

Parent Power

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PRIVATE SCHOOL CHOICE PROGRAMS EXPAND ACROSS THE NATION

During the last two years State legislatures and governors have been increasingly willing to enact laws establishing or expanding programs which assist parents to choose a private, including religious, school for the education of their children. During the 2005 and 2006 legislative sessions Arizona, Iowa, Ohio, Pennsylvania, Rhode Island, Utah, and Wisconsin have either authorized new private school choice programs or expanded existing ones so that a greater number of families benefit. Increasingly, new programs are being authorized with the approval of both Republicans and Democrats.

This issue of *Parent Power* is devoted to describing the various kinds of programs which have been enacted so far and to providing resources for readers who may wish to analyze laws which have established successful programs.

School choice programs which benefit families wishing to choose a private school for their children fall into several different categories. **Arizona, Florida, Iowa, Pennsylvania, and Rhode Island** have all authorized **tax credit programs for donations to organizations which give scholarships** to students enrolling in private schools. Arizona has since 1997 had a highly successful program which allows **individuals or married couples** to use such tax credits. Iowa enacted a similar program this year. A growing number of states have authorized tax credits for **corporations** which donate to scholarship organizations. Florida and Pennsylvania have had such corporate tax credit programs since 2001; Arizona and Rhode Island enacted such programs during 2006. Most of these programs are directed towards families with limited household income.

Illinois, Iowa, and Minnesota have all authorized **income tax credits or deductions** for families who incur educational expenses for their own children.

The other major type of private school choice program is that which funds scholarships for specific categories of students **from government appropriations** (vouchers). Scholarships for **low-income** students have been enacted by the federal government for the **District of Columbia** and by state governments for families in **Florida, Ohio, and Wisconsin**, although the Florida Supreme Court has ended its program. Scholarships for students with **disabilities** have been authorized in **Arizona, Florida, Ohio and Utah**. **Arizona** also added a scholarship program for students who are in **foster families**.

Maine and Vermont both have “**tuitioning**” programs, although neither can currently be used by parents wishing to choose a religious school for their children.

More details about these innovative programs can be found on the following pages. Congratulations to all the advocates who helped enact these exciting programs!

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STATE PROGRAMS: TAX CREDITS FOR DONATIONS TO SCHOLARSHIP ORGANIZATIONS

Arizona

A tax credit law was enacted in 1997. Individuals can receive a credit up to \$500 and, beginning in 2006, married couples up to \$1000 for donations to a private school tuition scholarship program. A \$200 tax credit is allowed an individual for donations to public school extracurricular activities or character education programs. Beginning in 2006, married couples are eligible for a tax credit of \$400.

From 1998 to 2004, the program generated \$146 million, which financed over 98,000 scholarships. Although the Arizona tax credit program for individuals has no income guidelines for families who receive scholarships, a 2004 study indicated that scholarships were based primarily on financial need. In 2004-05, over 21,000 scholarships, worth more than \$28 million, were awarded at 324 private schools.

The Arizona Supreme Court upheld the program in 1999. In June 2004, the U.S. Supreme Court ruled 5-4 in *Hibbs v. Winn* that opponents of the program could use federal courts to try and halt a state tax program. This decision is significant because judicial review of state tax programs had previously been reserved to state courts. In March 2005, a U.S. District Court judge upheld the tax credit program as constitutional. Opponents of the program have appealed the case to the 9th U.S. Circuit Court of Appeals.

For the last several years, the Arizona legislature has passed a corporate tax credit bill for donations to scholarship organizations, only to see the program vetoed by the governor. At the end of March 2006, however, the governor allowed a corporate tax credit bill to become law without her signature. In June 2006, she signed a budget bill that appropriated \$10 million for tax credits for corporations which donate to non-profit organizations that distribute private school scholarships. The tax credits will support scholarships up to \$4,200 for private school students in grades K-8 and up to \$5,500 for students in high school. The Corporate Tuition Tax Credit program specifies that scholarship recipients must be from families with an income of no more than 185% of federal poverty guidelines.

Information about the **Arizona tax credit programs** for donations to school tuition organizations is available in Title 43 of the Arizona Revised Statutes, www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=43 Section 43-1089 describes the tax credit program for individual or joint taxpayers. Section 43-1183 describes the program for corporate donations to school tuition organizations.

Florida

In 2001, Florida authorized a tax credit for corporations who donate to scholarship funds. The credit may not exceed 75% of the tax due. Low income students who are enrolled in public schools may receive up to \$3,500 for tuition, textbooks, and transportation at a private school or up to \$500 for transportation to attend a public school in another district. Only entering kindergartners may apply for a scholarship to attend a private school without first being enrolled in a public school. Income eligibility guidelines are based on those of the federal free and reduced price lunch programs, which allow families with a household income of no more than 185% of the federal poverty standards to participate. Florida's corporate tax credit program allows students to continue to receive scholarships if the household income rises to no more than 200% of the federal poverty standards.

In 2005-2006, nearly 13,500 students received scholarships to attend 852 private schools. There have been no legal challenges to this program. During the 2006 session, the legislature added new accountability requirements for private schools which participate in the program.

Further information about the **Florida Corporate Tax Scholarships Program** can be found at: www.floridaschoolchoice.org.

STATE PROGRAMS: TAX CREDITS FOR DONATIONS TO SCHOLARSHIP ORGANIZATIONS *continued*

Iowa

In June 2006 the Iowa governor signed into law the **Educational Opportunities Act** which establishes a 65% tax credit for individuals who donate to approved school tuition organizations (STOs) that collect funds for more than one school. Families earning no more than 300% of the federal poverty level may receive scholarships to attend private schools. STOs must distribute at least 90% of funds received each year. In the first year of the program, the state can grant tax credits worth a total of \$ 2.5 million; in subsequent years, the ceiling is \$ 5 million.

The text of the Iowa legislation authorizing this tax credit program is contained in Senate File number 2409 (Enrolled). It is available at <http://coolice.legis.state.ia.us/Legislation%5Cenrolled%5CSF2409.html> .

Pennsylvania

Since 2001 Pennsylvania has allowed corporations to receive tax credits of up to \$100,000 (now \$200,000) for contributions to organizations which fund scholarships to private schools or grants to public schools for innovative programs. Scholarship recipients must meet family income standards which allow an annual family income of \$50,000 plus an additional \$10,000 for each dependent in the household.

In the first three years the Pennsylvania business community contributed more than \$100 million through this program, called the **Educational Improvement Tax Credit Program (EITC)**.

During the 2005-06 school year over \$29 million from this program funded over 27,000 scholarships for students to attend private schools in Pennsylvania. Public schools have used the donations to fund such initiatives as early childhood and alternative educational programs.

Rhode Island

In June 2006, Rhode Island authorized the **Tax Credits for Contributions to Scholarship Organizations** program. Due to begin in January 2007, businesses in the state will be able to receive a 75% tax credit for donations they make to scholarship organizations which fund tuition for qualified families at Rhode Island nonprofit private schools. Businesses which commit to donations two years in a row receive a 90% credit. The maximum tax credit per business is \$100,000 annually and the state budget will allow \$1 million of credits under this program per year.

Scholarship organizations must provide scholarships to more than one school and must allocate at least 90% of their income to scholarships each year. Qualified families are limited to an annual income of 250% of the federal poverty guidelines.

More detailed information on the **EITC** can be found at www.newpa.com/programDetail.aspx?id=62 .

The text of the law authorizing the **Rhode Island Tax Credits for Contributions to Scholarship Organizations** program can be found at <http://www.rilin.state.ri.us/PublicLaws/law06/law06246-24.htm> .

Information on **federal poverty guidelines** can be found on the website of the U.S. Department of Health and Human Services at <http://aspe.hhs.gov/poverty/06poverty.shtml>

TAX CREDITS OR DEDUCTIONS FAMILY EDUCATIONAL EXPENSES

Illinois

In 1999, the legislature approved a tax credit plan. Individuals may take a credit of up to 25% of education-related expenses—including tuition and book and lab fees—that exceed \$250. Educational expenses for students in public, private, religious, and home schools are eligible for the tax credit. The maximum credit each year is \$500 per family.

Illinois courts have upheld this program.

A description of the **Illinois tax credit program** for education-related expenses can be found in section 35ILCS 5/201(m) of the Illinois Compiled Statutes. The website is www.ilga.gov/legislation/ilcs/ilcs2.asp?ChapterID=8.

Iowa

The original program of tax credits or deductions passed in 1987. Currently all families are allowed a tax credit of 25% of the first \$1,000 spent on educational expenses for each of their dependents in grades K through 12. These expenses can include private school tuition.

Information on the **Iowa tax credit program** for educational expenses is in Section 422.12.2 of the Iowa Code. The website is www.legis.state.ia.us/IowaLaw.html. Follow the link to 2005 Merged Iowa Code and Supplement and put 422.12.2 in the box.

Minnesota

Since 1955 families have been able to deduct education expenses from income when calculating the amount owed in state taxes. The current maximum deduction is \$1625 per qualifying child in grades K-6 and \$2500 for each qualifying child in grades 7-12. Private school tuition may be included as an expense and there are no family income requirements.

Families with household incomes under \$37,500 and with one or two children may receive a refundable tax credit of up to 75% of the amount paid in qualifying educational expenses. Allowable family income may increase \$2000 for each additional child in grades K-12. Qualifying expenses for the tax credit exclude private school tuition.

Qualifying expenses eligible for either the tax deduction or tax credit include tutoring, fees for enrichment programs, secular books and materials, transportation to school or for field trips, home computers, and educational software.

In 1983 the U.S. Supreme Court upheld the tax deduction program. No other legal challenges have occurred.

Minnesota's program can be found in the Minnesota Statutes 2005, Section 290.0674, available at www.revisor.leg.state.mn.us/stats/290/0674.html.

SCHOLARSHIPS FUNDED THROUGH GOVERNMENT APPROPRIATIONS (PUBLICLY - FUNDED SCHOLARSHIPS)

FEDERAL PROGRAM

District of Columbia

Authorized in January 2004, the **District of Columbia School Choice Incentive Program** has become the first federally funded K-12 school scholarship program. In both of the first two years of the program, \$13 million has been available to students from low-income D.C. families to cover up to \$7500 in tuition, fees and transportation costs to attend private schools in the District. Qualified students already attending a private school are eligible but priority is given to public school students attending schools identified as “in need of improvement.”

During the 2004-05 school year, 1027 students received scholarships to attend 53 of the 58 private schools which registered for the program. Over 200 of these students were enrolled in private schools the previous year. Of the schools participating in the 2004-2005 program, 44% were part of the Catholic Archdiocese of Washington, 26% were other sectarian schools, and 20 percent had no religious affiliation. The median household income for scholarship children during the first year was \$19,000.

For the 2005-06 school year, 1716 scholarship students attended 58 private schools. Sixty-eight private schools had agreed to participate in Year Two of the program. All students funded for the first time in 2005-06 came from public schools. Students from families with a household income not exceeding 185% of federal poverty standards are eligible to participate and may continue to receive a scholarship as long as the household income does not exceed 200% of federal poverty guidelines.

Details of the **D.C. School Choice Incentive Program** are available at www.ed.gov/programs/dcchoice/legislation.htm. Additional information can be found on the website of the Washington Scholarship Fund, which administers the program. That website is www.dcscholarship.org/index.php.

STATE PROGRAMS

Arizona

In June 2006, Arizona enacted two scholarship programs which can be used for students to attend private schools. The **Arizona Scholarships for Pupils with Disabilities** program allows parents of students with disabilities who have been in a public school for the prior school year to receive a scholarship for their students to attend another public or a qualified private school. The private school must be located in Arizona and not discriminate “on the basis of race, color, handicap, familial status or national origin.” \$2.5 million has been appropriated for the first year of the program, 2006-2007. The value of a scholarship will vary, depending on the nature of a student’s disability.

The second Arizona scholarship program enacted in 2006 is the **Displaced Pupils Choice Grants** program. This program allows legal guardians of children in foster care to receive a grant of up to \$5000 annually to pay for the tuition and fees of a qualified private school. “Qualified” school has the same definition as above. \$2.5 million has also been appropriated for this program for 2006-2007.

The text of legislation creating these two new programs can be found in Title 15, Chapter 8 of the Arizona Revised Statutes. The website is www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=15. A description of the **Displaced Pupils Choice Grants** is Article 1.2 of Chapter 8. That of the **Arizona Scholarships for Pupils with Disabilities** is in Article 8 of Chapter 8.

SCHOLARSHIPS FUNDED THROUGH GOVERNMENT APPROPRIATIONS (PUBLICLY - FUNDED SCHOLARSHIPS) *continued*

Florida

Florida has had two publicly-funded scholarship programs:

The A+ Opportunity Scholarships program, authorized in 1999, has provided scholarships to students in low performing public schools. Students have been allowed to use scholarships to transfer to another public or to a private school. The average scholarship amount given in 2005-2006 was \$4205,

The program has had numerous legal challenges since its enactment. In January 2006 the Florida Supreme Court, in a 5-2 vote, ruled that the Opportunity Scholarships violated the Florida Constitution clause which guarantees a "uniform" system of free public schools. The 700 + students then using Opportunity Scholarships were able to finish the 2005-2006 year in their current schools, but will not have Opportunity Scholarships for 2006-07. Over half of these were enrolled in religious schools during the 2005-06 school year. In June of 2006 the Governor signed legislation which allows students who had been given Opportunity Scholarships to receive scholarships through the corporate tax credit for scholarships program.

In 1999 the **McKay Scholarships for Students with Disabilities Program** began as a pilot to allow parents of a child with a disability to use a publicly-funded scholarship to transfer to a public or private school. Parents needed only to indicate that they were dissatisfied with the academic progress of their child. The program expanded statewide in 2001. Over 17,000 students used McKay scholarships during the 2005-06 school year to attend one of 727 private schools. The average scholarship was worth over \$6000. Students with disabilities already in private schools are not eligible for a McKay scholarship.

Although the McKay Scholarships have not been challenged legally, the recent ruling on the Opportunity Scholarships may prompt a challenge.

Financial scandals in the operation of the publicly-funded scholarship programs in Florida have prompted increased State oversight of participating schools.

Further information about the Florida **A+ Opportunity Scholarships** and the **McKay** programs can be found at www.floridaschoolchoice.org .

Ohio

The **Cleveland Scholarship and Tutoring Program** was authorized by the state legislature in 1995. It originally provided scholarships to families of elementary children to attend a private school. The scholarship was worth \$2250 and used by approximately 5500 children in 2002-03. The program expanded to include high school scholarships for the 2003-2004 year, although this was only for students who had received scholarships prior to high school. During the 2005-06 school year, scholarships to private schools were funded for approximately 5600 Cleveland students. In 2006-2007, the maximum scholarship will be raised to \$3105 and will be able to be used at approximately 43 private schools within Cleveland and in public schools in districts adjacent to Cleveland. The program also provides grants for tutoring services to public school students. Priority is given to students from low-income families.

In 2002, the U.S. Supreme Court, in *Zelman v. Simmons-Harris*, upheld the constitutionality of Cleveland families' using vouchers to enroll their children in religious schools.

The **Ohio Autism Scholarship Program** was enacted in 2004 and provided scholarships to 270 students during the 2004-05 school year. Students evaluated by the public school system as having an autism-spectrum disorder are eligible for a scholarship to pay for a private provider, including tuition at a private school. The state will pay up to \$20,000 per year for an eligible student, but parents can only seek reimbursement for expenses already paid.

SCHOLARSHIPS FUNDED THROUGH GOVERNMENT APPROPRIATIONS (PUBLICLY - FUNDED SCHOLARSHIPS) *continued*

In 2005, the Ohio legislature passed the **Educational Choice Scholarship Pilot Program**. Due to begin in the 2006-2007 school year, up to 14,000 Ohio students enrolled in public schools outside the city of Cleveland will be eligible for a scholarship to attend a private school, if their public school has been in Academic Watch or Academic Emergency for three years in a row. The maximum funding for a student in grades K-8 will be \$4250; for a high school student it will be \$5000. Students currently attending private schools or being home schooled are not eligible for a scholarship. There are no specific income requirements for this program, but families whose income is at or below 200 percent of the federal poverty level will receive priority for scholarship awards. By June 2006, 256 private schools had agreed to participate in EdChoice.

More detailed information on all three school choice programs in **Ohio** can be found at www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?page=2&TopicRelationID=661

Utah

Enacted in 2005 and beginning with the 2005-06 school year, the **Carson Smith Special Needs Scholarship Program** provides scholarships for students with disabilities to attend a private school. Although most students with disabilities are eligible for funding, the appropriation from the Utah legislature was expected to fund only 138 scholarships during the 2005-2006 school year. In 2006 the legislature increased the number of schools and students who could participate and approved a maximum annual scholarship award of \$6,042 for the 2006-07 school year.

Further information on the **Carson Smith Special Needs Scholarship Program** can be found at www.schools.utah.gov/admin/specialneeds.htm

Additional information on the **Milwaukee Parental Choice Program** can be found at <http://dpi.wi.gov/sms/choice.html>

Wisconsin

Established in 1990 and expanded in 1995, the **Milwaukee Parental Choice Program** provides scholarships to low income families so their children may attend private, including religious, schools. Families participating for the first time may not have a household income which exceeds 175% of the federal poverty guidelines. After the first year, students retain eligibility for scholarships as long as household income does not exceed 220% of federal poverty standards. Currently scholarships are worth up to \$6351 per student. This program was upheld by the Wisconsin Supreme Court in 1998, a decision the U.S. Supreme Court declined to review.

Enrollment in the program has been capped at 15% of enrollment in Milwaukee Public Schools, a figure which was reached in the fall of 2005, as enrollment in the public schools declined. After several months of legislative maneuvering, on January 22, 2006 the governor signed into law a compromise funding bill. The cap for state funding of the MPCP was raised to 22,500 students and more funding was made available to reduce class size in public schools. The compromise will also require private schools which enroll scholarship students to apply for accreditation and to implement standardized testing. Income requirements for families participating in the program were, however, made less stringent.

TUITIONING PROGRAMS

Maine and Vermont

Both states have “tuitioning” laws which allow school districts without public schools to fund students’ enrollment in other districts’ public schools or nonsectarian private schools. Recent decisions by both federal and Maine state courts have upheld Maine’s law excluding religious schools from “tuitioning” programs, most recently in April 2006 with the Maine Supreme Judicial Court ruling in *Anderson v. Town of Durham*. This decision has now been appealed to the U.S. Supreme Court.

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