

SB 193-FN - AS AMENDED BY THE SENATE

02/23/2017 0500s

2017 SESSION

17-0912

04/05

SENATE BILL ***193-FN***

AN ACT establishing education freedom savings accounts for students.

SPONSORS: Sen. Reagan, Dist 17; Rep. Pitre, Straf. 2

COMMITTEE: Education

ANALYSIS

This bill establishes education freedom savings accounts for children between 5 and 20 years of age.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT establishing education freedom savings accounts for students.

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

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

CHAPTER 194-E

EDUCATION FREEDOM SAVINGS ACCOUNTS

194-E:1 Definitions. In this chapter:

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

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

III. "Department" means the department of education.

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

(a) Currently attending a New Hampshire public school, including a chartered public school, and for whom the adequate education grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(b) A kindergarten student; or

(c) Receiving home education pursuant to RSA 193-A.

V. "Nonpublic school" shall mean any public academy or private school approved for attendance by the department.

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

VII. "Postsecondary institution" means an institution within the university system of New Hampshire or the community college system of New Hampshire.

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

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

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

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

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

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

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

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

#### 194-E:2 Program Eligibility.

I. There is established an education freedom savings account program. The parent of an eligible student may receive a grant from a scholarship organization if the parent signs a contract with the scholarship organization in which the parent agrees to provide an education for the eligible student in science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music.

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

(a) Tuition for course fees at any public school, chartered public school, nonpublic school, or program approved by the department pursuant to RSA 186-C:5.

(b) Textbooks, curriculum, or supplemental materials required to administer the curriculum.

(c) Payment to a tutor or tutoring facility.

(d) Fees for transportation to and from an educational service provider paid to a fee-for-service transportation provider, not to exceed \$750 per school year.

(e) Tuition and fees for online learning programs.

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

(g) Tuition and fees at a postsecondary institution.

(h) Computer hardware and software and other assistive devices if an eligible school, licensed or certified tutor, licensed or certified educational service practitioner or provider, or licensed medical professional verifies in writing that these items are essential for the student to meet annual, measurable goals.

(i) Fees for a nationally standardized norm-referenced achievement test, advanced placement examination, or any exam related to college admission.

(j) Contributions to a Coverdell education savings account established under 26 U.S.C. section 530 for the benefit of the eligible student, except that funds used for elementary or secondary education expenses may be used for expenses otherwise allowed under this section.

III. The parent of an eligible student shall be provided copies of all signed agreements.

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

V. No eligible student shall receive a grant under this chapter and an education tax credit scholarship pursuant to RSA 77-G in the same school year.

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

VII. An agreement shall be automatically terminated if the eligible student no longer resides in this state, and any funds remaining in the account shall be returned to the state treasury.

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

194-E:3 Program Funding and Payment.

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

II. The commissioner shall transfer to the scholarship organization 90 percent of the per pupil adequate education grant amount pursuant to RSA 198:40-a, plus any differentiated aid, which would be disbursed to the municipality in which the student resides, for deposit into the eligible student's account.

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

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

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

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

VII. All eligible student accounts shall be held in institutions qualified by the state treasurer.

VIII. A scholarship organization shall receive 5 percent of the adequate education grant, including any differentiated aid for which the student would be eligible pursuant to RSA 198:40-a, for administrative expenses.

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

X. The department may remove any eligible student from the program for non-compliance with program eligibility requirements of RSA 194-E:2.

(a) The parent may appeal the decision of the scholarship organization to the department.

(b) Any funds remaining in the account for that student shall be sent to the state treasury.

XI. At the time of the eligible student's graduation from a postsecondary institution or after a period of 2 consecutive years after high school graduation in which the eligible student does not enroll in a postsecondary institution, the eligible student's account shall be closed, the parents notified, and any remaining funds shall be returned to the state treasury.

XII. The scholarship organization or the department may refer cases of fraudulent misuse of funds to the attorney general for investigation.

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

XIV. Parents may make payments for the costs of educational programs and services not covered by the funds in their accounts.

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

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

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

II. Provide copies of agreements signed by parents of eligible students to the department.

III. Comply with all federal and state laws regarding student privacy.

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

V. Provide biannual reports on the number of students participating in the program, the providers of services to students, and the value of the program funds to the department, chairman of the house education committee, and the chairman of the senate education committee.

VI. Provide an annual report to the speaker of the house of representatives, the president of the senate, the chairman of the house education committee, the chairman of the senate education committee, the governor, and the department including:

- (a) The number of eligible students with accounts.
- (b) A list of schools and service providers including the number of eligible students served.
- (c) The value of program funds utilized for services during the year.

VII. Conduct an annual survey of parents of eligible students with accounts. The survey shall include the number of years the parent has been in the program, the relative satisfaction of the parent with the program, and suggestions of the parent for improvement. The survey shall be included in the annual report.

VIII. Conduct an annual audit of all accounts of eligible students.

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

I. Schools and educational service providers shall comply with all federal and state laws regarding student privacy.

II. Schools and educational service providers shall furnish receipts for eligible services pursuant to RSA 194-E:2, II to the parent and the scholarship organization.

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

194-E:6 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

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

LBAO

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1/27/17