

HB 334-FN - AS INTRODUCED

2023 SESSION

23-0157

10/05

HOUSE BILL ***334-FN***

AN ACT relative to determination and cost of state adequate education.

SPONSORS: Rep. Schamberg, Merr. 6

COMMITTEE: Education

ANALYSIS

This bill changes the calculation for the per pupil amount for grants for the opportunity for an adequate education to be 1/2 of the statewide average cost per pupil.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~in brackets and struck through.~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to determination and cost of state adequate education.

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

1 1 Legislative Findings and Intent.

2 I. This act brings the state into compliance with the New Hampshire constitution which
3 requires the state to provide an opportunity for an adequate education to every educable child in
4 public schools in the state.

5 II. On December 30, 1993, the supreme court of New Hampshire ruled in the *Claremont*
6 *School District* decision that the "encouragement of literature clause of the State Constitution
7 imposes duty on the state to provide constitutionally adequate education to every educable child in
8 public schools in the state and to guarantee adequate funding." It goes further to state that the
9 "State's constitutional duty to provide constitutionally adequate education and to guarantee
10 adequate funding extends beyond mere reading, writing and arithmetic, but also includes broad
11 educational opportunities needed in present society to prepare citizens for their role as participants
12 and potential competitors in marketplace of ideas."

13 III. In 2022, more than 70 percent of the cost of educating New Hampshire children in the
14 public school system was paid by local property taxpayers at tax rates that are wildly
15 disproportionate from town to town. This great disparity occurs because the equalized value of
16 property in towns per student is not uniform in taxing districts. Towns with a great deal of valuable
17 property can raise enough money to spend generously on their students, even while their tax rates
18 remain low. Taxpayers in property poor towns make much greater financial sacrifices for their
19 students, but they struggle to raise enough money to meet their schools' basic needs.

20 IV. The legislature has enacted comprehensive standards for an adequate education, but the
21 amount of aid the state provided to meet these standards was woefully insufficient. In this act, the
22 realistic cost for providing an opportunity for an adequate education based on the New Hampshire
23 Supreme Court Claremont decisions will use the statewide average cost per pupil in the state,
24 supplied by the department of education. Grants will be based on one-half of that amount.

25 2 Adequate Education; Cost. Amend RSA 198:40-a to read as follows:

26 198:40-a Cost of an Opportunity for an Adequate Education.

27 I. For the biennium beginning July 1, [2015] **2023**, the annual cost of providing the
28 opportunity for an adequate education as defined in RSA 193-E:2-a shall be as specified in
29 paragraph II. [~~The department shall adjust the rates specified in this paragraph in accordance with~~
30 ~~RSA 198:40-d.~~]

31 II. [~~(a) A cost of \$3,561.27 per pupil in the ADMR, plus differentiated aid as follows:~~

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1 ~~(b) An additional \$1,780.63 for each pupil in the ADMR who is eligible for a free or~~
2 ~~reduced price meal anytime during the determination year; plus~~

3 ~~(c) An additional \$697.77 for each pupil in the ADMR who is an English language~~
4 ~~learner anytime during the determination year; plus~~

5 ~~(d) An additional \$1,915.86 for each pupil in the ADMR who is receiving special~~
6 ~~education services anytime during the determination year; plus~~

7 ~~(e) An additional \$697.77 for each third grade pupil in the ADMR with a score below the~~
8 ~~proficient level on the reading component of the state assessment administered pursuant to RSA~~
9 ~~193-C:6 or the authorized, locally administered assessment as provided in RSA 193-C:3, IV(i),~~
10 ~~provided the pupil is not eligible to receive differentiated aid pursuant to subparagraphs (b)-(d). A~~
11 ~~school district receiving aid under this subparagraph shall annually provide to the department of~~
12 ~~education documentation demonstrating that the district has implemented an instructional program~~
13 ~~to improve non-proficient pupil reading.]~~ *The cost per pupil in the ADMR shall be one-half of*

14 *the statewide average cost per pupil. The "statewide average cost per pupil" means the*
15 *combined state average of all school districts' average cost per pupil for total education*
16 *expenditures at the elementary, middle/junior, and high school levels, less tuition,*
17 *transportation, capital outlays, and net debt service, as compiled by the department of*
18 *education.*

19 III. The sum total calculated under paragraph II shall be the cost of an adequate education.
20 *Each July 1*, the department shall determine the cost of an adequate education for each
21 municipality based on the ADMR of pupils who reside in that municipality.

22 3 Education Improvement and Assessment Program. Amend RSA 193-C:3, IV(i) to read as
23 follows:

24 (i) At the end of grade 3, to determine if pupils are at grade level in reading and
25 mathematics on a standardized test to be developed by the department or an authorized, locally-
26 administered assessment developed in consultation with the department, as part of a statewide
27 assessment program~~[- and to provide differentiated aid to schools pursuant to RSA 198:40-a for~~
28 ~~pupils not proficient on the reading component of the statewide or locally administered assessment].~~

29 4 Chartered Public Schools; Funding. Amend RSA 194-B:11, I(b) to read as follows:

30 ~~[(b)(1)(A)]~~ **(b)(1)** Except as provided in subparagraph (2), for a chartered public school
31 authorized by the state board of education pursuant to RSA 194-B:3-a, the state shall pay tuition
32 amounts pursuant to RSA 198:40-a~~[- II(a) (e) and (e)]~~ plus an additional grant of \$3,286 to all
33 chartered public schools for the fiscal year ending June 30, 2018, and \$3,411] to all chartered public
34 schools for the fiscal year ending June 30, [2019] **2024** and each fiscal year thereafter, ~~[except for the~~
35 ~~Virtual Learning Academy Charter School,]~~ directly to the chartered public school for each pupil who
36 is a resident of this state in the chartered public school's ADMA. ~~[Beginning July 1, 2017 and every~~
37 ~~biennium thereafter, the department of education shall adjust the per pupil amount of the additional~~

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1 ~~grant based on the average annual change in the Consumer Price Index for All Urban Consumers,~~
2 ~~Northeast Region, using the "services less medical care services" special aggregate index, as~~
3 ~~published by the Bureau of Labor Statistics, United States Department of Labor.]~~ The state shall
4 pay amounts [~~required pursuant to RSA 198:40-a, II(d)~~] **for special education services** directly to
5 the resident district.

6 ~~[(B) For the Virtual Learning Academy Charter School authorized pursuant to~~
7 ~~RSA 194-B:3-a, the state shall pay tuition amounts pursuant to RSA 198:40-a, [II(a)-(c) and (c),] plus~~
8 ~~an additional grant of \$2,036 directly to the Virtual Learning Academy Charter School for each~~
9 ~~eligible full time enrolled pupil in the chartered public school's ADMA. The state shall pay amounts~~
10 ~~required pursuant to RSA 198:40-a, II(d) directly to the resident district. The state shall also pay~~
11 ~~tuition amounts pursuant to RSA 198:40-a,II(a) plus an additional grant of \$2,036 directly to the~~
12 ~~Virtual Learning Academy Charter School for each full-time equivalent pupil. Beginning July 1,~~
13 ~~2017 and every July 1 thereafter, the department of education shall adjust the per pupil amount of~~
14 ~~the additional grant based on the average annual change in the Consumer Price Index for All Urban~~
15 ~~Consumers, Northeast Region, using the "services less medical care services" special aggregate~~
16 ~~index, as published by the Bureau of Labor Statistics, United States Department of Labor. The~~
17 ~~average change shall be calculated using the 3 calendar years ending 18 months before the~~
18 ~~beginning of the fiscal year for which the calculation is to be performed.]~~

19 (2) For an online chartered public school which receives its initial authorization to
20 operate from the state board of education pursuant to RSA 194-B:3-a on or after July 1, 2013, the
21 state shall pay tuition amounts pursuant to RSA 198:40-a directly to the online chartered public
22 school for each pupil who is a resident of this state in the chartered public school's ADMA. In this
23 subparagraph, "online chartered public school" means a chartered public school which provides the
24 majority of its classes and instruction on the Internet.

25 5 Education Freedom Accounts; Reference to Differentiated Aid Removed. Amend RSA 194-F:2,
26 I to read as follows:

27 I. The commissioner of the department of education shall transfer to the scholarship
28 organization the per pupil adequate education grant amount under RSA 198:40-a [~~plus any~~
29 ~~differentiated aid that would have been provided to a public school for that eligible student~~]. The
30 transfers shall be made in accordance with the distribution of adequate education grants under RSA
31 198:42.

32 6 Kindergarten Program Grants. Amend RSA 198:48-b, II to read as follows:

33 II. The per pupil amount of the additional education grant provided in this section shall be
34 50 percent of the amount distributed under RSA 198:40-a, [II(a),] based on the number of pupils
35 enrolled and present on the first day of school in the current year in a full-day kindergarten program
36 in the district. Once pupils enrolled in an approved kindergarten program have been counted in the

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1 average daily membership, school districts shall receive, for each such pupil, an adequate education
2 grant calculated in accordance with RSA 198:40-a[~~5-H~~].

3 7 Repeal. RSA 198:40-d, relative to the consumer price index adjustment for the cost of an
4 adequate education, is repealed.

5 8 Effective Date. This act shall take effect July 1, 2023.

**HB 334-FN- FISCAL NOTE
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FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable, but Significant \$700M+	Indeterminable, but Significant \$700M+	Indeterminable, but Significant \$700M+
Funding Source:	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	\$0	Indeterminable, but Significant \$700M+	Indeterminable, but Significant \$700M+	Indeterminable, but Significant \$700M+
Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill changes base adequacy and differential aid to equal half the state average cost per pupil. The Department of Education has estimated a \$19,034.08 cost per pupil in FY 2022, therefore for half of said amount, or \$9,517.04, will be used below to illustrate this bill's potential fiscal impact.

Base and differential aid adequacy is used for district public schools, charter public schools, and the education freedom account (EFA) program. The following changes would be made to those program grant awards:

Aid Type	Current District & EFA Adequacy	Proposed District & EFA Adequacy	Current Charter Adequacy	Proposed Charter Adequacy
Base	\$3,866.18	\$9,517.04	\$3,866.18	\$9,517.04
F&R*	\$1,933.08		\$1,933.08	
SPED*	\$2,079.89		\$2,079.89	
ELL*	\$756.43		\$756.43	
3rd Grade Reading*	\$756.43		\$756.43	

Additional Charter Grant	\$0		\$3,626.88
			\$2,352.52 (VLACS**)

*If eligible

** Since the Virtual Learning Academy Charter School was authorized after July 1, 2013, under this bill it would receive no state funding.

For illustrative purposes, assuming the FY 2022 calculated aid rates above and no changes in student enrollments, the Department has provided the following relative to this bill's potential annual impact on state expenditures and local revenue:

Program	Current Law FY 2024	Proposed Amount	Net Change
District Adequacy	\$962,426,110	\$1,685,215,534	\$722,789,425
Charter Adequacy	52,188,854	46,747,700	(5,441,154)
EFA Adequacy	15,525,032	29,597,994	14,072,962
EFA Phase Out	750,000	1,500,000	750,000
Total	\$1,030,889,996	\$1,763,061,229	\$732,171,233

Ultimately, this bill will increase state education trust fund expenditures and local school district revenue significantly. Current education trust fund revenue sources would not be able to cover these expenditures, and therefore a transfer would be required from the general fund.

AGENCIES CONTACTED:

Department of Education