

Amendment to HB 751-FN

1 Amend the bill by replacing all after section 5 with the following:

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3 6 Open Enrollment Schools; Definitions; Open Enrollment Public School. Amend RSA 194-D:1,
4 I to read as follows:

5 I. "Open enrollment public school"~~]~~ **or** "open enrollment school"~~]~~ ~~or "open enrollment~~
6 ~~program"]~~ means any **district** public school ~~[which, in addition to providing educational services to~~
7 ~~pupils residing within its attendance area or district, chooses to accept pupils from other attendance~~
8 ~~areas within its district and from outside its district].~~

9 7 Open Enrollment Schools; Definitions; Teacher. Amend RSA 194-D:1, IX to read as follows:

10 IX. "Teacher" means any individual providing or capable of providing direct instructional
11 services to pupils, and who meets requirements prescribed in the ~~[Elementary and Secondary~~
12 ~~Education Act]~~ **Every Student Succeeds Act (ESSA) of 2015** and the Individuals With Disabilities
13 Education Act.

14 8 Open Enrollment Schools; Establishment; Parental Choice; Admission. Amend RSA 194-D:2
15 to read as follows:

16 194-D:2 Establishment; Parental Choice; Admission.

17 I. ~~[Any school district legislative body may vote to designate one or more of its schools as an~~
18 ~~open enrollment school.]~~ **Each district governing body shall establish an open enrollment**
19 **policy to allow pupils to transfer among schools within the district, from another district**
20 **in the state, or in any state that has an interstate compact with New Hampshire that does**
21 **not require nonresident pupils to pay an application fee or tuition.**

22 II. ~~[Open enrollment schools shall operate under the same laws, rules, and policies as any~~
23 ~~other public school, except as provided in this chapter.]~~ **The governing body of each school**
24 **district shall determine the capacity of each school in the district, including the capacity**
25 **of each grade level, career and technical education program, and other academic program**
26 **with enrollment limitations. The district shall publish on its website the total capacity**
27 **and number of vacancies for each school, grade level, career and technical education**
28 **program, and other academic program with enrollment limitations on or before July 1 and**
29 **December 15 of each year. Each school district in the state shall report annually to the**
30 **department of education the number of applications, acceptances, and denials, and the**
31 **reason for each denial. The department of education shall publish the data annually on**

1 *its website and provide reports to the senate and house education committees, and the state*
2 *board of education.*

3 III. ~~[No public school, except a chartered public school, shall be required to be an open~~
4 ~~enrollment school.]~~ *A parent may apply to any district-operated open enrollment school*
5 *within the state on behalf of a pupil.*

6 ~~[IV. A school district may predetermine the number of pupils residing outside an open~~
7 ~~enrollment school's district or attendance area it deems appropriate to accept.]~~

8 ~~[V.]~~ *IV.* Applications may be made on behalf of eligible pupils to more than one ~~[open~~
9 ~~enrollment]~~ school within the state.

10 ~~[VI.]~~ *V.* Every ~~[open enrollment]~~ school shall make available information about its
11 curriculum and policies to all persons, and parents and pupils considering enrollment in that school.

12 ~~[VII.]~~ *VI.* There shall be no application fee for pupil admission to any ~~[open enrollment]~~
13 school.

14 ~~[VIII. A pupil who meets the admission requirements of an open enrollment school, and who~~
15 ~~is a resident of the district where the school is located or is a dependent child of active duty military~~
16 ~~personnel whose move resulted from military orders, shall be given absolute admission preference~~
17 ~~over a nonresident pupil. Once admitted and unless expelled, open enrollment school pupils need not~~
18 ~~reapply for admission for subsequent years.]~~

19 *VII. Applications for open enrollment may be denied only for the following reasons:*

20 *(a) The student was expelled by the student's previous district;*

21 *(b) The student has a documented history of significant disciplinary issues;*

22 *(c) The student has a documented history of chronic absenteeism; or*

23 *(d) The receiving district does not have available capacity pursuant to this*
24 *section.*

25 *VIII. No receiving school shall accept or reject an applicant based upon pupil*
26 *needs, special education needs, disability of a student, aptitude, academic or athletic*
27 *achievement.*

28 IX. Attendance at ~~[an open enrollment]~~ *a public* school for the purposes of transportation
29 shall not constitute assignment under the provisions of RSA 189:6 and RSA 189:8. Pupils who reside
30 in the school district in which the ~~[open enrollment]~~ school is located shall be provided
31 transportation to that school by the district on the same terms and conditions as provided for in RSA
32 189:6 and RSA 189:8 and that transportation is provided to pupils attending other public schools
33 within that district. However, any added costs for such transportation services shall be borne by the
34 ~~[open enrollment]~~ school. For the purposes of open enrollment, neither the sending nor the receiving
35 school district shall be obligated to provide transportation services for pupils attending ~~[an open~~
36 ~~enrollment]~~ *a* school outside the pupil's resident district. *The parent may provide*
37 *transportation to a specific bus stop on an existing route, with capacity, of the receiving*

1 *school. The district shall provide the parents with information regarding transportation*
2 *options.*

3 ~~[X. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or~~
4 ~~more school districts may consolidate otherwise eligible resident pupils into one applicant pool for~~
5 ~~the purposes of an admissions lottery for designated open enrollment schools.~~

6 ~~XI. Military connected students as defined in RSA 110-E:1 who are the dependent children~~
7 ~~of a member of the active uniformed military services of the United States on full time active duty~~
8 ~~status and students who are the dependent children of a member of the military reserve on active~~
9 ~~duty orders shall be eligible for admission to the school district of their choice. Students shall be~~
10 ~~eligible if:~~

11 ~~(a) At least one parent of the student has a Department of Defense issued identification~~
12 ~~card; and~~

13 ~~(b) At least one parent can provide evidence that he or she will be on active duty status~~
14 ~~or active duty orders, meaning the parent will be temporarily transferred in compliance with official~~
15 ~~orders to another location in support of combat, contingency operation or a natural disaster~~
16 ~~requiring the use of orders for more than 30 consecutive days.~~

17 ~~XII. A school district of residence shall not prohibit the transfer of a pupil who is a child of~~
18 ~~an active military duty parent to a school in any school district, if the school district to which the~~
19 ~~parent of the pupil applies approves the application for transfer.]~~

20 9 Open Enrollment Schools; Funding; Open Enrollment Aid. RSA 194-D:5 is repealed and
21 reenacted to read as follows:

22 194-D:5 Open Enrollment Aid. Attendance for pupils attending an open enrollment school shall
23 be funded as follows:

24 I.(a) There shall be no tuition charge for any pupil attending an open enrollment school
25 located in the pupil's resident district except for the circumstance described in paragraph II.

26 (b) The department of education shall pay tuition amounts pursuant to RSA 198:40-a,
27 II(a)-(c) and (e) plus the additional grant pursuant to RSA 194-B:11, I(b)(1)(A) to all open enrollment
28 public schools according to the average daily membership in attendance pursuant to RSA 198:38,
29 I(a). The department shall adjust the rates specified in this subparagraph in accordance with RSA
30 198:40-d.

31 II. Districts with an existing tuition agreement shall follow the terms of any existing and
32 active tuition agreement as applicable between both parties. Districts receiving an open enrollment
33 student from a sending district that already has a tuition agreement with the receiving open
34 enrollment school shall not receive an open enrollment aid amount. The resident district shall follow
35 their tuition agreement and shall receive the adequacy aid amount as calculated and distributed
36 pursuant to RSA 198:42, III. Open enrollment public schools shall report the number of open

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1 enrollment students attending each school. Tuition amounts shall be prorated on a per diem basis
2 for pupils attending a school for less than a full school year.

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

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

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

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

26 VII. A sending district may provide funds, services, equipment, materials, or personnel to a
27 school, in addition to the amounts specified in this section in accordance with the policies of the
28 sending school district.

29 VIII. A school may accept pupils at tuition rates at less than the amounts established by this
30 chapter.

31 IX. A school may receive financial aid, private gifts, grants, or revenue as if it were a school
32 district.

33 10 Open Enrollment Schools; State Board; Duties. Amend RSA 194-D:7 to read as follows:
34 194-D:7 State Board; Duties.

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

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1 II. The state board [~~shall~~] **may** convene one or more working committees to study and make
2 recommendations regarding the implementation and effectiveness of open enrollment [~~schools~~]
3 **policies**. The recommendations shall be provided to the legislative oversight committee in RSA
4 [~~194-B:21~~] **193-C:8-a**.

5 11 New Subparagraph; Education Trust Fund; Open Enrollment Aid. Amend RSA 198:39, I by
6 inserting after subparagraph (q) the following new subparagraph:

7 (r) To fund open enrollment aid pursuant to RSA 194-D:5.

8 12 Repeal. The following are repealed:

9 I. RSA 194-D:3, relative to limitations on procedure for adoption and rescission.

10 II. RSA 194-D:4, relative to pupil selection and enrollment.

11 13 Effective Date.

12 I. Sections 6-12 of this act shall take effect July 1, 2027.

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

UNAPPROVED