HB 1636 - AS AMENDED BY THE SENATE

05/02/2018 1427s
05/02/2018 1851s
05/03/2018 1898s
05/03/2018 1925s

2018 SESSION

18-2596
04/03

HOUSE BILL ***1636***

AN ACT establishing a committee to study teacher preparation and education programs, relative to chartered public school use of unused school district facilities, and establishing education freedom savings accounts for students.

SPONSORS: Rep. Gile, Merr. 27; Rep. Myler, Merr. 10; Rep. Heath, Hills. 14

COMMITTEE: Education

AMENDED ANALYSIS

This bill establishes a committee to study teacher preparation and education programs; makes unused school district facilities available to chartered public schools; and establishes education freedom savings accounts for children between 5 and 20 years of age.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT establishing a committee to study teacher preparation and education programs, relative to chartered public school use of unused school district facilities, and establishing education freedom savings accounts for students.

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

1 Committee Established. There is established a committee to study New Hampshire teacher preparation and education programs.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall:

I. Study New Hampshire teacher preparation and education programs that prepare teachers for careers in education and compare them to similar programs in other states and foreign countries whose students perform at the highest levels on the Program for International Student Assessment.

II. Specifically study the following features of teacher preparation and education programs, including but not limited to recruitment and admission standards, teacher preparation and education courses, requirements for student teaching including internships, externship, and residencies, professional standards, salaries, certification and continuing education requirements, teacher absenteeism, and retention.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2018.

6 New Subdivision; Chartered Public School Use of Unused District Facilities. Amend RSA 194

by inserting after section 60 the following new subdivision:

Chartered Public School Use of Unused District Facilities

194:61 Unused District Facilities.

I. For the purpose of this section, "unused facility" means a school building owned by a school district in which less than 10 percent of the square footage of the school building is used during a school year for direct student instruction and for which the school district has no school board-approved written plan for future use. In order to comply with this paragraph, such school board-approved plan shall include direct student academic instruction within 2 years of the plan's approval.

II. On July 1, 2019, and on July 1 every year thereafter, the superintendent of each school district shall report to the department of education each unused facility owned by the school district. The department shall establish and maintain a list of unused facilities owned by each school district and make such list available on the department's website. A school district may exclude an unused facility from the school district's annual report only once.

III. Pursuant to paragraph I, a school district shall offer an unused facility to a chartered public school for purchase or lease as follows:

(a) If a school district's school board extends an offer to purchase or lease an unused facility to a party, other than an approved chartered public school operating in this state, the contract shall include a provision which makes the purchase or lease subject to the right of first refusal by an approved chartered public school operating in this state.

(b)(1) If the offer to purchase or lease is accepted, the school district selling or leasing the unused facility shall, by first class certified mail, notify all approved chartered public schools in this state, as listed on the department of education's website, of the contract to purchase or lease the unused facility. The certified mail notice shall contain clear language that the unused facility is available to any approved chartered public school in this state only, and shall list the offering school district's name and location, the square footage of the unused facility, the contact information of the offering school district's representative, and the expiration date of the right of first refusal which shall be 60 days after the date of the certified mailing.

(2) The offering school district shall also post notice of the contract for the purchase or lease of an unused facility in a newspaper of statewide circulation for at least 5 days.

(3) A chartered public school that fails to exercise its right of first refusal shall forfeit such right as it pertains to the specific unused facility and any future right or interest in the specific unused facility.

(c) If the offering school district has not received an offer to purchase or lease an unused facility from a party, other than an approved chartered public school operating in this state, a chartered public school may initiate, and the school board of the offering school district shall engage in, good faith negotiations for the purchase or lease of the unused facility.

(d) If 2 or more chartered public schools notify the offering school district indicating an

interest in the unused facility, to lease or purchase, the offering school district shall make the final selection of the purchaser or lessee.

(e) The criteria used to evaluate parties interested in the purchase or lease of an unused facility shall be public information and shall not be subject to RSA 91-A.

IV. In right of first refusal negotiations with a chartered public school, it shall be the option of the offering school district whether to sell or lease the property under consideration, at fair market value or less, for a term to be agreed upon by the parties. A lease shall include ingress to and egress from the facility, and where a part of a facility is leased, the right to access and use of the common area shared by all tenants and users of the facility. If a chartered public school leases the entire facility, the chartered public school may incur debt to make improvements to the facility, and the school district shall subordinate its interest in the lease to such debt.

V. The chartered public school shall have 6 months after the date of making a written offer to complete the purchase or lease of the unused facility for a price negotiated with the school district.

VI. During the term of a lease, a chartered public school shall be responsible for direct expenses related to the facility or any part of the facility leased, including utilities, insurance, maintenance, property taxes, and repairs.

VII. If a chartered public school plans to sell an unused facility which it has purchased, it shall first offer the facility to the school district from which it was purchased. Such offer shall be governed by the procedures set forth in paragraphs III, IV, and V.

7 New Chapter; Death Benefit for School Employee Killed in Line of Duty. Amend RSA by inserting after chapter 189 the following new chapter:

CHAPTER 189-A

Death Benefit for School Employee Killed in Line of Duty

189-A:1 Death Benefit for School Employee Killed in Line of Duty.

I. In this section:

(a) "Family" means the surviving spouse of the school employee; or, if there is no surviving spouse, the surviving dependent child or dependent children, of such school employee or, if there is no surviving dependent child, a surviving person qualifying as a common-law spouse pursuant to RSA 457:39, or if there is no surviving common-law spouse, the surviving adult child or adult children, or if there is no surviving adult child or adult children, the surviving parent or parents of such school employee. A surviving dependent child shall include a dependent step-child whose expenses of daily living were substantially paid for by the decedent at the time of the death.

(b) "School employee" means any person, full or part time, who is employed by a public school in the state of New Hampshire.

(c) "Public school" means any public school or public academy approved by the state of New Hampshire pursuant to state laws and regulations, including the university system of New Hampshire and the community college system of New Hampshire.

(d) "Killed in the line of duty" means the death of a school employee while in the performance of his or her duties as a result of violence by another, who purposely causes that death or purposely causes serious bodily injury which is the direct or proximate cause of the death of the school employee.

II. In addition to any other benefit for which the school employee or family is eligible, the state treasurer shall pay a $100,000 death benefit to the family of a school employee killed in the line of duty; provided that under no circumstance shall a family member responsible for the school employee's death be eligible for such benefit. Payment to a dependent child shall be made to the child's trustee for the benefit of the child. The governor, with the consent of the executive council, is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

III. The attorney general or a designee from the department of justice shall review the records that relate to the circumstances of the employee's death and shall render a determination whether the incident qualifies as a line-of-duty death as defined in subparagraph I(d).

(a) Such determination shall be rendered within 45 days of documented notice of the incident.

(b) If the death of the school employee is determined to qualify as a line-of-duty death as defined in subparagraph I(d), the attorney general or a designee from the department of justice shall notify the commissioner of the department of education, who shall adopt the attorney general's recommendation and submit a request to the governor for payment of the benefit.

(c) Any records received in order to make the determination if the school employee's death qualifies as a line-of-duty death as defined in subparagraph I(d) shall be exempt from RSA 91-A. Upon the request of the decedent's family, any medical records or other records which otherwise are nonpublic shall be destroyed following the vote by the governor and executive council on this matter.

IV. Neither the state nor its agencies or employees shall be civilly liable for any improper payment of the line-of-duty death benefit as provided in this section.

8 New Chapter; Education Freedom Savings Accounts. Amend RSA by inserting after chapter 194-D the following new chapter:

CHAPTER 194-E

EDUCATION FREEDOM SAVINGS ACCOUNTS

194-E:1 Definitions. In this chapter:

I. "Account" means an education freedom savings account established for an eligible student pursuant to this chapter.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Eligible student" means a New Hampshire resident who is at least 5 years of age and not more than 20 years of age, who has not graduated from high school and is:

(a) Currently attending a New Hampshire public school, including a chartered public school, and for whom the adequate education grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(b) A kindergarten student; or

(c) Receiving home education pursuant to RSA 193-A.

V. "Nonpublic school" shall mean any public academy or private school approved for attendance by the department.

VI. “Parent” means the natural or adoptive parent or legal guardian of an eligible student.

VII. “Postsecondary institution” means an institution within the university system of New Hampshire or the community college system of New Hampshire.

VIII. “Program” means the education savings account program established in this chapter.

IX. “Resident school district” means the public school district in which the eligible student resides.

X. "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

(a) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code;

(b) Complies with applicable state and federal anti-discrimination and privacy laws;

(c) Is registered with the department of justice, director of charitable trusts; and

(d) Has been approved by the department of revenue administration for the purpose of issuing scholarships pursuant to RSA 77-G:5.

XI. "Treasurer" means the treasurer of the state of New Hampshire.

194-E:2 Program Eligibility.

I. There is established an education freedom savings account program. The parent of an eligible student may receive a grant from a scholarship organization if the parent signs a contract with the scholarship organization in which the parent agrees to provide an education for the eligible student in science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music.

II. The parent of an eligible student who signs a contract with a scholarship organization agrees to use the funds deposited in an eligible student's account for any of the following qualifying educational expenses:

(a) Tuition for course fees at any public school, chartered public school, nonpublic school, or program approved by the department pursuant to RSA 186-C:5.

(b) Textbooks, curriculum, or supplemental materials required to administer the curriculum.

(c) Payment to a tutor or tutoring facility.

(d) Fees for transportation to and from an educational service provider paid to a fee-for-

service transportation provider, not to exceed $750 per school year.

(e) Tuition and fees for online learning programs.

(f) Educational services or therapies from a licensed or certified practitioner or provider, including licensed or certified paraprofessionals or educational aides.

(g) Tuition and fees at a postsecondary institution.

(h) Computer hardware and software and other assistive devices if an eligible school, licensed or certified tutor, licensed or certified educational service practitioner or provider, or licensed medical professional verifies in writing that these items are essential for the student to meet annual, measurable goals.

(i) Fees for a nationally standardized norm-referenced achievement test, advanced placement examination, or any exam related to college admission.

(j) Contributions to a Coverdell education savings account established under 26 U.S.C. section 530 for the benefit of the eligible student, except that funds used for elementary or secondary education expenses may be used for expenses otherwise allowed under this section.

III. The parent of an eligible student shall be provided copies of all signed agreements.

IV. The parent of an eligible student shall be required to annually renew the agreement to continue participation in the program.

V. No eligible student shall receive a grant under this chapter and an education tax credit scholarship pursuant to RSA 77-G in the same school year.

VI. Eligible students participating in the program may participate in curricular and co-curricular courses and programs pursuant to RSA 193:1-c. Students in the special school district within the department of corrections established in RSA 194:60 shall not be eligible students.

VII. An agreement shall be automatically terminated if the eligible student no longer resides in this state, and any funds remaining in the account shall be returned to the state treasury.

VIII. The failure to enter into an agreement pursuant to this chapter for any school year for which an eligible student is required to attend a public school shall not preclude the parent of such student from entering into an agreement for a subsequent school year.

194-E:3 Program Funding and Payment.

I. The scholarship organization shall notify the commissioner of any eligible student whose parents have signed an agreement under RSA 194-E:2.

II. The commissioner shall transfer to the scholarship organization 90 percent of the per pupil adequate education grant amount pursuant to RSA 198:40-a, plus any differentiated aid, which would be disbursed to the municipality in which the student resides, for deposit into the eligible student's account.

III. The commissioner shall transfer to the scholarship organization 50 percent of the per pupil adequate education grant amount pursuant to RSA 198:40-a for an eligible student entering kindergarten for deposit into the eligible student's account.

IV. The funding for an eligible student receiving home education shall be as provided in

RSA 77-G:2, I(b).

V. Funds received pursuant to this program shall not constitute income taxable to the parent of the eligible student or to the eligible student.

VI. In exchange for the parent's agreement pursuant to RSA 194-E:2, the state treasurer shall transfer funding to the eligible student's account established by the scholarship organization. The transfers shall be made in accordance with the distribution of adequate education grants under RSA 198:42.

VII. All eligible student accounts shall be held in institutions qualified by the state treasurer.

VIII. A scholarship organization shall receive 5 percent of the adequate education grant, including any differentiated aid for which the student would be eligible pursuant to RSA 198:40-a, for administrative expenses.

IX. The department may conduct an audit of an eligible student's account as needed to ensure compliance with this chapter.

X. The department may remove any eligible student from the program for non-compliance with program eligibility requirements of RSA 194-E:2.

(a) The parent may appeal the decision of the scholarship organization to the department.

(b) Any funds remaining in the account for that student shall be sent to the state treasury.

XI. At the time of the eligible student's graduation from a postsecondary institution or after a period of 2 consecutive years after high school graduation in which the eligible student does not enroll in a postsecondary institution, the eligible student's account shall be closed, the parents notified, and any remaining funds shall be returned to the state treasury.

XII. The scholarship organization or the department may refer cases of fraudulent misuse of funds to the attorney general for investigation.

XIII. A school or educational service provider pursuant to RSA 194-E:2 shall not share, refund, or rebate any program funds with the parent or eligible student in any manner.

XIV. Parents may make payments for the costs of educational programs and services not covered by the funds in their accounts.

XV. A scholarship organization may receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this chapter.

194-E:4 Scholarship Organization; Requirements. A scholarship organization shall:

I. Develop and maintain agreement forms in cooperation with the department.

II. Provide copies of agreements signed by parents of eligible students to the department.

III. Comply with all federal and state laws regarding student privacy.

IV. Review all receipts for fees and services pursuant to 194-E:2, II.

V. Provide biannual reports on the number of students participating in the program, the

providers of services to students, and the value of the program funds to the department, chairman of the house education committee, and the chairman of the senate education committee.

VI. Provide an annual report to the speaker of the house of representatives, the president of the senate, the chairman of the house education committee, the chairman of the senate education committee, the governor, and the department including:

(a) The number of eligible students with accounts.

(b) A list of schools and service providers including the number of eligible students served.

(c) The value of program funds utilized for services during the year.

VII. Conduct an annual survey of parents of eligible students with accounts. The survey shall include the number of years the parent has been in the program, the relative satisfaction of the parent with the program, and suggestions of the parent for improvement. The survey shall be included in the annual report.

VIII. Conduct an annual audit of all accounts of eligible students.

194-E:5 School and Provider of Educational Services; Requirements.

I. Schools and educational service providers shall comply with all federal and state laws regarding student privacy.

II. Schools and educational service providers shall furnish receipts for eligible services pursuant to RSA 194-E:2, II to the parent and the scholarship organization.

III. The school district in which the eligible student resides shall provide a participating school or educational service provider that has admitted an eligible student under this program with a copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. section 1232 (g), and state policies.

194-E:6 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

9 Effective Date.

I. Section 8 of this act shall take effect 60 days after its passage.

II. Section 7 of this act shall take effect January 1, 2019.

III. Section 6 of this act shall take effect July 1, 2019.

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