

# Senate Education Committee

*Ryan Meleedy 271-4151*

**SB 101-FN**, authorizing parents to enroll their children in any public school in the state.

**Hearing Date:** January 28, 2025

**Members of the Committee Present:** Senators Ward, Sullivan, Abbas, Prentiss and Altschiller

**Members of the Committee Absent :** None

**Bill Analysis:** This bill allows parents to send their children to public schools outside of their resident district.

---

**Sponsors:**

Sen. Lang

Sen. Innis

Sen. Gray

Sen. Sullivan

Sen. Murphy

Sen. Pearl

Rep. Osborne

Rep. Hill

Rep. Layon

---

**Who supports the bill:** 25 People signed in support of SB 101-FN. To see the full list of sign-ins, please email the committee aide ([ryan.meleedy@gc.nh.gov](mailto:ryan.meleedy@gc.nh.gov))

**Who opposes the bill:** 439 People signed in opposition of SB 101-FN. To see the full list of sign-ins, please email the committee aide ([ryan.meleedy@gc.nh.gov](mailto:ryan.meleedy@gc.nh.gov))

**Who is neutral on the bill:** No one signed in neutrality on this bill.

**Summary of testimony presented in support:**

**Senator Timothy Lang**

- Senator Lang testified in support of his prime-sponsored bill, Senate Bill 101.
- He explained that put simply, the bill is a universal school choice bill for students in the state of New Hampshire.
- Senator Lang outlined the significant things that the bill would do if passed:
  - o Any public school student in New Hampshire can go to any public school in the state.
  - o If a student leaves their resident school district, parents/guardians are responsible for covering transportation costs.

- Special education students who transfer from their resident school district would do so under the same framework that they already do when they transfer to a charter school.
  - The bill addresses student capacity and denial criterion.
  - The bill addresses school funding arrangements under the open enrollment model.
- Senator Lang proceeded to go through the bill in detail, highlighting significant policy changes that it would make:
- Page 2, line 2 — Any public school student can attend any school in New Hampshire.
  - Page 2, Section 2, line 27 — The bill addresses student capacity of schools by allowing each school to develop its own capacity plan based on their independent needs. If a school determines that they have reached capacity, it would be permitted to deny transfer requests to non-resident students.
    - Senator Lang explained that the bill requires schools to have school-wide capacity policies *and* per-grade policies, and they are required to update these numbers monthly to let parents better assess whether they should pursue transferring their child to any individual school.
  - Page 3, line 17 — Addresses denials, and what grounds a public school has to deny a student. Senator Lang detailed the reasons for lawful denials, including prior expulsion from another school, a documented history of behavioral issues, chronic truancy records, and the school/grade being at maximum capacity.
  - Page 3, Section 9, line 20 — Establishes that parents are responsible for transporting their child to and from school if they elect to transfer out of their resident district.
  - Page 4, line 19 — Establishes that the average cost of tuition from the resident district is the amount of money provided for a student to attend school elsewhere. If the student is transferring to a school with a higher average cost of tuition than their resident district school, the student's parents are responsible for paying the difference to the school that the student is transferring to. Conversely, if a student is transferring to a school with a lower average cost of tuition than that of their resident district, the resident district school is permitted to keep the additional funds that would have gone to that student's tuition at said school.
  - Page 4, final line — Establishes that students are always calculated in their resident district regarding state funding considerations.

- Senator Lang stressed to the committee that above all other educational concerns, the priority should always be focused on what is best for each student.
- He cited his initial reasoning for filing this bill, stating that a public school teacher had requested it. He added that the teacher who advocated for the bill worked at a public school without a music teacher or program and that there were students who wished to participate in a school music program. Allowing students to transfer to a different public school with a music program would help meet students' individual needs on a per-student basis, which is what this bill would allow. Senator Lang tied this back in with doing what is best for each student and explained music classes were not the only reason a child might desire to transfer schools, but a swath of other reasons, including specialized classes, different academic course offerings, and athletics.
- Senator Sullivan expressed that she supported the concept of the bill but was concerned with certain details, specifically the grounds for student denial that it enumerates. She explained that truancy issues can often result from events at a student's current school, such as bullying. She also expressed concern with the expulsion criteria, citing that in some cases, a student's expulsion might be a product of conduct that is occurring at their current school, which they might be trying to get away from for their own benefit. She emphasized that some of the students who would be the most likely candidates for denial are the ones who arguably need to transfer to a new school the most.
  - o Senator Lang established that the bill does not force schools to deny students on the basis of truancy or expulsion, and it gives each school the ability to examine each student's academic and conduct records and evaluate whether the student's potential reasons for denial were merely a product of the school they are seeking to transfer from.
- Senator Prentiss explained that she agreed with Senator Lang's notion of doing what is best for each student; however, she disagreed with him about methods of achieving it. She asked Senator Lang whether this bill essentially dissolves school borders and allows children to simply pick where they want to go to school.
- Senator Lang explained that this is the case for purposes of enrollment. He explained that a student's default school remains their resident district school. This bill allows a pathway for parents and students to pursue other options in the best interest of the child as they see fit.
  - o Senator Prentiss reemphasized Senator Sullivan's concerns about students who have bad conduct records, truancy issues, or have been expelled, as they are often the ones who are in the most need to transfer. She disagreed with the bill's enumeration of those things as criteria for denials of school transfer requests.

- Senator Prentiss identified athletics as another issue with the bill. She explained that a potential consequence of this bill could be students using it for non-educational reasons, specifically sports. She argued that students and their families could take advantage of the bill if it were passed to transfer to different schools whose sports programs are superior to their resident district's, which could potentially create inequities in student athletics, and could deter a student's focus on their academics. She elaborated, explaining that this occurrence would contradict Senator Lang's motion of doing what is in the best interest of individual students.
  - o Senator Lang responded by saying that sports could provide an incentive to students who cared less about their academics to remain engaged with their studies. He cited his own experience, describing himself as a subpar student who cared deeply about sports, and how athletics provided him a reason to keep his grades up in order to be eligible for different sports programs/teams. Senator Lang explained that if a student wants to play a specific sport that isn't offered by their resident district school, transferring to a school that has the desired sports program could provide additional incentive for students to keep up with their studies. He argued that this is in the best interest of the child.
  - o Senator Prentiss said that transferring schools because the first school doesn't offer a sport is more understandable. However, she could see students transferring schools simply because one has a better team than their resident district. This could open the door for schools to recruit students outside of their town, potentially having a negative effect on students with schools who recruit from having access to the sports that they want to participate in.
  - o Senator Lang reemphasized that the bill's intent remains to prioritize what's best for each individual student. If parents and students determine that transferring schools is best for them, this bill would still be looking out for what is best for the child in the Senator's view, regardless of the motives behind transferring.
- Senator Altschiller took issue with the bill, explaining that it widens the gap between students and their families who are financially secure and those who are not. She cited Senator Lang's mention of schools not having/cutting programs as a reason not to give students the option to leave, but to increase adequacy funding to make sure each school can support itself and its own programs to meet the needs of its students.
- Senator Altschiller reemphasized Senator Prentiss' concern that the bill could create a system for financially fortunate students to take advantage by switching to

better sports programs, thus creating inequities in school sports, and could inadvertently create a gift-based recruitment system.

- Senator Lang interpreted Senator Altschiller's concerns as those strictly related to funding. He then established that while the legislature continues to argue about funding and its allocation, students could be doing better in school by switching to one that best fits their needs.
- Senator Lang also countered Senator Altschiller's concerns regarding financial disparities by highlighting legislation he proposed during the last Senate session that addressed these disparities.
- Senator Lang explained that the argument against the bill with regards to sports could be flipped to an academic perspective. He elaborated, saying that if a parent knows their child likes physics, they could send their child to a school that has a better physics program than their resident district school (in some cases, the resident district school might not even have a physics program). He questioned how, in theory, this could be seen as a problem.
- Senator Sullivan asked whether Senator Lang sees this as an equitable solution, which allows students from less stable backgrounds or school situations to enter one that could provide them with better opportunities in education and extracurricular activities.
  - Senator Lang agreed with this characterization.
- Senator Altschiller expressed her agreement with Senator Lang's notion of ensuring each child gets what they need to thrive at school and when they need it. However, she expressed that all students should be provided this opportunity and that this bill would, in theory, only allow those with the means of transferring schools to actually get what they need, reemphasizing that the state should be concerned with making sure all schools are providing an adequate education experience, not just allowing students to switch to one that does.
  - Senator Lang established that the legislature has already increased education spending significantly, especially in schools that were in the most need. He added that though the legislature has increased funding, the state has no control over how the money is spent.
- Senator Prentiss asked if any case studies or study commissions have been conducted regarding how this would play out in practice throughout the state.
  - Senator Lang said he would welcome a legislative study following the implementation of the bill; however, he wanted students to be taken care of as soon as possible and didn't see the bill as something that should be paused until studies have been conducted.
  - Senator Prentiss responded that the legislature has a responsibility to ensure that their policy would be effective and wouldn't cause any significant issues. She explained that enacting such a school choice system would be

reckless without thoroughly examining how it would work in practice and what unintended consequences may arise.

- Senator Sullivan asked if Senator Lang agrees that a similar open enrollment system has been implemented in 43 other states and whether it has provided positive results for students in those states, to which Senator Lang answered yes.
- Senator Altschiller asked how open school spots were to be determined, what the deadlines were for open enrollment, and when students would be able to transfer schools.
  - o Senator Lang referenced the direct language of the bill, which stated that school districts are required to develop a capacity policy for each school and grade within the district and that the capacity numbers should be updated monthly and provided on the district's website. He also cited reporting requirements, including annual data reports from each school.
  - o Senator Lang explained that each school must determine its capacity based on its own internal policy and that if it reaches that capacity, it reserves the right to deny open enrollment requests.
- Senator Altschiller followed up by asking if students would be eligible to transfer at any given time.
  - o Senator Lang explained that they could transfer at any point so long as the school accepts them (in reference to the denial criteria). He also established that the monthly capacity updates would allow parents to determine whether transferring to a specific school was even an option when they are seeking to enroll their child in any given school.
- Senator Altschiller asked about what would happen if the school was at capacity and then a significant number of students moved into the town due to a new housing development or something of that nature. She asked how this would affect capacity numbers and whether the school would have to turn down the enrollment of the students who recently moved into their district.
  - o Senator Lang responded that the school would be mandated to accept any new students that move into their district as they already are and explained that something like a new housing development would be foreseeable, and would allow schools to plan accordingly, so this wouldn't be a significant issue in practice.
- Senator Altschiller asked how acceptance of new students would be determined under a scenario where there are more enrollment requests than there are open spots in a school's capacity plan.
  - o Senator Lang reestablished that schools would be left to determine their own policy regarding capacity. He also explained that New Hampshire is losing roughly 1% of students each year, so in theory, schools should be realizing a higher capacity.

### **Sarah Scott – Americans for Prosperity**

- Ms. Scott testified in support of the bill.
- Ms. Scott identified childcare as an important factor for why this bill is helpful, explaining that students often receive after-school childcare outside of their resident towns and that if this bill was passed, it would allow for them to attend a school in close proximity to their after-school care location, which would be helpful to parents.
- She also described a common scenario where teachers with children work at a school far away from their home, which puts a burden on them to get their kids ready for school and take care of them after the school day is over. Allowing students to transfer to the school where their parent works would lessen the parental burden for these teachers.
- She emphasized that this bill not only could assist in areas of education and extracurricular programs, but also lessen the burden of certain parents throughout the state.

### **Summary of testimony presented in opposition:**

#### **Jerry Frew - New Hampshire School Administrators Association**

- Mr. Frew explained that due to the sheer volume of similar bills being presented in both state legislative bodies, it would be in the state's best interest not to rush into any open enrollment system that this bill and others are proposing.
- He expressed concern with the volume of reports to the Department of Education (DOE) that this bill would mandate, citing that schools are already overwhelmed by the amount of reports they must provide to the DOE, and that the capacity reporting requirements of the bill would be a significant burden for schools to manage.
- Mr. Frew questioned the effect that this would have on rural classroom dynamics. He explained that by welcoming an influx of students, rural classroom dynamics might be thrown off, which could lead to more complications with staffing.
- Mr. Frew mentioned enrollment bubbles, forwarding his uncertainty of whether students would be staying at the school they transferred to for the rest of their primary education, or if they would be transferring in and out of schools with frequency, which could create a burden for school districts trying to calculate capacity, budgets, etc.
- He explained that there are other lines in the bill that could be subject to varying interpretations by attorneys and expressed that the bill would likely need some 'clean-ups.'

- Mr. Frew suggested a study committee take all of the open enrollment bills into account and figure out the best path forward for students.

### **Debra Howes - American Federation of Teachers, New Hampshire**

- Debra Howes testified in opposition to the bill.
- She explained that the state's concern should be making sure all schools are able to meet the needs of every child within their district, including the programs that are missing from many schools (such as music programs which had been alluded to earlier in the hearing).
- Ms. Howes shared concerns regarding in-district taxpayers. She explained that it is unfair to require local taxpayers to fund a child's education who isn't even attending school within the school district they are paying for. She highlighted that schools, on average, receive 70% of their funding through local taxes.
- Senator Ward explained that Ms. Howes is asking each school to have the same academic and extracurricular programs and the funding to meet those programs. She explained that in the healthcare industry, it is far less expensive to have specialized hospitals than to have each individual hospital maintain every single medical discipline or program. Senator Ward explained that this is also the case with schools; it doesn't make sense for each school to offer every single program, and doing so would not make economic sense.
- Senator Ward elaborated, saying that having a school that specializes in the arts and another that specializes in science and allowing students to attend the school that meets their interests would be more sensical than requiring each school to specialize in all programs.
- Ms. Howes explained that if each school could meet the basic need for general student success in different areas, a bill like this one would make more sense, but this is not the case. She explained that students are entitled to a robust education in each school, and that open enrollment would only make sense if this standard was met universally.
  - o Senator Sullivan stated that the average cost of an adequate education in New Hampshire was \$21,000 and asked roughly how much more funding would be needed from the state government to fulfill the adequate base of education, which Ms. Howes claimed to be necessary before a bill like this should even be considered.
- Ms. Howes estimated that the state should be providing roughly \$10,000 of funding per student in order to reach that point. She pointed out that the \$21,000 average is paid for mostly by local taxpayers.

## David Trumble

- Mr. Trumble asked whether the bill removes local control.
- He questioned what school capacity numbers would be based on.
- Mr. Trumble followed up by asking whether capacity would be determined based on class size, building size, staffing restrictions, or other metrics.
- He questioned whether students who enrolled in a school when it was under capacity and then the school went over capacity because of an influx of in-district resident students, if that student would be forced to leave for that school to meet its newfound demands.
- Mr. Trumble explained that if the state wants to allow students to transfer schools, it should also be responsible for paying for their enrollment in a new out-of-district school, stating that it was unfair for local taxpayers to take on this burden.
- He claimed that this system may work in other states that provide significantly more education funding. However, New Hampshire provides an extremely low amount of education funding compared to other states, making an open enrollment system much less feasible.
- Mr. Trumble explained that the bill would discriminate against students from less stable financial backgrounds, as those who are able to transfer would likely only be those with more means to do so than the less fortunate.
- He explained that the criteria for denial that the bill establishes would inherently discriminate against people from poorer backgrounds, minorities, and those with disabilities, as they are far more likely to be expelled from school based on certain school environments where a larger percentage of these groups are concentrated in the state.