

## Memorandum

November 27, 2024

To: Honorable Chris Sununu Governor

Honorable Jeb Bradley, Senate President

Honorable Sherman Packard, Speaker of the House

Honorable Tammy L. Wright, Senate Clerk

Honorable Paul Smith, House Clerk

Michael York, State Librarian

From: Senator Debra Altschiller


Representative Matthew Hicks

Subject: Annual Report for HB 2, Chapter 91:431, Laws of 2021

Pursuant to HB 2, Chapter 91:431, Laws of 2021 please find the enclosed findings and recommendations minority report of the Education Freedom Account Oversight Committee.

We are available for any questions.

Sincerely,  
  
Senator Debra Altschiller  
District 24

  
Representative Mathew Hicks  
Merrimack, District 24

It is with disappointment that we must submit this minority report. After considerable good faith efforts to come to consensus with the committee at large, we found our assessments of the Education Freedom Accounts/School Voucher Program at odds.

### **Program overview**

The program began in 2021, purportedly to serve students whose families were of low income and were unhappy with the state funded educational offerings for their child, local public school, public charter schools and the Virtual Learning Academy. The families accessing the EFA (voucher) program would be able to redirect the amount of state money apportioned for school adequacy away from the public funded options and instead use that taxpayer funded education money to pay private or religious school tuition or be reimbursed for homeschooling expenses.

In the buildup to the program there were anecdotal stories of children whose academic needs were not being met through the variety of available public options and were it not for their family's financial challenges, those families would choose to send their children to private or religious school or even homeschool. In the three years this program has launched there has been no documented evidence to show that the population of students receiving "Education Freedom Account" money (ne' vouchers) represent the demographic described as in desperate need of this program. In fact, according to reports from the Children's Scholarship Fund, 72% of the students receiving school vouchers never attended any public school of any kind. This means that these students' families had already chosen to opt out of their public-school options and were funding their children's education through alternate means of financial aid.

The committee received documentation of the growing cottage industry within the parochial school system of New Hampshire of requiring applicants to secure NH Education Freedom Account/Voucher money before submitting an application for financial aid to access the school's resources.

The cost of subsidizing this 72% of families who had, prior to the creation of the voucher program, made the choice to pay for private school tuition or develop their own homeschool program - as has been every parent's option by right - cost New Hampshire taxpayers millions of dollars. Those families were costing the state zero dollars and now they are being given unaudited dollars. Adding more cost by growing a program does not save New Hampshire money.

Despite no evidence to show fidelity to the program's purported necessity, the initial financial threshold for entry into the program was for a family earning no more than 300% of the federal poverty level. The New Hampshire Legislature has increased the entry to 350% of poverty. Additionally, it is important to note that in the last biennium, the legislature attempted to raise the eligibility to 400% and 500%. These attempts have so far been unsuccessful. Nonetheless,

supporters of the program have made moves to erase the financial requirements altogether. We find this to be an fiscally irresponsible position for the legislature to take.

The program is growing in cost exponentially and with a stunning lack of oversight coupled with obfuscation and circuitous answers from the New York based program administrators. We are deeply concerned that New Hampshire taxpayers are spending millions of precious taxpayer funds on a voucher scheme that is draining money away from the 97% of Granite state students receiving the education from local public, public charter schools and the Virtual Learning Academy in service to the 3% who opted out of these educational opportunities with no oversight.

The statutorily designed phase out grants are coming to a close and school districts will be required to make budget adjustments to compensate for the funds that will be redirected away from the majority of its students. The impact of this is only now coming to be formulated and without more detailed data, the committee sees the burgeoning program running wildly out of control.

Fiscal 2025 forecast is that 5,321 students are in the EFA/Voucher Program with a projected cost of nearly \$27.6 million per year that will be diverted from the Education Trust Fund toward the program or \$3 million increase over FY 24. If previously held ratios held true for FY 2024, approximately \$21 million of that (or 76%) is new spending from the Education Trust Fund.

The EFA/Voucher Program funds private schools who can discriminate against as to who they allow into their program, based even upon characteristics of protected classes under the NH Human Rights law.

The EFA/Voucher Program has not employed a screening protocol for evaluating potential participation in schools who falsely advertise, such as the Saint Benedict Center  
<https://www.catholicnh.org/assets/Documents/About/FAQ/Decree-Precepts-StBenedictCtr.pdf>

Additionally, this particular school was required to amend their Articles of Agreement with the New Hampshire Secretary of State and the U.S. Internal Revenue Service to not present themselves as Catholic organizations. According to reports by ProPublica about IRS filings, this has not been done.  
<https://projects.propublica.org/nonprofits/organizations/20528845>

We find the absence of a screening protocol for evaluating “approved vendors” unacceptable.

The extraordinary independence of the program built into the statute has led to minimal oversight by the Department of Education and the Legislature. Additionally inquiries from the Legislative we have had an exceptionally slow response from Children’s Scholarship Fund leading to the following:

- A lack of a transparent process for selecting approved providers by the scholarship organization leading to several questionable choices for pre-approved providers
- The Commissioner allowing the scholarship organization to avoid a comprehensive audit by the Legislature as required by passage of HB1135 (signed by the Governor on July 1, 2022 [https://legiscan.com/NH/text/HB1135/id/2580350/New\\_Hampshire-2022-HB1135-Amended.html](https://legiscan.com/NH/text/HB1135/id/2580350/New_Hampshire-2022-HB1135-Amended.html) ) by saying that the information collected is not available to the auditing process because it is owned by the scholarship organization. (<https://www.seacoastonline.com/story/news/2024/03/21/nh-dept-of-education-blocks-data-education-freedom-accounts-audit/73039810007/> )
- The ability to approve categories of educational expenses without any public oversight because of the unchecked rulemaking authority effectively given to the scholarship organization.

Through multiple discussions over months of meetings we have identified that the Children's Scholarship Organization has not carried out some of its statutorily required mandates. When asked directly about why the director of the program (Ms. Kate Baker Demers) had not followed through on convening the Parent and Education Service Provider Advisory Commission, she indicated that she had not formally convened the commission as she did not believe she was required to as she interpreted the statute differently than the Legislative Oversight Committee. She was asked to meet this statutory obligation and to the best of this committee's knowledge this requirement has still not been met.

Lack of annual means testing sends a different message as to what proponents of the program was originally conceived to do. It may have also contributed to disincentivizing the scholarship organization from having tighter controls on verifying entry into the program.

The committee minority finds that there are substantial Public Funds Diverted from Education Trust Fund

- Fiscal 2025 forecast is that 5,321 are in the program with a projected cost of nearly \$27.6 million per year will be diverted from the Education Trust Fund toward the program or \$3 million increase over FY 24. If previously held ratios held true for FY 2024, approximately \$21 million of that (or 76%) is new spending from the Education Trust Fund.
- The EFA/Voucher Program funds private schools who can discriminate against as to who they allow into their program, based even upon characteristics of protected classes under the NH Human Rights law.

Due to a lack of required student performance for the program, we do not have aggregate information as to how the students in the program are performing using accepted statewide academic assessments for measured progress toward mastering any competencies that are considered part of an adequate education as defined by the legislature.

In states such as Louisiana who have measured voucher program student performance, the results have been disastrous. (<https://www.nber.org/papers/w21839>)

Despite the gaping holes in transparency, measurements of any kind of success and exponential growing costs, members of the Legislative Oversight Committee have already pursued expansion of the program by way of eliminating any financial thresholds.

([https://gencourt.state.nh.us/lsr\\_search/LSR\\_Results.aspx](https://gencourt.state.nh.us/lsr_search/LSR_Results.aspx)

LSR 2025-0061)

State subsidized voucher programs are failing across the nation and cost taxpayers hundreds of millions of dollars. (<https://www.propublica.org/article/arizona-school-vouchers-budget-meltdown>)

Without any information that measures any kind of achievement from the NH program there is grave concern that our students may be facing similar outcomes.

### **Recommendations**

- Bring the program “in-house” and have the NH Department of Education run the program so that they must go through a public rulemaking process if they want to make changes such as what counts as an educational expense. There would also be no question that the program could be audited by the legislature.
- Prohibit private schools from making EFA applications a requirement or prerequisite to qualifying for, or receiving, financial aid.
- Repeal 194-F:2, I(o): “Any other educational expense approved by the scholarship organization.” This gives them too much authority on the level of a state agency.
- End the public funding of discriminatory admissions policies and require providers to have a non-discrimination policy for admissions if they are going to be a pre-approved provider or a family is reimbursed for expenses with that provider.
- Require criteria and a spelled-out process for quality provider selection

- Require that the NHED perform annual compliance audits of 20% of accounts, with a representative sample from each grade level, and deliver the report to the EFA Oversight Committee within 60 days of report completion.
- Require educational providers to complete a uniform accountability system profile as a condition of approval, to include assessment data, teacher quality and/or certification indicators, and student demographics. A robust, centralized accountability system would provide critical information to families and taxpayers on the approved programs.
- Limit parent reimbursement claims to providers that have been approved by the scholarship organization only. There have been several instances where educational organizations have been listed on the “approved vendors” list of the Children’s Scholarship Fund yet have not completed the necessary application process.
- Require at a minimum, annual income verification as part of the income requirement being a ceiling to continue to remain in the program rather than an entry.
- Capping the program to a budgeted amount that is separate and apart from the Education Trust Fund.
- Decoupling the payment amounts from the adequacy formula, so that vouchers don’t automatically go up simply because the legislature chooses to increase base adequacy or differentiated aid amounts to public schools. Setting a dollar amount separately in statute, like the charter school payments.
- Limit the types of “educational expenses” which can be funded by vouchers. i.e., tuition only to an approved non-public school in New Hampshire and accredited services for students with disabilities.
- Recoup unused money from a voucher account after a certain period. Right now, funds stay in the individual family’s voucher “account” ; until they become ineligible to qualify. (If a family is not using the funds, what is the justification for giving more?)
- Changing the phrase “resident district public school” to “district public school” throughout RSA 194-F.
- Require Academic Oversight for Policymakers and for Parents. The program should require a more formal assessment of students in the program. While standardized assessments are not perfect, they can at least provide a snapshot of where students are at so that lawmakers have a better sense of educational improvement and/or assessment. Require that the NHED publish test scores in a separate report when the sample size is above the minimum sample size for public and charter school reporting.

- The EFA/Voucher program must develop a screening protocol for evaluating potential participation in schools who falsely advertise, and a process for removing them from the approved vendor list.
- Lastly, the committee minority finds that in accordance with its charge outlined in RSA 194-F:12, III, a legislative recommendation of an annual financial eligibility evaluation is an appropriate and necessary requirement for program participants. (See RSA 194-F:1) This was also a recommendation from the 2023 committee report.

*RSA 194-F:1*

*VI. "Eligible student" means a resident of this state who is eligible to enroll in a public elementary or secondary school and whose annual household income at the time the student applies for the program is less than or equal to 350 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under 42 U.S.C. section 9902(2). No income threshold need be met in subsequent years, provided the student otherwise qualifies. Students in the special school district within the department of corrections established in RSA 194:60 shall not be eligible students.*

/end