



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 2 consecutive semesters; 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 level 1 or level 2 performing school under the Every
22 Student Succeeds Act, Public Law 114-95, that has shown no academic achievement and growth for
23 2 consecutive years; or

24 (3) Whose parent or guardian determines that attending the assigned school is not
25 in the best interest of the student; or

26 (4) Who has a disability and has an individualized education program (IEP).

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



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

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

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

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

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

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

13 IX. "Resident school district" means the public school district in which the eligible student
14 resides.

15 X. "Scholarship organization" means a charitable organization incorporated or qualified to
16 do business in this state that:

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

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

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

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

23 XI. "Treasurer" means the treasurer of the state of New Hampshire.

24 194-E:2 Program Eligibility.

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

27 (a) The parent of an eligible student may receive a grant from a scholarship
28 organization if the parent signs a contract with the scholarship organization to withdraw the
29 student from public school and in which the parent agrees to provide an education for the eligible
30 student in science, mathematics, language, government, history, health, reading, writing, spelling,
31 the history of the constitutions of New Hampshire and the United States, and an exposure to and
32 appreciation of art and music.

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

36 II. The parent of an eligible student who signs a contract with a scholarship organization
37 agrees to use the funds deposited in an eligible student's account for any of the following qualifying



1 educational expenses:

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

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

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

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

10 (e) Tuition and fees for online learning programs and professional preparatory
11 programs.

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

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

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

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

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

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

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

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

33 VIII. The parent shall maintain accountability and responsibility for the best educational
34 opportunity for their eligible student. Each provider, in consultation with students' parents or legal
35 guardians and students where age-appropriate, shall establish academic growth goals for the
36 student at the outset of each academic year and shall regularly measure students' academic growth
37 throughout the school year. In measuring each student's progress toward achieving those goals



1 throughout the school year, the provider may use a variety of assessment tools and participating
2 students shall take either the statewide assessment test or a nationally norm-referenced test that
3 measures learning gains.

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

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

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

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

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

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

24 194-E:3 Program Funding and Payment.

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

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

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

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



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

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

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

8 VIII. A scholarship organization shall receive an amount equivalent to 5 percent of the
9 adequate education grant for administrative expenses. For students eligible pursuant to RSA
10 198:40-a for differential aid, the scholarship organization shall receive an amount equivalent to 5
11 percent of the differential aid for administrative expenses.

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

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

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

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

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

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

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

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

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

37 XIV. A nonpublic school or educational service provider pursuant to RSA 194-E:2 shall not



1 share, refund, or rebate any program funds with the parent or eligible student in any manner.

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

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

5 194-E:4 Scholarship Organization; Requirements. A scholarship organization shall:

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

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

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

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

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

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

17 VII. Provide annual reports on the number of students participating in the program, the
18 providers of services to students, and the value of the students' eligible accounts of the program
19 funds to the department, chairman of the house education committee, and the chairman of the
20 senate education committee.

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

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

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

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

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

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

34 194-E:5 School and Provider of Educational Services; Requirements.

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

37 II. Nonpublic schools, postsecondary institutions, and educational service providers shall



1 furnish receipts for eligible services pursuant to RSA 194-E:2, II to the parent and the scholarship
2 organization.

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

8 194-E:6 Oversight Committee; Report

9 I. There is hereby established a joint legislative oversight committee. The committee shall
10 jointly meet at least once a year and shall monitor the implementation of this chapter, make
11 recommendations for any legislative changes with respect thereto, and make recommendations to
12 the legislature to change the scope of, ease the administration of, simplify the compliance with, and,
13 where appropriate, recommend to the legislature elimination of regulations and reduction of the
14 amount of paperwork required. The committee shall include 3 senators appointed by the president
15 of the senate, 3 members of the house of representatives appointed by the speaker of the house of
16 representatives, and one member of the state board of education appointed by the chairperson of the
17 state board of education, who shall serve as a nonvoting member in an advisory capacity.

18 II. The committee shall submit a written report of its findings and recommendations to the
19 president of the senate, the speaker of the house of representatives, the chairpersons of the house
20 and senate finance committees and the chairpersons of the house and senate education committees
21 on November 1 of each year.

22 194-E:7 Severability. If any provision of this chapter or the application thereof to any person or
23 circumstances is held invalid, such invalidity shall not affect other provisions or applications of the
24 chapter which can be given effect without the invalid provision or application, and to this end the
25 provisions of this chapter are declared to be severable.

26 2 Effective Date. This act shall take effect 60 days after its passage.