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THE FAMILY EDUCATION TAX CREDIT PROGRAM ACT (Scholarship Tax Credits)

Did you know that an online for-profit school company was the corporate co-chair in 2011?

Summary

The Family Education Tax Credit Program Act would create a family education tax credit for payment of tuition, fees, and certain other educational expenses and a tax credit for individual and corporate contributions to organizations that provide educational scholarships to eligible students so they can attend the public or private schools of their parents' choice.

Model Legislation

Section 1. {Title} The Family Education Tax Credit Program Act

Section 2. {Definitions}

(A) "Program" means the Family Education Tax Credit Program.

(B) "Eligible Student" means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time and whose household income meets the requirements of this program.¹

(C) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the student.

(D) "Department" means the state Department of Revenue.

(E) "Qualifying school" means either a public school outside of the resident school district, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.²

(F) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at either a qualifying private school or a qualifying public school, including transportation to a public school outside of a student's resident school district.

(G) "Scholarship Granting Organization" means an organization that complies with the requirements of this program and provides or is approved to provide educational scholarships to students attending qualifying schools.

(H) "Test" means either the state achievement test or nationally recognized norm-

referenced test chosen by the participating school.

Section 3. {Basic Elements of the Family Education Tax Credit Program}

(A) Under certain circumstances, an individual may claim a Family Education Tax Credit against state income taxes by directly paying all or part of the tuition, fees, and other educational expenses of an eligible student.

(B) Parents may claim a separate Family Education Tax Credit for the tuition, fees, and other educational expenses of each of their children. Parents may claim a credit for certain home-schooling expenses.

(C) The Family Education Tax Credit shall be refundable for the parents of a student in the program when the parents' income does not exceed an amount equal to the income standard used to qualify for a reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.³

(D) Parents of a student participating in the program may assign their Family Education Tax Credit to their student's qualifying school.⁴

private school

(E) Under certain circumstances, individuals and corporations may claim a Family Education Tax Credit against state income taxes by making contributions to scholarship granting organizations.

(F) Scholarship granting organizations may solicit contributions from individuals and corporations and provide educational scholarships to eligible students who attend qualifying schools.

(G) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a Family Education Tax Credit for three years.⁵

(H) The Family Education Tax Credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer's tax liability.⁶

(I) For an individual taxpayer or a married couple filing jointly who do not qualify under Section 3(C), the amount of the Family Education Tax Credit shall equal its total direct payments for tuition, fees, and other educational expenses of eligible students plus any contributions to scholarship granting organizations for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer's tax liability.⁶

Section 4. {Student Eligibility for Family Education Tax Credit Program}

(A) The eligible student's family must have a taxable income for the preceding tax year that does not exceed an amount equal to 2.5 times the income standard used to qualify for a reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.⁷

(B) The eligible student must be enrolled full time in a qualifying school or in a home-schooling program complying with state law.

(C) The eligible student is a resident of the state who has not graduated from high school or reached the age of 21.

Section 5. {Eligible Expenses for Family Education Tax Credit Program}

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(A) Parents of eligible students attending a qualifying school may claim a Family Education Tax Credit for tuition and any fees necessary to attend the school including fees for administrative expenses, transportation costs, and academic programs. They may not claim a tax credit for athletic fees or expenses.

(B) For students taught in a private home-based program, parents may claim a Family Education Tax Credit for educational expenses including tutoring, textbooks, school supplies, academic lessons, and membership fees in an association that sets academic standards or provides educational curricula for home-schooling students. They may not claim expenses for tutoring or academic lessons if the parent conducts them.⁸

(C) Parents will provide the Department with a detailed listing of the educational expenses for each child for which they seek a tax credit on a form prescribed by the Department. They will attach to the form all receipts necessary to document these expenses.

(D) Parents may only claim the Family Education Tax Credit for expenses they actually paid.

Section 6. {Responsibilities of Scholarship Granting Organizations}⁹

(A) Administrative Accountability Standards. All scholarship granting organizations shall:

(1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;

(2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

(3) distribute periodic scholarship payments as checks made out to a student's parent or guardian and mailed to the qualified school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;

(4) provide a Department-approved receipt to taxpayers for contributions made to the organization.

(5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;

(6) spend each year a portion of their expenditures on grants for low-income eligible students equal to the percentage of low-income eligible students in the county where the scholarship granting organization expends the majority of its scholarships.¹⁰

(7) verify annually that no student receiving a scholarship resides in a household whose income in the preceding tax year exceeds an amount equal to 2.5 times the income standard used to qualify for a reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.

(8) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year.¹¹

(9) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a

risk to the appropriate use of contributed funds.¹²

(10) ensure that scholarships are portable during the school year and can be used at any qualifying school that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.

(11) publicly report to the Department by June 1 of each year the following information prepared by a certified public accountant regarding their grants in the previous calendar year:

(a) the name and address of the student support organization;

(b) the total number and total dollar amount of contributions received during the previous calendar year; and

(c) the total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to students qualifying for the federal free and reduced-price lunch program,¹³ and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.

(12) ensure scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship granting support organization.

(13) grant scholarships to eligible students to cover part or all of the costs associated with attending a qualifying school or the allowable expenses incurred by a student in a home school.

(B) Financial Accountability Standards

(1) All scholarship granting organizations shall demonstrate their financial accountability by:¹⁴

(a) annually submitting to the Department a financial information report for the organization that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant; and

(b) having the auditor certify that the report is free of material misstatements.

(2) All participating private schools shall demonstrate financial viability, if they are to receive donations of \$50,000 or more during the school year, by:

(a) filing with the scholarship granting organization prior to the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) filing with the scholarship granting organization prior to the start of the school year financial information that demonstrates the financial viability of the participating private school.

(A) Each scholarship granting organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981,¹⁵ and

(4) conduct criminal background checks on employees and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹⁶

(B) Academic Accountability Standards. There must be sufficient information about the academic impact scholarship tax credits have on participating students in order to allow parents and taxpayers to measure the achievements of the program, and therefore:

(1) each scholarship granting organization shall ensure that participating schools that accept its scholarship shall: ¹⁷

(a) annually administer either the state achievement tests or nationally recognized norm-referenced tests that measure learning gains in math and language arts to all participating students in grades that require testing under the state's accountability testing laws for public schools;

(b) allow costs of the testing requirements to be covered by the scholarships distributed by the scholarship granting organizations;

(c) provide the parents of each student who was tested with a copy of the results of the tests on an annual basis, beginning with the first year of testing;

(d) provide the test results to the Department or an organization chosen by the state¹⁸ on an annual basis, beginning with the first year of testing;

(e) report student information that would allow state to aggregate data by grade level, gender, family income level, and race; and

(f) provide graduation rates of participating students to the Department or an organization chosen by the state in a manner consistent with nationally recognized standards.

(2) the Department or an organization chosen by the state shall:

(a) ensure compliance with all student privacy laws;

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(b) collect all test results; and

(c) provide the test results and associated learning gains to the public via a state Web site after the third year of test and test-related data collection.¹⁹ The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race.²⁰

Section 8. {Responsibilities of the Department of Revenue}

(A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the Family Education Tax Credit Program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a taxpayer to indicate the value of a contribution received. The Department shall require a taxpayer to provide a copy of this receipt when claiming the Family Education Tax Credit.

(C) The Department shall ensure that parents are aware of the Family Education Tax Credit and that all procedures for claiming the credit are easy to follow.

(D) The Department shall establish guidelines for parents to easily assign their tax credit to their student's qualifying school.

(E) The Department shall require all scholarship granting organizations to register and annually report the information the Department needs to carry out its responsibilities.

(F) The Department shall annually report to the legislature on the number of parents claiming the tax credit, the dollar amount of the credits claimed by parents, the number of schools accepting eligible students who received a tax credit or educational scholarship, the number of scholarship granting organizations, the number and dollar amount of contributions to a scholarship granting organization, and the number and dollar amount of educational scholarships given to eligible students.

(G) The Department shall have the authority to conduct either a financial review or audit of a scholarship granting organization if possessing evidence of fraud.

(H) The Department may bar a scholarship granting organization from participating in the program if the Department establishes that the organization has intentionally and substantially failed to comply with the requirements in Section 6 or Section 7. If the Department decides to bar a scholarship granting organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.

(I) The Department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.²¹

(J) A qualifying school is autonomous and not an agent of the state or federal government. The Department or any other state agency may not regulate the educational program of a qualifying school that admits eligible students under this program. The creation of the Family Education Tax Credit program does not expand the regulatory authority of the state, its officers, or any local school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements of the program.

Section 9. {Effective Date} The Family Education Tax Credit may be first claimed in the next calendar year.²²

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Endnotes

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice tax credit legislation. In general, legislators and the public seek greater state regulation of programs directly funded by the government than of tax credit programs under the belief that tax credits are private funds kept by taxpayers rather than public funds expended by governments. However, insufficient accountability regulation can produce situations that undermine public and legislative support for the program. In recognition of this potential, we have chosen to recommend the establishment and state regulation of scholarship granting organizations rather than heavy government regulation of private contributions and private schools.

1. The intent of the Family Education Tax Credit is to help low- and middle-income families financially afford the school of their choice regardless of whether their children are presently attending a public or private school. The definition for an eligible student in this model legislation includes students already enrolled in a nonresident public school or a private school. This means many families presently sending their child to a school of their choice will qualify for a tuition tax credit. Therefore, much of the tax credit will assist these families in shouldering this burden while a smaller share will go toward expanding opportunity for families who could not previously afford to attend the school of their choice.

This implies the model bill as drafted would have a significant adverse fiscal impact. Was this disclosed to the public by the legislative sponsor?

Was this "feature" disclosed in a bill introduced in your state?

Similarly, the scholarship tax credit will also necessarily benefit many families who are already financing their child's education at a nonresident public school or a private school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total amount of scholarships eligible for the tax credit. Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit the scholarship tax credit to students who attended a public school in the last year or are starting school in their state for the first time. In this case, there may actually be a savings for state taxpayers since a scholarship covering private school costs in many cases will be less than the cost of state support provided to students attending a public school.

2. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these tax credit and scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

3. The model legislation makes the tax credit refundable for low-income families because many of them will not have a tax liability sufficient to qualify for much or any of the tuition tax credit. The purpose of the program is to make sure children from poor and middle-income families can afford to attend the school of their choice. This opportunity will not be available to many poor families unless the tuition tax credit is refundable. This provision will significantly increase the fiscal impact of this legislation.

4. The legislation allows a parent to assign their anticipated Family Education Tax Credit to their child's qualifying school. Without an assignment provision, parents would have to pay their child's tuition in the fall and then wait several months to claim the tax credit in the spring. A great many of these families cannot afford to wait several months to be repaid thousands of dollars. The assignment provision allows them to effectively pay their tuition in the fall by promising the tax credit to the school. The cash flow challenge is thus shifted from the family to the school (and, if necessary, schools would be able to borrow funds using the assigned tax credits as collateral.)

5. The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes, and corporate profits, are often quite volatile. As a result, taxpayers may not have a liability against which to claim a credit in certain years. Yet the need for tuition payments or scholarship assistance by a student is

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likely to be relatively constant. Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that parents can eventually receive the financial assistance for their child's tuition and that contributors will have an incentive to continue to contribute to scholarship granting organizations even in years in which the taxpayer has no tax liability.

6. The bill limits the tax credit an individual, married couple, or corporation can claim to **50 percent of their tax liability**. While most states have chosen to implement a dollar cap on the scholarship tax credit available to each entity, this methodology is more equitable since it adjusts the cap to treat all taxpayers proportionately the same. The authors chose 50 percent because in general states spend about one-half of their income tax receipts on education. Allowing taxpayers to claim a tax credit for more than 50 percent of their liability opens the program up to charges that money is being diverted from non-education programs to support private schools.

7. The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2.5 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons; 1) the FRL program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private or non-resident public school. Experience suggests that most parents' ability to choose such a school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2.5 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying tuition for private or non-resident public schools.

8. The intent of the legislation is to help low- and middle-income families afford the school of their choice. In some cases, parents will choose to home school their children. Home schooling is a legitimate option for parents but it can be expensive. Therefore, the authors have included home-schooling expenses in the qualifying costs for the tuition tax credit. We would encourage legislators to clearly define what home-schooling expenses will be allowed since experience has shown that some hostile revenue agencies have disallowed legitimate home-schooling expenses such as music and language lessons.

9. The model legislation requires the establishment of scholarship granting organizations to protect scholarship recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government regulation of private contributions and private schools. We prefer rigorous self-regulation over-intrusive government regulation.

10. The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously greatest among low-income families. This requirement ensures that a proportionate amount of the scholarship assistance is given to the families financially least able to send their child to the school of their choice.

11. The goal of the program is to expand the number of families who can afford to send their children to the school of their choice. Therefore legislators may wish to require that a certain percentage of the scholarship assistance go to children who were not already in private schools. This will also hold down the costs of the program and increase the efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be claimed for scholarship assistance to students previously attending private schools.

12. The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting organizations the responsibility to do background checks, which gives them the power to exclude potential risks from the organization and alleviates liability issues for their employment decisions.

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13. Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give policymakers a sense of the students that are being served by scholarship tax credit programs. These income guidelines are broadly known and already used in private schools.

14. The purpose of the financial information report and the demonstration of financial viability is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The model legislation provides for two methods for participating schools to demonstrate financial viability to ensure that scholarship funds are secure. The first method employs a market-based means of demonstrating viability. Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for these private organizations.

15. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).

16. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

17. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program and participating schools. Therefore, all participating schools should be required to annually administer either the state achievement tests or nationally recognized norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally recognized test. Many private schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of private schools is, in fact, because they want to discourage school participation and quietly destroy the program.

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote 18, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program. **The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program** without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote 20 and its suggested language to create such a review.

18. If legislators are concerned about the hostility the program would face from the existing state revenue department, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send

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their children.

19. The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective reporting process. For instance, if the goal is to see how the program is affecting participating students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating school outputs as a tool to help parents choose the best school, scores should be released by participating school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the greater its obligations for transparency and accountability.

20. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 7(B). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

21. The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a tax credit. This would likely encourage greater contributions to scholarship support organizations.

This could have a major adverse fiscal impact. Was that disclosed in your state?

22. The model legislation is drafted to make the tax credits for tuition and scholarship assistance immediately available in the next tax year. This may represent too great a fiscal impact for the state to absorb at one time. In some states, legislators have chosen to phase in the tax credits by the grade the child is attending over time. Alternatively, a state could phase in the percentage of the costs eligible for a tax credit over time. Legislators should understand that these efforts to address the fiscal impact of the legislation by phasing it in would necessarily create inequitable situations.

Section X. {Evaluation of the Family Education Tax Credit Program }

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of participating students' satisfaction with the program;

(2) the level of parental satisfaction with the program;

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From CMD: This "model" legislation creates a tax credit for paying private primary or secondary school tuition and fees. It would also create a tax credit for corporations and individuals that give money to be used as "scholarships" to pay tuition and fees to private schools. As the notes accompanying this legislation acknowledge, establishing these tax credits would have a substantial "fiscal impact," meaning it would reduce income to the government and reduce the amount of money available for public schools and other public services (because such funds would be diverted to for-profit or religious or other private schools, and because other revenues from corporate or individual taxes would also be reduced by up to 50%). These "scholarships"-- which would not actually be based on merit-- would really be grants to create income for private schools and enroll more students in them. Proposals such as these are part of efforts to kill the American tradition of public education and to divert projected substantial corporate and individual tax receipts to fund for-profit or religious private schools.

(3) *the fiscal impact to the state and resident school districts of the program;*

(4) *the resulting competition from private schools on the resident school districts, public school students, and quality of life in a community;*

(5) *the impact of the program on public and private school capacity, availability and quality; and*

(6) *participating students' academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.*

(C) *The researchers who conduct the study shall:*

(1) *apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;*

(2) *protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and*

(3) *provide the legislature with a final copy of the evaluation of the program.*

(D) *The relevant public and private participating schools shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.*

(E) *The Legislative Service Agency may accept grants to assist in funding this study.*

(F) *The study shall cover a period of 13 years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).*

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

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Related Files

[The Family Education Tax Credit Program Act](#) (Microsoft Word Document)

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