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RSA 194-D ~ Open Enrollment

- An open enrollment school/program created when a school district (by vote of the legislative body) opts to designate a school/grade/program open to "receive" students from other attendance areas within the same district or from entirely different school districts ("sending")
- Open Enrollment Approval ~ A school district's legislative body votes to designate one or more of its schools (or programs) as open enrollment.
  - Warrant article either by governing body or petition
  - Article must include limitations (%) on non-resident incoming & resident outgoing OE students (*194-D:I(c)(1)*)
  - Effective July following adoption
- Unless a district adopts an OE program with limitations on the % of students allowed (or not) to attend other districts, the district must pay OE receiving district 80% of the sending district's most recent average CPP (cost per pupil). *See* RSA 194-D:5*; see also Appeal of Pittsfield,* 2025 N.H. 46, ¶16.
- Single student going to an OE school can unilaterally and significantly impact operating funds, especially for budget conservative or small districts!!!

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- "Legislative body" shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice requirement similar to that for budget hearings
- A single warrant can have competing OE articles each of which should have limitation questions
- OE approval may be rescinded or the limitations may be changed at subsequent annual meetings
- If no "limitation" question receives a majority "the limitations … shall be zero." 194-D:3, I(c)(2)

  Language is clumsy, but as the adoption statute requires the question to "impose limitations" as a stated percentage, "zero" as used here should mean that the limitations are "0%" (governing body and/or moderator may want to review with counsel)

- Where 2 or more conflicting adoption and/or limitation questions receive a majority vote, that combination of adoption and limitation provisions receiving a majority vote granting greatest latitude of parental choice shall apply. 194-D:3, I(c)(2)

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- Amending an OE article
  - Board's proposed warrant article -

    Shall the School District vote to designate the Advance Placement Program at the Big High School as an open enrollment program under the provisions of RSA 194-D to allow students who reside outside the Huge School District to attend the Advance Placement Program and to limit the percentage of Huge School District students who may attend open enrollment schools/programs located outside of the Huge School District to 1% of the current student enrollment of the Huge School District.

  - Article as amended at deliberative/annual meeting -

    Shall the School District vote to designate each of the schools of the Huge School District as ~~the Advance Placement Program at the Big High School as~~ an open enrollment school ~~program~~ under the provisions of RSA 194-D to allow students who reside outside the Huge School District to attend any of schools of the Huge School District ~~the Advance Placement Program~~ and to limit the percentage of Huge School District students who may attend open enrollment schools/programs located outside of the Huge School District to 100~~0~~% of the current student enrollment of the Huge School District.

- Would amendment from single grade specific program to open enrollment for entire district constitute a subject matter change?
- Compare to an amendment to article to repair one police to article to replace entire fleet of 20 cruisers

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- Different approach –To see if the school district will vote to raise an appropriate the sum of $0.00 for the purpose of funding the estimated tuition of school district students who attend open enrollment schools slash programs located outside of the school district in accordance with RSA194D.
- *No means no if the article is approved?*
- Does no means no supersede holding in *Appeal of Pittsfield*?
- Default budget?
  - 40:13, IX(b) - "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law

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- Articles must be taken up in order of appearance on warrant **BUT**
  - If district has an open enrollment article, consider moving to table budget article until after the open enrollment article
  - Will more easily allow consideration of budget implications of any amendments to the open enrollment article
- Review existing ETFs / CRFs for tuition language. Broad enough for open enrollment?
- Add warrant article to create a tuition expendable trust fund under RSA 198:20-c
  - Do not change the purpose of an existing ETF or CRF (requires 2/3 vote)
  - Consider both a “new money” appropriation and/or fund balance appropriation, but make sure the language regarding source and amount from each source is crystal clear
  - Rember the priority of appropriation articles and available fund balance

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