

# Bill as Introduced

HB 112 - AS INTRODUCED

2011 SESSION

11-0343  
04/01

HOUSE BILL **112**

AN ACT relative to the required number of instructional days and instructional hours in a school district's calendar.

SPONSORS: Rep. Knox, Carr 4; Rep. B. Patten, Carr 4; Rep. Ahlgren, Carr 4; Rep. S. Schmidt, Carr 4; Rep. St. Cyr, Belk 5; Sen. Bradley, Dist 3

COMMITTEE: Education

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ANALYSIS

This bill provides that the number of days in the school year may be defined by the department of education in rules which specify an equivalent number of hours.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT                   relative to the required number of instructional days and instructional hours in a school district's calendar.

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

1           1 School Boards, Transportation, and Instruction of Pupils; Days of School. Amend RSA 189:1 to  
2 read as follows:

3           189:1 Days of School. The school board of every district shall provide standard schools for at  
4 least 180 days in each year, or the equivalent number of hours [~~if approved by the commissioner of~~  
5 ***as required in the rules of*** the department of education, at such places in the district as will best  
6 serve the interests of education and give to all the pupils within the district as nearly equal  
7 advantages as are practicable.

8           2 School Boards, Transportation, and Instruction of Pupils; Standard School. Amend  
9 RSA 189:24 to read as follows:

10          189:24 Standard School. A standard school is one approved by the state board of education, and  
11 maintained for at least 180 days in each year, or the equivalent number of hours [~~if approved by the~~  
12 ~~commissioner of~~] ***as required in the rules of*** the department of education, in a suitable and  
13 sanitary building, equipped with approved furniture, books, maps and other necessary appliances,  
14 taught by teachers, directed and supervised by a principal and a superintendent, each of whom shall  
15 hold valid educational credentials issued by the state board of education, with suitable provision for  
16 the care of the health and physical welfare of all pupils. A standard school shall provide instruction  
17 in all subjects prescribed by statute or by the state board of education for the grade level of pupils in  
18 attendance.

19          3 Effective Date. This act shall take effect 60 days after its passage.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 112

**BILL TITLE:** relative to the required number of instructional days and instructional hours in a school district's calendar.

**DATE:** January 18, 2011

**LOB ROOM:** 207      **Time Public Hearing Called to Order:** 1:30 PM

**Time Adjourned:** 1:55 PM

(please circle if present)

**Committee Members:** Reps. Balboe, Boehm, Hutchinson, Ladd, Fleck, St. Cyr, Brosseau, Greemore, Hill, Hoell, Jones, Lauer-Rago, Pitre, Gile, Shaw, Gorman and Frazer.

**Bill Sponsors:** Rep. Knox, Carr 4; Rep. B. Patten, Carr 4; Rep. Ahlgren, Carr 4; Rep. S. Schmidt, Carr 4; Rep. St. Cyr, Belk 5; Sen. Bradley, Dist 3

TESTIMONY

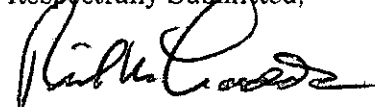
\* Use asterisk if written testimony and/or amendments are submitted.

\*Rep. Knox (Sponsor): Brought forward for Governor Wentworth School District (See attached Sheet #1.)

\*Paul Leather, NH DOE/Ed Murdough (Oppose the Bill): See Sheet B (written to Sen. Kelly by NH DOE Commissioner Barry; Provides uniformity in state; indicated that some districts have not provided minimum time as required; Monitored by NH DOE – may impact school approved; Rule that is applicable to this bill – Ed 306:18.

Dean Michener – NH School Board Association (Supports the bill): Indicated that NH School Administrator group (Mark Joyce) also supports; HB 1469 support last year by Education Committee; Local calendar/local control issue; RSA 189:1-Ed 306:18 support the bill; 306.20 also spoken to; Issue – do not require school districts to go through this process to simply state conformance with the law; Is the issue with the rules – do school districts have to notify DOE to simply state the district is in conformance with the rule?; This is not a bargaining issue; Why approval to obey the law?

Respectfully Submitted,



Rick M. Ladd, Clerk

Education Committee

1/18/2011

Hearings start 1:30 P.M.

• HB 112 # instructional days hrs in sch calendar

① Rep Knox (Sponsor)

- Brought forward for Gov Wentworth School District (see attached sheet #1)

② Paul Leather DOE / Ed Murdough (oppose)

- see sheet B (written to Sen Kelly by Commissioner <sup>Barry</sup>)
- provides uniformity in state
- indicated that some districts have not provided minimum times as required
- monitored by DOE - may impact school approval.
- rule that ~~there~~ is applicable to this bill: Ed 306.10

③ Dean Michener - NH Sch. Ad. Assoc. (support)

- indicated that NH sch. Admin group (Mark Joyce) also supports.
- HB 1469 support last year by Ed Comm.
- Local calendar / Local control issue.
- RSA 189:1 Ed 306.18 support the bill.
- 306.20 also spoken to
- Issue: Do not require school districts to go through this process to simply state conformance with the law.
- Is the issue w/ the rules why do school districts have to notify DOE to simply state the district is in conformance w/ the rule?
- This is not a bargaining issue.
- Why approval to obey the law?

Rita C...  
Clerk



# Testimony

#A

HB 112  
Public Hearing Education Committee  
Tuesday, 1/18/2011

Thank you, Mr. Chairman

For the record, I am Rep. J. David Knox, Carroll County District 4, representing Wolfeboro, Tuftonboro and Moultonborough. I am the prime sponsor of HB 112, an act relative to the required number of instructional days and instructional hours in a school district's calendar. I am bringing this bill forward upon the request of a constituent of mine John Robertson, the Superintendent of Schools for the Governor Wentworth Regional School District. Jack will follow me with a further explanation for the need for this bill. Dean Michener, Ass. Director of the NH School Boards Association, who supports this legislation would also like to speak to the bill in a few minutes.

As I understand it because of storms, winter's weather in general, and now, in the case of our school district with an "in house" reconstruction program, it has become a nightmare to put together a school calendar. For school districts in general it has become difficult to make up days and hours to meet the minimum requirement. Governor Wentworth with six separate towns and a vocational school that takes students from two additional towns as well, it has become particularly difficult to rescheduling school days.

Because of previous legislation we feel that approval from the commissioner of education now is no longer necessary and could allow local schools districts to define their own school calendar as long as they comply with the spirit and letter of the law. There are apparently at least six other states that allow for this greater flexibility for school districts in setting their annual attendance calendars.

HB 112 would on line four and line eleven and twelve of the bill remove the words "if approved by the commissioner of education" and substitute the words "as required in the rules of" in the present law. In my opinion the new words, "as required" is the key to understanding the intend of this bill.

I will now let the experts further explain the need for this bill.

Thank you, Mr. Chairman.

Rep. J. David Knox



Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel. 603-271-3144

Paul K. Leather  
Deputy Commissioner of Education  
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

April 16, 2010

The Honorable Molly Kelly  
Chair, Senate Education Committee  
Legislative Office Building, Room 103  
33 North State Street  
Concord NH 03301

Dear Senator Kelly:

Thank you for the opportunity to submit this letter in opposition to House Bill 1469 concerning the required number of instructional days and instructional hours in a school calendar. The bill would remove the requirement for approval by the Commissioner of Education for school calendars with fewer than 180 days of instruction. I fully support the flexibility that is allowed by the current statute and administrative rules, but I feel that some degree of review and approval is still necessary.

The most recent revision of the *Minimum Standards for Public School Approval*, Ed 306, for the first time allowed school districts an option of meeting instructional time requirements by hours rather than days of instruction. At the time the rules were published in 2005, the option of having a calendar with fewer than 180 days could not be exercised because RSA 189:1 still required 180 days of instruction. The Department of Educational subsequently requested legislation to change RSA 189:1 to the current wording which says 180 days or an equivalent number of hours. At the time, Commissioner Tracy felt that it was important to include a provision requiring approval from the Commissioner to have fewer than 180 days, so that language was included in the revision to the RSA. Since then a number of public school districts and private schools have requested approval for calendars with fewer than 180 days. To date, none have been disapproved.

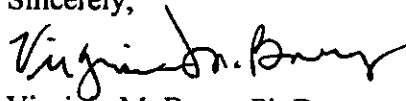
For many years there have been hundreds of articles written by various experts expressing the thought that the 180 day school calendar is a holdover from an agrarian society and that American children need to spend more time in school as do their counterparts in many other countries. The current language in RSA 189:1 allows the department to ensure that the school district has addressed some very important concerns that result from changing the school calendar in this manner:

- a. Reducing the number of school days has obvious benefits for adults, but may not be beneficial for children. We need to be sure that the change is not detrimental to student achievement. If the school day is extended, but teachers still leave at the same time, that means less time available after school for students to obtain additional help if they need it. If daily class periods are lengthened, but teachers do not adjust their lesson plans, there is no more additional instruction than there was originally and something will be lost by the end of the year.
- b. Changing the school calendar can have a significant effect on parents. A very likely result of a reduction in the number of school days will be more children left home alone for more days. It will exacerbate an already serious situation. Currently, the department can ensure that the school district has at least had some communication with parents before implementing the change.
- c. A calendar with a reduced number of school days will inevitably make its way into bargaining agreements with the staff. That will make it very difficult to change if the district later determines that the shorter calendar was not a good idea. Currently, the department approves calendars for one year at a time which prevents the issue with bargaining agreements.
- d. The most common justification for a reduced calendar that has been given in requests from school districts has been to allow more time for professional development, which in turn is expected to lead to a higher level of student achievement. The department should be able to measure the results to see if expectations have been met. If not, we should have the ability to direct that schools return to the 180 day calendar, particularly for districts with poor or mediocre performance.
- e. The current rules say that a school day cannot exceed 8 hours of instruction. Under the current rules, a school calendar of only 119 days would be mathematically possible. Most schools currently have between 5 and 6 hours of instruction. A day with 8 hours of instruction, plus time for lunch and recess, would be extremely long for most children. It would certainly have an adverse effect on student performance coupled with a greater problem with retention of material during an increased length of time that school is not in session. My fear is that decisions will be made with the intent of reducing costs and are not developmentally and educationally sound. There needs to be some authority that can exercise the judgment to ensure that the needs of education are balanced with the need to keep costs reasonable.

I am not aware that the current language in RSA 189:1 has caused any district difficulty in implementing well thought out plans for improving education. House Bill 1469 will remove a level of control against the problems that may arise as described above. I feel most strongly that the bill is not only not necessary, but is potentially harmful to the education of New Hampshire's children.

Thank you again for the opportunity to present my views on this bill. I am available, as always, to answer any questions or to provide additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia M. Barry".

Virginia M. Barry, Ph.D.  
Commissioner of Education

## **HB 1469 - Testimony**

RSA 189:1 and RSA 189:24 define the amount of time schools must be in session in order to meet the requirements of a state approved standard school. These two statutes represent, in my opinion, a prudent legislated structure to promote equal educational opportunity for all New Hampshire pupils regardless of the town in which each one resides. Until 1959, the definition had specified 36 weeks as the required time that schools had to be in session. Recognizing that the world had undergone significant changes since the inception of these two laws, in 1959 the New Hampshire Legislature had the wisdom to modify the definition of an acceptable **standard school** from 36 weeks to 180 days. The flexibility granted in this subtle modification allowed districts to make up missed time, for example, on a Saturday without having to churn the bureaucratic wheels to secure a reasonable local school-calendar solution that would have conflicted with the original "36-week" definition. Children were not short changed by this modification of the law and, in fact, it made compliance with the law more palatable for school districts and communities.

In 1981, the New Hampshire Legislature again recognized that the world continued to change and that responding to community needs on a timely basis had taken on even greater importance to citizens. RSA 189:2 (Reduction of Time) was modified to allow the State Board of Education to authorize the Commissioner of Education to act on requests seeking relief from meeting **standard school** requirements. Many decisions that parents, students and staff need to make about future plans revolve around the local school calendar. Time is of the essence in both setting and promulgating school schedules and the Legislature wisely accommodated this contemporary phenomenon.

16 years later in 2007, the Legislature once again addressed the **standard school** calendar issue by modifying both RSA 189:1 and RSA 189:24. Again recognizing changing times, the Legislature found it prudent to broaden the 180-day definition with the words "*or the equivalent number of hours if approved by the commissioner of the department of education.*" The revised language inserted into the law provided added flexibility without any infringement upon maintaining an important state-wide consistency in pupil educational opportunity.

Setting a school calendar is an involved process requiring participation from a variety of groups. Parents, students, labor organizations and local businesses are all impacted by the schedule set for a school year. Giving everyone a voice becomes a bigger challenge when a district is comprised of multiple towns and serves as a career and technical education center encompassing even more communities. Getting consensus takes a considerable amount of time and effort. If consensus is reached on a calendar that conforms to the hour requirement promulgated in RSA 189:24, but is less than 180 days in length, a district risks having to go through the entire calendar development process again leaving citizens with the feeling that their voices do not matter. On the other hand, if the district submits a plan to the commissioner prior to obtaining some level of consensus, it puts itself in the position of appearing to not even having listened to its constituents' voices. It is not a good position to be in if you are trying to build partnerships with the community.

Perhaps the oddness of making a school district obtain prior state approval to comply with an alternate standard articulated in the law is a fear that school boards will shortchange educational opportunity for its pupils. I certainly cannot think of any other plausible reason why such a requirement would be part of the current law. If this is the reasoning, please understand that there

are ample protections already in place to make sure that this does not happen.

One of the most useful and powerful tools put in place to guide compliance with laws are the rules that are developed at the state level to clarify and implement them. Currently, there are specific rules adopted for NH RSA 189:1 and 189:24. The State Board of Education, with considerable help from the Commissioner, Department of Education and the general public, developed and obtained Legislative approval for detailed rules that describe what is meant by "equivalent number of hours." Ed 306.18 defines the required hours in terms that most anyone can understand and does so for not only a school day, but also for a school year. I have enclosed a copy of them with my written testimony.

The minor changes that you are being asked to make in RSA 189:1 and 189:24 require that school districts adhere to the rules. Moreover, the language change does not relieve the district from reporting its calendar to the New Hampshire Department of Education nor does it prohibit the department from intervening and taking appropriate action if the calendar does not conform to their promulgated rules. Most importantly, it does not stop the State Board of Education, with approval by the Legislature, from changing the rules if they are not effective in supporting the intent of the law.

Please understand that the change which we seek is not intended to usurp the authority of the State Board of Education, the Commissioner or the New Hampshire Department of Education. All of them have been very cooperative and helpful to me in addressing our calendar issues and the request for this change is not in any way a reflection on them. Frankly, as a superintendent of schools, I believe that the Commissioner of Education has far more important matters on her plate than spending time deciding whether a district should be allowed to comply with the law and all of its clarifying rules and regulations. It seems like a silly exercise that places a higher value on bureaucracy than on the process used to secure local public input on decisions that have a significant local impact. Please understand the school calendar is an issue which has a definite impact on local people and local organizations. Consequently, I believe that calendar should be a local decision provided that it conforms to not only the law, but all related rules and regulations. Again, I want to emphasize the fact that reporting requirements and enforcement of conformance by the New Hampshire Department of Education are not altered in any fashion by this recommended change. Furthermore, the authority to modify the rules belongs solely to the State Board of Education with Legislative approval.

Prior sessions of the New Hampshire Legislature have seen the merits of modifying RSA 189:1 and RSA 189:24 to meet the needs of the times. I hope that you will see the wisdom in making this change so that local school districts, especially those involving multiple towns, can work with their constituents in a meaningful and productive manner to develop school calendars that are both beneficial to children and consistent with a community's needs.

Thank you for your consideration.

John B. Robertson, Superintendent of Schools Governor  
Wentworth Regional School District January 19, 2010

**Exhibits**

*RSA 189:1, RSA 189:24, Ed 306.18, Ed. 306.19*

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## 189:1 Days of School.

The school board of every district shall provide standard schools for at least 180 days in each year, or the equivalent number of hours if approved by the commissioner of the department of education, at such places in the district as will best serve the interests of education and give to all the pupils within the district as nearly equal advantages as are practicable.

## HISTORICAL NOTES

### HISTORY

**Source.** 1883, 43:6. PS 92:1. 1919, 106:20. 1921, 85, II:1. PL 117:1. RL 135:1. RSA 189:1. 1959, 133:1. 2007, 71:1, eff. Aug. 10, 2007.

**Amendments--2007.** Inserted "or the equivalent number of hours if approved by the commissioner of the department of education." following "each year."

--1959. Deleted "elementary" following "standard" and substituted "180 days" for "36 weeks" following "for at least".

### REFERENCES

#### CROSS REFERENCES

Charter schools, requirements, options, see RSA 194-B:8.

Reduction of number of school days, see RSA 189:2.

Superintendent services, school administrative units, see RSA 194-C:4.

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## 189:24 Standard School.

A standard school is one approved by the state board of education, and maintained for at least 180 days in each year, or the equivalent number of hours if approved by the commissioner of the department of

education, in a suitable and sanitary building, equipped with approved furniture, books, maps and other necessary appliances, taught by teachers, directed and supervised by a principal and a superintendent, each of whom shall hold valid educational credentials issued by the state board of education, with suitable provision for the care of the health and physical welfare of all pupils. A standard school shall provide instruction in all subjects prescribed by statute or by the state board of education for the grade level of pupils in attendance.

## HISTORICAL NOTES

### HISTORY

**Source.** 1919, 106:24. 1921, 85, II:11. PL 117:20. RL 135:24. RSA 189:24. 1959, 133:3. 1971, 371:1. 2007, 71:2, eff. Aug. 10, 2007.

**Amendments--2007.** Inserted "approved by the state board of education, and" following "school is one", inserted "or the equivalent number of hours if approved by the commissioner of the department of education," following "180 days in each year,". substituted "a principal" for "principal", and "a superintendent" for "superintendent" in the first sentence; and added the second sentence.

--1971. Amended section generally.

--1959. Substituted "180 days" for "36 weeks" preceding "in each year".

### ANNOTATIONS

#### ANNOTATIONS

In general 1

Extended school schedule 2

#### 1. In general

City council cannot refuse to appropriate money for statutory mandated services and programs required by statute and cannot refuse to appropriate money to meet minimum standards required by State



Board of Education. Laconia Bd. of Ed. v. City of Laconia (1971) 111 N.H. 389, 285 A.2d 793.

Schools ☞ 93

## 2. Extended school schedule

Approval by commissioner of education of board of education's extended school schedule to make up for days when schools were closed because of bomb threats did not constitute "order or finding" which was appealable to state board of education, and failure of teachers or teachers collective bargaining association to appeal from such approval therefore did not bar action to recover pay for extra days worked under schedule. Association of Portsmouth Teachers v. Portsmouth School Dist. (1973) 113 N.H. 659, 312 A.2d 573. Schools ☞ 144(4); Schools ☞ 162.1

School teachers who, at request of school district, taught more school days than minimum required in teaching contracts because schedule was extended in order to make up for school closings caused by bomb threats were entitled to be compensated for extra days taught on quantum meruit basis. Association of Portsmouth Teachers v. Portsmouth School Dist. (1973) 113 N.H. 659, 312 A.2d 573. Schools ☞ 144(4)

#C Rate for  
School  
calendar  
year.

Ed 306.18 School Year.

(a) Pursuant to RSA 189:1 and 189:24 each school shall maintain a school year option as provided in either (b) or (c) below.

(b) Each school with a school year option based on hours shall be subject to the following requirements:

(1) The school shall maintain in each elementary school, a school year of at least 945 hours of instructional time;

(2) The school shall maintain in each middle and senior high school, a school year of at least 990 hours of instructional time;

(3) The school day of an individual student shall not exceed 8 hours of instructional time; and

(4) The school shall have in its school year an additional 10 days of at least 6 hours in duration to provide for instructional time lost due to inclement weather or unexpected circumstances, staff development, and parent-teacher conferences;

(5) A school may close before its scheduled closing time when an emergency condition exists which might adversely affect the health and safety of students, provided that the number of hours of instructional time originally planned for the day shall be credited to the number of hours of instructional time in the school year, if:

a. On that day, the school would normally have had at least 5.25 hours of instructional time; and

b. The school remained open for at least 3.5 hours of instructional time.

(c) Each school with a school year option based on days shall be subject to the following requirements:

(1) The school shall maintain a standard school year of at least 180 days of instructional time;

(2) The school shall have in its school year an additional 10 days of at least 6 hours in duration to provide for instructional time lost due to inclement weather or unexpected circumstances, staff development, and parent-teacher conferences;

(3) For each elementary school:

a. The regular school day shall be 6 hours in duration with at least 5.25 hours devoted to instructional time;

b. No more than 30 minutes of recess or break time, or both, shall be counted toward the 5.25 hour requirement in a. above;

c. Lunch time and homeroom periods shall not be counted in meeting the 5.25 hour requirement in a. above; and

d. Kindergarten sessions shall be at least 2.5 hours in duration;

(4) For each middle school:

- a. The regular school day shall be 6 hours in duration with at least 5.5 hours devoted to instructional time; and
- b. Lunch, passing time, recess, breaks, and homeroom periods shall not be counted as instructional time:

(5) A regular school day may be shortened when an emergency condition exists which might adversely affect the health and safety of students, subject to the following:

- a. For each elementary school, a shortened day shall consist of at least 3.5 hours of instructional time in order to be counted as a regular school day; and
- b. For each middle school and high school, a shortened day shall consist of at least 4 hours of instructional time in order to be counted as a regular school day; and

(6) A school half-day shall consist of at least 3 hours of instructional time, and 2 school half-days can be counted as a regular school day.

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96.  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

Ed 306.19 School Calendar. Each school shall maintain a school calendar.

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96.  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

Ed 306.20 Alternative School-Year Scheduling Pattern.

(a) In order to adopt a school-year scheduling pattern which is not in compliance with Ed 306.18, the local school board shall submit a written request to the commissioner of education at least 60 working days prior to the proposed effective date of the first date of the alternative school year.

(b) A request, pursuant to (a) above, shall include:

- (1) The name of school/district;
- (2) The SAU #;
- (3) The local school board chairperson's signature;
- (4) Reason for the request in accordance with RSA 189:2; and
- (5) A plan which consists of a detailed description of the scheduling alternative, including the method and timetable for implementation and procedures for evaluation.

(c) Upon review of the request, the commissioner shall grant approval for a period of one year if the request meets the following criteria:

- (1) The information provided is thorough, complete, and does not result in a plan that would detract from student learning;
- (2) The local school board has demonstrated that the school/district is able to implement the plan; and
- (3) The plan is consistent with the education laws, published by the department, which contain all of the laws enforced by the department, and with the published rules of the state board as adopted under RSA 541-A.

(d) The commissioner shall notify the local school board chairperson and the superintendent in writing of the decision.

(e) If the commissioner denies the request, the chairperson of the local school board may appeal the decision and request a state board hearing. Said appeal shall be filed in writing with the office of legislation and hearings within 20 days of the receipt of the decision and shall specify the basis for the appeal. The office of legislation and hearings shall schedule a hearing on the appeal in accordance with timelines and procedures established in Ed 200.

(f) Pursuant to RSA 21-N:11, III, any person directly affected by said decision may request a state board hearing. A request for a hearing shall be filed in writing with the office of legislation and hearings within 20 days of the decision and shall specify the basis for such hearing. The office of legislation and hearings shall schedule the hearing in accordance with timelines and procedures established in Ed 200.

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96.  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

HB 1469 – AS INTRODUCED

2010 SESSION

10-2221

04/05

HOUSE BILL **1469**

AN ACT relative to the required number of instructional days and instructional hours in a school district's calendar.

SPONSORS: Rep. Knox, Carr 4; Rep. Wiley, Carr 3; Sen. Bradley, Dist 3

COMMITTEE: Education

ANALYSIS

This bill provides that the number of days in the school year may be defined by department of education in rules which specify an equivalent number of hours.

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10-2221

04/05

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to the required number of instructional days and instructional hours in a school district's calendar.

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

1 School Boards, Transportation, and Instruction of Pupils; Days of School. Amend RSA 189:1 to read as follows:

189:1 Days of School. The school board of every district shall provide standard schools for at least 180 days in each year, or the equivalent number of hours [~~if approved by the commissioner of~~] ***as required in the rules of*** the department of education, at such places in the district as will best serve the interests of education and give to all the pupils within the district as nearly equal advantages as are practicable.

2 School Boards, Transportation, and Instruction of Pupils; Standard School. Amend RSA 189:24 to read as follows:

189:24 Standard School. A standard school is one approved by the state board of education, and maintained for at least 180 days in each year, or the equivalent number of hours [~~if approved by the commissioner of~~] ***as required in the rules of*** the department of education, in a suitable and sanitary building, equipped with approved furniture, books, maps and other necessary appliances, taught by teachers, directed and supervised by a principal and a superintendent, each of whom shall hold valid educational credentials issued by the state board of education, with suitable provision for the care of the health and physical welfare of all pupils. A standard school shall provide instruction in all subjects prescribed by statute or by the state board of education for the grade level of pupils in attendance.

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

# **TESTIMONY HB112**

*Relative to the required number of instructional days and instructional hours in a school district's calendar.*

**Submitted by:** John B. Robertson, Superintendent of Schools, Governor Wentworth Regional School District, [sup49@govwentworth.k12.nh.us](mailto:sup49@govwentworth.k12.nh.us)

## **Contents**

Written copy of my oral testimony.

Proposed Bill.

Regulations (with sample modifications - highlighted)

Ed 306.18 School Year

Ed 306.19 School Calendar

Ed 306.20 Alternative School-Year Scheduling Pattern

Chart - Impact of sample Regulation changes on allowable school calendars.

Excerpt from NHDOE recommendation to State Board of Education recommending the elimination of the hourly standard because they find the language confusing.

## TESTIMONY HB112

Good afternoon. My name is Jack Robertson and I am the Superintendent of Schools for the Governor Wentworth Regional School District. Thank you for providing me the opportunity to speak in favor of HB 112. In the interest of time and a notion the "*brevity is a virtue*," I have also provided you with written information which supports my testimony.

The purpose of the proposed changes to RSA 189:1 and 189:24 is not to reduce the time children are in school, but rather to give local school districts the authority to set and manage their respective school calendars within the standards set by law or promulgated in the duly adopted state regulations. Current language in the law sets the standard at "180 days in each year or the equivalent number of hours if approved by the commissioner of the department of education." Furthermore, the State Board of Education, with Legislative oversight, has set the "equivalent number of hours" in Education Regulation 306.18. Consequently, it seems a bit ridiculous for local school districts to have to obtain permission before it is allowed comply with the law. Given the current fiscal conditions in the state and the limited dollars for staffing at the NHDOE, it would seem the department's resources could be put to better use than telling a district they have permission to comply with the law. Moreover, if a school calendar complies with the law and any related regulations, its composition ought to be a local decision.

Past legislative sessions have made needed changes to the law in order to keep it relevant to changing times. I applaud their wisdom. In 1959, the Legislature changed the standard from 36 weeks to 180 days. This gave communities the flexibility to make up lost days on Saturdays without conflict with the law. In 2007, recognizing a changing world and the maturation of technology, the Legislature wisely modified the law to provide the flexibility of an hourly standard. Such a standard takes into account individual learning plans for pupils.

In today's world, more than ever, decisions made by parents, students and staff revolve around the school calendar. Setting the calendar, especially in a cooperative school district that also serves as a regional career and technical education center, involves coordination with a variety of groups. Getting consensus takes time and a lot of effort. If consensus is reached on a calendar that conforms to the hour requirement referenced in the law and related regulations, but is less than 180 days in length, a district risks having to go through the entire calendar development process again, leaving citizens with the feeling that their voices really do not matter. On the other hand, if the district submits a plan to the commissioner prior to obtaining some level of consensus, it puts itself in the position of appearing to not have cared about listening to its constituents' voices. As I am sure that you can appreciate, that is not a good position to be in if you are trying to build partnerships with parents or the greater community.

The proposed change in law has absolutely no impact on either the ability or authority of the NHDOE to monitor school calendars or enforce compliance with the standards contained in the regulations. Districts are still required to submit their respective



calendars to the NHDOE for monitoring. Any calendar that does not conform to Ed 306.18 must, as currently required under Ed 306.20, be approved by the Commissioner of Education. That does not change. Most importantly, however, if districts adhere to the regulations but the results do not align with NHDOE expectations, the power to change the regulations resides solely in Concord, not at the local District. Simply stated, the proposed change is in no way meant to usurp state authority.

The only arguments that I have heard against the proposed change in this law are:

1. **CONCERN:** The Department of Education is not confident that local districts will produce calendars that are good for children. For example, schools may implement longer school days and substantially reduce the number of days that schools are in session. **ANSWER:** Local school boards are elected by the same people that elect the members of the New Hampshire House. I trust the voters' judgment. Moreover, it is important to remember that the control to prevent any abuse in school calendar design remains exclusively in Concord through both laws and related regulations. To illustrate how the education regulations control the calendar, I have enclosed in the documents provided to you an example of a possible rule modification. In the example, the existing rules are shown with three minor changes (highlighted). These minor changes not only prohibit a district from making a major reduction in the number of school days required for children, but at the same time they also raise the instructional time standard for pupils. A chart provides a comparative analysis between this sample and the current standard.
2. **CONCERN:** There will be an onslaught of 4-day weeks and juvenile crime rates will rise in the cities. **ANSWER:** The current law and regulations does not prohibit 4-day weeks or require special NHDOE authorization to implement. However, if the NHDOE finds that many districts are going to a 4-day week (which I strongly doubt) producing detrimental consequences, it can change its rules thus prohibiting such calendars. Remember, calendars still must be submitted to the NHDOE for monitoring, analysis and even rejection if they do not conform to the law and regulations.

In closing, it is my opinion that adopting school district calendars that conform to both the law and related regulations ought to be a matter of local control. The current process of waiting for a response as to whether a district will be allowed to follow the law is not only a waste of precious state resources during these difficult economic times, but in an age of information speed, it is not conducive to building positive relationships between a school district and its constituents. Past legislative sessions had the wisdom to keep this law relevant to changing times. I hope you see the value in doing the same in 2011.

If you have any questions of me, I would be happy to respond either today or at a future date. My e-mail address is included in the packet of information given to you. Thank you.

**HB 112 - AS INTRODUCED**

2011 SESSION

11-0343

04/01

**HOUSE BILL 112**

AN ACT relative to the required number of instructional days and instructional hours in a school district's calendar.

SPONSORS: Rep. Knox, Carr 4; Rep. B. Patten, Carr 4; Rep. Ahlgren, Carr 4; Rep. S. Schmidt, Carr 4; Rep. St. Cyr, Belk 5; Sen. Bradley, Dist 3

COMMITTEE: Education

**ANALYSIS**

This bill provides that the number of days in the school year may be defined by the department of education in rules which specify an equivalent number of hours.

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Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

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

11-0343

04/01

**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Eleven*

AN ACT relative to the required number of instructional days and instructional hours in a school district's calendar.

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

1 School Boards, Transportation, and Instruction of Pupils; Days of School. Amend RSA 189:1 to read as follows:

189:1 Days of School. The school board of every district shall provide standard schools for at least 180 days in each year, or the equivalent number of hours ~~[if approved by the commissioner of]~~ ***as required in the rules of*** the department of education, at such places in the district as will best serve the interests of education and give to all the pupils within the district as nearly equal advantages as are practicable.

2 School Boards, Transportation, and Instruction of Pupils; Standard School. Amend RSA 189:24 to read as follows:

189:24 Standard School. A standard school is one approved by the state board of education, and maintained for at least 180 days in each year, or the equivalent number of hours ~~[if approved by the commissioner of]~~ ***as required in the rules of*** the department of education, in a suitable and sanitary building, equipped with approved furniture, books, maps and other necessary appliances, taught by teachers, directed and supervised by a principal and a superintendent, each of whom shall hold valid educational credentials issued by the state board of education, with suitable provision for the care of the health and physical welfare of all pupils. A standard school shall provide instruction in all subjects prescribed by statute or by the state board of education for the grade level of pupils in attendance.

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

**Ed 306.18 School Year.**

(a) Pursuant to RSA 189:1 and 189:24 each school shall maintain a school year option as provided in either (b) or (c) below.

(b) Each school with a school year option based on hours shall be subject to the following requirements:

(1) The school shall maintain in each elementary school, a school year of at least ~~945~~ 1,006 hours of instructional time;

(2) The school shall maintain in each middle and senior high school, a school year of at least ~~999~~ 1,094 hours of instructional time;

(3) The school day of an individual student shall not exceed ~~8~~ 5.75 hours of instructional time in an elementary school nor 6.25 hours of instructional in a middle or senior high school; and

(4) The school shall have in its school year an additional 10 days of at least 6 hours in duration to provide for instructional time lost due to inclement weather or unexpected circumstances, staff development, and parent-teacher conferences;

(5) A school may close before its scheduled closing time when an emergency condition exists which might adversely affect the health and safety of students, provided that the number of hours of instructional time originally planned for the day shall be credited to the number of hours of instructional time in the school year, if:

a. On that day, the school would normally have had at least 5.25 hours of instructional time; and

b. The school remained open for at least 3.5 hours of instructional time.

(c) Each school with a school year option based on days shall be subject to the following requirements:

(1) The school shall maintain a standard school year of at least 180 days of instructional time;

(2) The school shall have in its school year an additional 10 days of at least 6 hours in duration to provide for instructional time lost due to inclement weather or unexpected circumstances, staff development, and parent-teacher conferences;

(3) For each elementary school:

a. The regular school day shall be 6 hours in duration with at least 5.25 hours devoted to instructional time;

b. No more than 30 minutes of recess or break time, or both, shall be counted toward the 5.25 hour requirement in a. above;

c. Lunch time and homeroom periods shall not be counted in meeting the 5.25 hour requirement in a. above; and

d. Kindergarten sessions shall be at least 2.5 hours in duration;

(5) A plan which consists of a detailed description of the scheduling alternative, including the method and timetable for implementation and procedures for evaluation.

(c) Upon review of the request, the commissioner shall grant approval for a period of one year if the request meets the following criteria:

(1) The information provided is thorough, complete, and does not result in a plan that would detract from student learning;

(2) The local school board has demonstrated that the school/district is able to implement the plan; and

(3) The plan is consistent with the education laws, published by the department, which contain all of the laws enforced by the department, and with the published rules of the state board as adopted under RSA 541-A.

(d) The commissioner shall notify the local school board chairperson and the superintendent in writing of the decision.

(e) If the commissioner denies the request, the chairperson of the local school board may appeal the decision and request a state board hearing. Said appeal shall be filed in writing with the office of legislation and hearings within 20 days of the receipt of the decision and shall specify the basis for the appeal. The office of legislation and hearings shall schedule a hearing on the appeal in accordance with timelines and procedures established in Ed 200.

(f) Pursuant to RSA 21-N:11, III, any person directly affected by said decision may request a state board hearing. A request for a hearing shall be filed in writing with the office of legislation and hearings within 20 days of the decision and shall specify the basis for such hearing. The office of legislation and hearings shall schedule the hearing in accordance with timelines and procedures established in Ed 200.

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96,  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

(4) For each middle school:

- a. The regular school day shall be 6 hours in duration with at least 5.5 hours devoted to instructional time; and
- b. Lunch, passing time, recess, breaks, and homeroom periods shall not be counted as instructional time;

(5) A regular school day may be shortened when an emergency condition exists which might adversely affect the health and safety of students, subject to the following:

- a. For each elementary school, a shortened day shall consist of at least 3.5 hours of instructional time in order to be counted as a regular school day; and
- b. For each middle school and high school, a shortened day shall consist of at least 4 hours of instructional time in order to be counted as a regular school day; and

(6) A school half-day shall consist of at least 3 hours of instructional time, and 2 school half-days can be counted as a regular school day.

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96,  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

Ed 306.19 School Calendar. Each school shall maintain a school calendar.

Still requires the  
Commissioner's  
Approval

Source. #5546, eff 7-1-93; ss by #6366, eff 10-30-96,  
EXPIRED: 10-30-04

New. #8206, INTERIM, eff 11-18-04, EXPIRED: 5-17-05

New. #8354, eff 7-1-05

Ed 306.20 Alternative School-Year Scheduling Pattern.

(a) In order to adopt a school-year scheduling pattern which is not in compliance with Ed 306.18, the local school board shall submit a written request to the commissioner of education at least 60 working days prior to the proposed effective date of the first date of the alternative school year.

(b) A request, pursuant to (a) above, shall include:

- (1) The name of school/district;
- (2) The SAU #;
- (3) The local school board chairperson's signature;
- (4) Reason for the request in accordance with RSA 189:2; and

**COMPARISON OF STANDARD 180-DAY CALENDAR [Ed 306.18(c)] vs. PROPOSED HOURLY STANDARD CALENDAR [Ed 306.18(b)]**

**CURRENT ED 306.18(c) STANDARD**  
*Instructional Time*

(conforms to RSA 189:1 & 189:24 without special approval)

Elementary		Middle/High School	
Hours Per Day	Days Per Year	Hours Per Day	Days Per Year
5.25	180	5.5	180
<b>945 Annual Hours</b>		<b>990 Annual Hours</b>	

**PROPOSED ED 306.18(b) STANDARD**  
*Instructional Time*

(requires more time in school for children than the 180-day calendar not requiring pre-approval)

Elementary		Middle/High School	
Hours Per Day	Days Per Year	Hours Per Day	Days Per Year
5.25	192	5.50	199
5.30	190	5.55	197
5.35	188	5.60	195
5.40	186	5.65	194
5.45	185	5.70	192
5.50	183	5.75	190
5.55	181	5.80	189
5.60	180	5.85	187
5.65	178	5.90	185
5.70	176	5.95	184
5.75	175 <b>Minimum Days</b>	6.00	182
		6.05	181
		6.10	179
		6.15	178
		6.20	176
		6.25	175 <b>Minimum Days</b>

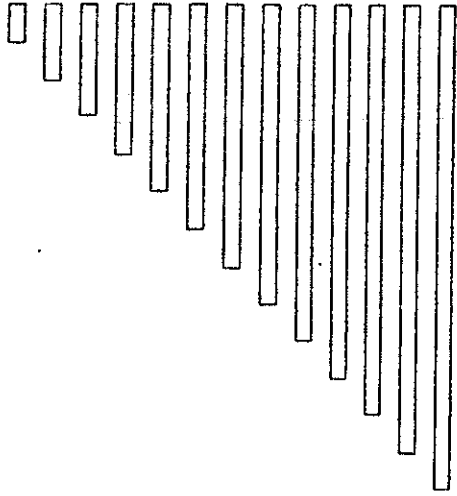
**How Regulations Control Calendar Decisions**

**Sample** -The minor modifications (highlighted) shown in the current regulation (Ed 306.18) can easily control the maximum or minimum days a district is allowed to have in its calendar. In this example, an elementary school calendar could have as few as 175 days by extending its daily instructional time to the maximum length (5.75 hrs.) or as many as 192 days if the instructional time is the current length (5.25 hrs.).

Point at which the number of days equals the standard 180-day calendar

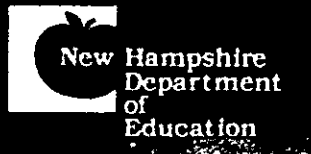
**Proposed Change in Legislation & Rules**

With respect to instructional time, the proposed change is the equivalent of a 192-day elementary school and a 199-day middle/high school calendar under the "traditional standard" that does not require the pre-approval of the Commissioner.

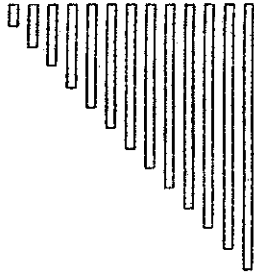


# UPDATE OF *MINIMUM STANDARDS FOR PUBLIC SCHOOL APPROVAL*

**EDWARD R. MURDOUGH  
PRESENTATION TO STATE BOARD OF EDUCATION  
SEPTEMBER 29, 2010**







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# SCHOOL YEAR

Issue: Current language is confusing.

Proposal: Rewrite the rule eliminating the two options. Schools must provide 945/990 hours of instruction in a calendar of at least 180 days. Schools may request approval from the Commissioner to do fewer than 180 days. Schools may request to use the internet during snow days and avoid rescheduling lost days.

# Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 112

**BILL TITLE:** relative to the required number of instructional days and instructional hours in a school district's calendar.

**DATE:** 2/1/11

**LOB ROOM:** 207

**Amendments:**

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

**Motions:** OTP, ~~OTP/A~~, ITL, Interim Study (Please circle one.)

Moved by Rep. St. Cyr

Seconded by Rep. Hall

Vote: 16-0 (Please attach record of roll call vote.)

**Motions:** OTP, ~~OTP/A~~, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 16-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Rick Ladd, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 112

**BILL TITLE:** relative to the required number of instructional days and instructional hours in a school district's calendar.

**DATE:** 2/1/11

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Amendments:

Sponsor: Rep. OLS Document #:  
Sponsor: Rep. OLS Document #:  
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. St Cyr  
Seconded by Rep. Hall  
Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

16-0  
Hall / Brosseau

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,  
Rep. Rick Ladd, Clerk

EDUCATION

Bill #: 112 Title: Relative to required number of instructional days and instructional hours in a school district's calendar

PH Date: 1/18/2011 Exec Session Date: 2/1/2011

Motion: St Cyr / Hall Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Balboni, Michael A, Chairman	✓	
Boehm, Ralph G, V Chairman	✓	
Hutchinson, Karen K	AB	
Ladd, Rick M	✓	
Fleck, Joseph W	✓	
St. Cyr, Jeffrey L	✓	
Brosseau, Charles J	✓	
Greemore, Robert H	✓	
Hill, Gregory	✓	
Hoell, J.R.	✓	
Jones, Laura M	✓	
Lauer-Rago, Kathleen A	✓	
Pitre, Joseph A	✓	
Gile, Mary Stuart	✓	
Shaw, Barbara E	✓	
Gorman, Mary J	✓	
Frazer, June M	✓	
TOTAL VOTE:	16	0

# Committee Report

**CONSENT CALENDAR**

**February 2, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on EDUCATION to which was referred  
HB112,**

**AN ACT relative to the required number of  
instructional days and instructional hours in a school  
district's calendar. Having considered the same, report  
the same with the recommendation that the bill OUGHT  
TO PASS.**

**Rep. Jeffrey L St. Cyr**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>EDUCATION</b>
Bill Number:	<b>HB112</b>
Title:	<b>relative to the required number of instructional days and instructional hours in a school district's calendar.</b>
Date:	<b>February 2, 2011</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

HB 112 allows local school districts to set their own annual school calendar without the approval of the Commissioner of Education as long as the calendar is set for 180 days or the equivalent number of hours as determined in the Department of Education Rules. This bill will allow local school districts flexibility in setting the calendar to meet the needs of the district such as setting the school calendar around a construction/renovation project. Local school districts still need to follow all rules of the Department of education and state law when setting the annual school calendar.

Vote 16-0.

Rep. Jeffrey L St. Cyr  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File



## CONSENT CALENDAR

### EDUCATION

**HB112**, relative to the required number of instructional days and instructional hours in a school district's calendar. **OUGHT TO PASS.**

Rep. Jeffrey L St. Cyr for EDUCATION. HB 112 allows local school districts to set their own annual school calendar without the approval of the Commissioner of Education as long as the calendar is set for 180 days or the equivalent number of hours as determined in the Department of Education Rules. This bill will allow local school districts flexibility in setting the calendar to meet the needs of the district such as setting the school calendar around a construction/renovation project. Local school districts still need to follow all rules of the Department of education and state law when setting the annual school calendar. **Vote 16-0.**

Original: House Clerk  
Cc: Committee Bill File



HB 112

JEFFREY. ST. CYR

~~HB 112 removes the approval authority needed for local school districts~~

HB 112 allows local school districts to set their own annual school calendar without the approval of the commissioner of education as long as the calendar is set for 180 days or the equivalent number of hours as ~~set~~ determined in the Department of Education Rules.

This bill will allow local ~~school~~ school districts flexibility in setting the calendar to meet the needs of the district such as setting the school calendar around a construction/renovation project.

Local school districts still need to follow all rules of the Dept of Education and state law when setting the annual school calendar.

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*Michael J. Gallari*