HB 1374 - VERSION ADOPTED BY BOTH BODIES

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HOUSE BILL ***1374***

AN ACT modifying the procedures for withdrawal from a cooperative school district and the discontinuance of elementary and high schools and requiring the review of school district operating documents by school boards.

SPONSORS: Rep. Mary Murphy, Hills. 27; Rep. Colcombe, Hills. 30; Rep. Ford, Rock. 3; Rep. Peeples, Hills. 14; Rep. D. McGuire, Merr. 14; Rep. Porcelli, Rock. 19; Rep. P. Brown, Rock. 14; Sen. Ward, Dist 8

COMMITTEE: Education Policy and Administration

AMENDED ANALYSIS

This bill:

I. Modifies the procedure for withdrawal from a cooperative school district to allow a majority of voters in a single withdrawing district to elect to withdraw.

II. Clarifies that a supermajority of voters in a withdrawing district voting in favor of withdrawal shall constitute conclusive evidence of the withdrawal of the district.

III. Requires that voters residing in all municipalities that are served by a school district vote on the closure of schools.

IV. Establishes an option for the governing bodies of municipalities to preserve the operation of a school located within the municipality where the majority of voters residing in all municipalities served by the district elected to close such school.

V. Requires the governing bodies of municipalities to enter into an operating agreement with the district where such option to preserve the operation of a school has been exercised.

VI. Authorizes the state board of education to conduct hearings and issue final decisions relative to whether a school shall be closed or its operation shall be continued in circumstances where an operating agreement has not been entered into.

VII. Requires school administrative units and cooperative school districts comply with the provisions of the act.

VIII. Requires every 3 years school boards of single district school districts, cooperative school districts, and school administrative units review operating documents for each district and provide findings and recommendations resulting from such review.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT modifying the procedures for withdrawal from a cooperative school district and the discontinuance of elementary and high schools and requiring the review of school district operating documents by school boards.

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

1 Vote on Withdrawal; Withdrawing District Only; Supermajority Requirement Modified. Amend RSA 195:29 to read as follows:

195:29 Vote on Withdrawal. If the state board approves the plan for withdrawal, the board shall cause the withdrawal plan to be published once in some newspaper generally circulated within the cooperative school district. Upon receipt of a written notice of the board's approval of the withdrawal agreement, the school board of the cooperative district shall cause the withdrawal plan to be filed with the clerk of the cooperative school district and submitted to the voters of the ***withdrawing*** district as soon as may reasonably be possible at an annual or special meeting called for the purpose, the voting to be by ballot with the use of the checklist, after reasonable opportunity for debate in open meeting. The article in the warrant for the ***withdrawing*** district meeting and the question on the ballot to be used at the meeting shall be in substantially the following form:

"Shall the school district accept the provisions of RSA 195 (as amended) providing for the withdrawal of the preexisting district of _____ from the _____ cooperative school district in accordance with the provisions of the proposed withdrawal plan filed with the school district clerk?"

Yes _____ No _____

I. If a majority of voters present and voting in the withdrawing preexisting district vote in the negative, against withdrawal, then the withdrawal process is terminated.

II. If a ***3/5 supermajority*** [~~majority~~] of the voters present and voting in the withdrawing preexisting district shall vote in the affirmative, in favor of withdrawal [~~and a majority of the voters present and voting in the entire cooperative district shall vote in the affirmative, in favor of withdrawal~~], the clerk of the cooperative school district shall forthwith send to the state board of education a certified copy of the warrant, certificate of posting, evidence of publication, and minutes of the meeting.

[~~III. If a 3/5 supermajority of the voters present and voting in the withdrawing preexisting district vote in the affirmative, in favor of the withdrawal, the clerk of the cooperative school district shall forthwith send to the state board of education a certified copy of the warrant, certificate of posting, evidence of publication, and minutes of the meeting unless a 3/5 supermajority of the voters present and voting in the entire cooperative district vote in the negative, against withdrawal.~~]

[~~IV.~~] ***III.*** If the state board of education finds that a [~~majority~~] ***3/5 supermajority*** of the voters present and voting, in the withdrawing preexisting district [~~and the entire cooperative district, or by the alternative supermajority vote under paragraph III,~~] have voted in favor of the withdrawal plan, it shall issue its certificate to that effect and such certificate shall be conclusive evidence of the withdrawal of the preexisting district and the continuation of the cooperative school district as of the date of its issuance, or the dissolution of a 2-district cooperative if the cooperative was formed by 2 preexisting districts. A withdrawal plan shall be prepared and it shall provide for the disposition of property held within the cooperative and a statement of assumption of liabilities.

2 Procedure for Review; Withdrawal Plan Submission; Withdrawing District Only. Amend RSA 195:25, VI to read as follows:

VI. If the state board approves the withdrawal plan, whether submitted by the committee or by minority report, the plan shall be submitted to the voters of the [~~cooperative~~] ***withdrawing*** school district in accordance with RSA 195:29.

3 New Sections; Discontinuance of Schools; Municipal Preservation Option. Amend RSA 194 by inserting after section 3-e the following new sections:

194:3-f Discontinuance of Schools. No elementary school, as defined in RSA 189:25, or high school, as defined in RSA 194:23, shall be discontinued, or the location thereof be changed, except by a majority vote of voters residing in all municipalities that are served by the school or district. Upon written petition to the school board by 20 or more legal voters of the towns or district in which such elementary or high school is located, the school board or cooperative school board shall hold an open public meeting for the purpose of voting on the question of discontinuance of the elementary or high school. Notice of the meeting shall be published in a newspaper of general circulation at least 7 days before the meeting. Voting shall be by ballot with the use of a checklist, after reasonable opportunity for public comment in an open public meeting, as defined in RSA 189:74. The question on the ballot shall be in substantially the following form:

"Shall the school district authorize the discontinuation of _____ school, ceasing the school's operation?" Yes ____ No _____

I. If a majority of voters present and voting vote in the affirmative for the discontinuation of an elementary or high school, then the elementary or high school shall be closed by the district effective no later than one day prior to the start of the following school year, with the exception of where the operation of the elementary or high school has been preserved pursuant to RSA 194:3-g.

II. If a majority of voters present and voting vote in the negative for the discontinuation of an elementary or high school, then the elementary or high school shall continue to operate.

III. A separate ballot shall be required where more than one elementary school or high school closure is being voted on at the same meeting.

194:3-g Municipal Preservation Option. If a majority of voters residing in all municipalities that are served by a school or district vote in the affirmative for the discontinuance of such elementary or

high school pursuant to RSA 194:3-f, the municipality in which the elementary or high school is located shall be permitted to continue the operation of the school in accordance with this section.

I. For the purposes of this section:

(a) Elementary schools are the same as defined in RSA 189:25.

(b) High schools are the same as defined in RSA 194:23.

(c) "Governing body" means the board of aldermen or city council in the case of a city and the board of selectmen in the case of a town.

II. If the majority of voters residing in all municipalities that are served by a school or district elect to close an elementary or high school, the governing body of the municipality in which the school is located shall by a majority vote on a warrant article at a regular or special town meeting elect whether to preserve and continue the operation of the school.

(a) If the majority vote of the governing body elects to not preserve and continue the operation of the school, the school shall be closed pursuant to RSA 194:3-f, I.

(b) If a majority vote of the governing body elects to preserve and continue the operation of the school, the governing body shall within 90 days negotiate and enter into an operating agreement with the school district including, but not limited to:

(1) Accountability and governance relative to the duty to provide an adequate public education in accordance with RSA 189:1-a and RSA 193-E;

(2) Apportionment of costs and collective bargaining requirements relative to staffing in accordance with RSA 273-A;

(3) Apportionment of operating and capital outlay costs and the formula used for determining the apportionment of such costs;

(A) This subparagraph shall not be construed to require the modification of the duty of town districts to raise and appropriate funds relative to the maintenance of high schools pursuant to RSA 194:34;

(B) This subparagraph shall not be construed to require the modification of joint maintenance agreements, as defined in RSA 194:21;

(4) Apportionment of costs relative to the transportation of pupils in accordance with RSA 189:6;

(5) The transfer and conveyance of title to any land or property where the school is located and any associated costs relative to the transfer and conveyance of title; and

(6) Attendance of non-resident pupils within the municipality where the school is located, and whether the school be modified as an open enrollment school pursuant to RSA 194-D.

(c) If the governing body and school district fail to negotiate and enter into an operating agreement within 90 days immediately following the majority vote of the governing body prescribed in 194:3-g, II(b), the state board of education shall conduct a hearing and issue a final decision on the matter pursuant to RSA 21-N:11, III.

III. If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

4 New Section; School Administrative Units; School Closures. Amend RSA 194-C by inserting after section 3 the following new section:

194-C:3-a School Closures. All school administrative units shall comply with the requirements of RSA 194:3-f and RSA 194:3-g relative to the closure of elementary and high schools.

I. For the purposes of this section:

(a) Elementary schools are the same as defined in RSA 189:25.

(b) High schools are the same as defined in RSA 194:23.

II. Single district school administrative units shall be exempt from the requirements of RSA 194:3-g if the single district school administrative unit serves only a single municipality.

5 New Section; Cooperative School Districts; School Closures. Amend RSA 195 by inserting after section 10 the following new section:

195:10-a School Closures. All cooperative school districts shall comply with the requirements of RSA 194:3-f and RSA 194:3-g relative to the closure of elementary and high schools.

I. For the purposes of this section:

(a) Elementary schools are the same as defined in RSA 189:25.

(b) High schools are the same as defined in RSA 194:23.

II. It shall be prohibited for any cooperative school district articles of agreement to circumvent the requirements of RSA 194:3-f and RSA 194:3-g.

6 Applicability. On the effective date of this act, all cooperative school district articles of agreement that violate the requirements of RSA 194:3-f and RSA 194:3-g shall be amended to comply with said sections.

7 AREA Schools; Discontinuance of Schools; Reference Removed. Amend RSA 195-A:9 to read as follows:

195-A:9 Discontinuance of Schools Replaced by an Area School. Upon the date of operating responsibility of an area school, the school buildings of the various sending districts and receiving district which formerly served the same grades as the area school and have been rendered surplus thereby under the approved plan, shall automatically be deemed closed and discontinued notwithstanding [~~the provisions of RSA 194:35 or any other applicable statute~~] ***any other provision of law***, unless the school district in which any such building is located shall have expressly voted to devote the same to some different educational use.

8 New Section; Report on District Activity. Amend RSA 189 by inserting after section 29-b the following section:

189:29-c Report on District Activity. Every 3 years following the effective date of this section, the school board of every school district shall:

I. Review the existing contracts, debts, funding, policies, and salaries of the school district; and

II. Provide a written report to the school district including findings and recommendations relative to such district activity.

9 New Paragraph; School Administrative Units; Organization and Duties; Duty to Review Plans and Contracts Added. Amend RSA 194-C:5 by inserting after paragraph III the following paragraph:

IV. Every 3 years following the effective date of this paragraph, the school board of each school administrative unit shall:

(a) Review the approved and unapproved plans for organization, reorganization, withdrawal, and merger as described in RSA 194-C:2;

(b) Review existing and continuing contracts entered into by the school administrative unit; and

(c) Provide a written report to all school districts within the school administrative unit including the board's findings indicating whether changes to such plans and contracts are recommended.

10 Cooperative School Districts; School Board; Powers and Duties Modified. Amend the introductory paragraph of RSA 195:5 to read as follows:

195:5 School Board; Powers and Duties. The cooperative school board elected at the organization meeting shall organize and take office at the close of such meeting and proceed to assume its responsibilities and duties with respect to the administration and planning of the new cooperative school district; provided, however, that the cooperative board shall have no administrative authority as to the schools in the pre-existing districts until the date of operating responsibility. Thereafter all cooperative school district officers shall assume office at the close of the annual meeting. The cooperative school board shall have the same powers and duties as school boards in school districts as prescribed by RSA 189***, with the exception of the additional duty to review documents as described in RSA 195:5-a***. Except as provided in this chapter, all the provisions of this chapter or of any other general law relating to or affecting school districts in the state shall apply to cooperative school districts organized as herein provided.

11 New Section; Additional Duty to Review Documents. Amend RSA 195 by inserting after section 5 the following new section:

195:5-a Additional Duty to Review Documents. Every 3 years following the effective date of this section, the cooperative school board for each cooperative school district shall:

I. Review the bylaws, articles of agreement, and any other existing arrangements for the cooperative school district; and

II. Publish in a newspaper generally circulated within the cooperative school district the board's findings indicating whether changes to such documents are recommended.

12 Repeal. RSA 194:35, relative to the discontinuance of high schools, is repealed.

13 Effective Date. This act shall take effect 90 days after its passage.