

REGULAR CALENDAR

February 23, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Education to which
was referred HB 1283,**

**AN ACT relative to liability as taxable income of
education freedom account payments. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Glenn Cordelli

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Education
Bill Number:	HB 1283
Title:	relative to liability as taxable income of education freedom account payments.
Date:	February 23, 2022
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The education freedom account program statutes include the provision that monies in the account are not taxable. The bill would repeal that provision. But why? Every state with a similar program has the same language in their legislation. Based upon my discussions with experts, nobody in a state with such a program has ever had those funds taxed, and the Arizona program dates back 10 years. There is a saying that if it is not broke, don't fix it. Thus, for us, the saying should read it's not broke, so find it Inexpedient to Legislate.

Vote 10-9.

Rep. Glenn Cordelli
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 1283, relative to liability as taxable income of education freedom account payments.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Glenn Cordelli for the **Majority** of Education. The education freedom account program statutes include the provision that monies in the account are not taxable. The bill would repeal that provision. But why? Every state with a similar program has the same language in their legislation. Based upon my discussions with experts, nobody in a state with such a program has ever had those funds taxed, and the Arizona program dates back 10 years. There is a saying that if it is not broke, don't fix it. Thus, for us, the saying should read it's not broke, so find it Inexpedient to Legislate.
Vote 10-9.

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

February 23, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Education to which
was referred HB 1283,**

**AN ACT relative to liability as taxable income of
education freedom account payments. Having
considered the same, and being unable to agree with
the Majority, report with the recommendation that the
bill OUGHT TO PASS.**

Rep. David Luneau

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Education
Bill Number:	HB 1283
Title:	relative to liability as taxable income of education freedom account payments.
Date:	February 23, 2022
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

Current law in RSA 194-F:2 contains a statement that education freedom account funds are not subject to tax. The minority believes this is a misleading, unnecessary, and potentially incorrect statement. These taxpayer funds are used to pay for private school tuition and home school costs at the direction of the parent or guardian and are not considered a tax exempt transaction by the Internal Revenue Service. At the federal level, several attempts to make voucher payments exempt from federal taxes have failed. This bill does not change policy and simply removes what may be incorrect information.

Rep. David Luneau
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 1283, relative to liability as taxable income of education freedom account payments. **OUGHT TO PASS.**

Rep. David Luneau for the **Minority** of Education. Current law in RSA 194-F:2 contains a statement that education freedom account funds are not subject to tax. The minority believes this is a misleading, unnecessary, and potentially incorrect statement. These taxpayer funds are used to pay for private school tuition and home school costs at the direction of the parent or guardian and are not considered a tax exempt transaction by the Internal Revenue Service. At the federal level, several attempts to make voucher payments exempt from federal taxes have failed. This bill does not change policy and simply removes what may be incorrect information.

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1283

BILL TITLE: relative to liability as taxable income of education freedom account payments.

DATE: February 23, 2022

LOB ROOM: 207

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Cordelli

Seconded by Rep. Moffett

Vote: 10-9

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Melissa Litchfield, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Bill # 1283

BILL TITLE: relative to liability as taxable income of education freedom accounts.
DATE: 2/23/22
LOB ROOM: 207

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. Cordelli Seconded by Rep. Moffett Vote: 10-9

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____


MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES _____ NO

Minority Report? Yes _____ No If yes, author, Rep: Lunau Motion _____

Respectfully submitted:  Rep. Melissa Litchfield, Clerk



2022 SESSION

Education

Bill #: 1283 Motion: ITL AM #: _____ Exec Session Date: 2/23/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman <i>1st</i>	10		
Cordelli, Glenn Vice Chairman <i>1st</i>	1		
Litchfield, Melissa A. Clerk	2		
Boehm, Ralph G.	3		
Lekas, Alicia D.	4		
Moffett, Michael	5		
Hobson, Deborah L.	6		
Ford, Oliver J.	7		
Soti, Julius F.	8		
Nelson, Bill G.	9		
Myler, Mel-Walz, Mary Beth <i>2nd</i>		2	
Luneau, David J. <i>1st</i>		1	
Cornell, Patricia		3	
Tanner, Linda L.		4	
Ellison, Arthur S. <i>Rep Wallner</i>		5	
Mullen, Sue M.		6	
Woodcock, Stephen L.		7	
Porter, Marjorie		8	
A. Hall, Muriel C.		9	
TOTAL VOTE:	<i>10</i>	<i>9</i>	

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING on Bill # HB1283

BILL TITLE: relative to liability as taxable income of education freedom accounts
DATE: 1/21/22

ROOM: 207

Time Public Hearing Called to Order: 2:13 pm

Time Adjourned: 2:30 pm

Committee Members: Reps. Ladd, Cordelli, Boehm, A. Lekas, Moffett, Hobson, Ford, Soti, B. Nelson, Litchfield, Myler, Luneau, Cornell, Tanner, Ellison, Mullen, Woodcock, Hall and Porter

*** Prime Sponsor, Rep Luneau**

This bill repeals the statement that education freedom account funds shall not constitute taxable income to the parent of the education freedom account student.

Rep Cordelli- has researched and no one in the US has been taxed on their ESAs (educational savings accounts). All other state bills have similar language to the original language in the NH EFA bill.

Rep Lekas, questions regarding if revenue going to municipalities is taxed.

Response: No, they are not taxed. This money is going to a family rather than a municipality and school district.

Matt Southerton, CSF

Here for technical support. This is very different from a Pell grant, and you cannot use an EFA to purchase anything that is not school related. This is why an EFA is not taxable.

Rep Porter has read in the press that the average EFA grant is \$4,700.

Respectfully submitted,

Rep. Melissa Litchfield, Clerk

House Remote Testify

Education Committee Testify List for Bill HB1283 on 2022-01-21

Support: 8 Oppose: 16 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	1/16/2022 6:11 PM
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Support	No	No	1/16/2022 6:35 PM
Bates, David	Warner, NH dbates3@yahoo.com	A Member of the Public	Myself	Support	No	No	1/17/2022 9:45 AM
O'Neill, Nan	Salisbury, NH Raptorko@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 11:20 AM
Potucek, Representative John	DERRY NH, NH potucek1@comcast.net	An Elected Official	Myself	Oppose	No	No	1/17/2022 6:24 PM
O'Neill, Kevin	Salisbury, NH raptornan@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 9:12 AM
DeRosa, Tom	Bedford, NH tom@bfreshconsulting.com	A Lobbyist	yes. every kid.	Oppose	No	No	1/18/2022 10:47 AM
Reed, Sarah	Concord, NH stubbs.saraha@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:59 AM
Dunham, Bonnie	Merrimack, NH Bsdunham12@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 6:58 PM
Frost, Sherry	Dover, NH s.frost@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/19/2022 9:09 AM
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 3:52 PM
Chadwick, Ray	Bedford, NH rfchadwick@junoc.om	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:59 PM
Noyes, Chris	BETHLEHEM, NH chris@crosstowncourierservice.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 8:36 AM

glidden, deborah	alexandria, NH moosepathfarmstainedglass@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 9:15 AM
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/20/2022 9:47 AM
Noyes, Andrew	Bethlehem, NH andynoyes123@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:19 AM
Neal, Robert	New Ipswich, NH robertmneal93@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:22 AM
Mezzetti, Jamie	CONCORD, NH mezzettijamie@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:36 AM
Buschbacher, Dan	MANCHESTER, NH dbuschbacher@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 1:31 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/20/2022 2:24 PM
Batten, Dan	Center Ossipee, NH dan.batten@beangroup.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 3:33 PM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 4:56 PM
Osborne, Jason	Auburn, NH houserepoffice@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	1/21/2022 1:12 PM
Chester, Russan	bedford, NH nassur34@protonmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 4:14 PM

Archived: Friday, January 21, 2022 9:53:24 AM
From: [Sharon Clark](#)
Sent: Monday, January 17, 2022 10:09:58 PM
To: [~House Education Committee](#)
Subject: Oppose HB1283
Importance: Normal

Dear Committee Members,

Taxing people, returning a part of that tax money, then taxing it again, is regulatory absurdity.

Please oppose HB 1283.

Sincerely,

Sharon Clark



House Education Committee

HB 1283

January 20, 2022

Education Committee Members

My name is Ray Chadwick, Chairman of Granite State Taxpayers. Our Mission is to inform, educate and motivate New Hampshire taxpayers and to lobby the Legislature on their behalf.

We advocate for low taxes, balanced budgets, frugal, limited government that works within its constitutional authority, and local control.

We unfailingly oppose new taxes.

Granite State Taxpayers Opposes HB 1283

HB 1283 repeals the statement that education freedom account funds shall not constitute taxable income to the parent of the education freedom account student.

This bill would make the payment of state educational freedom account funds to an individual to be subject to an as yet undefined (at least in this bill) tax.

This bill would establish a precedent that a payment of state funds to an individual under a state-approved program would to be subject to taxation.

With that precedent, other state payments to individuals, such as, for example, unemployment benefits or workers' compensation could also be determined as being taxable.

New Hampshire Taxpayers fund the State Treasury. State funds support both public schools and also payments under the Educational Freedom Act program. Both of these programs benefit the parents of children enrolled. Under the logic of this bill, parents of students in public school could also be considered to have a "tax liability" for the value of state funds expended for their children's education.

Granite State Taxpayers recommends an ITL vote for HB 1283.

Thank you for your attention and for your commitment to the citizens of New Hampshire.

Ray Chadwick, Chairman
Granite State Taxpayers

Subject: In Opposition to HB 1283 relative to liability as taxable income of education freedom account payments.

From: Daniel Richardson <daniel6_22@comcast.net>

Date: 1/20/2022, 12:24 PM

To: HouseEducationCommittee@leg.state.nh.us

CC: Tom Lanzara <tomlanzara@gmail.com>, Richard Ames <amesinjaffrey@gmail.com>, David Luneau <dluneauNH@gmail.com>, Marjorie Smith <msmithpen@aol.com>

Ref: Jan 21, 2022 Committee Meeting

HOUSE EDUCATION COMMITTEE -

I write in opposition to HB 1283. This petty annoyance bill would revoke the tax exemption of funds deposited in a education freedom account. It is thinly veiled continuance of "death by a thousand cuts" on educational freedom at the behest of unionized public teachers lobby.

Please reject the HB 1283 and find it ITL.

Daniel Richardson, Nashua

Archived: Tuesday, February 15, 2022 11:45:34 AM

From: Fen

Sent: Monday, February 14, 2022 4:24:27 PM

To: ~House Education Committee

Subject: Committee Legislation

Importance: Normal

Members of the Committee,

I write to you concerning the following education bills:

HB1283

HB1683

HB1115

HB1355

HB1684

First, the opposition of [HB1283](#), sponsored by one of your committee members David Luneau. This bill is another example of the multitude of taxes levied against citizens of New Hampshire. This money is not the state's money to dole out, this money began as money earned by tax payers and is being given back to them, that is all. So, to say that they now need to be taxed again as additional income is just unfounded. This isn't a hand out, it is a return of property to its rightful owner and undermines the entire purpose of the education freedom accounts which should be wholly about the child and their unique education. I also find it interesting that Rep. Luneau has decided to sponsor this bill given that he has made comments regarding the American Institutes for Research on school funding in New Hampshire. From what I read, Rep. Luneau's comments seem to support the findings of issues within the current funding in New Hampshire. So, why propose a bill penalizing anyone for choosing alternative schooling, especially those in underprivileged communities, by taxing them again for money that was theirs to begin with? Specifically, the report states "New Hampshire's current system of funding is not working for large segments of New Hampshire's students and taxpayers. Specifically, communities with higher poverty rates and lower property wealth are doubly penalized under New Hampshire's current system," & "Students in these communities, on average, receive fewer resources in the form of funding than students in wealthier communities. Taxpayers in these communities do their best to provide for their children, often levying higher local education property taxes than residents of wealthier communities. Inequities also manifest themselves in outcomes." So who is benefiting from this bill? Although I believe that the education freedom account should extend to all citizens and simply come in the form of a tax credit or reduction in taxes for the span of the child's education, there is a cap on who can access these accounts, which is lower than the median income for the entire state of New Hampshire. With all that being said, I also oppose [HB1683](#) for many of the same reason.

An additional bill I oppose is [HB1115](#) simply for the fact that there is absolutely no reason why expectations should be any different for those utilizing the education freedom account. Each family should be able to choose their own curriculum and should be able to maintain a portfolio instead of being forced to take a standardized test. There is mountains of evidence showing that standardized tests do not adequately demonstrate knowledge of a subject, it's simple regurgitation of facts memorized over time. They don't account for familial traditions, background, socioeconomic status, or a multitude of other details that could effect answers on these exams. If you truly valued diversity you could understand that diversity of thought and experience can be beneficial and everyone should not be forced in to a cookie cutter personality and education.

In addition, so my intensions are not misconstrued, I am opposed to [HB1355](#) simply because reporting someone for investigation without evidence is unethical and will only lead to numerous false claims against those rightfully utilizing their own money. I will submit a formal letter for opposition prior to the hearing.

Lastly, I am opposed to HB1684 entirely, even with amendments made. This bill removes any accountability from public schools and those who run them. As I pointed out, it is clear that there are disparities in access and outcomes of education across the state of New Hampshire, certainly the majority of the United States. With that being said, would you support The Home Depot continuing to receive your money even when their service and product did not support the needs of their customer? Should Eversource continue to bill me monthly if their lines were always down and there were blackouts in the middle of winter every year? How about Pre-K or Universities? Should those institutions be held accountable for poor performance and outcomes? I'm sure we can all agree that they should, so what changes with the public schools? The money should follow the student 100%. If the product in the public schools is great, which it can be in some areas, then there is no cause for concern, right? By holding public schools accountable they will strive to improve to win back families and students. I would also like to point out that the committee should considering an amendment or other legislative action to limit the salaries of superintendents, assistant superintendents, business administrators, and facilities managers who are all making well over \$100,000 per year (most superintendents are averaging above \$150,000 a year) while teachers at all levels are averaging \$50-60,000 a year and are rating local schools districts average at best (2-3 out of 5 on sites like glassdoor). So, if teachers are so important why are they making 1/2 to 1/3 the amount of administrators? Clearly, if the role of a superintendent is to lead their respective districts in achieving their vision they are either failing at doing so or their vision is for underachieving students and unhappy staff, either way they are unfit for the position and that salary should be allocated to teachers instead of raising taxes on citizens and penalizing them for accessing education freedom.

Thank you for taking the time to read my email. I am a very concerned parent in New Hampshire and take it personally when politicians attempt to dictate what I can and can't do with my children's education and upbringing. If any of the committee members are parents I am sure you can relate that you would do anything for the wellbeing of your child. Many of you may actually send your children to alternative schools.

117TH CONGRESS
1ST SESSION

S. 43

To amend the Internal Revenue Code of 1986 to establish tax credits to encourage individual and corporate taxpayers to contribute to scholarships for students through eligible scholarship-granting organizations and eligible workforce training organizations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2021

Mr. CRUZ (for himself, Ms. ERNST, Mr. CRAMER, Mr. TOOMEY, Mr. SASSE, Mr. YOUNG, Mr. CASSIDY, Mrs. BLACKBURN, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish tax credits to encourage individual and corporate taxpayers to contribute to scholarships for students through eligible scholarship-granting organizations and eligible workforce training organizations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Education Freedom
5 Scholarships and Opportunity Act".

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to encourage individual
3 and corporate taxpayers to contribute to scholarships for
4 individual students through eligible scholarship-granting
5 organizations and eligible workforce training organiza-
6 tions, as identified by States.

7 **TITLE I—AMENDMENTS TO THE**
8 **INTERNAL REVENUE CODE**
9 **OF 1986**

10 **SEC. 101. REFERENCES TO THE INTERNAL REVENUE CODE**
11 **OF 1986.**

12 Except as otherwise expressly provided, whenever in
13 this title an amendment or repeal is expressed in terms
14 of an amendment to, or repeal of, a section or other provi-
15 sion, the reference shall be considered to be made to a
16 section or other provision of the Internal Revenue Code
17 of 1986.

18 **SEC. 102. TAX CREDITS FOR CONTRIBUTIONS TO ELIGIBLE**
19 **SCHOLARSHIP-GRANTING ORGANIZATIONS**
20 **AND ELIGIBLE WORKFORCE TRAINING ORGA-**
21 **NIZATIONS.**

22 (a) CREDIT FOR INDIVIDUALS.—

23 (1) IN GENERAL.—Subpart A of part IV of sub-
24 chapter A of chapter 1 is amended by adding after
25 section 25D the following new section:

1 **"SEC. 25E. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**
2 **GRANTING ORGANIZATIONS AND ELIGIBLE**
3 **WORKFORCE TRAINING ORGANIZATIONS.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
5 dividual, there shall be allowed as a credit against the tax
6 imposed by this chapter for the taxable year an amount
7 equal to the sum of any qualified contributions made by
8 the taxpayer during the taxable year.

9 “(b) AMOUNT OF CREDIT.—The credit allowed under
10 subsection (a) in any taxable year shall not exceed 10 per-
11 cent of the taxpayer’s adjusted gross income for the tax-
12 able year.

13 “(c) DEFINITIONS.—For purposes of this section—

14 “(1) QUALIFIED CONTRIBUTION.—The term
15 ‘qualified contribution’ means a contribution of cash
16 to any eligible scholarship-granting organization or
17 eligible workforce training organization.

18 “(2) QUALIFIED EXPENSE.—The term ‘quali-
19 fied expense’ means any educational expense that
20 is—

21 “(A) for an individual student’s elementary
22 or secondary education, as recognized by the
23 State,

24 “(B) for the secondary education compo-
25 nent of an individual elementary or secondary
26 student’s career and technical education, as de-

1 fined by section 3(5) of the Carl D. Perkins Ca-
2 reer and Technical Education Act of 2006 (20
3 U.S.C. 2302(5)), or

4 “(C) for the purpose of providing eligible
5 individual participants with scholarships for
6 secondary or postsecondary vocational education
7 and training, workforce development, or appren-
8 ticeship training, including preparation and ex-
9 amination costs relating to portable certificates
10 or credentials, or industry recognized certifi-
11 cation or credentialing programs.

12 “(3) ELIGIBLE SCHOLARSHIP-GRANTING ORGA-
13 NIZATION.—The term ‘eligible scholarship-granting
14 organization’ means—

15 “(A) an organization that—

16 “(i) is described in section 501(c)(3)
17 and exempt from taxation under section
18 501(a),

19 “(ii) provides qualifying scholarships
20 for qualified expenses to only individual el-
21 ementary and secondary students who—

22 “(I) reside in the State in which
23 the eligible scholarship-granting orga-
24 nization is recognized, or

1 “(II) in the case of the Bureau of
2 Indian Education, are members of a
3 federally recognized tribe,

4 “(iii) a State reports to the Secretary
5 of Education as an eligible scholarship-
6 granting organization pursuant to section
7 201(c)(5)(B) of the Education Freedom
8 Scholarships and Opportunity Act,

9 “(iv) allocates at least 90 percent of
10 qualified contributions to qualifying schol-
11 arships for qualified expenses, and

12 “(v) provides scholarships to—

13 “(I) more than 1 eligible student,

14 “(II) more than 1 eligible family,

15 and

16 “(III) different eligible students
17 attending more than one education
18 provider, or

19 “(B) an organization that—

20 “(i) is described in section 501(c)(3)
21 and exempt from taxation under section
22 501(a), and

23 “(ii) pursuant to State law, was able,
24 as of the date of the enactment of the
25 Education Freedom Scholarships and Op-

1 portunity Act, to receive contributions that
2 are eligible for a State tax credit if such
3 contributions are used by the organization
4 to provide scholarships to individual ele-
5 mentary and secondary students, including
6 scholarships for attending private schools.

7 “(4) ELIGIBLE WORKFORCE TRAINING ORGANI-
8 ZATION.—

9 “(A) IN GENERAL.—The term ‘eligible
10 workforce training organization’ means any or-
11 ganization—

12 “(i) which is—

13 “(I) described in section
14 501(c)(3) and exempt from taxation
15 under section 501(a), and

16 “(II) not a private foundation (as
17 defined in section 509),

18 “(ii) whose purpose is to provide voca-
19 tional education and training, workforce
20 development, or apprenticeship training to
21 eligible potential secondary or postsec-
22 ondary students, including organizations
23 whose purpose is to provide scholarships
24 for portable certificates or credentials, or
25 industry recognized certifications or cre-

1 dentialing programs, including preparation
2 and examination costs,

3 “(iii) which is in compliance with ap-
4 plicable State laws,

5 “(iv) which a State has reported to
6 the Secretary of Education as an eligible
7 workforce training organization pursuant
8 to section 201(c)(5)(B) of the Education
9 Freedom Scholarships and Opportunity
10 Act,

11 “(v) which satisfies the requirements
12 described in clauses (iv) and (v) of para-
13 graph (3)(A).

14 “(B) POTENTIAL ELIGIBLE WORKFORCE
15 TRAINING ORGANIZATIONS.—Eligible workforce
16 training organizations may include, but are not
17 limited to, organizations such as the following
18 (provided that such organizations satisfy the re-
19 quirements under subparagraph (A)):

20 “(i) Community colleges.

21 “(ii) Workforce training programs (as
22 defined by the applicable State workforce
23 agency).

24 “(iii) Organizations which provide—

1 “(I) career and technical edu-
2 cation, or

3 “(II) training or apprenticeships,
4 including, but not limited to, training
5 or apprenticeships operated by a col-
6 lective bargaining organization or that
7 provide industry recognized certifi-
8 cations or credentials.

9 “(iv) Community organizations that
10 provide training that results in a certifi-
11 cation.

12 “(5) QUALIFYING SCHOLARSHIP.—The term
13 ‘qualifying scholarship’ means—

14 “(A) a scholarship granted by an eligible
15 scholarship-granting organization to an indi-
16 vidual elementary or secondary student, or

17 “(B) a scholarship granted by an eligible
18 workforce training organization as a scholarship
19 to a secondary or postsecondary student for the
20 purpose of vocational education and training,
21 workforce development, obtaining portable cer-
22 tificates or credentials, or industry recognized
23 certification or credentialing programs, includ-
24 ing preparation and examination costs,

25 under this section.

1 “(6) STATE.—The term ‘State’ means each of
2 the 50 States, the District of Columbia, the Com-
3 monwealth of Puerto Rico, American Samoa, Guam,
4 the Commonwealth of the Northern Mariana Is-
5 lands, the United States Virgin Islands, and the De-
6 partment of the Interior (acting through the Bureau
7 of Indian Education).

8 “(d) RULES OF CONSTRUCTION.—

9 “(1) IN GENERAL.—A scholarship awarded to a
10 student from the proceeds of a qualified contribution
11 under this section or section 45U shall not be con-
12 sidered assistance to the school, eligible workforce
13 training organization, or other educational provider
14 that enrolls, or provides educational services to, the
15 student or the student’s parents.

16 “(2) NOT TREATED AS INCOME.—The amount
17 of any such scholarship shall not be treated as in-
18 come of the student or their parents for purposes of
19 Federal tax laws or for determining eligibility for
20 any other Federal program.

21 “(3) PROHIBITION OF CONTROL OVER NON-
22 PUBLIC EDUCATION PROVIDERS.—

23 “(A) Nothing in this Act shall be con-
24 strued to permit, allow, encourage, or authorize
25 any Federal control over any aspect of any pri-

1 vate, religious, or home education provider,
2 whether or not a home education provider is
3 treated as a private school or home school
4 under State law. This Act shall not be con-
5 strued to exclude private, religious, or home
6 education providers from participation in pro-
7 grams or services under this Act.

8 “(B) Nothing in this Act shall be con-
9 strued to permit, allow, encourage, or authorize
10 an entity submitting a list of eligible scholar-
11 ship-granting organizations or eligible workforce
12 training organizations on behalf of a State to
13 mandate, direct, or control any aspect of a pri-
14 vate or home education provider, regardless of
15 whether or not a home education provider is
16 treated as a private school under state law.

17 “(C) No participating State or entity act-
18 ing on behalf of a State shall exclude, discrimi-
19 nate against, or otherwise disadvantage any
20 education provider with respect to programs or
21 services under this Act based in whole or in
22 part on the provider’s religious education char-
23 acter or affiliation, including religiously or mis-
24 sion-based policies or practices.

1 “(4) PARENTAL RIGHTS TO USE SCHOLAR-
2 SHIPS.—No participating State or entity acting on
3 behalf of a State shall disfavor or discourage the use
4 of such scholarships for the purchase of elementary
5 and secondary or workforce training education serv-
6 ices, including those services provided by private or
7 nonprofit entities, such as faith-based providers.

8 “(5) STATE AND LOCAL AUTHORITY.—Nothing
9 in this section or section 45U shall be construed to
10 modify a State or local government’s authority and
11 responsibility to fund education.

12 “(e) LIMITATIONS.—

13 “(1) TAX LIABILITY.—No credit allowed under
14 this section or section 45U shall exceed the tax-
15 payer’s Federal income tax liability for the taxable
16 year.

17 “(2) PROHIBITIONS.—A taxpayer is prohibited
18 from selling or transferring any portion of a tax
19 credit allowed under this section or section 45U.

20 “(3) DENIAL OF DOUBLE BENEFIT.—The Sec-
21 retary shall prescribe such regulations or other guid-
22 ance to ensure that the sum of the tax benefits pro-
23 vided by Federal, State, or local law for a qualified
24 contribution receiving a Federal tax credit in any
25 taxable year shall not exceed the sum of the quali-

1 fied contributions made by the taxpayer for the tax-
2 able year.

3 “(f) CARRYOVER OF CREDIT.—If a tax credit allowed
4 under this section or section 45U is not fully used within
5 the applicable taxable year because of insufficient tax li-
6 ability on the part of the taxpayer, the unused amount
7 may be carried forward for a period not to exceed 5 years.

8 “(g) ELECTION.—This section shall apply to a tax-
9 payer for a taxable year only if the taxpayer elects to have
10 this section apply for such taxable year.

11 “(h) ALTERNATIVE MINIMUM TAX.—For purposes of
12 calculating the alternative minimum tax under section 55,
13 a taxpayer may use any credit received for a qualified con-
14 tribution under this section.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions for subpart A of part IV of subchapter A of
17 chapter 1 of is amended by inserting after the item
18 relating to section 25D the following new item:

“Sec. 25E. Contributions to eligible scholarship-granting organizations and eli-
 gible workforce training organizations.”.

19 (b) CREDIT FOR CORPORATIONS.—

20 (1) IN GENERAL.—Subpart D of part IV of
21 subchapter A of chapter 1 is amended by adding at
22 the end the following new section:

1 **“SEC. 45U. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**
2 **GRANTING ORGANIZATIONS AND ELIGIBLE**
3 **WORKFORCE TRAINING ORGANIZATIONS.**

4 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
5 tion 38, in the case of a domestic corporation, there shall
6 be allowed as a credit against the tax imposed by this
7 chapter for the taxable year an amount equal to the sum
8 of any qualified contributions (as defined in section
9 25E(c)(1)) made by such corporation taxpayer during the
10 taxable year.

11 “(b) AMOUNT OF CREDIT.—The credit allowed under
12 subsection (a) for any taxable year shall not exceed 5 per-
13 cent of the taxable income (as defined in section
14 170(b)(2)(D)) of the domestic corporation for such taxable
15 year.

16 “(c) ADDITIONAL PROVISIONS.—For purposes of this
17 section, any qualified contributions made by a domestic
18 corporation shall be subject to the provisions of section
19 25E, to the extent applicable.

20 “(d) ELECTION.—This section shall apply to a tax-
21 payer for a taxable year only if the taxpayer elects to have
22 this section apply for such taxable year.”.

23 (2) CREDIT PART OF GENERAL BUSINESS
24 CREDIT.—Section 38(b) is amended—

25 (A) by striking “plus” at the end of para-
26 graph (32);

1 (B) by striking the period at the end of
2 paragraph (33) and inserting “, plus”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(34) the credit for qualified contributions de-
6 termined under section 45U(a).”.

7 (3) CLERICAL AMENDMENT.—The table of sec-
8 tions for subpart D of part IV of subchapter A of
9 chapter 1 is amended by adding at the end the fol-
10 lowing new item:

“Sec. 45U. Contributions to eligible scholarship-granting organizations and eli-
gible workforce training organizations.”.

11 **TITLE II—EDUCATION FREEDOM**
12 **SCHOLARSHIPS AND OPPOR-**
13 **TUNITY ACT WEB PORTAL**
14 **AND ADMINISTRATION**

15 **SEC. 201. EDUCATION FREEDOM SCHOLARSHIPS AND OP-**
16 **PORTUNITY ACT WEB PORTAL AND ADMINIS-**
17 **TRATION.**

18 (a) IN GENERAL.—The Secretary of Education shall,
19 in coordination with the Secretary of the Treasury and
20 the Secretary of Labor, establish, host, and maintain a
21 Web portal that—

22 (1) lists all scholarship-granting organizations
23 and workforce training organizations that are eligi-

1 ble under section 25E or 45U of the Internal Rev-
2 enue Code of 1986;

3 (2) enables a taxpayer to make a qualifying
4 contribution to one or more eligible scholarship-
5 granting organizations and eligible workforce train-
6 ing organizations and to immediately obtain both a
7 pre-approval of a tax credit for that contribution
8 and a receipt for tax filings;

9 (3) provides information about the tax benefits
10 of the provisions of the Education Freedom Scholar-
11 ships and Opportunity Act under the Internal Rev-
12 enue Code of 1986; and

13 (4) enables a State to submit and update infor-
14 mation about its programs and its eligible scholar-
15 ship-granting organizations and eligible workforce
16 training organizations for informational purposes
17 only, including information on—

18 (A) student eligibility;

19 (B) allowable educational expenses;

20 (C) the types of allowable education pro-
21 viders;

22 (D) the percentage of funds an organiza-
23 tion may use for program administration; and

24 (E) the percentage of total contributions
25 the organization awards in a calendar year.

1 (b) NONPORTAL CONTRIBUTIONS.—A taxpayer may
2 opt to make a contribution directly to an eligible scholar-
3 ship-granting organization or an eligible workforce train-
4 ing organization, instead of through the Web portal de-
5 scribed in subsection (a), provided that the taxpayer, or
6 the eligible scholarship-granting organization or eligible
7 workforce training organization on behalf of the taxpayer,
8 applies for, and receives pre-approval for a tax credit from
9 the Secretary of Education in coordination with the Sec-
10 retary of the Treasury.

11 (c) NATIONAL AND STATE CAPS ON CREDITS.—

12 (1) NATIONAL CAP.—There is a cap of
13 \$10,000,000,000 on the sum of the contributions
14 that qualify for a credit under section 25E and sec-
15 tion 45U of the Internal Revenue Code of 1986 for
16 each calendar year, of which—

17 (A) \$5,000,000,000 shall be allotted for
18 qualified contributions to eligible scholarship-
19 granting organizations; and

20 (B) \$5,000,000,000 shall be allotted for
21 qualified contributions to eligible workforce
22 training organizations.

23 (2) ALLOCATION OF CAP.—

1 (A) INITIAL ALLOCATIONS.—For each cal-
2 endar year, the Secretary of Education, in co-
3 ordination with the Secretary of Labor, shall—

4 (i) from the amount allotted under
5 paragraph (1)(A)—

6 (I) first reserve, for each State,
7 an amount equal to the sum of the
8 qualifying contributions made in the
9 State in the previous year; and

10 (II) next, allocate the remaining
11 amount among the participating
12 States by allocating to each State the
13 sum of—

14 (aa) an amount that bears
15 the same relationship to 20 per-
16 cent of such remaining amount
17 as the number of individuals
18 aged 5 through 17 in the State,
19 as determined by the Secretary of
20 Education on the basis of the
21 most recent satisfactory data,
22 bears to the number of those in-
23 dividuals in all such States, as so
24 determined; and

1 (bb) an amount that bears
2 the same relationship to 80 per-
3 cent of such remaining amount
4 as the number of individuals
5 aged 5 through 17 from families
6 with incomes below the poverty
7 line in the State, as determined
8 by the Secretary of Education, on
9 the basis of the most recent sat-
10 isfactory data, bears to the num-
11 ber of those individuals in all
12 such States, as so determined;
13 and

14 (ii) from the amount allotted under
15 paragraph (1)(B)—

16 (I) first reserve, for each State,
17 an amount equal to the sum of the
18 qualifying contributions made in the
19 State in the previous year attributable
20 to eligible workforce training organi-
21 zations; and

22 (II) next, allocate the remaining
23 amount among the participating
24 States by allocating to each State an
25 amount determined through a system,

1 as established and maintained by the
2 Secretary of Labor, that accurately
3 reflects demand and potential quali-
4 fied participants for apprenticeships
5 and workforce training within that
6 State.

7 (B) MINIMUM ALLOCATION.—Notwith-
8 standing subparagraph (A), no State receiving
9 an allotment under this section may receive less
10 than one-half of one percent of the amount al-
11 lotted for a fiscal year.

12 (C) ALTERNATIVE ALLOCATION FOR
13 QUALIFIED CONTRIBUTIONS TO ELIGIBLE
14 SCHOLARSHIP-GRANTING ORGANIZATIONS.—

15 (i) IN GENERAL.—Not later than the
16 end of the fifth year of the program or one
17 year after the end of the first fiscal year
18 for which the total amount of credits
19 claimed under section 25E and section
20 45U of the Internal Revenue Code of 1986
21 for qualified contributions to eligible schol-
22 arship-granting organizations is
23 \$2,500,000,000 or more, whichever comes
24 first, the Secretary of Education shall, by
25 regulation, provide for an alternative allo-

1 cation method for the amount described in
2 paragraph (1)(A) that shall take effect be-
3 ginning with the first fiscal year after the
4 regulation takes effect.

5 (ii) ALTERNATIVE ALLOCATION METH-
6 OD.—The alternative allocation method de-
7 scribed in clause (i) shall be expressed as
8 a formula based on a combination of the
9 following data for each State, as reported
10 by the State to the Secretary of Education:

11 (I) The relative percentage of
12 students in the State who receive a el-
13 elementary or secondary scholarship
14 through a State program that is fi-
15 nanced through State tax-credited do-
16 nations or appropriations and that
17 permits the elementary or secondary
18 scholarship to be used to attend a pri-
19 vate school.

20 (II) The total amount of all ele-
21 mentary and secondary scholarships
22 awarded through a State program
23 that is financed through State tax-
24 credited donations or appropriations
25 compared to the total amount of cur-

1 rent State and local expenditures for
2 free public education in the State.

3 (iii) ALLOCATION FORMULA.—For any
4 fiscal year to which clause (i) applies, the
5 Secretary of Education shall—

6 (I) first reserve, for each State,
7 an amount equal to the sum of the
8 qualifying contributions made in the
9 State in the previous year;

10 (II) next, allocate two-thirds of
11 the remaining amount of the national
12 cap for that year using the alternative
13 allocation method in clause (ii); and

14 (III) then, allocate one-third of
15 the remaining amount in accordance
16 with subparagraph (A)(ii).

17 (iv) INELIGIBILITY.—For any fiscal
18 year to which clause (i) applies, a State
19 that does not provide the Secretary of
20 Education with information described in
21 clause (ii) is not eligible to receive an allo-
22 cation through the alternative allocation
23 method under clause (ii).

24 (3) ALLOWABLE PARTNERSHIPS.—A State may
25 choose to administer the allocation it receives under

1 paragraph (2) in partnership with one or more
2 States, provided that the eligible scholarship-grant-
3 ing organizations or eligible workforce training orga-
4 nizations in each partner State serve students who
5 reside in all States in the partnership.

6 (4) TOTAL ALLOCATION.—A State's allocation,
7 for any fiscal year, is the sum of the amount deter-
8 mined for it under subparagraphs (A) and (B) of
9 paragraph (2), except as provided in paragraph
10 (2)(C).

11 (5) ALLOCATION AND ADJUSTMENTS.—

12 (A) INITIAL ALLOCATION TO STATES.—No
13 later than November 1 of the year preceding a
14 year for which there is a national cap on credits
15 under paragraph (1) (hereafter in this section,
16 the "applicable year"), or as early as prac-
17 ticable with respect to the first year, the Sec-
18 retary of Education shall announce the State
19 allocations under paragraph (2) for the applica-
20 ble year.

21 (B) LIST OF ELIGIBLE SCHOLARSHIP-
22 GRANTING ORGANIZATIONS AND ELIGIBLE
23 WORKFORCE TRAINING ORGANIZATIONS.—No
24 later than January 1 of each applicable year, or
25 as early as practicable with respect to the first

1 year, each State shall provide the Secretary of
2 Education a list of eligible scholarship-granting
3 organizations and eligible workforce training or-
4 ganizations described in paragraphs (3)(A) and
5 (4) of section 25E(c) of the Internal Revenue
6 Code of 1986, including a certification that the
7 entity submitting the list on behalf of the State
8 has the authority to perform this function. Nei-
9 ther this Act nor any other Federal law shall be
10 construed as limiting the entities that may sub-
11 mit the list on behalf of a state.

12 (C) REALLOCATION.—

13 (i) IN GENERAL.—The Secretary of
14 Education shall, in accordance with para-
15 graph (2), reallocate to any other States
16 the allocation of a State which, for any ap-
17 plicable year—

18 (I) fails to provide the Secretary
19 of Education a list of eligible scholar-
20 ship-granting organizations and eligi-
21 ble workforce training organizations
22 pursuant to subparagraph (B); and

23 (II) does not have an eligible
24 scholarship-granting organization (as
25 described in section 25E(c)(3)(B) of

1 the Internal Revenue Code of 1986)
 2 located in such State.

3 (ii) UNCLAIMED CREDITS.—On or
 4 after April 1 of any applicable year, the
 5 Secretary of Education may reallocate, to
 6 one or more other States that have eligible
 7 scholarship-granting organizations and eli-
 8 gible workforce training organizations in
 9 the States, without regard to paragraph
 10 (2), the allocation of a State for which the
 11 State's allocation has not been claimed.

12 (d) DEFINITIONS.—The definitions of terms in sec-
 13 tion 25E(c) of the Internal Revenue Code of 1986 apply
 14 to those terms as used in this title.

15 (e) AUTHORIZATION OF APPROPRIATIONS.—For the
 16 purpose of administering this section and sections 25E
 17 and 45U of the Internal Revenue Code of 1986, there are
 18 authorized to be appropriated, and there are appropriated,
 19 such sums as may be necessary for fiscal year 2021 and
 20 each succeeding fiscal year.

○

HB 1283 - AS INTRODUCED

2022 SESSION

22-2776

10/04

HOUSE BILL **1283**

AN ACT relative to liability as taxable income of education freedom account payments.

SPONSORS: Rep. Luneau, Merr. 10; Rep. Ames, Ches. 9; Rep. M. Smith, Straf. 6

COMMITTEE: Education

ANALYSIS

This bill repeals the statement that education freedom account funds shall not constitute taxable income to the parent of the education freedom account student.

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 Two

AN ACT relative to liability as taxable income of education freedom account payments.

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

- 1 1 Repeal. RSA 194-F:2, VI, relative to funds deposited in an education freedom account not
- 2 constituting taxable income to the parent of the education freedom account student, is repealed.
- 3 2 Effective Date. This act shall take effect 60 days after its passage.