

OVERVIEW OF LAWS GOVERNING INTERSTATE DISTRICTS

Process for Formation of Interstate District

Creation of Interstate School District Planning Committee.

The New Hampshire and Vermont commissioners of education appoint an interstate school district planning committee, considering recommendations and nominations made by school boards of member districts. Here are the guidelines for establishing such a committee:

- The interstate school district planning committee may include members of the existing "informal" interstate school planning committee (*i.e. the GSSC*) and may ratify any conclusions reached as a result of that committee's deliberations.
- The Interstate School District Planning Committee will consist of "at least 2 voters from each... member district (*i.e. it will have at least 20 members*). One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member (*i.e. a board member who will be serving three years*).
- The term of each member of a planning committee who is not also a school board member shall expire on June 30 of the third year following his appointment.
- The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. The commissioners acting jointly shall fill vacancies on a planning committee.

Operating Procedures of the Interstate School District Planning Committee

- Each interstate school district planning committee will elect a chairman and clerk-treasurer, each of whom shall be a resident of a different state.
- Either officer of the committee may call subsequent meetings.
- The members of the committee shall serve without pay.
- The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. (*NOTE: This may not be an issue assuming the use of the Tillotson grant for this purpose*)
- From time to time the commissioners may add additional members and additional member districts to the committee, and may remove members and member districts from the committee.
- An interstate school district planning committee shall act by majority vote of its membership present and voting.

Duties of Interstate School District Planning Committee

In consultation with the commissioners and the state departments of education:

- Study the advisability of establishing an interstate school district in accordance with the guidelines set forth in State statute;
- Determine the organization, operation and control of the interstate district;
- **Determine the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district;**
- Estimate the construction and operating costs of any proposed interstate district;
- Investigate the methods of financing such school or schools;
- Investigate any other matters pertaining to the organization and operation of an interstate school district;
- Submit a report or reports of its findings and recommendations to the several member districts (*see next section*)

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- *What this means: Unless the existing boards make decisions regarding the need to upgrade facilities (i.e. improvements to the vocational education area at Canaan Memorial School and/or the status of Colebrook Academy), recommendations on those facilities will be included in the report the Interstate School District Planning Committee issues to member districts. (see below)*

Recommendations and Preparation of Articles of Agreement.

If the Interstate School District Planning Committee recommends the establishment of an interstate school district, it shall include that recommendation in its report along with a draft of the articles of agreement for the proposed interstate school district signed by at least a majority of the membership of the planning committee. The Articles of Agreement must set forth the following:

- The name of the interstate school district.
- The member districts which shall be combined to form the proposed interstate school district.
- The number, composition, method of selection and terms of office of the interstate school board, provided that:
 - The interstate school board shall consist of an odd number of members, not less than 5 nor more than 15;
 - The terms of office shall not exceed 3 years;
 - Each member district shall be entitled to elect at least one member of the interstate school board;
 - The method of election shall provide for the filing of candidacies in advance of election and for the use of a printed non-partisan ballot;
 - Subject to the foregoing, provision may be made for the election of one or more members at large.
- ***The grades for which the interstate school district shall be responsible.***
- ***The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.***
- The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.
- ***The indebtedness of any member district which the interstate district is to assume.***
- ***The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same*** as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.
- The manner in which state aid, available under the laws of either New Hampshire or Vermont, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.
- The method by which the articles of agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

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- The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.
- Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:
 - The method of allocating the cost of transportation between the interstate district and member districts;
 - The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

What this means: The Interstate Planning Committee can develop formulas for school construction that apportion construction costs differently from the formulas used to apportion operating costs.

Powers of Interstate School Districts

An interstate district is empowered to:

- Acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;
- To sue and be sued, subject to the limitations of liability hereinafter set forth;
- To have a seal and alter the same at pleasure;
- To adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the 2 states;
- **To acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;**
- **To enter into contracts and incur debts;**
- **To borrow money for the purposes hereinafter set forth, and to issue its bonds or notes therefor;**
- To make contracts with and accept grants and aid from the United States, the state of New Hampshire, the state of Vermont, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;
- To employ such assistants, agents, servants, and independent contractors as it shall deem necessary or desirable for its purposes; and
- To take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

What this means: If an interstate district assumes responsibility for educating a group of students who reside in the towns comprising ENSU and SAU 7, the interstate board will assume all of the powers outlined above in governing the schools where those students are housed. As the bold-faced language indicates, should the interstate district assume responsibility for the education of high school students, it would also assume responsibility for making decisions regarding the facilities housing those students.

Appropriation and Apportionment of Funds

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Budget. Before each annual meeting, the interstate board shall prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year.

Appropriation. The interstate board of directors shall present the budget report at the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

Apportionment of Appropriation. Subject to the provisions of article VII hereof, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance with one of the following formulas as determined by the articles of agreement as amended from time to time:

- All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or
- All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or
- A formula based on any combination of the foregoing factors. The term "fair market value of taxable property" shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire commissioner of revenue administration.

What this means: The fund balance and/or income received by the interstate district is subtracted from the total amount of money to be raised. The "net" amount to be raised is then apportioned to the towns based on one of the three formulas described in the law.

Share of New Hampshire Member District. The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

Share of Vermont Member District. The interstate board shall certify the share of a Vermont member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

What this means: When the public adopts the Interstate budget, the amount of the town's contribution is blended into the tax levy as if it was approved at district meeting.

Borrowing

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Authorization Proceedings. An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. As an alternative, an interstate district may provide in its articles of agreement that such a vote be passed by a specified percentage greater than a simple majority but not to exceed 60 percent... As an alternative, an interstate district may provide in its articles of agreement that such a vote be conducted by Australian or official balloting under procedures set forth in the articles of agreement, and that such vote be subject to any method of reconsideration, if any, which the interstate district sets forth in the articles of agreement.

What this means: The articles of agreement can effectively override the super-majority provisions of NH law and any past practices regarding public voting.

Applicability of New Hampshire, Vermont Laws

There are separate sections on "Applicability of Laws" that mirror each other. I am providing an edited version of the language for New Hampshire.

General School Laws. With respect to the operation and maintenance of any school of the district located in New Hampshire, the provisions of New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the school administrative unit superintendent shall be exercised and discharged by the interstate district superintendent.

What this means: The State laws where the school is located apply to staff and students in the schools. This affects not only school board governance issues like Open Meetings laws and posting requirements, but also affects special education regulations, discipline that requires the involvement of law enforcement officials, and employment laws

New Hampshire State Aid. A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

What this means: The State aid formulas flow back to the member district. This affects both school construction aid and categorical State operating budget aid.

Continued Existence of New Hampshire Member School District. A New Hampshire member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law **and not herein delegated to the interstate district**. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district... The New Hampshire member school district shall remain liable on its existing indebtedness; and

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the interstate school district shall not become liable therefor, ***unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained by the New Hampshire member district and held or disposed of according to law.***

What this means: The language in this section underscores the importance of the articles of agreement, which can shift some powers and obligations away from the existing school board to the interstate board.

Employment. Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workers' compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

- A teacher in a New Hampshire member district may elect to remain a member of the New Hampshire teachers retirement system, even though assigned to teach in an interstate school in Vermont.
- Employees of interstate districts designated as professional or instructional staff members, as defined in article I hereof, may elect to participate in the teachers retirement system of either the state of New Hampshire or the state of Vermont but in no case will they participate in both retirement systems simultaneously.

What this means: The State laws governing employment are based on where the school is located with one exception: teachers transferred from a Vermont school to a New Hampshire school OR an teachers transferred from a New Hampshire school to a Vermont school can retain the retirement plan of the State where they were originally employed.