

Senate Education Finance Committee

Joshua Schauer 271-3077

HB 771-FN, relative to funding for open enrollment schools.

Hearing Date: April 17, 2025

Time Opened: 1:38 p.m.

Time Closed: 2:07 p.m.

Members of the Committee Present: Senators Murphy, Innis, Carson, Ward, Rosenwald and Altschiller

Members of the Committee Absent : None

Bill Analysis: This bill:

I. Changes how funding for open enrollment schools is sent and received.

II. Requires school districts to establish a line item in their operating budgets that reflects expenditures for open enrollment tuition costs.

Sponsors:

Rep. Peternel

Rep. Ladd

Rep. Terry

Rep. Verville

Sen. Rochefort

Who supports the bill: 8 people signed in support of this legislation. If you would like a complete list, please contact the legislative aide (Joshua.schauer@gc.nh.gov)

Who opposes the bill: 142 people signed in opposition of this legislation. If you would like a complete list, please contact the legislative aide (Joshua.schauer@gc.nh.gov)

Summary of testimony presented in support:

Rep. Peternel: Carroll District-2

- Representative Peternel introduced the bill and stated it was at the request of the Department of Education, but the legislation does not ask for any funding.
- She stated that this legislation has common sense changes so that the department can operate in the manner it was intended to.
- She stated that open enrollment schools started in 1995 under the original charter law, but was separated in 2009, which is exercised in RSA 194-D, and it wasn't used until 2023.

- She argued that 2023 is when the problems arose for schools with open enrollment.
- The most significant change that was made is on line 194-D:5. This section ensures that the sending district pays the receiving district, which was unclear in current law.
- It also adds that the sending district will retain 20% of the cost per pupil.

Rep Ladd: Grafton District-5

- Rep. Ladd argued that this bill does not establish an enrollment program in the state, because there already is one. He said there is only one open enrollment school in the State (Prospect Mountain, Alton). That school takes 20 students a year, but the issue is, who pays for that?
- He said that the sending school does not have to be an open enrollment school for this program to work, and this legislation clarifies that. It also clarifies that the sending school is responsible for the payment; no less than 80% of the cost per pupil while 20% is retained in the sending district.
- This bill is another avenue to give students the option to attend another public school.
- Some small districts do not offer classes that are academically interesting or rigorous enough for students. This allows students to attend and change schools if the school is an open enrollment school. It clarifies which schools pay and which must adopt these provisions in RSA 194-D. It is an optional program dependent on the receiving school being an open enrollment school.
- He stated that any student transferring must abide by the receiving school's curriculum and disciplinary code. When a student transfers, the transportation is at the cost of the parent unless the transfer is within the same district.
- He said there is no reason a line item cannot be added to the budget, even if it is just \$1. He reiterated that there is already money in the budget for tuition programs for K-8 and as a former administrator, he understands that you transfer money throughout line items because it is all going towards education.
- He reaffirms that this program keeps public dollars in public schools.

Senator Ward specified that the sending school will give 80% and asked what happens if the receiving district has a higher tuition per child; what will happen in those situations?

Rep. Ladd said that it helps the "property poor towns". He explained that if a sending school with an average cost of \$20,000 went to a receiving school where the cost is \$44,000, they would only pay 80% except in the case of Special education where the school will pay the entirety of the costs. He stated that the receiving school classifies them in their ADM (Average Daily Membership) count, but the resident count is still in the sending district. He went on to add that it goes both ways, and the 80-20% method was developed with the career technical education aspects of the bill. The

legislation was created in consultation with the Education Commissioner and Rep. Ladd said this program should be available to students across the state.

Senator Ward said she agreed it looks like a good program, but she was worried about the receiving school not getting the money they are already spending on students.

Rep. Ladd said that Prospect Mountain school is currently getting nothing but are still receiving the students and educating them. These schools are serving the best interests of the students but are not receiving the tuition from the sending schools. He said that after consultation with the Education Department, this was the best answer they came up with.

Senator Rosenwald said that after looking at the fiscal note, which says that “the sending district would see downward pressure on the cost per pupil of education”, but over the years she has asked the Department of Education what the marginal savings are when a child leaves a district? What would that the 20% make up for? What specific marginal savings would the district see?

Rep. Ladd explained that if a district loses a lot of students, they may see savings, depending on how they staff and budget their facilities. He gave an example of the career technical schools, which are in reverse of the open enrollment program. He said that technical schools charge 40% of the average tuition cost for students, which is the receiving school. He stated that there are issues with open enrollment, but this legislation is simply modifying what is currently in statute. There are issues with NHIAA, which is current law and practice, where students cannot register for sports right away after transferring to prevent “stacking” sports teams. However, he said that Senator Rosenwald is correct with the funding portion; it needs to be addressed, and the formula needs some “tweaking”.

Senator Innis asked if it was conceivable that the incremental costs to adding a child to a school could be close to zero?

Rep. Ladd said that the Senator was correct in that evaluation.

Senator Rosenwald asked that for the sending district, wouldn't the school have to lose a lot of students from the same school and same grade level before they realize any marginal savings.

Rep. Ladd stated that yes, realistically, they would. He explained further that with big districts like Nashua and Manchester, they would most likely be transfers within the same district, which is already occurring among districts.

Dr Timothy Broadrick: Superintendent

- He said that he is the superintendent for the only open enrollment school in the state.
- He stated it is important to recognize that this bill clarifies language in the existing, RSA 194:D, in ways that are consistent with prior Department of Education (DOE) and State Board rulings and technical assistance

- He stated that the law, as it stands, was written in 2009 and consists of vague language in sections and the education field has had a difficult time implementing because of the lack of clarity.
- In April of 2022, the commissioner issued some technical assistance to clarify some of the points that were added into this piece of legislation.
- He explained that there is a broad understanding, based on the Board of Education's actions, of how the program is supposed to work. He said that not everyone in the field is willing to comply with the DOE orders or rules.
- He expressed his disappointment in the unwillingness of other districts to comply with DOE rulings and stated that his school has \$98,000 in unpaid receivables for students that have already been enrolled and educated. He stated that his district had 11 open enrollment students last year. However, they have only received 40% of that which was invoiced.
- He explained that some schools and districts say they "read the law differently" and do not pay the invoices to the receiving school. He reiterated that this legislation would help solve the existing problems with open enrollment in New Hampshire.

Senator Carson said that Mr. Gross had made some suggestions for language clarification, and she asked if Dr. Broadrick agreed with those suggestions.

Dr. Broadrick stated that he did agree with the changes suggested. He explained that he wants open enrollment to function like charter schools. It would give open enrollment schools a seat at the table, and it would be consistent with DOE rule making. New Hampshire should be treating special education and 504's just like charter schools. He explained that Prospect Mountain pays charter schools because that what the law says, and it should be consistent.

Senator Carson stated that in many districts, "students' use their tuition to transfer into other districts" and explained that many students come into her district, Londonderry, from Hookset and asked if this could be a model to ensure that payments are followed properly?

Dr. Broadrick said that New Hampshire had many forms of mobility to transfer school districts. He said that Senator Carson was referring to a "private tuition agreement" opposed to an "area agreement". He explained that in a tuition agreement, there is no conflict with existing schools and open enrollment schools. He went on to say that if his school board decided it was no longer financially sensible to operate the high school, they would need to guarantee that every student had a place to go, and they would need a tuition agreement with another school that is willing to take 100% of the students. He said that open enrollment does not do that but allows tuition agreements for open enrollment schools not trying to close and want to sustain excellent programs. His school has a capacity of 20-30 students and explained they could not take all of the students from the specific school, so a tuition agreement would not be a proper channel for them to use, however an area agreement would be the

better option for his school specifically in that hypothetical scenario. He said that both are “great options that can and should be utilized”.

Senator Rosenwald asked how a school district estimates the number of receiving students they will get in a year.

Dr. Broadrick said in a system of statewide public choice, there are different ways depending on the district, but experience helps. In his district, they take a certain number of seats that they can fulfill and budget for that. He explained that he heard earlier testimony about adding \$1 to a line item and moving money into that once it becomes necessary and that’s what many districts do.

Summary of testimony presented in opposition:

Scott Gross:

- He pointed out some technical points on lines 15-17 and said it should be corrected to read “*shall be the responsibility of the sending district*” for clarification purposes.
- He also expressed concern about lines 26-28, which states that it “*may provide funds, materials, or services*”. He explained that there are costs with students with 504 plans, such being hearing impaired, it may not be a disability but the systems to accommodate them can cost up to \$5,000. The sending district should be responsible for paying those costs.
- He said that as a superintendent he would recommend adding to the expenditures on page 2 of the bill, the offsetting revenue estimates because they should offset and account for the tuition revenues. This should be made clear in the bill for school administrators.

Kaitlyn Bernier: Merrimack

- Ms. Bernier spoke in opposition of the bill. She said that she was most concerned about the second section which requires school districts to adopt this policy. It would negatively impact the ability for schools to budget and provide adequate funding for students. Many districts are making multi-million-dollar cuts because of inadequate funding and budgeting.
- She stated that this bill will force lower-income districts to cut sports and lay-off teachers while increasing class sizes. She said this would “strangle” the growth of schools and students that desperately need it.
- She compared this piece of legislation to the State of Wisconsin, which has similar open enrollment programs, and said that the State is having problems with IEP students because they can no longer afford funding.
- She said that this will create a great inequity in education and will increase local taxes and decrease adequate education for our children.