



Amendment to SB 193-FN

1 1 New Chapter; Education Freedom Savings Accounts. Amend RSA by inserting after chapter  
2 194-D the following new chapter:

3 CHAPTER 194-E

4 EDUCATION FREEDOM SAVINGS ACCOUNTS

5 194-E:1 Definitions. In this chapter:

6 I. "Account" means an education freedom savings account established for an eligible student  
7 pursuant to this chapter.

8 II. "Commissioner" means the commissioner of the department of education.

9 III. "Department" means the department of education.

10 IV. "Eligible student" means a New Hampshire resident who is at least 5 years of age and  
11 not more than 20 years of age, who has not graduated from high school, and

12 (a)(1) Who is currently attending a New Hampshire public school, including a chartered  
13 public school for a minimum of 2 consecutive semesters; or

14 (2) Who received an account in the prior year; or

15 (3) Who is entering kindergarten or first grade; and

16 (b)(1) Whose annual household income is less than or equal to 300 percent of the federal  
17 poverty guidelines as updated annually in the Federal Register by the United States Department of  
18 Health and Human Services under the authority of 42 U.S.C. section 9902(2); or

19 (2) Who is assigned to a school that for 2 consecutive years has been unable to  
20 demonstrate that it provides the opportunity for an adequate education pursuant to RSA 193-E:3-b;  
21 or

22 (3) Who has an individualized education program (IEP) or an accomodation plan  
23 under section 504 of the Rehabilitation Act of 1973; or

24 (4) Who was not admitted to a chartered public school or whose application for an  
25 education tax credit scholarship pursuant to RSA 77-G was not funded.

26 V. "Nonpublic school" shall mean any public academy pursuant to RSA 194:23, II, or  
27 private school accredited through a recognized independent accreditation agency, school approved  
28 by a state education agency having an interstate compact with New Hampshire, or other school  
29 located in New Hampshire approved for school attendance pursuant to RSA 193:1, I(a) and (d). A  
30 nonpublic school shall:

31 (a) Comply with statutes and regulations relating to agency approvals such as health,

1 fire safety, and sanitation;

2 (b) Be incorporated under the laws of New Hampshire or the United States; and

3 (c) Administer an annual assessment in reading and language arts, mathematics, and  
4 science. The assessment may be any nationally recognized standardized assessment used to  
5 measure student academic achievement, shall be aligned to the school's academic standards, and  
6 shall satisfy the requirements of RSA 193-C:6. The school's annual assessment results shall be  
7 submitted to the commissioner.

8 VI. "Parent" means the natural or adoptive parent or legal guardian of an eligible student.

9 VII. "Postsecondary institution" means an institution, a college, university, or career school  
10 approved by the department.

11 VIII. "Program" means the education savings account program established in this chapter.

12 IX. "Recognized independent accreditation agency" means an accrediting organization such  
13 as the New England Association of Schools and Colleges, National Association of Independent  
14 Schools, Independent Schools Association of Northern New England, Northern New England  
15 Conference of Seventh-day Adventists, Inc., or other accrediting agency recognized by the  
16 department that engages member schools in a comprehensive peer review accreditation process that  
17 provides assurance of quality academic standards and criteria, and measures academic  
18 improvement.

19 X. "Resident school district" means the public school district in which the eligible student  
20 resides.

21 XI. "Scholarship organization" means a charitable organization incorporated or qualified to  
22 do business in this state that:

23 (a) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal  
24 Revenue Code;

25 (b) Complies with applicable state and federal anti-discrimination and privacy laws;

26 (c) Is registered with the department of justice, director of charitable trusts; and

27 (d) Has been approved by the department of revenue administration for the purpose of  
28 issuing scholarships pursuant to RSA 77-G:5.

29 XII. "Treasurer" means the treasurer of the state of New Hampshire.

30 XIII. "Tutor" means an individual whose qualifications include skills, competencies, and  
31 knowledge to be demonstrated by evidence such as, but not limited to, college course work,  
32 documented professional experience, letters of recommendation, professional development hours or  
33 CSU's and artifacts of professional practice.

34 194-E:2 Program Eligibility.

35 I. There is established an education freedom savings account program. In the 2018-2019  
36 school year, the program shall include grades K-12.

37 (a) The parent of an eligible student may receive a grant from a scholarship

1 organization if the parent signs a contract with the scholarship organization to withdraw the  
2 student from public school and in which the parent agrees to provide an education for the eligible  
3 student in science, mathematics, language, government, history, health, reading, writing, spelling,  
4 the history of the constitutions of New Hampshire and the United States, and an exposure to and  
5 appreciation of art and music.

6 (b) Participation in the program shall have the same effect as a parental placement of  
7 their child under 20 U.S.C. section 1412(a)(10) of the Individuals with Disabilities Education Act  
8 (IDEA).

9 II. The parent of an eligible student who signs a contract with a scholarship organization  
10 agrees to use the funds deposited in an eligible student's account for any of the following qualifying  
11 educational expenses:

12 (a) Tuition for course fees at any public school, nonpublic school as defined in RSA 194-  
13 E:1.V, or post-secondary institution as defined in RSA 194-E:1.VII.

14 (b) Textbooks, curriculum, or supplemental materials, including computer hardware  
15 and software required to support the curriculum.

16 (c) Payment to a tutor or a tutoring facility.

17 (d) Fees for transportation to and from an educational service provider paid to a fee-for  
18 service transportation provider, except for special needs individualized education program (IEP)  
19 designated student transportation, not to exceed \$750 per school year.

20 (e) Tuition and fees for online learning programs and professional preparatory  
21 programs.

22 (f) Educational services or therapies from a licensed or certified practitioner or provider,  
23 including licensed or certified paraprofessionals or educational aides.

24 (g) Assistive devices if an eligible school, tutor, licensed or certified educational service  
25 practitioner or provider, or licensed medical professional verifies in writing that these items are  
26 essential for the student to meet annual, measurable goals.

27 (h) Fees for a nationally standardized norm-referenced achievement test, advanced  
28 placement examination, or any department approved exam such as, but not limited to, the SAT or  
29 ACT related to college post-secondary institution admission.

30 III. The parent of an eligible student, the scholarship organization and the department  
31 shall be provided copies of all signed agreements.

32 IV. The parent of an eligible student shall be required to annually renew the agreement to  
33 continue participation in the program.

34 V. Eligible students participating in the program may participate in curricular courses and  
35 co-curricular courses and programs pursuant to RSA 193:1-c. Students in the special school district  
36 within the department of corrections established in RSA 194:60 shall not be eligible students.

37 VI. An agreement shall be automatically terminated if the eligible student no longer resides

1 in this state or returns to public school. Any funds remaining in the account shall be returned to  
2 the state treasury.

3 VII. The failure to enter into an agreement pursuant to this chapter for any school year for  
4 which an eligible student is required to attend a public school shall not preclude the parent of such  
5 student from entering into an agreement for a subsequent school year.

6 VIII. The parent shall maintain accountability and responsibility for the best educational  
7 opportunity for their eligible student. Each provider, in consultation with students' parents or legal  
8 guardians and students where age-appropriate, shall establish academic growth goals for the  
9 student at the outset of each academic year and shall regularly measure students' academic growth  
10 throughout the school year. In measuring each student's progress toward achieving those goals  
11 throughout the school year, the provider may use a variety of assessment tools and participating  
12 students shall take either the statewide assessment test or a nationally norm-referenced test that  
13 measures learning gains.

14 IX. The parent shall provide the scholarship organization an annual educational evaluation  
15 that documents the student's demonstration of educational progress at a level commensurate with  
16 the student's age and ability. The student shall be deemed to have successfully completed his or her  
17 annual evaluation upon meeting the requirements of any one of the following:

18 (a) A certified teacher or a teacher currently teaching in a nonpublic school, who is  
19 selected by the parent, shall evaluate the student's educational progress upon review of a portfolio  
20 of records and materials including, but not limited to, a log which designates by title the reading  
21 materials used; samples of writings, worksheets, workbooks, or creative materials used or developed  
22 by the student; and discussion with the parent or student; or

23 (b) The student shall take any nationally standardized norm-referenced achievement  
24 test administered by a person who meets the qualifications established by the provider or publisher  
25 of the test. Composite results at or above the fortieth percentile on such tests shall be deemed  
26 reasonable academic proficiency; or

27 (c) The student shall take a state student assessment test used by the resident district.  
28 Composite results at or above the fortieth percentile on such state test shall be deemed reasonable  
29 academic proficiency; or

30 (d) The student shall be evaluated using any other valid measurement tool mutually  
31 agreed upon by the parent and the commissioner of education, resident district superintendent, or  
32 nonpublic school principal.

33 X. The parent shall maintain a copy of the evaluation.

34 194-E:3 Program Funding and Payment.

35 I. The scholarship organization shall notify the commissioner and the treasurer in writing  
36 of any eligible student whose parents have signed an agreement under RSA 194-E:2.

37 II. The commissioner shall calculate and the treasurer shall transfer to the scholarship

1 organization an amount equivalent to 95 percent of the per pupil adequate education grant amount  
2 pursuant to RSA 198:40-a plus any differentiated aid for which the student is eligible, for deposit  
3 into the student's account. Differentiated aid for non-proficiency in third grade reading shall not be  
4 included in the amount determination.

5 III. The commissioner shall calculate and the treasurer shall transfer to the scholarship  
6 organization an amount equivalent to 50 percent of the per pupil adequate education grant amount  
7 pursuant to RSA 198:40-a for an eligible student entering kindergarten for deposit into the eligible  
8 student's account.

9 IV. The funding for an eligible student receiving home education shall be as provided in  
10 RSA 77-G:2, 1(h).

11 V. Funds received pursuant to this program shall not constitute income taxable to the  
12 parent of the eligible student or to the eligible student.

13 VI. Pursuant to RSA 194-E:2, the state treasurer shall transfer funding to the eligible  
14 student's account established by the scholarship organization. The transfers shall be made in  
15 accordance with the distribution of adequate education grants under RSA 198:42.

16 VII. All eligible students' accounts shall be held in institutions qualified by the state  
17 treasurer.

18 VIII. A scholarship organization shall receive an amount equivalent to 5 percent of the  
19 adequate education grant for administrative expenses. For students eligible pursuant to RSA  
20 198:40-a for differential aid, the scholarship organization shall receive an amount equivalent to 5  
21 percent of the differential aid for administrative expenses.

22 IX. The department or scholarship organization may conduct an audit of an eligible  
23 student's account as needed to ensure compliance with this chapter.

24 X. The scholarship organization shall notify the department and the treasurer in writing of  
25 any eligible students who are non-compliant with the program requirements of RSA 194-E:2. The  
26 department shall review the recommendation of the scholarship organization and notify the parents  
27 of the non-compliance. After parental notice of non-compliance report, the department may hold a  
28 hearing at the request of the parents. The department may remove any eligible student from the  
29 program if it determines the student is non-compliant with the programs eligibility requirements of  
30 RSA 194-E:2.

31 (a) The parent may appeal the decision pursuant to RSA 541 to the department.

32 (b) Any funds remaining in the account for a student deemed non-compliant shall be  
33 sent to the state treasury.

34 XI. At the time of the eligible student's graduation from high school the eligible student's  
35 account shall be closed, the parents notified, and any remaining funds shall be returned to the state  
36 treasury.

37 XII. The scholarship organization may prohibit a participating nonpublic school or

1 education provider from the program and notify the department if the scholarship organization  
2 establishes that the participating school or education provider has:

3 (a) Routinely failed to comply with the accountability standards established in this  
4 chapter; or

5 (b) Failed to provide the eligible student with the educational services funded by the  
6 account.

7 XIII. The scholarship organization or the department may refer cases of fraudulent misuse  
8 of funds to the attorney general for investigation and shall immediately suspend all payments from  
9 the account.

10 XIV. A nonpublic school or educational service provider pursuant to RSA 194-E:2 shall not  
11 share, refund, or rebate any program funds with the parent or eligible student in any manner.

12 XV. Parents may make payments for the costs not covered by the funds in their accounts.

13 XVI. A scholarship organization may receive and expend gifts, grants, and donations of any  
14 kind from any public or private entity to carry out the purposes of this chapter.

15 194-E:4 Scholarship Organization; Requirements. A scholarship organization shall:

16 I. Develop and maintain agreement forms in cooperation with the department.

17 II. Provide copies of agreements signed by parents of eligible students to the department  
18 and the treasurer.

19 III. Provide the unique pupil identifier and date of birth for each eligible student to the  
20 department if available. All entering kindergarten and first grade students who apply for the  
21 program must obtain a unique pupil identifier from the department.

22 IV. In cooperation with the department determine, within 30 days of the completed  
23 application for an eligible student, eligibility for differentiated aid subject to any applicable state  
24 and federal laws.

25 V. Comply with all federal and state laws regarding student privacy.

26 VI. Review all receipts for fees and services pursuant to 194-E:2, II.

27 VII. Provide annual reports on the number of students participating in the program, the  
28 providers of services to students, and the value of the students' eligible accounts of the program  
29 funds to the department, chairman of the house education committee, and the chairman of the  
30 senate education committee.

31 VIII. Provide an annual report to the speaker of the house of representatives, the president  
32 of the senate, the chairman of the house education and finance committees, the chairman of the  
33 senate education and finance committees, the governor, the joint legislative oversight committee  
34 pursuant to RSA 194-E:6 and the department including:

35 (a) The number of eligible students with accounts.

36 (b) A list of nonpublic schools and educational service providers including the number of  
37 eligible students served per school and educational service provider.



1 (c) The value of eligible student account funds utilized for services during the year.

2 IX. Conduct an annual survey of parents of eligible students with accounts. The survey  
3 shall include, but not be limited to, the number of years the parent has been in the program, the  
4 relative satisfaction of the parent with the program, and suggestions of the parent for improvement.  
5 The survey shall be included in the annual report.

6 X. Conduct an independent annual audit of all accounts of eligible students.

7 194-E.5 School and Provider of Educational Services; Requirements.

8 I. Nonpublic schools, postsecondary institutions, and educational service providers shall  
9 comply with all federal and state laws regarding student privacy.

10 II. Nonpublic schools, postsecondary institutions, and educational service providers shall  
11 furnish receipts for eligible services pursuant to RSA 194-E:2, II to the parent and the scholarship  
12 organization.

13 III. The school district in which the eligible student resides shall provide a participating  
14 nonpublic school, post-secondary institution or educational service provider that has admitted an  
15 eligible student under this program with a copy of the student's school records, while complying  
16 with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. section 1232g, and state  
17 policies.

18 194-E.6 Stabilization Grant.

19 I. For each school district, the commissioner shall calculate the amount of reduction in the  
20 adequate education grant resulting from students receiving a scholarship under this chapter and  
21 who were in attendance in the district in the year prior to receiving a scholarship. If the combined  
22 amount is greater than  $\frac{1}{4}$  of one percent <sup>- .25 %</sup> of a school district's total voted appropriations for the  
23 year prior to the scholarship year, the commissioner of the department of education shall disburse a  
24 scholarship stabilization grant for the current fiscal year to each such school district equal to the  
25 amount of the reductions in excess of  $\frac{1}{4}$  of one percent. This scholarship stabilization grant shall  
26 be included in the September 1 disbursement required pursuant to RSA 198:42.

27 II. The department shall order the scholarship organization that provided accounts to  
28 students from districts that were awarded stabilization grants pursuant to paragraph I to conduct a  
29 survey of the financial effects of students receiving scholarships under this chapter, including the  
30 amount of the reduction, if any, in the adequate education grant amount and whether or not the  
31 scholarship program has resulted in economic hardship to the school district. The organization  
32 shall forward the results of this survey to the department and the school board of each district. The  
33 department shall post the results of this survey on its public Internet website.

34 194-E.7 Oversight Committee; Report.

35 I. There is hereby established a joint legislative oversight committee. The committee shall  
36 jointly meet at least once a year and shall monitor the implementation of this chapter, make  
37 recommendations for any legislative changes with respect thereto, and make recommendations to

1 the legislature to change the scope of, ease the administration of, simplify the compliance with, and  
2 where appropriate, recommend to the legislature elimination of regulations and reduction of the  
3 amount of paperwork required. The committee shall include 3 senators appointed by the president  
4 of the senate, 3 members of the house of representatives appointed by the speaker of the house of  
5 representatives, and one member of the state board of education appointed by the chairperson of the  
6 state board of education, who shall serve as a nonvoting member in an advisory capacity.

7 II. The committee shall submit a written report of its findings and recommendations to the  
8 president of the senate, the speaker of the house of representatives, the chairpersons of the house  
9 and senate finance committees and the chairpersons of the house and senate education committees  
10 on November 1 of each year.

11 194-E.8 Severability. If any provision of this chapter or the application thereof to any person or  
12 circumstances is held invalid, such invalidity shall not affect other provisions or applications of the  
13 chapter which can be given effect without the invalid provision or application, and to this end the  
14 provisions of this chapter are declared to be severable.

15 2 Effective Date. This act shall take effect 60 days after its passage.



2017-2507h

AMENDED ANALYSIS

This bill establishes education freedom savings accounts for children between 5 and 20 years of age and provides a stabilization grant to certain school districts.