

LEGISLATIVE COMMITTEE MINUTES

**SB405**

# Bill as Introduced

SB 405 - AS INTRODUCED

2018 SESSION

18-2785  
05/10

SENATE BILL

**405**

AN ACT enabling municipalities to adopt a separate exemption against the statewide property tax for certain long-term residents.

SPONSORS: Sen. Sanborn, Dist 9; Sen. Daniels, Dist 11; Sen. French, Dist 7; Sen. Gannon, Dist 23; Sen. Giuda, Dist 2; Sen. Ward, Dist 8

COMMITTEE: Ways and Means

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ANALYSIS

This bill allows cities and towns to adopt a separate exemption against the statewide property tax for long-term residents over 65 years of age.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT enabling municipalities to adopt a separate exemption against the statewide property tax for certain long-term residents.

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

1       1 New Section; Property Taxation; Exemption Against State Education Property Tax for  
2 Certain Long-Term Residents. Amend RSA 72 by inserting after section 37-c the following new  
3 section:

4       72:37-d Exemption Against State Education Property Tax for Certain Long-Term Residents. A  
5 municipality may, by vote of the local legislative body, adopt an exemption to apply only against the  
6 state education property tax under RSA 76:3 for eligible property owners 65 years of age and older  
7 who have owned their primary residence and have lived in the municipality for at least 30  
8 consecutive years. The exemption for long-term residents, if adopted by the municipality pursuant  
9 to RSA 72:27-a, shall apply to the first \$100,000 of assessed value. An otherwise eligible property  
10 owner who moves within the municipality shall continue to be eligible for the exemption.

11       2 Property Taxation; Definitions; Ownership of Real Estate. Amend RSA 72:29, VI to read as  
12 follows:

13       VI. For purposes of RSA 72:28, 28-b, 29-a, 30, 31, 32, 33, 35, 36-a, 37, 37-a, 37-b, 37-d, 38-a,  
14 39-a, 62, 66, and 70, the ownership of real estate, as expressed by such words as "owner," "owned"  
15 or "own," shall include those who have placed their property in a grantor/revocable trust or who  
16 have equitable title or the beneficial interest for life in the subject property.

17       3 Application Procedure. Amend RSA 72:33, I to read as follows:

18       I. No person shall be entitled to the exemptions or tax credits provided by RSA 72:28, 28-b,  
19 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 37-d, 38-b, 39-b, 62, 66, and 70 unless the person has filed  
20 with the selectmen or assessors, by April 15 preceding the setting of the tax rate, a permanent  
21 application therefor, signed under penalty of perjury, on a form approved and provided by the  
22 commissioner of revenue administration, showing that the applicant is the true and lawful owner of  
23 the property on which the exemption or tax credit is claimed and that the applicant was duly  
24 qualified upon April 1 of the year in which the exemption or tax credit is first claimed, or, in the  
25 case of financial qualifications, that the applicant is duly qualified at the time of application. The  
26 form shall include the following and such other information deemed necessary by the commissioner:

27       4 Appeal. Amend RSA 72:34-a to read as follows:

28       72:34-a Appeal From Refusal to Grant Exemption, Deferral, or Tax Credit. Whenever the  
29 selectmen or assessors refuse to grant an applicant an exemption, deferral, or tax credit to which  
30 the applicant may be entitled under the provisions of RSA 72:23, 23-d, 23-e, 23-f, 23-g, 23-h, 23-i,

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1 23-j, 23-k, 28, 28-b, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 37-d, 38-a, 38-b, 39-a, 39-b, 41, 42, 62,  
2 66, or 70 the applicant may appeal in writing, on or before September 1 following the date of notice  
3 of tax under RSA 72:1-d, to the board of tax and land appeals or the superior court, which may  
4 order an exemption, deferral, or tax credit, or an abatement if a tax has been assessed.

5 5 Property Taxation; Commissioner of Revenue Administration. Amend RSA 72:36, I to read as  
6 follows:

7 I. The commissioner's interpretation of RSA 72:28, 72:28-b, 72:29, 72:29-a, 72:30, 72:31,  
8 72:32, 72:33, 72:34, 72:34-a, 72:35, 72:36-a, 72:37, 72:37-a, 72:37-b, 72:37-d, 72:38-a, 72:38-b, 72:39-  
9 a, 72:39-b, 72:41, 72:62, 72:66, and 72:70; and

10 6 Effective Date. This act shall take effect April 1, 2018.

# Amendments

Adopted  
WRM

Draft Amendment to 405

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a commission to study the effect of current use taxation on small and  
4 rural municipalities.

5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Current Use Taxation; Commission to Study the Effect of Current Use Taxation  
9 on Small and Rural Municipalities. Amend RSA 79-A by inserting after section 26 the following  
10 new section:

11 79-A:27 Commission to Study the Effect of Current Use Taxation on Small and Rural  
12 Municipalities.

13 I. There is established a commission to study the effect of current use taxation on small and  
14 rural municipalities.

15 I. The members of the commission shall be as follows:

16 (a) One member of the senate, appointed by the president of the senate.

17 (b) One member of the house of representatives, appointed by the speaker of the house  
18 of representatives.

19 (c) A representative of the New Hampshire Municipal Association, appointed by the  
20 association.

21 (d) A representative of the current use advisory board established in RSA 79-A:3,  
22 appointed by the board.

23 (e) One selectman from a town with current use <sup>and</sup> conservation easements, appointed  
24 by the governor.

25 II. Legislative members of the commission shall receive mileage at the legislative rate when  
26 attending to the duties of the commission.

27 III. The commission shall study the effect of current use taxation on small and rural  
28 municipalities.

29 IV. The members of the commission shall elect a chairperson from among the members.  
30 The first meeting of the commission shall be called by the senate member. The first meeting of the  
31 commission shall be held within 45 days of the effective date of this section. Three members of the  
32 commission shall constitute a quorum.

33 V. The commission shall report its findings and any recommendations for proposed

1 legislation to the speaker of the house of representatives, the president of the senate, the house  
2 clerk, the senate clerk, the governor, and the state library on or before November 1, 2018.

3       2 Repeal. RSA 79-A:27, relative to the commission to study the effect of current use taxation on  
4 small and rural municipalities, is repealed.

5       3 Effective Date.

6           I. Section 2 of this act shall take effect November 1, 2018.

7           II. The remainder of this act shall take effect upon its passage.

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2018-1000s

AMENDED ANALYSIS

This bill establishes a commission to study the effect of current use taxation on small and rural municipalities.



Amendment to SB 405

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2018-1013s

AMENDED ANALYSIS

This bill establishes a commission to study the effect of current use taxation on small and rural municipalities.

# Committee Minutes

# Senate Ways and Means Committee

*Sonja Caldwell 271-2117*

**SB 405**, enabling municipalities to adopt a separate exemption against the statewide property tax for certain long-term residents.

**Hearing Date:** January 24, 2018

**Time Opened:** 9:00 a.m.

**Time Closed:** 10:25 a.m.

**Members of the Committee Present:** Senators Sanborn, Giuda, Daniels, D'Allesandro and Feltes

**Members of the Committee Absent :** None

**Bill Analysis:** This bill allows cities and towns to adopt a separate exemption against the statewide property tax for long-term residents over 65 years of age.

**Sponsors:**

Sen. Sanborn

Sen. Daniels

Sen. French

Sen. Gannon

Sen. Giuda

Sen. Ward

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**Who supports the bill:** Sen. Giuda, Sen. Daniels, Sen. Ward, Sen. Gannon

**Who opposes the bill:** Barbara Reid (NH Municipal Assoc.)

**Who is neutral on the bill:** No one

**Summary of testimony presented:**

**Sen. Sanborn**

- This bill seeks to address the issue surrounding older members of our community, many on a fixed income, being priced out of their homes.
- This is enabling legislation that would allow municipalities to establish a tax exemption from the state portion of the statewide education property tax for individuals who meet specific criteria:
  - Individuals who have lived in their home in NH for 30 years or more
  - Individuals over the age of 65
- Sen. Sanborn specified the state tax portion in this bill to avoid directly impacting municipal governments.
- This language could raise constitutional questions.
- Sen. Sanborn explained that this bill is intended to provide financial relief to elderly

members of communities who have lived in the state for many years.

- This bill is not intended to give a tax break to those who can afford it, but instead provide a tax break to elderly, low-income homeowners.
- This bill would allow a tax exemption on the first \$100,000 of one's assessed value.

**Sen. Feltes** noted that on lines 7-8 of the bill, the exemption is limited to people who have owned their primary residence and lived in a municipality in NH for more than 30 years. He said that individuals who would meet those requirements are not likely to be low-income.

**Sen. Sanborn** disagreed.

**Sen. Feltes** asked Sen. Sanborn if he knew why the bill didn't have a fiscal note.

**Sen. Sanborn** did not know why there was no fiscal note but pointed out that the bill was enabling.

**Sen. Sanborn** intended for this idea to be a future discussion among the Ways and Means committee members.

**Sen. Feltes** expressed concern with the low to moderate income property tax credit program lacking asset testing because even though someone may be on a fixed income, they may also have other assets. He asked Sen. Sanborn if he would be willing to include some kind of asset test in this bill to ensure that the bill is only utilized by the previously identified target population.

**Sen. Sanborn** agreed with the need to include asset testing in this bill.

**Sen. Daniels** asked how this bill would address a scenario where one spouse is over 65 years old and one spouse is under 65 years old and if they would qualify.

**Sen. Sanborn** said he had not thought of that.

#### **Barbara Reid – NH Municipal Association**

- The NH Municipal Association is opposed to this bill as written but has a suggestion for an alternative way to accomplish the intent of the prime sponsor.
- To administer the tax exemption proposed in this bill would be cumbersome. The current elderly tax exemption results in one assessed value on the property that is applied to all tax rates. Under this bill, if there was an exemption for only the state education portion, you would have two different assessed values.
- The association is concerned with a shift in tax burden due to the way that this bill is written.
- The Dept. of Revenue issues a warrant to each municipality requiring them to raise x number of dollars and then municipalities set the tax rate accordingly.
- Providing tax credits to certain residents within a municipality do not result in less revenue being raised, rather they shift the tax burden to other residents to make up for the missing revenue.
- The association suggested the alternative of piggybacking off of the existing low and moderate income property tax rebate program via the DRA.
- Most municipalities have an elderly tax exemption in place. The DRA has a list which might offer some perspective on how many elderly people apply for that credit within each municipality.

**Sen. Sanborn** asked why there has been a drop in applications for tax exemptions.

**Sen. Feltes** responded to Sen. Sanborn's question by explaining that the standards related to defining low-income have not been updated in years. The definition of low-income in 2005 does not

equate to what is considered low-income today, which excludes more people from eligibility.

**Sen. D'Allesandro** also noted that there are an increasing number of elderly individuals that have been forced to sell their homes and move into elderly housing, especially in the city of Manchester.

**Sen. Feltes** asked the DRA to forward a document they had crafted that would have updated the standards for being considered low-income and moderate income to the committee.

**Carolynn Ward** (DRA) told Sen. Feltes that she would do that and explained that the DRA previously relied on the federal poverty standard.

**Sen. D'Allesandro** asked if Ms. Reid remembered the money the legislature allocated for property tax relief when this tax was initially instituted.

**Barbara Reid** said it was in 2000 and it was specifically to deal with low-income people in donor towns.

**Sen. D'Allesandro** said he does not think the relief program was ever fully utilized because people didn't know it was available. The exemptions need to be publicized so people can take advantage of them.

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Date Hearing Report completed: January 25, 2018



# Speakers



# Testimony

**STATE OF NEW HAMPSHIRE  
SCHEDULE OF UNDESIGNATED / ASSIGNED FUND BALANCE  
EDUCATION TRUST FUND  
FOR THE LAST TEN YEARS  
(Expressed in Thousands)**

Fiscal Year Ended June 30

	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
Balance, July 1 (Budgetary Method)										
<b>Additions</b>										
Unrestricted Revenue										
Statewide Property Tax (2)	\$363,432	\$363,138	\$363,353	\$363,599	\$363,675	\$363,121	\$363,647	\$363,166	\$363,653	\$363,066
Statewide Property Tax										58
Utility Property Tax	41,755	43,256	41,044	35,771	33,249	33,067	32,319	29,929	28,972	24,196
BPT Increase	68,397	74,167	61,076	58,442	56,692	55,309	49,264	57,590	53,894	67,961
BET Increase	168,402	181,032	146,338	146,471	149,718	135,815	129,401	122,157	123,389	154,990
Meals & Rentals	8,557	8,525	8,546	7,697	7,232	7,559	6,643	4,235	6,107	7,632
Real Estate Tax Increase	47,198	44,877	38,799	33,700	31,099	29,196	27,975	28,832	27,736	38,616
Tobacco Tax Increase	90,472	94,658	92,575	89,753	79,631	78,843	96,805	113,004	128,796	109,260
Tobacco Settlement	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Transfers from Lottery	72,611	75,871	74,325	72,380	74,335	66,768	62,206	66,222	68,149	75,553
Transfers from Racing & Charitable Gaming	3,509	3,314	2,952	3,034	3,373	3,495	1,254	1,362	1,470	1,457
Total Revenue	904,333	928,838	869,008	850,847	839,004	813,173	809,514	826,497	842,166	882,789
General Fund										
Budgeted Appropriations										
Total Additions	904,333	928,838	869,008	850,847	839,004	813,173	809,514	826,497	842,166	882,789
<b>Deductions</b>										
Appropriations										
Adequate Education Grant (1)	570,584	570,121	572,711	572,465	577,792	578,204	482,725	336,852	526,707	527,295
Adequate Education Grant (2)	363,432	363,138	363,353	363,599	363,675	363,121	363,647	363,166	363,653	363,066
Total Grants	934,016	933,259	936,064	936,064	941,467	941,325	846,372	700,018	890,360	890,361
RA-Property Tax Relief	2,150	2,150	2,900	2,887	2,706	1,246	1,300	1,210	5,390	5,700
DOE-Charter Schools	36,993	21,891	22,177	18,905	11,085	5,185	6,407	4,830	2,378	1,780
DOE-Kindergarten Aid					1,952	1,952	3,678	3,678		
DOE-Fiscal Disparity Grants					5,026	4,266	51,187	39,760		
DOE-Education Transition Aid							43,491	43,657		
Total Appropriations	973,159	957,300	961,141	957,856	962,236	953,974	954,435	797,153	898,128	897,841
Less Lapses	(15,730)	(410)	(13,505)	(4,968)	(2,272)	(717)	(20,898)	(2,146)	(3,024)	270
Net Appropriations	957,429	956,890	947,636	952,888	959,964	953,257	933,537	795,007	895,104	898,111
Balance (Deficit), June 30 (Budgetary Method)	\$(53,096)	\$(28,052)	\$(78,628)	\$(102,041)	\$(120,960)	\$(140,084)	\$(124,023)	\$31,490	\$(52,938)	\$(15,322)
<b>End of Year</b>										
Transfers From (To)										
General Fund										
FY 2007										15,322
FY 2008									52,938	
FY 2009								(31,490)		
FY 2010							124,023			
FY 2011						140,084				
FY 2012					120,960					
FY 2013				102,041						
FY 2014			78,628							
FY 2015		28,052								
FY 2016	53,096									
Balance June 30										

(1) State Education Grant Disbursed by State

(2) State Education Grant Retained Locally by Cities &amp; Towns

Note: Beginning fiscal year 2011, the fund balance categories were reclassified as a result of implementing GASB Statement 54. Fund balance has not been restated for prior years.

# Low and Moderate Income Homeowners Property Tax Relief Historical Claims Data

The Low and Moderate Income Homeowners Property Tax Relief program (RSA 198:56-57) was designed to lessen the economic burden of the Education Property Tax on certain at-risk taxpayers.

Eligible claimants apply for relief to the New Hampshire Department of Revenue using Form DP-8. Claimants must include a copy of their final property tax bill and federal income tax return for the claim year and any additional documentation as required by law. Completed Forms DP-8 must be postmarked no earlier than May 1, and no later than June 30 following the due date of the final property tax bill.

Claim Year *	Claims Granted	Total Relief Paid
2003	27,208	\$7.5 million
2004	25,059	\$4.9 million
2005	22,381	\$3.9 million
2006	19,570	\$3.3 million
2007	18,579	\$3.1 million
2008	17,600	\$3.1 million
2009	16,066	\$3.1 million
2010	12,100	\$2.3 million
2011	11,622	\$2.3 million
2012	11,674	\$2.3 million
2013	10,222	\$2.0 million
2014	9,414	\$1.8 million
2015	8,541	\$1.6 million
2016	7,938	\$1.4 million

\* The claim year corresponds with the taxable period, starting April 1st, for the property tax bill from which relief is being sought.

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Wednesday, March 7, 2018

THE COMMITTEE ON Ways and Means

to which was referred **SB 405**

AN ACT

enabling municipalities to adopt a separate exemption against the statewide property tax for certain long-term residents.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1013s

Senator Bob Giuda  
For the Committee

Sonja Caldwell 271-2117

**WAYS AND MEANS**

**SB 405**, enabling municipalities to adopt a separate exemption against the statewide property tax for certain long-term residents.

Ought to Pass with Amendment, Vote 5-0.

Senator Bob Giuda for the committee.