

## Bill Text

### Amendment

#### Section 1 – Compulsory Attendance

This section changes NH law to say that parents must enroll their child in a public school (or an alternative pathway), rather than the public school to which the child is assigned based on where they live, as is the case in statute now.

#### Section 2 – Legal Residence

Right now, a student must live in a school district to be considered a legal resident (the law spells out how to handle cases of split custody, foster youth, etc.) for the purpose of enrollment. SB 101 proposes an edit that says any person living in the state is a legal resident of a school district. It's not clear what this means for determining a student's home district, which is still important in determining who is going to pay and how much they pay in this version of open enrollment (more on that below).

#### Section 3 – Establishing Residency

This section of the bill removes much of what's in current statute about how to resolve residency disputes among districts, limiting the Commissioner of Education's role in these disputes only to determining whether a child is a resident of the state.

#### Section 4 – Defining Open Enrollment Schools

This would change the definition of open enrollment school to include any public school that enrolls any students from outside its attendance zone, whether the school has established an open enrollment policy or not.

#### Section 5 – Defining Teachers

This is simply a technical change, updating a reference to the Elementary and Secondary Education Act to instead reference the Every Student Succeeds Act.

#### Section 6 – Open Enrollment Policies

Here, we get to the meat of the bill. This section prescribes how towns are to implement open enrollment. Right now, school districts can vote to implement open enrollment if they choose. SB 101 shifts that decision from the community and its taxpayers to the state.

This section goes on to say that each district must determine and publish the capacity of each school and grade level, and that vacancies are to be posted and updated on a monthly basis. It is unclear whether capacity refers to physical capacity (how much space is in a classroom?), staff capacity (how many teachers are there for a grade level? Are there enough nurses for the number of students?), transportation capacity (how many seats are available on the bus?), or something else entirely. The state's [minimum standards](#) provide suggested student-educator ratios, but these are not hard caps.

Based on capacity, parents can apply to any school in the state, and schools are not allowed to implement an application fee. Schools are allowed to deny a student admission if the student was previously expelled, has a “documented history of significant disciplinary issues,” or has a “documented history of chronic absenteeism.” The bill is silent on how to define significant disciplinary issues or chronic absenteeism.

The bill explicitly prohibits districts from making admission decisions based on “grade or age levels, pupil needs, areas of academic focus, aptitude, academic or athletic achievement.” It is not clear how the mandate to ignore grade or age levels works in the context of grade-level capacity.

Districts would also be allowed, after a public hearing, to work with other districts to create a consolidated applicant pool and assign students through an admissions lottery. It’s not clear what happens if a parent is unhappy with their assignment through this process.

Finally, this section addresses transportation, clarifying that families are not entitled to transportation outside of their home district, but parents could drive their child to a bus stop on an existing route.

### Section 7 – Funding

This section was changed by an [amendment](#) Sen. Lang had intended to bring to the Senate Floor, but instead brought up in a [Senate Finance Committee hearing last week](#).

The amendment states that when a student attends school outside their home district, the home district will pay between 80 and 100 percent of its average [cost per pupil](#), in addition to covering any special education expenses.

Let’s break that down a little more. Every year, the NH Department of Education calculates a [cost per pupil](#) for each school district, basically taking the total amount the district spent and dividing it by the number of students in the district. There are some exceptions to what is counted, but that’s the basic math. The average cost per pupil in the state was \$22,699 last year, and ranged from \$14,653 in Auburn to \$50,323 in Jackson. The [vast majority](#) of that cost is covered by local taxes.

Under SB 101, a student’s home district would have to pay its total cost per pupil (so, \$14,653 in Auburn’s case) to the school the student enrolled in. If the home district’s payment was less than the cost per pupil at the school the student enrolled in (the “receiving district”), the parents would pay the difference. So, if an Auburn student wanted to enroll in Concord, where the cost per pupil is \$24,351, the students’ parents would be on the hook for \$9,698. It’s not clear what happens if the opposite is true. For instance, if a Concord student went to Auburn, it appears Auburn would still get the full \$24,351. The bill does say that districts can pay less than their full cost per pupil if they demonstrate a need for a lower tuition rate, but it’s not clear how that need would be demonstrated or who would make the final determination.

So to recap: the cost for each student is tied to where they live, not where they enroll. Whether a student has to pay to attend Bedford depends on whether they are transferring from Manchester (where the cost per pupil is lower, so parents would have to pay the difference) or from Amherst (where the cost per pupil is higher, so parents pay nothing). Those costs are paid largely by local taxpayers, which is true already, but now more local tax revenue would be leaving the district.

Also, there's some language on special education here, stating that a student's home district is responsible for all special education expenses. This is similar to how special education is treated at public charter schools. This approach ensures that students with Individualized Education Programs (IEPs) have access to open enrollment on the same terms as all other students, but also brings with it some logistical concerns.