

CHAPTER 164
SB 134-FN – FINAL VERSION

03/07/13 0325s
8May2013... 1426h

2013 SESSION

13-0873
04/05

SENATE BILL ***134-FN***

AN ACT relative to the division of higher education and the higher education commission.

SPONSORS: Sen. Stiles, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Carson, Dist 14; Sen. Odell, Dist 8; Sen. Larsen, Dist 15; Rep. Gile, Merr 27; Rep. Lovejoy, Rock 36; Rep. Ladd, Graf 4; Rep. Abrami, Rock 19

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill:

- I. Revises the duties and membership of the higher education commission.
- II. Revises the application and approval process for institutions of higher learning to seek and receive approval from the higher education commission.
- III. Establishes the higher education fund.
- IV. Transfers rulemaking authority for tuition waiver and scholarship programs for children of firefighters and police officers, and for foster children from the department of education to the university system of New Hampshire and the community college system of New Hampshire.
- V. Places approval of out-of-state branches of institutions of higher learning within the authority of the higher education commission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the division of higher education and the higher education commission.

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

1 164:1 Division of Higher Education. RSA 21-N:8-a is repealed and reenacted to read as follows:
2 21-N:8-a Division of Higher Education.

3 I. There is hereby established within the department the division of higher education, under
4 the supervision of an unclassified director of higher education who shall be responsible for providing
5 support to the higher education commission established in paragraph II.

6 II.(a) There is hereby established a higher education commission which shall consist of the
7 following members:

8 (1) The president of the university of New Hampshire, the president of Keene state
9 college, the president of Plymouth state university, and the president of Granite State college.

10 (2) Two presidents from institutions within the community college system of
11 New Hampshire, to be chosen by the board of trustees of the community college system.

12 (3) The chancellor of the university system of New Hampshire.

13 (4) The chancellor of the community college system of New Hampshire.

14 (5) The commissioner of the department of education.

15 (6) Six representatives of the private 4-year colleges in New Hampshire appointed by
16 the governor and council on recommendation by the New Hampshire College and University Council,
17 with no more than one representative from any one college.

18 (7) One member to be appointed by the governor and council as a representative
19 from a for-profit college or university not a member of the New Hampshire College and University
20 Council.

21 (8) Four members to be appointed by the governor and council who shall be residents
22 of the state and of the lay public, having no official connection with any college, university, or private
23 postsecondary career school as an employee, trustee, or member on a board of directors.

24 (9) Two members to be appointed by the governor and council, on recommendation
25 by the New Hampshire Council for Professional Education, who shall be residents of the state and
26 shall represent private postsecondary career schools.

27 (b) The terms of appointed members, except as otherwise indicated above, shall be for 5
28 years and until a successor is appointed and qualified. Vacancies shall be filled for the unexpired

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1 term.

2 (c) Commission appointments shall be made in such a way as to preserve broad and
3 equitable representation on the basis of gender, ethnicity, and socioeconomic groups in the state.

4 (d) The members of the commission shall serve without compensation, but may be
5 reimbursed for actual travel and other expenses incurred in the performance of their duties on the
6 commission from funds appropriated to the department of education specifically for this purpose.

7 (e) The commission shall:

8 (1) Regulate institutions of higher education pursuant to RSA 292:8-b through
9 RSA 292:8-kk. The commission may accept accreditation by a recognized accrediting association in
10 place of its own independent evaluation.

11 (2) Administer financial aid programs as provided in state and federal law for
12 students attending higher education institutions, except as otherwise provided by law.

13 (3) Apply for, accept, and expend state, federal, or other grants.

14 (4) Oversee the functions of the Veterans Education Services as authorized by
15 Congress.

16 (5) Establish and collect reasonable annual fees related to the performance of
17 statutory duties.

18 (6) Enter into cooperative interstate or international agreements to further
19 operating efficiencies, student access, and educational opportunities.

20 (7) Be the designee for the integrated postsecondary education data system as
21 developed by the United States Department of Education.

22 (8) Adopt rules, pursuant to RSA 541-A relative to:

23 (A) Organization and operation of the higher education commission established
24 in this section.

25 (B) Approval and regulation of institutions of higher education pursuant to
26 RSA 292:8-b through RSA 292:8-kk.

27 (C) Administration of financial aid programs for institutions of higher education,
28 except as otherwise provided by law.

29 (D) Establishment and collection of reasonable fees for functions performed by
30 the division of higher education and the higher education commission as required in this section.

31 (9) Assume other responsibilities as may be provided in state or federal law.

32 III. There is hereby established in the office of the treasury the higher education fund to be
33 administered by the higher education commission. The fund shall be nonlapsing and continually
34 appropriated to the higher education commission for the purposes established in this chapter. All
35 fees collected by the commission relative to the performance of its duties shall be deposited into the
36 fund.

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1 164:2 Scholarships for Orphans of Veterans. Amend RSA 193:21 to read as follows:

2 193:21 Payment. The amounts payable to recipients shall be determined by the department of
3 education, division of higher education. The ~~[department]~~ **higher education commission**
4 **established in RSA 21-N:8-a** shall determine the eligibility in accordance with rules adopted under
5 RSA 541-A of the children who make application for the benefits provided for in this subdivision.

6 164:3 Higher Education Corporations; Organization. Amend RSA 292:8-c through RSA 292:8-h
7 to read as follows:

8 292:8-c Organization. The articles of agreement for the purpose of organizing a corporation for
9 the establishment of an institution ~~[for postsecondary education or]~~ **of higher learning** shall be
10 submitted to the commission for its consent for said incorporation.

11 292:8-d Approval. No articles of agreement for the incorporation of institutions ~~[for postsecondary~~
12 ~~or higher education]~~ **of higher learning** shall be recorded in the office of the secretary of state unless
13 or until consent for said incorporation has been obtained from the commission.

14 292:8-e General Statement. The commission shall approve as a corporation of higher learning
15 only such institutions as have been evaluated according to procedures and standards established by
16 the commission. **The commission may accept accreditation or program approval by a**
17 **recognized accrediting body in place of its own independent evaluation.**

18 292:8-ee Freedom From Liability. No employee of the division, member of the commission, or
19 any member of an evaluation committee established under any provision of this subdivision shall be
20 held personally liable, either as an individual or as a member of a group~~[- for any loss which may~~
21 ~~accrue to an educational institution as a result of the denial of degree granting authority under any~~
22 ~~section of this subdivision]~~, so long as said employee or member was acting in good faith in the
23 furtherance of duties as an employee of the division or member of the commission or an evaluation
24 committee. All such members shall be entitled to the protections afforded by RSA 99-D.

25 292:8-f Submission of Plans. Any person **or entity** desiring to establish an institution of higher
26 learning shall submit to the commission~~[- at the time approval is requested for its articles of~~
27 ~~incorporation,]~~ its plans, which shall be evaluated by the commission ~~[prior to granting its~~
28 ~~certificate]~~. Such evaluation shall include among other things the adequacy of the buildings or
29 proposed buildings, instructional facilities and provisions for safety and well-being of its students,
30 the qualifications of the faculty, the character of the program of studies and the adequacy of financial
31 resources. **All fees collected by the commission under this section shall be deposited into the**
32 **higher education fund established in RSA 21-N:8-a, III.**

33 292:8-ff Continuing Review.

34 I. The commission shall conduct periodic reevaluations of educational institutions
35 incorporated under this chapter~~[- and of any degree granting authority under RSA 292:8-h]~~.

36 II. The commission shall conduct a special reevaluation of any educational institution, if:

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1 (a) The institution is sold or transferred to, or merged with, another entity; or

2 (b) There is a substantial change in the governance of the institution.

3 III. The commission shall suspend or revoke the ~~[accreditation]~~ **approval** or degree
4 granting authority of any institution which no longer meets the standards established by rule under
5 RSA 21-N:8-a, II(e).

6 IV. Any institution which has not conducted regular instruction for 3 consecutive years and
7 whose charter has not been repealed shall, before announcing a resumption of instruction, submit
8 plans **to the commission** and be evaluated and approved under RSA 292:8-f.

9 V. Any institution which has not awarded a particular degree for 4 years shall seek and
10 receive approval by the commission before **resuming the** awarding **of** that degree.

11 292:8-g Limitation on Name. Notwithstanding the provisions of RSA 292:3 no person, school,
12 association or corporation shall use in any way the term “junior college” or “college” or “university” in
13 connection with an institution, or use any other name, title or descriptive matter tending to
14 designate that it is an institution of higher learning unless it has been incorporated under the
15 provisions of this chapter. ~~[The provisions of this section shall not apply to a person, school,
16 association or corporation which has been authorized to use said terms by law prior to January 1,
17 1965.]~~ Any person, school, association or corporation authorized by a special act of the legislature
18 shall not change its name to include any of said terms under the provisions of RSA 292:8-l unless its
19 amendment therefor shall be submitted to and approved by the commission prior to being filed in the
20 office of the secretary of state.

21 292:8-h Granting of Degrees.

22 I. This section shall apply to all educational institutions within the state granting degrees or
23 seeking to do so, except the following:

24 (a) Any institution now granting degrees which has been in continuous operation since
25 before 1775;

26 (b) [Repealed.]

27 (c) ~~[Publicly supported institutions placed by the legislature under the authority of the
28 state board of education]~~ **Institutions of the university system of New Hampshire pursuant to
29 RSA 187-A and institutions of the community college system of New Hampshire pursuant to
30 RSA 188-F.**

31 II. No educational institution shall grant degrees unless authorized by name to do so by an
32 act of the legislature.

33 III. The commission shall specify the degrees an institution may grant, and the commission
34 may renew, for a set term of years, degree granting authority ~~[granted by the legislature. The
35 commission's actions shall be subject to biennial certification by the legislature]~~. The commission
36 shall report its ~~[action]~~ **activity** by January 31 of each odd-numbered year to both the house and

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1 senate standing committees on education.

2 ***IV. Any out-of-state institution of higher learning planning to establish a branch***
3 ***campus or offer courses, programs, or degrees in this state, shall apply to the commission***
4 ***for evaluation and approval of its plans. If such plans are not approved or if approval is***
5 ***withdrawn by the commission, all operations and publicity of the out-of-state institution***
6 ***shall cease without delay.***

7 164:4 University System of New Hampshire; Tuition Waivers. Amend RSA 187-A:20-a and
8 RSA 187-A:20-b to read as follows:

9 187-A:20-a Tuition Waived for Children of Certain Firefighters and Police Officers; Room and
10 Board Scholarships.

11 I. A person who is a New Hampshire resident, who is under 25 years of age, and who enrolls
12 in a program leading to a certificate, associate, or bachelor degree at any public postsecondary
13 institution within the state~~[, approved by the department of education, division of higher education,]~~
14 shall not be required to pay tuition for attendance at such institution if he or she is the child of a
15 firefighter or police officer who died while in performance of his or her duties, and whose death was
16 found to be compensable pursuant to RSA 281-A.

17 II.(a) Any person entitled to a waiver of tuition under this section may apply for a room and
18 board scholarship while attending the institution, to the extent of available funds. ~~[Applications for a~~
19 ~~room and board scholarship shall be filed annually with the director of the division of higher~~
20 ~~education. The department of education shall adopt rules, pursuant to RSA 541-A,]~~ ***The board of***
21 ***trustees of the university system of New Hampshire and the board of trustees of the***
22 ***community college system of New Hampshire shall have the authority to develop policies***
23 ***for their respective institutions*** relative to the development of criteria for awarding scholarships,
24 development of scholarship application forms, application deadlines, scholarship amounts, provisions
25 for continuing eligibility, and other procedures necessary to administer the room and board
26 scholarships.

27 (b) There is hereby established in the office of the state treasurer a nonlapsing fund to be
28 known as the room and board scholarship fund. The state treasurer shall invest the fund pursuant
29 to RSA 6:8 and earnings shall be added to the fund. The fund shall be continually appropriated to
30 the ~~[division of higher education]~~ ***university system of New Hampshire*** for the purpose of
31 providing room and board scholarships as provided in this section, and shall not be diverted or used
32 for any other purpose. The ~~[director of the division of higher education]~~ ***board of trustees of the***
33 ***university system of New Hampshire and the board of trustees of the community college***
34 ***system of New Hampshire*** may apply for and accept gifts, grants, and donations from any source
35 to be used for the purpose of providing room and board scholarships as provided in this section.

36 187-A:20-b Tuition Waiver for Children in State Foster Care or Guardianship.

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1 I. An eligible individual who enrolls full-time in a program leading to a certificate, associate,
2 or bachelor degree at any public postsecondary institution within the state ~~[that is approved by the~~
3 ~~department of education, division of higher education,]~~ shall not be required to pay tuition or fees for
4 attendance at such institution.

5 II. In this section, an eligible individual is a person who is less than 23 years of age and who
6 is or was:

7 (a) In state foster care for the immediate 6-month period prior to his or her 18th
8 birthday;

9 (b) In state guardianship or custody at the time of his or her 18th birthday;

10 (c) Adopted while in state guardianship or adopted from the care, custody, and control of
11 the department following a surrender of parental rights; or

12 (d) In an out-of-home placement under the supervision of the division for juvenile justice
13 services at the time of his or her 17th birthday.

14 III.(a) Eligible individuals interested in a tuition waiver shall annually apply ~~[to the division~~
15 ~~of higher education on a form]~~ **on forms** provided ~~[by the division of higher education]~~ and within
16 the deadlines established by the ~~[division of higher education]~~ **university system of**
17 **New Hampshire and the community college system of New Hampshire for their respective**
18 **institutions**. No more than ~~[20]~~ **10** tuition waivers per year shall be granted **by the university**
19 **system of New Hampshire and no more than 10 tuition waivers per year shall be granted by**
20 **the community college system of New Hampshire**. The ~~[department of education shall adopt~~
21 ~~rules, pursuant to RSA 541-A, relative to the development of]~~ **university system of**
22 **New Hampshire and the community college system of New Hampshire shall have the**
23 **authority to develop** eligibility criteria **for their respective institutions** designed to give the
24 children with the greatest financial need first priority in the tuition waiver program~~[- the creation of~~
25 ~~an application form, application deadlines, and provisions]~~. **Such eligibility criteria shall also**
26 **include provisions** for continuing eligibility ~~[which require]~~ **based on** continued full-time
27 enrollment ~~[as provided in this section]~~ and ~~[maintaining]~~ satisfactory academic progress as defined
28 by the institution.

29 (b) Beginning November 1, 2008, and no later than November 1 each year thereafter, the
30 division of children, youth, and families shall submit a report to the health and human services
31 oversight committee, established in RSA 126-A:13, and the house children and family law
32 committee, or their successor committees, detailing the status of the tuition waiver program.

33 **IV. An eligible individual may also apply for a room and board scholarship under**
34 **the provisions of RSA 187-A:20-a, II without having to comply with the provisions of**
35 **RSA 187-A:20-a, I.**

36 164:5 Higher Education Corporations; Reports Required. Amend RSA 292:8-kk to read as

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1 follows:

2 292:8-kk Reports Required.

3 I. When any institution of higher learning ceases the regular conduct of instruction, [~~either~~
4 ~~temporarily or permanently, whether or not the corporation is dissolved, the original written~~
5 ~~academic record, or a legible, certified copy thereof as defined by the institution, of] **2 certified**
6 **transcripts and an electronic copy of the same for** each student who [~~has been~~] **was** registered
7 for instruction at the institution shall be forwarded to the commission together with **a course**
8 **catalogue for each year in which the institution operated, and** an explanation of the
9 institution's credit and grading system. The commission shall preserve these records and upon
10 request of the individual concerned, shall furnish a certified copy[~~, or reasonable number of such~~
11 ~~copies,~~] of the individual's record. The fee for each record so furnished to be paid to the commission
12 shall be sufficient to cover related costs.~~

13 II. All transcript request fees collected by the commission under this section shall be
14 deposited into [~~a nonlapsing, revolving fund to be used for managing the storage, maintenance, and~~
15 ~~retrieval of closed school transcripts]~~ **the higher education fund established in RSA 21-N:8-a,**
16 **III.**

17 164:6 New Subparagraph; Application of Receipts; Higher Education Fund. Amend RSA 6:12,
18 I(b) by inserting after subparagraph (310) the following new subparagraph:

19 (311) The higher education fund established in RSA 21-N:8-a, III.

20 164:7 Repeal. The following are repealed:

21 I. RSA 21-N:9, III, relative to department of education rulemaking for tuition waiver and
22 scholarship programs for children of firefighters, police officers, and foster children, is repealed.

23 II. RSA 186:13-b, relative to approval of branches of out-of-state institutions.

24 III. RSA 186:13-c, relative to penalties for establishing an unapproved branch of an out-of-
25 state institution.

26 164:8 Effective Date. This act shall take effect upon its passage.

27

28 Approved: June 28, 2013

29 Effective Date: June 28, 2013