



# SB 193 Policy Analysis

Updated: December 6, 2017

# Reaching Higher NH: A Public Education Policy Resource

## What we do

Track, report on, and explain public education legislation in a way that stakeholders can understand and use to make informed decisions.



Convene and work with parents, students, educators, and business and community leaders to gather stories, different points of view, and information to share with the Granite State community.



Prepare and deliver issue briefs on critical topics in education.



Support local innovation through special projects in communities throughout NH.



Reaching Higher NH is a nonpartisan public education policy resource for New Hampshire families, educators, and elected officials.

Our mission is to support high quality public education for every student in New Hampshire.

We provide resources and analysis to help raise public awareness and engagement around efforts to bring together communities and create opportunities to develop and/or support the following:

- 21<sup>st</sup> century skills;
- Diminish dropout rates;
- Encourage the development of personalized career pathways; and,
- Reduce reliance on high stakes testing and expand innovative, locally-driven models of instruction and assessment.

# Key Terms

**Federal Poverty Level (FPL)** - A measure of income issued every year by the Federal Department of Health and Human Services (HHS).

For 2017, the levels were:

\$12,060 for individuals

\$16,240 for a family of 2

\$20,420 for a family of 3

\$24,600 for a family of 4

**Free/Reduced Price Lunch (FRL)** - Federal program to provide free or reduced price meals; available to students from families who earn between 130% and 185% of the federal poverty level.

**Individualized Education Program (IEP)** - a written statement for a child with a disability that addresses specific components of the child's education including current level of performance, annual goals, the specific services and supports the student will receive, and any modifications or accommodations that will be made for things such as assessments; IEPs are revised annually.



# Introduction

Senate Bill (SB) 193 has undergone a number of revisions since April 2017, with many new components to the bill that merit public attention and analysis. The basic concept remains the same - SB 193 would establish a statewide Education Freedom Savings Account program (hereafter, we use the term voucher to describe the program), where a parent or guardian signs a contract with an independent scholarship organization to receive a voucher of up to 95% of the state adequacy funding per pupil (about \$3,600 plus differentiated aid). Aspects of the bill that are new or that have changed over time include eligibility criteria, stabilization funds, the treatment of special education, academic accountability, and public oversight.

**In this analysis we will break down the legislation, as amended, that was voted Ought-to-Pass (OTP) by the House Education Committee on November 15<sup>th</sup>, 2017. Specifically we will focus on:**

1. **Eligibility Criteria**
2. **Stabilization Grants**
3. **Financial Impacts**
4. **Special Education**
5. **Academic Accountability**
6. **Public Oversight**

# Eligibility

## Language in Legislation

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

(a)(1) Who is currently attending a New Hampshire public school, including a chartered public school, for a minimum of one year; or

(2) Who received an account in the prior year; or

(3) Who is entering kindergarten or first grade; and

(b)(1) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902(2); or

(2) Who is assigned to a school that for 2 consecutive years has been unable to demonstrate that it provides the opportunity for an adequate education pursuant to RSA 193-E:3-b; or

(3) Who has an individualized education program (IEP) or an accommodation plan under section 504 of the Rehabilitation Act of 1973; or

(4) Who applied and was not admitted to a chartered public school or whose application for an education tax credit scholarship pursuant to RSA 77-G was not funded.



# Eligibility

Eligibility has 3 main components:

1

NH resident between 5 and 20 who has not graduated from high school

2

Attending a New Hampshire public school for at least a year

OR

Received a voucher the prior year

OR

Entering Kindergarten or First Grade

3

Annual household income is less than or equal to 300% of the Federal Poverty Guidelines (~\$73,800 for a family of 4)

OR

Assigned to a school that for two consecutive years has been unable to demonstrate that it provides the opportunity for an adequate education pursuant to RSA 193-E:3-b

OR

Has an individualized education program (IEP) or an accommodation plan under section 504 of the Rehabilitation Act of 1973

OR

Applied and was not admitted to a chartered public school or had an application for an education tax credit scholarship pursuant to RSA 77-G that was not funded

AND

AND

# Eligibility in Numbers (slide 1 of 2)

Students age 5-20 who have not graduated from high school and who are attending NH public school (for at least a year)

**Annual Income < 300% FPL**

**Minimum of ~40,000**

43,993 public school students in Grades 1-12 (excludes charter schools) in 2016-2017 were eligible for free / reduced price lunch (<185% FPL)

**School unable to provide adequate education (for 2 consecutive years)**

**TBD / Unknown**

There is no public data to determine how many students would be eligible under this criterion

**IEP or Accommodation Plan**

**28,935**

28,935 public school students in 2016 were reported as students with disabilities by the New Hampshire Department of Education (some % of this number overlaps with students < 300% FPL, but we do not know the exact number)

**Charter School or Tax Credit Scholarship**

**Unknown**

There is no cap on the # of students who can apply to charter schools nor is there an income restriction for applying to charter schools (there is an income restriction for the tax credit scholarships)

# Eligibility in Numbers (slide 2 of 2)

Students age 5-20 who have not graduated from high school and who are entering First Grade or Kindergarten (i.e., Private School or Homeschooling)

## Annual Income < 300% FPL

In 2016, there were **2,365 students** in private school who were in preschool, kindergarten, or readiness; we do not know what % of these students would qualify under the income threshold.

## School unable to provide adequate education (for 2 consecutive years)

**0**

Private schools and homeschooling are not held to the state accountability standards for providing an adequate education

## IEP or Accommodation Plan

**~20**

2015 (latest data available) New Hampshire reported 20 students who were age 6 for parental placement in private school

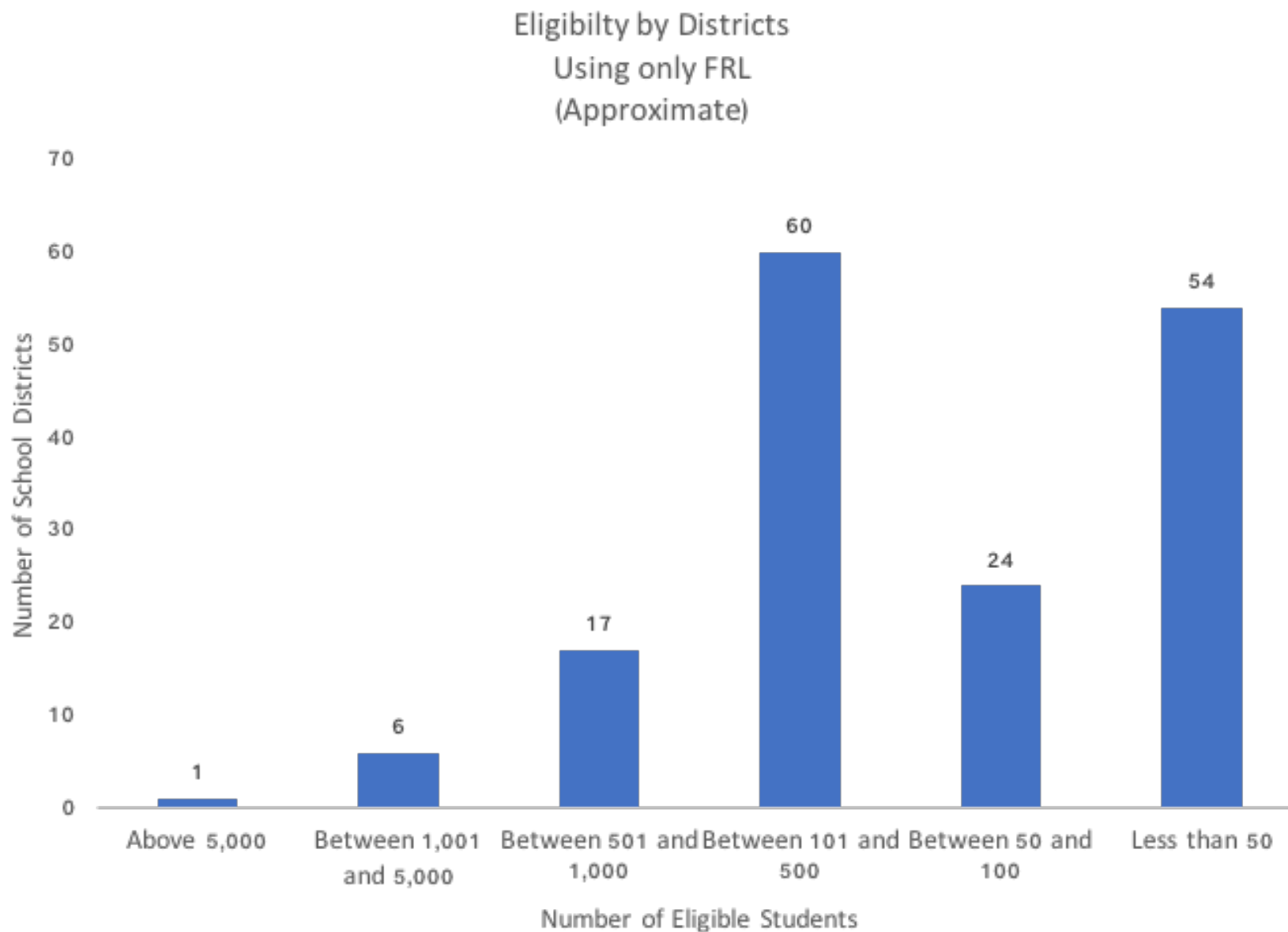
## Charter School or Tax Credit Scholarship

**Unknown**

There is no cap on the # of students who can apply to charter schools nor is there an income restriction for applying to charter schools (there is an income restriction for the tax credit scholarships)



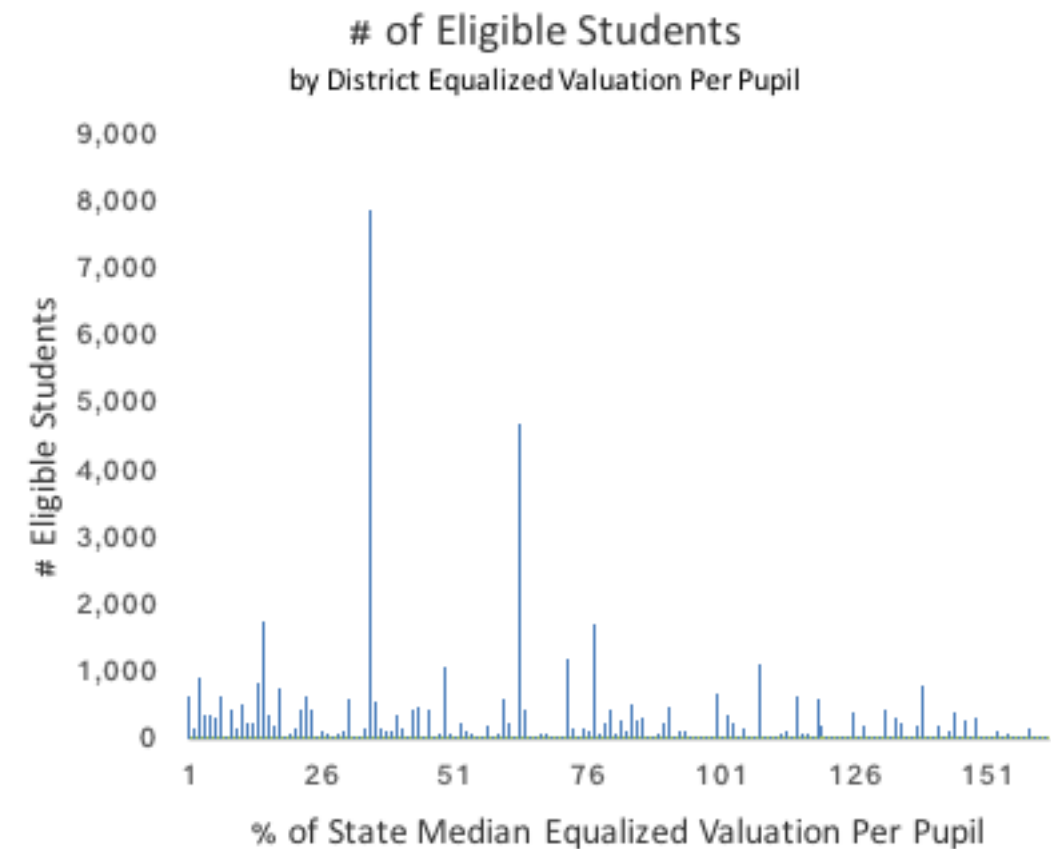
# Eligibility in Graphs (slide 1 of 3)



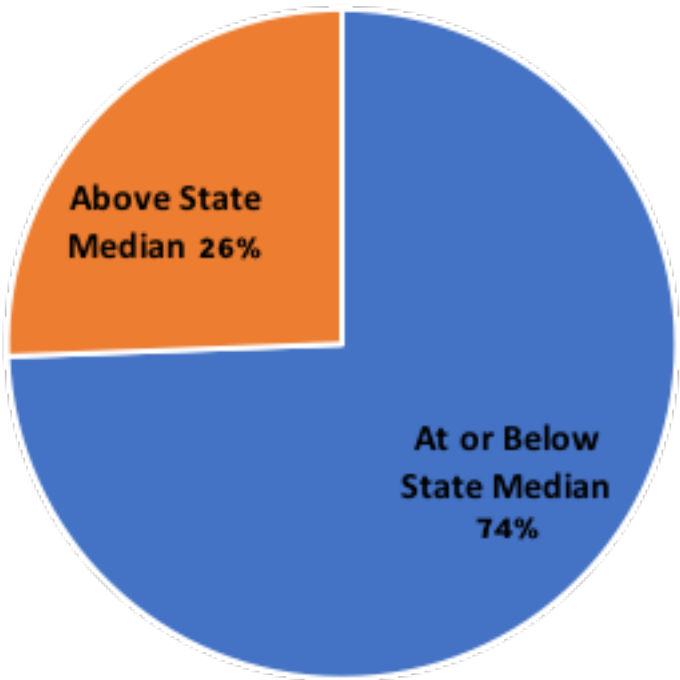
Top 10 Districts	
Manchester	7,737
Nashua	4,684
Rochester	1,952
Concord	1,672
Dover	1,197
Laconia	1,120
Keene	1,085
Claremont	894
Derry Cooperative	890
Governor Wentworth Regional	813

# Eligibility in Graphs (slide 2 of 3)

Over **70%** of eligible students will be in districts where the equalized valuation per pupil is at or below the state median

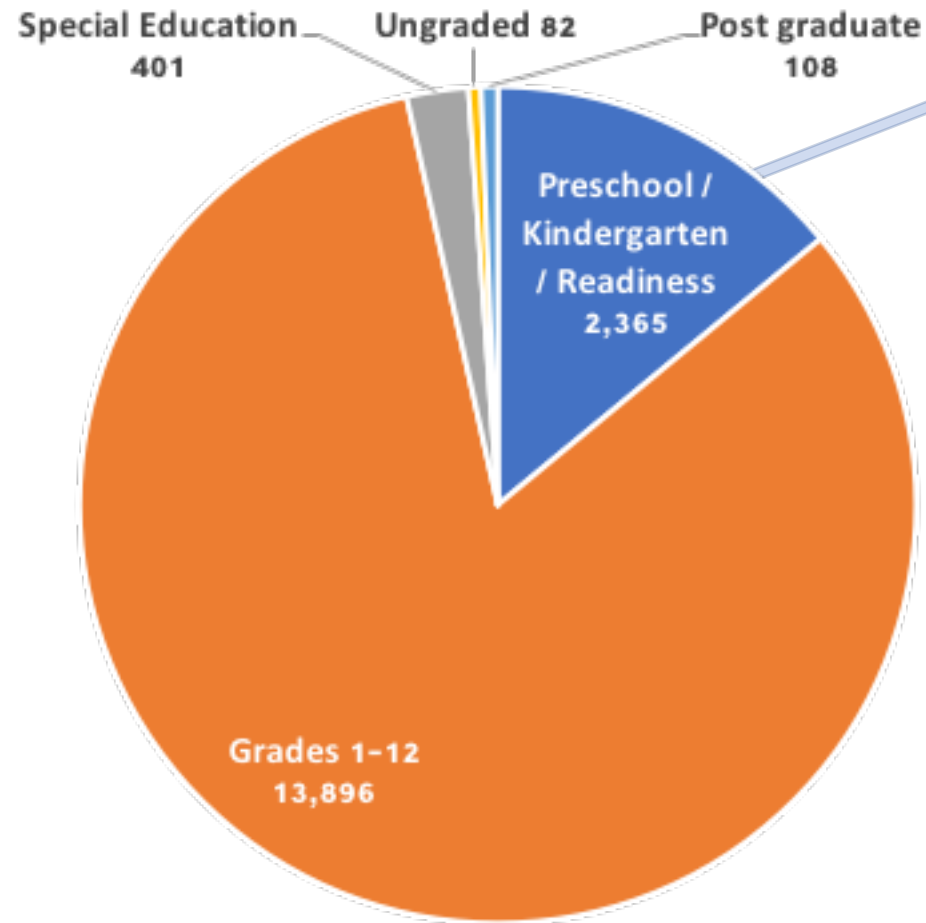


Eligibility by District Equalized Valuation Per Pupil



# Eligibility in Graphs (slide 3 of 3)

## NH Department of Education 2016 Enrollment - Private School



# of Current Private School Students who will be entering Kindergarten or First Grade in 2018

**~2,365**



% from Households with Income  $\leq$  300% FPL

**Assume 30%**



**~710 Students**

# Eligibility Key Takeaways

- Total eligible populations unknown, but the minimums are significant (>~40,000 statewide), with highest concentrations in communities most sensitive to fluctuations in enrollment and revenue (i.e., low equalized valuation per pupil)
- Charter school / education tax credit scholarship criteria expand eligibility to students from households of any income level (i.e., no income restriction) and will prove extremely difficult for a select number of districts (i.e., those in closest proximity to charter schools and high concentrations of private schools) to effectively forecast
- Substantial numbers of students currently in private school or homeschooling will be eligible for vouchers that will require the state to spend new money

# Stabilization Grants

## Language in Legislation

194-E:6 Stabilization Grant.

I. For each school district, the commissioner shall calculate the amount of the reduction in the adequate education grant resulting from students receiving a scholarship under this chapter and who were in attendance in the school district in the year prior to receiving a scholarship. If the combined amount is greater than  $\frac{1}{4}$  of one percent of a school district's total voted appropriations for the year prior to the year in which the scholarship is received, the commissioner shall disburse a scholarship stabilization grant for the current fiscal year and the next 4 fiscal years to each such school district equal to the amount of the reduction in excess of  $\frac{1}{4}$  of one percent. This scholarship stabilization grant shall be included in the September 1 disbursement required pursuant to RSA 198:42.



# Stabilization Grants

## Basic Process for Projecting Stabilization Grants

### Total Enrollment (#)

Multiply each district's total enrollment by the % of students who qualify - we use FRL eligibility (<185% FPL) though the bill extends eligibility to students from households < or = to 300% FPL

### Eligible Students (#)

Multiply each district's eligible student population by the assumed take-up rate (e.g., 3%)

### New Voucher Students (#)

### Lost State Aid (\$)

Multiply the # of new voucher students by the per pupil lost state aid of **\$5,454 (Base + FRL)**

### ¼ of 1% of Appropriations (\$)

If the lost state aid > ¼ of 1% of the prior year's voted appropriations, stabilization = (lost state aid) - (¼ of 1% of the appropriations)

### Year Stabilization Grant (\$)

### Returning Vouchers (#)

Some voucher students will later return to public school - we account for this by multiplying the total voucher students by an assumed return rate (e.g., 25%) and adding this back into total enrollment

### Cumulative Stabilization (\$)

Each annual stabilization grant has a 5 year lifespan, so in year 3, for example, a district will receive stabilization funds for Years 1, 2, & 3

# Stabilization Grants Example - Manchester

## Basic Process for Projecting Stabilization Grants

**2016-2017 Total Enrollment**

**13,887**

13,887 students x **57% FRL**

**Eligible Students**

**7,916**

7,916 students x **3% take-up rate**

**New Voucher Students**

**237**

**Lost State Aid**

**\$1,292,598**

237 new voucher students x  
**\$5,454**

**=\$1,292,598**

**¼ of 1% of Appropriations**

**\$432,000**

Lost state aid (**\$1,292,598**) > ¼  
of 1% of appropriations  
(**\$432,000**)

**Year 1 Stabilization Grant**

**\$860,598**

# Stabilization Grants Technical Notes

- The bill states that “For each school district, the commissioner shall calculate the amount of the reduction in the adequate education grant resulting from students receiving a scholarship under this chapter and who were in attendance in the school district in the year prior to receiving a scholarship...”
  - Students **do not receive scholarships under SB 193** - they receive “accounts”; this language appears copied from RSA 77-G, which deals with the Education Tax Credit Scholarship program (where students are awarded scholarships).
- The bill stipulates that stabilization grants must be included in the September 1 disbursement of state adequacy aid , but in practice, students may select a voucher after that date.
- Stabilization grants under SB 193 will require **NEW** state spending (unlike with the Education Tax Credit Scholarship program).

# Financial Implications

**Under Any Realistic Scenario, 3 things will happen:**

1. Districts will lose significant funds (up to 1/4 of 1% of annual appropriations) in **year 1** (e.g., ~\$430,000 in Manchester)
2. The State will direct new spending towards stabilization grants that **grow in size** over the 5 years
3. The State will direct new spending for **students currently in private school and homeschooling** who will be eligible for a voucher

# Financial Implications - Assumptions

Model Assumptions / Inputs	Rationale	Source
% FRL as % Eligible (we use median % FRL from past 3 years)	<ul style="list-style-type: none"> <li>Publicly-available Data - Districts do not track % students from households who earn at or less than 300% FPL</li> <li>Conservative estimate (185% FPL as opposed to 300%)</li> </ul>	NH DOE
Adoption Rate of 3% (~1,500 vouchers in year 1)	<ul style="list-style-type: none"> <li>Comparable program (Indiana) has adoption rate of ~3%</li> <li>NH CSF reported over 1,800 applications last year</li> </ul>	N/A
Return Rate of 25%	<ul style="list-style-type: none"> <li>Average tenure in Florida's McKay Program is 3.6 years</li> </ul>	N/A
Per Pupil State Aid of \$5,454	<ul style="list-style-type: none"> <li>FY 2018 Adequacy Aid amounts</li> <li>Base (\$3,636) + FRL (\$1,818)</li> <li>Conservative estimate as it excludes any additional differentiated aid such as that for special education and English-language learners</li> </ul>	NH DOE
Enrollment (we use 2016-2017 as the base year and then take the average rate of change for past 3 years and reduce it by 1/3)	<ul style="list-style-type: none"> <li>Demographic projections indicate a slowing rate of change in state demographics</li> </ul>	NH DOE
Appropriations as reported on 2017 MS-22-R	<ul style="list-style-type: none"> <li>Publicly-available data</li> <li>Future changes in appropriations (within reasonable estimates) have relatively limited impact on overall outcomes</li> </ul>	NH DRA

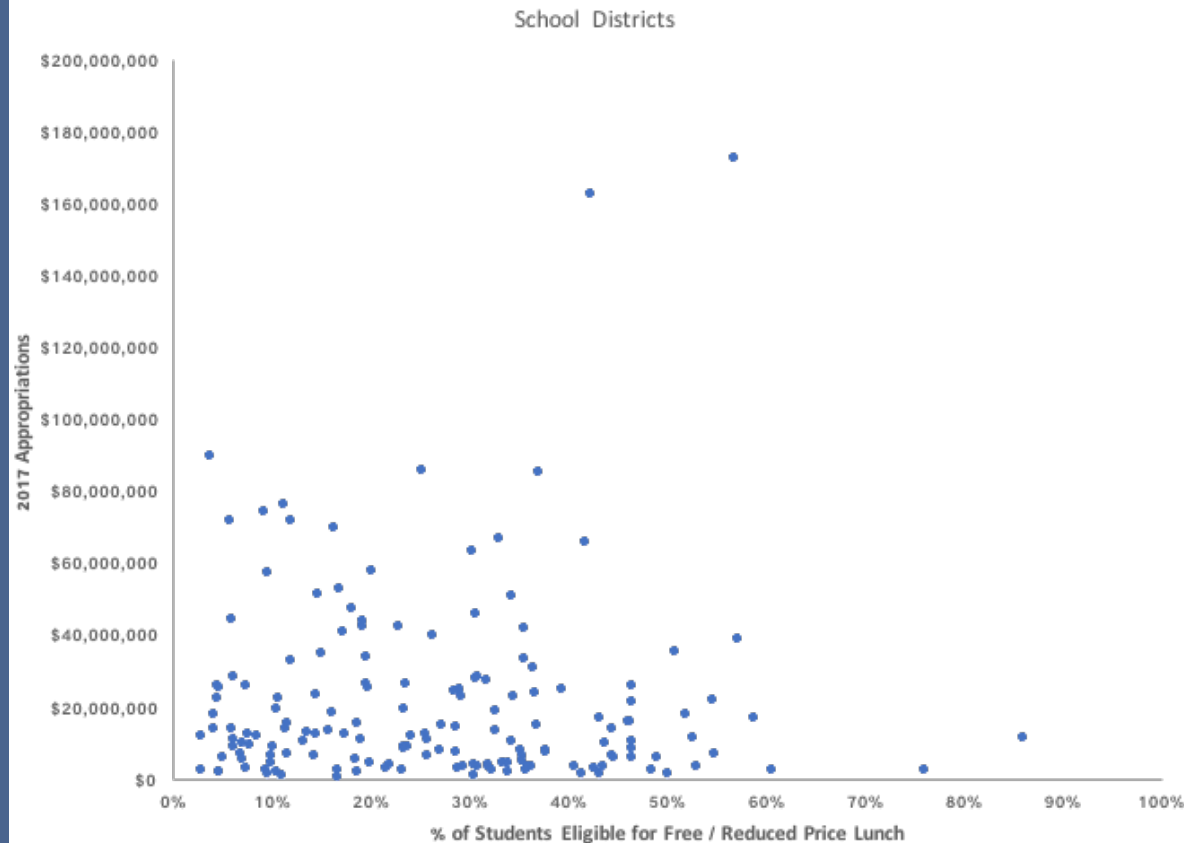
**The RHNH model understates overall impact by focusing only on students eligible due to household income. Even with this population, for students currently in public school, the model only considers students from families who earn <185% FPL. The projected financial impact could be best understood as a reasonable minimum.**



# Financial Implications - Lost State Aid in Year 1

SB 193 will have most discernable impact in Year 1 on larger school districts serving higher % of FRL students

Year 1 Total Lost State Aid (factoring in stabilization grants) = **~\$5.8 million**



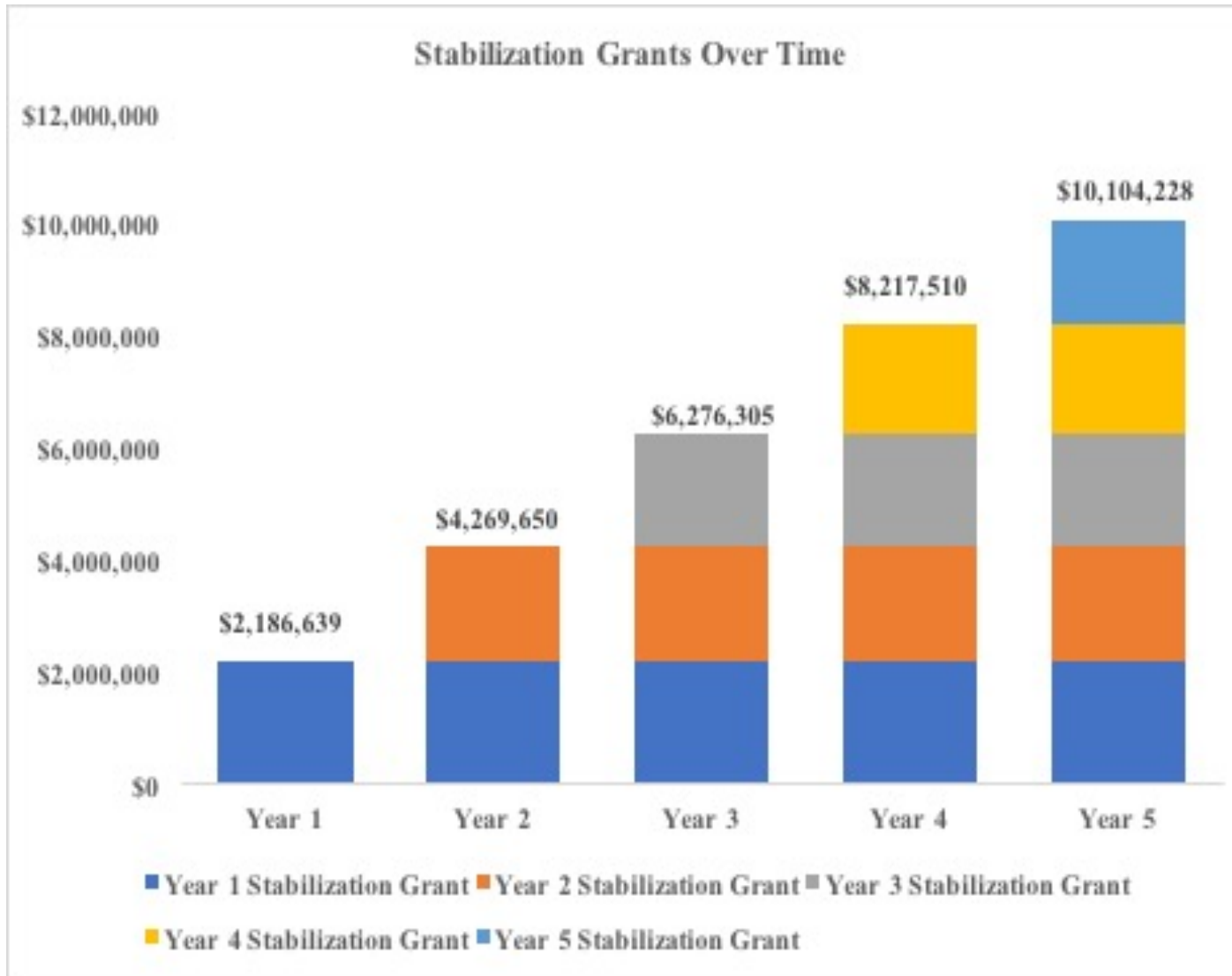
Top 20 Districts by Lost State Aid in Year 1	Projected Year 1 Loss in State Aid
Manchester	\$432,009
Nashua	\$407,388
Concord	\$213,684
Keene	\$169,130
Rochester	\$164,945
Dover	\$158,294
Derry Cooperative	\$147,260
Governor Wentworth Regional	\$127,453
Contoocook Valley	\$109,082
Conway	\$104,359
Merrimack Valley	\$100,078
Hudson	\$98,173
Salem	\$98,173
Laconia	\$97,188
Claremont	\$88,355
Monadnock Regional	\$83,420
Londonderry	\$81,811
Goffstown	\$81,811
Timberlane Regional	\$81,811
Fall Mountain Regional	\$77,766

# Financial Implications - Lost State Aid in Year 1

There are 40 districts that will likely lose state aid equal to the full ¼ of 1% of their appropriations at adoption rates below 3% - if just over **1%** of eligible students in Manchester select a voucher, for example, the district will lose over **\$430,000** in state aid in year 1

Voucher Adoption Rate Necessary for District to Lose Full Amount of State Aid in Year 1							
District	Year 1 Projected Enrollment	% FRL	Eligible Population	2017 Appropriations	1/4 of 1%	# Students	Adoption Rate
Manchester	13,626	56.8%	7,737	\$172,803,505	\$432,009	80	1.03%
Franklin	1,039	58.7%	610	\$16,840,308	\$42,101	8	1.31%
Rochester	4,215	46.3%	1,952	\$65,978,020	\$164,945	31	1.59%
Nashua	11,016	42.5%	4,684	\$162,955,201	\$407,388	75	1.60%
Laconia	1,959	57.2%	1,120	\$38,875,046	\$97,188	18	1.61%
Somersworth	1,549	46.6%	721	\$25,725,172	\$64,313	12	1.66%
Northumberland	346	50.8%	176	\$6,021,159	\$15,053	3	1.70%
Berlin	1,159	54.7%	634	\$22,005,419	\$55,014	11	1.74%
Newport	1,035	50.0%	518	\$17,970,087	\$44,925	9	1.74%
White Mountains Regional	1,142	46.5%	531	\$21,464,687	\$53,662	10	1.88%
Claremont	1,760	50.8%	894	\$35,342,096	\$88,355	17	1.90%
Farmington	841	48.4%	407	\$16,217,471	\$40,544	8	1.97%
Pittsfield	578	52.7%	305	\$11,535,763	\$28,839	6	1.97%
Lisbon Regional	333	45.3%	151	\$6,153,653	\$15,384	3	1.99%
Plymouth	421	47.6%	200	\$8,188,321	\$20,471	4	2.00%
Seabrook	745	46.2%	344	\$14,077,440	\$35,194	7	2.03%
Winchester	437	67.2%	294	\$11,463,561	\$28,659	6	2.04%
Thornton	195	47.3%	92	\$4,333,454	\$10,834	2	2.17%
Newfound Area	1,241	39.8%	494	\$23,900,626	\$59,752	11	2.23%
Ashland	159	52.9%	84	\$3,394,031	\$8,485	2	2.38%
Campton	303	41.5%	126	\$6,296,767	\$15,742	3	2.38%
Concord	4,587	36.5%	1,672	\$85,473,497	\$213,684	40	2.39%
Shaker Regional	1,312	34.5%	452	\$22,786,890	\$56,967	11	2.43%
Mascenic Regional	1,056	34.8%	367	\$19,075,303	\$47,688	9	2.45%
Monadnock Regional	1,635	39.6%	647	\$33,367,862	\$83,420	16	2.47%
Dover	3,954	30.3%	1,197	\$63,317,505	\$158,294	30	2.51%
Fall Mountain Regional	1,541	38.0%	585	\$31,106,299	\$77,766	15	2.56%
Winnisquam Regional	1,421	35.5%	504	\$27,483,635	\$68,709	13	2.58%
Colebrook	333	46.5%	155	\$8,454,317	\$21,136	4	2.58%
Littleton	693	44.5%	308	\$16,719,045	\$41,798	8	2.60%
Merrimack Valley	2,442	29.7%	726	\$40,031,166	\$100,078	19	2.62%
Milton	511	37.5%	191	\$10,568,758	\$26,422	5	2.62%
Hillsboro-Deering Cooperative	1,157	39.3%	455	\$24,818,244	\$62,046	12	2.64%
Bethlehem	172	43.5%	75	\$3,354,986	\$8,387	2	2.67%
Wakefield	428	43.8%	187	\$9,792,689	\$24,482	5	2.67%
Haverhill Cooperative	659	39.5%	260	\$15,029,186	\$37,573	7	2.69%
Wentworth	58	61.5%	36	\$1,571,826	\$3,930	1	2.78%
Conway	1,765	39.3%	694	\$41,743,709	\$104,359	20	2.88%
Keene	3,270	33.2%	1,085	\$67,652,106	\$169,130	32	2.95%
Governor Wentworth Regional	2,371	34.3%	813	\$50,981,395	\$127,453	24	2.95%

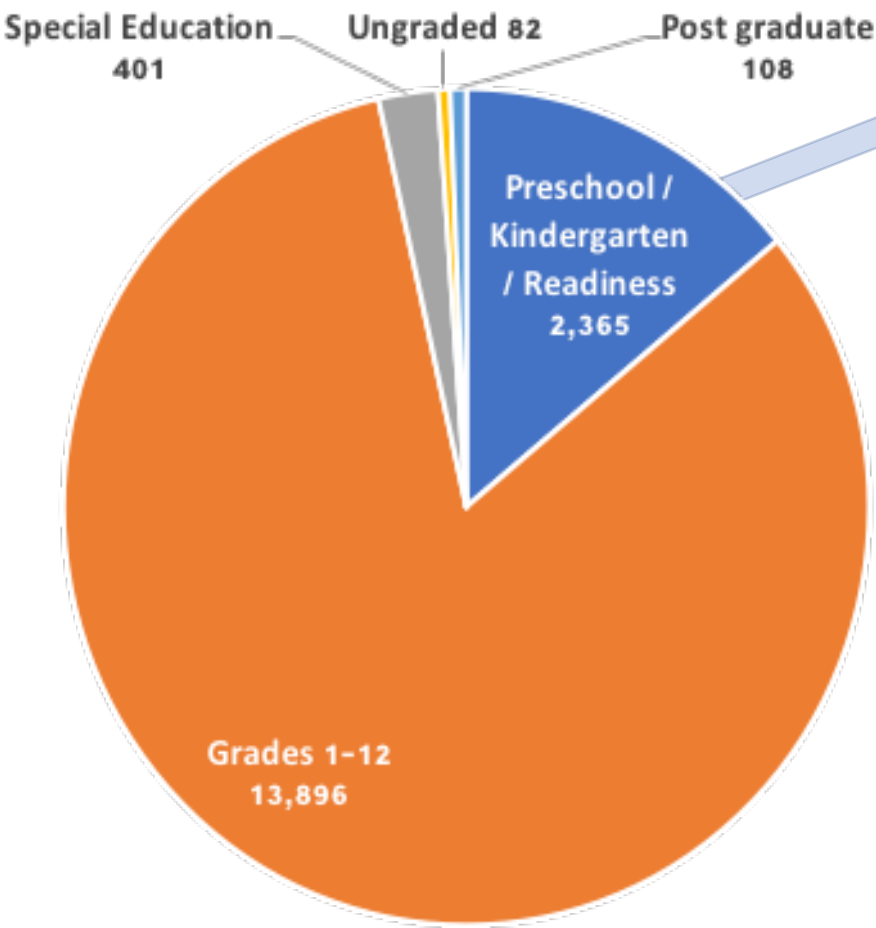
# Financial Implications - Stabilization Over Time



- At a 3% take up rate, in Year 1 (2018), New Hampshire will need to appropriate **~\$2.2 million** for stabilization grants.
- By Year 5, this number will grow to **~\$10.1 million**.
- Total New State Spending over 5 Years on Stabilization Grants = **~\$31 million**.

# Financial Implications - Current Private School

NH Department of Education 2016 Enrollment - Private School



# of Current Private School Students  
who will be entering Kindergarten or  
First Grade in 2018  
**~2,365**



% from Households with Income =/<  
300% FPL  
**Assume 30%**



Per Pupil State Adequacy Grant  
**\$3,636**



Annual New State Spending  
**~\$2,579,742**

# Financial Implications - Key Takeaways

Under Any Realistic Scenario, 3 things will happen:

1. Districts will lose significant funds ( up to 1/4 of 1% of annual appropriations) at least in **year 1** (e.g., ~\$430,000 in Manchester)
2. The State will direct **new spending** towards stabilization grants that **grow in size** over the 5 years
3. The State will direct **new spending** for **students currently in private school and homeschooling** who will be eligible for a voucher

Year 1 Total Lost State Aid =  
**~\$5.8 million**

Year 1 Stabilization =  
**~\$2.2 million**  
Year 5 Stabilization =  
**~\$10.1 million**

Annual New State Spending =  
**~\$2.6 million**



# Special Education

## Language in Legislation

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



# Special Education - the Basics

All public school districts are responsible for Child Find - the process to identify students within each district's geographic boundaries who may require special education and related services



## **Student with Disability Attends Public School**

- IEP
- Individuals with Disabilities Education Act (IDEA)
  - Free Appropriate Public Education (FAPE)
  - Least Restrictive Environment (LRE)
  - 10 Day Rule
  - Due Process
- NH Special Education Rules
- Individualized Services



## **Student with Disability Parental Placement in a Private School**

- Service Plan
- 34 CFR 300.130 - 34 CFR 300.144
- State rules reference 34 CFR 300.130 - 34 CFR 300.144
- Equitable Services

# Special Education – Parental Placement (1 of 2)

	Public School	Parental Placement in Private School
<b>Responsible District</b>	Student's local district	The private school's local public school district
<b>Services</b>	<b>Individualized Services</b> – A student's IEP identifies the services and supports that the public school district must provide to ensure the student receives a free, appropriate public education (FAPE) in the least restrictive environment (LRE)	<b>Service Plan</b> – <ul style="list-style-type: none"><li>Public school districts must make provisions for the participation of parentally-placed students with disabilities in special education and related services</li><li>Public school district must develop a service plan that identifies services that will be made available to the student – no requirement for FAPE or LRE</li></ul>
<b>Funding</b>	<b>Service-dependent, not budget dependent</b> (i.e., an IEP dictates services and supports districts must provide using federal, state, and local funds)	<b>Equitable Services – budget constrained</b> <ul style="list-style-type: none"><li>Public school districts must spend a portion of their IDEA subgrants (from the federal government) on parentally-placed students with disabilities</li><li>The portion is determined by the ratio of parentally-placed students with disabilities to the total number of students with disabilities in the district</li><li>Example – a district serving 100 students with disabilities, where 10 students are parentally-placed, must spend 10% of its IDEA subgrant on the parentally-placed students</li></ul>

# Special Education – Parental Placement (2 of 2)

	Public School	Parental Placement in Private School
IDEA protections	<ul style="list-style-type: none"><li>• <b>Free, appropriate public education (FAPE)</b> - The right to a public education, provided at no cost to parents, adapted to meet a student's needs as shown in the IEP.</li><li>• <b>Least restrictive environment (LRE)</b> - The right to learn in a general education setting "to the maximum extent that is appropriate" and only learn in separate settings when to do otherwise would prevent the student from receiving an appropriate education.</li><li>• <b>10-Day Rule</b> - Where a student with disabilities is suspended from school for a total of 10 days, the school must hold a meeting to determine whether the student's disability is contributing to the actions resulting in suspension; if this is the case, then additional measures must be taken (by the school) to support the student.</li><li>• <b>Due Process Rights</b> - The right to an appeals process to challenge decisions made by the school with respect to the student's education.</li></ul>	<ul style="list-style-type: none"><li>• 34 CFR 300.137 - <b><i>No individual right to special education and related services.</i></b> No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.</li><li>• No FAPE, LRE, 10 Day Rule, or Due Process Rights (except with respect to Child Find)</li><li>• No right to an annual review of a student's service plan</li></ul>

# Special Education - Key Takeaways

- SB 193 requires **parents and students to waive their rights under IDEA** (and other federal laws) in order to receive a voucher.
- According to a recently-released [report](#) from the U.S. Government Accountability Office (an independent, nonpartisan agency) the experience of programs comparable to SB 193 in other states indicates parents of students with disabilities **may not be aware of the manner in which their student will be treated differently under parental placement.**
- SB 193 **does not require** the Department of Education or scholarship organization to provide a briefing for parents and students outlining the differentiated treatment and ensuring all decisions are made with full knowledge of the potential outcomes.



# Academic Accountability

## Language in Legislation

- (a) The parent of an eligible student may receive a grant from a scholarship organization if the parent signs a contract with the scholarship organization to withdraw the student from public school and 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. Students who have an education freedom savings account grant shall be administered an annual assessment in reading and language arts, mathematics, and science as defined in RSA 193-C:6. Annual student assessment results shall be provided to the scholarship organization by the end of each school year and the scholarship organization shall make aggregate scores available to the commissioner. The assessment may be any nationally recognized standardized assessment used to measure student academic achievement and growth and that provides a normal curve equivalent score. A student who requests permission to take the annual assessment at his or her resident school district shall be granted permission to do so and the resident school district shall pay the costs associated with taking the assessment.
- VIII.(a) The parent shall maintain accountability and responsibility for the education of their eligible student. Each provider, in consultation with students' parents or legal guardians and students where age-appropriate, shall establish academic growth goals for the student at the outset of each academic year and shall regularly measure students' academic growth throughout the school year. In measuring each student's progress toward achieving those goals throughout the school year, the provider may use a variety of assessment tools and participating students shall take either the statewide assessment test or a nationally norm-referenced test that measures learning gains. (b) Upon receiving assessment results for 2 consecutive years that identify a student as not making satisfactory academic growth, the scholarship organization shall work with the parent and service providers to develop and implement an appropriate intervention plan. The intervention plan shall include a process for monitoring student growth and progress. The scholarship organization shall also review the use of education freedom savings account funds to ensure expenses best address the student's academic growth.

# Academic Accountability

## Language in Legislation (cont.)

- IX. The parent shall provide the scholarship organization with an annual educational evaluation that includes annual assessment results from either a nationally standardized norm- referenced achievement test, the statewide student assessment test, or other valid measurement tool mutually agreed upon by the parent and the commissioner, resident school district superintendent, or nonpublic school principal that documents the student's demonstration of educational progress at a level commensurate with the student's age and ability. The student shall be deemed to have successfully completed his or her annual evaluation upon meeting the following requirements:
  - (a) A certified teacher or a teacher currently teaching in a nonpublic school, who is selected by the parent, shall evaluate the student's educational progress upon review of a portfolio of records and materials including, but not limited to, a log designates by title the reading materials used; samples of writings, worksheets, workbooks, or creative materials used or developed by the student; and discussion with the parent or student; and
  - (b) The student shall take any nationally standardized norm-referenced achievement test designed to measure student academic achievement and growth that complies with RSA 194- E:2, I(a), administered by a person who meets the qualifications established by the provider or publisher of the test. Composite results at or above the fortieth percentile or growth in academic skills on such tests shall be deemed reasonable academic proficiency or satisfactory growth; or
  - (c) The student shall take a state student assessment test used by the resident school district. Composite results at or above the fortieth percentile or a normal curve equivalent score showing progress in academic skills as reflected on such state test shall be deemed reasonable academic proficiency or satisfactory academic learning growth; or
  - (d) The student shall be evaluated using any other valid measurement tool mutually agreed upon by the parent and the commissioner of education, resident district superintendent, or nonpublic school principal.

# Academic Accountability

## 1. Annual Assessment

“Students who have an education freedom savings account grant **shall** be administered an annual assessment in reading and language arts, mathematics, and science as defined in **RSA 193-C:6**...The assessment may be any nationally recognized standardized assessment used to measure student academic achievement and growth and that provides a normal curve equivalent score.”

## 2. Annual Growth Goals

“Each provider, in consultation with students’ parents or legal guardians and students where age-appropriate, shall establish academic growth goals for the student at the outset of each academic year and shall regularly measure students’ academic growth throughout the school year.”

## 3. Annual Educational Evaluation - Certified teacher or nonpublic school teacher evaluate student’s portfolio AND

A. Student takes any nationally standardized norm-referenced achievement test - composite results at or above the **fortieth percentile or growth in academic skills** on such tests shall be deemed reasonable academic proficiency or satisfactory growth; **OR**

B. Student takes state student assessment test used by the resident school district - composite results at or above the **fortieth percentile or a normal curve equivalent score showing progress** in academic skills as reflected on such state test shall be deemed reasonable academic proficiency or satisfactory academic learning growth; **OR**

C. Any other **valid** measurement tool mutually agreed upon by the parent and the commissioner of education, resident district superintendent, or nonpublic school principal.

**Standard** - “Upon receiving assessment results for 2 consecutive years that identify a student as not making satisfactory academic growth, the scholarship organization shall work with the parent and service providers to develop and implement an appropriate intervention plan.”

# Academic Accountability - Key Takeaways

- **SB 193 contains accountability requirements that appear to be in contradiction with each other.** The bill seems to compel (#1 last slide) any student who selects a voucher to take the annual statewide assessment ([as defined in RSA 193-C:6](#)). However, the bill also contains language (#3 last slide) that indicates the accountability requirements for voucher students could be satisfied with an annual portfolio review and one other measurement tool agreed upon by the parents, the Commissioner of Education, resident superintendent, or private school principal. This issue complicates efforts to assess related potential academic impacts.
- SB 193 does not require a consistent assessment mechanism - this may complicate efforts to evaluate student growth and enforce the requirement for an intervention plan in the event a student does not demonstrate satisfactory growth over two consecutive years.
- Where students selecting a voucher are required to take the annual statewide assessment, shareholders are able to evaluate and compare academic results to ensure students are realizing their learning goals; this is not the case when such a statewide assessment is not used.

# Public Oversight

## Language in Legislation

XI. “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.

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 and the treasurer.
- III. Provide the unique pupil identifier and date of birth for each eligible student to the department if available. All entering kindergarten and first grade students who apply for the program must obtain a unique pupil identifier from the department.
- IV. In cooperation with the department determine, within 30 days of the completed application for an eligible student, eligibility for differentiated aid subject to any applicable state and federal laws.
- V. Comply with all federal and state laws regarding student privacy.
- VI. Review all receipts for fees and services pursuant to 194-E:2, II.
- VII. Provide annual reports on the number of students participating in the program, the providers of services to students, and the value of the students’ eligible accounts of the program funds to the department, chairman of the house education committee, and the chairman of the senate education committee.
- VIII. Provide an annual report to the speaker of the house of representatives, the president of the senate, the chairman of the house education and finance committees, the chairman of the senate education and finance committees, the governor, the joint legislative oversight commission pursuant to RSA 194-E:6 and the department including:
  - (a) The number of eligible students with accounts.
  - (b) A list of nonpublic schools and educational service providers including the number of eligible students served per school and educational service provider.
  - (c) The value of eligible student account funds utilized for services during the year.

# Public Oversight

## Language in Legislation (cont.)

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

IX. Conduct an annual survey of parents of eligible students with accounts. The survey shall include, but not be limited to, 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.

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

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

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

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

194-E:7 Oversight Commission; Report.

I. There is hereby established an education freedom savings account oversight commission. The commission shall jointly meet at least twice a year and shall monitor the implementation of this chapter, and make recommendations for any legislative changes to the education freedom savings account program. The commission shall include 2 senators appointed by the president of the senate, 3 members of the house of representatives, including the chairpersons of the house finance and education committees, appointed by the speaker of the house of representatives, the commissioner of the department of education or designee, the administrator or chief executive officer of the scholarship organization, and one member of the state board of education appointed by the chairperson of the state board of education.

II. The commission shall provide a report on or before November 1 of each year to the general court including findings, recommendations, and any corrective or technical improvements that the education freedom savings account program may require. The scholarship organization shall develop and implement a plan to be approved by the commission that addresses corrective and technical recommendations made by the oversight commission.

III. The commission shall provide an education freedom savings account program review report which shall be released to the public on or before November 1, 2022 and to the general court recommending that:

(a) Legislation be submitted to the general court that the education freedom savings account program be renewed in whole, or

(b) Legislation be submitted to the general court that the education freedom savings

account program be renewed, but with changes to correct findings or any other issues identified during the review process, or

(c) Legislation not be submitted to renew the education freedom savings account program and that the program shall be repealed effective July 1, 2023.

# Public Oversight

3 primary sources of public oversight:

## 1. Reporting Requirements for the Scholarship Organization(s)

- Annual reports on the number of students participating in the program, the providers of services to students, and the value of the students' eligible accounts of the program funds to the department, chairman of the house education committee, and the chairman of the senate education committee.
- Annual report to the speaker of the house of representatives, the president of the senate, the chairman of the house education and finance committees, the chairman of the senate education and finance committees, the governor, the joint legislative oversight commission pursuant to RSA 194-E:6 and the department including:
  - (a) The number of eligible students with accounts.
  - (b) A list of private schools and educational service providers including the number of eligible students served per school and educational service provider.
  - (c) The value of eligible student account funds utilized for services during the year.
- Conduct an annual survey of parents of eligible students with accounts. The survey shall include, but not be limited to, 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.

## 2. Attorney General's Office to Investigate Fraud

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

## 3. Education Freedom Savings Account Oversight Commission

- The commission shall jointly meet at least twice a year and shall monitor the implementation of this chapter, and make recommendations for any legislative changes to the education freedom savings account program. The commission shall include 2 senators appointed by the president of the senate, 3 members of the house of representatives, including the chairpersons of the house finance and education committees, appointed by the speaker of the house of representatives, the commissioner of the department of education or designee, the administrator or chief executive officer of the scholarship organization, and one member of the state board of education appointed by the chairperson of the state board of education.

# Public Oversight - Key Takeaways

- Reaching Higher estimates that if 3% of eligible public school students select a voucher, scholarship organizations will receive **over \$375,000 in public money** every year for administrative expenses.
- The oversight commission established by SB 193 includes on it “the administrator or chief executive officer of the scholarship organization...” - this may impact the overall rigor and nature of that oversight.
- SB 193 does not prohibit board members and/or staff of scholarship organizations from having financial interests in educational providers (e.g., private schools, education technology programs, and tutors) eligible for public dollars.
- SB 193 public oversight measures rely heavily on annual reviews / reports to identify potential inappropriate or fraudulent spending; a [2016 performance audit](#) by the Arizona Auditor General on Arizona’s Empowerment Scholarship Accounts Program recommends forward-looking financial oversight measures (i.e., prevent fraud as opposed to retroactively identify misspending).



# Next Steps

The next step for SB 193 is a full vote by the NH House of Representatives. The vote will likely occur in January and could be as early as the House's first session.

Reaching Higher will cover all education legislation and so you can find upcoming hearings and other events on our Facebook page and website.

You can also check the House and Senate Calendars

(<http://www.gencourt.state.nh.us/house/caljournals/default.htm> and <http://www.gencourt.state.nh.us/scaljournals/>) for information on committee meetings and votes (calendars are updated every Thursday).


Finally, you can check the status of SB 193 with the bill docket


([http://www.gencourt.state.nh.us/bill\\_status/bill\\_docket.aspx?lsr=912&sy=2017&sortoption=&txtsessionyear=2017&txtbillnumber=SB193&q=1](http://www.gencourt.state.nh.us/bill_status/bill_docket.aspx?lsr=912&sy=2017&sortoption=&txtsessionyear=2017&txtbillnumber=SB193&q=1))


# Questions?

For additional information, contact:  
Dan Vallone, Director of Engagement at  
[dan@ReachingHigherNH.org](mailto:dan@ReachingHigherNH.org)


For more information on public education issues:


 [ReachingHigherNH.org](https://ReachingHigherNH.org)


 603-715-9696

 40 N. Main Street  
Concord, NH 03301

 [ReachingHigherNH.org](https://ReachingHigherNH.org)

 [@ReachingHigherNH](https://www.facebook.com/ReachingHigherNH)

 [@ReachHigherNH](https://twitter.com/ReachHigherNH)

 [@ReachingHigherNH](https://www.instagram.com/ReachingHigherNH)

