Administration & Supervision Program
Department of Education
University of New Hampshire

Policy Brief #12-01
January 2012

HB 542 and Parental Control: "Shredding" the Public School Curriculum

Todd A. DeMitchell
Professor of Education Law & Policy, Department of Education
Lamberton Professor, Justice Studies Program
University of New Hampshire

Joseph Onosko
Associate Professor of Social Studies Education
Director of Field Experiences
University of New Hampshire

DEPARTMENT OF EDUCATION

at the University of New Hampshire

engaged scholarship

Professional Graduate Study at a
Research University with
Recognized Scholars and Practitioners

www.unh.edu/education

HB 542 and Parental Control: "Shredding" the Public School Curriculum[1]

> If we are to eliminate everything that is objectionable to any [person] or is inconsistent with any of their doctrines, we will leave the public schools in shreds. Nothing but educational confusion and a discrediting of the public school system can result from subjecting it to constant law suits.
>
> *McCollum v. Board of Education* (Jackson, J., concurring)[2]
>
> (United States Supreme Court)

On January 4, 2012, the New Hampshire House of Representatives on a vote of 255-112 and the Senate on a vote of 17-5 were successful in overriding Governor John Lynch's (D) veto of HB 542[3] (full text of the bill is appended below). This veto override took effect immediately and (a) allows parents to file an objection to any course material, (b) requires a school district to devise an alternative acceptable to the parent, and (c) the alternative must enable the child to still meet state requirements for education in the particular subject area of the objection.

The parental objection to course materials can be based on religious, philosophical, pedagogical or other reasons (or, possibly, no reasons at all) since there is

---

[1] The views expressed in this policy brief are solely those of the authors and do not necessarily reflect the views of the Administration & Supervision Program, the Department of Education, or the University of New Hampshire.

[2] 333 U.S. 203, 235 (1948).

[3] The legislative history of HB 542 is available at http://gencourt.state.nh.us/bill_status/bill_docket.aspx?lsr=828&sy=2011&sortoption=&txtsessionyear=2011&txtbillnumber=hb542&q=1.

no definition as to what constitutes the basis for an objection. In other words, the objection does not have to be grounded in a deeply held belief or the unique developmental needs of the child: any objection will do and, possibly without having to justify it. In addition, the legislation does not specify how any disagreement between the parent and the school is to be resolved. Similarly, there is no specification as to what curriculum or what instructional practice is to be used with the child between the time of the objection and the time at which the parent and school reach agreement. There is no provision informing districts what to do during the agreement process; are students to be removed from the curriculum and associated instruction or is the teacher to continue to deliver the community's agreed upon curriculum? Furthermore, can other parents object to the alternative plan if it has any impact on their child, thus perpetuating a cycle of objections following objections? The legislation further requires parents to pay for the costs of the alternative educational experience. And finally, parents are shielded from any public disclosure of their names.

We believe that Governor Lynch got it right[4] in vetoing state Representative J.R. Hoell's (R-Dunbarton) HB 542 and that the House of Representatives and the Senate got it terribly wrong.

This policy brief is organized into three sections. First, it will explore the tension between parents' requirements for the education of their child and the need for public schools to provide an education for all student-citizens in the school district.

---

[4] Press Release, *Governor Lynch's Veto Message Regarding HB 542*, OFFICE OF THE GOVERNOR (July 13, 2011) (writing "I am vetoing this legislation because it does not clearly define what material would be objectionable; it would be disruptive to classrooms and other students; and it would be difficult for school districts to administer.) *Id.* at 1. Available at http://www.governor.nh.gov/media/news/2011/071311-hb542.htm.

Representative Hoell wrote in a blog for *NH Parents First*, “A parent’s right to control the education of his/her child is guaranteed by the Constitution and the NH Republican Party platform as well.”[5] This section will analyze Representative Hoell’s claim about the parents’ right to direct the education of their children, the asserted legal underpinning for HB 542. Second, the challenges of implementing this legislation are explored. Third, we will close with additional thoughts on why the Governor’s veto should have been sustained and we will offer suggestions to the hundreds of New Hampshire schools now scrambling to develop policies that satisfy all of the mandates of HB 542.

> While parents may have a fundamental right to decide whether to send their child to a public school, they do not have a fundamental right generally to direct how a public school teaches their child.
>
> *Derry v. Marion Community Schools*[6]
>
> (Federal District Court)

I. The Conflict Between Parents and Public Schools: Curriculum on Demand

Educating youth is of prime importance to both parents and the state. There is a tension between the parental right to make decisions about their child’s life and the public school’s responsibility to serve the interests of all the children and the community at large.

---

[5] Rep. J R Hoell (Dunbarton), *HB 542 Ends Discrimination in Public Schools*, NH PARENTS FIRST (Wednesday, Apr. 13, 2011).

[6] 790 F.Supp.2d 839, 850 (N.D. Ind. 2008).

For the state, education is perhaps its most important function.[7] Given this tension it is of no surprise that our nation's state and federal courts have offered clarification.

A federal district court in New York summed the tension in the following way, "our nation has enjoyed a long history of encouraging families to take responsibility for the instruction of their own children, while at the same time, making school attendance compulsory and granting control of the curriculum to state and local officials."[8] Parents' interests represent the private benefit of education and the state's interests represent the public good of education. Both have legitimate spheres of influence over the education of a child: education confers both a private benefit and it is a public good. How have the courts balanced these sometimes-competing interests?

Pierce v. Society of Sisters[9] is the case most often cited by advocates for expanding the right of parents to compel the public school to educate their child in the manner they believe is best. In *Pierce*, the United States Supreme Court struck down the Compulsory Education Act of 1922, which required all of Oregon's children to only attend public schools starting in 1926. The referendum campaign was organized and promoted primarily by the Ku Klux Klan and the Oregon Scottish Rite Masons.[10] The

---

[7] *See* Brown v. Board of Education, 347 U.S. 484, 491 (1954) ("Today, education is perhaps the most important function of state and local governments . . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education.").

[8] Immediato by Immediato v. Rye Neck School District, 873 F.Supp. 846, 849 (S.D.N.Y. 1995).

[9] 268 U.S. 510 (1925).

[10] MARK G. YUDOF, DAVID KIRP, & BETSY LEVIN, EDUCATIONAL POLICY AND THE LAW (3d ed.) (1992).

strategy was to "Americanize" the schools in response to a wave of immigration. One Klansman succinctly stated the underlying rationale for the referendum: "Somehow these mongrel hordes must be Americanized; failing that, deportation is the only remedy."[11] The referendum narrowly carried. Thus, private education in Oregon would cease to exist as an alternative for parents with the implementation of the referendum.

The High Court acknowledged the broad authority of the state to reasonably "regulate all schools".[12] Although the Supreme Court afforded the state extensive teaching powers in the role of educator, that right to educate youth is not without limits. Writing for the Supreme Court, Justice McReynolds enunciated an often quoted statement: "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."[13] The Supreme Court found that the Compulsory Education Act of 1922 "unreasonably interferes with the liberty of parents and guardians to direct the upbringing of their children under their control,"[14] however the Court did not hold that the parental right prevails over the power of the state to establish and direct its public schools. The issue in *Pierce* had nothing to do with parental rights to modify or direct the public school curriculum, rather the issue was whether Oregon could take away the right of parents to choose between educating their children in a private school or in a public

[11] *Id*. at 13.

[12] Pierce, 268 U.S. at 534.

[13] *Id.* at 535.

[14] *Id.* at 534-5.

school. The Supreme Court ruled that parents could choose between educating their children in private or public schools.

The Supreme Court did not give parents the right or authority to control the curriculum that their child would receive in a public school, nor did it allow parents to decide not to educate their child. In short, compulsory education and the authority to determine the curriculum were clearly left to the state. The United States Supreme Court merely resolved the issue of whether it is reasonable for the state to compel a student to only attend a public school. The High Court found that parents have the liberty to choose whether to educate their child at a public school or a private school--such as ones maintained by the Society of Sisters and the Hill Military Academy (the plaintiffs). The decision did not exempt parents from reasonable regulations that communities might develop for the public schools.

The position that parents have no constitutional right to dictate the curriculum in public schools has been supported by court decisions in New Hampshire, the First Circuit Court of Appeals, and in state and federal courts throughout the nation.[15] For example, in

---

[15] *See, e.g.*, Swanson v. Guthrie Independent School District, No. I-L, 942 F.Supp. 511, 515 (W.D. Okl. 1996) ("Plaintiffs right to direct Annie's education is not absolute, nothing in the Constitution, federal or state, grants [parents] the right to control public education on an individual basis."); Blau v. Fort Thomas Pub. Sch. Dist., 401 F.3d 381, 395-96 (6th Cir. 2005) ("While parents may have a fundamental right to decide *whether* to send their child to a public school, they do not have a fundamental right generally to direct *how* a public school teaches their child.") (emphasis in original); Leebaert v. Harrington, 332 F.3d 134, 142 (2d Cir. 2003) (The right of parents to control the upbringing and education of one's child does not include "the right to tell the public schools what to teach or what not to teach him or her."); Byars v. City of Waterbury, 795 A.2d 630, 645 (Conn. Super. 2001) (writing parents have never been entitled to "suspend all rules imposed by social institutions if those rules are at odds with the parents' preferences.")..

Davis v. Page[16] the federal district court for New Hampshire resolved a case arising in the Jaffrey-Rindge School District holding that the plaintiff parents could not compel the school to excuse their children from participating in lessons in which audio-visual aids were used in the instruction even though the parents objected to their use on religious grounds. The parents also wanted their children exempted from participating in music and health classes. The District Court stated that the State has an interest in maintaining and sustaining a coherent curriculum and that the "responsibility for the adoption of the school curriculum is statutorily vested in the School Board."[17] Parents can voice objections to their school board but final decisions about the curriculum and related instructional strategies reside with the school board, the court held. "Despite parental objections, courts have been unwilling to make patchwork exceptions to the School Board's curriculum."[18]

The ability of parents to direct the upbringing of their children by controlling the public school curriculum and related instruction was addressed in a First Circuit Court of Appeals decision. Because of the doctrine of *stare decisis* New Hampshire is bound by decisions made by the First Circuit Court of Appeals. The case involved parents' allegation that their right to direct the upbringing of their child was abridged because the school mandated attendance at a school-wide AIDS awareness program. The court concluded in the section on parental rights:

If all parents had a fundamental constitutional right to dictate individually

---

[16] 385 F.Supp. 395 (D.N.H. 1974).

[17] *Id.* at 405.

[18] *Id.*

> what the schools teach their children, the schools would be forced to cater a curriculum for each student whose parents had genuine moral disagreements with the school's choice of subject matter. We cannot see that the Constitution imposes such a burden on state educational systems, and accordingly find that the rights of parents as described in *Meyer* and *Pierce* do not encompass a broad-based right to restrict the flow of information in the public schools.[19]

In other words, parents do not have a constitutionally based right to direct the elements of the curriculum and related instructional activities to suit their individual needs, desires, or interests.

The foregoing analysis demonstrates that the courts have consistently ruled that the power to determine the curriculum of the public school rests with the community's elected school board. Parents who bring lawsuits to the courts claiming they have the right to dictate the content of the curriculum and/or the instruction typically lose. Representative Hoell's assertion that parents have a constitutional right to control the curriculum of the public school for the benefit of their child is not supported by the weight of court decisions. The parental right and duty discussed in *Pierce* is not an expansive right; it is restricted to the choice of where to have their child educated and is not a right to dictate what shall be taught and in what manner it will be taught. This does not leave parents out of the equation. They can and should work with the educators in their public schools. They just cannot dictate the outcome of the collaboration.

---

[19] Brown v. Hot, Sexy and Safer Productions, Inc., 68 F.3d 525, 534 (1st Cir. 1995) (citations omitted) *cert. denied*, 516 U.S. 1159 (1996).

To allow students and parents to pick and choose which courses they want to attend would create a stratified school structure, where division and derision would flourish.

Davis v. Page[20]

(Federal District Court)

II. IMPLEMENTING HB 542

Beyond the major legal obstacle discussed above, implementation of HB 542 is another problematic hurdle. While the statute may appeal to the value of choice[21] in education, the devil is in the details of how to make it work. Until the law is struck down by the courts (or amended by the New Hampshire Legislature), New Hampshire schools must implement HB 542 immediately and face the challenges of its mandates.

The following short discussion raises some additional concerns about whether HB 542 is a sound public policy or is just "good" politics. Is it clear or is it vague? Is it workable in schools with hundreds of parents who now can demand an alternative to any or all parts of the curriculum, resource materials, and the lessons their children receive on a daily basis? Does it comport with existing laws and court cases? (For example, a parent cannot compel a school to violate the Establishment Clause by insisting on an alternative

[20] Davis, 385 F.Supp. at 405.

[21] For a discussion of the educational policy values of choice, excellence, equity, efficiency, and security, *see* Todd A. DeMitchell & Casey D. Cobb, *Policy Responses to Violence in Our Schools: An Exploration of Security as a Fundamental Value*, 2003 BYU EDUC and L. J. 459 (2003).

that would have a religious purpose, have an effect of advancing or inhibiting religion, or excessively entangle religion in school practices.[22])

Questions about the implementation of HB 542 are divided into four parts; the objection, the resolution, the cost, and parental anonymity. This not an exhaustive analysis of the problems associated with HB 542, rather it is a formative attempt to respond to its requirements.

1. The Objection—"specific course material based on a parent's or legal guardian's determination that the material is objectionable."

• The reach of a parental objection is without limit in this legislation. In a response to a *Huffington Post* query, Representative Hoell, the author of HB 542, stated,

> the new law could allow parents to address both moral and academic objections to parts of the curriculum. The lawmaker said he could imagine the provision being utilized by parents who disagree with the "whole language" approach to reading education or the Everyday Math program.
>
> "What if a school chooses to use whole language and the parent likes phonics, which is a better long-term way to teach kids to read?" Hoell said to HuffPost.[23]

Governor Lynch in his veto message writes, "This legislation in essence gives every individual parent of every student in a classroom a veto over every single lesson plan developed by a teacher."[24] Speaking to the general proposition of parental control over the curriculum and echoing Governor Lynch, Davis noted in the *Harvard Journal of Law & Public Policy,* "Were parental rights to dominate school interests, public

---

[22] Lemon v. Kurtzman, 403 U.S. 602, 612-13 (1971).

[23] John Celock, *New Hampshire Lawmakers Pass Law Allowing Parental Objections to Curriculum* HUFFINGTON POST (Jan. 4, 2012) available at http://www.huffingtonpost.com/2012/01/04/new-hampshire-legislature-curriculum-objection-law_n_1184476.html?ref=education-reform.

[24] Lynch, *supra* note 4.

education would become untenable, as each parent would effectively hold veto power over the school's curriculum."[25] HB 542 is unworkable and the Governor's veto should have been sustained.

• How does a teacher or a school provide an alternative to a whole language approach to reading instruction? How many different approaches must a teacher provide in a class of 25 students? How can a teacher possibly organize and teach multiple and, at times, conflicting approaches to reading instruction? With every new objection that results in an alternative plan, the school's curriculum becomes increasingly balkanized, contradictory and undeliverable.

• Can a school be compelled to <u>not</u> teach evolution in a science class to a student and instead be required to teach creationism or intelligent design to that student--not all students, just the child of the objecting parent--because her/his parents object to evolution as nothing more than a theory and want alternative views taught to their child?[26] Is the child of the objecting parent to leave the classroom when other students learn about evolution? Where will the student go and who provides supervision? Or, are teachers to include faith-based theories in science classes even though the courts have consistently

---

[25] Eliott, Davis, *Unjustly Usurping the Parental Right*: Fields v. Palmdale School District, 27 F.3d 1197 (9th Cir. 2005), 29 HAR. J. L. PUB. POL'CY 1133 (2006).

[26] *See* Kitzmiller v. Dover Area Sch. Dist., 400 F.Supp. 2d 707 (M.D. Pa. 2005) which held that a school district's required disclaimer in a high school biology class that evolution is only one of several scientific theories was found to violate the Establishment Clause. The disclaimer included a statement about Intelligent Design as a viable and competing scientific theory. HB 1148, currently under consideration in the NH House will likely suffer the same fate as the Kitzmiller decision if it becomes law. HB 1148 is available at http://www.gencourt.state.nh.us/legislation/2012/HB1148.html.

struck down such actions as violating the Establishment Clause?[27] This last example reveals a double-bind for our New Hampshire schools; they can violate HB 542 by refusing a parent's request to alter or eliminate the teaching evolution or they can violate a long history of federal court rulings that prohibit the teaching of creationism and intelligent design in public school science classes. Remarkably, the new law provides no guidance for school boards and school officials.

2. The Resolution—"a provision requiring an alternative agreed upon by the school district and the parent."

• Does instruction for the student whose parents file an objection stop immediately upon receipt of the written objection? What happens to the student at the time the objection is filed; must he or she leave the classroom until an alternative can be agreed upon as mentioned above? These are important questions that HB 542 does not address, instead allowing each incident to be approached in an *ad hoc* manner by all of the school districts in New Hampshire.

• There is no specified timeline for finding an alternative. There is no provision, such as due process in special education, for a timely resolution. The search for a mutually agreeable alternative could be without time limit for resolution leaving all in limbo. While the rest of the class receives partial or whole units on the objectionable material, is the child of the objecting parent to be left behind? Clearly, the legislation cannot stand for the proposition that a parent of one child can place a hold on the education of all students whose parents do not object to the materials. Since there is no administrative remedy stated or contemplated in the statute, parents can presumably head

[27] *See, e.g.,* Epperson v. Arkansas, 393 U.S. 97 (1968); Edwards v. Aguilar, 482 U.S. 578 (1987); McLean v. Arkansas Brd. of Educ., 529 F. Supp. 1255 (E.D. Ark. 1982).

straight to court to enforce their "alternative" if they feel thwarted by the school. This would add costs to the school district and would clog the courts.[28] In addition, courts typically are loath to intervene in educational decisions centering on what instruction or what curriculum is best.[29]

• The school board has the statutory authority and responsibility to adopt the curriculum for the school district and all of its students. This authority has been ceded to parents who object and demand that their alternative be implemented. This statute transforms the legitimate authority of the school board from a requirement to a suggestion for parents to accept or reject. How does HB 542 comport with current state law, which reads,

> II. Elected school boards shall be responsible for establishing the structure, accountability, advocacy, and delivery of instruction in each school operated and governed in its district. To accomplish this end, and to support flexibility in implementing diverse educational approaches, school boards shall establish, in each school operated and governed in its district, instructional policies that establish instructional goals based upon available information about the knowledge and skills pupils will need in the future.[30]

---

[28] *See* Monteiro v. The Tempe Union High Sch. Dist., 158 F.3d 1022, 1030 (9th Cir. 1998) stating

> The number of potential lawsuits that could arise from the highly varied educational curricula throughout the nation might well be unlimited and unpredictable. Many school districts would undoubtedly prefer to "steer far" from any controversial book and instead substitute "safe" ones in order to reduce the possibility of civil liability and the expense and time-consuming burdens of a lawsuit—even one having but a slight chance of success.

[29] "The second [consideration] is the broad discretion afforded school boards to establish curricula they believe appropriate to the educational needs of their students." *Id*. at 1026 *Also, see*, KERN ALEXANDER & M. DAVID ALEXANDER, AMERICAN PUBLIC SCHOOL LAW (5th Ed.), 277 (2001) (writing "[m]ost precedents indicate that the courts though sympathetic with the intentions of the parent, generally defer to authorized and trained educational experts on matters of school policy.")

[30] RSA 189:1-a(II) Duty to Education

HB 542 contradicts and effectively eviscerates this long-standing legal responsibility of elected school boards.

3. The Expense of the Alternative—"a provision requiring an alternative agreed upon by the school district and the parent, at the parent's expense, sufficient to enable the child to meet state requirements for education in the particular subject area."

• What can the school district charge the parents for the requested curriculum revisions? Despite the language of the new law, the answer appears to be "nothing" given current New Hampshire law which reads,

> I. It shall be the duty of the school board to provide, at district expense, elementary and secondary education to all pupils who reside in the district until such time as the pupil has acquired a high school diploma or has reached age 21, whichever occurs first; provided, that the board may exclude specific pupils for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school, and further provided that this section shall not apply to pupils who have been exempted from school attendance in accordance with RSA 193:5.[31]

• If a school district bills the objecting parents does the invoice violate the right of parents to receive a free education for their children as required in the above statute? If yes, another potential cause of action arising from this legislation is created.

• Conversely, if the alternative demanded by parents ends up costing the school district extra money (because of the right to receive a free education), is the community being forced to fund a parent's personal wishes for their child's education?

---

[31] RSA 189:1-a(I) Duty to Provide Education

4. Anonymity—"The name of the parent or legal guardian and any specific reasons disclosed to school officials for the objection to the material shall not be public information and shall be excluded from access under RSA 91-A.

• This part of the law shields parents from public scrutiny and recrimination. When applied in other contexts, this mandate may well facilitate parents' willingness to discuss curriculum concerns with school officials.

> Parents simply do not have a constitutional right to control each and every aspect of their children's education and oust the state's authority over that subject.
>
> *Swanson by and through Swanson, v. Guthrie Independent School District No. 1-L*[32]
> (Federal Court of Appeals)

III. WHAT IS NEXT?

The override of the Governor's veto made HB 542 effective immediately (as of January 1, 2012). School districts must develop policies right away. There is no run-up period that allows superintendents and their boards to develop a thoughtful and reasonable policy. The right of the parent or legal guardian to an alternative plan is in place now and can be accessed immediately. We offer two suggestions below as school boards work with educators to develop the required policy.

First, citizens, educators, parent groups, school boards, and school administrators should work together to challenge the law in court as well as lobbying the legislature to amend the law in ways that address the multiple legal and practical problems raised by this policy.

Second, and most immediate, a policy must be drafted and implemented. We recommend the following:

[32] 135 F.3d 694, 699 (10th Cir. 1998).

1. Involve teachers and principals when formulating the district's policy, as they are the ones who will have to make it work.
2. Adopt the position that any change to the curriculum/materials/lessons is a district change and, therefore, requires district involvement. Why? Because in spite of the provision for the objecting parent to pay for the alternative, it is entirely possible that the courts will find that there is a superseding right to a free education and therefore any alternative would involve a cost to the district. Second, the curriculum is a district responsibility. Consequently, it should retain authority over changes to it precipitated by state law; cohesiveness, alignment, and consistency in the instructional program must be maintained in spite of HB 542.
3. We recommend that the implicated teacher(s), the principal, and a district office administrator be part of the team that meets with the parents.
4. The written form for objections must require parents/guardians to clearly state what materials are objectionable and what alternative is requested. While an inquiry into the reasons for the objection are not required in the law, it is reasonable and prudent to have the parent be specific as to what is their objection. A generalized dissatisfaction does not facilitate the search for an acceptable alternative. A requirement to state a suggested alternative may help the district find a suitable resolution.
5. Notes from the meetings should be part of the record. Any resolution must be reduced to writing and signed by all parties. Because the objection impacts the education of the student a copy of the objection and the alternative educational

experience must be placed in the student's cumulative file and a copy retained in the appropriate administrators' files (site and district).

6. The alternative must be grounded in what is necessary for "the child to meet state requirements for education in the particular subject area." Focusing on this HB 542 requirement can provide an educational basis for denying alternatives that are patently dismissed by the scholarly and educational community. This requirement cannot be compromised even though it may result in an impasse. Surely the law does not require educators to seek an alternative for an unreasonable objection.[33]

We believe that this law is wrong and that it has great potential for mischief, if not great harm.[34] Parental input is vital to keeping the public in our public schools. Parents must be active participants in their child's education, but that participation cannot turn the public school into a private tutor for hundreds of parents. Their concerns must be carefully listened to and considered, however, sometimes the school must say no to a parent's request. HB 542 cannot legislate away the fact that there will be tension between what parents want and what the school community believes is in the best interests of the students and the community. It is necessary that parents

---

[33] For example, parents might request instruction sympathetic to Holocaust deniers, Birther claims about President Obama, herbal cancer cures, numerology assertions, again because there is no definition of what qualifies as a material objection nor is there even a requirement for reasonableness of the objection. What are professional educators to do in these situations? And how will their intellectual integrity, self-respect as an educator, and commitment to the profession be sustained under these conditions?

[34] HB 542 appears to be part of a series of recent Republican bills designed to weaken public education. For example, *see* HB 1148 seeks to interfere with the teaching of evolution as well as the stalking horse HB 1457 "an act relative to scientific inquiry in the public schools." For a critique of recent bills visit https://sites.google.com/site/defendingnhpubliceducation/home.

speak for their children, it is also imperative and necessary that the school speaks for all children and the public that supports the school. Shredding the curriculum and its resulting confusion in response to every objection is not in the best interests of students nor of the community. New Hampshire's support for local control of its public schools should not give way to individual control of our schools. HB 542 is the wrong answer for meaningful parental involvement in the public schools of New Hampshire.

HB 542-FN – VERSION ADOPTED BY BOTH BODIES

15Mar2011… 0726h

06/01/11 2251s

22June2011… 2422CofC

2011 SESSION

11-0828

04/05

HOUSE BILL ***542-FN***

AN ACT relative to exceptions for objectionable material in public school courses.

SPONSORS: Rep. Hoell, Merr 13

COMMITTEE: Education

AMENDED ANALYSIS

This bill requires school districts to adopt a policy allowing an exception to specific course material based on a parent's or legal guardian's determination that the material is objectionable.

- -

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.

15Mar2011… 0726h

06/01/11 2251s

22June2011… 2422CofC

11-0828

04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to exceptions for objectionable material in public school courses.

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

1 New Paragraph; State Board of Education; Duties. Amend RSA 186:11 by inserting after paragraph IX-b the following new paragraph:

IX-c. Require school districts to adopt a policy allowing an exception to specific course material based on a parent's or legal guardian's determination that the material is objectionable. Such policy shall include a provision requiring the parent or legal guardian to notify the school principal or designee in writing of the specific material to which they object and a provision requiring an alternative agreed upon by the school district and the parent, at the parent's expense, sufficient to enable the child to meet state requirements for education in the particular subject area. The name of the parent or legal guardian and any specific reasons disclosed to school officials for the objection to the material shall not be public information and shall be excluded from access under RSA 91-A.

2 Effective Date. This act shall take effect January 1, 2012.

LBAO

11-0828

Amended 06/22/11

HB 542 FISCAL NOTE

AN ACT relative to exceptions for objectionable material in public school courses.

FISCAL IMPACT:

◦ The Department of Education states this bill, **as amended by the Senate (Amendment #2011-2251s)**, will have no fiscal impact on state, county, or local revenues or expenditures.

◦

METHODOLOGY:

The Department states that this bill will have no fiscal impact. The bill requires school districts to adopt a policy allowing an exception to specific course material based on a parent’s or legal guardian’s determination that the material is objectionable. School districts may utilize the model policy of the New Hampshire School Boards Association in dealing with parental objection to instructional material, which can be modified at no cost to accommodate the requirements of the bill as amended.