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One American Square, Suite 2420
Indianapolis, Indiana 46282
Phone: 317-681-0745 Fax: 317-681-0945
www.FriedmanFoundation.org

FUNDING SCHOOL CHOICE:

A Road Map to Tax-Credit Scholarship Programs and
Scholarship Granting Organizations

By Greg Forster, Ph.D.

FUNDING SCHOOL CHOICE: A ROAD MAP TO TAX-CREDIT SCHOLARSHIP PROGRAMS AND SCHOLARSHIP GRANTING ORGANIZATIONS

Many states are considering a form a school choice known as "tax-credit scholarships," which currently provide school choice to almost 60,000 students in Arizona, Florida and Pennsylvania, which and have just been enacted in Iowa. This guide shows you how tax-credit scholarships work and introduces you to many of the scholarship granting organizations that administer them.

ABOUT THE AUTHOR



Greg Forster, Ph.D., is a senior fellow and the director of research at the Milton and Rose D. Friedman Foundation, where he conducts research and writes about school choice policy. He has conducted empirical studies on the impact of school choice programs in Milwaukee, Florida and Texas, as well as a national empirical study of the impact of charter schools. He also has conducted empirical studies of other education topics, including accountability testing, graduation rates, student demographics and special education.

His research has been published in the peer-reviewed publications *Teachers College Record* and *Education Working Paper Archive*, and his articles on education policy have appeared in the *Washington Post*, the *Los Angeles Times*, the *Philadelphia Inquirer*, *Education Next*, the *Chronicle of Higher Education* and numerous other publications. He is co-author of the book *Education Myths: What Special-Interest Groups Want You to Believe about Our Schools – and Why It Isn't So*, from Rowman & Littlefield.

He received a Ph.D. with Distinction in political science from Yale University in 2002 and a B.A. *summa cum laude* from the University of Virginia in 1995. His book *John Locke's Politics of Moral Consensus* was published by Cambridge University Press in 2005.

ABOUT THE FRIEDMAN FOUNDATION



The Milton and Rose D. Friedman Foundation, dubbed “the nation’s leading voucher advocates” by the *Wall Street Journal*, is a non-profit organization established in 1996. The origins of the foundation lie in the Friedmans’ long-standing concern about the serious deficiencies in America’s elementary and secondary public schools. The best way to improve the quality of education, they believe, is to give all parents the freedom to choose the schools that their children attend. The Friedman Foundation builds upon this vision, clarifies its meaning to the public and amplifies the national call for true education reform through school choice.

ACKNOWLEDGEMENTS

We would like to thank all of the scholarship granting organizations profiled in this report for providing us with their organizational information and student success stories. We would also like to thank the American Legislative Exchange Council for allowing us to reproduce its model legislation for tax-credit scholarship programs.

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FREQUENTLY ASKED QUESTIONS

Get the facts on tax-credit scholarship programs

What are tax-credit scholarships?

Four states - Arizona, Florida, Pennsylvania and Iowa - provide school choice to their residents through tax-credit scholarship programs. This type of program empowers taxpayers to fund school choice for children who need it, while allowing community activists and organizations to play a large role in bringing school choice to the families who want and need it.

In each of these states, taxpayers can get a tax credit for donating money to groups that register with the state as scholarship granting organizations. These organizations take that money and use it to provide scholarships that allow students to attend private schools. The state monitors these groups to ensure financial accountability.

This report provides a detailed look at how these programs work, and profiles a number of existing scholarship granting organizations. It is our hope that this will provide the public with a better understanding of this important form of school choice.

What are scholarship granting organizations?

The linchpin of a tax-credit scholarship program is the scholarship granting organization. Scholarship granting organizations are non-profit, tax-exempt charitable groups that collect donations and use them to give out scholarships to students who wish to attend a private school. They embody a tremendous variety of backgrounds - from local community organizations staffed by volunteers to major statewide pro-

fessional charities. In each state that has adopted tax-credit scholarships, some existing charitable groups have registered themselves as scholarship granting organizations in order to expand their operations and help more students, while other groups are newly formed charities created specifically to help students under the new scholarship program.

Are tax-credit scholarship programs "vouchers"?

Tax-credit scholarship programs are a form of school choice, but they are not vouchers. The most important difference is the source of funding. Voucher programs are funded by government revenue that has been appropriated for education. While the state pays voucher funds to parents rather than schools, the funding is appropriated under the state education budget. Tax-credit scholarships, by contrast, do not come from the education budget, or from any state appropriations at all. The funding comes from private charitable donations, made under the provisions of the tax code, not through government appropriations. Also, tax-credit scholarships are administered by a wide variety of private charitable organizations operating under government oversight, while voucher programs are directly administered by the state government, or (in the case of the Washington, D.C. voucher program) by a single agency acting on the government's behalf.

Are tax-credit scholarship programs legal?

Yes. Under these programs, private donors direct their own money to school choice programs as a charitable contribution. The state then recognizes this charitable contribution through the tax code by providing a tax credit, just like the numerous other tax credits that states provide to those who support other worthy causes. The private donor, not the state, decides where the money goes. Since the money never enters the public treasury, and no public appro-

priations are involved, the money is not considered public money.

Of the four existing tax-credit scholarship programs, only one - Arizona's - has been challenged in court. The lawsuit claiming that the program violated the state constitution was unsuccessful; the courts ruled, for the reasons outlined above, that the program does not use public money. In the other three states, no legal challenge has been brought against the programs.

How do I start a scholarship granting organization, or how does my existing organization become one?

The process of becoming a scholarship granting organization is somewhat different in each state, but the general outline is the same. First, you need to design the procedures and policies your organization will follow - how will the students apply, how will the scholarships be distributed, how will private schools register to participate, and so on. Then, if it has not already done so, your group must be incorporated and registered as a non-profit charitable organization under section 501(c)(3) of the federal tax code. Finally, you need to fill out an application to register as a scholarship granting organization (Arizona does not require this step). Once this is done, you can begin collecting donations, taking scholarship applications, and distributing scholarships. After you're up and running, you'll have to submit annual reports to the state providing data on your operations.

TIPS FOR DESIGNING A TAX-CREDIT SCHOLARSHIP PROGRAM

How to avoid common problems when setting up tax-credit scholarships

- ✓ Scholarships should be available to a broad range of children. Placing restrictions on which children are allowed to have school choice only limits the program's ability to help children get a better education. Every child deserves the best education he or she can get.
- ✓ All taxpayers should be able to participate. There is no reason to limit who can donate money to scholarship programs. Both individual taxpayers and corporate taxpayers should have the opportunity to help children succeed.
- ✓ Tax credits should be a dollar for dollar. If the program provides taxpayers with only a partial tax credit, rather than a full tax credit, it reduces the incentive to participate and the amount that the donor can afford to give. A 100%, dollar-for-dollar tax credit will generate much more private revenue for school choice. Consider the example of a corporation with \$2 million in tax liability that is considering whether to donate \$1 million to scholarship granting organizations (see the chart nearby). Under a 100% tax credit, as in Florida and Arizona, the donation is much more advantageous for the donor than it is under a partial tax credit, as in Pennsylvania and Iowa.

- ✓ Scholarship granting organizations should be subject to reasonable regulations, not unreasonable ones. Existing scholarship programs include regulations to ensure that donations are properly used, such as limiting the amount of funding that can go to administrative costs (10% is a good limit), providing a detailed accounting of all funds raised and spent, conducting background checks on employees and ensuring that the private schools are providing educational services to scholarship students. As with any other program under the tax code, the state may audit an organization if it believes fraud is occurring. Scholarship granting organizations should not be subject to regulations that go beyond these measures, since unnecessarily burdensome regulations would only make it more difficult to extend school choice to more children.
- ✓ Participating schools should also be subject to reasonable regulations, not unreasonable ones. Private schools already adhere to a wide variety of health and safety codes, antidiscrimination statutes, and other regulations. Legislation creating tax-credit scholarship programs should incorpo-

rate these regulations as requirements for participation. Schools should also be accountable to parents for their performance; one way to ensure this is to require the schools to administer a standardized test to scholarship students and share the results with parents. This requirement is not much of a burden on private schools, since virtually all of them already do this. Schools should not be subject to regulations that go beyond these measures, since that would only burden the schools and reduce the range of choice available to parents and students.

- ✓ Applying for a tax credit or for a scholarship should be as simple as possible. Claiming the credit on a tax return and applying for a scholarship should both be made simple. Legislation should not add unnecessary burdens that make the process more difficult, which will make it harder for students to access school choice. This will prevent some families from participating.

Dollar-for-Dollar Credits Raise More Funds

	Amount Donated to SGOs	Donor's Final Tax Liability	Donor's Total Outlay (Donation + Tax)	Net Cost of Making the Donation
Before the donation:		\$2 million	\$2 million	
With a 100% credit:	\$1 million	\$1 million	\$2 million	\$0
With a 90% credit:	\$1 million	\$1.1 million	\$2.1 million	\$100,000
With a 75% credit:	\$1 million	\$1.25 million	\$2.25 million	\$250,000



**SCHOLARSHIP
ORGANIZATION
SUCCESS STORIES**

FAST FACTS**LOCATION**

St. Petersburg, Fl.

SCHOLARSHIPS INFO

In 2004-05 a total of \$518,000 was awarded to 148 students.

SUPPORTS

Students at Academy Prep schools serving at-risk youth

WEBSITE<http://www.academyprep.org>**CONTACT**

Phone: (727) 322-0800

E-mail: foundation@academyprep.org**ACADEMY PREP FOUNDATION**

The Academy Prep Foundation supports students at Academy Prep Centers, private schools serving low-income urban students in grades 5-8. They provide an intense program of academic preparation designed to get these at-risk students on the right track for success in high school. The schools operate 11 hours a day, six days a week, all year round; in addition to attending classes, all students attend extracurricular activities ranging from drama to karate, and students not on the honor roll must also attend study hall. Classes are single-sex and emphasize academics, especially language skills. So far, 95% of graduates have stayed in school, which is an impressive achievement compared to Florida's statewide graduation rate of only 61%. Each student at an Academy Prep school attends on full scholarship. There are currently two schools, in St. Petersburg

and Tampa, with two more planned. The Academy Prep Foundation was founded in 1996, the same year the first Academy Prep Center opened in St. Petersburg. After Florida created its tax-credit scholarship program, the foundation registered as a Scholarship Funding Organization.

One student who benefited dramatically from Academy Prep's intensive program is William. When he entered the school in 5th grade, William had serious social problems; he was still sucking his thumb, and he looked at the floor and mumbled when he spoke. Before he had finished 8th grade, he not only stood tall and spoke confidently, but he was head of the school's chapter of the Future Business Leaders of America and a frequent public speaker in the school. In high school he went on to be elected freshman class president.

FAST FACTS**LOCATION**

Chandler, Az.

SCHOLARSHIPS INFO

In 2004-05 a total of \$6,142,055 was awarded to 4,284 students.

SUPPORTS

Students at all types of Protestant schools throughout Arizona

WEBSITE<http://www.acsto.com>**CONTACT**

Phone: (480) 820-0403

ARIZONA CHRISTIAN SCHOOL TUITION ORGANIZATION

The Arizona Christian School Tuition Organization supports students in a wide variety of Protestant schools throughout Arizona. The schools range from high church (such as Episcopal and Lutheran schools) to evangelical (such as Baptist, Calvary Chapel, and nondenominational schools). Altogether, the organization supports students at over 100 schools, representing a wide diversity of populations, cultural traditions and educational approaches.

The organization was founded in 1998 to take advantage of Arizona's newly enacted tax-credit scholarship program. It was cofounded by Steve Yarbrough, a state representative, and David Harowitz, an attorney specializing in charitable-organizations law. Granting over

4,200 scholarships per year, it is the second largest Student Tuitioning Organization in Arizona, after the STO serving the Catholic Diocese of Phoenix.

When Jeanette lost her husband to cancer, she was left as the sole provider for her two

children, Elisa and Kyle. They were in private school, but after the loss of their father's income it would have been impossible for them to stay there on just what their mother could make. At the same time that they had lost their father, they were in danger of losing all their friends, teachers and familiar surroundings, and having to start over in a new school. But a scholarship from the Arizona Christian School Tuition Organization let them stay in the same school.

ARIZONA NATIVE SCHOLASTIC AND ENRICHMENT RESOURCES (ANSER)

Founded in 1994 by Hopi Tribal Chairman Vernon Masayesva, ANSER began its existence as a program to increase Native American student retention at the University of Arizona. Partnering with the university's American Indian Studies program, it brought together tribal leaders, businesses and private high schools. Masayesva had previously founded the first-ever Hopi-controlled school on Hopi tribal land and long served as its principal; his goal in forming ANSER was to organize college scholarship money for Native American students, and also to get them into private college preparatory schools so they would be better prepared for the academic challenges of college. After Arizona enacted its tax-credit scholarship program, ANSER registered as a Student Tuitioning Organization.

ANSER may be a small organization, having given out just 13 scholarships last year, but it is a perfect example of how local, community-based activists who want to help their communities can take advantage of tax-credit scholarship programs. ANSER is run by volunteers out of their homes in Scottsdale and on the Hopi Indian Reservation. It is supported by three other tribes – the Pasqua Yaqui, the Yavapai-Apache, and the White Mountain Apache; employees of these tribes can donate to ANSER by payroll deduction. ANSER does not just throw money at kids; it provides Native American students with tutoring and counseling, and is focused on developing a new generation of leadership for Native tribes.

Most of the students ANSER supports are in high school, though they support some students in lower grades as well. Several have received academic honors; one student has had her work displayed in a local art gallery. Shandiin, a former ANSER student, is now a teacher at an inner-city high school, with plans to get a Master's degree in special education. Tara, another former ANSER student who went on to graduate from the University of Arizona, is entering a career in law enforcement. She writes: "If it had not been for the ANSER program, I do not know if I would be a college graduate....I will be sending donations as often as I can because I know that the ANSER organization is critically important in helping young Native Americans get a higher education."

FAST FACTS**LOCATION**

Scottsdale, Az.

SCHOLARSHIPS INFO

In 2004-05 a total of \$24,550 was awarded to 13 students.

SUPPORTS

Native American students throughout Arizona

CONTACT

Phone: (480) 361-8736

E-mail: vbmasayesva@aol.com

FAST FACTS**LOCATION**

Maitland, Fl.

SCHOLARSHIPS INFO

In 2004-05 a total of \$10,400,000 was awarded to 3,200 students.

SUPPORTS

Low-income students in central Florida

WEBSITE<http://www.childrenfirstcf.org>**CONTACT**

Phone: (407) 702-2607

E-mail: scholarships@childrenfirstcf.org**CHILDREN FIRST CENTRAL FLORIDA**

When it was founded in 1995, the Children's Educational Opportunity (CEO) Foundation was the first school-choice foundation in Florida, offering private-school scholarships to low-income children. The organization was renamed when it registered as a Scholarship Funding Organization after Florida's tax-credit scholarship program was created. It formed a partnership with three other SFOs in other regions to cover the entire state between them; hence the CEO Foundation was renamed Children First Central Florida, to reflect its regional emphasis.

When Brittany first got a scholarship from Children First Central Florida, she was entering second grade but could not read English at all and had difficulty forming basic phonetic sounds in English.

By fourth grade, she was not only performing at grade level but had straight As. Rochelle, an eighth-grader, could not handle sixth-grade reading or math when she first got her Children First scholarship. By the end of that year, although she was still getting some help to catch up further, she was able to work independently and getting Bs and Cs.

FAST FACTS**LOCATION**

Clarion, Pa.

SCHOLARSHIPS INFO

In 2004-05 a total of \$450,000 was awarded to 475 students.

SUPPORTS

Students at Catholic and other religious schools in rural Pennsylvania

WEBSITEwww.thechildrenscholarship.org**CONTACT**

Phone: (814) 226-4160

E-mail: mbauer@kriebelgas.com**CHILDREN'S SCHOLARSHIP FUND**

The Children's Scholarship Fund of Clarion, Pa. (not to be confused with the New York-based organization of the same name) is a subsidiary of the Immaculate Conception Endowment Fund. It was founded in 1999 to raise money to support students attending the Immaculate Conception School, a small K-8 school in rural Pennsylvania. During its first two years, it raised \$60,000 and awarded 65 scholarships. However, when Pennsylvania enacted its tax-credit scholarship program, the Children's Scholarship Fund became the state's first registered Scholarship Organization. This allowed it to expand dramatically; it now supports 475 students at Catholic and other religious schools throughout rural western Pennsylvania. The fund is run by people who volunteer their time, and has virtually no expenses other than supporting students.

One of the students the fund has helped is Andrea. The daughter of a single mother, in public school she was failing all her classes and was a social outcast. The school could offer no help beyond advising her to toughen up. Andrea's mother came to the Children's Scholarship Fund in tears. After transferring to a private school, Andrea's trajectory was completely turned around - far from failing, she graduated valedictorian of her high school and has gone on to college.

Another student the fund has helped is Timmy. The son of a single mother, Timmy was failing in his public school, in part because he was a focus of ridicule by other boys. Timmy's public-school peers even went so far as to plant cigarettes on him and then report him, causing him to be suspended from school and face criminal charges; only the fortunate intervention of an adult eyewitness vindicated him. Within one semester

of transferring to private school through the help of the Children's Scholarship Fund, Timmy's academic failure and social problems were reversed: he rose to the top half of his class and volunteered to star in a school play.

FUTURO EDUCACIONAL

Futuro Educacional specializes in extending school choice to low-income Hispanic students. It is headed by City Councilman Juan Ramos, who co-founded the organization in 2001. Councilman Ramos is a longtime labor activist and former Director of Fair Labor Standards for the city, and has also co-founded a voter registration organization.

One parent whose children received scholarships from the organization writes that "without Futuro, my children would not have been able to attend a school that has the kind of teachers and environment that have set such a positive example for them to follow." Another writes that "children should be allowed the opportunity to receive a quality education. Futuro has made it possible for my two children to have that chance. Jamaris and Zenaida have both maintained honors. They work hard and are grateful to Futuro for helping to improve their future."

PHILADELPHIA BLACK ALLIANCE FOR EDUCATIONAL OPTIONS (BAEO)

The Black Alliance for Educational Options is a national organization promoting school choice as a key to improving the success of black Americans. Its board chairman is Howard Fuller, the longtime advocate of black empowerment who was the driving force behind the voucher program that has rescued thousands of black students from failing schools in Milwaukee. BAEO supports a variety of policies that increase school choice, including tax-credit scholarships.

While the national BAEO organization is an activist group working for political change, its local affiliates also help bring school choice to families in their communities. In Philadelphia, the local BAEO affiliate has registered as a Scholarship Organization and supports students attending private school through Pennsylvania's tax-credit scholarship program. Philadelphia BAEO supports students in grades K-5, giving preference to students from low-income families who are seeking to leave Philadelphia's public schools.

Naadir completed first grade in his assigned public school with good grades, even though he was reading well below grade level. His classroom was so unruly that he didn't want to return to school, even though he had previously enjoyed it. His mother applied to Philadelphia BAEO for a scholarship, and enrolled Naadir in a private school. The school determined that Naadir needed to repeat the first grade - unlike his previous public school, his new school was determined to help him truly learn. Naadir finished the repeated year with straight As, and this time they meant something.

FAST FACTS**LOCATION**

Philadelphia, Pa.

SCHOLARSHIPS INFO

In 2004-05 a total of \$89,846 was awarded to 326 students.

SUPPORTS

At-risk Hispanic students in Philadelphia

WEBSITE<http://www.childrenfirstcf.org>**CONTACT**

Phone: (215) 561-1655

E-mail: jframesjr@aol.com**FAST FACTS****LOCATION**

Philadelphia, Pa.

SCHOLARSHIPS INFO

In 2004-05 a total of \$113,174 was awarded to 65 students.

SUPPORTS

At-risk elementary students in Philadelphia

WEBSITE<http://philadelphia.baeo.org/programs>**CONTACT**

Phone: (215) 717-4084

E-mail: keisha@baeo.org

FAST FACTS**LOCATION**

Philadelphia, Pa.

SCHOLARSHIPS INFO

In 2004-05 a total of \$1,294,210 was awarded to 331 students.

SUPPORTS

Students at Jewish schools in Pittsburgh

WEBSITE<http://www.ujfpittsburgh.org>**CONTACT**

Phone: (412) 992-5212

E-mail: hsloan@ujf.net**PITTSBURGH JEWISH EDUCATIONAL IMPROVEMENT FOUNDATION**

The United Jewish Federation of Pittsburgh sponsors a wide variety of charity work, Jewish community activities and social advocacy. One of its projects is the Pittsburgh Jewish Educational Improvement Foundation, a registered Scholarship Organization that provides school choice under Pennsylvania's tax-credit scholarship program. The Jewish Federation already had a relationship with four Jewish schools in Pittsburgh through its other charitable work; when the scholarship program was founded, it created the Foundation to extend a new level of support. The four schools represent a full range of different approaches to Jewish education, from including Judaism as one subject in a standard academic setting to the more comprehensive "orthodox" approach.

Aron is the son of a single mother who makes a limited income working for non-profit Jewish charitable and community organizations. She is only able to send Aron to private school through help from the Foundation. Last year she announced that she was withdrawing Aron from private school because she felt bad taking money from the Jewish community for so many years; even though she was paying as much of Aron's tuition as she could afford, she still felt that others must need the community's money more than she did. However, she changed her mind when the Foundation pointed out that not only was this the kind of help the community is supposed to provide, but that Pennsylvania's scholarship program was bringing in donations precisely for the purpose of school choice.

FAST FACTS**LOCATION**

Philadelphia, Pa.

SCHOLARSHIPS INFO

In 2004-05 a total of \$1,904,960 was awarded to about 7,000 students.

SUPPORTS

Students in Catholic schools in Pittsburgh

WEBSITEwww.diopitt.org/education/ppd.htm**CONTACT**

Phone: (412) 456-3090

E-mail: rbowes@diopitt.org**SCHOLASTIC OPPURTUNITY SCHOLARSHIP (SOS) FUND**

The Scholastic Opportunity Fund is an arm of the Diocese of Pittsburgh. The diocese started a Scholarship Organization in order to help students at its schools receive Pennsylvania's tax-credit scholarships. Application forms for the scholarships are distributed to the family of every student attending a school run by the diocese. Administrative hassles are reduced because the scholarship granting organization and the schools are all run by the same diocese - rather than the parent or school having to collect a scholarship check from a separate organization, the school simply reduces a parent's tuition by the amount of the scholarship. This same model has been reproduced by Catholic schools in Pennsylvania's other major cities.

One high-school student in a Pittsburgh Catholic school lost both his parents, went to live with his grandparents, and a month later lost them as well. After this double tragedy he couldn't have afforded to continue at the same school for his senior year; he would have also lost all his friends and teachers, and the chance to spend his senior year in his own

school. Only a scholarship from the SOS Fund made it possible for him to stay in the same school and graduate there.

ARIZONA SCHOOL CHOICE TRUST

The Arizona School Choice Trust was founded in 1992 by an Arizona retired couple, Jack and Isabelle McVaugh, who hoped to provide other people's children with access to the same school choices they had provided for their own. "We knew from experience the value of a private school - especially faith-based," they write. "And we knew that this is unattainable for many low-income families. In fact, their children are often consigned to the worst schools of all. Over the years, our goal has always been to help as many kids as possible to have a brighter future through education....There's a wonderful variety of schools across this state, and we believe all parents should have the freedom to choose the school that best suits their children's needs."

They sat down with friends and partners around their kitchen table and brought together enough money to sponsor 50 to 100 students per year. The organization grants scholarships on a sliding scale based on income; the lowest-income students get a full \$3,000, while scholarship amounts diminish as incomes approach a more moderate level. After Arizona created its tax-credit scholarship program, they were able to register the Arizona School Choice Trust as a Student Tuitioning Organization and expand it to its current size, helping almost 900 students per year.

Benny and Rudy, ages 9 and 6, were devastated when their father was killed. They began constantly fighting and acting out their anger in school. Their public school couldn't help them and couldn't handle their behavior. With help from the Arizona School Choice Trust, their mother was able to put them in a private school whose teachers and staff could teach them effectively and help them deal with their anger. Another child helped by the Trust, Holly, loves her school so much that after her first day in first grade she pleaded with her mother to promise that she could keep going there all the way through middle school. Her father makes a limited income as a social worker for a charitable organization, but Arizona School Choice Trust is helping Holly stay in the private school she loves so much.

FAST FACTS**LOCATION**

Phoenix, Az.

SCHOLARSHIPS INFO

In 2004-05 a total of \$1,339,673 awarded to 857 students.

SUPPORTS

Low-to-moderate-income students throughout Arizona

WEBSITE<http://www.asct.org>**CONTACT**

Phone: (602) 454-1360

E-mail: info@asct.org



**TAX-CREDIT
SCHOLARSHIP
PROGRAMS**

ARIZONA'S TAX-CREDIT SCHOLARSHIP PROGRAM

There were 53 School Tuition Organizations (STOs) in the 2004-05 school year. They gave out a total of over \$28 million in 21,160 scholarships.

Donations to STOs

Taxpayers get a tax credit for donating money to STOs, which use their donations to fund private-school scholarships.

- Personal income taxpayers are eligible to get the tax credit; corporate taxpayers are not eligible (they are eligible for Arizona's other tax-credit scholarship program).
- The tax credit matches the taxpayer's donation dollar for dollar.
- The maximum allowable credit is \$500 for an individual and \$1,000 for a married couple filing jointly.

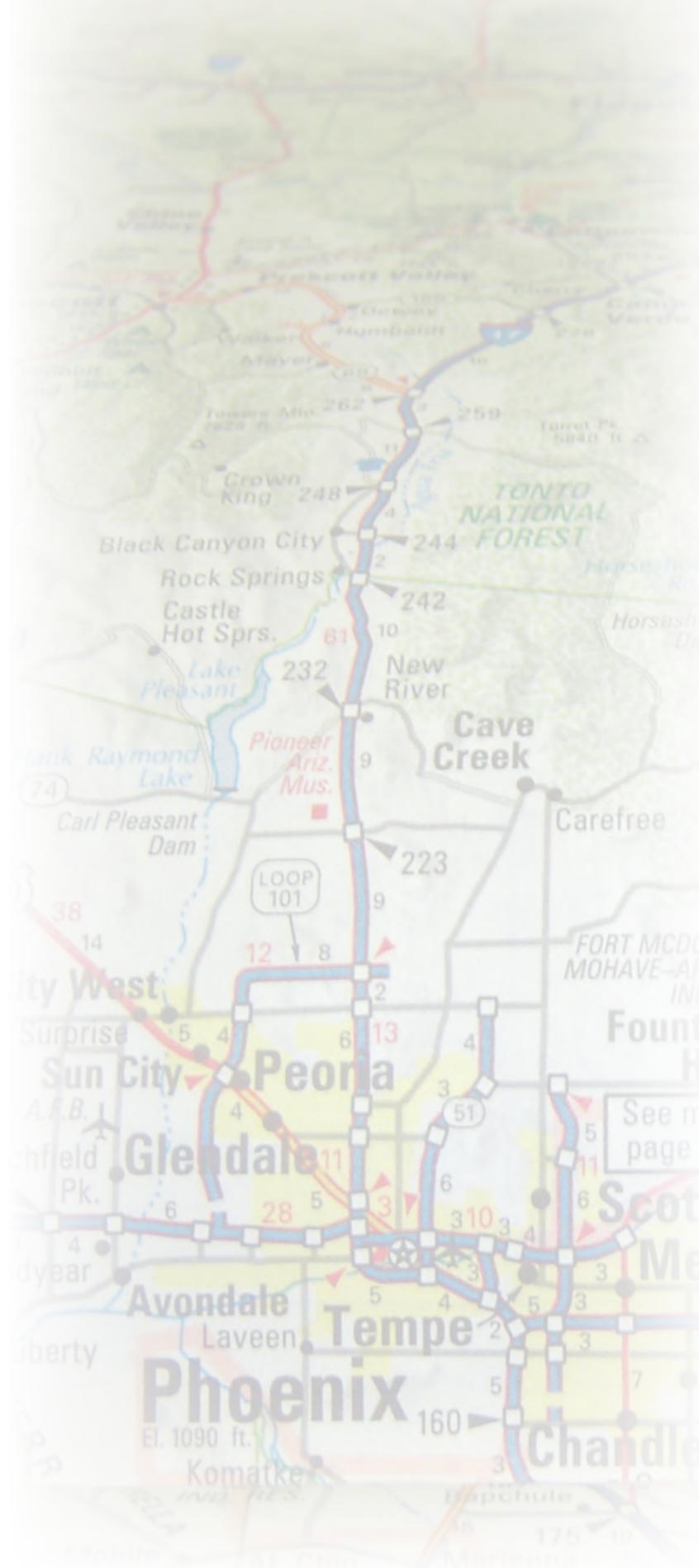
Regulations on STOs

STOs must:

- Be non-profit charitable organizations under section 501(c)(3) of the federal tax code;
- Allocate at least 90% of their revenue each year to scholarships (though these funds do not need to be actually disbursed in the same year they are allocated);
- Allocate scholarship funds to particular students, not make a bloc

grant to private schools (though the check for each student can be mailed directly to the school - it need not be mailed to the student's family);

- Make scholarships available for use at more than one school (though all of an STO's scholarships may end up going to only one school, if all participating parents happen to choose the same school);
- Submit annual reports listing contact information, the total number and dollar value of the taxpayer contributions received and the total number and dollar value of scholarships granted, as well as a listing of schools at which the scholarships were used that includes the name and address of each school and the total number and dollar value of scholarships used at that school;
- Not spend a donor's money on the donor's children or dependents; and
- Not grant scholarships to schools outside the state; schools that discriminate by race, color, handicap, familial status or national origin; or schools that do not comply



with state laws governing private schools.

Application Procedure for STOs

Organizations do not need to apply to the state before becoming STOs, as they do in Florida and Pennsylvania. If an organization is registered with the IRS as a non-profit organization under section 501(c)(3) of the tax code, and it meets the other necessary criteria, it can simply begin operating as an STO on its own initiative. Of course, the organization must first go through the procedures to become a 501(c)(3) organization, but there is no separate procedure for becoming an STO. Once the organization begins operating as an STO, it must file reports of its activity at the end of each year (see Regulations on STOs).

Governing Statutes

Title 43-1089 and 43-1089.01 of the Arizona statutes.

Arizona's Program In Action — Real Life Stories

Shandiin, a former ANSER student, is now a teacher at an inner-city high school, with plans to get a Master's degree in special education. Tara, another former ANSER student who went on to graduate from the University of Arizona, is entering a career in law enforcement. She writes: "If it had not been for the ANSER program, I do not know if I would be a college graduate....I will be sending donations as often as I can because I know that the ANSER organization is critically important in helping young Native Americans get a higher education."

ARIZONA'S CORPORATE TAX-CREDIT SCHOLARSHIP PROGRAM

Starting in 2006, Arizona will provide a credit on corporate income taxes for donations to School Tuition Organizations (STOs), privately run non-profit organizations that support private-school scholarships. This program is modeled after Arizona's existing personal tax credit for donations to STOs, and the two programs will work in tandem. All organizations registered as STOs may participate in both programs.

Donations to STOs

Taxpayers get a tax credit for donating money to STOs, which use their donations to fund private-school scholarships.

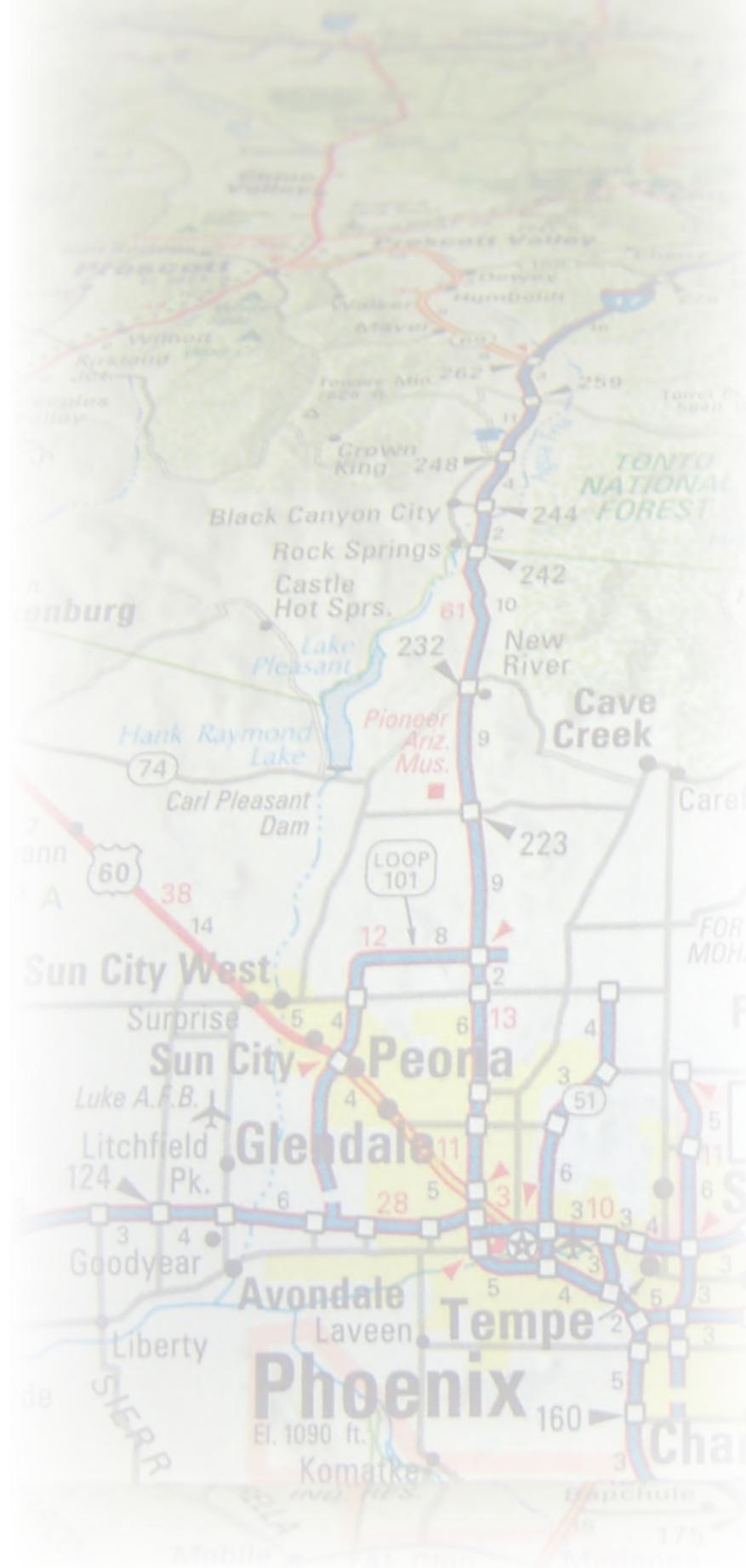
- Corporate taxpayers are eligible for this tax credit; personal taxpayers are not eligible (they are eligible for Arizona's other tax-credit scholarship program).
- The tax credit matches the taxpayer's donation dollar for dollar.
- A maximum of \$5 million in tax credits will be available each year. Donors must notify STOs in advance of the amount they will contribute; the STOs must then get prior approval for these donations from the Department of Revenue on a first-come, first-served basis (to ensure that no more than \$5 million in credits are awarded).
- If a donor qualifies for a tax credit greater than its total tax liability in one year, it may use the remaining amount of the tax credit to reduce its tax liability in subsequent years

(up to 5 years maximum).

Regulations on STOs

STOs must:

- Be non-profit charitable organizations under section 501(c)(3) of the federal tax code;
- Allocate at least 90% of their revenue each year to scholarships (though these funds do not need to be actually disbursed in the same year they are allocated);
- Provide scholarships only to students whose family income does not exceed 185 percent of the level qualifying for free and reduced-price lunch programs;
- Provide scholarships only to students who were in public school the previous year, or who received scholarships in the previous year, or who are entering kindergarten;
- Provide scholarships worth no more than \$4,200 for students in grades K-8 or \$5,500 for students in grades 9-12 (these amounts will rise by \$100 per year after the first year of operation);



- Provide scholarships at schools that administer a nationally standardized norm-referenced test and make the aggregate results for its students available to the state;

- Provide scholarships at schools that require all teaching staff and all staff with unsupervised access to students to be fingerprinted;

- Make scholarships available for use at more than one school (though all of an STO's scholarships may end up going to only one school, if all participating parents happen to choose the same school);

- Submit annual reports listing contact information, the total number and dollar value of the taxpayer contributions received and the total number and dollar value of scholarships granted, as well as a listing of schools at which the scholarships were used that includes the name and address of each school and the total number and dollar value of scholarships used at that school;

- Undergo an annual independent review of its financial statements by a CPA;

- Not allow donors to earmark their donations to fund scholarships for a specific student or students; and

- Not grant scholarships to schools outside the state; schools that discriminate by race, color, handicap, familial status or national origin; or schools that do not comply with state laws governing private schools.

Application Procedure for STOs

Organizations do not need to apply to the state before becoming STOs, as they do in Florida and Pennsylvania. If an organization is registered with the IRS as a non-profit organization under section 501(c)(3) of the tax code, and it meets the other necessary criteria, it can simply begin operating as an STO on its own initiative. Of course, the organization must first go through the procedures to become a 501(c)(3) organization, but there is no separate procedure for becoming an STO. Once the organization begins operating as an STO, it must file reports of its activity at the end of each year (see above).

Governing Statutes

Title 43-1183 of the Arizona statutes

FLORIDA'S TAX-CREDIT SCHOLARSHIP PROGRAM

There were six Scholarship Funding Organizations (SFOs) in the 2004-05 school year. They gave out a total of over \$39 million in 11,231 scholarships.

Donations to SFOs

Corporate taxpayers get a tax credit for donating money to SFOs, which use their donations to fund private-school scholarships.

- Only corporate taxpayers are eligible to get the tax credit as Florida does not have a personal income tax.
- The tax credit matches the taxpayer's donation dollar for dollar.
- The maximum allowable credit per corporate taxpayer is \$5 million or 75% of the corporation's total tax burden.
- The total size of the program is capped at \$88 million per year.

Regulations on SFOs

SFOs must:

- Be non-profit charitable organizations under section 501(c)(3) of the federal tax code;
- Be incorporated in the state of Florida;
- Spend 100% of scholarship contributions, and interest accrued from

such contributions, on scholarships – money for administrative expenses must be raised separately;

- Spend all scholarship contributions in the same year in which they are received;
- Submit annual financial and compliance audits performed by independent certified public accountants;
- Submit criminal background checks for their officers, and for whoever is listed as the contact person on the organization's SFO application;
- Submit other data and information to the state upon request;
- Provide scholarships only to students who qualify for free and reduced lunch programs;
- Provide scholarships only to students who were in public school the previous year, or who received scholarships in the previous year, or who are eligible to enter kindergarten or first grade;
- Give priority to students who re-

ceived scholarships in the previous year;

- Provide scholarships only to cover tuition, textbook and transportation expenses, of which 75% must be tuition expenses;

- Provide private-school scholarships not to exceed \$3,500 each and transportation scholarships of not more than \$500;

- Send scholarship checks to the private schools, made out to the students' parents (the parents must come in to the schools and endorse the checks to the schools);

- Not accept donations that exceed the amount necessary to fund scholarships for participants identified by the SFO;

- Refrain from spending a donor's money on a student designated by the donor;

- Refrain from granting scholarships to schools outside the state, or that does not demonstrate fiscal soundness (in operation for one year, or has certification by an independent accountant that it has insurance and capital to operate for a year, or posts a surety bond), or

that does not comply with federal antidiscrimination statutes or state and local health and safety codes, or that does not comply with state laws governing private schools; and

- Update their status on the program's website at least monthly.

Application Procedure for SFOs

To register as an SFO, an organization must submit to the state:

- An application form with contact information;
- A copy of its federal 501(c)(3) status determination letter;
- Copies of its Florida incorporation and registration documents; and
- Copies of its policies, procedures, handbooks, student application and withdrawal forms, and any similar documents.

Governing Statutes

Title XIV, Chapter 220.187 of the 2001 Florida statutes

Florida's Program In Action — Real Life Stories

When Brittany first got a scholarship from Children First Central Florida, she was entering second grade but could not read English at all and had difficulty forming basic phonetic sounds in English. By fourth grade, she was not only performing at grade level but had straight As. Rochelle, an eighth-grader, could not handle sixth-grade reading or math when she first got her Children First scholarship. By the end of that year, although she was still getting some help to catch up further, she was able to work independently and getting Bs and Cs.

PENNSYLVANIA'S TAX-CREDIT SCHOLARSHIP PROGRAM

There were 167 Scholarship Organizations (SOs) in the 2004-05 school year. They gave out a total of about \$20 million in about 25,000 scholarships.

Donations to SOs

Corporate taxpayers get a tax credit for donating money to SOs, which use their donations to fund private-school scholarships.

- Corporate taxpayers are eligible to get the tax credit, but not personal income taxpayers.
- The credit is equal to 75% of the taxpayer's donation, or 90% if the company commits to make two consecutive annual contributions.
- The maximum allowable credit per corporate taxpayer is \$100,000 per year.
- The total size of the program is capped at \$29.3 million per year.

Regulations on SOs

SOs must:

- Be non-profit organization's under section 501(c)(3) of the federal tax code;
- Be registered in the state of Pennsylvania;
- Spend at least 80% of their revenue on private-school scholarships each year;
- Provide scholarships only to students who reside in Pennsylvania and whose household income does not exceed \$50,000, plus \$10,000 for each child in

the household;

- Make scholarships available for use at more than one school (though all of an SO's scholarships may end up going to only one school, if all participating parents happen to choose the same school);
- Maintain policies covering rebates or refunds of scholarships for students who leave a school in the middle of the school year;
- Maintain policies for maintaining the confidentiality of student information;
- Submit an annual report listing the total dollar value of contributions received and the number and dollar amount of scholarships awarded, as well as a listing of schools at which the scholarships were used that includes the name of each school the total number and dollar value of scholarships used at that school, the average household income of scholarship students at that school and the number and dollar value of scholarships awarded to students at that school who had been in public schools the previous year;
- Submit an annual application for renewal of SO status;
- Refrain from granting scholarships

for more than the actual cost of tuition at the private school (which must be no higher than the tuition cost for non-scholarship students at the same school);

- Refrain from granting scholarships to schools outside the state, or that does not satisfy Pennsylvania's compulsory-attendance-law requirements, or that does not comply with federal antidiscrimination statutes; and
- Retain all records for at least three years.

Application Procedure for SOs

To register as an SO, an organization must submit to the state:

- A completed "organization profile" with contacts and other basic information;
- A copy of its federal 501(c)(3) status determination letter; and
- A description of the organization's scholarship program, including the process applicants must go through to get a scholarship.

Services Available to SOs

Family Education Services (FES) is a private Pennsylvania firm that provides services to SOs and organizations that want to start SOs. Philanthropists, activists and community groups wishing to help give Pennsylvania children exercise school choice can access the knowledge of staff members with experience in running

SOs. The presence of FES in Pennsylvania expands access to the SO program by making it easy for people without the relevant experience and know-how to start an SO and keep it going.

As one option, FES offers full foundation management, taking over all administrative duties for the SO. Another option is to hire FES to handle specific tasks, including:

- Foundation setup (handle the paperwork to register the foundation as a 501(c)(3) organization, as a Pennsylvania corporation, and as an SO)
- Public relations (media communications, community events, government relations, etc.)
- Fundraising consultation (advice on finding and contacting potential donors)
- Fundraising services (handling donor relations, conducting small donor campaigns, organizing fundraising events, etc.)
- Database management
- Financial management
- Seminars on how to run an SO

FES can be reached via e-mail at mail@familyeducationservices.org.

Governing Statutes

Act 4 of the 2001 Pennsylvania statutes, Act 48 of the 2003 Pennsylvania statutes, and Act 46 of the 2005 Pennsylvania statutes.

Pennsylvania's Program In Action — Real Life Stories

The daughter of a single mother, Andrea was failing all her classes and was a social outcast. Her public school could offer no help beyond advising her to toughen up. After transferring to a private school, Andrea's trajectory was completely turned around – she graduated valedictorian of her high school and has gone on to college. Timmy, the son of a single mother, was failing in his public school, in part because he was a focus of ridicule by other boys. Within one semester of transferring to private school, Timmy's academic failure and social problems were reversed: he rose to the top half of his class and volunteered to star in a school play.

IOWA'S TAX-CREDIT SCHOLARSHIP PROGRAM

Starting in 2006, Iowa will provide a credit on personal income taxes for donations to School Tuition Organizations (STOs), privately run non-profit organizations that support private-school scholarships.

Donations to STOs

Taxpayers get a tax credit for donating money to STOs, which use their donations to fund private-school scholarships.

- Personal income taxpayers are eligible to get the tax credit; corporate taxpayers are not eligible.
- The value of the tax credit itself cannot exceed 65% of the amount of the taxpayer's donation.
- The value of the tax credit is also limited by a statewide cap. A maximum of \$2.5 million in tax credits will be available in 2006, with \$5 million available in subsequent years. Each STO will only be able to grant tax credits to its donors up to its share of this statewide limit, with each STO's share determined by the enrollment of the schools it serves (see below for details).
- If a donor qualifies for a tax credit greater than the family's total tax liability in one year, the family may use the remaining amount of the tax credit to reduce its tax liability in subsequent years (up to 5 years maximum).

Regulations on STOs

STOs must:

- Be non-profit charitable organizations under section 501(c)(3) of the federal tax code;
- Be governed by a board of directors consisting of seven members;
- Allocate at least 90% of their revenue each year to scholarships (though these funds do not need to be actually disbursed in the same year they are allocated);
- Provide scholarships only to students whose family income does not exceed 300 percent of federal poverty guidelines;
- Make scholarships available for use at more than one school (though all of an STO's scholarships may end up going to only one school, if all participating parents happen to choose the same school);
- Prepare an annual reviewed financial statement certified by a public accounting firm;

- Provide each donor with a tax credit certificate to be included with the donor's tax return, including the donor's name, address, and tax identification number, as well as the amount of the donation and the amount of the tax credit (see below);

- Submit annual reports listing the names and addresses of all the STO's board members, the total number and dollar value of the taxpayer contributions received, the total number and dollar value of tax credit certificates provided, and the total number and dollar value of scholarships granted, as well as a listing of donors that includes the dollar value of their donations and a listing of schools at which the scholarships were used that includes the name and address of each school and the total number and dollar value of scholarships used at that school;

- Not provide scholarships at a school where another STO already provides scholarships (that is, each participating school may only be served by one STO);

- Not allow donors to earmark their donations to fund scholarships for a specific student or students; and

- Not grant scholarships to schools outside the state, schools that are not accredited by the state, or schools that do not adhere to federal and state civil rights laws.

In addition, participating schools must report to the state by October 15 of each year their total enrollment and the name of the STO serving the school. The dead-

line in 2006 is August 1. Each year the Department of Revenue will use these figures to calculate the total value of tax credit certificates each STO is authorized to grant, based on the enrollment of the schools it serves as a percentage of enrollment at all participating schools. For example, in 2006 the statewide cap is \$2.5 million, so an STO whose schools enroll 10 percent of the students at all participating schools would be authorized to grant a maximum of \$250,000 in tax credits.

Application Procedure for STOs

To register as an STO, an organization must submit to the state:

- A copy of its federal 501(c)(3) status determination letter; and
- A list of the schools for which it will provide scholarships.
- A list of its board members and their addresses.

The STO need not re-register in future years, but it must update its registration with the state if the list of schools it serves changes.

Governing Statutes

Section 422.11M of the Iowa Code



**MODEL
LEGISLATION**

MODEL LEGISLATION

(PROVIDED BY THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL)

GREAT SCHOOLS TAX CREDIT PROGRAM ACT (SCHOLARSHIP TAX CREDITS)

Summary: This legislation authorizes a tax credit for individual and corporate contributions to organizations that provide educational scholarships to eligible students so they can attend qualified public and non-public schools of their parents' choice.

Section 1: (Title) Great Schools Tax Credit

Section 2: (Definitions)

- A) "Program" means the Great Schools Tax Credit Program.
- B) "Eligible student" means a student who:
 - 1) is a member of a household whose total annual income during the year before he or she receives an educational scholarship under this program does not exceed an amount equal to 2.5 times the income standard used to qualify for a free or reduced price lunch under the national Free or Reduced Price Lunch Program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years of age;¹
 - 2) was eligible to attend a public school in the preceding semester or is starting school in our state for the first time;²
 - 3) resides in our state while receiving an educational scholarship.
- C) "Low-income eligible student" means a student who qualifies for free or reduced price lunch under the national Free or Reduced Price Lunch Program established under 42 USC Section 1751 et seq.³
- D) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at either a qualified non-public school or a qualified public school, including transportation to a public school outside of a student's resident school district.
- E) "Qualified school" means either a public elementary and/or secondary school outside of the district in which a student resides or a non-public elementary and/or secondary school in our state that complies with all of the requirements of the program.⁴
- F) "Parent" includes a guardian, custodian or other person with authority to act on behalf of the child.
- G) "Scholarship Granting Organization" means an organization that complies with the requirements of this program and provides education scholarships to students attending qualified schools of their parents' choice.
- H) "Department" means the state Department of Revenue.

Section 3: (Basic Elements of the Great Schools Tax Credit Program)

- A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship granting organization.
- B) The credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to the total contributions made to a scholarship granting organization during the taxable year for which the credit is claimed up to 50% of the taxpayer's tax liability.⁵
- C) An individual taxpayer or a married couple filing jointly may carry forward a tax credit under this program for three years.⁶
- D) The 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% of the taxpayer's tax liability.⁵

E) A corporate taxpayer may carry forward a tax credit under this program for three years.⁶

Section 4: (Responsibilities of Scholarship Granting Organizations)⁷

- A) Each scholarship granting organization shall:
 - 1) notify the Department of its intent to provide educational scholarships to students attending qualified schools.
 - 2) demonstrate to the Department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code.
 - 3) provide a Department-approved receipt to taxpayers for contributions made to the organization.
 - 4) ensure that at least ninety percent of its revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships.
 - 5) spend each year a portion of its expenditures on scholarships 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.⁸
 - 6) ensure that at least X% of first time recipients of educational scholarships were not continuously enrolled in a non-public school during the previous year.⁹
 - 7) 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.
 - 8) cooperate with the Department to conduct criminal background checks on all of its 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.¹⁰
 - 9) ensure that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student according to a parent's wishes. If a student moves to a new qualified school during a school year, the scholarship amount may be prorated.
 - 10) demonstrate its financial accountability by:¹⁰
 - a. submitting 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.
 - 11) demonstrate its financial viability, if they are to receive donations of \$50,000 or more during the school year, by:¹⁰
 - a. filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or
 - b. filing with the Department prior to the start of the school year financial information that demonstrates the financial viability of the scholarship granting organization.
- B) Each scholarship granting organization shall ensure that participating schools that accept its scholarship students will:
 - 1) comply with all health and safety laws or codes that apply to non-public schools;
 - 2) hold a valid occupancy permit if required by their municipality;
 - 3) certify that they will not discriminate in admissions on the basis of race, color, national origin, religion or disability.¹¹
 - 4) provide academic accountability to parents of the students in the program by regularly reporting

to the parent on the student's progress.¹²

- C) Scholarship granting organizations shall not provide educational scholarships for students to attend any school with paid staff or board members, or relatives thereof, in common with the scholarship granting support organization.
- D) A scholarship granting organization shall 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:
 - 1) the name and address of the student support organization;
 - 2) the total number and total dollar amount of contributions received during the previous calendar year; and
 - 3) 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 lunch program, and the percentage of first time recipients of educational scholarships who were continuously enrolled in a public school during the previous year.

Section 5: (Responsibilities of the Department of Revenue)

- A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the 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 Great Schools Tax Credit.
- C) The Department shall provide a standardized format for scholarship granting organizations to report the information in section 4(C) above.
- D) The Department shall have the authority to conduct either a financial review or audit of a student support organization if possessing evidence of fraud.
- E) The Department may bar a scholarship granting organization from participating in the program if the Department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements in Section 4.
- F) 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.
- G) 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.¹³

Section 6: (Responsibilities of Qualifying Schools)

- A) All qualified schools shall be required to operate in our state.
- B) All qualified schools shall comply with all state laws that apply to non-public schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a non-public school.

Section 7: (Effective Date)

The Great Schools Tax Credit may be first claimed in the next calendar year.

ENDNOTES FOR GREAT SCHOOLS TAX CREDIT PROGRAM (SCHOLARSHIP TAX CREDIT PROGRAM)

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 non-public schools.

¹ 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 non-public school. Experience suggests that most parents' ability to choose a non-public 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 for non-public schools.

² The definition for an eligible student in this model legislation includes students presently enrolled in a non-public school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's education at a nonresident public school or a nonpublic school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total dollar 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 eligibility 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 non-public school costs in many cases will be less than the cost of state support provided to students attending a public school.

³ This model legislation creates an additional class of eligible students who are from low-income families. Scholarship Granting Organizations are required to make sure that an appropriate proportion of their scholarship assistance reaches the poorest families in the state (see Section 4.A.5.). This ensures that assistance reaches the families who are least able to afford the school of their choice.

⁴ This model legislation allows students to use a scholarship to attend a public school outside their district as well as a non-public 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 non-public school is not only the right policy but also the best legal strategy. The US 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 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, non-public secular schools and non-public 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 non-public schools without encountering constitutional questions.

⁵ The bill limits the tax credit an individual, married couple or corporation can claim to 50% of their tax liability. While most states have chosen to implement a dollar cap on the 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% 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% of their liability opens the program up to charges that money is being diverted from non-education programs to support non-public schools.

⁶ 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 scholarship assistance by a student is 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 taxpayers have an incentive to continue to contribute to Scholarship Granting Organizations even in years in which the taxpayer has no tax liability.

⁷ 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 non-public schools. We prefer rigorous self-regulation by taxpayers and independent regulation of non-public school participation by SGO's in lieu of intrusive government regulation.

⁸ 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.

⁹ 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 non-public 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 non-public schools.

¹⁰ The purpose of the criminal background checks, the financial information report and the demonstration of financial viability by the Scholarship Granting Organization 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, the power to exclude potential risks from the organization, and the liability for their employment decisions. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for these non-public organizations.

The model legislation provides for two methods for Scholarship Granting Organizations to demonstrate financial viability to ensure that scholarship funds are secure. The first method employs a market-based means of demonstrating viability. Non-public companies that issue surety bonds have a financial interest in making sure that the organizations can repay any funds that might be owed the state. 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 organizations 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.

¹¹ Private schools are already required to comply with nondiscrimination policies under federal law with respect to race, color, and national origin (42 USC 1981). 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). The value of including a state prohibition based on religion and disability in this legislation is to head off arguments from school choice opponents that the private schools will "cream off" the best students or discriminate against students who don't share their religious faith in admissions. These provisions may or may not be acceptable to some religious schools in a given state. Legislators may also wish to include language banning discrimination in hiring on the basis of race, color, national origin or disability. In doing so, however, legislators should take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

¹² We believe that empowered parents are best able to demand academic accountability. However, we recognize that some legislators may feel the need to demonstrate academic accountability to a wider audience. In that case we recommend that all participating schools be required to administer testing of scholarship students for grades that require testing under the state's accountability testing laws. Students should take either the state achievement tests or a nationally recognized norm-referenced test in math and language arts or both. Testing should take place at a time comparable to when public schools conduct state achievement tests. Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state evaluator described in the additional note below in a manner that protects the privacy of individual students. The purpose of the 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. The costs of the testing requirements for a non-public school may be included in the scholarship amounts given to eligible students.

¹³ The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayers' 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 Granting Organizations.

Additional Note: Some critics of school choice programs will demand that participating schools comply with all of the regulations placed on public schools in order to ensure "academic accountability" for the taxpayers. Of course, their real intent is to kill the program by driving schools from the program with burdensome regulations. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data proposed in endnote 12. It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency. We have provided model language for such an independent evaluation of the program below. The longitudinal study we have outlined would compare students in the choice program with a similar cohort in the public schools for the duration of their education from kindergarten through high school.

Unfortunately, a 13-year 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.

Section X: (Evaluation of the Great Schools 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 parental satisfaction with the program;
 - 2) the level of participating students' satisfaction with the program;
 - 3) the impact of the program and the resulting competition from non-public schools on the resident school districts, public school students, and quality of life in a community;
 - 4) the impact of the program on public and non-public school capacity, availability and quality; and
 - 5) participating student's 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.
 - 3) provide the Legislature with a final copy of the evaluation of the program.
- D) The relevant public and participating non-public 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 thirteen 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 FERPA (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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