

## NEW HAMPSHIRE VERMONT INTERSTATE SCHOOL COMPACT

MAY 20, 2002.—Referred to the House Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,  
submitted the following

### R E P O R T

[To accompany H.R. 3180]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3180) to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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### PURPOSE AND SUMMARY

H.R. 3180, a bill “To Consent to Certain Amendments to the New Hampshire-Vermont Interstate School Compact,” was introduced by Rep. Charles Bass and Rep. Bernard Sanders, to provide the consent of Congress to certain amendments to the New Hampshire-Vermont Interstate School District Compact. Specifically, the bill provides participating interstate school districts with the option of

choosing all-day, “Australian” balloting to incur debt to support school construction. The proposed amendments make these decisions a matter of local prerogative and do not dictate a State-wide or Federal approach to resolving these questions.

## BACKGROUND AND NEED FOR THE LEGISLATION

### INTERSTATE COMPACTS IN GENERAL

The Compact Clause of the Constitution provides that “no State shall, without the consent of Congress . . . enter into any Agreement or Compact with another State.”<sup>1</sup> As noted by the Supreme Court, the Compact Clause “adapts to our Union of sovereign States the age-old treaty-making power of independent sovereign nations.”<sup>2</sup> While the unequivocal language of the Compact Clause suggests that all compacts must receive congressional approval, the Supreme Court has held that consent is required only for interstate agreements which have the tendency to “increase the political power of states [or which may] encroach upon or interfere with the just supremacy of the United States.”<sup>3</sup>

Interstate compacts have often been employed to facilitate cooperation across state lines and to advance interstate metropolitan and regional goals. Examples include interstate transportation, mining, school districting, water allocation, environmental, sanitation, education and taxing compacts.<sup>4</sup> The Constitution makes no explicit provision with respect to when the consent of Congress shall be given to a compact between states.<sup>5</sup> As a result, consent may be granted conditionally “upon terms appropriate to the subject and transgressing no constitutional limitations.”<sup>6</sup>

### THE NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

Originally approved by Congress in 1969, the New Hampshire-Vermont Interstate School Compact was established to increase educational opportunities and to promote administrative efficiency by encouraging the formation of interstate school districts across the New Hampshire-Vermont state line.<sup>7</sup> Two interstate school districts currently operate under the Compact. The Rivendell School District comprises the towns of Fairlee and Thetford, Vermont and Orford, New Hampshire. The Dresden School District extends into Hanover, New Hampshire, and Norwich, Vermont. Under the original Compact, state and local financial support was channeled into the combined Districts to reflect state and local contributions. Because Vermont contributed relatively more monetary support to the Districts than New Hampshire, uneven funding allocations began to emerge. For example, by the 1970’s, taxpayers in Hanover, New Hampshire received the benefit of approximately 70 percent of

<sup>1</sup> U.S. Const. art. I, § 10, cl. 3.

<sup>2</sup> *Hinderlider v. La Plata Co.*, 304 U.S. 92, 104 (1938).

<sup>3</sup> *Virginia v. Tennessee*, 148 U.S. 503, 519 (1893); see also *U.S. Steel Corp. v. Multistate Tax Commission*, 434 U.S. 452 (1978).

<sup>4</sup> Frederick Zimmerman & Mitchell Wendell, *The Law and Use of Interstate Compacts*, Chicago: 1961, 94–105 (1976).

<sup>5</sup> JOHNNY H. KILLIAN; GEORGE A. COSTELLO; AND KENNETH R. THOMAS; *THE CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION*, <http://www.crs.gov/products/conan/art01/288.htm> [visited March 1, 2002].

<sup>6</sup> *James v. Dravo Contracting Co.*, 302 U.S. 134 (1937); see also *Arizona v. California*, 292 U.S. 341, 345 (1934).

<sup>7</sup> Pub. L. No. 91–21, 83 Stat. 14 (1969).

Vermont's state aid, while taxpayers in Norwich, Vermont received 30 percent of New Hampshire's contribution.<sup>8</sup> This imbalance led to the passage of amendments to the Compact in 1978.

#### 1978 AMENDMENTS

In 1978, Congress consented to a number of amendments to the original Compact.<sup>9</sup> These amendments clarified the terms of the Compact to ensure that participating interstate school districts would receive support from their states commensurate with their respective contributions. The 1978 revisions also clarified the procedures by which amendments to the articles of agreement among interstate school district members could be approved. While the 1978 legislation provided for a more equitable allocation of state resources, it did not change the requirement that debt incurred by interstate school districts be approved by secret balloting. In addition, the amendments did not change the requirement that debts be incurred by a simple majority vote of district board members by secret balloting. The lack of transparency in the voting process has stymied efforts to approve funding necessary to support capital improvements in the Dresden School District. This has provided impetus toward further revision of the Compact.

#### STATE AND LOCAL CONSIDERATION OF PROPOSED COMPACT AMENDMENTS

Early last year, residents of the Dresden School District approved warrant articles to amend the Compact to enable the implementation of all-day, Australian Balloting procedure when voting on whether to incur debt. Australian Balloting is a form of modified secret balloting. Australian Rules balloting employs uniform official ballots of various stock weight upon which the names of all candidates and issues are printed. Voters record their choices, in private, by marking the boxes next to the candidate or issue choice they select and drop the voted ballot in a sealed ballot box.<sup>10</sup>

Residents contend that moving to all-day voting for bond votes will have two benefits over the current Town Meeting voting format, which requires a secret balloting process by residents following a Town Hall Meeting. First, this method will be consistent with the way the District conducts its annual district meetings, which utilize all-day voting when voting on district warrant articles. Second, the proposed change would allow more voters to weigh in on bond issues. Last year, the Vermont state legislature passed legislation adopting these proposed changes.<sup>11</sup> The New Hampshire state legislature subsequently approved identical language.<sup>12</sup>

<sup>8</sup>H.R. Rep. No. 95-1722 at 2 (1978).

<sup>9</sup>Pub. L. No. 95-536, 92 Stat. 2035 (1978).

<sup>10</sup>This paper ballot system was first adopted in the Australian state of Victoria in 1856, and in the remaining Australian states over the next several years. The paper ballot system thereafter became known as the "Australian ballot." New York became the first American state to adopt the paper ballot for statewide elections in 1889. As of 1996, paper ballots were still used by 1.7 percent of the registered voters in the United States. They are used as the primary voting system in small communities and rural areas, and quite often for absentee balloting in other jurisdictions. See Federal Election Commission, <http://www.fec.gov/pages/paper.htm> [visited March 1, 2002].

<sup>11</sup>2001 N.H. Laws 485.

<sup>12</sup>2001 Vt. Acts & Resolves 726.

## HEARINGS

The Committee's Subcommittee on Commercial and Administrative Law held a hearing on H.R. 3180 on March 6, 2002. Testimony was received from Rep. Charles Bass.

## COMMITTEE CONSIDERATION

On March 6, 2002, the Subcommittee on Commercial and Administrative Law met in open session and ordered favorably reported the bill H.R. 3180 by voice vote, a quorum being present. On May 8, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 3180 without amendment by voice vote, a quorum being present.

## VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 3180.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

H.R. 3180 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the H.R. 3180, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 20, 2002.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3180, a bill to consent to certain amendments of the New Hampshire-Vermont Interstate School Compact.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Donna Wong, who can be reached at 226–2820.

Sincerely,

DAN L. CRIPPEN, *Director*.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

*H.R. 3180—A bill to consent to certain amendments of the New Hampshire-Vermont Interstate School Compact.*

H.R. 3180 would give Congressional consent to amendments to the New Hampshire-Vermont Interstate School Compact. The bill would allow the school districts governed under the compact to use Australian balloting (all-day secret balloting) when authorizing the incurring of debt to finance capital projects. Currently the school districts must use a town hall meeting voting format.

The bill would result in no cost to the Federal Government. Because H.R. 3180 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The bill contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Donna Wong, who can be reached at 226–2820. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 2, clause 3 of the Constitution.

#### SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1.* The bill amends article VII D of the Vermont-New Hampshire Interstate School District Compact to read as follows:

‘D. AUTHORIZATION PROCEEDINGS—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof. As an alternative, an interstate district may provide in its articles of agreement that such a vote be conducted by Australian or official balloting under procedures as set forth in the articles of agreement, and that such vote be subject to any method of reconsideration, if any, which the interstate district sets forth in the articles of agreement.

The proposed amendments make these decisions a matter of local prerogative and do not dictate a State-wide or Federal approach to resolving the manner in which ballot school ballot initiatives will be considered by participating school districts.

MARKUP TRANSCRIPT

**BUSINESS MEETING**

**WEDNESDAY, MAY 8, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. [Presiding.] The Committee will be in order.

[Intervening business.]

The next item on the agenda is the adoption of H.R. 3180 to give consent to certain amendments to the New Hampshire-Vermont Interstate School Compact. The Chair recognizes the gentleman from Georgia, Mr. Barr, the Chairman of the Subcommittee on Commercial and Administrative Law, for purposes of a motion.

Mr. BARR. Mr. Chairman, the Subcommittee on Commercial and Administrative Law reports favorably the bill H.R. 3180 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, H.R. 3180 will be considered as read and open for amendment at any point.

[The bill, H.R. 3180, follows:]

107TH CONGRESS  
1ST SESSION

# H. R. 3180

To consent to certain amendments to the New Hampshire-Vermont Interstate  
School Compact.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2001

Mr. BASS introduced the following bill; which was referred to the Committee  
on the Judiciary

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## A BILL

To consent to certain amendments to the New Hampshire-  
Vermont Interstate School Compact.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the consent of Congress is given to the amendment  
4       to the New Hampshire-Vermont Interstate School Com-  
5       pact which have been agreed to by such States that is sub-  
6       stantially as follows: Article VII D of such compact is  
7       amended to read as follows:  
8       “D. AUTHORIZATION PROCEEDINGS.—An interstate  
9       district shall authorize the incurring of debts to finance  
10      capital projects by a majority vote of the district passed

1 at an annual or special district meeting. Such vote shall  
2 be taken by secret ballot after full opportunity for debate,  
3 and any such vote shall be subject to reconsideration and  
4 further action by the district at the same meeting or at  
5 an adjourned session thereof. As an alternative, an inter-  
6 state district may provide in its articles of agreement that  
7 such a vote be conducted by Australian or official balloting  
8 under procedures as set forth in the articles of agreement,  
9 and that such vote be subject to any method of reconsider-  
10 ation, if any, which the interstate district sets forth in the  
11 articles of agreement.

○



Chairman SENSENBRENNER. The Chair recognizes the gentleman from Georgia to strike the last word.

Mr. BARR. Thank you, Mr. Chairman.

Introduced by Representatives Charlie Bass and Bernie Sanders, H.R. 3180 amends the New Hampshire-Vermont Interstate School Compact originally approved by the Congress in 1969. H.R. 3180 would enable participating interstate school districts to modify the manner in which school bond issues are considered.

Last year, residents of the Dresden Interstate School District, which encompasses the cities of Hanover, New Hampshire, and Norwich, Vermont, voted to approve these changes. The Legislatures of New Hampshire and Vermont subsequently ratified these amendments.

Rather than imposing a State or Federal solution on local school officials, H.R. 3180 preserves the primacy of local school authorities that are free to accept or reject the modified voting procedures H.R. 3180 permits.

We were pleased to invite Representative Bass to our Subcommittee hearing to testify about the importance of this measure to residents of his district.

And I urge support of this bill today.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. BARR. I yield back.

Chairman SENSENBRENNER. The gentleman from North Carolina.

Mr. WATT. Thank you, Mr. Chairman.

I rise in support of the bill.

Chairman SENSENBRENNER. That correction will be duly noted.

Mr. WATT. I yield back.

Chairman SENSENBRENNER. Without objection, all Members may insert opening statement in the record at this point in time.

Are there amendments?

If not, the Chair notes the presence of a reporting quorum, and the question occurs on the motion to report H.R. 3180 favorably.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is adopted.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute—no, no amendments adopted.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all Members will be given 2 days, as provided by House rules, in which to submit additional, dissenting, supplemental, or minority views.

Before going to the next item on the agenda, it is my great pleasure to welcome to the Committee a former Member, the distinguished gentleman from Michigan, Mr. Harold Sawyer, who served with great distinction on this Committee from his election to the House in 1956 until his voluntary retirement 10 or 12 years later.

Hal, we welcome you back. [Applause.]