

Committee Report

REGULAR CALENDAR

February 17, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
497-FN,**

**AN ACT allowing a school district to exempt its chief
administrative officer from compulsory participation in
the retirement system. Having considered the same,
report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Erica Layon

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 497-FN
Title:	allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.
Date:	February 17, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill allows a school district by action of its governing body to negotiate participation in the NH Retirement System (NHRS) in the initial contract with a newly hired or appointed superintendent. This legislation is opposed by both the majority and the New Hampshire School Administrators Association. This legislation would reduce the overall solvency of the retirement system by creating a significant impact to unaccrued actuarial liability, according to testimony of the NHRS. CEOs of municipalities and school districts are typically the largest contributors to the NHRS in each community, and this bill does not include any mandatory employee contributions which are 7% of payroll. This bill would make the superintendent position more attractive for out-of-state candidates with established retirement accounts in other states, while potentially becoming less attractive to New Hampshire candidates who are current members of the NHRS. The committee is not convinced that this bill is necessary.

Vote 18-2.

Rep. Erica Layon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 497-FN, allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system. **INEXPEDIENT TO LEGISLATE.**

Rep. Erica Layon for Education. This bill allows a school district by action of its governing body to negotiate participation in the NH Retirement System (NHRS) in the initial contract with a newly hired or appointed superintendent. This legislation is opposed by both the majority and the New Hampshire School Administrators Association. This legislation would reduce the overall solvency of the retirement system by creating a significant impact to unaccrued actuarial liability, according to testimony of the NHRS. CEOs of municipalities and school districts are typically the largest contributors to the NHRS in each community, and this bill does not include any mandatory employee contributions which are 7% of payroll. This bill would make the superintendent position more attractive for out-of-state candidates with established retirement accounts in other states, while potentially becoming less attractive to New Hampshire candidates who are current members of the NHRS. The committee is not convinced that this bill is necessary. **Vote 18-2.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 497-FN

BILL TITLE: allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

DATE: February 9, 2021

LOB ROOM: 201/203

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Layon

Seconded by Rep. Boehm

Vote: 18-2

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Barbara Shaw, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 9:56:47 AM
Roll Call Committee Registers
Report

2021 SESSION

Education

Bill #: HB 497 Motion: ITL AM #: _____ Exec Session Date: 2-9-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman	✓		
Cordelli, Glenn Vice Chairman	✓		
Boehm, Ralph G.	✓		
Allard, James C.	✓		
Lekas, Alicia D.	✓		
Moffett, Michael	✓		
Hobson, Deborah L.	✓		
Andrus, Louise	✓		
Ford, Oliver J.	✓		
Layon, Erica J.	✓		
Soti, Julius F.	✓		
Myler, Mel	✓		
Luneau, David J.	✓		
Shaw, Barbara E. Clerk		✓	
Cornell, Patricia		✓	
Tanner, Linda L.	✓		
Ellison, Arthur S.	✓		
Mullen, Sue M.	✓		
Ley, Douglas A.	✓		
Woodcock, Stephen L.	✓		
TOTAL VOTE:	18	2	

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 497-FN

BILL TITLE: allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

DATE: February 2, 2021

LOB ROOM: Remote **Time Public Hearing Called to Order:** 9:08 AM

Time Adjourned: 9:32 AM

Committee Members: Reps. Ladd, Cordelli, Shaw, Boehm, Allard, A. Lekas, Moffett, Hobson, Andrus, Ford, Layon, Soti, Myler, Luneau, Cornell, Tanner, Ellison, Mullen, Ley and Woodcock

Bill Sponsors:
Rep. Long

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Long – Bill Sponsor**

- Presented the bill

Marty Kaplan – NHRS

- No position on this bill
- 105 superintendents contribute 5%
- Members get back what they put it
- Different from regular participants
- Opt in or opt out at hiring – cannot purchase prior service
- Potential federal code issue
- Should reach out to Internal Revenue
- Would not affect those in system now

Respectfully submitted,

Rep. Barbara Shaw, Clerk

HOUSE COMMITTEE ON EDUCATION

BILL TITLE: PUBLIC HEARING on Bill # HB 497
allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system
DATE: 2-2-2021

ROOM: remote

Time Public Hearing Called to Order: 9:08 AM

Time Adjourned: 9:32 AM

(please circle if present)

Committee Members: Reps. Ladd, Cordelli, Shaw, Boehm, Allard, A. Lekas, Moffett, Hobson, Andrus, Ford, Layon, Soti, Myler, Luneau, Cornell, Tanner, Ellison, Mullen, Ley and Woodcock
all present remotely

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Long - sponsor
* written testimony - email

* school board assn - opposes

② Marty Kaplan NHRS

• no position on this bill

• 105 superintendents contribute 5%

• members get back what they put in

• different from regular participants

• opt in or opt out at hiring - cannot

purchase prior service

• potential federal code issue

• should reach out to Internal Revenue

• would not affect those in system now

Respectfully submitted,
Rep. Barbara Shaw, Clerk

House Remote Testify

Education Committee Testify List for Bill HB497 on 2021-02-09

Support: 1 Oppose: 3 Neutral: 0 Total to Testify: 0

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Holden, Russell	holdenre24@gmail.com	603.319.7855	A Member of the Public	Myself	Oppose	No	2/8/2021 8:49 AM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Oppose	No	2/8/2021 11:47 PM
Howard Jr., Raymond	brhowardjr@yahoo.com	603.875.4115	An Elected Official	Myself	Support	No	2/9/2021 8:44 AM
Dontonville, Roger	rdontonville@gmail.com	603.632.7719	An Elected Official	Myself	Oppose	No	2/9/2021 10:54 AM

Testimony

Archived: Tuesday, April 6, 2021 9:04:26 AM
From: [Sharon Wieland](#)
Sent: Tuesday, February 2, 2021 1:20:22 PM
To: [~House Education Committee](#)
Subject: NH House Remote Testify: 9:00 am - HB497 in House Education
Importance: Normal

I think we have to do what is best for the children. Parents know the needs of their children.
Education is definitely not one size fits all.

[Sent from Yahoo Mail on Android](#)

Archived: Tuesday, April 6, 2021 9:04:25 AM
From: Sarah Jensen
Sent: Wednesday, February 3, 2021 3:12:02 PM
To: ~House Education Committee
Subject: NH House Remote Testify: 9:00 am - HB497 in House Education
Importance: Normal

To Whom It May Concern:

I am very much in support of this bill after my experience as a parent.

These past two years have been eye opening for me for the problems that exist with the public school system and curriculum. My daughter attended kindergarten and first grade in public school and had some struggles with common core math in first grade. It took her some extra time to complete her worksheets and the teacher made the kids stay inside for recess and miss snack if they hadn't completed their math yet. This eventually made her just hate going to school. Everyday that I picked her up from school she told me she didn't like it and didn't want to go back. I was at the point of pulling her out to homeschool when March hit and the pandemic closed all schools. It was a break we needed for the short term but the isolation at home was very difficult for her. She missed friends, a schedule and routine.

By fall our town voted not to open beyond remote. I had followed the data closely out of Sweden that didn't close schools for children under age 15 and I knew the low transmission numbers in August for New Hampshire so I felt they could return and perhaps we would have six to eight weeks of a normal learning schedule. So I opted for the wait list at the public charter school at Windham Academy and we got right in. I am beyond impressed with not only the job they have done in keeping the kids and everyone safe, but the STEM curriculum is spectacular. They have had school full time four days a week (closing on Wednesday for a deep clean of the building with remote learning that day from home) since the start of September with no extra closures or quarantines or cases in the building. The atmosphere at drop off is always welcoming and friendly. I worried the CDC guidelines would be too much for my young kids, but they have done amazing there and my second grader is accelerating in both reading and math. Their attitude towards school is now always positive. Changing from the public school to the charter has been hands down the best parenting decision I have ever made. The pandemic brought us there, but the STEM curriculum, amazing teachers and incredible leadership are what is going to keep all four of my children there. I truly hope every child gets the opportunity to try a STEM curriculum if they struggle with common core. Windham Academy has made this all possible on less than half the taxes than the public school is given per child. If I had some of my tax dollars to donate to the school they could expand further and more children could have this opportunity. I think the education system has to get back to being about what is right for the kids, they need to be the primary focus as they are the future of our country.

Thank you for your time,

Sarah Jensen DNP, FNP (and most importantly a concerned parent).

NEW HAMPSHIRE SCHOOL ADMINISTRATORS
ASSOCIATION

CHAMPIONS FOR CHILDREN



February 7, 2021

Rep. Rick Ladd, Chair
House Education Committee
Legislative Office Building
Concord, NH 03301

RE: HB497-FN

Dear Chairman Ladd and Members of House Education,

Thank you for taking my testimony regarding HB497-FN. NHSAA is *opposed* to this legislation. We were not contacted at any point regarding this proposal prior to its submission, and we have several concerns, which I outline below.

- 1) **Unaccrued Actuarial Liability (UAAL)**: As Mr. Karlon from NHRS outlined in his testimony to the committee at the time of the hearing, there will be an impact – and I would argue a significant impact – to reducing the UAAL if this bill were to be passed in its current form. It would also reduce the overall fiscal solvency of the Retirement System, as municipality and school district CEOs are typically the largest contributors to NHRS in each community – both from the employer and employee. This seems clear in the Fiscal Note explanation provided by NHRS;
- 2) **Negotiations**: On line 29 the wording “...*may* by contract pay to the superintendent a sum equivalent to the employer contribution...”. I have highlighted the word “may” because this was a point that the bill sponsor said would be a “shall”. With this wording it is up to the school district to negotiate with the incoming (or current) superintendent, which would most likely mean a significantly smaller amount contributed toward a superintendent’s retirement. This would dramatically impact contract negotiations between a superintendent and his/her school board. As it stands now, this is one item that does not need to be negotiated and is an expectation.
- 3) **Inequity**: We believe there is a built-in inequity in this proposal. Superintendents who have worked for many years in the NHRS through their work as a teacher, building leader, and then a central office administrator would be at a disadvantage if they chose to work for a school district that does not continue to pay into the NHRS. What happens to the superintendent who works for a Manchester,

for example, who would opt not to pay into the NHRS, and then goes to work for some other NH school district, who does? Would they be expected to go in and out of the NHRS? Currently, superintendents who work outside of the NHRS cannot buy back those years and put them into the system. That practice was eliminated in 2011 (the year I came back from Massachusetts after a 2-year hiatus).

- 4) **Necessity:** NHSAA is not convinced this bill is necessary. This bill has been targeted for superintendents who come in from out of state. Typically, those folks have another state retirement they are accessing at the same time they are being paid a salary here in NH. That is not the case in all situations, but the vast majority. I would argue that not participating in the NHRS may make districts less attractive to incoming superintendents, who may worry that their retirement accounts will be significantly impacted. We should be continuing to work on ways to build a leadership pipeline from within our state to encourage younger educational leaders to stay in-state. I worry that this bill would do the exact opposite.

While I appreciate the sponsor's perspective, we believe that this bill would only positively impact a miniscule number of individuals and would negatively impact the vast majority of our members. We also believe that this bill as it is written would not solve the sponsor's concerns – it could make the district less attractive to qualified candidates. If there is a way to improve the bill, we would be more than willing to work the committee.

However, as it is currently written we hope that you will **oppose** HB497.

Respectfully submitted,



Dr. Carl M. Ladd
Executive Director of NHSAA

Bill as
Introduced

HB 497-FN - AS INTRODUCED

2021 SESSION

21-0466

10/08

HOUSE BILL ***497-FN***

AN ACT allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

SPONSORS: Rep. Long, Hills. 10

COMMITTEE: Education

ANALYSIS

This bill allows a school district to have its superintendent not be required to be a member of the state retirement system and by contract to provide for an equivalent payment to such superintendent for contribution in private retirement accounts.

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.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

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

1 1 Retirement System; Modifications; School District Officers. Amend RSA 100-A:22 to read as
2 follows:

3 100-A:22 Modifications.

4 **I.** Membership in the retirement system shall be optional for officers and employees of the
5 employer who are in the service of the employer on the date when participation becomes effective,
6 and any such officer or employee who elects to join the retirement system within one year thereafter
7 shall be credited with prior service covering such periods of prior service rendered to such employer
8 for which the employer is willing to make accrued liability contributions. If the employer is unable
9 or unwilling to make such contributions, a member in service may petition the board of trustees for
10 periods of prior service rendered to such employer. Upon payment by the member of the amount
11 determined in accordance with RSA 100-A:3, VI(b) and with the approval of the board, the member
12 shall receive credit for such prior service. Thereafter, service for such employer on account of which
13 contributions are made by the employer and member shall also be considered as creditable service.
14 However, in no event shall prior service purchased as creditable service under this section be used as
15 creditable service for the purpose of eligibility for medical benefits under RSA 100-A:52, RSA 100-
16 A:52-a, or RSA 100-A:52-b.

17 **II.** Membership shall be compulsory for all employees entering the service of such employer
18 after the date participation becomes effective. Municipalities, **or school districts**, may, by action of
19 their city council [øæ], board of selectmen, **or school board**, exempt their chief administrative
20 officer, at the time of initial hiring or appointment, from compulsory membership provided herein.
21 The chief fiscal officer of the employer, and the heads of its departments, shall submit to the board of
22 trustees such information and shall cause to be performed with respect to the employees of such
23 employer, who are members of the retirement system, such duties as shall be prescribed by the
24 trustees in order to carry out the provisions of this chapter.

25 2 New Section; School Superintendents; Retirement Benefits; Contract Option. Amend RSA 194
26 by inserting after section 4 the following new section:

27 194-C:4-a Superintendent Benefits; Retirement Contributions. A school district or school
28 administrative unit exempting their chief administrative officer from compulsory retirement system
29 contributions under RSA 100-A:22, II may by contract pay to the superintendent a sum equivalent to
30 the employer contribution determined under RSA 100-A for contribution into a qualified retirement

HB 497-FN - AS INTRODUCED

- Page 2 -

1 plan under the United States Internal Revenue Code. If a superintendent chooses this option, and
2 the superintendent and his or her school district have made contributions to the state retirement
3 system in RSA 100-A, then up to 3 years of past employee contributions and school district employer
4 contributions to the state retirement system may be transferred to the superintendent's private
5 retirement account, subject to such restrictions or qualifications as may be required by the
6 retirement system in conformity with applicable provisions of the United States Internal Revenue
7 Code of 1986, as amended.

8 3 Effective Date. This act shall take effect 60 days after its passage.

LBA
21-0466
1/8/21

**HB 497-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

FISCAL IMPACT: State County Local None

METHODOLOGY:

This bill allows a school district to exempt its chief administrative officer from being required to participate in the New Hampshire Retirement System, which does not result in a direct impact on state, county, or local revenue or expenditures.

AGENCIES CONTACTED:

None

Fiscal Notes

**HB 497-FN FISCAL NOTE
AS INTRODUCED**

AN ACT allowing a school district to exempt its chief administrative officer from compulsory participation in the retirement system.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**POLITICAL
SUBDIVISIONS:**

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

* The New Hampshire Retirement System states it is not able to separate the fiscal impact of this legislation between county and local government, therefore the fiscal impact is shown together as political subdivisions.

METHODOLOGY:

This bill allows a school district, by action of its governing body, to exempt its chief administrative officer from being required to participate in the New Hampshire Retirement System (NHRS) at the time of initial hiring or appointment. The school district or school administrative unit (SAU) may then contract with the superintendent to pay a sum equivalent to the employer contribution into a private qualified retirement plan under the Internal Revenue Code (IRC). The bill does not include any mandatory member contributions, which are 7% of payroll,. Up to 3 years of past employer and employee contributions to the NHRS may be also be transferred to this account, subject to IRC provisions.

The NHRS worked with a consulting actuary and assumed that the legislation only applies to superintendents and not chief administrative officers in districts that are part of a n SAU and do not have their own superintendent..

Although the bill states the exemption may be made "at the time of initial hiring or appointment," RSA 194-C:4-a refers to up to 3 years of past contributions made to NHRS. NHRS and the actuary assumed that if a superintendent with 3 or more years of prior service as a superintendent elects to opt out of NHRS, the member would transfer 3 years of past employee and employer contributions made to NHRS to a private retirement account. Only years of prior service where the member served as a superintendent are eligible for transfer. The member would become a vested member of the plan and receive a benefit for prior service, excluding the years transferred to the private retirement account.

Additional assumptions, based upon the June 30, 2019 contribution rate setting annual actuarial valuation are below:

- 5% of current superintendents would opt out of NHRS, based on the actuary's experience with other system's offering defined benefit plan opt out provisions; such estimate may be high but benefit levels may render the total cost higher than projected
- 102 total superintendents with a salary of \$12,873,045 from 197 school districts (105 reported, 3 did not have an associated salary, thus excluded))
- The demographics of superintendents opting out of NHRS would match those of the active teacher population.
- assumed rate of interest 6.75%
- valuation method entry age actuarial cost method
- payroll growth assumed 2.75% per year (2.25% for Teachers)

NHRS states the total employer contribution includes multiple components: normal cost, unfunded actuarial accrued liability (UAAL) and medical subsidy. For the Teachers group, the employer rate is 21.02% of payroll beginning in fiscal year 2022. The total normal cost rate is 9.82% of payroll for fiscal year 2022. If the total employer contribution is payable in full into a private retirement account, it would effectively amount to a significant benefit increase for future accruals for each affected superintendent since the total employer rate exceeds the total normal cost by 11.20% (21.02% - 9.82%) in fiscal 2022,

NHRS states the changes are expected to have a small impact on the actuarial status of the System and employer contribution rates. It would divert funding from the NHRS medical subsidy and UAAL payoff. If the positions were to leave the System permanently, NHRS covered payroll would decrease, which may raise the UAAL contribution rate by approximately 0.01% of payroll. The net UAAL would decrease marginally through the amortization period with no expected change to the system's funded ratio. Total impact on assets and liabilities is

indeterminable and highly sensitive based on the number of superintendents that would be subject to the exemption.

The diversion of employer funding from medical subsidy funding into private retirement accounts would not affect the total paid by the district of such superintendent, but may result in increasing medical subsidy contribution rates for all Teacher employers. This benefit is not available to current superintendents, but the employer funding for such benefits would go into that member's private plan. The aggregate lower payroll would lead to increased UAAL and medical subsidy rates for all Teacher employers.

NHRS estimates necessary software changes to its PensionGold system would cost \$5,330.

AGENCIES CONTACTED:

New Hampshire Retirement System