

Senate Bill 193-FN 2018

Education Freedom Savings Accounts

Adds Section E:1 through E:8 to Education RSA 194
Presentation to SAU 33 by Rep. Hoelzel and Rep. Matthews
December 20, 2017

Today's Program

- SB 193-FN Calendar
- Educational Savings Account (ESA) Defined
- ESA Programs v. Voucher Programs
- Why Parents Seek Alternative Learning Programs
- SB 193 Highlights Section 1 – 8
- Five Frequently Asked Questions
- Resources
- Board Q & A

Where are we now with SB 193?

- The House is awaiting an “FN” (Fiscal Note) with official estimates of costs to the state, municipalities and school districts.
- The House will debate SB 193 in January, and several floor amendments are already in process.
- If SB 193 passes the bill must return to the Senate for approval, denial or a request for formation of a Committee of Conference.
- Both Senate and House must approve any Committee of Conference report.
- The Governor has the opportunity to sign, veto or let the bill become law without his signature.

What's an Educational Savings Account?

- ESAs are similar to other scholarship programs.
- Scholarship grants are made to qualified children who need alternative schooling.
- A non-profit scholarship organization administrates the program.
- Parents decide how to use the grant, within state requirements.
- Arizona – first to establish an ESA program in 2011.
- Five states now have ESA programs, each with specific rules.
- ESAs add a tool to the toolkit for parental school choice.

ESA Programs v. Voucher Programs

- Voucher programs transfer money directly from the state to the alternative school. ESAs transfer money to savings accounts managed by nonprofit scholarship agencies. Parents choose the destination school.
- In states with ESA programs, fewer than 1% of students leave for an alternative program due to state program restrictions. Vouchers have fewer restrictions and more risk that many students may leave.
- In New Hampshire, only state funding will go into the student's scholarship account. Local funding stays with the resident school.
- New Hampshire's new "adequacy grant" will help stabilize the school budget from unanticipated loss due to ESA scholarships.
- New Hampshire ESAs will put alternative education within reach of low income families. Vouchers do the same to a greater degree.

Why do parents seek alternative learning programs?

- Short or long-term consequences of bullying or other adverse behaviors encountered in the resident school
- Learning style needs for special education and other students
- More academic challenge for advanced students
- Communication challenges between home and school
- Resident school is non performing or lacking course offerings in a specific area where child has educational needs/interests

SB 193 Section Highlights

1. Definitions
2. EFSA Program Eligibility
3. EFSA Program Funding & Payment
4. Scholarship Organization Requirements
5. School & Provider of Educational Service Requirements
6. Stabilization Grant (for excessive loss to SAU)
7. Oversight Commission: Report
8. Severability clause & Effective Dates

RSA 194 E:1 Definitions

- “**Eligible student**” is a NH resident at least 5 and no older than 20; in NH public or public charter school now and for at least one year, or starting K or 1st grade, or received an account the prior year. **And** meets **at least one** of four tests:
 1. Household income 300% or less of the federal poverty guidelines (ca \$73,800) **OR**
 2. Resident school has not offered an adequate education for two years **OR**
 3. Student has an IEP or accommodation plan **OR**
 4. Student applied but didn't get into a public charter school or get the education tax credit scholarship.

RSA 194 E:1 Definitions cont'd

- **“Nonpublic school”** is:
 - Accredited (including those with a NH interstate compact)
 - Complies with agency approvals like health, fire safety, sanitation
 - Incorporated
 - Administers and submits results of an annual assessment.

RSA 194 E:1 Definitions cont'd

- **“Recognized independent accreditation agency”** is any accredited agency recognized by the department of education, including but not limited to New England Association of Schools and Colleges, Nat’l Assoc. Independent Schools, Northern Conference of Seventh-day Adventists, Inc. etc.
- **“Scholarship organization”** is any NH registered 501 (c) (3) charitable organization that complies w/ state and federal anti-discrimination and privacy laws and is approved by the NH department of revenue administration.

E:2 Program Eligibility (for Grants)

- Parent must agree to withdraw the student from public school, and must agree to provide the student with an adequate education and log progress and seek a critique and assessment.
- Parent must report annually to the commissioner via the scholarship organization. Parents may request assessment at the student's resident school at its expense. Assessment must meet resident school's requirements. Individuals w/ Disabilities Education Act (IDEA) parent placements of students remain the same.
- Funds can be used for tuition, textbooks, computer hard/software, tutoring, transportation services, online learning, educational services or therapy, assistive devices, fees for achievement tests, placement or department approved exams such as the SAT or ACT.

E:3 Program Funding & Payment

- Grant is income tax free to parents
- 95% of the per pupil state adequate education grant plus eligible differentiated aid if special ed students (excluding aid for non-proficiency in 3rd grade reading) is deposited in the student's scholarship account.
- 50% of per pupil state AE grant for entering kindergarteners.
- Home Schooled – \$2,500 adjusted annually (RSA 77-G:2.I (b))
- 5% of adequate education grant goes to scholarship organization for administrative expenses
- Accountability includes audits, non-compliant reporting on student or non-public school, etc.

E:4 Scholarship Organization Requirements

- Develop, maintain and provide agreement forms w/ the department
- Determine eligibility
- Comply w/ state & federal privacy laws
- Provide annual reports
- Conduct an annual survey of parents of eligible students
- Conduct independent annual audit of all student accounts

E:5 School and Provider Requirements

- Provider schools must comply with all federal/state privacy laws.
- Provider schools must provide receipts for services to parents and scholarship organization.
- Resident school district must provide copy of student's school record in compliance with federal and state privacy laws to provider school.

E:6 Stabilization Grant

- Resident school may lose no more than $\frac{1}{4}$ of one percent per year from its state adequate education grant total due to EFSA scholarships.
- A new stabilization grant for the excess will cover the current fiscal year and each of the next 4 fiscal years.
- Scholarship organization must conduct survey of financial effects of students receiving EFSA grants and determine any hardships to a district.

E:7 Oversight Commission: Report

- An oversight commission is established to monitor implementation and make legislative change recommendations: two senators, three representatives, commissioner of department of education, CEO of the scholarship organization, one member of state board of education.
- Reports annually before Nov. 1 and provide public review report

E:8 Severability

- If parts of the program are held invalid, other parts that don't depend upon the invalid portion may continue.
- Senate Bill 193-FN is considered a pilot program, and it will sunset on July 1, 2023 unless re-approved by the legislature to continue
- The bill takes effect 60 days after its passage by both houses provided the Governor does not veto.

Frequently Asked Questions

Q: What data estimates are available for Raymond?

A: State budget office official data is not yet available. Raymond was not included in the Reaching Higher New Hampshire estimates. From the Josiah Bartlett Public Policy Center:

- From 2010 to 2015 Raymond's annual average change in enrollment was minus 0.4%; median annual enrollment change was minus 1.8%; average change was minus 2.2%
- Based on 2015-16, a 1% up to 5% use of ESAs predict a range of: 14 to 66 students depart w/ ESAs; State aid reduced \$59,542 to \$289,698; Budget retained is 99.7% to 98.5%.

FAQ cont'd

Q: New Hampshire's EFSA program will route state funds to students indirectly, possibly for use at religious schools. Isn't this unconstitutional?

A: Opinion varies. The NH Legislature cites Nevada's State Supreme Court who found that the ESA program was constitutional because, like NH's proposed program, state money was not transferred directly to private schools. Justice James Hardesty: "Once the public funds are deposited into an education savings account, the funds are no longer 'public funds' but are instead the private funds of the individual parent who established the account. The parent decides where to spend that money for the child's education and may choose from a variety of participating entireties, including religious and non-religious schools. Any decision by the parent to use the funds in his/her account to pay tuition at a religious school does not involve the use of 'public funds.'" In an Arizona case, Judge Jon Thompson: "...the ESA does not result in an appropriation of public money to encourage the preference of one religion over another, or religion per se over no religion." There is some question that to exclude religious schools would make the bill unconstitutional. **Others are concerned that** NH's indirect path for funding may not escape expensive legal challenge.

FAQ cont'd.

Q: Will parents have to forfeit federal special education funds?

A: Compliance with federal statutes relative to educating students with disabilities is mandatory and includes student placement in a nonpublic school by their parents. A pro-rata share of federal IDEA funds of the district where the nonpublic school is located is spent on services per federal law. The local district works with the non-public school on service plans for students.

FAQ cont'd.

Q: What about accountability?

A: Parent signs an agreement. Scholarship Organization monitors and reports on schools and students. Ed. Department can remove non-compliant students. ESA students not showing achievement get an intervention plan to monitor and support. Certified teachers evaluate progress. Nonpublic schools must administer an annual assessment and be accredited by a DOE recognized accrediting agency. Many other checks exist.

FAQ cont'd.

Q: Why does the EFSA program sunset in 2023?

A: To insure that the legislature reviews all reports and work of the Legislative Oversight Commission and evaluates the entire program to determine its future.

For more information

- **A WIN-WIN SOLUTION The Empirical Evidence on School Choice**, Greg Forster, Ph.D. MAY 2016, fourth edition. An analysis of empirical studies to date. <https://www.edchoice.org/research/win-win-solution/>
- **Will Education Savings Accounts Decimate Public Schools? Putting ESA Funding in Context**, Dec 2017, Josiah Bartlett Center for Public Policy. Data charts on effect on Raymond with 1% to 5% loss in enrollment based on 2015-16 budget and enrollment statistics. <https://www.jbartlett.org/will-education-savings-accounts-decimate-public-schools>
- <https://reachinghighernh.org/2017/12/06/reaching-higher-nh-study-sb-193-finds-disproportionate-impact-cities-property-poor-districts/> Lists objections to SB 193 and an estimated state-wide impact on property-poor communities.