



LFC Requester: Graeser

**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2026 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: January 30, 2026

Bill No: HB193

Committee Referrals: HEC/HTRC

Agency Name and Code: PED - 924

Sponsor: Montoya

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SCHOLARSHIPS FOR

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Short PRIVATE ED & TAX

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SECTION II: FISCAL IMPACT

(Parenthesis () Indicate Expenditure Decreases)

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY27	FY28		
None	None	N/A	NFA

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY27	FY28	FY29		
(\$2,500.0)	(\$2,666.7)	(\$2,833.3)	Recurring	GF

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$125.0	\$125.0	\$125.0	\$375.0	Recurring	GF

Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 2/1/26.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 193 (HB193) would divert tax payments that would otherwise enter the state's public revenue stream to fund public schools to taxpayers supporting private schools. The bill would provide for the authorization of School Tuition Organizations (STOs) to award educational scholarships to low-income students to attend private schools. HB193 would also create the Educational Scholarship Income Tax Credit and the Educational Scholarship Corporate Income Tax Credit for contributions made to STOs.

The bill does not have an effective date. Laws go into effect 90 days after the adjournment of the legislature enacting them unless a later date is specified. If enacted, this bill would become effective May 20, 2026.

The tax credit provisions of HB193 would apply to tax year 2026 and future years.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

Public schools make up more than 40 percent of the state budget. In providing tax credits for contributions for student tuition to private schools, HB193 would shift funding from public schools to private schools.

Tax credits reduce the amount of state revenue generated from taxes. The tax credits in HB193 would reduce revenue to the state which may be used for government administration, including public education. These funds would instead fund private schools. For a similar bill in 2024, House Bill 105, the [Taxation and Revenue Department](#) (TRD) estimated a \$2.5 million reduction in state revenue in the first year. As the size of the available credit would increase due to inflation, TRD estimated the recurring cost of HB105 would increase to approximately \$3 million after four years.

States often struggle to accurately anticipate tax revenue reductions from private school tax-credit and voucher programs. Arizona implemented a universal program in 2022 called the [Empowerment Scholarship Account \(ESA\) program](#), from which families receive deposits of government funds in a restricted-use savings account for private school tuition, fees, and other qualifying expenses. The cost of the ESA Program was [originally estimated at \\$65 million in FY23, but the true cost was closer to \\$332 million](#). Studies estimate that each Arizona public school, on average, is receiving \$300,000 less in state funding due to the program. Though less than 10 percent of Arizona's K-12 students use ESA vouchers, funding for [the ESA program accounts for 53 percent of all new investments in K-12 education in the state](#).

Arizona's ESA program does not restrict student eligibility by economic status, whereas HB193 does; still, it is difficult to predict how HB193 would impact public school enrollment trends, and the TRD's initial estimate may also underestimate the true cost of such a program. These impacts would be compounded if legislation like [HB240](#) passes, which would create state-funded scholarship accounts for private school in New Mexico.

PED would be required to process taxpayer applications for the tax credit and STO applications for authorization. PED estimates the department would need an additional 1.0 FTE to implement the provisions of the bill at an annual cost of \$125,000, including benefits.

SIGNIFICANT ISSUES

HB193 establishes two tax credits that allow individual and corporate taxpayers to claim credits equal to the full amount of their contributions to authorized STOs, subject to statutory caps. For individual taxpayers, the credit is capped at \$700 for single filers and married individuals filing separately and \$1,400 for heads of household, surviving spouses, and married individuals filing jointly. Corporate taxpayers may claim a credit of up to \$1,400. Credit limits are adjusted annually for inflation beginning in the specified tax year. Credits are nonrefundable but may be carried forward for up to three consecutive years.

The bill requires PED to certify taxpayer eligibility for the credits and authorize STOs to receive tax-deductible donations to fund educational scholarships for eligible students to attend private school. An STO would need to meet the following eligibility requirements:

1. Allocate at least 90 percent of the organization's annual revenue received from contributions for educational scholarships to eligible students to attend private schools in New Mexico.
2. Not limit the availability of educational scholarships to students of only one private school.
3. Not allow donors to designate student beneficiaries as a condition of any contribution to the organization or facilitate, encourage or knowingly allow the exchange of beneficiary student designations.
4. Include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships awarded during the previous fiscal year
5. Award educational scholarships only to eligible students.
6. Not award educational scholarships to attend a public, tribal, or federal bureau of Indian education schools.

HB193 would require STOs to annually report aggregate information about scholarship activities in the past year to PED by September 30. By January 1 of the following calendar year, PED would post publicly online a summary STO report.

HB193 would require STOs that receive \$500,000 or more in contributions to undergo an independent financial audit in the next fiscal year, while others would be required to provide for an independent financial review.

Only current public school students who are residents of New Mexico from households that qualify for federally subsidized, reduced-price lunch would be eligible for STO scholarships to private schools. Once found eligible, a student remains eligible, so long as they are continuously attending a private school, regardless of household income.

The provisions in HB193 would create a state-level program similar to the federal [Educational Choice for Children Act \(ECCA\)](#) from the 2025 Big Beautiful Bill Act, which establishes a nationwide tax credit allowing federal taxpayers to receive credits for contributions to nonprofit scholarship-granting organizations that provide vouchers or scholarships for private education expenses, subject to state opt-in. Although the [Governor has not opted New Mexico into](#)

[participation in the ECCA](#), HB193 would establish a state-level tax credit program that similarly incentivizes private donations to support private school attendance. HB193 would align state-level policy with the framework advanced by the Trump administration, [which emphasizes the use of tax credits to expand private schools](#).

If HB193 were enacted and the state later participated in the ECCA, New Mexico could operate a dual system of state and federal tax-credit-supported scholarships for private education. In which case, the federal tax credit of \$1,700 would be reduced by the amount allowed as a credit on a state tax return, up to \$1,400 dollars if HB193 enacted.

Tax credit programs for private school scholarships obscure accountability for public funds, [contributing to fraud, waste, and abuse](#). In 2011, Florida's Department of Education substantiated [allegations of fraud](#) in 25 cases at schools that collectively received nearly \$50 million in state-funded vouchers. [An analysis of North Carolina's Opportunity Scholarship](#) from 2023 found [42 instances](#) where private schools appeared to have more Opportunity Scholarship recipients than enrolled students.

PERFORMANCE IMPLICATIONS

A [2019 study of Indiana's Choice Scholarship program](#) found that upper elementary and middle school students who transfer from a public school to private school using the program do worse, on average, on math tests in their new private school than they did in their prior public school. [A study of Louisiana's lottery-based private school scholarship program for low-income students](#) found a dramatic reduction in academic achievement among participants, especially at lower grade levels. [Other studies find no impact](#) on student performance.

ADMINISTRATIVE IMPLICATIONS

HB193 would place significant administrative burdens on PED, including:

- maintaining a public registry of authorized school tuition organizations
- making the registry available to the public on request
- posting the registry on the department's website.

PED would be required to process applications from taxpayers for certification of their eligibility for the tax credits and process applications from STOs for their authorization. No such tax credit currently exists in statute. PED estimates the agency would need an additional 1.0 FTE to process applications.

PED would need to apply additional resources to monitor the prevent and to prevent waste, fraud and abuse if the bill passes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to:

- [HB 106](#), Home-Based Child Care Income Tax Credit, creates an income tax credit of up to \$1,000 per month per eligible child for taxpayers who care for young children at home, rather than enrolling them in state-funded or private childcare or pre-K programs.
- [HB240](#), Education Opportunity Account Act, which proposes such accounts to pay expenses related to private school attendance by eligible students.

- [SB 88](#), Foster Parent Tax Credit, creates an income tax credit for individuals providing care to children through the foster care or kinship guardianship systems.

Several other bills in the current session propose income tax credits or deductions with implications for state revenue.

TECHNICAL ISSUES

The definition of “eligible student” in Section 1 of the bill conflicts with the definition of “school-age person” in the General Provisions of the Public School Code, which includes persons aged 21 years through their twenty-second birthday. HB193’s definition of “eligible student” includes students only through their twenty-first year of age, leaving out students who are between 21 and 22 years of age.

OTHER SUBSTANTIVE ISSUES

A 2016 analysis from the Taxation and Revenue Department of similar legislation noted that tax credits for individuals and corporations that encourage private school attendance may conflict with the state’s obligation to establish and finance a uniform public education system.

Students eligible for scholarships provided by the organizations within the scope of the bill would be in households with income that qualifies them for federal reduced-price or free school lunch programs. The unstated policy assumption underlying the bill may be that students in poverty would be better served by private schools. The bill would provide indirectly for tuition assistance for the families who would choose private schools. However, as private schools would not receive state funding directly, they would not be required to be inclusive in admissions policies and practices. Unlike public schools, private schools are not directly subject to the Equal Protection Clauses of the United States and New Mexico Constitutions and may deny admission to a student based on certain characteristics those clauses would prohibit for public schools, such as religion, sexual orientation, disability, or gender.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

The sponsor may wish to amend the proposed definition of “eligible student” to better comport with the existing definition of “school-age person” in the General Provisions of the Public School Code.