

# Committee Report

**REGULAR CALENDAR**

**March 23, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Education to which  
was referred HB 282,**

**AN ACT relative to a private school that is approved as  
a tuition program. Having considered the same, report  
the same with the following amendment, and the  
recommendation that the bill OUGHT TO PASS WITH  
AMENDMENT.**

**Rep. Glenn Cordelli**

**FOR THE MAJORITY OF THE COMMITTEE**

## **MAJORITY COMMITTEE REPORT**

Committee:	<b>Education</b>
Bill Number:	<b>HB 282</b>
Title:	<b>relative to a private school that is approved as a tuition program.</b>
Date:	<b>March 23, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2021-0616h</b>

### **STATEMENT OF INTENT**

This bill relates to towns that do not have all grade levels and therefore tuition students to other schools for those grades. The current statute limits the district to sending students to another public school or a non-sectarian private school. Last year's US Supreme Court ruling in the *Espinoza v. Montana Department of Revenue* case stated that if students could be sent to private schools it would be unconstitutional to exclude religious (sectarian) private schools. This amended bill removes the non-sectarian exclusion. It also includes the current practice of districts signing tuition agreements with multiple schools and giving parents the right to select among the approved schools for their child.

Vote 12-8.

Rep. Glenn Cordelli  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

### Education

**HB 282**, relative to a private school that is approved as a tuition program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Glenn Cordelli for the **Majority** of Education. This bill relates to towns that do not have all grade levels and therefore tuition students to other schools for those grades. The current statute limits the district to sending students to another public school or a non-sectarian private school. Last year's US Supreme Court ruling in the *Espinoza v. Montana Department of Revenue* case stated that if students could be sent to private schools it would be unconstitutional to exclude religious (sectarian) private schools. This amended bill removes the non-sectarian exclusion. It also includes the current practice of districts signing tuition agreements with multiple schools and giving parents the right to select among the approved schools for their child. **Vote 12-8.**

Original: House Clerk

Cc: Committee Bill File

**REGULAR CALENDAR**

**March 23, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Education to which  
was referred HB 282,**

**AN ACT relative to a private school that is approved as  
a tuition program. Having considered the same, and  
being unable to agree with the Majority, report with the  
following resolution: RESOLVED, that it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Linda Tanner**

**FOR THE MINORITY OF THE COMMITTEE**

## **MINORITY COMMITTEE REPORT**

Committee:	<b>Education</b>
Bill Number:	<b>HB 282</b>
Title:	<b>relative to a private school that is approved as a tuition program.</b>
Date:	<b>March 23, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### **STATEMENT OF INTENT**

The current law, RSA 193:1, I(d), allows towns which do not offer public education in certain grades to enter into a contract with either another public school or a non-sectarian private school to fulfill their responsibility for providing education for their students. This bill seeks to remove the restriction for nonsectarian schools. The decision to stipulate nonsectarian private schools was based on Article 6 of New Hampshire's Constitution which speaks directly to education. Written in 1784, Article 6 states that religious schools may, "... [elect] their own teachers, and [contract] with them for their support. ... But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination." There is currently a case being heard in court dealing with this specific bill and this constitutional issue that will most likely go through an appeal process. This bill should not be considered at this time because of its potential influence on the judicial process.

Rep. Linda Tanner  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Education

**HB 282**, relative to a private school that is approved as a tuition program. **INEXPEDIENT TO LEGISLATE.**

Rep. Linda Tanner for the **Minority of Education**. The current law, RSA 193:1, I(d), allows towns which do not offer public education in certain grades to enter into a contract with either another public school or a non-sectarian private school to fulfill their responsibility for providing education for their students. This bill seeks to remove the restriction for nonsectarian schools. The decision to stipulate nonsectarian private schools was based on Article 6 of New Hampshire's Constitution which speaks directly to education. Written in 1784, Article 6 states that religious schools may, "... [elect] their own teachers, and [contract] with them for their support. ... But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination." There is currently a case being heard in court dealing with this specific bill and this constitutional issue that will most likely go through an appeal process. This bill should not be considered at this time because of its potential influence on the judicial process.

Original: House Clerk

Cc: Committee Bill File

Rep. Ladd, Graf. 4  
March 3, 2021  
2021-0616h  
06/04

Amendment to HB 282

1 Amend RSA 193:3, VI as inserted by section 2 of the bill by replacing it with the following:

2

3 VI. If there is no public school for the child's grade in the resident district, the school board  
4 may ~~[assign the child to]~~ **contract with** another public school in another school district or ~~[to]~~ **with**  
5 any ~~[nonsectarian]~~ private school that has been approved as a school tuition program by the school  
6 board ~~[-. The school board may execute a contract with an approved nonsectarian private school to~~  
7 ~~provide for the education of a child who resides in the school district]~~, and may raise and appropriate  
8 money for the purposes of the contract, if the school district ~~[does not have a public school at the~~  
9 ~~pupil's grade level and the school board]~~ decides it is in the best interest of the pupil. ***The district***  
10 ***may either assign all children to schools that have been approved as a school tuition***  
11 ***program, or allow each child's parent to choose a school from among schools that have***  
12 ***been approved as a school tuition program.***



# Voting Sheets





①

~~Roll Call~~ Amendments 2021 SESSION

**Education**

Bill #: HB282 Motion: OTP AM #: 0616h Exec Session Date: 3-18-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman	✓		
Cordelli, Glenn Vice Chairman	✓		
Boehm, Ralph G.	✓		
Allard, James C.	✓		
Lekas, Alicia D.	✓		
Moffett, Michael	✓		
Hobson, Deborah L.	✓		
Andrus, Louise	✓		
Ford, Oliver J.	✓		
Layon, Erica J.	✓		
Soti, Julius F.	✓		
Myler, Mel		✓	
Luneau, David J.		✓	
Shaw, Barbara E. Clerk	✓		
Cornell, Patricia		✓	
Tanner, Linda L.		✓	
Ellison, Arthur S.		✓	
Mullen, Sue M.		✓	
Ley, Douglas A.		✓	
Woodcock, Stephen L.		✓	
<b>TOTAL VOTE:</b>	12	8	



2

2021 SESSION

Education

Bill #: HB 282 Motion: OTP/A AM #: 0616h Exec Session Date: 3-18-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman	✓		
Cordelli, Glenn Vice Chairman	✓		
Boehm, Ralph G.	✓		
Allard, James C.	✓		
Lekas, Alicia D.	✓		
Moffett, Michael	✓		
Hobson, Deborah L.	✓		
Andrus, Louise	✓		
Ford, Oliver J.	✓		
Layon, Erica J.	✓		
Soti, Julius F.	✓		
Myler, Mel		✓	
Luneau, David J.		✓	
Shaw, Barbara E. Clerk	✓		
Cornell, Patricia		✓	
Tanner, Linda L.		✓	
Ellison, Arthur S.		✓	
Mullen, Sue M.		✓	
Ley, Douglas A.		✓	
Woodcock, Stephen L.		✓	
<b>TOTAL VOTE:</b>	<b>12</b>	<b>8</b>	



2

2021 SESSION

Education

Bill #: HB 282 Motion: OTP/A AM #: 0616h Exec Session Date: 3-18-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman	✓		
Cordelli, Glenn Vice Chairman	✓		
Boehm, Ralph G.	✓		
Allard, James C.	✓		
Lekas, Alicia D.	✓		
Moffett, Michael	✓		
Hobson, Deborah L.	✓		
Andrus, Louise	✓		
Ford, Oliver J.	✓		
Layon, Erica J.	✓		
Soti, Julius F.	✓		
Myler, Mel		✓	
Luneau, David J.		✓	
Shaw, Barbara E. Clerk	✓		
Cornell, Patricia		✓	
Tanner, Linda L.		✓	
Ellison, Arthur S.		✓	
Mullen, Sue M.		✓	
Ley, Douglas A.		✓	
Woodcock, Stephen L.		✓	
<b>TOTAL VOTE:</b>	<b>12</b>	<b>8</b>	

Amendment to HB 282

1 Amend RSA 193:3, VI as inserted by section 2 of the bill by replacing it with the following:

2

3 VI. If there is no public school for the child's grade in the resident district, the school board  
4 may ~~[assign the child to]~~ **contract with** another public school in another school district or ~~[to]~~ **with**  
5 any ~~[nonsectarian]~~ private school that has been approved as a school tuition program by the school  
6 board ~~[- The school board may execute a contract with an approved nonsectarian private school to~~  
7 ~~provide for the education of a child who resides in the school district]~~, and may raise and appropriate  
8 money for the purposes of the contract, if the school district ~~[does not have a public school at the~~  
9 ~~pupil's grade level and the school board]~~ decides it is in the best interest of the pupil. ***The district***  
10 ***may either assign all children to schools that have been approved as a school tuition***  
11 ***program, or allow each child's parent to choose a school from among schools that have***  
12 ***been approved as a school tuition program.***

# Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 282

**BILL TITLE:** relative to a private school that is approved as a tuition program.

**DATE:** February 4, 2021

**LOB ROOM:** 201/203                      **Time Public Hearing Called to Order:** 2:00 PM

**Time Adjourned:** 2:40 PM

**Committee Members:** Reps. Ladd, Cordelli, Shaw, Boehm, Allard, A. Lekas, Moffett, Hobson, Andrus, Ford, Layon, Soti, Myler, Luneau, Cornell, Tanner, Ellison, Mullen, Ley and Woodcock

**Bill Sponsors:**

Rep. Ladd

Rep. Boehm

Rep. Allard

Sen. Reagan

Rep. McGuire

Rep. Osborne

Rep. Hill

Sen. Ward

Rep. Cordelli

Rep. Baldasaro

Rep. Stapleton

Sen. Hennessey

TESTIMONY

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

**Rep. Rick Ladd – Bill Sponsor**

- Tuition program in place
- 193-1:1 attendance
- Part D – all non-sectorial sections are struck – changed to private school
- Line 9 Roman II – assignment of students
- Parents can choose
- Has amendment to bill 2021-0616h
- Need options in schools around the state

**\*Derek Tremblay – Self – Supports**

- Takes special ed students and have due process rights in his community private school

**Christina Barrett – NHSBA – Neutral**

- Non-sectarian language should be removed
- Broader policy – opposed – if a school district who does choose to child to a under Croydon law policies
- May be on impact or children if they were forced to attend a religious school as part of a compact with team

**Jody Underwood – Self – Supports**

- Non-sectarian language is already in Federal law and has created lawsuits due to freedom of religion
- Suggest “non-sectarian or religious”

**Kirby West – Lawyer 0 Lobbyist – The Institute of Justice – Supports**

- Non-sectarian language has created lawsuits
- Should be private and religious which would ease lawsuits

Respectfully submitted,

Rep. Barbara Shaw, Clerk



HOUSE COMMITTEE ON EDUCATION

BILL TITLE: PUBLIC HEARING on Bill # HB 282  
DATE: 3-4-2021 relative to a private school that is approved as a ~~tuition~~ program  
tuition

ROOM: Time Public Hearing Called to Order: 2:00 PM  
Time Adjourned: 2:40 PM

(please circle if present) all present

Committee Members: Reps. Ladd, Cordelli, Shaw, Boehm, Allard, A. Lekas, Moffett, Hobson, Andrus, Ford, Layon, Soti, Myler, Luneau, Cornell, Tanner, Ellison, Mullen, Ley and Woodcock

TESTIMONY

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

- ① Rep Rick Ladd - sponsor
  - tuition program in place
  - 193-1; 1 attendance
  - part D - all non-sectarian sections are struck - changed to private school
  - line 9 Roman VI - assignment of students
  - parents can choose
  - has amendment to bill 0616h
  - need options in schools around the state
- ② Derek Tremblay - self - supports
  - \* written testimony
  - takes special ed students and have de process rights in his community private school
- ③ Christina Barrett - NMSBA - neutral
  - \* non-sectarian language should be removed

- broader policy - opposed - if a school district who does choose <sup>to send</sup> a child to a non-sectarian school should be under Croydon law policies
- may be an impact ~~of~~ <sup>on</sup> children if they were forced to attend a religious school as part of a compact with town

(4) Jody Underwood - self - supports

- non-sectarian language is already in Federal Law and has created law suits due to freedom of religion
- suggest "non-sectarian or religions"

(5) Kirby West - lawyer - lobbyist - The Institute

- non-sectarian <sup>language</sup> has created of Justice - lawsuits supports
- should be ~~non~~ private and religions which would ease lawsuits

(6)

Respectfully submitted  
Rep. Barbara Shaw,  
Clerk

# House Remote Testify

## Education Committee Testify List for Bill HB282 on 2021-03-04

Support: 25 Oppose: 185 Neutral: 0 Total to Testify: 6

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
barnes, ken	hopkinton, NH kbarnes@kenbarneslaw.com	A Member of the Public	Myself	Oppose	Yes (5m)	2/28/2021 10:33 PM
Ladd, Carl	Concord, NH carl@nhsaa.org	A Lobbyist	New Hampshire School Administrators Association	Oppose	Yes (3m)	2/28/2021 1:40 PM
Underwood, Jody	CROYDON, NH jodysun@gmail.com	An Elected Official	Myself	Support	Yes (3m)	3/1/2021 7:31 AM
West, Kirby	Arlington, VA kirbythomaswest@gmail.com	A Lobbyist	The Institute for Justice	Support	Yes (2m)	3/3/2021 10:36 AM
Tremblay, Derek	Goshen, NH dtremblay@mountroyalacademy.com	A Member of the Public	Myself	Support	Yes (2m)	3/4/2021 5:31 AM
Christina, Barrett	Concord, NH bchristina@nhsba.org	A Lobbyist	New Hampshire School Boards Association	Oppose	Yes (2m)	2/28/2021 12:06 PM
Pedersen, Michael	Nashua, NH PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Oppose	No	2/28/2021 11:12 PM
st.martin, tom	candia, NH rockygorgenh@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 11:46 PM
Johnson, Sara	Warner, NH nhchicagocubfan@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 5:37 AM
Dunlap, Bernice	Laconia, NH bernicerd@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 6:58 AM
Minton, Faith	Warner, New Hampshire, NH minton.faith@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 1:21 PM
Wells, Lee	Andover, NH leewells.locustfarm@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 2:28 PM
Wells, Ken	Andover, NH kenwells3@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 2:54 PM

Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 3:28 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Oppose	No	2/28/2021 5:26 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Oppose	No	2/28/2021 5:32 PM
McWilliams, Rebecca	Concord, NH rebecca.mcwilliams@leg.state.nh.us	An Elected Official	Merrimack 27	Oppose	No	2/28/2021 6:14 PM
Axelman, Elliot	HOOKSETT, NH aluaxelman@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:24 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	2/28/2021 7:58 PM
Smith, Sara	Pembroke, NH sara.rose.ssmith@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 8:47 PM
Thomas, Nicholas	Manchester, NH nicholas.w.thomas@uconn.edu	A Member of the Public	Myself	Support	No	2/28/2021 9:08 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 9:36 PM
Corell, Elizabeth	Concord, NH Elizabeth.j.corell@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 10:02 PM
Ward, Senator Ruth	Stoddard, NH ruth.ward@leg.state.nh.us	An Elected Official	Senate District 8	Support	No	2/26/2021 1:27 PM
Bates, David	Warner, NH dbates3@yahoo.com	A Member of the Public	Myself	Oppose	No	2/27/2021 6:52 AM
Kusch, Dan	Center Sandwich, NH Dan.kusch@gmail.com	A Member of the Public	Myself	Oppose	No	2/27/2021 12:49 PM
Warren, Joan	Warner, NH joanbwarren@gmail.com	A Member of the Public	Myself	Oppose	No	2/27/2021 3:46 PM
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Oppose	No	2/27/2021 3:59 PM
Vogt, Robin	Portsmouth, NH robin.w.vogt@gmail.com	A Member of the Public	Myself	Oppose	No	2/27/2021 4:08 PM
McKinney, Garth	Nashua, NH mckinneyg@nashua.edu	A Member of the Public	Myself	Oppose	No	2/28/2021 9:37 AM
Staub, Kathy	Manchester, NH kstaub@comcast.net	A Member of the Public	Myself	Oppose	No	2/28/2021 10:00 AM

Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Oppose	No	2/28/2021 10:36 AM
Wheeler, Michelle	Rye, NH Michellelkwheeler@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:48 AM
Clemons, Ashley	Nashua, NH ashbclemons@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:54 AM
Moore, Melissa	Alexandria, NH melissajar0829@metrocast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 6:00 AM
Rainey, Ashley	Henniker, NH abrainey10@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:02 AM
Kent, Trisha	Gilford, NH Trishadsh@yahoo.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:04 AM
St Germain, Diane	Bedford, NH diane.stgermain33@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:15 AM
Anctil, Janine	Litchfield, NH J9anctil@hotmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:19 AM
Gauthier, Heather	Rochester, NH hlyne88@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:21 AM
Han, Yi-Fu	Barrington, NH yifuhan@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:17 AM
Talbott, Beth	Windham, NH Betha.talbott@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:23 AM
Marotte, Danielle	Nashua, NH rockgirl1976@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 6:24 AM
Platt, Elizabeth-Anne	CONCORD, NH lizanneplatt09@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:29 AM
Cooney, Krystin	Deerfield, NH KrystinCooney@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:30 AM
King, Morgan	Kingston, NH King.morganml@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:31 AM
Donnelly, Deanna	Londonderry, NH LucSoph@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:31 AM
Lockhart, Kristi	Newmarket, NH Kristi.wellenberger@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:37 AM
Beers, Vicki	Milford, NH springbloom13@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:38 AM

Drinkwine, Brandi	Northfield, NH Brandi_Huckins@yahoo.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:39 AM
Smith, Laura	East Kingston, NH laurajsmith@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 6:46 AM
Dudgeon, Lisa	Londonderry, NH tenrchk@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:46 AM
Jarvis, D	Pelham, NH Crowscall@aol.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:46 AM
Bellemare, Bridey	Concord, NH bbellemare@nhasp.org	A Lobbyist	The New Hampshire Association of School Principals	Oppose	No	3/4/2021 6:46 AM
Kidder, Kristina	Londonderry, NH Kristina0920@hotmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:51 AM
Pelletier, Stephanie	Weare, NH Slp12765@aol.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:56 AM
Schmitt, Cheri	Bedford, NH cherischmitt@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 7:28 AM
Godbout, Judith	Manchester, NH jegodbout@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 7:28 AM
Jachim, Nancy	Newport, NH nancyjachim@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:32 AM
Roy, Joyce	Enfield, NH joyvr52@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:46 AM
LaRue, Cristina	Center Sandwich, NH crisper32@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:51 AM
Reagan, Senator John	Deerfield, NH kathryn.cummings@leg.state.nh.us	An Elected Official	Senate District 17	Support	No	3/4/2021 7:54 AM
Mebert, Carolyn	Dover, NH c.mebert@dover.k12.nh.us	An Elected Official	Myself	Oppose	No	3/4/2021 7:56 AM
ellermann, maureen	CONCORD, NH ellermannf@aol.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:58 AM
Petruccelli, Maxine	Webster, NH maxinepet@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:58 AM
Petruccelli, Charles	Webster, NH chasmaxpet@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:59 AM
Leach, Kyle	Farmington, NH outleft@metrocast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 8:07 AM

Murphy, Caitlin	Concord, NH violettefay@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 8:22 AM
Vivado, Mauricio	Bedford, NH maumojo@aol.com	A Member of the Public	Myself	Oppose	No	3/4/2021 8:27 AM
perez, maria	Milford, NH mariaeli63@gmail.com	An Elected Official	Myself	Oppose	No	3/4/2021 8:27 AM
Dugan-Henriksen, Jon	Lancaster, NH jduganh@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 8:36 AM
Osborne, Jason	Auburn, NH HouseRepOffice@leg.state.nh.us	An Elected Official	Myself	Support	No	3/4/2021 8:44 AM
Clark, Denise	Milford, NH denise.m.clark03055@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 8:46 AM
Tetreault, Kathy	Wolfeboro, NH ktetreault1610@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 9:02 AM
Baldasaro, Rep Al	Londonderry, NH mbaldasaro@comcast.net	An Elected Official	Myself	Support	No	3/4/2021 9:13 AM
Sheehan, Vanessa	MILFORD, NH vsheehan16@yahoo.com	An Elected Official	Hillsborough District 23-Milford	Support	No	3/4/2021 9:15 AM
Terry, Paul	Alton, NH paul.terry@leg.state.nh.us	An Elected Official	Myself	Support	No	3/4/2021 9:25 AM
Baird, Cathryn	Newport, NH freewillfarm@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 9:26 AM
Wilke, Mary	CONCORD, NH wilke.mary@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 9:29 AM
Howard Jr., Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Support	No	3/4/2021 9:30 AM
Aron, Judy	Acworth, NH judy.aron@leg.state.nh.us	An Elected Official	Myself	Support	No	3/4/2021 9:33 AM
dostie, donald	Colebrook, NH dadostietrucking@gmail.com	An Elected Official	Myself	Support	No	3/4/2021 9:37 AM
Potucek, John	Derry, NH potucek1@comcast.net	An Elected Official	Myself	Support	No	3/4/2021 9:40 AM
Henrichon, Margaret	Bedford, NH mhenrichon@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 10:01 AM
Billingham, Carla	NH, NH billingham2@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 10:05 AM

Greene, Bob	Hudson, NH bob.greene@leg.state.nh.us	An Elected Official	Hillsborough District 37	Support	No	3/4/2021 10:59 AM
ploszaj, tom	center harbor, NH tom.ploszaj@leg.state.nh.us	An Elected Official	Myself	Support	No	3/4/2021 11:33 AM
Sousa, Chris	Epping, NH chrissousavt@yahoo.com	A Member of the Public	Myself	Oppose	No	3/4/2021 11:38 AM
Pajak, Louise	Sandown, NH lbpajakcello@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 11:45 AM
Stapleton, Walter	Claremont, NH waltstapleton@comcast.net	An Elected Official	Constituents	Support	No	3/4/2021 12:00 PM
Love, Rep. David	Derry, NH davidlove4rep@gmail.com	An Elected Official	ROCKINGHAM 6	Support	No	3/4/2021 12:17 PM
Boylston, Jennifer	Lyme, NH boylstonj@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 12:26 PM
Barber, Tory	New boston, NH Peaceinelevation@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:46 PM
Valine, Sandra	Pembroke, NH spembroke@aol.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:49 PM
Mitschmyer, Karrie	Peterborough, NH kmitschmyer@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 4:11 PM
Lee, Laura	Bedford, NH Laurablee@yahoo.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:08 PM
Keck, Kate	Hopkinton, NH k8squared@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:02 PM
Bryde, Tracey	MANCHESTER, NH traceybryde@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:49 PM
Bryde, Jon	Manchester, NH savesmade@yahoo.com	A Member of the Public	Myself	Oppose	No	3/4/2021 6:51 PM
Piemonte, Tony	Sandown, NH tony.piemonte@leg.state.nh.us	An Elected Official	Myself	Support	No	3/4/2021 7:10 PM
Foss, Carin	Pembroke, NH Clkilar@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 7:40 PM
Langer, Elaine	Portsmouth, NH tryxiegal@comcast.net	A Member of the Public	Myself	Oppose	No	3/4/2021 8:43 PM
Carole, Kimberly	Bedford, NH Mskimberlycarole@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 11:30 AM



Lanigan, Cathy	Peterborough, NH Clanigan@ccomcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 11:26 AM
Corrigan, J	Gorham, NH jcorrigan@sau20.org	A Member of the Public	Myself	Oppose	No	3/3/2021 12:22 PM
Graham, Nancy	West Lebanon, NH nancygraham806@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 12:04 PM
Ingold, Kerry	Warner, NH Pkingold12@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 1:38 PM
Donovan, Julie	BEDFORD, NH julie.donovan@juno.com	A Member of the Public	Myself	Oppose	No	3/3/2021 2:03 PM
Stevens, Elizabeth	New London, NH er.stevens@verizon.net	A Member of the Public	Myself	Oppose	No	3/3/2021 2:34 PM
HOSTAGE, JAN	New London, NH jan.hostage@verizon.net	A Member of the Public	Myself	Oppose	No	3/3/2021 2:35 PM
Zak, Lydia	Merrimack, NH Lydzak27@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 6:20 PM
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 3:17 PM
Crawford, Jennifer	Keene, NH jmc32795@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 3:54 PM
Lord, kit	Northwood, NH kitlord@yahoo.com	A Member of the Public	Myself	Oppose	No	3/3/2021 4:10 PM
Waterman, Raymond	Merrimack, NH prwaterman@aol.com	A Member of the Public	Myself	Oppose	No	3/3/2021 7:47 PM
Waterman, Patricia	Merrimack, NH prwaterman@aol.com	A Member of the Public	Myself	Oppose	No	3/3/2021 7:48 PM
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 7:09 PM
Dewey, Karen	Newport, NH pkdewey@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 7:57 PM
Wild, Gail	Newport, NH Gailwild@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 8:11 PM
Wiggins, Frank	Newport, NH Frankwigginsconstruction@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 8:11 PM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 8:19 PM

Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 8:49 PM
Schissel, Mary	Newport, NH schissell@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 8:50 PM
Brennan, Arthur	Weare, NH arete201314@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 8:58 PM
Banfield, Ann Marie	North Hampton, NH Banfieldannmarie@gmail.com	A Member of the Public	Myself	Support	No	3/3/2021 9:12 PM
Clark, Martha	Canterbury, NH mctraveler1@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 9:33 PM
Hanauer, Gerald & Benette	Bedford, NH gshanauer@yahoo.com	A Member of the Public	Myself & My Spouse	Oppose	No	3/3/2021 9:40 PM
Katsekas, Wendy	Brentwood, NH Byledge@aol.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:44 PM
Cutting, Sarah	Alexandria, NH mrscutting211@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:44 PM
Halle, Danielle	Bridgewater, NH dch76@metrocast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 9:46 PM
Lambert, Jennifer	Northumberland, NH jennlambert06@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:47 PM
Snowdon, Jessica	Wolfeboro, NH Jessica.m.snowdon@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:49 PM
Ballard, Larry	Amherst, NH larryballard@mac.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:49 PM
Mills, Susan	Exeter, NH susanmmills@yahoo.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:52 PM
Takantjas, Edith	Belmont, NH Edeeyam@hotmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:52 PM
Campbell, Meagan	Bridgewater, NH lilnutmeg1@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:56 PM
Campbell, Kurt	Bridgewater, NH krtcampbell@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:00 PM
Blanchard, Amanda	Concord, NH mandysings82@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:01 PM
Miller, Sheila	Bristol, NH smiller@sau4.org	A Member of the Public	Myself	Oppose	No	3/3/2021 10:13 PM

Mennella, Alexandra	Hooksett, NH amennella1@protonmail.com	A Member of the Public	Myself	Support	No	3/3/2021 10:14 PM
Amtmann, Natalie	Plymouth, NH natalieamtman@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:15 PM
Saucier, Dan	Rochester, NH Dasaucier@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:20 PM
Millar, Laura	Merrimack, NH Laurabmilar@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:23 PM
Millar, Jeff	Mont Vernon, NH Jeff@walhco.net	A Member of the Public	Myself	Oppose	No	3/3/2021 10:29 PM
Millar, Barbara	Mont Vernon, NH Bbm@walhco.net	A Member of the Public	Myself	Oppose	No	3/3/2021 10:32 PM
Gemme, Abigail	Manchester, NH abigailgemme@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:38 PM
Kaufold, Cory	Milford, NH cory.kaufold@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:40 PM
Rodrigues, Samantha	Derry, NH Sammie_sjd_414@yahoo.com	A Member of the Public	Myself	Oppose	No	3/3/2021 10:41 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 10:58 PM
Farley, JJ	Nashua, NH Ejjfy@aol.com	A Member of the Public	Myself	Oppose	No	3/3/2021 11:02 PM
Ferrill, Chris	Sanbornville, NH Christopher.p.h.b.ferrill@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 11:02 PM
See, Alvin	Loudon, NH absee@4Liberty.net	A Member of the Public	Myself	Support	No	3/3/2021 11:12 PM
Carey, Gina	North Hampton, NH ginacarey@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 11:26 PM
Josephson, Helina	Canaan, NH HelinaHappy@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 11:27 PM
Josephson, Tim	Canaan, NH josephsonth@gmail.com	An Elected Official	Mascoma Valley Regional School Board	Oppose	No	3/3/2021 11:32 PM
Corbin, Stephanie	Bow, NH Bockman04@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 2:43 AM
Bickford, Lindsey	Gilford, NH Vintagebythepound@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 4:51 AM

Osborne, Kelley	Amherst, NH Infiernofuegoorgy@hotmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 2:00 AM
Spencer, Kathy	Dover, NH kmswaldo@gmail.com	A Member of the Public	Myself	Oppose	No	3/4/2021 5:26 AM
Garen, June	Gilmanton, NH jzanesgaren@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 8:26 AM
Straiton, Marie	Pembroke, NH m.straiton@comcast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 8:59 AM
Satterfield, Peter	Pembroke, NH psatterfield@comcast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 9:00 AM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 9:21 AM
Embley, George	Webster, NH gembley@tds.net	A Member of the Public	Myself	Oppose	No	3/1/2021 9:44 AM
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 9:54 AM
Carter, Lilian	Deering, NH lcarter0914@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 9:54 AM
House, Don	Belmont, NH donhouse@metrocast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 10:06 AM
Mattlage, Linda	Concord, NH l.mattlage@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 11:05 AM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 11:05 AM
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Oppose	No	3/1/2021 11:27 AM
Downing, Christine	Goshen, NH cdowning@goshenschooldistrictnh.org	An Elected Official	Myself	Oppose	No	3/1/2021 12:48 PM
Hennessey, Erin	Concord, NH erin.hennessey@leg.state.nh.us	An Elected Official	SD1	Support	No	3/1/2021 4:15 PM
Jakubowski, Deborah	Loudon, NH Dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 4:43 PM
Falk, Cheri	Wilton, NH Falk.cj@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:25 PM
Nardino, Marie	Andover, NH mdnardino@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:28 PM

Hampton, Doris	Canterbury, NH dandmhamp38@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:42 PM
jakubowski, dennis	Loudon, NH dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:46 PM
Hinebauch, Mel	Concord, NH melhinebauch@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:52 PM
Ladd, Nancy	Warner, NH LADDNEWTON@HOTMAIL.COM	A Member of the Public	Myself	Oppose	No	3/1/2021 9:34 PM
Moulton, Caroline	Andover, NH carolinemoulton@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 7:19 AM
Jaggard, Sue	New London, NH sjaggard43@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 7:36 AM
jelleme, lisa	andover, NH ljelleme@hotmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 7:53 AM
Chase, Susan	Andover, NH srfchase@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 6:52 AM
Rettew, Annie	CONCORD, NH abrettew@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 11:15 AM
Brown, Stacy	Newmarket, NH stay1time@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 11:27 AM
Ball, Maggie	Kensington, NH Magsgworks@comcast.net	A Member of the Public	Myself	Oppose	No	3/2/2021 8:33 AM
Spielman, Kathy	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Oppose	No	3/2/2021 8:33 AM
walsh-robart, nancy	Andover, NH cilleyville@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 8:35 AM
Gluck, Tammy	Newton, NH Tammykgluck@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 8:38 AM
Turnbull, Shauna	Andover, NH shaunaturnbull@yahoo.com	A Member of the Public	Myself	Oppose	No	3/2/2021 8:42 AM
hatch, sally	Concord, NH sallyhatch@comcast.net	A Member of the Public	Myself	Oppose	No	3/2/2021 8:45 AM
Courser, Rebecca	Warner, NH rcourser@hotmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 8:49 AM
Cook, Richard	Warner, NH r_cook@mcttelecom.com	A Member of the Public	Myself	Oppose	No	3/2/2021 9:17 AM

Broshek, Mary Anne	Andover, NH mabandsadie@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 9:36 AM
Keeler, Margaret	New London, NH peg5keeler@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 10:05 AM
Higgins, Patricia	HANOVER, NH phiggins47@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 12:43 PM
Maughan, Lilian	Lebanon, NH Lilmaughan@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 1:17 PM
Tom, Jan	Hollis, NH janalisontom@gmail.com	A Member of the Public	Myself	Support	No	3/2/2021 1:24 PM
Johnson, Lynne	Wilmot, NH tropicats@comcast.net	A Member of the Public	Myself	Oppose	No	3/2/2021 1:41 PM
Hagan, Linda	New London, NH linda-jc@comcast.net	A Member of the Public	Myself	Oppose	No	3/2/2021 3:36 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Oppose	No	3/2/2021 8:26 PM
Freeman, Barbara	Andover, NH donavonfreeman@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 11:20 AM
Schroeter, Susan	Newport, NH sschroeter@sau6.org	A Member of the Public	Myself	Oppose	No	3/3/2021 12:55 PM
Bissonnette, Gilles	Concord, NH Gilles@aclu-nh.org	A Lobbyist	ACLU-NH	Oppose	No	3/3/2021 1:23 PM
Spielman, James	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 6:32 AM
Lewis, Elizabeth	Nashua, NH ecop.lewis@gmail.com	A Member of the Public	Myself	Oppose	No	3/3/2021 8:36 AM
Cutshall, Catherine	Bedford, NH vivadofamily@aol.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:35 AM
Thomas, Sally	Bedford, NH Sallythomas@comcast.net	A Member of the Public	Myself	Oppose	No	3/3/2021 9:46 AM
Wyatt, Timothy	HUDSON, NH timwyatt1@juno.com	A Member of the Public	Myself	Oppose	No	3/3/2021 9:51 AM
Russell, Amanda	Dover, NH a.russell@dover.k12.nh.us	An Elected Official	Myself	Oppose	No	3/3/2021 10:30 AM

# Testimony



INSTITUTE FOR JUSTICE

**Testimony in Support of HB 282**  
**Kirby Thomas West**  
**March 4, 2021**

My name is Kirby Thomas West, and I am an attorney at the Institute for Justice. Thank you for inviting me to speak.

I was asked to speak about HB 282, which would amend New Hampshire's town tuitioning program. Codified in RSA 193:3, the town tuitioning program is the system for small New Hampshire towns that do not operate their own public schools. The program allows those towns to pay tuition to send their children to private schools or public schools in other districts.

First, let me first give you some background on my law firm. The Institute for Justice, also known as "IJ," is a national nonprofit firm that protects constitutional rights. One of our areas of expertise is educational choice. We are the leading experts on this issue, nationwide. Our experience in this area includes firsthand experience with town tuitioning programs like New Hampshire's. IJ is currently litigating cases related to town tuitioning programs in Vermont and Maine, in addition to an active case here in New Hampshire.

The proposed bill is a valuable reform for two reasons. First, it eliminates the requirement that a private school be "nonsectarian" to participate in the program—a requirement that, as argued in IJ's ongoing lawsuit against the New Hampshire Department of Education, violates the First Amendment of the United States Constitution. Second, it brings added clarity ensuring that the statute continues to do what it was intended to do in the first place—provide New Hampshire families with choice in the education of their children.

The exclusion of religious schools from educational choice programs solely because they are religious is unconstitutional under the First Amendment—as has been confirmed by the U.S. Supreme Court's recent decision in *Espinoza v. Montana Department of Revenue*. Removing the sectarian exclusion ensures that New Hampshire's tuitioning program aligns with the Constitution's guarantee of religious liberty.

Because it is clearly unconstitutional under *Espinoza*, the sectarian exclusion is the subject of a lawsuit brought by IJ on behalf of a New Hampshire family. Dennis and Catherine Griffin, residents of Croydon, New Hampshire, send their grandson, Clayton, to Mount Royal Academy, a private Catholic school near their home. Because Croydon operates only a small elementary school, students beyond the fourth-grade level must attend private school or public schools in other districts. Under the tuitioning program, Croydon is empowered to pay these students' tuition. Although the Croydon School Board would like to extend this program to students like Clayton, who attend private religious schools, it cannot do so under the current statute. If this bill does not pass,



litigation of the Griffins' case will continue and, we anticipate, the courts will ultimately strike down the sectarian exclusion—achieving the same result as this bill at greater cost.

The second important purpose of this bill is to make more clear how the statute is intended to operate. Though some of you may already be familiar with the history of this statute, the background information is important and bears repeating. The town tuitioning statute, known at the time as the “Croydon Bill”, was passed in 2017 after—and as a direct result of—an enforcement action against the Town of Croydon. At that time, Croydon operated its tuitioning program the same way that it does today. After children graduated from fourth grade, and thus from Croydon's only school, the school board permitted families to choose which private or public school was the best fit for their students. Croydon would then pay tuition for the student to attend the chosen school. Because this was not clearly permitted by statute at the time, the Department of Education brought an enforcement action to put an end to the practice. As a result, this Legislature passed the Croydon Bill to ensure that Croydon families could continue to benefit from the choice provided by Croydon's preferred system.

In spite of the fact that the Croydon Bill was passed to ensure that Croydon's choice program could continue to operate, the statute could be more clear in explicitly allowing programs like Croydon's. Specifically, the proposed bill states that if a town wishes to give parents a choice in what school their children attend, that town can do so. This would allow Croydon more clear authority to continue their program. It would also give other towns in the town tuitioning program the option to allow parents to choose the best school for their children's needs, instead of having the school district choose a school for them.

This Legislature did the right thing in 2017 by passing the Croydon Bill to broaden the educational choice offered to New Hampshire families. HB 282 builds on that important work by broadening that choice to include religious schools, and clarifying the options available to school districts under New Hampshire's town tuitioning system.

Thank you for your time.



**Statement by Gilles Bissonnette, Legal Director of the ACLU-NH  
House Education Committee  
House Bill 282  
March 4, 2021**

I am the Legal Director of the American Civil Liberties Union of New Hampshire (ACLU-NH)—a non-profit organization working to protect civil liberties throughout New Hampshire for over fifty years. On behalf of the ACLU-NH, I appreciate the opportunity to testify today in opposition to HB282. In deleting “nonsectarian,” HB282 would allow public funds to be used for religious purposes. As a result, it violates Part I, Article 6 and Part II, Article 83 of the New Hampshire Constitution.

The New Hampshire Constitution mandates strict separation of church and state, and includes explicit prohibitions on using taxpayer dollars to support religious educational activities. Part I, Article 6 of the New Hampshire Constitution states, “[N]o person shall ever be compelled to pay towards the support of the schools of any sect or denomination.” Part II, Article 83 also states, in part, “Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination.” This language could not be clearer in barring HB282’s transfer of state funds for religious uses. Indeed, these provisions were specifically crafted to preserve our freedom to live in a state where the government is not entangled with matters of faith—including religious education—which are properly reserved for individuals, families, and religious communities.

Given the clarity of these Constitutional provisions, the New Hampshire Supreme Court has interpreted these provisions as strictly prohibiting any diversion of tax funds that could be used to support religious instruction. The Court has even gone so far as to conclude that the government cannot circumvent these prohibitions by “do[ing] indirectly that which it cannot do directly.” See *Burrows v. City of Keene*, 121 N.H. 590, 597 (1981). Thus, not only are direct disbursements from the State for the purpose of religious education barred, but the government is prohibited from enacting creative programs that indirectly do so.

Several cases analyzing these provisions under the New Hampshire Constitution are instructive:

- ***Opinion of the Justices (Choice in Education)*, 136 N.H. 357 (1992)**: In this case, the New Hampshire Supreme Court invalidated a proposed school-voucher program. That program would have allowed parents dissatisfied with their child’s education to enroll the child in “any other state approved school,” including a religious school. The school district where the child resided would then have been required to pay part of the new school’s tuition.

The Court pronounced, “[o]ur constitution . . . recognizes the fundamental separation between church and state.” The Court then ruled that the proposed voucher program “violate[d] the plain meaning of part I, article 6” of the State Constitution. The Court emphasized that, under the proposed program, “[n]o safeguards exist[ed] to prevent the application of public funds to sectarian uses.” Payments by school districts under the voucher program would have “constitute[d] an unrestricted application of public money to sectarian schools.” The Court also noted that “sectarian schools” are “a class appearing to predominate among the nonpublic schools.”

- ***Opinion of the Justices*, 109 N.H. 578 (1969)**: In this case, the New Hampshire Supreme Court struck down legislation that would have authorized local governments to “grant a tax exemption of \$50.00 per year on the residential real estate of any person having at least one child attending a nonpublic school.” As the Court explained, the program violated Part II, Article 83 because “[i]t would make available to

the parents funds which they could contribute directly to the nonpublic school, including parochial schools, without restricting the aid to secular education.” The Court added: “[T]he amount of \$50.00 may seem small, yet if the principle were upheld, the amount could be increased to a point whereby it could be used as a means of fully supporting such schools.”

The unmistakable takeaway from these two opinions is that the New Hampshire Supreme Court has interpreted these specific state constitutional provisions robustly separate and apart from whatever independent protections the federal constitution may provide.

Furthermore, the current New Hampshire statutes modified in HB282 do not violate the federal Free Exercise Clause, especially when considering *Trinity Lutheran Church of Columbia v. Comer*, 137 S. Ct. 2012 (2017). *Trinity Lutheran* was narrow and limited to far different circumstances. There, the Court held that a state violated the federal Free Exercise Clause by denying a church-operated preschool—solely because of its religious status—a grant to purchase a rubber surface for its playground. The record in *Trinity Lutheran* contained no evidence that the playground was used for religious activity. Thus, the Court strictly limited the scope of its holding: “This case involves express discrimination based on religious identity with respect to playground resurfacing. We do not address religious uses of funding or other forms of discrimination.” Here, unlike *Trinity Lutheran*, the funds allocated under HB282 would go directly to religious uses—namely, the instruction of children in religious doctrine and practices.

The U.S. Supreme Court’s 2020 decision in *Espinoza v. Montana Department of Revenue*, 140 S. Ct. 2246 (2020), also does not change this analysis or render the current law unconstitutional under the federal Free Exercise Clause. Indeed, following *Espinoza*, the U.S. Court of Appeals for the First Circuit—including Justice David Souter formerly of the United States Supreme Court—held in *Carson v. Makin*, 979 F.3d 21 (1st Cir. 2020) (writ of certiorari pending), that the requirement in Maine’s tuition assistance program that a private school had to be a nonsectarian school to receive tuition assistance payments did not infringe on parents’ First Amendment free exercise of religion rights because the Court understood the statutory restriction to bar funding for such schools “based on the religious use that they would make of it in instructing children in the tuition assistance program.”

For these reasons, the ACLU-NH respectfully urges the members of this Committee to vote *inexpedient to legislate* on HB282, as it violates the New Hampshire Constitution as drafted.

**Archived:** Tuesday, April 6, 2021 8:56:39 AM  
**From:** [Derek Tremblay](#)  
**Sent:** Monday, March 8, 2021 1:06:44 PM  
**To:** [~House Education Committee](#)  
**Subject:** RE: Please Support HB282  
**Importance:** Normal

---

Dear Representatives,

Please consider reviewing [this from Ed 1100](#).

#### PART Ed 1105 CHILD FIND

##### Ed 1105.01 Responsibilities of the Local Education Agency.

- (a) The LEA shall comply with 34 CFR 300.111(c), relative to child find procedures.
- (b) The LEA shall have policies and procedures to ensure that any child who is potentially a child with a disability attending school and for any child 2.5 years of age up to 21 years of age residing within its jurisdiction is referred to the IEP team.
- (c) The child find system shall contain specific provisions to meet the particular circumstances pertinent to the following groups of persons:
  - (1) For children from 2.5 years of age, the LEA shall use the special education process described in Ed 1104, to find, identify, and evaluate all children who are potentially children with disabilities and who are suspected by the LEA of being in need of special education or special education and related services thereby ensuring that an IEP will be developed and implemented for any child who is eligible for special education by age 3; and
  - (2) The LEA, using the special education process, shall find, identify, and evaluate all children suspected to be children with disabilities who are 2.5 years of age or older but less than 21 years of age.
- (d) The child find system shall include children who are placed unilaterally in private schools within the geographic boundaries of the local school district by their parents without involving the LEA.
- (e) The LEA shall provide the SEA, using NHSEIS, the following information:
  - (1) Data concerning children suspected, evaluated, and determined eligible for special education; and
  - (2) Data concerning children suspected, evaluated, and determined not eligible for special education.

Source. (see Revision Note at chapter heading for Ed 1100) #9197, eff 6-28-08; ss by #12141, eff 3-24-17

##### Ed 1105.02 LEA Child Find Program.

- (a) The LEA shall establish referral procedures which ensure that every child who is suspected or known to be a child with a disability shall be referred to the IEP team for further evaluation.
- (b) Any person may refer a child under the age of 21 years to the IEP team for reasons including, but not limited, to the following:
  - (1) Failing to pass a hearing or vision screening;

- (2) Unsatisfactory performance on group achievement tests or accountability measures;
- (3) Receiving multiple academic and behavioral warnings or academic or behavior warnings or suspension or expulsion from a child care or after school program;
- (4) Repeatedly failing one or more subjects;
- (5) Inability to progress or participate in developmentally appropriate preschool activities; and
- (6) Receiving service from family centered early support and services.

(c) The LEA shall coordinate with area agencies and family centered early supports and services to establish a process of LEA notification of children served by family centered early supports and services consistent with the interagency agreement between the LEA and area agencies providing family centered early supports and services.

(d) The LEA, annually, shall consult with representatives of private schools within its jurisdiction and representatives of parents of parentally-placed children with disabilities attending private schools within its jurisdiction to advise them of the LEA's responsibility to identify and evaluate all children who are suspected of or known to be children with a disability and who are enrolled in such schools. Schools shall forward referrals to the IEP team for further review.

(e) The LEA shall annually contact all community agencies and programs within its jurisdiction which provide medical, mental health, early intervention, early care and education, welfare, and other human services to advise them of the LEA's responsibility to find, identify and evaluate all children who might be children with disabilities, and referrals from these agencies shall be forwarded to the IEP team for further evaluation.

(f) The LEA, annually, shall disseminate information which describes its child find program. It shall include a description of the LEA's special education program, including a contact person in the school system for further information or referral.

(g) The LEA, annually, shall provide all parents of children with disabilities with information regarding the parents' rights and responsibilities under federal and state law as provided in 34 CFR 300.504 regarding special education.

(h) The LEA shall ensure that all referrals from parents and others who suspect or know a child to be a child with a disability shall be referred to the IEP team. The LEA shall provide the parents with a written notice of any referral other than one initiated by the parent, in accordance with Ed 1106.01(c).

(i) The LEA shall ensure that child find activities are completed within the applicable timelines.

Source. (see Revision Note at chapter heading for Ed 1100) #9197, eff 6-28-08; ss by #12141, eff 3-24-17

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**From:** Derek Tremblay <[dtremblay@moumtroyalacademy.com](mailto:dtremblay@moumtroyalacademy.com)>  
**Sent:** Friday, March 5, 2021 6:32 AM  
**To:** 'HouseEducationCommittee@leg.state.nh.us' <[HouseEducationCommittee@leg.state.nh.us](mailto:HouseEducationCommittee@leg.state.nh.us)>  
**Subject:** RE: Please Support HB282

Dear Representatives,

Thank you again for the opportunity to speak at yesterday's public hearing. To have the honor of going first was quite a surprise to me!

I wanted to follow up with two – God willing – simple statements:

1. I referenced the federal Supreme Court cases which together demonstrates that our state statues our unconstitutional as they are currently written (*Zelman v Simmons Harris*; *Trinity Lutheran v Comer*; *Espinoza v Montana Department of Revenue*). Again, the current statute which forbids towns from entering into tuition agreements with non-public "sectarian" schools is unconstitutional. We cannot be selective regarding which Supreme Court cases we consider the law of the land and which ones we do not. I also encourage you to look up the etymology of the word "sectarian". The word "sectarian" as a descriptor of religion paints religion as predominantly divisive and discriminatory force in society. Why would there even be a Free Exercise clause in our United States Constitution if this were the case?
2. I am not sure where Representative Luneau's line of inquiry intended to go but I want to emphasize that when parents place a child in a nonpublic setting, they do not forfeit the due process that is mandated by special education. The LEA is still lawfully obligated to receive referrals and execute due process in partnership with the nonpublic school (I have been doing this for over ten years now). The parent does forfeit a free and appropriate public education but certainly not due process. Forgive me if I was unclear in my testimony. Below you will find documentation that supports this. Whomever testified earlier was incorrect.

[US Department of Education](#): As provided in §300.140(b), a parent of a child enrolled by that parent in a private school has the right to file a due process complaint regarding the child find requirements in §300.131, including the requirements in §§300.300 through 300.311. Such a complaint must be filed with the LEA in which the private school is located, and a copy must be forwarded to the SEA by the LEA.

I thank you for your service and look forward to seeing what comes of this legislative session!

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**From:** Derek Tremblay <[dtremblay@mountroyalacademy.com](mailto:dtremblay@mountroyalacademy.com)>  
**Sent:** Thursday, March 4, 2021 5:50 AM  
**To:** 'HouseEducationCommittee@leg.state.nh.us' <[HouseEducationCommittee@leg.state.nh.us](mailto:HouseEducationCommittee@leg.state.nh.us)>  
**Subject:** Please Support HB282

Dear Members of the House Education Committee,

I am writing to communicate my support for HB282.

For too long, there has been a divide between public and nonpublic education. This divide must cease, for its very nature undermines the nature of our democracy. Education is fundamentally ordered towards the good of the child, the family, and civic society. All three goods must be considered at all times. The founding principles of our republic point to the state's vested interest in education, only for the sake of raising citizens

No institution should possess a monopoly in an industry, and it would be hard to find any dissent against that claim. Why enable such a monopoly in arguably the most important industry in our democracy?

This isn't a fiscal issue. It isn't even a constitutional issue. What this is, is a political issue and sadly one that has to do with children and families. It should not be. No system will be de-funded. No system will be funded. Families will be empowered to exercise their own democratic rights in selecting a school that they think will most suitably raise their child to become civically engaged. Why deny this right? It is tantamount to denying the right to vote, which again, no one would ever think legal or appropriate.

The US Constitution delegates to the States this vested interest in education. There is no constitutional basis for funding one educational institution over another. Nearly every other nation acknowledges this principle, and chooses to ensure education in various forms can thrive. Why are we behind on this?

I urge you to please support HB282. I hope this is short enough to actually receive a full read!

One final note because I know there will be thoughts that this line of thinking is biased, given that I work for a private school. I would caution representatives against that, especially those who currently or

previously serve the public education sector. I applaud and remain grateful for your service. But we do come from the same starting point – which is the education of children for our democracy. I hope you give me the same benefit of the doubt that I am giving you. From my observation, all those who oppose opening alternative ways of education to all children support one form of education over another. Think about that in simple terms. I also have nothing to gain monetarily and my salary is also easily found on any 990 for Mount Royal Academy. Note that private educators make 30-40% less than public educators, but we care just as much! And we choose to be where we are just like you choose to be where you are. We shouldn't think less of each other, nor that one form is inherently unaccountable. There is nothing we do that goes unnoticed by the children and families we serve!

Thank you for your service, all of you!

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**Archived:** Tuesday, April 6, 2021 8:56:39 AM  
**From:** [Derek Tremblay](#)  
**Sent:** Friday, March 5, 2021 6:32:37 AM  
**To:** ~[House Education Committee](#)  
**Subject:** RE: Please Support HB282  
**Importance:** Normal

---

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**From:** Derek Tremblay <[dtremblay@moutroyalacademy.com](mailto:dtremblay@moutroyalacademy.com)>

**Sent:** Thursday, March 4, 2021 5:50 AM

**To:** 'HouseEducationCommittee@leg.state.nh.us' <[HouseEducationCommittee@leg.state.nh.us](mailto:HouseEducationCommittee@leg.state.nh.us)>

**Subject:** Please Support HB282

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**Archived:** Tuesday, April 6, 2021 8:56:39 AM  
**From:** [Derek Tremblay](#)  
**Sent:** Thursday, March 4, 2021 5:50:36 AM  
**To:** [~House Education Committee](#)  
**Subject:** Please Support HB282  
**Importance:** Normal

---

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**Archived:** Tuesday, April 6, 2021 8:56:39 AM

**From:** [Rebecca Courser](#)

**Sent:** Tuesday, March 2, 2021 8:51:27 AM

**To:** [~House Education Committee](#)

**Subject:** NH House Remote Testify: 1:45 pm - HB282 in House Education

**Importance:** Normal

---

I firmly believe that public funds raised by taxation for public schools should not be used fund religious schools. It further weakens the public school and increases taxation on local communities.

Rebecca Courser

Warner, NH

Sent from [Mail](#) for Windows 10

Bill as  
Introduced

HB 282 - AS INTRODUCED  
2021 SESSION

21-0549  
06/04

HOUSE BILL           **282**

AN ACT               relative to a private school that is approved as a tuition program.

SPONSORS:       Rep. Ladd, Graf. 4; Rep. McGuire, Merr. 29; Rep. Cordelli, Carr. 4; Rep. Boehm, Hills. 20; Rep. J. Osborne, Rock. 4; Rep. Baldasaro, Rock. 5; Rep. Allard, Merr. 21; Rep. Hill, Merr. 3; Rep. Stapleton, Sull. 5; Sen. Reagan, Dist 17; Sen. Ward, Dist 8; Sen. Hennessey, Dist 1

COMMITTEE:       Education

---

ANALYSIS

This bill deletes the requirement that a private school be nonsectarian in order to be approved as a school tuition program.

-----

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 Twenty One*

AN ACT relative to a private school that is approved as a tuition program.

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

1 1 School Attendance; Duty of Parent; Compulsory Attendance by Pupil.. Amend RSA 193:1, I(d)  
2 to read as follows:

3 (d) The child is attending a public or private school located in another state which has  
4 been approved by the state education agency of the state in which the school is located, or is  
5 attending a [~~nonsectarian~~] private school located in New Hampshire that is approved as a school  
6 tuition program by the school board pursuant to RSA 193:3, VII;

7 2 Change of School or Assignment; Best Interest of Student. Amend RSA 193:3, VI and VII to  
8 read as follows:

9 VI. If there is no public school for the child's grade in the resident district, the school board  
10 may assign the child to another public school in another school district or to any [~~nonsectarian~~]  
11 private school that has been approved as a school tuition program by the school board. The school  
12 board may execute a contract with an approved [~~nonsectarian~~] private school to provide for the  
13 education of a child who resides in the school district, and may raise and appropriate money for the  
14 purposes of the contract, if the school district does not have a public school at the pupil's grade level  
15 and the school board decides it is in the best interest of the pupil.

16 VII. In this section, "approved as a school tuition program" means a school that has been  
17 approved and contracted by the school board to provide students with the opportunity to acquire an  
18 adequate education as defined in RSA 193-E:2. Upon approval by the school board, the school shall  
19 receive status as an approved school tuition program, shall be deemed in compliance with the  
20 provisions of RSA 193-E:3-b, I(a) and (b), and shall qualify as a school approved to provide the  
21 opportunity for an adequate education. The school shall be required to submit to the school board an  
22 annual student performance progress report in a format selected by the school board, which may  
23 include reporting of aggregate achievement data to protect student privacy, and that demonstrates  
24 that students are afforded educational opportunities that are substantially equal in quality to state  
25 performance standards for determining an adequate education. A private school that receives  
26 tuition program students shall:

27 (a) Comply with statutes and regulations relating to agency approvals such as health,  
28 fire safety, and sanitation;

29 (b) Be a [~~nonsectarian~~] school ***approved and contracted by a local public school***  
30 ***board to provide students with the opportunity for an adequate education;***

31 (c) Be incorporated under the laws of New Hampshire or the United States; and

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1 (d) Administer an annual assessment in reading and language arts, mathematics, and  
2 science as defined in RSA 193-C:6 to tuition program students. The assessment may be any  
3 nationally recognized standardized assessment used to measure student academic achievement,  
4 shall be aligned to the school's academic standards, and shall satisfy the requirements of RSA 193-  
5 C:6 for school tuition program students. The school's annual assessment results for tuition program  
6 students shall be submitted to the commissioner and school board. If the school enrolls 10 or more  
7 publicly-funded tuition program students and if the school's group assessment percentile score for  
8 tuition program students is less than the 40th percentile, the commissioner may require a site visit  
9 to determine if the school provides the opportunity for an adequate education in accordance with  
10 RSA 193-E:3-b. After the third consecutive year of a tuition program school being unable to  
11 demonstrate that it provides an opportunity for an adequate education, the school may be subject to  
12 revocation of tuition program status.

13 3 District Liability for Elementary or Junior High School Tuition. Amend RSA 193:4 to read as  
14 follows:

15 193:4 District Liability for Elementary or Junior High School Tuition. Any district shall pay for  
16 the tuition of any pupil who, as a resident of the district, has been assigned to attend a public  
17 elementary or junior high school or school of corresponding grade in another district or a  
18 [nonsectarian] private school approved as a school tuition program by the school board pursuant to  
19 RSA 193:3, VII, and any district not maintaining an elementary or junior high school or school of  
20 corresponding grade shall pay for the tuition of any pupil who, as a resident of the district, is  
21 determined to be entitled to have such tuition paid by the district where the pupil resides, and who  
22 attends an approved public elementary or junior high school or public school of corresponding grade  
23 in another district, or a [nonsectarian] private school approved as a school tuition program by the  
24 school board pursuant to RSA 193:3, VII. Except under contract, the liability of any school district  
25 under this section for the tuition of any pupil shall be the current expenses of operation of the  
26 receiving district for its elementary or junior high school or public school of corresponding grade, as  
27 estimated by the state board of education for the preceding school year. This current expense of  
28 operation shall include all costs except costs of transportation of pupils.

29 4 Sums of Money Required; Estimates. Amend RSA 198:4 to read as follows:

30 198:4 Estimates. The school board of each district in its annual report shall state in detail the  
31 additional sums of money, if any, which will be required during the ensuing fiscal year for the  
32 support of the public schools, for the purchase of textbooks, scholars' supplies, flags and  
33 appurtenances, for the payment of the tuition of the pupils in the district in high schools, academies,  
34 and any [nonsectarian] private school approved as a school tuition program by the school board in  
35 accordance with law, and for the payment of all other statutory obligations of the district.

36 5 Tuition. Amend RSA 194:27 to read as follows:

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1           194:27 Tuition. Any district not maintaining a high school or school of corresponding grade  
2 shall pay for the tuition of any pupil who with parents or guardian resides in said district or who, as  
3 a resident of said district, is determined to be entitled to have his or her tuition paid by the district  
4 where the pupil resides, and who attends an approved public high school or public school of  
5 corresponding grade in another district, an approved public academy, or a ~~nonsectarian~~ private  
6 school approved as a school tuition program by the school board pursuant to RSA 193:3, VII. Except  
7 under contract as provided in RSA 194:22, the liability of any school district hereunder for the  
8 tuition of any pupil shall be the current expenses of operation of the receiving district for its high  
9 school, as estimated by the state board of education for the preceding school year. This current  
10 expense of operation shall include all costs except costs of transportation of pupils.

11           6 Effective Date. This act shall take effect 30 days after its passage.