

A POLICY GUIDE TO

EDUCATION

IN MICHIGAN

MACKINAC CENTER
POLICY PRIMER

Choice in Education: Why Michigan Opportunity Scholarships are Constitutional

Families across Michigan were frustrated and exasperated by the lack of educational options available during the COVID pandemic. But the pandemic only exposed and magnified the obstacles Michigan parents encounter as they try to meet their children's specific academic needs.

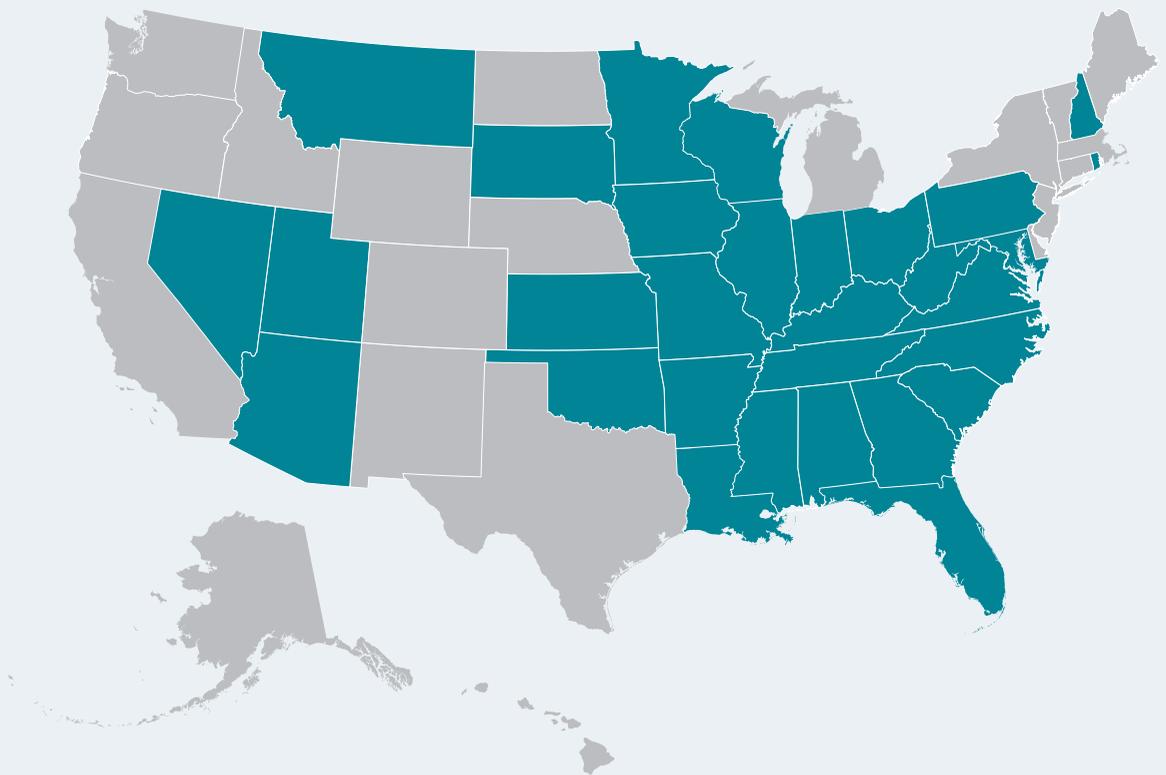
For some families, this means gaining access to a stable in-person private school. Others need support to hire a tutor for their public school student, buy supplemental instructional materials, or pay for special-needs therapies. Students may also require help to enroll in higher education courses or career apprenticeships.

While families in many other parts of the country can use state-allotted student funding to help cover the costs of these educational options, families in Michigan can't. They have been restricted by the state constitution's antiquated and discriminatory "Blaine Amendment," a provision which prevents parents from drawing on state funding to go outside the public school system.

Fortunately for Michigan parents and students, the United States Supreme Court ruled in 2020 that state-based scholarship funds could be used to help students attend private schools. More specifically, the high court's decision in the case *Espinoza v. Montana Department of Revenue* stated that any restrictions on using these funds cannot discriminate against religious institutions.

U.S. Supreme Court decisions carry the weight of federal law. Now that the high court has spoken, Michigan families can demand that state lawmakers honor their right to apply scholarship fund dollars to the educational materials and services that best suit their children's needs.

that in the first quarter of 2021, Michigan's economy created 297,237 jobs. During that same time, another 172,427 jobs were lost. The number of jobs the state hopes will be created during that same quarter thanks to subsidies is, by comparison, minuscule.



 **States with Private School Choice Programs**

 **States without Private School Choice Programs**

Source: Great Lakes Education Project

Full Constitutional Choice Finally Comes to Michigan Families

A legislative proposal known as Student Opportunity Scholarships relies on tax credits, an approach to financing choice in education that heeds guidance provided by the Espinoza ruling. It's also consistent with ideas promoted by the Mackinac Center for nearly 25 years and adopted, in various forms, by 20 states.

This approach provides a tax benefit for individual and corporate donors to invest in students rather than the bureaucratic K-12 system. It lets them designate some of what they owe in state taxes to fund nonprofit scholarship organizations. Their donations, in turn, would directly aid students and their families, who are best equipped to make important educational decisions.

The legislative solution would:

- Enable the Michigan Department of Treasury to authorize nonprofit organizations to grant scholarships under the new Student Opportunity Scholarship Program
- Allow nonprofit organizations to solicit and collect donations from individuals

and businesses, and accept scholarship applications from students' families

- Direct resources to students, with an emphasis on those with the greatest need

More than a million public school students would be eligible for scholarships of up to \$500 each (with up to \$1,100 for students with disabilities), which could be used for a wide variety of education-related expenses, including:

- Tutoring
- Textbooks and instructional materials
- After-school programs
- Special-needs therapies
- Career and apprenticeship programs
- Online courses
- Testing fees
- School-related transportation

Students not enrolled in public schools could apply for larger scholarships, which could also be used for tuition costs. Lower-income families would be eligible for more funds.

Opportunity Scholarships: Michigan Families Have Waited Long Enough

In response to COVID, federal and state policymakers showered Michigan's K-12 public schools with unprecedented levels of funding. This influx of new tax money only strengthens the case for sending additional education dollars directly to families of school-age children.

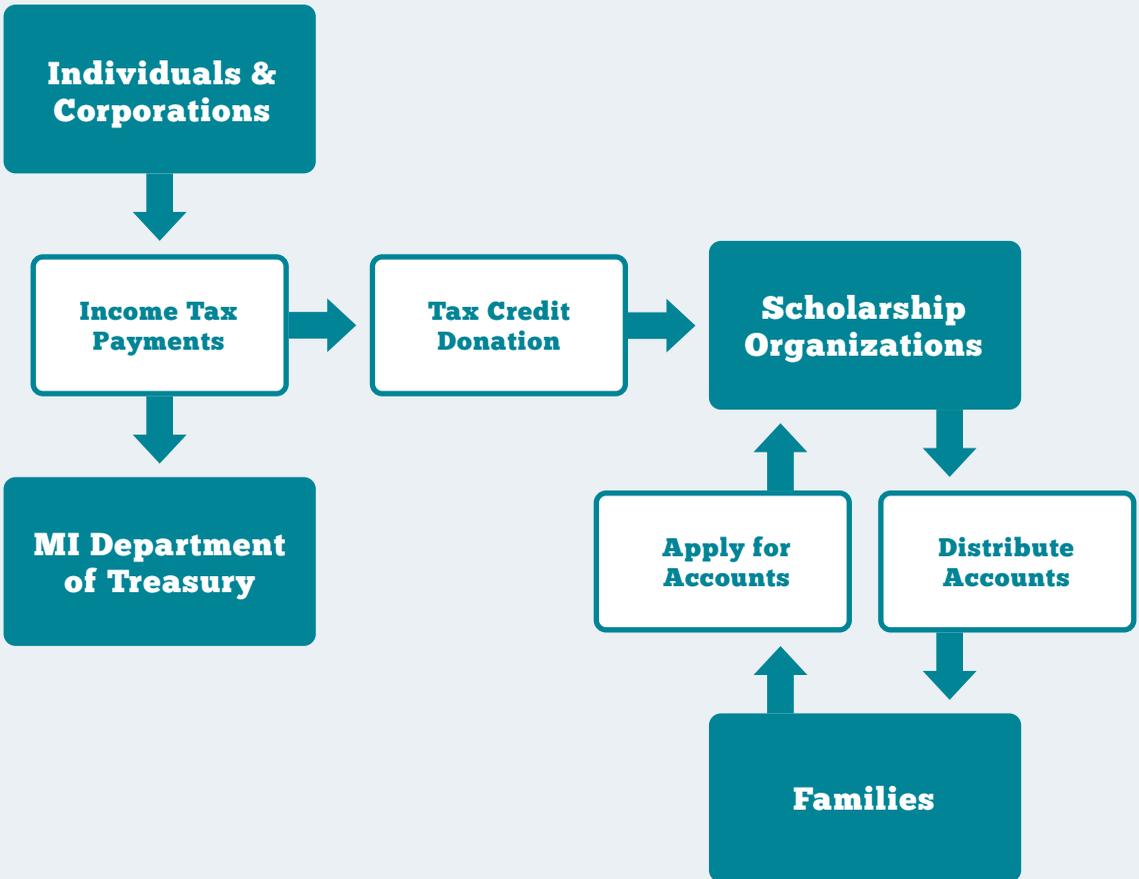
The \$500 million annual pool of tax credits proposed to fund Student Opportunity Scholarships represents **less than 1% of the entire budget** appropriated by Lansing lawmakers.

Nearly 30 states, including all of Michigan's neighbors, have adopted education choice policies for at least some students. Throughout

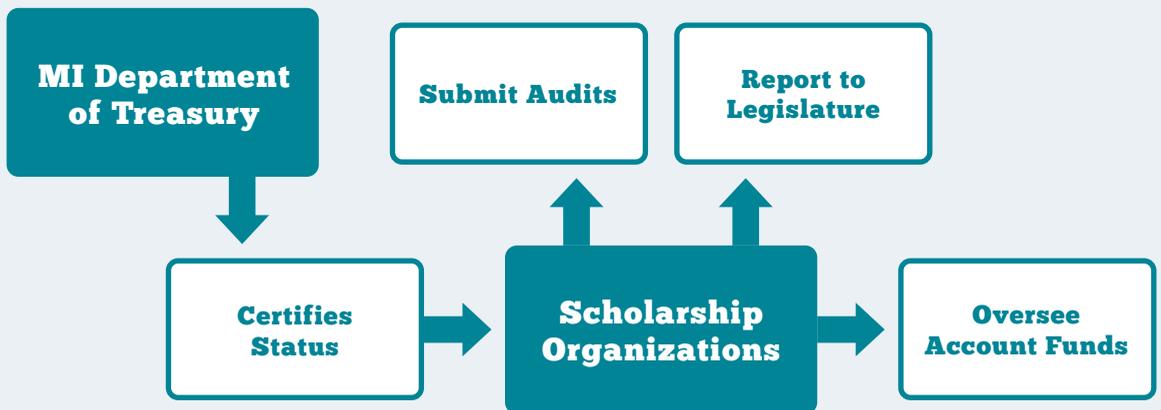
the nation, more and more states are creating or expanding programs that fund students, not systems.

Michigan lawmakers need to act now so that our students can get back on track. The state's K-12 academic results were frustratingly low even before the pandemic. COVID disruptions only exacerbated poor performance, leaving many parents feeling hopeless and powerless. The Student Opportunity Scholarships solution would offer Michigan families the same level of access and affordability that parents in many other states already enjoy, while ensuring that our students get the education they need for success in life.

Flow of Money - \$500 Million in Total Tax Credits



Chain of Accountability



Student Opportunity Scholarships: Policy Overview

Student Opportunity Scholarships would give families of K-12 students access to tax-credit scholarship funds. This would enable them to meet their children's unique academic needs with instruction, materials, and services which are, in some cases, not available to them in the public system.

How would accounts be funded?

Individuals and companies make donations to scholarship-granting organizations that are subject to state oversight. Those organizations, in turn, distribute scholarships on behalf of children, with families controlling funds in their child's account. Donors to the scholarship organizations receive a dollar-for-dollar credit on Michigan's individual or corporate income tax.

How would eligibility for scholarships be determined?

- Scholarship organizations give the first priority to free or reduced lunch students, children in foster care, or students with disabilities eligible for an individualized education program; these students are also eligible for the highest scholarship amounts.
- Other students are eligible for smaller scholarships, with eligibility based on a sliding scale according to household income. A household would qualify as long as its income is no more than 200% of

the reduced lunch qualification threshold (\$98,000 for a family of 4).

How would the accounts work, and how could families use them?

- There is a wide array of possible uses: tuition; tutoring; online courses; dual enrollment; curriculum materials; alternative education, summer school, and after-school programs; occupational, behavioral, or speech-language therapies; mental health services; career counseling and training; education-related transportation; AP and college prep testing fees; athletic and extracurricular activities.
- All student accounts are subject to a maximum contribution cap each year — \$500 for public school students, \$1,100 for students with disabilities. For families paying tuition or providing at-home instruction, accounts are capped at 90% of the state's K-12 school funding formula.

How would the state ensure organizations properly administer funds?

- Organizations must prove their 501(c)3 status to the Michigan Department of Treasury to launch; this means they must supply their articles of incorporation and provide full documentation of their IRS status and audited financial statements to qualify and then renew their approval.

- Organizations are required to provide parent-friendly information and scholarship application processes, and must spend at least 90% of the available funds on scholarships.
- Contributions to the organizations cannot be designated to benefit individual students, nor can an administering organization give scholarships to the children of its board members, staffers or anyone else affiliated with the organization

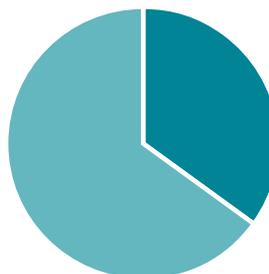
How would the state further guarantee oversight and accountability of the scholarship funds?

- The Department of Treasury retains standard procedures for approving tax-credit donations and scholarship-granting organizations.
- The department provides annual reports to the Legislature on how money from the program is used and what it accomplishes.

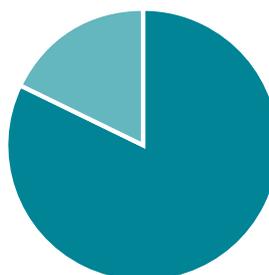
What would schools and other education service providers have to do in order to receive funds?

- There are no new state regulations beyond what is needed to oversee the program.
- The program does not establish new state accountability or testing requirements.
- Schools and other education providers cannot be forced to alter their creed or policies.

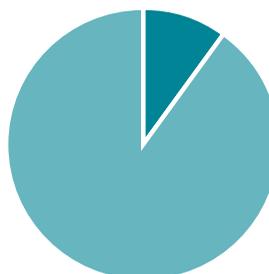
Student Eligibility



■ Low-income students
■ All other students



■ Students with disabilities
■ All other students



■ Public school students
■ Nonpublic / homeschooled students

Student Opportunity Scholarships: FAQs

Isn't this just another voucher scheme like the one Michigan has rejected before?

No. The program is funded through tax credits given to encourage donors to underwrite scholarships through nonprofit organizations. A statewide total of \$500 million in credits is available, allowing money to flow to the scholarship-granting organizations instead of the state treasury. Also, voucher programs typically pay only for tuition. By contrast, students and families can use funds in their Student Opportunity Scholarship accounts to pay for a host of different education expenses, not just tuition.

How many students would be eligible for scholarship accounts? Would there be enough funding for them all?

More than 1 million public school students would be eligible for supplemental accounts, including all children with disabilities and children in the foster care system. Many other students can also use larger scholarships (up to 90% of the state's public school foundation allowance) to fund tuition and at-home learning expenses.

The initial \$500 million tax credit cap would not cover every eligible student, but it could conceivably help hundreds of thousands with aid for either tuition or supplemental learning costs. The law would give priority to low-income and special-needs students. If other students

apply for more funds than a scholarship-granting organization has received in donations, the organization would use a random lottery to determine who receives aid.

Don't Michigan families already have school choice?

Yes, but there's not enough choice to go around. Michigan is a leader in providing access to public school options outside the district where a student lives. That includes both brick-and-mortar and online charter schools. While these education options benefit some students, they are not uniformly available across the state. Further, the COVID experience with remote and intermittent hybrid learning showed that access to other districts often does not provide what parents are looking for. And some students want to stay enrolled in their own public school but just need extra support to help pay for opportunities and expenses the district may not offer.

Won't this take money away from public schools that need it?

These scholarships represent a different way of funding education, which gives priority to students, and has a minimal impact on current K-12 funding streams. The COVID-19 pandemic brought a total of more than \$6 billion in federal aid to be spent over the next several years, on top of a record state school aid budget for 2021-22. (In the year before the pandemic started,

the federal government spent \$1.95 billion on K-12 education in Michigan.) These figures supplement the \$15,000 per student that the system previously took in. The \$500 million scholarship cap makes up a tiny fraction of the total annual revenues in Michigan's K-12 public school system.

Doesn't this plan violate the Michigan Constitution?

Article VIII, Section 2 of the Michigan Constitution, adopted in 1970, represents what is arguably the nation's most restrictive provision against aiding nonpublic schools. But the U.S. Supreme Court's 2020 *Espinoza* ruling struck down many state barriers to such aid programs. In response, the Mackinac Center Legal Foundation filed a federal lawsuit, arguing that Michigan's bar on aid to nonpublic schools violates the U.S. Constitution's free exercise clause.

The part of the Michigan Constitution that effectively restricts families' ability to choose private religious education is striking in light of the section that precedes it. It reads: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

These funds could be abused; doesn't this mean that this is a bad idea?

No. The legislation sets up standards and procedures to ensure that scholarship-granting organizations use funds properly. The organizations are subject to review by the

Treasury Department, and they can use no more than 10% of tax-credit funds on their own expenses. This is a stringent requirement, as the watchdog group Charity Navigator lets organizations spend up to 15% of their funds on overhead costs and still receive its highest rating.

Parents who receive scholarship accounts are required to sign an agreement that they will use funds only as allowed by law, and there is technology to help ensure they use them accordingly. Arizona is the pioneer of education savings accounts — which closely resemble the accounts envisioned in this proposal — and abuse there has been vanishingly rare. Michigan can also draw on lessons from other states to use the best practices available to preserve fiscal integrity in the program.

Do Michigan parents and other voters really support this idea?

A 2020 statewide survey found that 67% of Michigan voters favored repealing the state's constitutional ban on nonpublic aid. They agreed to this to ensure that vulnerable students (including those who have special needs, are in foster care, or have been bullied) can receive scholarships to access private education.

More recent surveys by the nonprofit organization EdChoice found that 65% of Michigan voters and 73% of Michigan parents favor the kind of education savings accounts proposed as Student Opportunity Scholarships. More recently, 80% of Michigan voters expressed support for education savings accounts that families can use to support their children's learning.

FAMILY STORIES

BAGOS

Located in Royal Oak, Jessie and Ryan Bagos live with their twin sons, who entered kindergarten during the 2020-21 school year and in the middle of the COVID-19 pandemic. Unable to use other education options, Jessie and Ryan were forced to enroll their children in the local public school, which did not offer in-person schooling until near the end of the 2020-21 school year.

Though they knew a private Christian school would be a better fit for their family, Jessie and Ryan had other financial obligations and could not afford to send their children to the school they knew would be best for them. Nor could they afford to leave the district and move to one

that might have better suited their children's needs. This led to both parents growing frustrated with their school system and feeling they and their children were being held hostage in a district that wasn't a good match.

The Royal Oak school district only reopened when the state threatened its funding, and even then, only four days a week. The twins never were able to resume full-time schooling during the 2020-21 school year. "I never want to be in that position again and don't think it's fair for any family to go through that," Jessie Bagos said. "To have the option of real school choice, to let parents be in charge of the funds for their children's education, would be life-changing. For everyone, not just us."



LAMBERT

Traci Lambert's 16-year-old daughter Katie has Down syndrome. She should be well into her secondary education and working toward her high school diploma. Instead, she dropped out of sixth grade in 2018 and is now only a seventh grader, participating in a third-grade general education curriculum with special education supports and services. Over the course of her schooling career, Katie's educational progress was held back by school officials who disregarded her parents' input and instead offered segregated programming and low expectations. By Katie's sixth grade year, she still struggled with basic reading, writing and math.

Once her parents removed her from school, Katie's unreported educational status became that of a dropout. For 18 months, her education consisted of twice-weekly speech, occupational, physical and music therapies and targeted reading instruction. The tremendous improvement in her reading and writing skills after less than six months was astounding. She improved by receiving a kind of research-based support that was neglected during her eight years of formal instruction. At age 14, Katie finally made significant gains with her speech, language and literacy skills, achieving a status which is typically acquired by age 8.



In all, the Lambert family has spent tens of thousands of dollars on evaluations, therapies, specialized instruction and other supports for Katie's education. Student Opportunity Scholarships would make these crucial services more affordable. "This legislation would significantly impact the ability to access quality and equitable educational opportunities for my daughter Katie as well as for the many Michigan students with disabilities and their families," Traci Lambert said.





The Mackinac Center for Public Policy is dedicated to improving the understanding of economic principles and public policy among private citizens and public officials. A nonprofit and nonpartisan research and education institute, the Mackinac Center has grown to be one of the largest state-based think tanks in the country since its founding in 1987.

Additional information about the Mackinac Center and its mission to improve the quality of life in Michigan through sound public policy can be found at www.mackinac.org.