



# UNDERSTANDING SCHOOL CHOICE

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*Using Information and Ideas to Transform Public Policy*

## Frequently Asked Questions About the School Choice Scholarship Act

By Jason Bedrick

In the last decade, eight states have launched scholarship tax credit (STC) programs to expand educational opportunities for hundreds of thousands of students across America, particularly those from low- and middle-income families. These programs provide tax credits to businesses that donate to state-approved, non-profit scholarship organizations (SOs). The SOs use the funds to grant scholarships to families seeking alternatives to their geographically-assigned public schools, including non-public, homeschooling, and out-of-district public schools.

This paper addresses Frequently Asked Questions about scholarship tax credit programs in general and the proposed New Hampshire scholarship tax credit legislation, SB 372, as amended in House Ways and Means, in particular. There is an equivalent House Bill (HB 1607) that passed in the House and has also passed the Senate 17-7. The latest amendments to each bill will bring them into sync.

*How much will the scholarships be worth? Are there caps on scholarship amounts?*

**A: The average scholarship will be worth \$2,500, though sizes may vary. The maximum amount of a scholarship is the amount of tuition at the recipient's school.**

Scholarship organizations have the discretion to set their scholarship amounts, so long as the average of their scholarships is \$2,500 or less. An eligible student may receive a scholarship to attend a non-public school, or a public school outside their district (as long as their local district is not paying tuition) in an amount not to exceed the tuition cost or education expenses of the school. The average scholarship size is indexed to inflation.

Home-schooled students may receive scholarships up to \$625 (1/4 of the average scholarship size), for approved academic expenses, which excludes a parents time or transportation costs.

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*Q: Who is eligible to receive a scholarship?*

**A: All New Hampshire residents from age 5 to 20 who have not yet graduated high school are eligible for scholarships, and pass a means testing requirement.**

Means testing is at 300% of the federal poverty guidelines, which would make about half of NH students eligible. Additionally, 40% of the students who switch out of public school must be eligible for free and reduced lunch (185% federal poverty level), so there is targeting of low income students.

To make the program balance fiscally, 70% of the recipients in the first year need to be currently in public school, looking to change schools, i.e. "switchers". This requirement reduces by 5% each year starting in the third year.

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*Q: Will the scholarship tax credit program benefit students with special needs?*

**A: Yes! New Hampshire students with special needs are eligible to receive scholarships. Scholarships to special needs students must be at least \$4,375 (175% of the average scholarship size), which is slightly above the amount of adequacy aid the state currently provides local school districts for these students.**

Experience in other states has demonstrated that non-public can and do provide options to students with special needs when the necessary resources are available. There are currently tens of thousands of special needs students benefiting from education choice programs around the country. One of Rhode Island's five scholarship organizations focuses solely on special needs students. In Florida alone, over 22,000 special needs students received scholarships to attend non-public in the 2010-11 school year through the Sunshine State's McKay Scholarship Program.<sup>1</sup> As one Florida parent of a McKay scholar said, "*The school-choice issue is not about public versus private; it's about choice. It's about knowing what works well for my family and being able to make that choice for them.*"

Currently, there are more than two dozen non-public for students with special needs in New Hampshire, including the Nashua Children's Home, Parker Academy in Concord, the Jolicoeur School in Manchester, the Monarch School of New England in Rochester, the Summit School in Amherst, the Crotched Mountain School in Greenfield, and the Cedarcrest Center for Children with Disabilities in Keene.

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*Q: What is a “scholarship organization”?*

**A: A scholarship organization is a charitable organization that grants scholarships to eligible New Hampshire students.**

Scholarship organizations must be incorporated or qualified to do business in New Hampshire and be exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code. They may only spend a maximum of 10% of their donations on administrative overhead. They must also comply with applicable state and federal antidiscrimination provisions and they must register with the Charitable Trust division of the Attorney General.

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*Q: Which businesses are eligible to receive tax credits for donating to scholarship organizations?*

**A: All businesses with a Business Enterprise Tax and/or Business Profits Tax liability are eligible to receive tax credits for donating to scholarship organizations.**

Under the proposed legislation, tax credits will be worth 85% of a corporation’s donation, up to the corporation’s Business Enterprise Tax and/or Business Profits Tax liability. Depending on how the business files their Federal tax return, the entire donation could be deducted at the State and Federal level, resulting in potentially saving an additional 8.5% (the BPT rate) at the state level.

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*Q: Where can recipients use their scholarships?*

**A: Recipients can use their scholarships at any independent school that meets state and federal anti-discrimination laws and fulfills the state compulsory school attendance requirements; at out-of-district public schools; or for certain, approved homeschooling expenses.**

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*Q: Does receiving a scholarship guarantee a seat in the school of the recipient’s choice?*

**A: The scholarship tax credit program increases the education options available by alleviating fiscal constraints, but does not change the admissions policies of independent or out-of-district public schools.**

Just as receiving a Pell grant does not guarantee a seat at a given university, tax credit scholarships do not guarantee a seat in any independent school. The purpose of the scholarship tax credit program is to expand the number of education options available, especially to middle- and low-income families. While such programs cannot make every choice available, they are clearly superior to a system where children are given only one option based solely on their geographic location

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*Q: How are non-public schools held accountable for student performance?*

**A: Non-public schools are directly accountable to parents.**

It is important that public schools and non-public schools alike are held accountable for their performance. However, the accountability mechanisms for each are different. Public schools operate essentially as a monopoly and are primarily accountable to the taxpayers through regulation, not just parents. This gives elected officials the prerogative to decide what accountability measures to employ, such as standardized tests.

By contrast, non-public schools are directly accountable to parents, who have the ability to choose to send their children to other schools if their children’s needs are not being met. Since non-public often vary in their pedagogical approach, it would not be prudent to mandate that they administer standardized tests. Nevertheless many non-public schools choose to have their students take the same tests as public school students.

The bill adds additional accountability by having a parental satisfaction survey that gets reported anonymously by SOs each year. After graduation, the SOs administer a survey designed by the NH Department of Education, reported anonymously, that measures the students success in post-secondary education or work.

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*Q: Is the scholarship tax credit program constitutional?*

**A: The U.S. Supreme Court has ruled that scholarship tax credit programs are constitutional, as have several state supreme courts in states with similar provisions in their constitutions. No STC program has even been ruled unconstitutional.**

In the landmark *Zelman v. Simmons-Harris* decision in 2002, the U.S. Supreme Court ruled that states are constitutionally permitted to use state revenue to pay for students to attend non-public, even if they are religiously affiliated. Just as citizens can use Medicare or Medicaid at religiously-affiliated hospitals, purchase Christmas dinner

with food stamps, or host a Bible study in subsidized housing, parents do not run afoul of the First Amendment if they choose to send their children to parochial schools using public money.

Moreover, a scholarship tax credit program *does not even use public money*. The so-called “Blaine amendment” in Article 83 of New Hampshire state constitution states that “no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination.” The scholarship tax credit program funds scholarships with private money that never enters the state government’s treasury. In the spring of 2011, the U.S. Supreme Court ruled in *Arizona Christian School Tuition Organization v. Winn* that plaintiffs did not even have the legal standing to challenge the constitutionality of a similar tax credit program precisely because money never entered the government treasury. Writing for the majority, Justice Kennedy wrote that the plaintiff’s argument improperly “assumes that income should be treated as if it were government property even if it has not come into the tax collector’s hands.” The Court rejected that premise since it “finds no basis in standing jurisprudence. Private bank accounts cannot be equated with the Arizona State Treasury.” State supreme courts in Arizona, Ohio and Wisconsin – which each have Blaine amendments – have held that such programs are constitutional.

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*Q: How will the scholarship tax credit affect government spending on public schools?*

**A: The scholarship tax credit has no impact on the budget this biennium, and a minimal impact in the next, by DOE’s analysis. The scholarship tax credit even has the potential to save money.**

In the short term, the legislation will save money. In the long term, even under the most conservative assumptions, the proposed NH scholarship tax credit program would affect only a tiny portion of state spending on public schools, as shown in the graph on the following page. The program is capped in the first year at \$3.4 million in tax credits, which is around a quarter of one percent of the nearly three billion dollars spent on public schools. In the second year the cap is increased to \$5.1 million. After that, the STC program can grow at a maximum of 25% per year based on demand, but in real dollars it will not grow as quickly as the projected growth of public school spending.

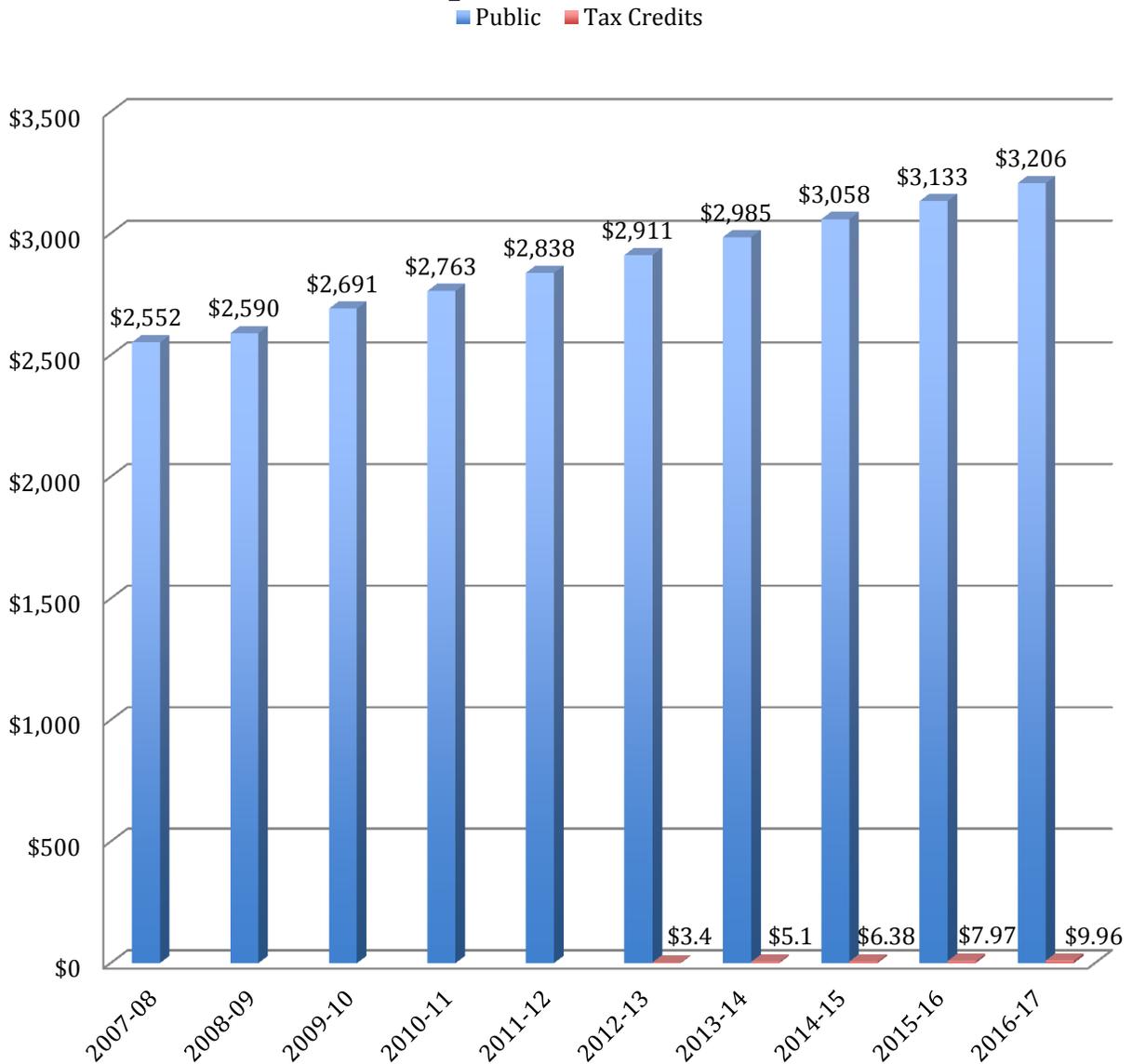
- DOE estimates that in the first program year, which covers the 2013/2014 school year the state would see an expected savings of \$150,000. This is the first year of the next biennium, and so no impact for the upcoming year.
- In the second program year, there would be an estimated savings of \$208,000.
- Because of incoming first graders and the reduction of the required number of switchers, cost in the future years depends on assumptions made on the

percentage joining the program would have gone to public school. The survey administered by the SOs asked questions geared to determine this percentage.

- DRA estimates no extra funding required to implement the program. DOE estimates one FTE only.

The chart below shows NH public school spending versus scholarship tax credit amounts, assuming maximum usage and growth, and assuming constant 2.7% public spending growth, minus the amount of the tax credits.

## NH Public School Spending vs. Scholarship Tax Credits, in Millions



Under SB 372, scholarships are worth \$2,500 on average, compared with an average \$4,208 in state spending per pupil (based on the requirement of 40% of the students being eligible for free and reduced lunch) Since maximum administrative overhead is 10% of donations, the average spent per scholarship recipient will be \$2,778 under the most conservative estimates. Tax credits are worth around 93.5% of donations (including the 85% credit and 8.5% deduction), therefore the state forgoes \$2,598 per scholarship recipient. This means that the state saves \$1,610 for each scholarship recipient that leaves the public school system. New Hampshire saves money if the percentage of scholarship recipients that would otherwise have attended public schools is greater than or equal to the loss in state revenue per scholarship divided by the average state spending per pupil, or 62%. Since the legislation mandates that at least 70% of scholarship recipients be “switchers”, the program will save money. Additional savings are obtained since on average 22% of scholarship recipients are expected to be home school students, who lower the average scholarship size since they are capped at \$625.

Scholarship tax credit programs have saved money in other states. In an official report in 2010, the Florida legislature’s nonpartisan Office of Program Policy Analysis and Government Accountability estimated that Sunshine State taxpayers saved \$32.6 million, which is approximately \$1.44 in state education funding for every dollar lost in corporate income tax revenue due to credits for scholarship contributions.<sup>2</sup> While Florida’s state government collected \$82.2 million less in tax revenue as a result of the program, this was more than outweighed by the \$118.4 million in reduced expenses. These figures were adjusted to account for children who would have attended private school anyway.

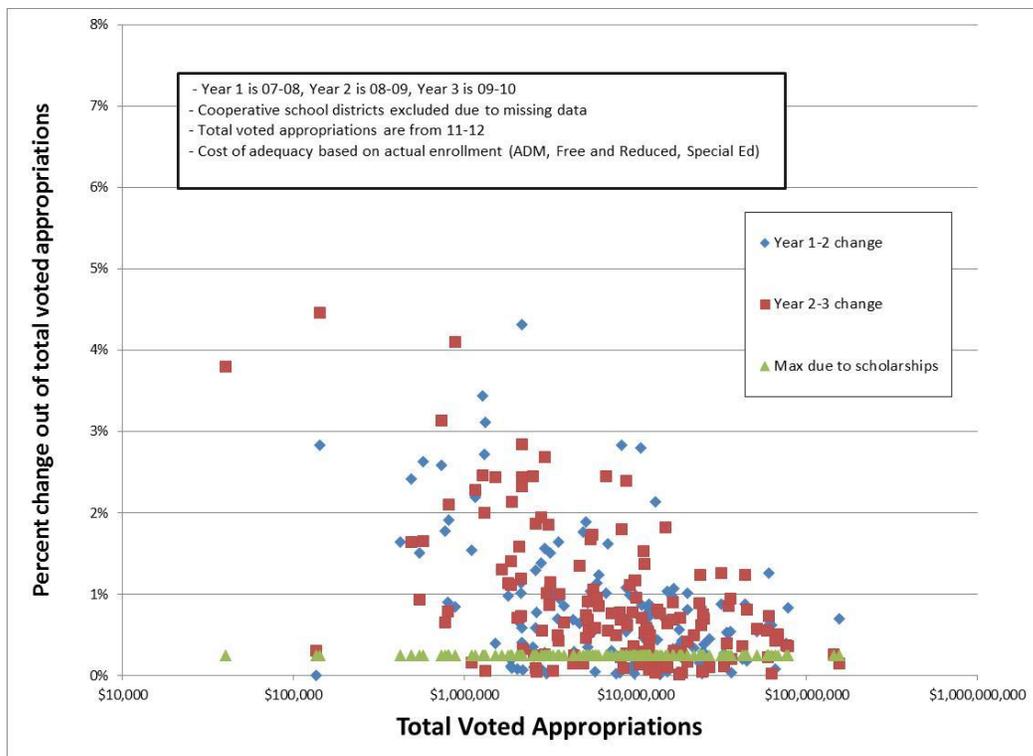
Independent studies show savings from STC programs in Arizona and Pennsylvania as well. In 2009, an economist from Baylor University released an independent study of the fiscal impact of Arizona’s STC program, finding that the state saves between \$99.8 million and \$241.5 million as a result.<sup>3</sup> A 2011 study by the Commonwealth Foundation reports that Pennsylvania its STC program saves the state \$512 million a year. <sup>4</sup>

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*Q: How will the scholarship tax credit affect local school district budgets?*

**A: The expected loss in state aid to local school districts is capped to be small, and will be known prior to setting tax rates. The reduced per-pupil aid on average will be less than the variable costs. The total negative impact has been capped at 0.25% of each district’s total voted appropriations, which is well within the normal yearly fluctuation for most districts.**

The current program size would fund at a maximum of around 0.75% of existing students. Current average per-pupil spending in NH is \$15,500, with on average \$4,100 coming from the state. So while the districts could lose an average of 0.75% of their students, they only lose the state funding that comes with that student, but not the local property tax, leaving them with the majority of funding for a student who is no longer there. Moreover, the net negative impact of the program has been capped at 0.25% of district spending. Any amount of adequacy aid reductions above this cap are given back to the school district for the current and following three years, as if those students never left. The chart below shows yearly adequacy aid changes for all the school districts compared to the max allowable change due to the scholarship programs. The changes due to the scholarship program are much smaller on average.



Additionally, several studies showing that the variable costs of public education are in the 70-85% range, and so the state aid is significantly less than the variable cost. One of these studies was performed in NH by the Josiah Bartlett center (<http://www.jbartlett.org/wp-content/uploads/2011/06/NHChoiceV70020204.pdf>). While the savings in variable costs might be unevenly distributed among school districts depending on how close they are to consolidating classrooms, overall there should be savings over time.

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*Q: How will the scholarship tax credit program affect the academic performance of students receiving scholarships?*

**A: Empirical research has shown that almost every school choice program in American has had a positive impact on the academic performance of participating students. None have been shown to have a negative impact.**

Credible research has demonstrated that school choice programs raise student achievement. A 2011 survey<sup>5</sup> of the literature on school choice programs' effect on student performance found overwhelming evidence in support of the positive effects of school choice:

Ten empirical studies have used random assignment, the gold standard of social science, to examine how scholarships affect participants. **Nine studies find that scholarships improve some student outcomes, six that all students benefit and three that some benefit and some are not affected.** One study finds no visible impact. None of these studies find a negative impact.

These studies were conducted by well-respected, non-partisan academics and researchers including Paul Peterson of Harvard University, William Howell of the University of Chicago, Caroline Hoxby of Harvard and Stanford, Jay Greene of the University of Arkansas, and scholars from the liberal Brookings Institute.

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*Q: How will the scholarship tax credit program impact the performance of students in public schools?*

**A: Empirical research has shown that public schools in states with school choice programs perform as well as or better than they did before the introduction of the school choice program.**

In other states with similar scholarship tax credit programs, public schools have risen to the challenge. The evidence shows that public schools facing increased competition have improved. Eighteen of nineteen studies<sup>6</sup> in Milwaukee, Florida, Washington D.C. and elsewhere have demonstrated that educational choice programs improve public education.:

Nineteen empirical studies have been conducted on how school choice programs impact academic achievement in public schools. Of these studies, eighteen find that vouchers improve public schools. The one remaining study found that vouchers had no visible impact on public schools. No empirical study has ever

found that vouchers had a negative impact on student performance in public schools.

Significantly, the one study to find no visible impact was also the only study conducted on a voucher program that intentionally protects public schools from the impact of competition [Washington D.C.]. Thus, it does not detract from the research consensus that choice and competition provided by vouchers improve public schools.

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<sup>1</sup> Florida Department of Education, McKay Scholarship Program information  
<http://www.floridaschoolchoice.org/information/mckay/>

Florida's school choice programs ensure that no child will be left behind by allowing parents to choose the best educational setting—public or private—for their child. The **McKay Scholarships for Students with Disabilities Program provided over 22,000 Florida students with special needs the opportunity to attend a participating private school during the 2010-11 school year.** The McKay Scholarships Program also offers parents public school choice. A parent of an eligible special needs student may choose to transfer the student to another public school.

<sup>2</sup> Office of Program Policy Analysis and Government Accountability. "Florida Tax Credit Scholarship Program: Fiscal Year 2008-09 Fiscal Impact," March 1, 2010.

<sup>3</sup> North, Charles M. "Estimating the Savings to Arizona Taxpayers of the Private School Tuition Tax Credit," Baylor University. November 2009.  
<http://www.azpolicy.org/sites/azpolicy.org/files/downloads/ArizonaSTOTaxCreditCMNorth.pdf>

<sup>4</sup> LeFevre, Andrew. "A Decade of Success: Pennsylvania's Education Improvement Tax Credit," Commonwealth Foundation. *Policy Brief*, Vol. 23, No. 8. August 2011.

<sup>5</sup> Forster, Greg, "A Win-Win Solution: The Empirical Evidence on School Vouchers." The Friedman Foundation for Educational Choice. March 2011.

<sup>6</sup> Forster, Greg, "A Win-Win Solution: The Empirical Evidence on School Vouchers." The Friedman Foundation for Educational Choice. March 2011.