

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

17-0665

HB 647-FN-LOCAL, *establishing education freedom savings accounts for children with disabilities*

House Education

This proposed legislation enacts Chapter 194-E to establish an Education Freedom Savings (EFS) Account program for students with disabilities. The EFS Account allows the parent of an eligible student to receive a grant from a Scholarship Organization (SO) if the parent signs a contract with the SO and the parent agrees to provide an education for the student in the specified area of study.

The funds that the parent accepts must be deposited in an eligible student account for specified education expenses under this Chapter. The DOE will direct the transfer of 90% of the per pupil adequate education grant and 100% of any differential aid to the SO for deposit into the eligible student's account (or 50% for kindergarten pupils). The SO shall receive 5% of the adequate education grant for administration expenses.

No eligible student may receive a grant under this Chapter and an Education Tax Credit Scholarship pursuant to RSA 77-G in the same school year. As a result, this proposed legislation may increase Business Tax revenues to the General and Education Trust Fund if taxpayers cease utilizing the Education Tax Credit in favor of this newly created program.

The associated reduction in adequate education grant to each municipality would decrease local revenues. The DRA does not have adequate information about prospective utilization of this newly created program and thus cannot estimate the fiscal impact of the proposal.

The NH Department of Revenue Administration (DRA) may conduct an audit of an eligible student's account as needed to ensure compliance. The DOE may remove any student from the program for noncompliance with program eligibility requirements. Parents may appeal the decision of the SO to the DRA. The SO or the DRA may refer cases of fraudulent misuse of funds to the Attorney General for investigation. The SO and DOE have reporting responsibilities to the legislature.

The DRA is unable to determine whether the proposed legislation will have an impact on state expenditures. The DRA may or may not be able to administer its portion of this newly created program within its existing operating budget depending on the extent of the program's utilization.

The proposed legislation contemplates that the DRA will audit student EFS Accounts to determine compliance with Chapter 194-E. The DRA is concerned that the requisite knowledge does not exist within the DRA to adequately evaluate student compliance relating to the proper use of educational funds as it relates to the requirements in the Chapter (whether certain books and supplies qualify,

whether certain tutoring or online tuition fees qualify, whether certain licensed therapists fees qualify, whether computer hardware, software, and assistive devices qualify, etc.). The proposed legislation provides DOE with concurrent authority to review student compliance with the Chapter and remove students from the program for violations, so additionally, providing DRA with similar overview seems duplicative.

194-E:3, X provides DOE with authority to remove students from the program. 194-E:3, X(a) reads that “The parent may appeal the decision of the scholarship organization to the department of revenue administration.” Because this provision falls under a paragraph addressing DOE’s removal of students from the program, the DRA believes that the drafter intended for DOE’s decisions to be appealed to DRA (not SO decisions). However, the DRA is concerned with whether it is proper for the DRA to hear disputes between the DOE and program participants.

This act shall take effect 60 days after its passage. The DRA would not have sufficient time to fully implement this program within 60 days of passage.