

SB 101-FN - AS INTRODUCED

2025 SESSION

25-1042

02/05

SENATE BILL ***101-FN***

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

SPONSORS: Sen. Lang, Dist 2; Sen. Innis, Dist 7; Sen. Gray, Dist 6; Sen. Sullivan, Dist 18;
Sen. Murphy, Dist 16; Sen. Pearl, Dist 17; Rep. Osborne, Rock. 2; Rep. Hill, Merr.
2; Rep. Layon, Rock. 13

COMMITTEE: Education

ANALYSIS

This bill allows parents to send their children to public schools outside of their resident district.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Five

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

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

1 1 Duty of Parent; Compulsory Attendance by Pupil. Amend the introductory paragraph of RSA
2 193:1, I to read as follows:

3 I. A parent of any child at least 6 years of age and under 18 years of age shall cause such
4 child to attend ~~[the]~~ **a** public school ~~[to which the child is assigned in the child's resident district].~~
5 Such child shall attend full time when such school is in session unless:

6 2 School Attendance; Legal Residence Required. Amend RSA 193:12, III to read as follows:

7 III. For the purposes of this title, "legal resident" of a school district means a natural person
8 who is domiciled in the ~~[school district]~~ **state** and who, if temporarily absent, demonstrates an intent
9 to maintain a principal dwelling place in the school district indefinitely and to return there, coupled
10 with an act or acts consistent with that intent. A married person may have a domicile independent
11 of the domicile of his or her spouse. ~~[If a person removes to another town with the intention of~~
12 ~~remaining there indefinitely, that person shall be considered to have lost residence in the town in~~
13 ~~which the person originally resided even though the person intends to return at some future time.]~~ A
14 person may have only one legal residence at a given time.

15 3 School Attendance; Legal Residence Required. Amend RSA 193:12, VI(a) to read as follows:

16 (a) The commissioner of the department of education, or designee, shall decide residency
17 issues for all pupils, excluding homeless children and youths, in accordance with this section. ~~[If~~
18 ~~more than one school district is involved in a residency dispute, or the parents who live apart cannot~~
19 ~~agree on the residence of a minor child, the respective superintendents shall jointly make such~~
20 ~~decision. In those instances when an agreement cannot be reached, the commissioner of the~~
21 ~~department of education, or designee, shall make a determination within 30 days of notice of the~~
22 ~~residency dispute and such determination shall be final. If the unresolved residency dispute has~~
23 ~~resulted in an interruption of educational or related services, or such an interruption is likely to~~
24 ~~occur if the determination cannot be made before the expiration of 30 days, the determination shall~~
25 ~~be made within 14 days. With the agreement of the school districts involved and of the minor child's~~
26 ~~parent or legal representative, the time for determination of the residency dispute may be extended.~~
27 ~~Residency disputes may be submitted to the commissioner for determination by a school district~~
28 ~~involved in a dispute. In cases where the failure to resolve a residency dispute has resulted in or is~~
29 ~~likely to result in the interruption of educational or related services, a minor child's parent or legal~~
30 ~~representative may submit a residency dispute for determination to the commissioner. In all cases,~~
31 ~~all parties with an interest in the dispute shall be notified of the pendency of the proceedings, shall~~

1 ~~have an opportunity to review all information provided to the commissioner, and shall have an~~
2 ~~opportunity to present facts and legal arguments to the commissioner.]~~ **When addressing**
3 **residency issues, the only question the commissioner shall consider is whether the child is a**
4 **resident of the state.** The commissioner's decision, including a written explanation for that
5 decision, shall be provided to the parties of record and a copy of such explanation shall be kept on file
6 by the department of education. No school district shall deny a pupil attendance or implementation
7 of an existing individualized education program.

8 4 Open Enrollment Schools; Definitions; Open Enrollment Public School. Amend RSA 194-D:1,
9 I to read as follows:

10 I. "Open enrollment public school" or "open enrollment school" means any public school
11 ~~[which, in addition to providing educational services to pupils]~~ **that is currently enrolling pupils**
12 **both** residing within its attendance area or district, ~~[chooses to accept]~~ **and** pupils from other
13 attendance areas within its district and from outside its district.

14 5 Open Enrollment Schools; Definitions; Teacher. Amend RSA 194-D:1, IX to read as follows:

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

19 6 Open Enrollment Schools; Establishment; Parental Choice; Admission. Amend RSA 194-D:2
20 to read as follows:

21 194-D:2 Establishment; Parental Choice; Admission.

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

27 II. ~~[Open enrollment schools shall operate under the same laws, rules, and policies as any~~
28 ~~other public school, except as provided in this chapter.]~~ **Each school district shall determine for**
29 **each school in the district the capacity of each school and each grade level. A school**
30 **district shall post the total capacity of each individual school in the district, the capacity**
31 **of each grade level, and the number of vacancies in each individual school in the district**
32 **on the district website by the first of each month. Each school district in the state shall**
33 **report annually to the state commissioner of education the number of transfer**
34 **applications, acceptances, denials and the reason for each denial. The department of**
35 **education shall publish the data annually on its web site and provide reports to the senate**
36 **and house education committees, and the state board of education.**

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

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

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

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

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

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

17 ***VII. A school district may deny a transfer application only for the following***
18 ***reasons:***

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

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

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

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

24 ***VIII. No receiving school or district shall accept or reject an applicant based upon***
25 ***grade or age levels, pupil needs, areas of academic focus, aptitude, academic or athletic***
26 ***achievement.***

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

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

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

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

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

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

18 7 Open Enrollment Schools; Funding. Amend RSA 194-D:5 to read as follows:

19 194-D:5 Funding.

20 I. ~~[There shall be no tuition charge for any pupil attending an open enrollment located in
21 that pupil's resident district]. For [an open enrollment school authorized by the school district]
22 **transferring students**, the pupil's resident district shall pay to [such school] **the receiving**
23 **district** an amount equal to [not less than 80 percent of that] **the resident** district's average cost
24 per pupil as determined by the department of education using the most recent available data as
25 reported by the district to the department, **provided that if the receiving district's average cost**
26 **per pupil is lower than the student's resident district average cost per pupil, then the**
27 **resident district shall retain such difference. If the transferring student's resident district**
28 **average cost per pupil is less than the receiving district's average cost per pupil, such**
29 **difference shall be charged as tuition and paid by the pupil's parents or guardians to the**
30 **receiving district prior to the start of each semester.**~~

31 II. In accordance with current department of education standards, the funding and
32 educational decision-making process for children with disabilities [attending] **transferring to a**
33 [chartered public or open enrollment] school shall be the responsibility of the **resident** school district
34 and shall retain all current options available to the parent and to the school district.

35 III. ~~[Any federal or other funding available in any year to a sending district shall, to the
36 extent and in a manner acceptable to the funding source, be directed to an open enrollment school in
37 a receiving district on an eligible per pupil basis.] **Students transferring from their resident**~~

1 *district pursuant to this chapter shall be calculated in the ADMR of their resident school*
2 *district under RSA 189:1-d, IV.*

3 IV. The commissioner of the department of education shall apply for all federal funding
4 available to open enrollment schools under [~~the No Child Left Behind Act, Title I of the Elementary~~
5 ~~and Secondary Education Act, or other~~] **any** federal source of funds. The commissioner shall expend
6 any such funds received in a manner acceptable to the funding source.

7 V. A sending district may provide funds, services, equipment, materials, or personnel to [~~an~~
8 ~~open enrollment~~] **a** school, in addition to the amounts specified in this section in accordance with the
9 policies of the sending school district.

10 VI. [~~An open enrollment~~] **A** school may accept pupils at tuition rates at less than the
11 amounts established by this chapter.

12 VII. [~~An open enrollment~~] **A** school may receive financial aid, private gifts, grants, or
13 revenue as if it were a school district.

14 8 Open Enrollment Schools; State Board; Duties. Amend RSA 194-D:7 to read as follows:

15 194-D:7 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 open enrollment **in public schools across the state.**

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

22 9 Repeal. The following are repealed:

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

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

25 10 Effective Date. This act shall take effect January 1, 2026.

**SB 101-FN- FISCAL NOTE
AS INTRODUCED**

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

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable		
<i>Funding Source(s)</i>	General Fund and Education Trust Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Local Revenue	\$0	Indeterminable		
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

This bill, effective January 1, 2026, allows parents to send their children to public schools outside of their resident district, by making all New Hampshire public schools open enrollment schools. It is not possible to predict how many students may seek to enroll in a school outside their resident district, as allowed by this bill, and therefore it is not possible to predict this bill's impact on state aid programs, or local school district revenues or expenditures.

AGENCIES CONTACTED:

Department of Education