

SB 522-FN-A - AS AMENDED BY THE SENATE

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2024 SESSION

24-2856

02/10

SENATE BILL

522-FN-A

AN ACT relative to establishing an early childhood education scholarship account and making an appropriation therefor.

SPONSORS: Sen. Lang, Dist 2; Sen. Gannon, Dist 23; Sen. Pearl, Dist 17; Sen. Avar, Dist 12; Sen. Innis, Dist 7; Sen. Ward, Dist 8; Sen. Carson, Dist 14; Rep. Coker, Belk. 2; Rep. Moffett, Merr. 4

COMMITTEE: Education

AMENDED ANALYSIS

This bill requires rulemaking by the departments of education and health and human services on child care early education and establishes an early childhood education account grant program to provide funds for a third party financial intermediary to administer grants to eligible New Hampshire pre-kindergarten children for qualifying expenses.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Four

AN ACT relative to establishing an early childhood education scholarship account and making an appropriation therefor.

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

1 1 Short Title. This act shall be known as the "Early Childhood Education Act."

2 2 New Subparagraph; New Hampshire Employment Program and Family Assistance Program;
3 Rulemaking. Amend RSA 167:83, II by inserting after subparagraph (q) the following new
4 subparagraph:

5 (r) Modification of reimbursement for the early childhood education account program,
6 pursuant to 194-F:13, as follows:

7 (1) Allow transfer of annual childcare grant amounts per child to the entity
8 designated by the department of education to administer the Early Childhood Education Account
9 (ECEA), in accordance with the Child Care and Development Block Grant Act, 42 U.S.C. section
10 9858, as amended, and section 418 of the Social Security Act, 42 U.S.C. section 618, as amended;

11 (2) Implement adjustments federally permitted by the Office of Child Care to the
12 market rate survey which more equitably account for geographic differences, inflation, off-hours
13 care, and other costs of child care which are not currently captured in the market rate survey; and
14 upon implementation, the department of health and human services shall develop and engage in
15 training of all staff on program eligibility and reimbursement changes to the ECEA grant program.

16 3 New Subdivision; Early Childhood Education Account Program. Amend RSA 194-F by
17 inserting after section 12 the following new subdivision:

18 Early Childhood Education Account Program

19 194-F:13 Early Childhood Education Account Program Established.

20 I. There is hereby established an early childhood education account program for eligible New
21 Hampshire children. "Eligible child" means a resident of this state who is between 4 and 5 years old
22 and whose annual household income at the time the child applies for the program is less than or
23 equal to 500 percent of the federal poverty guidelines as updated annually in the Federal Register by
24 the United States Department of Health and Human Services under 42 U.S.C. section 9902 (2).
25 Beginning July 1, 2028, "Eligible child" shall mean a resident of this state who is between 3 and 5
26 years old and whose annual household income at the time the child applies for the program is less
27 than or equal to 500 percent of the federal poverty guidelines as updated annually in the Federal
28 Register by the United States Department of Health and Human Services under 42 U.S.C. section
29 9902 (2). No income threshold need be met in subsequent years, provided the child otherwise
30 qualifies.

1 II. The early childhood education account program funding shall be non-lapsing and
2 continually appropriated to the department of education for the purposes of the early childhood
3 education account (ECEA) program grants under this section. The fund shall consist of transfers
4 from the education trust and appropriations of general funds, if needed, to implement the program,
5 and shall allow contributions from individuals, communities, and businesses. The state treasurer
6 shall invest the moneys deposited in the fund as provided by law. Interest earned on moneys
7 deposited in the fund shall be deposited into the fund. Businesses making donations or
8 contributions to the early childhood education account grants shall be eligible for tax credits against
9 state business taxes the same as provided for in RSA chapter 77-G.

10 III. The commissioner of the department of education shall issue a request for proposal to
11 select a third party fiscal intermediary organization to manage and distribute the grant funds
12 established under this subdivision. The selected fiscal intermediary shall have the duties,
13 obligations, and authority as in RSA 194-F:4 and RSA 194-F:6.

14 IV. The amount of annual grants to children shall be equal to the cost of an opportunity for
15 an adequate education determined pursuant to RSA 198:40-a.

16 V. Parents of an ECEA child shall agree to use the grant funds deposited in their child's
17 ECEA only for the following qualifying expenses to educate the early childhood education child in
18 accordance with the Child Care and Development Block Grant Act, 42 U.S.C. section 9858, as
19 amended, and section 418 of the Social Security Act, 42 U.S.C. section 618, as amended:

20 (a) A high quality, community-based, mixed delivery public or private pre-kindergarten
21 program.

22 (b) Tuition and fees at a licensed childcare provider, family childcare provider, or private
23 school with independence under RSA 194-F:7, providing pre-kindergarten programs.

24 (c) Services contracted for and provided by a district public school, chartered public
25 school, public academy, or independent school, including, but not limited to, childcare, individual
26 classes and curricular activities and programs.

27 (d) Textbooks, curriculum, or other instructional materials, including educational
28 software and applications.

29 (e) Tuition and fees for summer education programs and specialized education
30 programs.

31 (f) Educational services and therapies, including, but not limited to, occupational,
32 behavioral, physical, speech-language, and audiology therapies.

33 (g) Any other pre-kindergarten educational expense approved by the third party fiscal
34 intermediary organization or the department of education.

35 VI. ECEA funds shall not be refunded, rebated, or shared with a parent or pre-kindergarten
36 EFA student in any manner. Any refund or rebate for goods or services purchased with ECEA funds
37 shall be credited directly to the student's ECEA.

1 VII. Parents may make payments for the costs of childcare and educational goods and
2 services not covered by the funds in their child's ECEA. However, personal deposits into an ECEA
3 shall not be permitted.

4 VIII. Funds deposited in a ECEA shall not constitute taxable income to the parent or the
5 ECEA child.

6 IX. An ECEA shall remain in force, and any unused funds shall roll over from quarter-to-
7 quarter and from year-to-year until the parent withdraws the ECEA child from the program, or an
8 ECEA converts to an EFA pursuant to RSA 194-F upon entering kindergarten, unless the EFA is
9 closed because of a substantial misuse of funds. Any unused funds shall revert to the education
10 trust fund established in RSA 198:39 and be available to fund other EFAs.

11 X. Nothing in this subdivision shall require that an ECEA child must be enrolled, full or
12 part-time, with either a licensed childcare provider, family childcare provider, or private school.

13 XI. If any provision of this subdivision, or the application thereof to any person or
14 circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this
15 subdivision which can be given effect without the invalid provision or application, and to this end the
16 provisions of this subdivision are declared to be severable.

17 XII. For the fiscal year ending June 30, 2025, and every fiscal year thereafter, the amount
18 necessary to fund the grants under this section is hereby appropriated to the department from the
19 education trust fund established in RSA 198:39. If the balance in the education trust fund is less
20 than zero, the governor is authorized to draw a warrant for sufficient funds to eliminate such deficit
21 out of any money in the treasury not otherwise appropriated. The commissioner of the department
22 of administrative services shall inform the fiscal committee and the governor and council of such
23 balance. This reporting shall not in any way prohibit or delay the distribution of grants under this
24 section.

25 194-F:14 Rulemaking.

26 I. The commissioner of the department of education, in collaboration with the commissioner
27 of the department of health and human services, shall:

28 (a) Develop a detailed, publicly available rubric for approving quality pre-kindergarten
29 programs eligible for funding under this subdivision, in line with the Early Learning New
30 Hampshire standards. The departments shall consult with a variety of stakeholders, including
31 families, when developing the standards and benchmarks of a quality pre-kindergarten program.

32 (b) Develop a technical assistance and monitoring program of pre-kindergarten
33 programs receiving funding under this subdivision. Monitoring and technical assistance shall focus
34 on the standards and benchmarks of quality approved under this subdivision.

35 (c) Identify the variety of federal, state, and private funding streams to be used in the
36 implementation of this subdivision and how these various funding streams will be combined to fund
37 pre-kindergarten under this subdivision.

(d) Identify the stackable versus exclusionary grants per student available for ECEA eligible students.

(e) Collaborate to leverage all available funds at the child level to support pre-kindergarten.

(f) Develop outcome measures for pre-kindergarten programs receiving funding under this subdivision.

(g) Build off work done by New Hampshire's preschool development grant and Kindergarten Entry Assessment when designing, implementing, and monitoring the availability of pre-kindergarten in New Hampshire.

II. The commissioner of the department of education shall, in collaboration with the department of health and human services, approve programs eligible for funding that meet the requirements of the rubric established in subparagraph I(a).

III. The departments shall prioritize special education services, as well as regions where access to quality pre-school programs or Pre-K services is limited when designing, implementing, and monitoring this subdivision.

IV. The commissioner of the department of education, in collaboration with the department of health and human services, shall adopt rules under RSA 541-A to implement the provisions of this subdivision.

V. The commissioner of the department of education shall submit a report every 2 years, with the initial report due by September 1, 2026, and subsequent reports due on September 1 in even numbered years thereafter, to the governor, speaker of the house, president of the senate, and the chairs of the house and senate education committees. The report shall:

(a) Detail the grants provided under this subdivision, the localities and districts, the duration of the program, and a summary report of students and families served.

(b) Highlight high-performing programs, including those that have improved student and family outcomes.

(c) Provide descriptions and analysis of practices that contributed to the improvements described in paragraph II.

(d) Provide information on the development of the report, to include information solicited from pre-kindergarten programs, with descriptions and explanations of strategies, services, and programs that they have implemented, and evidence demonstrating their effectiveness.

(e) Include specific requests and outlines of legislative action needed, including budget requests.

(f) Summarize non-identifiable demographic and economic data on grant recipients.

4 Effective Date. This act shall take effect July 1, 2024.

SB 522-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT relative to establishing an early childhood education scholarship account and making an appropriation therefor.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	See Methodology Below - Potential \$28.4M Per Year Federal Fund Loss		
Revenue Fund(s)	Federal Funds			
Expenditures	\$0	Early Childhood Education Account Program - Indeterminable Increase (Open Education Trust Fund Appropriation)		
		Department of Health and Human Services Costs - General Funds - \$4,949,488 in FY 2026 and \$5,196,920 in FY 2027		
		Federal Funds (Child Care Development Fund) - \$9,607,752 in FY 2026 and \$10,088,140 in FY 2027		
Funding Source(s)	Education Trust Fund, General Fund, Federal Funds (Child Care Development Fund)			
Appropriations	\$0	Early Childhood Education Account Program - Open Appropriation		
Funding Source(s)	Education Trust Fund			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ N/A

The Department of Education was contacted on 11/30/23 for a fiscal note worksheet, with follow-up contact made on 12/19/23. If information is received, a revised fiscal note will be forward to the House Clerk's Office.

METHODOLOGY:

This bill establishes an early childhood education account program to be administered by the Department of Education and requires rulemaking by the Department of Health and Human Services on childcare early education.

Department of Education Impact

This bill creates an early childhood education account program, which would provide grants to eligible individuals to be used for qualifying early childhood education related expenses. The Department of Education has not provided any estimates as to the potential fiscal impact of this bill. It should be noted that this bill includes an “open appropriation” from the state education trust fund to cover any amounts necessary to fund program grants.

Department of Health and Human Services

This bill requires the Department of Health and Human Services to adopt rules relative to modifying eligibility for the childcare scholarship program to:

- Adjust income eligibility to 85% of the state median income.
- Remove parent cost-share for any eligible family at or below 100 percent of the federal poverty level and assign a \$5 per week cost-share for families greater than 100 percent and at or below 138 percent of the federal poverty level.
- Adjust steps in eligibility to broaden income categories.
- Remove the childcare scholarship work requirement.

This bill further requires the Department to adopt rules relative to the modification of reimbursement for the childcare scholarship program to:

- Transfer annual childcare scholarship amount to the entity designated by the Department of Education to administer the Early Childhood Education Account (ECEA).
- Set reimbursement rates across all programs to match the 75th percentile of the market rate survey and allow for rates to be set through an alternative “true cost of care” mechanism to be defined by the Department.
- Implement adjustments federally permitted by the office of childcare to the market rate survey which more equitably account for geographic differences, inflation, off-hours care, and other costs of childcare which are not currently captured in the market rate survey and upon implementation develop and engage in training off all staff on program eligibility and reimbursement changes.

The Department states the requirements that the Department adjust income eligibility to 85% of the state median income, adjust steps in eligibility to broaden income categories, remove parent cost share for families at or below 100% of the federal poverty level, and set the cost share at \$5 per week for families with income greater than 100% of the federal poverty level and at or below 138% of the federal poverty level were already adopted, for the biennium ending June 30, 2025, in HB2 (2023 session). Therefore, the Department does not expect the requirements being adopted into Revised

Statutes Annotated to have an impact on state revenue or expenditures in FY 2025, however, does anticipate the following costs in FY 2026 and FY 2027 (the source of these expenditures are 66% child care development fund (CCDF) federal funds and 34% state general funds):

	FY 2026	FY 2027
Keeping the Income Eligibility at 85% of the State Median Income	\$9,030,000	\$9,481,500
Maintaining Broadened Steps	\$1,012,200	\$1,062,810
Maintaining the Reduced Parent Cost Share	\$1,470,000	\$1,543,500
Total	\$11,512,200	\$12,087,810

The Department states the bill's requirements that it adopt rules relative to removing the childcare scholarship program's work requirement is unclear. There is no work requirement for the childcare scholarship program. To be eligible for childcare scholarship, each parent must be participating in a qualifying activity: employment, job search, participating in post-secondary training or educational programs that are preparatory to employment, participating in basic education activities, participating in NH employment program (NHEP) activities approved on the individual's employment plan, or participating in mental health or substance misuse treatment programs (for NHEP or Family Assistance Program recipients). If the Department were to remove the requirement that parents participate in a qualifying activity, the Department would lose federal CCDF dollars because CCDF requires that parents be participating in a qualifying activity to receive childcare. Additionally, the childcare scholarship uses parents' participation in qualifying activities to determine a child's service level: part-time, half-time, or full-time. Without a qualifying activity requirement, the Department would have no way of determining the appropriate service level necessary for a child. The requirement that reimbursement rates be set at 75 percent of the market rate survey and that the Department implement adjustments to account for difference in the true cost of care were already adopted, for the biennium ending June 30, 2025, in HB2 (2023 session). Therefore, the Department does not expect the requirements being adopted into Revised Statutes Annotated to impact state revenue or expenditures in FY 2025, however, expects maintaining the reimbursement rate at 75 percent of the market rate survey and making the adjustments for the true cost of care to cost \$3,045,000 in FY 2026 and \$3,197,250 in FY 2027. The source of these expenditures are 66% CCDF federal funds and 34% state general funds.

The bill's requirement that the Department transfer "annual child childcare scholarship amount to entity designated by the Department of Education to administer the Early Childhood Education Account (ECEA) is unclear. The term "annual childcare scholarship" amount is not defined by the proposed legislation or already used in the childcare scholarship program. The Department assumes that "annual childcare scholarship amount" refers to 52 times the weekly rate that the Department would pay for an eligible child to be enrolled in a childcare facility. Based on this assumption the

proposed legislation would direct the Department to transfer to the ECEA the weekly rate normally paid for childcare scholarship in an annual lump sum. However, even with these assumptions the requirement is unclear because the weekly rate varies based on the type of facility a child is enrolled at and the child's service level. Additionally, transferring CCDF funds to the ECEA administrator would violate CCDF rules that require the designated lead agency to determine eligibility for childcare scholarship.

The Department states, the federal funding from the Childcare Development Fund was \$28,400,000 for FY 2023. The Department expects the repeal of qualifying activities or the transfer of childcare scholarship funds to the ECEA administrator would result in the loss of CCDF funds in future state fiscal years.

AGENCIES CONTACTED:

Department of Education and Department of Health and Human Services