

HB 1820-FN - AS INTRODUCED

2026 SESSION

26-3179

07/08

HOUSE BILL ***1820-FN***

AN ACT requiring the department of education to administer the education freedom account program.

SPONSORS: Rep. Luneau, Merr. 9; Rep. Damon, Sull. 8; Rep. Cornell, Hills. 22; Rep. Fellows, Graf. 8; Rep. Bricchi, Merr. 15; Sen. Altschiller, Dist 24; Sen. Fenton, Dist 10

COMMITTEE: Education Policy and Administration

ANALYSIS

This bill changes the administration of the education freedom account program under RSA 194-F from scholarship organizations to the department of education.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT requiring the department of education to administer the education freedom account program.

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

1 1 New Paragraph; Education Freedom Accounts; Definition; Commissioner. Amend RSA 194-
2 F:1 by inserting after paragraph I the following new paragraph:

3 I-a. "Commissioner" means the commissioner of the department of education.

4 2 Definition; EFA. Amend RSA 194-F:1, IV to read as follows:

5 IV. "Education freedom account" or "EFA" means the account to which funds are allocated
6 by the [~~scholarship organization~~] **department** to the parent of an EFA student in order to pay for
7 qualifying education expenses to educate the EFA student under this chapter.

8 3 Definition; State Board. RSA 194-F:1, XII is repealed and reenacted to read as follows:

9 XII. "State board" means the state board of education.

10 4 Program; Funds Transfer. Amend RSA 194-F:2, I to read as follows:

11 I. The commissioner of the department of education shall transfer to the [~~scholarship
12 organization~~] **student's EFA** the per pupil adequate education grant amount under RSA 198:40-a,
13 plus any differentiated aid that would have been provided to a public school for that eligible student.
14 The transfers shall be made in accordance with the distribution of adequate education grants under
15 RSA 198:42.

16 5 Qualifying Expenses. Amend RSA 194-F:2, II(o) to read as follows:

17 (o) Any other educational expense approved by the [~~scholarship organization~~] **state
18 board**.

19 6 Unused Funds. Amend RSA 194-F:2, VII to read as follows:

20 VII. An EFA shall remain in force, and any unused funds shall roll over from quarter-to-
21 quarter and from year-to-year until the parent withdraws the EFA student from the EFA program,
22 **the student becomes ineligible**, or until the EFA student graduates from high school, unless the
23 EFA is closed because of a substantial misuse of funds. Any unused funds shall revert to the
24 education trust fund established in RSA 198:39. **Unused funds that roll over from year-to-year
25 shall not exceed the amount of one quarterly distribution into the student's EFA and any
26 excess year-to-year roll over funds shall be returned to the education trust fund.**

27 7 Education Freedom Accounts. RSA 194-F:3 is repealed and reenacted to read as follows:

28 194-F:3 Application for an Education Freedom Account.

1 I. A parent may apply to the department to establish an EFA for an eligible student. The
2 department shall accept and approve applications for the fall and spring semesters each year and
3 shall establish procedures for approving applications in an expeditious manner.

4 II. The department shall create a standard form that parents can submit to establish their
5 student's eligibility for the EFA program and shall ensure that the application is publicly available
6 and may be submitted through various sources, including the Internet.

7 III. The department shall approve an application for an EFA if:

8 (a) The parent submits an application for an EFA in accordance with application
9 procedures established by the department.

10 (b) The student on whose behalf the parent is applying is an eligible student.

11 (c) Funds are available for the EFA.

12 (d) The parent signs an agreement with the department:

13 (1) To provide an education for the eligible student in the core knowledge domains
14 that include science, mathematics, language, government, history, health, reading, writing, spelling,
15 the history of the constitutions of New Hampshire and the United States, and an exposure to and
16 appreciation of art and music.

17 (2) Not to enroll the eligible student as a full-time student in their resident district
18 public school while participating in the EFA program.

19 (3) To provide an annual record to the department of educational attainment by:

20 (A) Having the student take the statewide student assessment test pursuant to
21 RSA 193-C:6; or

22 (B) Maintaining a portfolio including, but not limited to, a log which designates
23 by title the reading materials used; samples of writings, worksheets, workbooks, or creative
24 materials used or developed by the student. The parent shall have a certified teacher or a teacher
25 currently teaching in a nonpublic school, who is selected by the parent, evaluate the student's
26 educational progress upon review of a portfolio and discussion with the parent or student.

27 (4) To use the funds in the EFA only for qualifying expenses to educate the eligible
28 student as established by the EFA program.

29 (5) To comply with the rules and requirements of the EFA program.

30 IV. The signed agreement between the parent and the department shall satisfy the
31 compulsory school attendance requirements of RSA 193:1.

32 V. The department shall annually renew a student's EFA if funds are available.

33 VI. Upon notice to the department, an EFA student may choose to stop receiving EFA
34 funding and enroll full-time in a public school.

35 (a) Enrolling as a full-time student in the resident district public school shall result in
36 the immediate suspension of payment of additional funds into the student's EFA, termination of the
37 EFA, and the transfer of any remaining funds by the department back to the education trust fund.

1 (b) If an eligible student decides to return to the EFA program, payments into the
2 student's existing EFA may resume if the EFA is still open and active. A new EFA may be
3 established if the student's EFA was closed.

4 8 Authority and Responsibilities of the Department. RSA 194-F:4 is repealed and reenacted to
5 read as follows:

6 194-F:4 Authority and Responsibilities of the Department. The department shall have the
7 following additional duties, obligations, and authority:

8 I. The department shall maintain an updated list of education service providers and shall
9 ensure that the list is publicly available through various sources, including the department's
10 website.

11 II. The department shall provide parents with a written explanation of the allowable uses of
12 EFA funds, the responsibilities of parents, the duties of the department, and the role of any financial
13 management firms that the department may contract with to administer any aspect of the EFA
14 program.

15 III. The department shall ensure that parents of students with disabilities receive notice
16 that participation in the EFA program is a parental placement under 20 U.S.C. section 1412,
17 Individuals with Disabilities Education Act (IDEA), along with an explanation of the rights that
18 parentally placed students possess under IDEA and any applicable state laws.

19 IV. The department shall determine eligibility for differentiated aid subject to any
20 applicable state and federal laws.

21 V. The department shall implement a commercially viable system for payment of services
22 from EFAs to education service providers by electronic or online funds transfer.

23 (a) The department shall not adopt a system that relies exclusively on requiring parents
24 to be reimbursed for out-of-pocket expenses, but rather shall provide maximum flexibility to parents
25 by facilitating direct payments to education service providers. The department may pre-approve
26 requests for reimbursements for qualifying expenses, including expenses pursuant to RSA 194-F:2,
27 II, but shall not disperse funds to parents without receipt that such pre-approved purchase has been
28 made.

29 (b) The department may contract with a private institution or organization to develop
30 the payment system.

31 VI. The department may also seek to implement a commercially viable system for parents to
32 publicly rate, review, and share information about education service providers, ideally as part of the
33 same system that facilitates the electronic or online funds transfers.

34 VII. If an education service provider requires partial payment of tuition or fees prior to the
35 start of the academic year to reserve space for an EFA student admitted to the education service
36 provider, such partial payment may be paid by the department, if funds are available, prior to the
37 start of the school year in which the EFA is awarded and deducted in an equitable manner from

1 subsequent quarterly EFA deposits to ensure adequate funds remain available throughout the school
2 year; but if an EFA student decides not to use the education service provider, the partial reservation
3 payment shall be returned to the department by such education service provider and credited to the
4 student's EFA.

5 VIII. The department shall continue making deposits into a student's EFA until:

6 (a) The department determines that the EFA student is no longer an eligible student.

7 (b) The department determines that there was substantial misuse of the funds in the
8 EFA.

9 (c) The parent or EFA student withdraws from the EFA program.

10 (d) The EFA student enrolls full-time in the resident district public school.

11 (e) The EFA student graduates from high school.

12 IX. The department may conduct or contract for the auditing of individual EFAs, and shall
13 at a minimum conduct random audits of EFAs on an annual basis.

14 X. The department may make any parent or EFA student ineligible for the EFA program in
15 the event of intentional and substantial misuse of EFA funds.

16 (a) The department shall create procedures to ensure that a fair process exists to
17 determine whether an intentional and substantial misuse of EFA funds has occurred.

18 (b) If an EFA student is free from personal misconduct, that student shall be eligible for
19 an EFA in the future if placed with a new guardian or other person with the legal authority to act on
20 behalf of the student.

21 (c) The department may refer suspected cases of intentional and substantial misuse of
22 EFA funds to the attorney general for investigation if evidence of fraudulent use of EFA funds is
23 obtained.

24 (d) A parent or EFA student may appeal the department's decision to deny eligibility for
25 the EFA program to the state board.

26 XI. The department may bar an education service provider from accepting payments from
27 EFAs if the department determines that the education service provider has:

28 (a) Intentionally and substantially misrepresented information or failed to refund any
29 overpayments in a timely manner.

30 (b) Routinely failed to provide students with promised educational goods or services.

31 XII. The department shall create procedures to ensure that a fair process exists to
32 determine whether an education service provider may be barred from receiving payments from
33 EFAs.

34 (a) If the department bars an education service provider from receiving payments from
35 EFAs, it shall notify parents and EFA students of its decision as quickly as possible.

36 (b) Education service providers may appeal the department's decision to bar them from
37 receiving payments from the EFA to the state board.

1 XIII. The department shall adopt rules that are necessary for the administration of this
2 chapter. This may include rules for policies or procedures:

3 (a) Establishing or contracting for the establishment of an online anonymous fraud
4 reporting service.

5 (b) Establishing an anonymous telephone number for fraud reporting.

6 (c) Requiring a surety bond for education service providers receiving more than \$100,000
7 in EFA funds.

8 (d) Refunding payments from education service providers to EFAs.

9 (e) Ensuring appropriate use and rigorous oversight of all funds expended under this
10 program.

11 XIV. The department shall not exclude, discriminate against, or otherwise disadvantage any
12 education provider with respect to programs or services under this section based in whole or in part
13 on the provider's religious character or affiliation, including religiously based or mission-based
14 policies or practices.

15 9 Advisory Commission. Amend RSA 194-F:5 to read as follows:

16 194-F:5 Parent and Education Service Provider Advisory Commission.

17 I. There is established the parent and education service provider advisory commission to
18 assist the [~~scholarship organization~~] **department** by providing recommendations about
19 implementing, administering, and improving the EFA program.

20 II. The commission shall consist of 7 members who shall be parents of EFA students or
21 education service providers and shall represent no fewer than 4 counties in the state. The members
22 shall be appointed by the [~~director of the scholarship organization~~] **commissioner** and serve at the
23 [~~director's~~] **commissioner's** pleasure for one calendar year after which they may be reappointed.
24 [~~The director of the scholarship organization, or designee, shall serve as a non-voting chairperson of~~
25 ~~the commission.~~] The commissioner of the department of education, or designee, shall serve as a
26 non-voting member of the commission.

27 III. The [~~scholarship organization~~] **department** may request the commission to meet, in
28 person or virtually, to review appeals of education service provider denials pursuant to RSA 194-F:4,
29 [~~XI~~] X and to provide a recommendation to the [~~scholarship organization~~] **department** as to whether
30 an education service provider should be allowed to receive, or continue receiving, payments from
31 EFAs.

32 10 Education Service Providers. Amend RSA 194-F:6 to read as follows:

33 194-F:6 Requirements for Education Service Providers.

34 I. The [~~scholarship organization~~] **department** may approve education service providers on
35 its own initiative, at the request of parents, or by notice to the [~~scholarship organization~~]
36 **department** provided by prospective education service providers.

1 II. A prospective education service provider that wishes to receive payments from EFAs
2 shall:

3 (a) Submit notice to the [~~scholarship organization~~] **department** that it wishes to receive
4 payments from EFAs.

5 (b) Agree not to refund, rebate, or share EFA funds with parents or EFA students in any
6 manner, except that funds may be remitted or refunded to an EFA in accordance with procedures
7 established by the [~~scholarship organization~~] **department**.

8 (c) Comply with all state and federal anti-discrimination laws.

9 11 Liability. Amend RSA 194-F:9, II to read as follows:

10 II. No liability shall arise on the part of the [~~scholarship organization~~] **department** or the
11 state or of any public school or school district based on the award of or use of an EFA pursuant to
12 this chapter.

13 12 Effective Date. This act shall take effect July 1, 2026.

HB 1820-FN- FISCAL NOTE
 AS INTRODUCED

AN ACT requiring the department of education to administer the education freedom account program.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Up to \$5,000,000 Per Year Increase		
<i>Funding Source(s)</i>	General Fund and Education Trust Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill requires the Department of Education to assume full responsibility for the administration and oversight of the Education Freedom Account (EFA) program, which is currently managed by an external scholarship organization. The Department states it does not currently have the staffing, operational capacity, or dedicated resources necessary to effectively manage a program of this scale.

The Department estimates the annual cost necessary for effective administration of the EFA program at \$5,000,000 per year. This estimate is based on the administrative cost structure currently authorized in statute, which permits the scholarship organization to retain up to 10 percent of total program expenditures for program administration. With current EFA expenditure exceeding \$50,000,000 annually, the 10 percent administrative allowance equates to approximately \$5,000,000 million. The Department states it is possible that the actual costs associated with administering the EFA program could be significantly lower than \$5,000,000 annually, depending on the administrative model adopted by the Department, the extent to which program functions can be streamlined, and the degree to which existing Department infrastructure can be leveraged. For purposes of this fiscal note, however, \$5,000,000 million is used as a conservative upper-bound estimate representing the highest anticipated annual cost

necessary to ensure effective statewide management, administration, and oversight of the EFA program.

AGENCIES CONTACTED:

Department of Education