




**REACHING
HIGHER NH**

HB 20 Policy Analysis

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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 policy 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.

Norms for Engagement

For the purpose of this webinar we will utilize the following norms:

- Disable the chat feature ensuring participants can focus on the content presented.
- Enable the Q and A feature supporting a dialogue at the close of the presentation.
- Hold space at the end for staff to facilitate a question answer session.

Overview of Education in NH

PUBLIC SCHOOLS

- Approximately 160,000 students in 2020-2021 school year
- 4% decline between SY 2020 and SY 2021, due largely to the pandemic
- School funding has dominated the public sphere for decades
- Public schools are facing an \$89 million drop in state funding in SY 2022

PRIVATE SCHOOLS

- Approximately 16,000 students in the 2020-2021 school year (self-reported)
- Private school enrollment had been continually declining before pandemic, but saw a substantial uptick largely attributed to public school closures

SCHOOL CHOICE IN NEW HAMPSHIRE

- ETC allows eligible families to receive scholarship for private school tuition, homeschooling expenses, and other costs
- 626 students participated in 2020-2021, increase of 110 students over 2019-2020
- Program allocated \$1.5 million in CARES Act funding that has not yet been administered

Our communities are struggling under an inequitable funding system which will culminate in an \$89 million drop in state funding next year; however, lawmakers' top priority this session is to enact the most far-reaching voucher program in the country.

A question that our state leaders might want to ask is, what kind of state do we want 5, 10, 15 years from now? Will this program help to strengthen our state, our economy, and prepare our students -- current and future -- for life in the 21st century? This proposal, along with the funding crisis, presents a reckoning for our state, that I think we all need to grapple with.

HB 20 At A Glance

House Bill 20 (HB 20) would require the state to use taxpayer dollars currently allocated for public education to fund “Education Freedom Accounts,” hereafter referred to as “vouchers.” Parents or guardians could sign a contract with an independent scholarship organization to receive a voucher of approximately \$3,800 in state dollars, minus fees, as well as any differentiated aid for which students may qualify. Parents or guardians could then use those funds for private school tuition, homeschooling expenses, and other school-related expenses.

HB 20 has substantially fewer protections for students, less transparency and oversight of taxpayer dollars, and almost no accountability for ensuring that programs funded by taxpayer dollars are being used appropriately or effectively.

HB 20 At A Glance

In this analysis we will break down the legislation as it was put forward on January 13, 2021. Specifically we will focus on:

1. Eligibility Criteria
2. Approved Uses of Vouchers
3. Academic Accountability
4. Protections from Discrimination
5. Special Education
6. Scholarship Organization Oversight
7. Student Growth Outcomes

Eligibility Criteria

- VI. “Eligible student” means a resident of this state who is eligible to enroll in a public elementary or secondary school including:
- (a) A student currently attending a New Hampshire school that is remote or hybrid;
 - (b) A student currently assigned to a New Hampshire public school with assessment proficiency below 40 percent;
 - (c) A student currently attending a New Hampshire public school, including a chartered public school, public academy, or nonpublic school;
 - (d) A kindergarten or first grade student; or
 - (e) A sibling of a student with an education freedom account.

**>95% of New Hampshire children
would be eligible for a voucher, the
most sweeping program in the country**

Scholarship Amount

\$3,786
Base Adequacy

\$1,893
Free and Reduced Lunch
Differentiated Aid

\$2,037
Special Education
Differentiated Aid

\$741
English Language Learner
Differentiated Aid

Approved Use of Voucher Funds

There are very few limitations on the approved use of funds. **The bill does not create a mechanism for public scrutiny of expenses to ensure all expenditures are related to education.** The independent scholarship organization is responsible for maintaining all records and management related to education providers.

POTENTIAL CONCERNS

- In other states that have initiated voucher programs, there have been significant instances of fraud and abuse. In Arizona, for example, a 2016 [state audit](#) identified more than \$100,000 in misspent funds over the course of six months (August 2015 – January 2016). In a follow up report two years later, the Arizona DOE found that:

Although our initial follow up found that the Department had taken some steps to strengthen oversight of Empowerment Scholarship Accounts Program spending, our work for the 24-month follow up found that many of the issues related to misspending of program monies identified in the 2016 performance audit report persist and, in at least one case, has worsened.

From the AZ Auditor General in a letter dated October 25, 2018

Academic Accountability

There are no stated measures for determining student progress in the current version of the bill.

- Participating students are not required to take the annual statewide assessment
- There are no provisions requiring parents to submit report cards, progress reports, graduation rates, or any other indicators of academic progress
- Education providers are not required to submit any details on program offerings, curriculum, practices, or other details about program offerings

POTENTIAL CONCERNS

- There are currently no provisions in the bill that give participating families, or the public, any insight into the voucher program's effectiveness on student outcomes, nor is there any transparency concerning use of taxpayer funds.

“For school choice families, transparency is necessary if the policy goals articulated in the voucher laws are to be achieved—does the school provide sufficient information for families to make informed choices?”

Kevin Welner, Education Professor at the University of Colorado

Protections from Discrimination

There are no stated measures that protect students from discrimination in the current version of the bill.

- There are no provisions in the bill that would protect students from discrimination, but the bill does protect educational service providers from being discriminated against based on their religious affiliation
- Nothing in the bill would require education providers that accept taxpayer funds from adhering to the same nondiscrimination laws as public schools

POTENTIAL CONCERNS

- There are currently no protections for students from discrimination, while the bill offers some protection for adults delivering services. The absence of such protections invites questions about which students will truly have access.

Protections from Discrimination

Private voucher schools do not provide the same rights and protections to students as public schools, such as those in Titles IV and VI of the Civil Rights Act, Title IX of the Education Amendments Act of 1972, the Individuals with Disabilities Education Act, Title II of the Americans with Disabilities Act, and the Every Student Succeeds Act. And, students who attend private schools using vouchers are stripped of the First Amendment, due process, and other constitutional and statutory rights guaranteed to them in public schools.

National Coalition for Public Education, 2021

“In other words, the schools do not have to follow state or federal education regulations, guidelines or standards including special education rules and laws because they would essentially be private or non-governmental organizations or providers.”

Garry Rayno, InDepthNH.org, January 31, 2021

Students with Disabilities

Participation in the voucher program has the same effect as a parental placement under 20 U.S.C. section 1412 of the Individuals with Disabilities Education Act (IDEA). This might mean that key protections provided for students with disabilities may no longer apply:

- Free, Appropriate Public Education (FAPE) and related services
- Least restrictive environment (LRE)
- 10-Day Rule
- Due Process Rights

POTENTIAL CONCERNS:

- The experience from other states, indicates parents may not know they are waiving rights under federal law when selecting a voucher – HB 20 does not require a briefing from schools to ensure parents understand the consequences
- HB 20 does not require participating nonpublic schools (schools that would receive public dollars) to accept and serve all students – nonpublic schools could deny services to students with disabilities, potentially leading to a more segregated system

Scholarship Organization Oversight

Under HB 20, the program would be managed by an independent scholarship organization which is responsible for:

- Determining student eligibility for the program, as well as the eligibility for differentiated aid categories
- Notifying parents with written explanation of allowable uses of funds and responsibilities of parents
- Notifying parents of parental placement
- Maintaining a list of education service providers, approving those providers, and setting up a payment system for deposits, deductions, and payments
- Conducting random independent audits of accounts on an annual basis, and provide the NH DOE with copies of the audits

POTENTIAL CONCERNS:

- HB 20 does not provide substantive public oversight of scholarship organizations, nor does it require basic governance provisions that would protect against abuse of public dollars

Student Growth Outcomes

Voucher programs have been shown to hurt student outcomes.

- Studies have found that students who attended private schools using vouchers actually performed worse than their similar peers in public schools.
- Washington, D.C. voucher program had no statistically significant effect on student achievement in reading or math after three years. It also concluded that the program did not improve parent satisfaction with schools or perceptions of school safety.
- "In the only area in which there is evidence of small improvements in voucher schools - in high school graduation and college enrollment rates - there is no data to show whether the gains are the result of schools shedding lower-performing students or engaging in positive practices." Regarding student achievement, the report concluded, "In the few cases in which test scores increased, other factors, namely increased public accountability, not private school comparison, seem to be the more likely drivers."

HB 20: The Most Sweeping Voucher Program in the Country

- **HB 20, as proposed, would be the most far-reaching voucher bill in the country.** Other states with voucher programs are targeted to low-income students, students with IEPs, and other identified or discrete student cohorts. HB 20, however, would be a nearly universal voucher program that is not targeted and is open to nearly all New Hampshire children.
- **HB 20 has substantially fewer protections for students, less transparency and oversight of public funds, and almost no accountability for ensuring that programs funded by taxpayer dollars are being used appropriately or effectively.**
- **There are currently 5 states that have active Education Savings Accounts programs: Arizona, Florida, Mississippi, North Carolina, and Tennessee (Nevada's program is inactive).**
 - **Additional 10 states, plus DC and Puerto Rico, have voucher programs.**
 - **All programs are targeted, whether by geography, school ranking, disability status, income, or other factors.**

HB 20: The Most Sweeping Voucher Program in the Country

- Accountability & *Claremont* decision
- Eligibility requirements
 - Purpose of naming remote and hybrid students
 - Definition of “assessment proficiency”
 - Home educated students not named
- Impacts of “compulsory attendance”
- Legislative intent of State Board of Education rulemaking authority

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Questions?

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