to do. So that was the nature of that amendment. But I think it was a good example of the way legislation dealing with such questions would best be handled. So I am, in many ways, I'm sorry that this has ended up in your lap here at the Education committee in the Senate.

The, (sic) I see some problems with this as it has been brought to you. I think that any of these Budget committees, Municipal Budget committees still need resources to operate, rather then some Budget committees that only meet maybe four or five times during the budget season as the Budget Recommendation committee does in the town of Exeter.

I think that they're gonna need resources to operate. And if we take the scenario where it would be one Budget committee serving both town and school district, and yet they would be elected separately at separate events, separate Warrant Articles. Then where do the resources come from, lets say if the school district on its ballot got approval for the Budget committee and the town did not. We had the question of where the support would come from.

I also object to this on these grounds because we're dealing with the same electorate. Here we have the school district that's completely within the town. These are the same people voting. Okay? And yet we're telling them that they're gonna have to vote twice on the same subject. Both on the town ballot and on the ballot for the school district.

There were comments made earlier by Representative Henderson on the length of, (sic) of ballots. I would suggest that the length of the ballots have been increasing dramatically over the past few years because towns that don't have Municipal Budget committees, rather then putting things in their budgets, are putting them out as Warrant Articles. And also, it's a, (sic) its a little bit of mischief going on. So that's why these ballots become so long.

In the year 2000 in Exeter we had 99 Articles to vote on between the town and the school districts. It was quite a piece of work. We have, (sic) there are so many things to vote on that we had 379 people who came in to vote. Came in and went through the check list. Did not even vote on a three and a half million dollar bond issue on school ballot, which is a great mystery to me.

At the same time we had 780 people come in and vote to rescind SB2, so they were essentially voting that they would not be able to vote that way. Voting to give up their vote, and go back to the annual town meeting.

I see another problem with, (sic) although I feel this would be great if it turned out to be inexpedient to legislate, it may be inexpedient to actually operate.

As we have our deliberative sessions on the processes that go on, getting Warrant Articles onto the final ballot, we could have the town deliberative session with the same subject for Budget committee. And it could be amended. Remember we can have anywhere between three and twelve members on a Budget committee, according to the law.

Lets say the town deliberative session produced a Warrant Article that would have seven members. And the school district produced a Warrant Articles, it would have a different number, more or less. And they both approved. And they're sharing the same Budget committee.

You have, ya know, a situation that's not described in this amendment, it would be very difficult to determine, I mean, (mumbled) I'm sure we would end up with Superior Court judges being bombarded with, (sic) with these little types of questions, and others perhaps. It has been mentioned here today, but there are 94 communities in New Hampshire. That's forty-percent of the communities that do have Municipal Budget committees.

This particular amendment, or the amended 1483, as it breaks school districts away from a town, its very likely that you would have school districts that would then be proposing to rescind their association with a Budget committee. Again, a great opportunity for a possible mischief.

I would say that in, (sic) in Exeter, we have, (sic) there's no evidence of a Budget committee working at all in our elementary school district. The, (sic) when we had our Warrant Article on the town ballot as statutorily required to produce, (sic) to approve a Budget committee, there was a great uproar that how could some number of people on a Budget committee do all this work?

Of course that Budget committee would be responsible for the budget, and would have to do everything they would need to do throughout the year, in order to produce a good budget. As opposed to the business manager bringing some numbers to the school board, and (then) looking over them for a short period of time when you get into budget season. Which is very apt to happen in some communities.

The, (sic) the situation that we had in Exeter was one that, I'm sorry Representative Henderson left, but it was one that he had, (sic) he created. When the Warrant Articles were submitted early in January, there were, (sic) there was a press conference held with both local newspapers on the Warrant Articles as they were submitted.

There was a front page story in the local newspaper about the Warrant Articles. This includes the Budget committee. There was a public hearing by the town board on the Warrant Articles. There was a deliberative session on all the Warrant Articles.

And three weeks after the deliberative session, Representative Henderson came running into town screaming out, sinisters sneak attack on the voters, after all of this exposure of the Warrant Articles, including the Budget committee.

Now, the rest of the discussion that went on in the community produced a lot more heat then it did light. The complaints were not about the voters not knowing anything. I mean if we, (sic) if we took every Warrant Article that we had on a ballot and require that everybody coming in knew everything about that, I mean, we would never get to a vote.

I mean, to say that this particular subject needs to have great clarity, I would assume that we would also say that everything else needs to. And everyone would need to know exactly what the effect would be on them if they voted one way or the other. And we know that that's not the case. That most people take the time to educate themselves. It just doesn't happen.

So the, (sic) the complaints that were voiced, this great noise that was generated in Exeter, which did result in, (sic) in significant defeat of this Warrant Article by the way, were complaints about the people that would be elected to a Budget committee would not have any interest in the people or the children in the community. It would be too much work for them to do. How could they do it? It was the concern that they wouldn't understand anything.

So there was a lot of heat. It's the same electorate. I don't feel that this amendment is, (sic) is worthy of proceeding. I would, (sic) I'm opposed to it. I would urge you to use whatever, ya know, methods are available to you statutorily to, (sic) to stop it. To delay it. I think that you can see, as we talk about some of the, (sic) the confusion that it might create, it would be good to have committees have more time to study this. And I, (sic) I would hope that

it would go back through a normal process and not come out as a highjacked bill.

So, that's the end of my, (sic) my statement. Any, (sic) any questions?

Senator Jane E. O'Hearn, D. 12: Questions...Thank you very much.

Alan Bailey: Thank you.

Senator Jane E. O'Hearn, D. 12: Thank you. Dean Michener in support, and wishing to speak.

Dean Michener: Thank you Madam Chair. Dean Michener representing the New Hampshire School Boards Association. And I think I'm probably your last speak.

Senator Jane E. O'Hearn, D. 12: Yes.

Dean Michener: And I recognize you've been here a while and it's a little warm.

I think I can be very brief by just initially stating that I think Representative Henderson gave a very good summary of the original bill and the problems that the House Education committee had with that original bill. The amendment that took place, and I think he explained very well the reason and desire for having the amended version that you have before you right now.

The School Boards Association opposed the original bill as it was introduced in the House. Just to briefly reiterate that proposal could override local charters and policies that exist at the local level.

As the Secretary of State noted, this would be a substantial change to current election laws. And they stated that it would be opposite to the current practice in many communities. And they would like some time to study the ramifications if this legislation were to pursue.

As Representative Henderson noted, in a contentious election with two candidates with diametrically opposed positions on an issue, and one winning by a substantial margin or what we would call a landslide, that bill would have replaced that person with who would have had a philosophy that was clearly rejected by the voters. And so I think that just in and of itself doesn't make sense.

The locally elected body as representatives of the district as elected by the voters of the district have the authority to make those temporary appointments which only last until the next election. And if the board so chooses, they could use the process as outlined in this, (sic) in this bill if they, (sic) if they so chose to.

As far as the amendment, the bill as amended that appears, (sic) that came to your committee, from our perspective it makes good sense that it clearly puts the question in front of the voters for their own decision. People who are taking the time to educate themselves on each Warrant for which they have an interest, are going to see what are the proposed measures that are effecting that political entity. A school district, a town, whatever. And they can take action on it.

And we support the amended version of the bill that you have in front of you right now.

Senator Jane E. O'Hearn, D. 12: Questions? Thank you Dean.

Dean Michener: Thank you for your time today.

Senator Jane E. O'Hearn, D. 12: Thank you. And is there anyone that would like to speak or speak...Anyone that would like to speak again? Representative Gleneck?

Representative David Gleneck: Thank you. I just wanted to make a point on my amendment.

That originally that was supposed to be for all elected boards, not just the school board. However, Legislative Services told me that they would not have time to finish that to cover all elected boards. Because the intention of the bill was to make sure that elected people served on elected boards, and no appointed people.

So I just wanted to clarify that one position. And to state that on the bill that was submitted to you, which is Chairman Henderson's bill, that he said voter's rights. Well, that's a voter's rights potentially for one city, Exeter. And to pass that, I had submitted a bill for voter's rights for Nashua. And I was told that wasn't gonna pass because it was only for one community. So here's a bill, again, the Exeter bill, is going for one community as opposed to many communities.

Thank you.

Senator Jane E. O'Hearn, D. 12: Thank you. That, (sic) I'd like to close the hearing on House Bill 1483.

Senator Jane O'Hearn closed the public hearing on House Bill 1483 at 2:15 PM.

Respectfully Submitted,

Jessica L. Cilley
Senate Secretary

Attach#

SAMPLE BALLOT

ARTICLES CONTINUED

Article 42: Shall the Town vote, through its Board of Selectmen, to consider whether a non-governmental or non-town agency serves Town residents before the Town funds any such agency using property tax dollars? YES ○ NO ○

Article 43: Shall the Town recommend to the Board of Selectmen to appropriate fifty percent (50%), not to exceed ~~$1,250,000, of the Town's Unreserved Fund Balance~~ as of 12/31/2002 for property tax relief by applying said funds to the property tax burden in the 2003 fiscal year? YES ○ NO ○

Article 44: On petition of Alan C. Bailey and others, shall the Town adopt the provisions of RSA 32 and create a Municipal Budget Committee? Said Committee shall be an elected budget committee with five (5) members at large. In the event that this article is approved, the election of the members at large shall begin with the annual meeting of 2003. (Exeter currently does not operate with a Municipal Budget Committee. The Town Selectmen, with few statutory guidelines, set the Town's operating budget. As stated in RSA 32:1, "A town or district may establish a municipal budget committee to assist its voters in the prudent appropriation of public funds. The budget committee, in those municipalities which establish one, is intended to have budgetary authority analogous to that of a legislative appropriations committee.") YES ○ NO ○

Article 45: ~~On petition of Kevin Underriner and others, shall the Town modify the elderly~~ exemptions from property tax in the Town of Exeter, based on assessed value for qualified taxpayers, to be as follows: for a person 65 years of age and up to the age of 75 years, $70,000.00; for a person 75 years of age up to 80 years, $90,000.00; for a person 80 years of age or older, $125,000.00? To qualify, the person must have been a New Hampshire resident for at least five years, own the real estate individually or jointly or, if the person's spouse owns the real estate, they must have been married for at least five years. In addition, the taxpayer must have a net income of not more than $24,000.00; or if married, a combined income of less than $36,000.00; and own net assets not in excess of $125,000; excluding the value of the person's residence. YES ○ NO ○

Article 46: Shall the Town vote to recommend that the Selectmen publish in the Annual Report, beginning with the year ending December 31, 2002, all salaries and benefits for hourly and annually paid employees, officials and other staff members? YES ○ NO ○

Article 47: Shall the Town vote to recommend that the Selectmen publish in the Annual Report, beginning with the year ending December 31, 2002, a listing by name of all suppliers and contractors who have supplied goods and/or other services to the town, including the total amount paid to each in the reported year? YES ○ NO ○

Article 48: Shall the Town vote to recommend that the Selectmen publish in the Annual Report, beginning with the year ending December 31, 2002, an inventory within the Property Schedule that lists all town owned or leased vehicles and other equipment, including their description, assigned department, age, town identification number and dollar value? YES ○ NO ○

YOU HAVE NOW COMPLETED VOTING

Attach #2

HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, New Hampshire 03301
TDD Access: Relay NH
1-800-735-2964

603-271-3600

MEMORANDUM

TO: **Representative Warren Henderson, Chairman**
Education Committee

FROM: **Ann FitzGerald**
Committee Researcher

DATE: **March 13, 2002**

SUBJ: **HB 1483, Relative to filling vacancies occurring on school boards**

You asked what effect HB 1483 would have on current election law and practice. I contacted the NH Municipal Association, Secretary of State's Office, Rochester City Hall and Nashua City Hall.

The NH Municipal Association explained that every city charter is different and each city needs to be contacted to clearly understand how HB 1483 would affect their charters.

The Secretary of State's Office noted that this would be a substantial change to the current election laws. They also stated that it would be opposite to the current practice in many communities and would like to take some time to study the ramifications of this legislation.

The city of Nashua stated that their school board has filled vacancies by appointing the next highest vote getter as well as soliciting applications and conducting interviews for the opened position. The latter procedure was used most recently. This common practice is not written into the city charter. However, the Nashua School Board has prepared language on this issue to propose to the City Policies and Procedures Committee for their approval. (attachment A)

The city of Rochester vacancy practice is clearly stated in their city charter (attachment B).

ATTACHMENT A

FAX MESSAGE

Date: March 12, 2002

Total Pages Including Cover Sheet: 2

TO: Senator Jane O'Hearn

FAX NO: 886-6728

FROM: Stephen M. Bennett, Esq.
Office of Corporation Counsel
229 Main Street
Nashua, NH 03061-2019

Tel: 589-3250 Fax: 589-3259

RE: House Bill 1483 – filling vacancies on school boards.

MESSAGE: Enclosed please find a copy of the proposed Nashua School Board policy for filling Board vacancies. This proposed policy will be presented to the Policies and Procedures Committee tonight, March 12, 2002. This proposed policy sets forth the procedure that has been used by the Board to fill several vacancies over the last two years. I spoke briefly with Chairman Capasso in an attempt to determine whether the proposed policy would pass essentially intact. It is his belief, that with some minor adjustments, the proposed policy will be voted in by the Board membership. If you have any further questions regarding this proposed policy, please feel free to contact Mr. Capasso (889-2704).

Should you have any more questions which I can answer, please feel free to contact me.

ATTENTION - CONFIDENTIALITY NOTE

This facsimile transmission and the accompanying material contain confidential information from the City of Nashua's Office of Corporation Counsel that may be privileged. The information is for the exclusive use of the addressee named on this transmission sheet. Disclosure, copying, distribution or use of the contents of the material transmitted by person(s) other than the intended recipient is prohibited. If you have received this facsimile in error, please notify us immediately by telephone so that we may arrange to retrieve these documents.

A

DRAFT POPPS POLICY: 3/12/02

PROCEDURE FOR FILLING A BOARD OF EDUCATION VACANCY

State law requires a school board to fill vacancies occurring on the school board (RSA 671:33). School board members appointed in this manner serve until the next district election, at which time the voters elect a replacement for the balance of the unexpired term.

Voting by the school board to fill a vacancy must be done in public session by roll-call vote. The appointment of a replacement requires a majority vote at a legal meeting where a quorum is present.

The following procedure will be used by the Nashua Board of Education in filling a board vacancy:

- The Board will establish a date and time by which applicants can submit a letter of application and a resume, and a press release containing that information will be sent to the local newspaper.
- After the due date for applications, the Board will schedule a special public meeting for the purpose of filling the vacancy.
- Applicants will be invited to the special public meeting, where they will be given up to five minutes each to explain why they would like to fill the vacancy.
- Following the applicant presentations, Board members will vote for the candidate of their choice in public session by roll-call vote.
- The applicant receiving the majority of the votes will be sworn in by the City Corporation Counsel or Deputy Counsel.

(Note: Reviewed and approved by Attorney Steve Bennett on 3/12/02.)

Bd approved _____

TOTAL P.02

ATTACHMENT B

by law which shall be filed and kept in the office of the City Clerk.

SECTION 66: NOTICE OF ELECTION OR APPOINTMENT

The City Clerk shall mail written notice of election or appointment to any City officer thus selected within forty-eight (48) hours after the appointment or the election result is announced. If within ten (10) days from the date the officer's term of office begins such officer does not take, subscribe to, and file with the City Clerk an oath of office, then the officer shall be deemed to have refused the office, the office shall be declared vacant, and the office shall be filled as provided by this Charter or otherwise by ordinance.

SECTION 67: VACANCY DEFINED

In addition to other provisions of this Charter, a vacancy in any City office shall exist when an officer dies, resigns, is removed from office, is convicted of a felony, or is judicially declared to be mentally incompetent.

SECTION 68: VACANCIES IN ELECTED OFFICES

Vacancies occurring in any City Council, School Board, or Police Commission seat shall be filled until the next regular municipal election by the City Council's election, by secret ballot, of some qualified person. Any member of the City Council may nominate persons to fill such vacancy. The candidate receiving a majority of the ballots cast by members of the City Council at such meeting shall be declared elected. If there are more than two nominees, and no nominee receives a majority of the ballots cast, then the nominee receiving the fewest votes shall be removed from the list of nominees and another vote shall be taken. If no nominee then receives a majority of the ballots cast, then the above-described process shall be repeated until there are only two (2) nominees. The City Council shall act to thus fill such vacancy not later than the second regular City Council meeting following the creation of such vacancy, and may act only at a regular meeting of the City Council. If the term of the seat thus filled would not otherwise be open for election at the first regular municipal election following the occurrence of such vacancy, then at said municipal election the seat shall be filled for the balance of the unexpired term.

Vacancies occurring in the office of Ward Moderator, Ward Clerk, Selectman, or Supervisor of the Checklist shall be filled by the City Council for the balance of the unexpired term. In filling such vacancies, the City Council shall conduct an election in the manner prescribed in the preceding paragraph for vacancies of other elected offices.

SECTION 69: SALARIES OF ELECTED OFFICIALS

All elected City officials shall receive such salary as may be designated by ordinance. Any increase or decrease in such salary shall not become effective

P.02

JAN-10-1900 01:55

Attach #3

Senate Ed. Com. Hearing
HB 1483 4/17

By: Alan C. Bailey
94 Communities

Opposed to HB 1483 as passed by House on 3/21/02

HIGHJACKING

1. Wrong House Committee
Should be Municipal & County Govt. → Senate Public Affairs
HB 1254
2. House EDCOM hearing difficult to attend & with rapid amendment & hearing. 3/12 - 3/13 14-4 9-4
3. Problem: School Dist. appears & Town does not.

4. Problem: Town & District appoint different number on committee

5. Problem: School Districts Board will be able to push to rejection municipal budget committee

6. Size of ballot? people too stupid? Clarity?

Same electorate People elected to Bedford would be diverse & not care about people

ITL

Legislation relative to filling vacancies on elected boards.

January 26, 2002

Statement of purpose: "**This legislation is intended to clarify the process of filling vacancies to elected boards. This legislation will prevent elected boards from appointing people to its board who have not been duly elected.**"

1. If a vacancy occurs in any elected board then that vacancy must be filled by the next highest vote getter that ran for that board position in the previous election.
2. If the next highest vote getter does not accept the position on the board then the next person in line, based upon his/her position in obtaining votes in the previous election, must be appointed to the board seat.
3. If none of the people, who had run for the office in the last election, but did not qualify with enough votes to get appointed to the board, at the time of the previous election, then the board can appoint another person to the board but only if the number of days until the next election is 90 days or less.
4. If the period of time until the next election is 90 days or greater then the position can only be filled by a special election or the board position must be left open till the next election for the board.
5. This legislation takes effect immediately upon passage.

Speakers

SENATE EDUCATION COMMITTEE

Date: 04/17/02 *Time:* 1:00 PM

Public Hearing on: HB 1483 - (New Title) relative to municipal budget committees.

FAVOR	OPPOSED	Name	Representing	SPEAKING?
✓		Rick Trombly	NEA-NH	
✓		Howard Dalworth Jr	Self	
✓		Rich McGraw		
✓		Alan C Bailey	Exeter Taxpayers Association	
✓		Rep. Charles E. Sova	Grafton-11	
✓		Alderman at Large Paula Johnson - Hanover	Representing Self	
-		Nelson Allen		
✓		Rep. Theresa Drabinowicz		
✓		Rep David T Flanagan		
✓		Dean Michener	NH School Boards Assn	
✓		REP. RUSS ALBERT		

PAGE 1

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 17, 2002

THE COMMITTEE ON Education

to which was referred House Bill 1483

AN ACT (New Title) relative to municipal budget committees.

VOTE: 2-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Jane E. O'Hearn
For the Committee

|HB1483 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: (New Title) relative to municipal budget committees.

Date	Body	Description
2/14/2002	**H**	Introduced and ref to Education; HJ21, p823
2/19/2002	**H**	Copy to Chairman on 2/19/2002 Report due on 2/21/2002
2/21/2002	**H**	Reps Scanlan and Burling Susp Rules for deadlines, MA 2/3VV; HJ21, p826
2/21/2002	**H**	Hearing Mar 5 10:00 RM207,LOB
3/12/2002	**H**	Hearing on non-germane amendment {2924}(NT) Mar 13 2:00 RM207,LOB
3/13/2002	**H**	Maj Report OTP/AM for Mar 21 (vote 9-4;Reg)
3/13/2002	**H**	Prop Comm Am{2943}(New Title); HC24, p939-941
3/21/2002	**H**	Comm Am, AA VV; Passed with Am RC(181-157); HJ28, p1106-1110 + 1137
3/21/2002	**S**	Introduced and Ref. to Education; SJ 8, Pg.246
4/4/2002	**S**	Hearing; April 17, 2002, Room 105-A, SH, 1:00 p.m.; SC22
4/17/2002	**S**	Committee Report; Ought to Pass, [04/18/02]; SC26A
4/18/2002	**S**	Ought to Pass, MA, VV; SJ 12, Pg.405
4/18/2002	**S**	Sen. O'Hearn Floor Amendment {3580},(New Title), AA, VV; OT3rdg, MA, VV; SJ 12, Pg.406
4/25/2002	**H**	House Nonconc with Sen Am req Conf Comm, Rep Henderson MA VV; HJ38, p1445
4/25/2002	**H**	(Spkr appts Reps: Henderson, Ward, Colcord & Snyder)
4/25/2002	**S**	Sen. O'Hearn Accede to House Request for Committee of Conference, MA, VV; SJ 13, Pg.521
4/25/2002	**S**	Pres. Appts.; Senators O'Hearn, Disnard, Boyce; SJ 13, Pg.521
4/26/2002	**H**	Conf Comm meeting Apr 26 1:30 RM105-A, St House
5/1/2002	**H**	(Conf Comm Report Not Signed)

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations