Bill as Introduced

HB 778-LOCAL – AS AMENDED BY THE HOUSE

26mar03... 0969h

2003 SESSION

03-0530
08/09

HOUSE BILL ***778-LOCAL***

AN ACT relative to the city of Manchester school district.

SPONSORS: Rep. Infantine, Hills 54; Rep. Pepino, Hills 51; Rep. Vaillancourt, Hills 56; Rep. Hagan, Hills 50; Sen. Martel, Dist 18

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill enables the city of Manchester to incorporate the Manchester School District as a department of the city, subject to voter approval.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

26mar03... 0969h

03-0530
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the city of Manchester school district.

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

1 Manchester School Department. The city of Manchester, New Hampshire may incorporate the school district as a department of the city and the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

2 Effective Date. This act shall take effect upon its passage.

Committee Minutes

Original

Date: April 16, 2003

Time: 9:55 a.m.
Room: 105-A, Senate House

The Senate Committee on Public Affairs held a hearing on the following:

HB 778-L relative to the city of Manchester school district.

Members of Committee present: Senator Roberge
Senator Larsen
Senator Barnes
Senator Green
Senator Morse

The Chair, Senator Sheila Roberge, opened the hearing.

Senator Sheila Roberge, D. 9: We will start the hearing on HB 778 with Representative Patten.

Representative Betsey Patten, Dist. 7: Thank you madam chair and members of the committee for letting me jump ahead and thank you Representative Infiantine. My name is Betsey Patten and I represent Carroll County, District 7, which is the towns of Wolfeboro, Tuftonboro, and Moultonboro, and I would like to talk to you on House Bill 778.

What is happening with this bill is that we looked at these detailed issues in the House? And we probably had a three and a half to four hour hearing on this. What we came up with in the three lines is that if the City of Manchester determines that they want to incorporate the school district at the Department of the City, what would happen is, they would have to put this before the people of the City of Manchester, and have them vote on it.

There was a referendum question prior to this time. However, the RSA did not, and the state law did not allow Manchester to do what they had wanted to do in the referendum. What is necessary, to be able to have that enabling power is, they came and asked for the ability to do this. Would you also please note, they have to have another vote at the local level in Manchester. and this enables and allows them to do that,

I just wanted to let you know that was important in the House that we are not making a decision that one or the other is going to happen. We are just enabling the question to be put before the voters with the authority once they say or no, then that is what they get to do.

Senator Sheila Roberge, D. 9: Do you really need this piece of legislation to do that?

Representative Patten, D. 7: In order for the people of Manchester to be able to vote on this and for the vote to be a valid vote they need the enabling legislation from the legislature to do this because this is how it works.

We have gotten much better in Charter processes now for cities where they can put these issues and they have got a long line but Manchester is not one that we had to come back with.

Senator Sheila Roberge, D. 9: Thank you.

Representative Patten, Dist. 7: Thank you very much and enjoy the day.

Senator Sheila Roberge, D. 9: Representative Infantine.

Representative Infantine, Dist. 54: Madam chair, senators, my name is Representative Will Infantine, I represent Ward 6, in Manchester also known as District 54.

If you would look in the packages I have presented in the folders, I just want to include the information provided. I am here today on behalf of 11,603 voters in the City of Manchester who I feel have had their vote and their wishes denied. (See Attachment "A")

Back in November 6, 2001, the city held their general election, and there was some referendum questions, and question 1 had to do with making the school district a department of the city, and I provided the official election results here and 11,603 people voted in favor of this 60.6%.

Now what started the need for this election in the second package in your folders, the first page is entitled the City of Manchester Office of the Clerk? There are some documents here where Alderman, David Wihby on March 20, 2001, with the support of the alderman, decided that they would like to make a Charter Amendment. Many members of the Aldermatic Board felt that there had been excessive spending over and excess of the budget by the school board and they felt they needed to have some control in place.

The decision to have this charter amendment went through the Aldermatic Board, there was testimony, this was even sent to the Attorney General's Office and this letter is in here from the Attorney General's Office stating that this was correct pursuant to RSA 49. The alderman at the time felt they were utilizing the correct mechanism and this was placed into the Ballot, and voted in favor by the people that showed up to vote on that day on November 6th.

The school board was not happy with the vote and chose to go to court on a Summary Judgment case that was heard in October of 2002. I have also included in your package the decision by the judge for this Motion of Summary Judgment, which was found in favor of the school board. There are two sentences in the judge's decision that are important to note on page 7 of the motion. "The city refers to other municipalities which have created school departments." In each of these situations the cities merged their school districts by special legislative act. Then it goes on to further say, "The court concludes that a specific legislative act must be in effect for the city to create a school department in derogation of general law on this issue."

I'm not a lawyer and I don't know what a lot of that means, but it's pretty simple. I think what the judge was saying, "Hey, listen folks, we understand what you did, but you didn't have the right mechanism to do it. You have to go up to the legislature to have your right to do this, and that is what I propose to do with this legislation.

There will be following testimony that this is a power play, that this is not good for the kids, the students, and all these things. I'm not here to argue the merits or against those items. I will believe that all of you sitting here, all you elected officials and myself we were elected by 50% of the vote, plus one, and that is what has gotten us in our seats here today. I also believe that the people should be heard, they voted for a certain charter amendment, then they should have their vote ratified because of the law, because of the way the charter works that cannot be done. This is the mechanism that we want to use.

People will say that they didn't know what they were voting for. I would question that. This vote received more votes or the large percentage of the votes in the current sitting major of the City of Manchester. Also included in my package I have provided another letter signed by twelve Aldermen,

twelve of the fourteen current Aldermen. Although, they are not siting on this specific bill, they do believe that this charter amendment as originally proposed is making the school department –(inaudible word)-- a department of the city. They are in favor that the two people, one person abstain, the second person abstaining will be voting on this, and that would probably be Senator Gatsas, if this passes the committee, that is why he abstained.

I think one of the things that is bothersome to me, as well, is included in the package is a letter from the attorney representing the school board. They spent $75,000 of the taxpayer's money fighting this. I don't find that's appropriate, people have spoken and I believe they should get what they want. Why would people want this? Well, right now the school department has their own finance department, they have their own human resources department, and they outsource their legal department. The city already has a human resources department, a finance department, and they utilize their own city solicitor's own attorneys.

There is a belief that this will do two things, that it will consolidate some of the districts and save the taxpayers of Manchester money. It will also bring the school district in line with spending what they say they are going to spend. The reason this came to be is the City of Manchester sued the school district a few years ago and was successful for their overspending of approximately three million dollars. People feel that this will keep the school budget within what it is suppose to be and they will not overspend their budget as it has been done in the past.

Some of the members of the school board feel that this is a "power play" that the alderman will micro manage what goes on at the school district level. Right now the alderman is in charge of the fire department. They don't tell them what kind of hoses or trucks to buy. They don't micro manage them in that district. The same thing with the police department. They don't tell them what kind of guns to buy, and how to run their department. They set a budget they deal with things that are necessary. I do not believe that the alderman wants to micro manage what goes on at the school department. I don't think they want to tell them about curriculum, about dress codes, about any of those things. This is more of a financial nature.

Bottom line, I believe that the voters of the /city of Manchester do deserve the opportunity to speak again. Some will say that was the old school board, things have changed there is no need for this, we are a different group of people. If that is the case, so be it, then the voters will not vote for this a second time around. At least they will have an opportunity to vote again and to have their votes stick, if it is their will.

Senator Sheila Roberge, D. 9: Will there still be a Manchester School Board?

Representative Infantine, Dist. 54: Yes, Madam chair there will.

Senator Sheila Roberge, D. 9: Senator Bares:

Senator John S. Barnes, Jr., D. 17: Thank you madam chair, I have a couple questions for the representative.

I'm looking at the sponsors, you have three senators in Manchester, and I only see one on here, was Senator D'Allesandro asked to be on this, and he chose not too?

Representative Infantine, Dist. 54: No he was not asked.

Senator John S. Barnes, Jr., D. 17: Did Senator Gatsas didn't want to go on here, because you would be voting on it?

Representative Infantine, Dist. 54: That's what I was led to believe.

Senator John S. Barnes, Jr., D. 17: That doesn't make any sense. Do you know how Senator Gatsas stands on this bill; we are looking for him right now to find out.

Representative Infantine, Dist. 54: I believe Senator Gatsas is in favor of this.

Senator John S. Barnes, Jr., D. 17: You believe he is in favor of this. Okay, know it's would you believe time.

I think the citizens should have a chance to vote on something like this, I'm not against that. Having been a school board, and also a selectmen in town, I can see why this could turn into a turf war. As a selectmen, I would love to have had some control over, even though it might be very small. Then as a school board member, I would have hated to have those selectmen running the school board in Raymond. There would be a turf war between the school board and in our case the alderman, and in my case, it would be the selectmen vs. the school in any town in the state. It's mostly the school board and the selectmen. If the voters have a change to vote for them that's fine, they certainly can see both sides of the issue. The people in the school board would be very nervous, the alderman and the mayor taking over the school board.

Representative Infantine, Dist. 54: The good part about this is that people have to get re-elected every year and they will hopefully make the appropriate decisions. Thank you.

Senator Sheila Roberge, D. 9: Thank you. Rick Trombly.

Rick Trombly: Madam chairman, members of the committee, it's good to be in front of you on this warm spring day, however, I think we're going to go home with snow shoes on, it's really suppose to get cold. I am Rick Trombly representing NEA of New Hampshire. Members of the committee I am not going to go into great technical detail regarding the bill or the philosophy behind the legislation. I do feel it's very important though that we go in record as opposed to this amendment. For some very interesting reasons I think that if you read the amendment, I just want to make sure members of the committee, that I have the proper form before you, because the amendment which I am reading has absolutely no reference to a referendum.

It says, the City of Manchester, New Hampshire may incorporate the school district as a department of the city and the mayor shall have control over the formal procedures for preparation of the adoption of the school budget. This actually shall take effect upon its passage.

That amendment was added on the floor of the House, and it replaced a committee amendment from Municipal & County Government, when in fact referenced a referendum. Now, I've read a lot of bills in my lifetime, and what you see is what you get on this stuff, and there is no referendum in this amendment. I think it is unconstitutional on its face, given that because what you are allowing the City of Manchester to do is to change its charter.

The legislature basically is saying to Manchester, you can change the charter to incorporate the school district into your organization. The constitution requires that that be done by the vote of the people, and not a vote that was held before. It can't be a retrospective vote; it has to be a vote contemporaneous with the change of the charter. So this amendment doesn't do what it purports to do, and I think on it's face you need to reject it for that reason.

I also want to suggest one thing to you, in terms of the components of the bill, this does not say the Alderman reviewed the budget. It says here that the mayor would. It says, the mayor shall have control over the form and procedures for preparation and adoption of the school department budget. Now if you corrected this to say we are going to allow for a referendum in the City of Manchester on this issue. If it passes then you will be made king of

the mayor of Manchester and you will be making Court jesters of the Alderman.
You will making a regal figurehead of king or the queen in Manchester, all they need to do is sit there and say, alderman, you have no say. I don't know what the alderman will do at that point. So the amendment before you is severely flawed. I don't know whether or not the committee wants to get involved with trying to correct something like this. There is one thing I have learned about in my years in politics in the State of New Hampshire being an observant participant. Don't ever get in the middle of a catfight in Manchester, because there is always things going on somewhere that you don't want to know about or see. That aside, madam chairman, but I will tell you this, this amendment doesn't do what the representative wants it to do, I think you should consider that in deliberation.

In terms of a responsibility for budgets for madam chairman, school board members are elected and reelected, I think there is some real philosophical concerns this committee should have regarding contracting, regarding the city setting up a bureaucracy to deal with the federal mandate with education. Senator Larsen, you're on Education, and the education book in the state regarding loses is this thick. You're going to turn that over to a city department to deal with. I don't think it's clear-cut what the roll of the school board would be if this passes. I don't know how clear that was for the voters of Manchester when they voted previously for the prior resolution.

Madam chairman I will be brief because I know others what to testify, and I think they can add some more of that philosophical stuff which are huge problems, Thank you.

Senator Sheila Roberge, D. 9: Thank you. Leslie Stewart.

Leslie Stewart, Vice Chairman of the Board of School Committee, Manchester: Good morning madam chairman, and members of the committee. My name is Leslie Stewart; I am Vice Chairman of the Board of School Committee in the Manchester, New Hampshire. The mayor of the City of Manchester heads our Board of School Committee and the board elect a vice chair that essentially provides the leadership role for the school board.

We are here this morning in opposition of this bill, and I just wanted to speak to you on a couple of issues. Our current system provides a check and balance system that we feel is extra ordinarily important in the City of Manchester. The school board prepares our budget, at the same time the mayor prepares a budget also. Both of those budgets are presented to the board of mayor and alderman. He then deliberates and gives us a bottom line budget. That bottom line budget allows us to manage the funds for the school

district in Manchester. As the school board sees fit, we do that based on the fact we set goals and objectives every year, and we fund our lines based on our goals and objectives. One of those lines for the last several years, including this one, is to make sure that we have enough teachers' in the classrooms. To that end we have had a very good working relationship this term with the alderman, and just last week, they preliminarily approved our budget two months before being required by city charter.

Now we have new leadership, not only at the school board level, but also at the administrative level in our district we have three new superintendents, I don't need to go into the reasons for those, but some of them are hinted at this morning. That relationship has been most amicable, I think it has been a trusting relationship, Kevin Flaurety, our city finance officer has spoken publicly and said he has never seen a relationship like and an honest, straightforward one, the way it should be.

The check and balance system allowed us this year to do a couple of things with our school board goats. One of them being to effect the dropout rate in the City of Manchester. You probably all have read the reports that come through Manchester there's about a 25% dropout rate, it's certainly not acceptable to us as school board members. One of the things that we are able to do with our budget this year was change a line so that we were able to hire another teacher for our Alternative High School Program, thus affecting 30 students who might have been drop-out otherwise.

That kind of flexibility is the type of thing, that the school board identifies through goals and then effects our budget in ways that we are able to do so. The suggestion of merging the district with the city department would really hamper our ability to make those kinds of changes and decisions.

A second one would be that this year we also wanted to effect test scores. To that end we brought in a program called "Read 180". Read 180; affects our middle schools in sixth grade who are still reading on a first and second grade level in some cases. We have seen over the past six months since that program has been in place, increases from a first grade reading level to many students reading at 4th grade reading level in only 6 months time.

Once again the ability to make decisions and then follow through with those with our budget that we otherwise wouldn't have. So I think the check and balance system is very important, and the ability to control our own funding is extra ordinary important.

I do want to mention one thing, because Representative Infiantine mentioned earlier that merging the district into the city would mean that we wouldn't have a Human Resource Officer, we wouldn't have a finance officer of our own. As you know, the requirements that we have in the school district to report on funding and manage our funding are very specific, not only in the state but also on the federal level. Having our own finance director to help us with those reports, and that kind of funding is most important. In fact forever the school district has had its own Human Resource Officer and its own finance director even in prior charters that had quasi relationships where the funding was handled on the city side. So that has always existed, we wouldn't anticipate that that savings would be in place.

Finally, I think the most important thing is that I can say to you this morning is that safe guards have been put into place to ensure that we do not over spend our budget as did happen a few years ago. It's a complicated series of events that occurred at that time, but I can assure you that the safeguards have been put into place. AS demonstrated by our cities finance officer he feels very confident that those things are in place now and that we can move forward.

Thank you very much for your time this morning and I would be delighted to answer any questions if you have any?

Senator Sheila Roberge, D. 9: Thank you, Senator Barnes.

Senator John S. Barnes, Jr., D. 17: I would like to make a comment, if I could. The PAS Program would be very beneficial to you, it's working very well in Raymond, we have 20 plus students in the Town of Raymond, and we have a population of 10,000, so the 30 you have probably should. (inaudible.) it would be worth it

Mrs. Stewart: Senator, I should mention, we have 90 students now in the PAS Program, and some in other pockets in other schools in that program we are able to increase it from 60 to 90 students because of the ability to effect change this year.

Senator John S. Barnes, Jr., D. 17: If it has worked in Raymond, 20 miles away, I think it would work in Manchester.

Mrs. Stewart: We are doing everything we can to affect that, thank you so much.

Senator Sylvia B. Larsen, D. 15: A quick question, just to help me understand, because I don't keep track of Manchester, only my own city. The referendum was brought to the voter's in 2001, because there was dissatisfaction with previous people who are now no longer in the school department?

Mrs. Stewart: I think it would be safe to say that there was a very acrimonious relationship between our former superintendent and the aldermanic board. As well as our former leadership, in some cases on our board and the aldermanic board.

There was a deficit, it had to do with some misunderstandings and also I think perhaps some controls that weren't in place on our part that allowed more latitude on the part of the administration that should have occurred. .... brought that forward, I hesitate to say that it's a turf battle, but I think that the concerns that were in place a t that time, and the voter's did not have an educational process before that referendum have been repaired and we feel are very comfortably in place.

In the past two years, my colleague will tell you we have had surpluses in our budget and are able to actually be in a position to pay back in excess of what our agreement said for the deficit.

Senator Sheila Roberge, D. 9: Further questions?

Senator Sylvia B. Larsen, D. 15: It sounds like a different process than we use, you said that the mayor actually gives the school board a budget to work within, the bottom line figure?

Mrs. Stewart: Here is what happens, we prepare in the school district a budget which we present to the alderman, the mayor also presents a budget to the alderman for the city side and the school side.

Senator Sylvia B. Larsen, D. 15: Bottom line, or an actual budget?

Mrs. Stewart: It's a bottom line budget, but because we have so many fixed costs it essentially is not a bottom line budget, but it is referred to as a bottom line budget. The aldermen deliberate and then they vote on either one of those two budgets or one that they come up with themselves, and then whatever is the appropriation is what we manage with during the year. It is different from Concord because your budget goes directly from your board to your voters, it is a different process, when my call was your vice-chairman or your chairman of your school board, and he enacted legislation to make that different. Thank you.

Senator Sheila Roberge, D. 9: Tom Donovan.

Tom Donovan, School Board Member: Madam chairman, members of the committee, my name is Tom Donovan, and I am a school board member in Manchester. I was newly elected in 2001. I was elected at the same election in the referendum you heard about took place. I have never run for office before, but I was unhappy with the situation in the schools, and I am a parent of children in the public schools. I... incumbent, I was one of six new board members elected in 2001, since then we have had two additional replacements. We elected a new vice chair, Leslie Stewart, you just heard from her, and I think we also chose a new superintendent of schools, Dr. Ludwell, who I think you will hear shortly, and two new superintendents.

In other words we have had a house cleaning on the school board side. I chair the finance committee of the school board, and one of the reasons I ran, was I was unhappy because there was a budget deficit which occurred in fiscal year 2000, it was 3 million dollars. There was a lot of reasons it has to do with health insurance and some other allocations between the city and the schools, but that is something that I am not going to argue about, it was before my time, there shouldn't be any deficits.

In fiscal year 2001, we had a surplus of 382,000. We are projecting and we are on target to have a 1.5 million-dollar surplus. In other words we on the school board are going to pay back that deficit and we think we will have it all paid off in next year's budget deficit. So we will have taken care of the problem.

I think the voters who elected me and other new school board members in 2001, also were upset with the fact that there was a deficit, and I think that there were two reasons people vote against it. They are unhappy with the deficit. The other reason, I think they were unhappy with the rank between the alderman and the school board.

As Chairman Stewart mentioned to you, things are much better. I think we have had a very positive budget negotiation process with the alderman this year. Our city finance officer, who has not been a friend of the public schools before so I think things are in a very place, has noted it.

That brings me to this bill because the school's districts in New Hampshire are separate from cities and towns. We heard from Senator Barnes talk about that natural tension. Since 1885 there have been statutes on the books creating separate school districts. The current law dates back to 1909, before that there was one in 1885, and there are separate corporations. They are separate from the selectmen; they are separate from the alderman and that is the general law, which applies to all school districts around New Hampshire.

Not since the 1920's have there been any special acts of the legislature dealing with the blurring between municipal and school district functions. We perform a state function and report directly to the Department of Education and although we enact our local priorities, we have responsibilities specifically to the Department of Education.

I note that there was a legislative study in 1946, and there was a concern about the influence of city government over school districts. That was a legislative committee that had a study over a year's time to look into it.

There has been no study in 2003, dealing with this issue, and I suggest it would be dangerous to create a special act for Manchester. Absent of some type of a study on what the relationship is between the cities and the schools, not only in Manchester but also around the state.

Dr. Ludwell, who you will hear from, has to deal with 14 school board members. We try to respect our functions but we no doubt meddle more than we should with the internal affairs of the schools. With the aldermen having authority he will now have twenty-eight people to meddle with or who have the risk of meddling with him, as opposed to fourteen?

I'm also not sure what my role frankly would be on school board if this bill were to pass. I'm not sure that I would have a role. I have a short handout; I don't want to be long...

Senator Sheila Roberge, D. 9: I just want to say something, Senator Larsen, has to leave at 11 a.m. and I want to make sure she is able to hear the rest of the people, so please limit your remarks.

Mr. Donovan: I just have a couple of charts from our bone budget process, may I, madam chair, and I don't want to be lengthy. These charts simply show that we in Manchester on the school side are not probative. The second page and this looked better on the PowerPoint presentation we had made to

the alderman. The first one shows, special education costs is a percentage of our general fund budget are going up. The second chart shows the amount of money we are able to spend on new textbooks is going down. The next chart shows that our enrollment continues to rise, we have 17,500 students currently, and the largest school district in the state. (See Attachment "B")

Senator Sheila Roberge, D. 9: That really doesn't have a whole lot to do with....

Mr. Donovan: I'm going to get there, the next chart shows the taxpayer payment per student on 2002 dollars, which shows effect of the Claremont money, and it shows that in fact it diminished quite a bit after Claremont went in. The next chart shows that on operating cost per pupil we spent a thousand dollars less than the statewide average per cost in Manchester. The text chart shows, and this is a little harder to see in black and white, but it shows after Claremont went in, in Manchester, our tax rates per school are less than the statewide average, but for the municipal and county functions we are well above the statewide average.

For the municipal and county functions we are well above the statewide average. In Manchester in terms of tax rates it's not the schools, which are creating the tax problem, with respect to how things are going. We also spent, we are the fifth from the bottom in terms of schools that provide grades one through twelve education in terms of spending per pupil, we spend about 6,200 per pupil the statewide average is 7,200. So we are not a wasteful school district.

To sum up, Senator Roberge, I would hope that you would consider the remarks that were made before. The current bill I don't understand it, it was amended after the committee hearing in the House. It was then amended on the floor, is there a clock or something on the floor of the house, something happened under a clock, and the current bill that was passed by the House was amended twice. I don't fully understand it; it doesn't call for a referendum.

I appreciate your patience and I am concerned. As the budget person on the school board if this bill is passed, we in the school side will lose the line item budget authority that we feel we need to operate the schools. With, " No Child Left Behind" coming in, we need to have some flexibility. We think that is a responsibility we are able to take care of. Thank you for your time and I am sorry that I went over.

Senator Sheila Roberge, D. 9: Thank you. Michael Ludwell.

Michael Ludwell, Superintendent of Manchester Schools: Many of the objections I think either have been or will be articulated by others. So I would like to limit my comments to the one area of added bureaucracy.

This legislation adds yet another layer of bureaucracy to the educational process. It takes the separate entity, the school district and subordinates that entity to the additional bureaucracy that comes from a reduction in the school district status to that of the city department.

This now leaves the district administration answering not only to a school board, but also to a board of mayor and alderman. District administration will be placed in the unenviable position of serving two masters who may at times have conflicting positions, this providing no resolution or clear direction for the district. Thank you very much.

Senator Sheila Roberge, D. 9: Arthur Beaudry.

Arthur Beaudry, : Madam chair, members of the committee, for the record my name is Arthur Beaudry, I represent the school board in Ward #9, I do wear couple of hats as some of you may know. I want to echo all of the comments of the prior speakers. Most importantly though Mr. Trembly's question of the referendum.

I am currently the chairman of the Manchester Contributory Retirement System. We have legislation that comes before this legislature to change RSA 218 and to be on the referendum. The actual question has to be part of the bill, which there is no referendum question on this bill. I question whether this is actually going to be a referendum or not.
It should be stated what is going to be presented before the voters of Manchester.

I understand what Representative Infiantine is trying to do but he references police and fire, they don't have elected officials that are elected by populous vote to represent their departments as the school board does. I was elected by populous vote to oversee the school board budget, oversee curriculum, athletics, finance, we have expulsion, we oversee the district as a whole, and police and fire do not have that.

If we become a department right now we have a fire station that is unfunded. It is sitting there, it is not funded. If we were part of the department and we had aldermen, they are going to have to choose now are we going to take away from the schools to fund a fire station or fund the police department.

I think being separate, we come in without budget, we are advocating for schools and the children in the City of Manchester, and the aldermen would be the advocates for the police and fire, and I think they should be left that way.

The school district has had two separate decisions, declaratory judgment 1 and 2, stated that the school district is in fact separate from the city and should have autonomy as a district and we would like to see it stay that way.

As the chairman of athletics we negotiate with the city departments to take care of our field maintenance. If we were a department, who do we negotiate with ourselves, it would be an oxymoron, really to be able to negotiate with your own department where now we do. If this bill cannot be killed which we would like to see that happen, "Inexpediate To Legislate" maybe you could have a study committee, study it, or put it into interim study. We feel that the bill is flawed as is, and definitely needs a lot more work and we would like to see it ITL'd.

Senator Sheila Roberge, D. 9: Did you come into the House Hearing?

Mr. Beaudry: No I was not available for the House-hearing senator.

Senator Sheila Roberge, D. 9: Thank you. Kathryn Staub.

Kathryn Straub President of the Manchester Collation For quality Education: My name is Kathryn Straub, and I am the President of the Manchester Collation For quality Education, we are a parent organization, an umbrella group parent organization from around the city focused on school advocacy.

I would like to address a couple of the things that were brought up earlier. The first thing is when this referendum was sent out, what was its intent. The intent was to remove control of the budget from superintendent services, and of course the superintendent is overseen by the school board. I handed out the piece of legislation, and you can see control of the budget was here under this law. (See Attachment "C")

The referendum was actually for changes to the city charter, and I have those rights here for you and italicized shows the new language. I wanted to tell you that this document was one that I put together, because the only evidence, the only way people in Manchester could have known what was on this referendum was through this legal notice. I took this legal notice, I went to

City hall, I got a copy of the city charter as it existed, and I compared the language. I was looking for new language that was added and this is actually different than the one that I made for March with the first paragraph of the school and school committee. You can see that the words have under the law in effect were stricken from the city charter. I guess that meant that they know that what they were proposing was illegal under this law over here.

I also presented the wording that was on the ballot. This information was nowhere in the polls, it was nowhere on the ballot, so you can decide whether people knew what they were voting for or not.

People have alluded to the acrimonious situation that was occurring at the time that this was placed on the ballot. The school board went to court with the city to gain control of finances because they were having difficulty getting reports under a new computer system. The second thing was at this point the Claremont decision has just come down.

Manchester receives the largest adequacy grant in the state. Last year we got 42 million dollars, which is one-third of our entire school budget. That money comes in, in two lump sums, and one of the issues that was decided by Judge Nadeau, was that this school district got control of that interest that it accrued on that money and before that it would have gone into the general fund. This is one of the things that they were fighting about.

The second thing, was when this split occurred there was a question about who should be responsible for some expenditure including benefits and leases on portable classrooms? The superintendent swore that it was the cities responsibly, and the city swore that it was the superintendent's responsibility. The judge agreed with the city, the auditor agreed with the judge, the superintendent fired the auditor, in any event it took two years for us to get an audited financial statement for that year.

Ultimately, there was that three million dollar deficit at that point, policies were passed by the school boar. The superintendent is now a different person and several key administrators are no longer working for the school district and we have eight different school board members. Also as you have heard at the end of this year only $500,000 of that deficit will remain.

I think most of the problems have resolved themselves, people were reacting to this deficit in this acrimony and most of those things have resolved themselves under the due course of how things are set up already according to state law. However, they are some people that just won't let it go.

Our alderman, in our city is responsible for appropriating about 25% of our entire school budget. The rest of the money about 2/3 rd's of it comes from the state through adequacy grants, state property tax, catastrophic aide, and building aide. We get about 12 million dollars from tuition towns, and the rest of it comes from various other revenue producers.

All of that money would be under the control of the aldermen, even though they are only responsible for appropriating 25% of it. Is it going to save money, that is one argument that's been made, and I doubt it. If you are going to add 2,000 people, currently the city has 1,300 people on the payroll and they have13 people in their Human Resources Department.

The school district currently has 2,000 people on the payroll and 4 people working in Human Resources. If you add those 2,000 people they are going to have to hire somebody to do it, and same with the finance. Every department in the city has its own finance department. They are 7 people that work for the police, 2 that work for parks and recreation; the water department has a finance department of 12. Clearly if they are going to be required to, they are going to double the amount of money that's being handled, they are going to have to deal with state reporting requirements and payroll for 2,000 additional people, they are going to hire more people.

They are probably going to be paid more if they are city employees because the city has something called Yager Décor, which kind of passes for administrative codes that are not really job descriptions, but sort of job categories, and everyone gets a 3% merit raise automatically every year. So within a few years we will be paying them double while we we're paying to work for the school district.

In the meantime, this has been very disruptive to the school department because our chief financial officer has resigned and in the search for a new one they can't find anyone because this is up in the air. We currently have a charter commission at work and depending on how they decide this person may not have a job after that occurs. The reason that there is a charter commission was because another judge ruled that because there were four amendments to the original charter it was not an amended charter. It could not be done by referendum, but it actually was a revision of the charter and therefore it had to go before a full charter commission.

Those are my comments, if any of you have any questions about any of this material I would be happy to answer them for you.

Senator Sheila Roberge, D. 9: Thank you.

Mrs. Straub: You're welcome.

Senator Sheila Roberge, D. 9: At this time we will close the hearing on House Bill 778, thank you for coming.

The hearing on House Bill 778-L, closed at 10:35 a.m.

Respectfully submitted,

Livia Acdan

Livia Acdan
Senate Public Afairs Secretary

Attachment "A"
Attachment "B"
Attachment "C"

ATTACHMENT 'A'

OFFICIAL RESULTS

City of Manchester - Non-Partisan Municipal General Election

November 6, 2001

	WARD 1	WARD 2	WARD 3	WARD 4	WARD 5	WARD 6	WARD 7	WARD 8	WARD 9	WARD 10	WARD 11	WARD 12
R												
A. Baines*	1602	1073	703	784	736	1420	872	1306	1074	1203	693	875
d H. Girard	1073	789	534	512	517	1014	661	1024	781	853	619	810
ARE COMMISSIONER												
Gonzalez	1224	869	593	535	483	1002	607	967	778	859	513	764
L. Martineau*	1310	923	582	692	760	1291	877	1277	1006	1117	750	854
RMEN AT-LARGE												
Dykstra	917	703	483	407	413	893	501	876	587	594	408	554
D. Hirschmann	788	412	201	249	213	514	298	555	415	404	324	720
el "Mike" Lopez*	1221	940	584	538	578	1092	674	1041	893	1219	712	741
P. O'Neil*	1320	988	583	752	713	1341	954	1255	1013	992	547	627
OL BOARD AT-LARGE												
rd E. Cook	1347	710	425	383	334	769	433	737	616	624	342	520
elyn Domaingue	812	546	402	345	333	729	471	1042	586	627	418	570
en Kelley*	1044	810	553	566	536	1104	644	869	724	868	534	671
J. McDonough*	1055	906	508	666	648	1092	795	1017	878	1037	589	707
TION 1												
(SCHOOL QUESTION)	1503	* 1019	641	640	656	1378	790	1390	986	961	723	906
	957	726	396	529	424	891	508	842	600	695	446	539
TION 2												
(REDISTRICTING BOUNDARIES)	1995	1419	842	935	784	1366	990	1750	1210	1237	922	1157
	429	310	190	222	274	904	297	473	369	395	229	291

* Denotes winner of race

FEB-12-2003 15:15 CITY CLERK OFFICE 6036246481 P.02

Election Result Totals

November 6, 2001

Question 1
School Question

For	11,603	60.6%
Against	7,553	39.4%
Total	19,156	

Vote for Mayor

Baines	12,321	57.3%
Girard	9,187	42.7%
Total	21,508	

CITY OF MANCHESTER
Board of Aldermen

February 18, 2003

State Representative Betsey Patten
Municipal and County Government Committee
New Hampshire House of Representatives
Legislative Office Building
Room 301
Concord, NH 03301

Representative Patten:

The undersigned Alderman of the city of Manchester hereby acknowledge, affirm and support the city of Manchester election results of ballot question 1 on November 6, 2001, which supports a charter amendment to read as follows:

"the charter of the city of Manchester, NH to provide that the city of Manchester shall constitute a single school district administered by the Board of School Committee as a department of the city of Manchester."

As you will note, the results of the November 6, 2001 constituted over 60% voter support of the proposed charter amendment.

Respectfully,

Frank C. Mark. Ward 3 WARD 9
Ed Osborne Ward 5 Ward 4
Dave Wihby WARD 1
Alderman At Large
Ward 6
Alderman Ward 12

One City Hall Plaza, Manchester, NH 03101 Phone (603) 624-6455 Fax (603) 624-6481
www.ci.manchester.nh.us

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TODD J. HATHAWAY
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Serving New Hampshire since 1899

February 21, 2003

Dr. Michael Ludwell
Manchester School District
196 Bridge Street
Manchester, NH 03104

Re: Legal Fees; Docket No. 01-E-0149

Dear Dr. Ludwell:

This letter will serve to confirm that the School District's legal fees in the case of the Manchester School District v. The City of Manchester, Docket No. 01-E-0149 from its inception (April 2001) through February 1, 2003 total $74,870.09. These fees also include the following:

1. Litigating enforcement issues from Declaratory Judgment I;

2. Negotiation of the partial settlement of the Declaratory Judgment I issues;

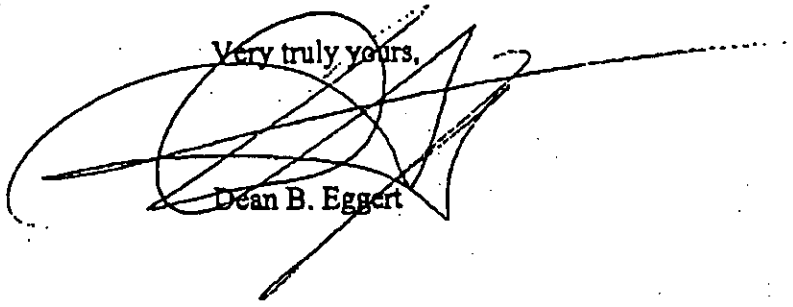
3. Negotiation between the City and District; and

4. Litigation of the proposed and subsequently adopted Charter Amendments.

The City has consistently opposed this litigation over the past three years, including the City's recent Motion to Reconsider Judge Mangones' decision in favor of the District. Therefore,

I anticipate that there will be some additional expenses associated with defending that motion.

Very truly yours,



Dean B. Eggert

/ajm

THE STATE OF NEW HAMPSHIRE
Northern District of Hillsborough County

300 Chestnut Street
Manchester, NH 03101 2490
603 669-7410

RECEIVED
OCT 25 2002
CITY SOLICITOR'S OFFICE

THOMAS I ARNOLD III ESQ
CITY SOLICITOR'S OFFICE
ONE CITY HALL PLAZA
MANCHESTER NH 03101

- 01-E-0149 City of Manchester School District, et al v. City of Manch

You are hereby notified that on October 23, 2002, the following order is entered in the above matter:

RE: MOTIONS FOR SUMMARY JUDGMENT:

(see copy of order attached hereto)

(Mangones, J.)

10/24/2002
Date

/s/ John Safford
Clerk of Court

cc: J. Dean Eggert, Esq.

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

HILLSBOROUGH, SS.
NORTHERN DISTRICT

01-E-0149

THE CITY OF MANCHESTER SCHOOL DISTRICT
AND
SCHOOL ADMINISTRATIVE UNIT #37

v.

THE CITY OF MANCHESTER

ORDER ON PARTIES' MOTIONS FOR SUMMARY JUDGMENT

The plaintiff, Manchester School District and School Administrative Unit #37 ("District"), brings a motion for summary judgment seeking to declare unlawful certain amendments to the City of Manchester's Charter ("Charter"), which have endeavored to make the District a department of the City. The defendant, the City of Manchester ("City"), objects and brings a motion for summary judgment requesting that the Court uphold the Charter amendments permitting the City to create a school department.

For the purposes of this motion, the Court finds the following facts. On May 24, 1999 the Superior Court, Nadeau, J., entered an order in the matter of City of Manchester School District and SAU #37 v. City of Manchester (No. 98-E-458) ("Order") in which the District had petitioned the Court for an order seeking determination of District's structural relationship with the City of Manchester. After a review of the powers granted to the District and the City in the Charter, and after a review of relevant State law, the Court concluded that the Manchester School District was not a municipal department of the City of Manchester. The provisions of that Order are incorporated herein by reference.

As a result of Court's determination, the City proposed an amendment to its Charter which would permit the City to create a municipal department for operation of the school district. On November 6, 2001 the voters of the City of Manchester passed an amendment to the Charter providing that the School District shall be deemed a department of the City and that the mayor and alderman may provide additional procedures for administering the budget of the school department. Both parties now seek a declaratory judgment to determine the lawfulness of the City's amendment to the Charter.

In order to prevail on summary judgment, the moving party must "show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." RSA 491:8-a, III. A fact is "material" if it affects the outcome of the litigation. Horse Pond Fish and Game Club v. Cormier, 133 N.H. 648, 653 (1990). In considering a party's motion for summary judgment, the Court examines the evidence submitted and makes all necessary

inferences from the evidence in the light most favorable to the non-moving party. Gould v. George Brox, Inc., 137 N.H. 85, 87 (1993). "The non-moving party may not rest on mere allegations or denials in [his] pleadings,...[the] response...must set forth specific facts showing that there is a genuine issue for trial." RSA 491:8-IV. "To the extent that the non-moving party either ignores or does not dispute facts set forth in the moving party's affidavits, they are deemed to be admitted for the purposes of the motion." New Hampshire Division of Human Services v. Allard, 141 N.H. 672, 674 (1997).

In support of its motion, the City argues that the amendment at issue does not countermand Superior Court's prior decision, and that City of Manchester voters were free to respond to the Court's decision by enacting a charter amendment to authorize the City to create a school department. As a result of the amendment that has been passed, the City has sought to restructure the District to operate as a department of the City. Under the proposed new organization, the School District budget would be determined and administered by the mayor. In addition, certain financial and budget management matters of the District would be under the control or supervision of the City treasurer.

The School District asserts that Court's earlier decision constitutes the current law of this case. The District submits that the City may not assume control of the District as a department under the procedures adopted by the City. Further, the District asserts that the function of the District must remain the same. All that has changed, according to the District, is the name. The Court must

determine whether either the amended Charter itself or current general law confers the power upon the City to create a department for the school.

The Court begins by examining the Court's earlier Order. The earlier Order had concluded that pursuant to the language of the City Charter and pursuant to State law, the School District is not a municipal department of the City. The Order provides that the District's specific functions characterize it as a separate entity from the City and that the District is an independent governmental entity, although the Order recognized that the District was not a fully autonomous entity.

It bears noting that, generally speaking, a school district is recognized as a body corporate and politic separate and distinct from municipality which it may serve.

> School districts, like counties and towns, are political sub-divisions of the state made for the convenient administration of the government. Like towns, they are municipal corporations. Every municipal corporation has two characteristics, at least, common to every other. First, each has a definite territory, assigned by special or general legislative act, which is its field for administrative action. Second, in order that administrative action may be more convenient, each is given a corporate identity.

Clough v. Osgood, 87 N.H. 444, 447 (1935) (citations omitted). As noted in Union School District v. District No. 20, 71 N.H. 269 (1902), addressing issues concerning school districts located within the City of Concord:

> So far as appears, and as we take the fact to be, each district has "a special, independent, and complete organization, and officers of its own having exclusive authority for the superintendence and government of its schools and the administration of all its school

> affairs," and is a distinct and separate organization and corporation, not merely as to each other, but as to the city of Concord.

Generally speaking, also, management of school district affairs is independent from management of municipal government matters.

> The members of the district school board are officials of the school district, they elect all teachers, prescribe the regulations for the management, classification and discipline of the schools and have the duty to provide, at district expense, education to all pupils residing in the district. The long and short of the matter is that the school board is the managing board of the school district.

Ashley v. Rye School District, 111 N.H. 54, 55 (1971) (citations and quotations omitted).

The amended Charter does not change the powers granted to the District regarding the functions, powers, limitations, and responsibilities of the District. Judge Nadeau's order had stated that those specific functions make the District a separate. These functions include the ability to sue and be sued, hold and dispose of real and personal property, make contracts, transfer funds among items in the school budget, elect school board members, hold separate budget hearings, resolve its own conflict of interest questions among members and administer, expend and account for funds. The new amendment does not appear to confer new powers upon the City which would change the District's status as a separate entity as determined in the earlier Order. This Court finds that the Charter amendment did not create a create a school department which is a substitute for the separate entity that is the District. The amendment, as

enacted, did not have the effect of transfering the School District's autonomy to the municipality.

Next, the Court reviews whether there are any general laws which would permit the power conferred in the amendment. The State Constitution grants the City the power to create a charter to form a government. Article 39 of the New Hampshire Constitution confers the power upon a municipality "to adopt or amend their charters or forms of government in any way which is not in conflict with general law." N.H. Const. Art, 39. The New Hampshire legislature has also enacted RSA 49-B, a narrowly tailored home rule statute which provides a procedural framework through which cities may amend certain forms of their government. New Hampshire, however, is not a municipal home rule state as that term is customary understood in municipal law. See Loughlin, 13 NEW HAMPSHIRE PRACTICE, LOCAL GOVERNMENT LAW, §§61-63.

"If possible, a statute will be interpreted with the presumption that the legislature intended to confine its action within constitutional bounds." State v. Millette, 112 N.H. 458 (1972) (citing State v. Lapointe, 81 N.H. 227 at 228 (1924). In addition, a statute must be construed as part of and in harmony with the law of which it forms a part. Id. The Court has held that Article 39 of the New Hampshire Constitution does not provide or suggest that the towns, cities or other subdivisions of this State have the right to exercise supreme legislative authority. Girard v. Allenstown, 121 N.H. 268 (1981). RSA ch. 49-B was intended to provide a statutory framework by which the cities and towns may amend their actual form of government and grants only the power necessary to

carry out such changes. Id. RSA 49-B:8 provides that the municipalities' exercise of power to amend a charter is limited to statutory provisions in which the legislature, "has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution, General Law, or Charter."

The City cites RSA 49-C:21 and RSA 198:4-b as express authority to create a school department. RSA 49-C:21, states "[t]he city shall have departments, divisions, and bureaus as may be established by the charter". RSA 198:4-b states: "Every school district by an article in the warrant, and the governing body of a city upon recommendation of the school board, when in operation of the schools is by a department of the city, may establish a contingency fund...". Further, the City refers to other municipalities that have been permitted to fully integrate their school districts as departments of the City. The City appears to read these home rule issues too broadly.

General laws limit the ability of the City to merge with the District or to be more greatly involved in the governance of the District. RSA 194-C provides that superintendent services are separate legal organizations, with distinguishable procedures, functions, and powers from the city. See RSA 194-C. RSA 194-C:1 confers authority to school administrative units by recognizing them as corporations with power to sue, be sued, to hold and dispose of real and personal property, and to make contracts.

The City refers to other municipalities which have created school departments. In each of these situations, the cities merged their school districts

by special legislative acts. See NH Law 1923 Ch. 227:2; NH Law 1889-1891 Ch. 241:4; and NH Session law 1903-105 Ch. 212. RSA 49-C:21 and RSA 198:4-b are only applicable to cities, who by a specific legislative act, have organized the District as a City department. The Court concludes that a specific legislative act must be in effect for a City to create a school department in derogation of general law on the issue.

The Court concludes that the laws of this State do not authorize the Charter amendment which has been adopted concerning the authority to the City to substantively create a school department. The City, also, may not alter the fiscal and administrative autonomy of the District in the fashion which the City has sought. The City of Manchester's motion for summary judgment [26] is denied and the City of Manchester School District's motion for summary judgment [25] is granted.

SO ORDERED.

10-23-02
Date

Philip P. Mangones
Presiding Justice

Exhibit A

Proposed amendment to the City Charter --

The proposed change would:

Amend the Charter of the City of Manchester, New Hampshire to provide that the school district shall be a department of the city and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

The text of the proposed amendment is as follows:

Article IV. School and School Committee, Section 4.01 School District shall be amended to read as follows:

> The City of Manchester, a municipal corporation, shall continue to constitute a single school district, administered by the board of school committee as a department of the City of Manchester. Wherever this charter refers to the school district, school district shall also mean school department. Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies exercised at the time of the adoption of this charter.

Article VI. Budgets and Appropriations, Section 6.03 (a) Budget Formulation, Submission and

EXHIBIT D

QUESTION 1

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE CHARTER AMENDMENT SUMMARIZED BELOW?

SUMMARY/EXPLANATION: To amend the Charter of the City of Manchester, New Hampshire to provide that the City of Manchester, a municipal corporation, shall constitute a single school district, administered by the Board of School Committee as a department of the City of Manchester and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES ○ NO ○

QUESTION 2

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE AMENDMENT OF THE CHARTER TO PROVIDE FOR THE ADJUSTMENT OF THE BOUNDARIES OF THE CITY'S 12 WARDS AS SUMMARIZED AND EXPLAINED BELOW?

SUMMARY/EXPLANATION: Section 5.33 of the City Charter describes the perimeter boundaries of the 12 wards that make up the City of Manchester. The proposed changes adjust these ward boundary lines to account for population changes identified in the 2000 census and in accordance with the principle of "one man/one vote". In addition to adjusting the ward boundaries, the proposed amendment provides that a list of all roads and streets contained in each ward shall be kept current and on file in the Office of the City Clerk. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES ○ NO ○

YOU HAVE NOW COMPLETED VOTING

N. H. Laws of 1923

CHAPTER 227.

AN ACT EMPOWERING THE CITY OF NASHUA TO INCUR DEBTS TO THE AMOUNT OF SIX PER CENT. OF ITS VALUATION.

SECTION
1. Nashua authorized to incur debts not exceeding 6% of assessed valuation; school debts.
2. City to constitute a single corporation; with powers for municipal and school purposes and all powers of a school district.
3. Prior indebtedness for school purposes ratified; city treasurer to reimburse city treasury for advances.
4. Repealing clause; takes effect on passage.

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

Nashua authorized to incur debts not exceeding 6% of assessed valuation; school debts.

SECTION 1. The city of Nashua may at any time have and incur debt for all purposes including school purposes to an amount not exceeding in the aggregate six per cent. of its last assessed valuation, *provided, however,* that in ascertaining the amount of such debt so to be compared with said six per cent., indebtedness lawfully incurred outside of said limit shall not be considered and deductions may be made as specified in chapter 129, Laws of 1917 and acts in amendment thereof and in addition thereto. So long as the aggregate net debt of said city for school purposes and all other purposes shall not exceed said limit of six per cent. the city may incur school debt in excess of the limit of two per cent. imposed upon school districts by said chapter 129, Laws of 1917.

Except as herein provided all indebtedness of said city, whether or not incurred for school purposes, shall be subject to chapter 43, Laws of 1895 as amended and to said chapter 129, Laws of 1917 and acts in amendment thereof and in addition thereto.

City to constitute a single corporation; with powers for municipal and school purposes and all powers of a school district.

SECT. 2. Said city shall constitute a single municipal corporation with powers for municipal and school purposes, including all the powers of a school district. All provisions of law or of the charter of said city affecting school districts or schools shall, so far as not inconsistent herewith, continue to apply to said city.

Prior indebtedness for school purposes ratified; city treasurer to reimburse city treasury for advances.

SECT. 3. All indebtedness of any governmental subdivision territorially coextensive with said city hitherto incurred for school purposes, in whatever form or however incurred, and all orders and votes authorizing the incurring or indebtedness or the issuance of bonds or notes or other obligations for school purposes by any such subdivision are hereby confirmed, ratified and validated. The city treasurer is hereby authorized to reimburse the city treasury for any sums advanced therefrom temporarily to pay any portion of such indebtedness pending the receipt of proceeds of school bonds or notes which may be issued within said aggregate debt limit.

Examples of Special legislative Acts - (1923)

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect upon its passage. Repealing clause; takes effect on passage.

[Approved May 4, 1923.]

CHAPTER 228.

AN ACT AUTHORIZING THE TOWN OF ALTON TO VOTE TO EXEMPT FROM LOCAL TAXES A PROPOSED DAM ON MERRYMEETING RIVER.

SECTION
1. Alton authorized to exempt from local taxation a proposed dam on Merrymeeting River.
SECTION
2. Takes effect on passage.

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

SECTION 1. That the town of Alton, by major vote of those present and voting at any annual meeting, or at any special meeting called for the purpose, may exempt from local taxes for such period as may be voted, not exceeding ten years, the dam proposed to be constructed on Merrymeeting River in Alton in the vicinity of the site of the Wentworth dam, so called. *Provided* that when said dam is used for commercial purposes, said exemption shall cease. Alton authorized to exempt from local taxation a proposed dam on Merrymeeting River.

SECT. 2. This act shall take effect upon its passage. Takes effect on passage.

[Approved May 4, 1923.]

CITY OF MANCHESTER
Office of the City Clerk

3 pages – original Charter Amendment

Leo R. Bernier
City Clerk

Carol A. Johnson
Deputy City Clerk

Paula L-Kang
Deputy Clerk
Administrative Services

Matthew Normand
Deputy Clerk
Licensing & Facilities

Patricia Piecuch
Deputy Clerk
Financial Administration

March 23, 2001

Philip McLaughlin
Attorney General
33 Capitol Street
Concord, NH 03301

Dear Mr. McLaughlin:

Please be advised that in action taken by the Board of Mayor and Aldermen, at a meeting held on March 20, 2001, it was voted to approve placing the enclosed Charter amendment question on the November 6, 2001 Municipal General Election Ballot.

Pursuant to statute, could you please review this and issue an opinion.

Sincerely,

Leo R. Bernier
City Clerk

Enclosure

To the Board of Mayor and Aldermen of the City of Manchester:

Gentlemen:

I, the undersigned, being in the minority vote of the Committee on Bills on Second Reading, respectfully recommend after due and careful consideration, that the proposed amendments to the City Charter, as enclosed herein and incorporated by reference, be placed on the ballot of the Municipal General Election to be held on November 6, 2001.

Respectfully submitted,

David Wihby Jr.

David Wihby
Alderman – Ward 1

At a meeting of the Board of Mayor and Aldermen held 3/20/2001 on a motion by Ald. Cashin duly seconded by Ald. Wihby the report of the Committee was accepted and its recommendations

(adopted) ~~(denied)~~ with caveat that the attornies from both sides be allowed to work out an agreement on financial and administrative issues amenable to the School District and EMA by 8/1/200 and if such agreement is reached, the action is intended to be rescinded.

City Clerk

Proposed amendment to the City Charter --

The proposed change would:

Amend the Charter of the City of Manchester, New Hampshire to provide that the school district shall be a department of the city and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

The text of the proposed amendment is as follows:

Article IV. School and School Committee, Section 4.01 School District shall be amended to read as follows:

> The City of Manchester, a municipal corporation, shall continue to constitute a single school district, administered by the board of school committee as a department of the City of Manchester. Wherever this charter refers to the school district, school district shall also mean school department. Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies exercised at the time of the adoption of this charter.

Article VI. Budgets and Appropriations, Section 6.03 (a) Budget Formulation, Submission and Message shall be amended to read as follows:

> The mayor shall establish the form and organization of procedures for preparation and adoption of the annual budget, including the school department budget, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

Article VI. Budget and Appropriations, Section 6.06 School District Budget shall be amended to read as follows:

> The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with the budget form, organization of procedures and schedule established by the mayor under Section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised
> budget, which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

Article VI. Budgets and Appropriations, Section 6.08 shall be amended to read as follows:

> The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget, including the budget of the school department.

1 page

ATTORNEY GENERAL

STATE OF NEW HAMPSHIRE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PHILIP T. McLAUGHLIN
ATTORNEY GENERAL

STEVEN M. HOURAN
DEPUTY ATTORNEY GENERAL

April 9, 2001

Leo R. Bernier
City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: Proposed Charter Amendment

Dear Mr. Bernier:

We have reviewed the proposed charter amendment submitted to this office on or about March 26, 2001. Based on our review of the documents submitted, including the opinions of counsel, we do not object to the proposed charter amendment pursuant to RSA 49-B:5-a, II.

If you have any questions, please feel free to contact me.

Very truly yours,

Suzanne M. Gorman
Senior Assistant Attorney General
Civil Bureau

cc: Barbara T. Reid, Assistant Commissioner
Department of Revenue Administration
William M. Gardner, Secretary of State

From: "Thomas Arnold" <TARNOLD@ci.manchester.nh.us>
To: <sgorman@doj.state.nh.us>
Date: 4/5/01 1:16PM
Subject: Opinion letter on proposed charter amendment 8 pages

I have attached this offices opinion letter regarding the proposed amendments to the City Charter. The original is coming via U.S. mail.
Please let me know if you have any questions

Thanks
Tom Arnold
624-6523

April 5, 2001

Philip T. McLaughlin, Attorney General
Office of the Attorney General
33 Capitol Street
Manchester, NH 03301-6397

Re: **Statutory review (RSA 49-B:5-a) of proposed amendment of the Manchester City Charter**

Dear Attorney General:

As you are, pursuant to RSA 49-B:5-a, presently reviewing a proposed amendment to the Manchester City Charter, please accept this letter as this office's opinion that the proposed amendment is "consistent with the general laws of this state." RSA 49-B:5-a I. As I have a copy of a letter from Dean Eggert, School District Council, to you, I will also respond to certain arguments made by Mr. Eggert.

The intent of the proposed amendment, as set forth in the proposed amendment to Charter § 4.01, is to provide that the municipal corporation is the school district with the Board of School Committee administering the District as a department of the City. The Board of Mayor and Aldermen, in proposing this amendment to the Charter, is not attempting to remove any statutory authority accorded to the Superintendent or the Board of School Committee. Rather, the Board of Mayor and Aldermen wishes to eliminate the duplication of certain administrative functions while leaving the Board of School Committee in full control of its budget.

While Mr. Eggert cites RSA 194:1 and RSA 194:2 for the proposition that the School District is a distinct legal entity, nothing in RSA Chapter 194 precludes the establishment of a single municipal corporation of which the School District is a part. Mr. Eggert also quotes Judge Nadeau's decision in City of Manchester School District v. City of Manchester 98-C-458, Hillsborough County Superior Court, Northern Judicial District, (Nadeau, P.J. May 26, 1999) ("A close inspection of the powers granted to the District and City in the 1996 Charter, and a review of sate law, supports the conclusion that the District is not a City department for several reasons.") for the proposition that the School District must exist as a separate legal entity. Judge Nadeau did not so rule. While Judge Nadeau did state that review of the Manchester City Charter and state law supported the conclusion that the School District is not a City department he did not rule that the School District must be a separate corporation. Rather as state law provides, see RSA 198:4-b ("Every School District annually by an article in the Warrant, and the governing body of a City upon recommendation of the School Board, when the operation of the schools is by a department of the city ...") a school district may be a city department.

Like wise no where in RSA chapter 194-C is it required that a school administrative unit be a separate legal entity. RSA 194-C:1 mirrors RSA 194:2 and provides that school administrative units shall be corporations chapter 194-C does not require it be a corporation separate and district from the city.

Clearly establishing one municipal corporation comprised of both the City and the School District is consistent with both RSA chapters 194 and 194-C.

Nor is having a single municipal corporation with the School District as a department inconsistent with RSA 49-C. RSA 49-C:2 provides ". . . any municipality . . . shall . . . enjoy all the rights, immunities, powers and privileges and be subject to all duties and liabilities now incumbent upon them as a municipal corporation . . . ". RSA 49-C:21 provides "The City shall have departments, divisions and bureaus as may be established by charter or as the elected body may establish by ordinance." RSA49-C:34 goes on to say, in part, "All general laws relative to the government of cities shall remain in force so far as the same can be applies consistently with the intents and purposes of this charter." RSA 49-C has no provision that is inconsistent with having a single municipal corporation with the schools being a department thereof.

Dean Eggert argues that the election of the Board of School Committee members is inconsistent with the School District being a department of the City as a department head is appointed by the Board of Mayor and Aldermen. There is no provision in the general law of the state to support Mr. Eggert's argument. To the contrary there is nothing inconsistent in having an elected department head. Many municipalities, including Manchester have elected department heads in the form of the Commissioner of Welfare while other department heads are appointed by the executive or legislative body. There are municipalities in New Hampshire with elected chiefs of police or fire chiefs. That is certainly not inconsistent with having police or fire as a department of such a municipality.

Attorney Eggert argues that the proposed charter amendment is internally inconsistent with the balance of the charter. Attorney Eggert goes on to note that "Judge Nadeau enumerated several reasons why the District is not a department of the City." While Judge Nadeau, on pages 6 and 7 of his opinion, does list a number of reasons why the school district is not a department of the City it is clear that he does so in the context of interpreting the present charter to arrive at and support his ultimate decision that the School District is not a department of the City. Clearly, the a adoption of an amendment to the city charter that explicitly provides that the municipal corporation is the school district, and that the District is operated as a city department by the Board of School Committee, would make it unnecessary to look at other provisions of the city charter, as Judge Nadeau did, in an attempt to determine whether the school district is or is not a City department. (see also Laws of the State of New Hampshire 1868, Chapter 24). Attorney Eggert also states "That Attorney General is encouraged to note that such an amendment is likely to create confusion between the District's fiscal autonomy under state law and the stated intent of the Board of Mayor and Aldermen." Attorney Eggerts statement, even if it were true, does not go to the power of the people of Manchester to provide that the School District and the City shall be a single municipal corporation with the School district being a part thereof by amending the City charter as provided for in RSA 49-B and 49-C.

The proposed charter amendment does not violate the state constitution. While Part I, Article 39 does contain the language quoted by Attorney Eggert the clear import of Part I, Article 39 is to allow a change in the charter or form of government of a particular city or town "to become effective only upon the approval of the voters of each such city

or town on a referendum". The City of Manchester has always followed this mandate, even prior to the enactment of Part I, Article 39 on November 11, 1996. In so far as Part I, Article 39 does require that "The legislature may by general law authorize cities and towns to adopt or amend their charters or forms of government in any way which is not in conflict with general law ..." the proposed amendment does not conflict with any part of the general laws as set forth above.

Even if you accept Attorney Eggerts assertion that the budget authority of the City over a School District should be narrowly construed the proposed charter amendment does not violate such a prescription.

The Manchester City Charter provides that the Board of Mayor and Aldermen set the maximum dollar amount of the School District Budget (Article VI, Sec. 606) see also City of Manchester School District v City of Manchester, Hillsborough County Superior Court, Northern Judicial District, 98-E-0458 (Nadeau, P.J. May 26, 1999) pages 13, 18. If the Board of Mayor and Aldermen is to meaningfully exercise its power to set the maximum dollar amount of the School District budget it must receive budget and expenditure information from the School District in an appropriate format so that the Board of Mayor and Aldermen may analyze school district information in a manner consistent with its budgetary process and then set a maximum dollar amount for the school department budget that will fulfill the school departments reasonable needs. The proposed amendments to Charter Section Article VI, Sec. 6.03, Article VI Sec. 6.06 and Article VI, Sec. 608 formalize the Mayor's ability to request financial information from the school district at a time and in a format that will allow the Board of Mayor and Aldermen to give it meaningful consideration as part of the Board's budget process. The

proposed charter amendments to not extend to the City authority over school district finances. The Board of Mayor and Aldermen must still appropriate the school district budget as a single line item (Manchester City Charter Article VI, Sec. 6.04 (c) (copy attached). The School District retains its exclusive authority to transfer funds among line items in the school budget (Proposed charter amendment, Article VI, Sec. 6.06).

As the New Hampshire Supreme Court observed in Franklin v Hinds, 101 N.H. 344, 345 (1958). "The degree of control to be exercised by either school board members or municipal officers must be ascertained by reference to statutory and charter provisions." The proposed amendments to the Manchester City Charter are intended to clarify the relationship between the City and the School District by providing that the City and School District shall be one municipal corporation with the School District as a department of the City administered by the Board of School Committee. As the Board of School Committee retains its fiscal and administrative authority the proposed amendments are in compliance with the general laws of the state.

Very truly your,

Thomas I. Arnold, III
Deputy City Solicitor

TIA/hms

SECTION 6.04 BUDGET ADOPTION.

(a) *Notice and hearing.* The board of mayor and aldermen shall publish a copy of the proposed budget, a notice stating the times and place where copies of the message and budget are available for inspection by the public, and the time and place for a public hearing on the mayor's budget as submitted, at least one week in advance of the public hearing.

(b) *Amendment before adoption.* After the public hearing, the board of mayor and aldermen may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and provided that no consolidation of city departments shall be accomplished solely in the budget process without separate and specific additional action by the board of mayor and aldermen. If amendments are made to the budget submitted by the mayor, a second public hearing may be held providing public comment on the changes made, prior to the final adoption of the budget.

(c) *Adoption.* The board of mayor and aldermen shall adopt the budget on or before the second Tuesday in June of the fiscal year currently ending. Such adoption shall include such appropriation and revenue ordinances as shall be required to fund the budget adopted. The power of the mayor to veto acts of the board shall apply to the entire budget or any line item thereof stating the specific reasons for the objection and the proposed alternatives to the item vetoed, subject to the power of the board of aldermen to override. In the event of the exercise of a line item veto all portions of the budget not so vetoed shall be passed. (As used herein "line item" shall mean any object of expenditure listed in the budget.) The school department budget shall constitute a single line item. Action by the board of aldermen on any veto shall be completed by June 30. The final adoption of the budget shall require, subject to the veto powers of the mayor, the vote of eight members of the board of aldermen.

(d) If the board of mayor and aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided herein, the budget as originally submitted by the mayor shall become the budget.

The Edito

Editorials

School budget shuffle

Put Manchester's school budget where it belongs

FRESHMAN state Rep. Will Infantine of Manchester wants to put the Manchester school budget where it belongs: under the direction of city aldermen. Of course, the Manchester school board is opposed, and continues to insult the voters and the taxpayers with its opposition.

Infantine has said he will introduce a bill in the Legislature that will give aldermen control of school finances. Infantine is getting off to a good start in the House by making this his first public issue. Not only is it a good idea, but it has the strong backing of Manchester residents, who voted last year to give aldermen control of school budgets.

The voters' wishes were rebuffed by the school board, which challenged the results of the referendum in court and won. School Board Chairman Leslie Stewart insulted voters with her comment in Friday's Union Leader, in which she said, "I have to wonder if the voters did really understand the ballot question." That's right, you're all too dense to understand, and you should leave these complex school funding issues to the school board, which has spent itself into a deficit out of which it is still climbing.

Stewart also said school finances should be left under the school board's control because, "We've shown as a board and a district, at least these past couple of years, we're absolutely responsible in handling our funds."

Yeah, because the board is operating under the terms of a legal settlement that requires it to be fiscally responsible. Before that, the board ran up a deficit of more than $3 million.

School finances belong under the direction of the aldermen. Rep.-elect Infantine's bill would put them there if it passes, and we hope it does.

Unfunded mandates

They go far beyond No Child Left Behind

SCHOOL administrators in New Hampshire are angry at the federal government. They say

tricts will have to comply with the No Child Left Behind Act. School administrators estimate it will cost school districts an additional $575

Tiny

envelo

THE TREE IS UP,
battle of the lights ra
Big, colored ones ("th
my used to have") ha
over the tiny white va
year in a row. But aft
blown fuses (I swear
Chinese are going to
try, through cheapo
ones retreated, leavi
the only alternative.

Not that it matters.
lain family members
enough lights on the
you could see a whol
one of our trees.

The cards have bee
dressed. Now if they
will mail them before
had them almost all
last week, waxing se
radio played carols a
of "Let It Snow."

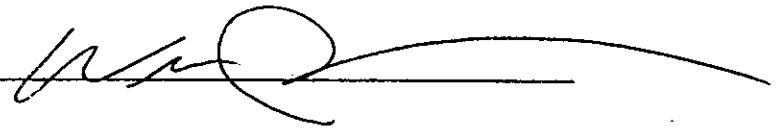
Writing cards, espe
from long ago or far a
little joys of the seas
what he was dreamin
wrote, "with every C
write."

But Irving forgot t
had I finished my wo
cards on the kitchen
Claus decided it was

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Representative(Print) WILLIAM INFANTINE

District 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Rep Sandra Reeves

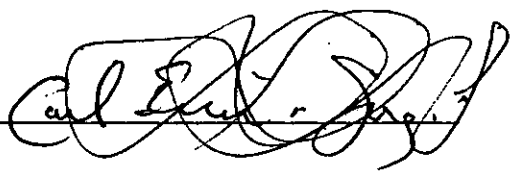
Representative(Print) SANDRA REEVES

District 4/9

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Representative(Print) CARLOS GONZALEZ

District 49

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Steve Vaillancourt

Representative(Print) STEVE VAILLANCOURT

District 56

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

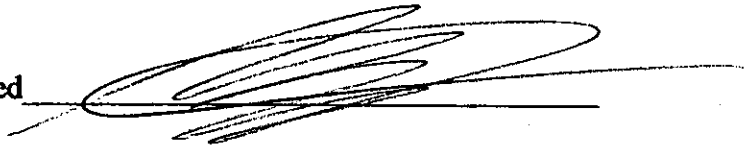
Representative(Print) William Beaton

District 49

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

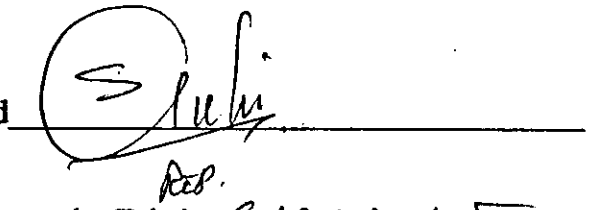
Representative(Print) Gary Greenberg

District 50 WARD - 2-3-10-11

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Rep.

Representative(Print) SAGHIR A. TAHIR

District 50, HILLSBOROUGH COUNTY

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed J. Gail Barry

Representative(Print) J. Gail Barry

District 15

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Vivian J Desmarais

Representative(Print) VIVIAN J DESMARAIS

District 53

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

Representative(Print) Leo O Repiro

District 5

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

Representative(Print) BERNARD LWEBKERT

District 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Maurice L. Pilotte

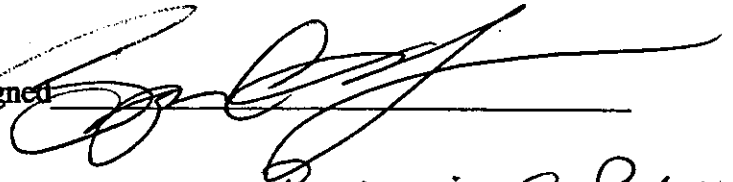
Representative(Print) MAURICE L. PILOTTE

District 55

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Representative(Print) Benjamin C. Baroody

District Hills 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Paul A Brassard

Representative(Print) Paul A. Brassard

District 50

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Francis B Sullivan

Representative(Print) Francis Sullivan

District 52

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Eric R Palangas

Representative(Print) Eric Palangas

District 32

ATTACHMENT 'B'

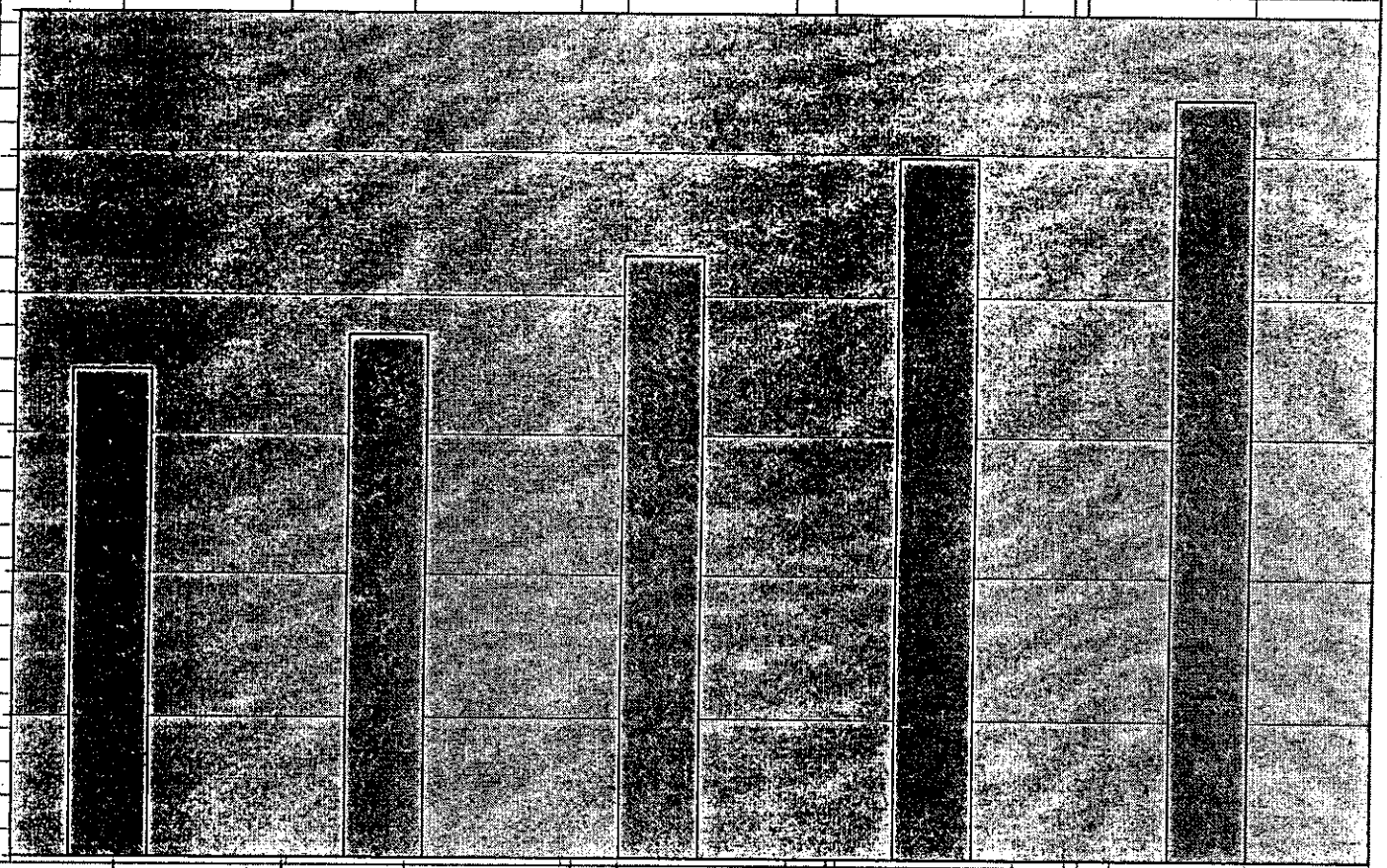
2002-03 Manchester School Board Goals:

1) **Implement citywide school renovation and additions projects**

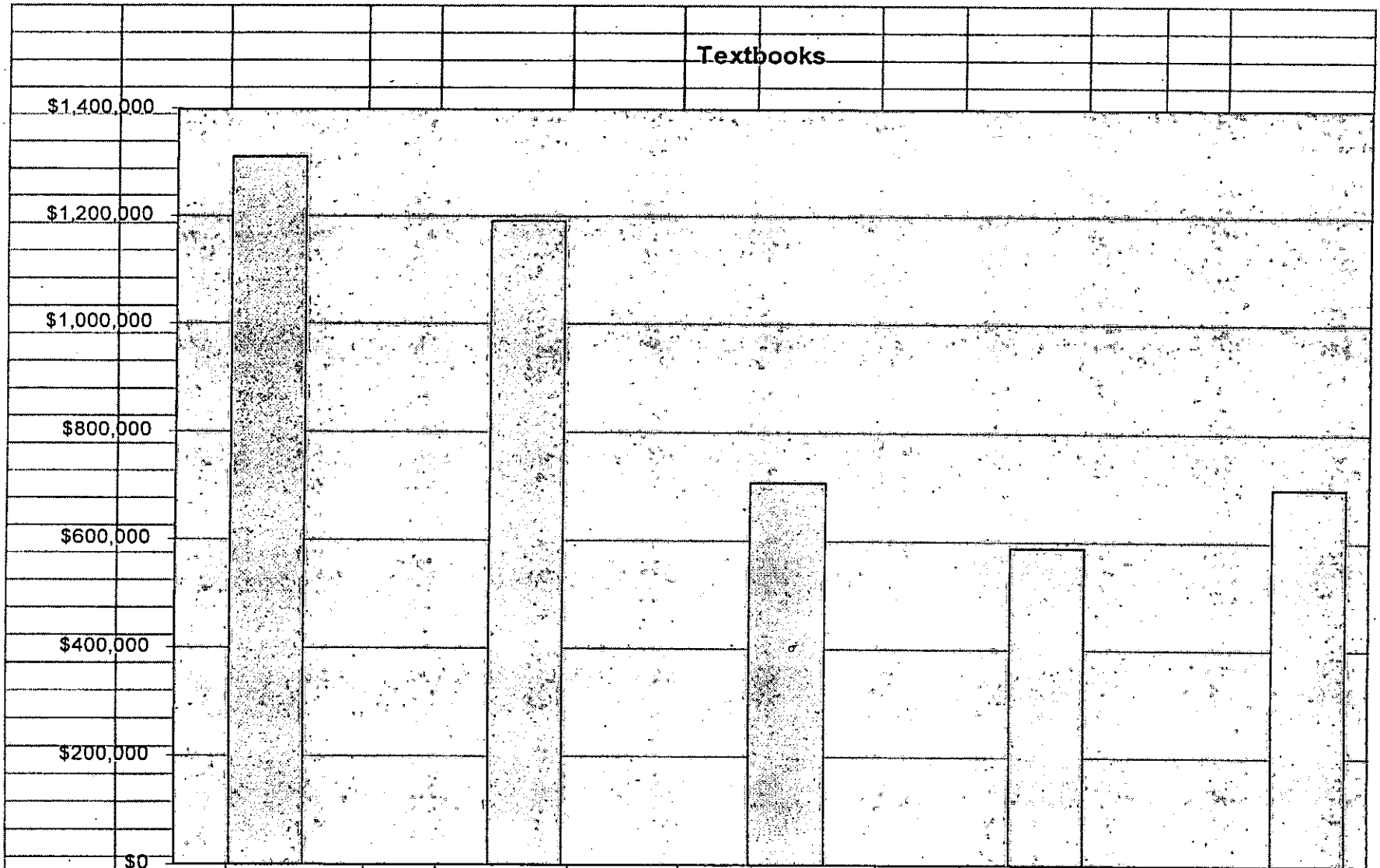
2) **Improve student performance, including test scores, to address No Child Left Behind requirements**

3) **Adopt alternative education programs to reduce the dropout rate**

Special Education Costs in General Fund (Local Funding)

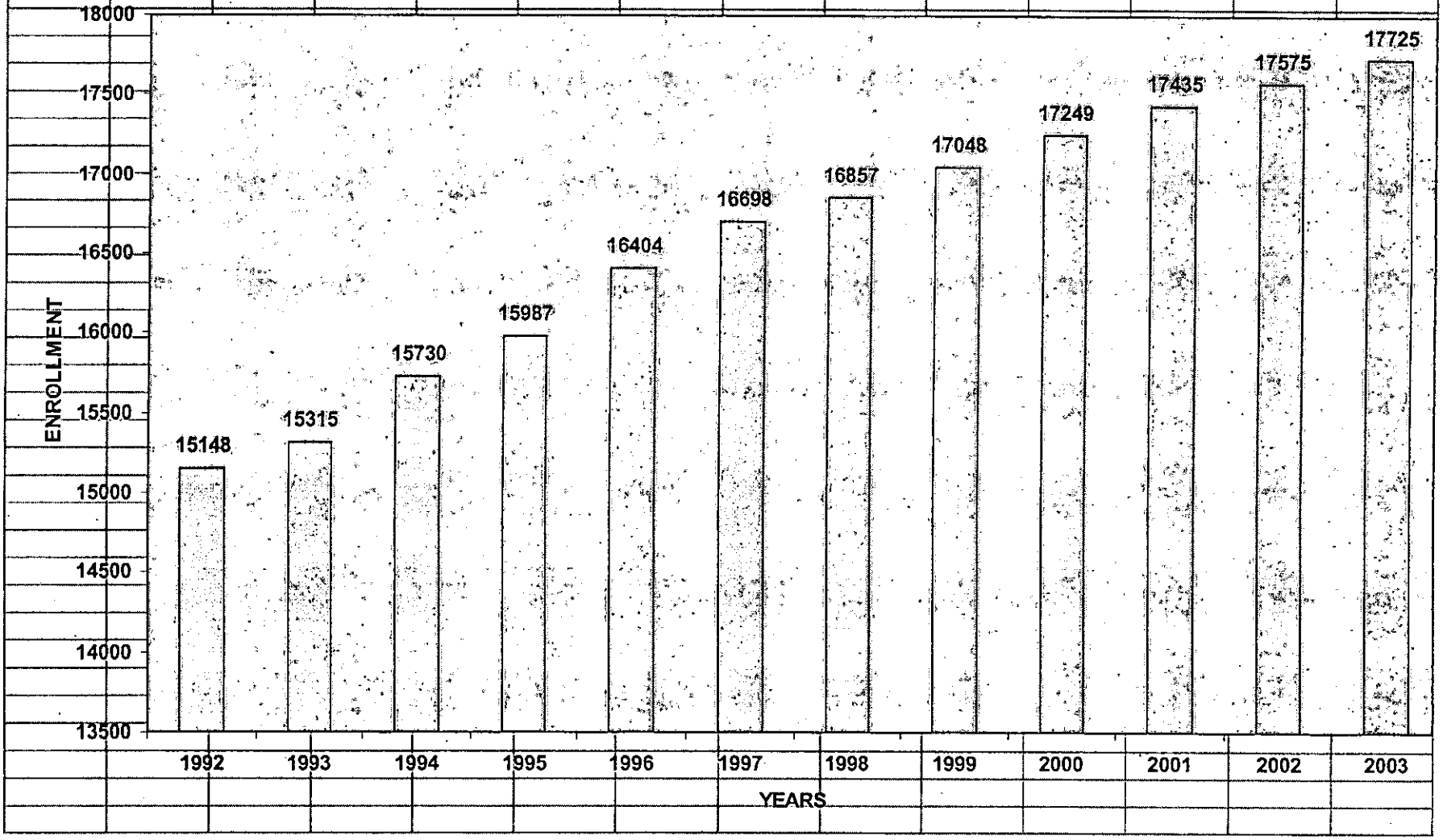


	FY00 Actual	FY01 Actual	FY02 Actual	FY03 Projected	FY04 Projected
Total Special Ed in General Fund (Local Funding)	$17,315,083	$18,541,604	$21,372,277	$24,901,506	$27,018,134
% of Special Ed to Total Gen'l Fund	17.07%	17.96%	19.16%	20.55%	21.03%

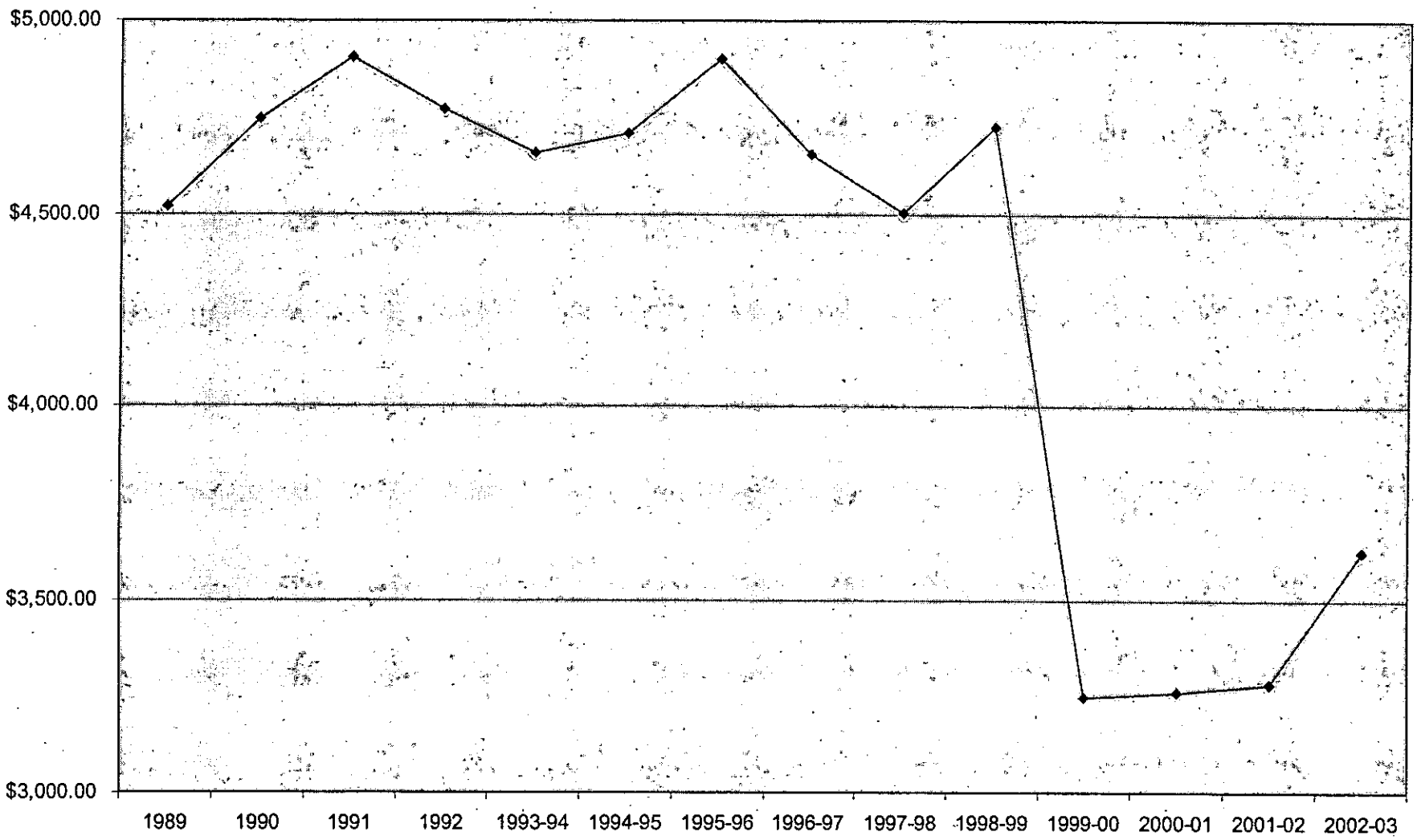


	FY00 Actual	FY01 Actual	FY02 Actual	FY03 Projected	FY04 Budget
Total	$1,309,970	$1,189,340	$706,507	$586,700	$700,000
% Increase		-9.21%	-40.60%	-16.96%	19.31.%

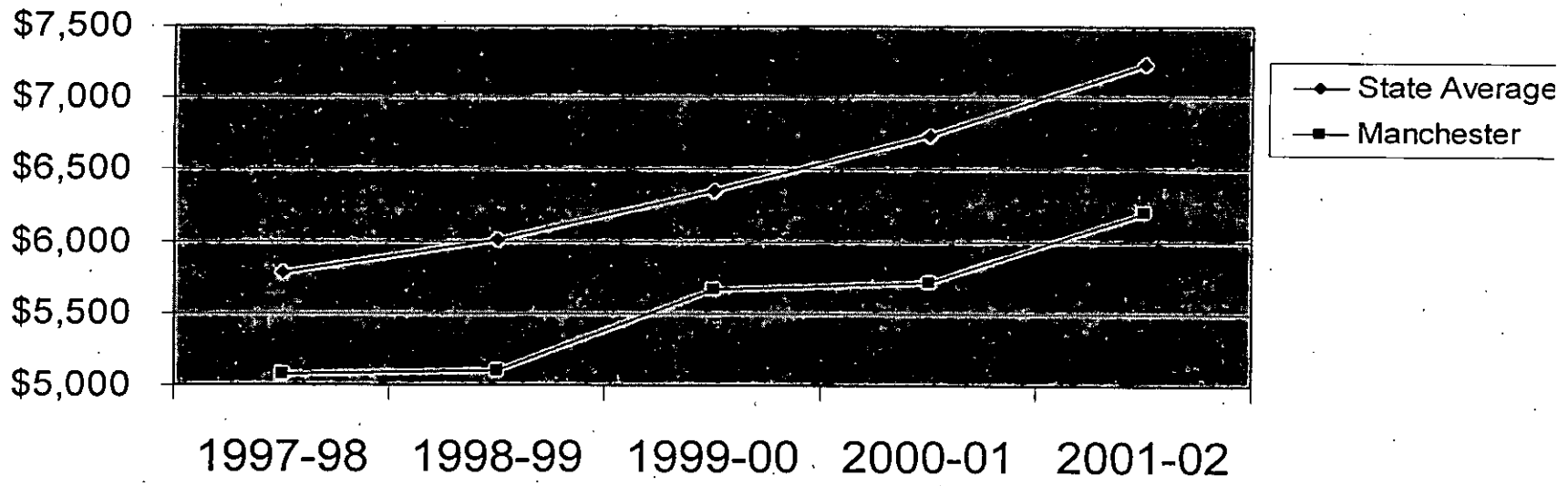
HISTORICAL ENROLLMENT 1992-2003



Manchester Property Taxpayers Payment per Student (2002 Dollars)

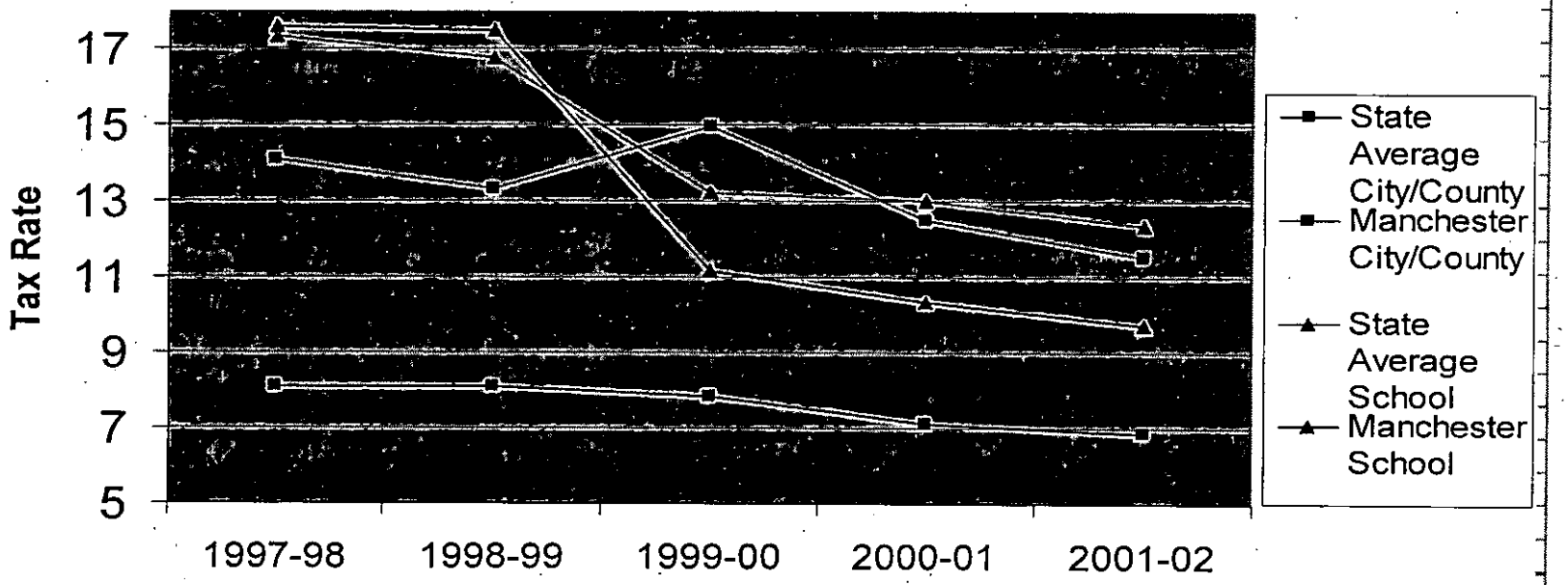


Total School Operating Cost Per Pupil



State Average	$5,781	$6,009	$6,357	$6,738	$7,233		
Manchester	$5,071	$5,098	$5,665	$5,715	$6,202		
Difference	$710	$911	$692	1,023	$1,031		
Rank from Bottom (districts with high schools)	8|74	6|74	10|74	4|74	5|75		

Municipal and School Equalized Tax Rates



State Average City/County	8.09	8.1	7.83	7.13	6.84		
Manchester City/County	14.08	13.34	14.98	12.50	11.51		
State Average School	17.32	16.77	13.21	13.00	12.37		
Manchester School	17.59	17.51	11.15	10.32	9.71		

ATTACHMENT 'C'

TITLE XV
EDUCATION

CHAPTER 194-C
SCHOOL ADMINISTRATIVE UNITS

Section 194-C:4

194-C:4 Superintendent Services. – Each school administrative unit or single school district shall provide the following superintendent services:

I. An educational mission which indicates how the interests of pupils will be served under the administrative structure.

II. Governance and organizational structure and delivery of administrative services including, but not limited to:

(a) Payroll, cash flow, bills, records and files, accounts, reporting requirements, funds management, audits, and coordination with the treasurer, and advisory boards on policies necessary for compliance with all state and federal laws regarding purchasing.

(b) Recruitment, supervision and evaluation of staff; labor contract negotiation support and the processing of grievances; arrangement for mediation, fact finding or arbitration; and management of all employee benefits and procedural requirements.

(c) Development, review and evaluation of curriculum, coordination of the implementation of various curricula, provisions of staff training and staff development, and development and recommendation of policies necessary for compliance relating to curriculum and instruction.

(d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, home education, minimum standards, student records, sexual harassment, and other matters as may from time to time occur.

(e) Pupil achievement assessment through grading and state and national assessment procedures and the methods of assessment to be used.

(f) The on-going assessment of district needs relating to student population, program facilities and regulations.

(g) Writing, receiving, disbursement, and the meeting of compliance requirements.

(h) Insurance, hearings, litigation, and court issues.

(i) School board operations and the relationship between the board and the district administration.

(j) The daily administration and provision of educational services to students at the school facility including, but not limited to, fiscal affairs; staff, student, parent, safety and building issues; and for dealing with citizens at large.

(k) Assignment, usage, and maintenance of administrative and school facilities.

(l) Designation of number, grade or age levels and, as applicable, other information about students to be served.

(m) Pupil governance and discipline, including age-appropriate due process procedures.

(n) Administrative staffing.

(o) Pupil transportation.

(p) Annual budget, inclusive of all sources of funding.

(q) School calendar arrangements and the number and duration of days pupils are to be served pursuant to RSA 189:1.

(r) Identification of consultants to be used for various services.

Source. 1996, 298:3, eff. Aug. 9, 1996.

Public Hearing, March 14, 6:00PM, City Hall

Proposed Changes to the City Charter

The proposed new language appears in italics.

Article IV, Sec.4.01 School and School Committee

The City of Manchester, a municipal corporation, shall continue to constitute a single school district, *administered by the board of school committee as a department of the city of Manchester. Wherever this charter refers to the school district, school district shall also mean school department.* Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies *exercised*(replaces "**have under the law in effect**") at the time of the adoption of this charter.

Article VI, sec. 6.03 Budgets and Appropriations, Budget Formulation

The mayor shall establish the form and organization of procedures for the preparation and adoption of the annual budget, *including the school department budget,* the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

Article VI, sec.6.06, Budget and Appropriations, School District Budget

The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with *the budget form, organization of procedures and* schedule established by the mayor under section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised budget, which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

Article VI, section 6.08 Budgets and Appropriations

The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget, *including the budget of the school department.*

TITLE XV
EDUCATION

CHAPTER 194-C
SCHOOL ADMINISTRATIVE UNITS

Section 194-C:4

194-C:4 Superintendent Services. – Each school administrative unit or single school district shall provide the following superintendent services:

I. An educational mission which indicates how the interests of pupils will be served under the administrative structure.

II. Governance and organizational structure and delivery of administrative services including, but not limited to:

(a) Payroll, cash flow, bills, records and files, accounts, reporting requirements, funds management, audits, and coordination with the treasurer, and advisory boards on policies necessary for compliance with all state and federal laws regarding purchasing.

(b) Recruitment, supervision and evaluation of staff; labor contract negotiation support and the processing of grievances; arrangement for mediation, fact finding or arbitration; and management of all employee benefits and procedural requirements.

(c) Development, review and evaluation of curriculum, coordination of the implementation of various curricula, provisions of staff training and staff development, and development and recommendation of policies necessary for compliance relating to curriculum and instruction.

(d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, home education, minimum standards, student records, sexual harassment, and other matters as may from time to time occur.

(e) Pupil achievement assessment through grading and state and national assessment procedures and the methods of assessment to be used.

(f) The on-going assessment of district needs relating to student population, program facilities and regulations.

(g) Writing, receiving, disbursement, and the meeting of compliance requirements.

(h) Insurance, hearings, litigation, and court issues.

(i) School board operations and the relationship between the board and the district administration.

(j) The daily administration and provision of educational services to students at the school facility including, but not limited to, fiscal affairs; staff, student, parent, safety and building issues; and for dealing with citizens at large.

(k) Assignment, usage, and maintenance of administrative and school facilities.

(l) Designation of number, grade or age levels and, as applicable, other information about students to be served.

(m) Pupil governance and discipline, including age-appropriate due process procedures.

(n) Administrative staffing.

(o) Pupil transportation.

(p) Annual budget, inclusive of all sources of funding.

(q) School calendar arrangements and the number and duration of days pupils are to be served pursuant to RSA 189:1.

(r) Identification of consultants to be used for various services.

Source. 1996, 298:3, eff. Aug. 9, 1996.

Public Hearing, March 14, 6:00PM, City Hall

Proposed Changes to the City Charter

The proposed new language appears in italics.

Article IV, Sec.4.01 School and School Committee

The City of Manchester, a municipal corporation, shall continue to constitute a single school district, *administered by the board of school committee as a department of the city of Manchester. Wherever this charter refers to the school district, school district shall also mean school department.* Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies *exercised(* replaces **"have under the law in effect")** at the time of the adoption of this charter.

Article VI, sec. 6.03 Budgets and Appropriations, Budget Formulation

The mayor shall establish the form and organization of procedures for the preparation and adoption of the annual budget, *including the school department budget*, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

Article VI, sec.6.06, Budget and Appropriations, School District Budget

The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with *the budget form, organization of procedures and* schedule established by the mayor under section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised budget, which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

Article VI, section 6.08 Budgets and Appropriations

The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget, *including the budget of the school department.*

QUESTION 1

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE CHARTER AMENDMENT SUMMARIZED BELOW?

SUMMARY/EXPLANATION: To amend the Charter of the City of Manchester, New Hampshire to provide that the City of Manchester, a municipal corporation, shall constitute a single school district, administered by the Board of School Committee as a department of the City of Manchester and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES ● NO

QUESTION 2

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE AMENDMENT OF THE CHARTER TO PROVIDE FOR THE ADJUSTMENT OF THE BOUNDARIES OF THE CITY'S 12 WARDS AS SUMMARIZED AND EXPLAINED BELOW?

SUMMARY/EXPLANATION: Section 5.33 of the City Charter describes the perimeter boundaries of the 12 wards that make up the City of Manchester. The proposed changes adjust these ward boundary lines to account for population changes identified in the 2000 census and in accordance with the principle of "one man/one vote". In addition to adjusting the ward boundaries, the proposed amendment provides that a list of all roads and streets contained in each ward shall be kept current and on file in the Office of the City Clerk. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES NO

YOU HAVE NOW COMPLETED VOTING

Speakers

SENATE PUBLIC AFFAIRS COMMITTEE

Date: 04/16/03 Time: 9:30 a.m. Public Hearing on 105-A **Bill# HB 778-L**

relative to the city of Manchester school district..

Please check box(es) that apply.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☑	☐	☐	Rep Will Infantine	Bill Sponsor
☒	☐	☒	Rick Trombly	NEA-NH
☑	☐	☑	Leslie Stewart	Manchester Schools
☒	☐	☒	Tom Donovan	Ward 3 Manchester Schools
☑	☐	☒	Michael Ludwell	Manchester Schools
☑	☐	☒	Arthur T- Beaudry	ward 9 manchester School board
☑	☐	☑	Kathryn Staub	MCQE
☑	☒	☐	Betsey Patten	Carroll, 7
☐	☐	☐		
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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: May 15, 2003

THE COMMITTEE ON Public Affairs

to which was referred House Bill 778-L

AN ACT relative to the city of Manchester school district.

VOTE: 4-0

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

Senator Chuck Morse
For the Committee

HB778 Docket

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Bill Title: relative to the city of Manchester school district.

Date	Body	Description
1/30/2003	H	Introduced and ref to Mun & Cnty Govt; HJ 12, p209
2/11/2003	H	Hearing Mar 3 10:00 RM301,LOB
3/20/2003	H	Maj Report OTP/AM for Mar 26 (Vote 11-3;Reg)
3/20/2003	H	Prop Comm Am{0752}; HC26, p754-755
3/26/2003	H	Comm Am{0752}, AL VV; Rep Patten Fl Am{0969}, AA VV; Passed with Am VV; HJ30, p969-970 + 1000
4/3/2003	S	Introduced and Ref. to Public Affairs; SJ 11, Pg. 270
4/11/2003	S	Hearing; April 16, 2003, Room 105-A, SH, 9:30 a.m.; SC18
5/16/2003	S	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	S	Ought to Pass, MA, VV; OT3rdg; SJ 17, Pg.473
5/22/2003	S	Passed by 3rd Reading Resolution; SJ 17, Pg.479-480
5/29/2003	S	Enrolled;
6/5/2003	H	Enrolled; HJ 47, p1495
6/12/2003	H	Signed by the Governor on 6/12/2003 Eff: 6/12/2003 Chap: 01302

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Docket Abbreviations