

Rep. Ladd, Graf. 4  
Rep. T. Wolf, Hills. 7  
Rep. Cordelli, Carr. 4  
November 14, 2017  
2018-2530h  
04/10

Amendment to SB 193-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 New Chapter; Education Freedom Savings Accounts. Amend RSA by inserting after chapter  
4 194-D the following new chapter:

5 CHAPTER 194-E

6 EDUCATION FREEDOM SAVINGS ACCOUNTS

7 194-E:1 Definitions. In this chapter:

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

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

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

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

14 (a)(1) Who is currently attending a New Hampshire public school, including a chartered  
15 public school, for a minimum of one year; or

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

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

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

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

24 (3) Who has an individualized education program (IEP) or an accommodation plan  
25 under section 504 of the Rehabilitation Act of 1973; or

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

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

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1 nonpublic school shall:

2 (a) Comply with statutes and regulations relating to agency approvals such as health,  
3 fire safety, and sanitation;

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

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

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

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

13 VIII. "Program" means the education savings account program established in this chapter  
14 that will begin in the 2018-2019 school year.

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

22 X. "Resident school district" means the public school district in which the eligible student  
23 resides.

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

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

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

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

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

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

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

37 194-E:2 Program Eligibility.

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1           I. There is established an education freedom savings account program. The program shall  
2 include grades K-12.

3           (a) The parent of an eligible student may receive a grant from a scholarship  
4 organization if the parent signs a contract with the scholarship organization to withdraw the  
5 student from public school and in which the parent agrees to provide an education for the eligible  
6 student in science, mathematics, language, government, history, health, reading, writing, spelling,  
7 the history of the constitutions of New Hampshire and the United States, and an exposure to and  
8 appreciation of art and music. Students who have an education freedom savings account grant  
9 shall be administered an annual assessment in reading and language arts, mathematics, and  
10 science as defined in RSA 193-C:6. Annual student assessment results shall be provided to the  
11 scholarship organization by the end of each school year and the scholarship organization shall make  
12 aggregate scores available to the commissioner. The assessment may be any nationally recognized  
13 standardized assessment used to measure student academic achievement and growth and that  
14 provides a normal curve equivalent score. A student who requests permission to take the annual  
15 assessment at his or her resident school district shall be granted permission to do so and the  
16 resident school district shall pay the costs associated with taking the assessment.

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

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

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

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

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

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

31           (e) Tuition and fees for online learning programs and professional preparatory  
32 programs.

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

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

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

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

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

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

11          VI. An agreement shall be automatically terminated if the eligible student no longer resides  
12 in this state or returns to public school. Any funds remaining in the account shall be returned to  
13 the state treasury.

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

17          VIII.(a) The parent shall maintain accountability and responsibility for the education of  
18 their eligible student. Each provider, in consultation with students' parents or legal guardians and  
19 students where age-appropriate, shall establish academic growth goals for the student at the outset  
20 of each academic year and shall regularly measure students' academic growth throughout the  
21 school year. In measuring each student's progress toward achieving those goals throughout the  
22 school year, the provider may use a variety of assessment tools and participating students shall take  
23 either the statewide assessment test or a nationally norm-referenced test that measures learning  
24 gains.

25          (b) Upon receiving assessment results for 2 consecutive years that identify a student as  
26 not making satisfactory academic growth, the scholarship organization shall work with the parent  
27 and service providers to develop and implement an appropriate intervention plan. The intervention  
28 plan shall include a process for monitoring student growth and progress. The scholarship  
29 organization shall also review the use of education freedom savings account funds to ensure  
30 expenses best address the student's academic growth.

31          IX. The parent shall provide the scholarship organization with an annual educational  
32 evaluation that includes annual assessment results from either a nationally standardized norm-  
33 referenced achievement test, the statewide student assessment test, or other valid measurement  
34 tool mutually agreed upon by the parent and the commissioner, resident school district  
35 superintendent, or nonpublic school principal that documents the student's demonstration of  
36 educational progress at a level commensurate with the student's age and ability. The student shall  
37 be deemed to have successfully completed his or her annual evaluation upon meeting the following

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1 requirements:

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

7 (b) The student shall take any nationally standardized norm-referenced achievement  
8 test designed to measure student academic achievement and growth that complies with RSA 194-  
9 E:2, I(a), administered by a person who meets the qualifications established by the provider or  
10 publisher of the test. Composite results at or above the fortieth percentile or growth in academic  
11 skills on such tests shall be deemed reasonable academic proficiency or satisfactory growth; or

12 (c) The student shall take a state student assessment test used by the resident school  
13 district. Composite results at or above the fortieth percentile or a normal curve equivalent score  
14 showing progress in academic skills as reflected on such state test shall be deemed reasonable  
15 academic proficiency or satisfactory academic learning growth; or

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

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

20 194-E:3 Program Funding and Payment.

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

23 II. The commissioner shall calculate and the treasurer shall transfer to the scholarship  
24 organization an amount equivalent to 95 percent of the per pupil adequate education grant amount  
25 pursuant to RSA 198:40-a plus any differentiated aid for which the student is eligible, for deposit  
26 into the student's account. Differentiated aid for non-proficiency in third grade reading shall not be  
27 included in the amount determination.

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

32 IV. The funding for an eligible student receiving home education shall be as provided in  
33 RSA 77-G:2, I(b).

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

36 VI. Pursuant to RSA 194-E:2, the state treasurer shall transfer funding to the eligible  
37 student's account established by the scholarship organization. The transfers shall be made in

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1 accordance with the distribution of adequate education grants under RSA 198:42.

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

4 VIII. A scholarship organization shall receive an amount equivalent to 5 percent of the  
5 adequate education grant for administrative expenses. For students eligible pursuant to RSA  
6 198:40-a for differential aid, the scholarship organization shall receive an amount equivalent to 5  
7 percent of the differential aid for administrative expenses.

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

10 X. The scholarship organization shall notify the department and the treasurer in writing of  
11 any eligible students who are non-compliant with the program requirements of RSA 194-E:2. The  
12 department shall review the recommendation of the scholarship organization and notify the parents  
13 of the non-compliance. After parental notice of non-compliance report, the department may hold a  
14 hearing at the request of the parents. The department shall remove any eligible student from the  
15 program if it determines the student is non-compliant with the programs eligibility requirements of  
16 RSA 194-E:2 or the department determines there are extenuating circumstances.

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

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

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

23 XII. The scholarship organization may prohibit a participating nonpublic school or  
24 education provider from the program and notify the department if the scholarship organization  
25 establishes that the participating school or education provider has:

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

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

30 XIII. The scholarship organization or the department shall refer cases of fraudulent misuse  
31 of funds to the attorney general for investigation and shall immediately suspend all payments from  
32 the account.

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

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

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

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1       194-E:4 Scholarship Organization; Requirements. A scholarship organization shall:

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

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

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

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

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

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

13          VII. Provide annual reports on the number of students participating in the program, the  
14 providers of services to students, and the value of the students' eligible accounts of the program  
15 funds to the department, chairman of the house education committee, and the chairman of the  
16 senate education committee.

17          VIII. Provide an annual report to the speaker of the house of representatives, the president  
18 of the senate, the chairman of the house education and finance committees, the chairman of the  
19 senate education and finance committees, the governor, the joint legislative oversight commission  
20 pursuant to RSA 194-E:6 and the department including:

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

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

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

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

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

30       194-E:5 School and Provider of Educational Services; Requirements.

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

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

36           III. The school district in which the eligible student resides shall provide a participating  
37 nonpublic school, post-secondary institution or educational service provider that has admitted an

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1 eligible student under this program with a copy of the student's school records, while complying  
2 with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. section 1232g, and state  
3 policies.

4 194-E:6 Stabilization Grant.

5 I. For each school district, the commissioner shall calculate the amount of the reduction in  
6 the adequate education grant resulting from students receiving a scholarship under this chapter  
7 and who were in attendance in the school district in the year prior to receiving a scholarship. If the  
8 combined amount is greater than 1/4 of one percent of a school district's total voted appropriations  
9 for the year prior to the year in which the scholarship is received, the commissioner shall disburse a  
10 scholarship stabilization grant for the current fiscal year and the next 4 fiscal years to each such  
11 school district equal to the amount of the reduction in excess of 1/4 of one percent. This scholarship  
12 stabilization grant shall be included in the September 1 disbursement required pursuant to RSA  
13 198:42.

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

21 194-E:7 Oversight Commission; Report.

22 I. There is hereby established an education freedom savings account oversight commission.  
23 The commission shall jointly meet at least twice a year and shall monitor the implementation of this  
24 chapter, and make recommendations for any legislative changes to the education freedom savings  
25 account program. The commission shall include 2 senators appointed by the president of the  
26 senate, 3 members of the house of representatives, including the chairpersons of the house finance  
27 and education committees, appointed by the speaker of the house of representatives, the  
28 commissioner of the department of education or designee, the administrator or chief executive  
29 officer of the scholarship organization, and one member of the state board of education appointed by  
30 the chairperson of the state board of education.

31 II. The commission shall provide a report on or before November 1 of each year to the  
32 general court including findings, recommendations, and any corrective or technical improvements  
33 that the education freedom savings account program may require. The scholarship organization  
34 shall develop and implement a plan to be approved by the commission that addresses corrective and  
35 technical recommendations made by the oversight commission.

36 III. The commission shall provide an education freedom savings account program review  
37 report which shall be released to the public on or before November 1, 2022 and to the general court



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1 recommending that:

2 (a) Legislation be submitted to the general court that the education freedom savings  
3 account program be renewed in whole, or

4 (b) Legislation be submitted to the general court that the education freedom savings  
5 account program be renewed, but with changes to correct findings or any other issues identified  
6 during the review process, or

7 (c) Legislation not be submitted to renew the education freedom savings account  
8 program and that the program shall be repealed effective July 1, 2023.

9 194-E:8 Severability. If any provision of this chapter or the application thereof to any person or  
10 circumstances is held invalid, such invalidity shall not affect other provisions or applications of the  
11 chapter which can be given effect without the invalid provision or application, and to this end the  
12 provisions of this chapter are declared to be severable.

13 2 Repeal. RSA 194-E, relative to the education freedom savings account program, is repealed.

14 3 Effective Date.

15 I. Section 2 of this act shall take effect July 1, 2023.

16 II. The remainder of this act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill establishes education freedom savings accounts for children between 5 and 20 years of age and provides stabilization grants to certain school districts. The program is repealed effective July 1, 2023.