

Amendment to SB 101-FN

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

2

3 AN ACT authorizing parents to enroll their children in any public school in the state.

4

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

6

7 1 Open Enrollment. RSA 194-D is repealed and reenacted to read as follows:

8

CHAPTER 194-D

9

OPEN ENROLLMENT SCHOOLS

10 194-D:1 Definitions. In this chapter:

11 I. "Capacity" means the number of pupil seats available for any grade, program, or technical
12 education program in a public school without the addition of staff. Capacity shall be determined by
13 the governing body of the school district and need not equal the maximum number of pupils
14 otherwise allowed by law.

15 II. "Open enrollment school" means any district public school that provides educational
16 services to pupils outside its district.

17 III. "Open enrollment pupil" means any pupil who attends a school outside of their resident
18 school district pursuant to the terms of this statute.

19 IV. "Parent" means a parent, guardian, or other person or entity having legal custody of a
20 child or, in the case of a child with a disability, a surrogate parent who has been appointed in
21 accordance with state or federal law.

22 V. "Pupil" means any child who is eligible for attendance in public schools in New
23 Hampshire in kindergarten through grade 12 who is a resident of this state.

24 VI. "Receiving district" means a district receiving pupils from outside of the school district.

25 VII. "Receiving school" means a district public school receiving pupils from another school
26 district under this statute.

27 VIII. "Resident district" means the school district in which the pupil resides.

28 IX. "School board" means the school district school board.

29 X. "State board" means the state board of education.

30 194-D:2 Establishment; Parental Choice; Admission.

Amendment to SB 101-FN
- Page 2 -

1 I. Each district governing body shall establish an open enrollment policy to allow pupils to
2 transfer among schools within the district and from another district in the state, or from any state
3 that has an interstate compact with New Hampshire that does not require nonresident pupils to pay
4 an application fee or tuition.

5 II. The governing body of each school district shall determine the capacity of each school in
6 the district, including the capacity of each grade level, career and technical education program, and
7 other academic program with enrollment limitations.

8 III. The governing body shall develop an open enrollment policy to determine what number
9 of the total capacity of any grade level or career, and technical education program shall be allotted
10 for open enrollment pupils.

11 IV. The district shall publish on its website the total capacity, under paragraph II, and the
12 number of available allocated open enrollments spots, under paragraph III, that are available for
13 each school, grade level, career and technical education program, and other academic program with
14 enrollment limitations on or before July 1 and December 15 of each year.

15 V. Each school district in the state shall report annually to the department of education the
16 number of applications, acceptances, and denials, and the reason for each denial. The department of
17 education shall publish the data annually on its website and provide reports to the senate and house
18 education committees, and the state board of education.

19 VI. A parent may apply to any public school within the state on behalf of a pupil.

20 VII. Applications may be made on behalf of eligible pupils to more than one school or
21 program with available capacity.

22 VIII. Every school shall make information about its curriculum and policies available on its
23 website.

24 IX. There shall be no application fee for pupil admission to any public school.

25 X. Applications for open enrollment may be denied only for the following reasons:

26 (a) The pupil was expelled by the pupil's previous district;

27 (b) The pupil has a documented history of significant disciplinary issues that are not
28 documented as part of an identified disability;

29 (c) The pupil has a documented history of chronic absenteeism that is not documented
30 through a section 504 plan or IEP, through McKinney Vento status, or due to Foster Care, or as a
31 result of bullying;

32 (d) The school, grade level, program, or class has reached the allotted capacity set for
33 open enrollment pupils by the school district's governing body pursuant to paragraph III; or

34 (e) The pupil does not satisfy the prerequisite requirements for the program.

35 XI. No receiving school shall accept or reject an applicant based on pupil needs, special
36 education needs, disability of a pupil, aptitude, or athletic achievement.

1 XII. School boards may adopt application procedures and deadlines for applications for
2 enrollment; provided that:

3 (a) Applications for enrollment shall be open at least twice per academic year.

4 (b) If the number of applicants for enrollment exceeds capacity as established under
5 paragraph III, enrollment shall be determined by a random selection lottery that provides equal
6 opportunity for admissions.

7 (c) The lottery shall be conducted in a fair, transparent, and non-discriminatory manner.

8 (d) Nothing in this section shall prohibit a school board from adopting a policy that
9 establishes preferences in the lottery for:

10 (1) Siblings of currently enrolled pupils;

11 (2) Children of school employees;

12 (3) Pupils residing within a defined geographical boundary; and/or

13 (4) A student residing in New Hampshire with one or more parent or guardian who is
14 on active military duty, regardless of the physical location or place of residence of the active-duty
15 parent or guardian.

16 (e) Any preferences established by a district's open enrollment policy shall be published
17 with the application, prior to the start of the application period.

18 XIII. An open enrollment pupil shall maintain continuous enrollment in the receiving school
19 without requirement of reapplication, except in cases of expulsion.

20 XIV. School board policies shall provide an admission preference prioritizing open
21 enrollment pupils matriculating with the same cohort.

22 XV. For the purposes of open enrollment pupil, neither the resident nor the receiving school
23 district shall be obligated to provide transportation services for pupils attending a school outside the
24 pupil's resident district. A parent may provide transportation to a bus stop on an existing route,
25 unless otherwise determined by an IEP or Section 504 Plan, as determined by the receiving school
26 district. The receiving district shall provide the parents with information regarding transportation
27 options.

28 XVI. A pupil may withdraw from an open enrollment school at any time and enroll in a
29 public school where the pupil resides, except that no pupil shall change schools more than once per
30 academic year. The school board of the pupil's resident district may waive this limitation after a
31 hearing.

32 194-D:3 Funding.

33 I.(a) There shall be no tuition charge for any pupil attending an open enrollment school.

34 (b) For each open enrollment pupil, the department of education shall pay aid amounts
35 pursuant to RSA 198:40-a, II(a)-(c) plus the additional grant pursuant to RSA 194-B:11, I(b)(1)(A) to
36 all open enrollment public schools according to the average daily membership in attendance

Amendment to SB 101-FN
- Page 4 -

1 pursuant to RSA 198:38, I(a). The department shall adjust the rates specified in this subparagraph
2 in accordance with RSA 198:40-d.

3 II.(a) Districts with an existing tuition agreement shall follow the terms of any existing and
4 active tuition agreement as applicable between both parties. Notwithstanding any provision herein,
5 nothing in this statute shall relieve a district from providing at least one education option that does
6 not require additional tuition payment from the parent. A district not operating a school, serving
7 any grade from kindergarten through grade 12, shall maintain an active tuition agreement that has
8 been approved by the school board to provide pupils with the opportunity to acquire an adequate
9 education as defined in RSA 193-E:2.

10 (b) Districts receiving an open enrollment pupil from a resident district that already has
11 a tuition agreement with the receiving open enrollment school shall not receive an open enrollment
12 aid amount. The resident district shall follow their tuition agreement and shall receive the adequacy
13 aid amount as calculated and distributed pursuant to RSA 198:42, III. Open enrollment public
14 schools shall report to the department of education the number of open enrollment pupils attending
15 each school.

16 (c) Any district where the number of pupils residing in the district and calculated
17 towards the open enrollment grant pursuant to paragraph I exceeds the number of resident district
18 pupils calculated towards the adequacy calculation pursuant to RSA 198:38, I-a shall have their
19 existing tuition agreement presented by the district to the state board of education. The state board
20 of education may require the district to enter into a new tuition agreement.

21 III. For a pupil attending an open enrollment school in another school district, the
22 department of education shall calculate and distribute open enrollment aid payments during the
23 year in which the pupil is educated as set forth in this paragraph. The first payment shall be 30
24 percent of the per pupil open enrollment aid amount, excluding differential aid components pursuant
25 to RSA 198:40-a, II(b)-(d), multiplied by the number of eligible pupils enrolled on October 1st. Such
26 payment shall be made on November 1st, January 1st, and April 1st. To calculate the final
27 payment, the department of education shall multiply the per pupil amount, including differential aid
28 components pursuant to RSA 198:40-a, II(b)-(d), by the average daily membership in attendance for
29 the full school year, and subtract the total amount of the first 3 payments made. The remaining
30 balance shall be the final payment paid on October 1st of the following school year.

31 IV. The source of funds for payments under this section shall be moneys from the education
32 trust fund established in RSA 198:39. The governor is authorized to draw a warrant from the
33 education trust fund to satisfy the state's obligation under this section. Such warrant for payment
34 shall be issued regardless of the balance of funds available in the education trust fund. If the
35 balance in the education trust fund, after the issuance of any such warrant, is less than zero, the
36 state comptroller shall transfer sufficient funds from the general fund to eliminate such deficit.

Amendment to SB 101-FN
- Page 5 -

1 V. In accordance with current department of education standards, the funding and
2 educational decision-making process for children with disabilities transferring to a school shall be
3 the responsibility of the resident school district and shall retain all current options available to the
4 parent and to the school district.

5 VI. The commissioner of the department of education shall apply for all federal funding
6 available to open enrollment schools under any federal source of funds. The commissioner shall
7 expend any such funds received in a manner acceptable to the funding source.

8 VII. A resident district may provide funds, services, transportation, equipment, materials, or
9 personnel to a school, in addition to the amounts specified in this section in accordance with the
10 policies of the resident school district.

11 194-D:4 District of Liability for Special Education Services. The resident district shall remain
12 responsible for educational decision making and the provision of special education and related
13 services under RSA 186-C, consistent with the child's IEP, for pupils with disabilities who transfer to
14 a school outside the resident district.

15 194-D:5 State Board; Duties.

16 I. The state board shall adopt rules, pursuant to RSA 541-A, consistent with the provisions
17 of this chapter relative to the administration of enrollment in public schools across the state.

18 II. The state board shall convene one or more working committees to study and make
19 recommendations regarding the implementation and effectiveness of open enrollment policies. The
20 recommendations shall be provided to the legislative oversight committee in RSA 193-C:8-a.

21 2 New Subparagraph; Education Trust Fund; Open Enrollment Aid. Amend RSA 198:39, I by
22 inserting after subparagraph (q) the following new subparagraph:

23 (r) To fund open enrollment aid pursuant to RSA 194-D.

24 3 Effective Date. This act shall take effect July 1, 2027.

2026-1451h

AMENDED ANALYSIS

This bill directs the governing body of each school district to establish an open enrollment policy to allow pupils to transfer among schools within the district and from another district in the state. Each school would be required to provide notice of its capacity to accept open enrollment pupils and would require selection by lottery in the event applications exceed capacity. The bill also establishes a funding formula for payments by the department of education from the education trust fund for open enrollment pupils.

UNAPPROVED