

Education Tax Credits

A Review of the Rhode Island Program and Assessment of Possibilities in Massachusetts

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by Matthew P. Steinberg




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Education Tax Credits

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Introduction

In 2007, Pioneer Institute offered groundbreaking, first-in-the-nation research on the expansion of educational opportunities for low-income students via tax benefits.¹ That report outlined and assessed education tax credit programs in Florida, Minnesota, and Arizona. Building on that research, this policy brief reviews the new tax credit program in Rhode Island which facilitates the transfer of students from public to private schools with the assistance of corporate-funded tuition scholarships.

While fewer than 35,000 non-special education students nationwide receive publicly funded vouchers,² more than 100,000 students across six states attend private schools as a result of tax credits to corporations and individuals in exchange for donations to scholarship-granting organizations.³ Continuing to address the paucity of existing knowledge, public understanding, and research on tax credits, this Pioneer policy brief provides an overview of the Rhode Island tax credit program and distills practical lessons for advocates who are interested in introducing similar programs in Massachusetts.

The first part of this brief presents a detailed description of Rhode Island's Corporate Scholarship Tax Credit (CSTC) program, summarizing the key institutional features of the program. The second part of the brief extracts lessons learned from Rhode Island's tax credit program and assesses the possibility of the adoption of a similar tax credit funded scholarship program in Massachusetts.

The Rhode Island Tax Credit Plan

Legislative and Political Landscape

The Corporate Scholarship Tax Credit (CSTC) program, first introduced by Rhode Island's General Assembly (GA) in 2005,⁴ was passed with bipartisan support by the GA in 2006 under Republican Governor Donald Carcieri.⁵ The CSTC program was established as an amendment

to Title 44 of the Rhode Island General Laws under chapter 44-62, entitled "Tax Credits for Contributions to Scholarship Organizations," and went into effect on January 1, 2007. During the first year of the CSTC program, the tax credit was available only to C-Corporations.⁶ Program eligibility was subsequently extended to S-Corporations, Limited Liability Partnerships (LLPs), and Limited Liability Corporations (LLCs) in the 2008 state budget.⁷

Recent legislative activity illustrates the extent of gubernatorial support for the CSTC program. A March 2009 proposal by Governor Carcieri would have eliminated all but four of the tax credits which Rhode Islanders could use to reduce their personal income tax liability. Among the tax credits that would have been affected by the proposal was the CSTC program, as owners of businesses organized as S-Corporations pay personal rather than corporate income tax. However, following an email campaign by the lobbying firm for the Rhode Island Scholarship Alliance (RISA), Governor Carcieri's office assured supporters of the CSTC program that the tax overhaul proposal affecting donations made by S-Corporations was inadvertent and would not be affected.⁸ More recently, a February 2010 proposal by Governor Carcieri called on Rhode Island's General Assembly to double the size of the CSTC in the 2011 state budget. The proposal would have increased the cap on corporate donations to the CSTC program from \$1 million to \$2 million in the state's fiscal year 2011 budget.⁹ Despite the governor's proposal, the budget adopted by Rhode Island's General Assembly maintained the \$1 million cap on tax credits.¹⁰

The political environment among voters in Rhode Island also appears to favor the continuation (and possible expansion) of the CSTC program. In a January 2009 survey of 1,200 likely Rhode Island voters conducted by the Friedman Foundation for Educational Choice,¹¹ a majority of voters – 53 percent – said that they supported the CSTC.¹² There also appears to be little variation in support

of the CSTC program by either political affiliation or household income. Among registered Rhode Island voters who participated in the survey, 51 percent of Democrats, 53 percent of Republicans and 54 percent of Independent voters favored the CSTC program. While little variation exists across income groups in their support for the CSTC program (see Table 1 below), popular support exists for expanding eligibility to all families. In particular, 57 percent of respondents believed that tax-credit scholarships should be made available to all families irrespective of income and special needs status.

Evidence also suggests that a candidate’s support for the CSTC program will likely have little impact on voter preferences. Of those voters surveyed, 47 percent said that whether a candidate for Governor, State Senator or Representative supports tax-credit scholarships will make no difference whatsoever in the selection of candidates. If anything, support for the CSTC program is more likely to reward than penalize a candidate in Rhode Island. Among survey respondents, 29 percent said they would be *more likely* to vote for a candidate in support of the CSTC program as compared to 16 percent who would be *less likely* to vote for such a candidate.

In sum, the legislative and political environment in Rhode Island appears to provide supportive ground for the continuation and potential expansion of tax-credit scholarships for students to attend private schools.

Program Design

As described under chapter 44-62 of Rhode Island’s General Laws, the purpose of the CSTC program is to “enhance the educational opportunities

available to all students in this state” by allowing a business entity a tax credit for contributions to a qualified scholarship organization.¹³ The following section describes the organizations qualified to administer scholarship funds and the eligibility requirements for families to receive scholarships and for corporations to donate to qualified scholarship organizations.

Scholarship Granting Organizations (SGOs)

A scholarship granting organization (SGO) is a charitable organization established to administer tuition assistance grants to eligible students.¹⁴ An SGO must allocate at least 90 percent of its annual revenue through a scholarship program for tuition assistance grants to eligible students to support their attendance at a qualified school.¹⁵ A scholarship program must provide for an application and review process in order to make the tuition assistance grants available to eligible students. The awarding of scholarships must not be limited to students attending one school. Consequently, an SGO must represent at least two private schools in the distribution of tuition assistance grants. By December 31 of each year, an SGO must certify to Rhode Island’s Division of Taxation that the organization is eligible to participate in the CSTC program.¹⁶

Rhode Island Scholarship Alliance (RISA)

The Rhode Island Scholarship Alliance (RISA), established in December 2006, is an alliance of school choice advocates and SGOs. RISA is the administrative and advocacy arm of the CSTC program, and assists SGOs and schools in meeting the state reporting requirements which accompany the program. RISA promotes expanding educational opportunities for

Table 1: Support for CSTC, by Family Income					
	Under \$25,000 (n=108)	\$25,000 - \$49,999 (n=240)	\$50,000 - \$74,999 (n=385)	\$75,000 - \$150,000 (n=276)	Over \$150,000 (n=191)
Familiar with CSTC	45%	48%	43%	44%	46%
Favor CSTC	54%	55%	52%	52%	53%

Source: The Friedman Foundation for Educational Choice

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economically disadvantaged students in Rhode Island via the CSTC program.¹⁷ In May 2007, RISA was recognized by the Rhode Island General Assembly for its work in expanding educational opportunities for disadvantaged youth in Rhode Island.¹⁸

Family Eligibility for Tuition Assistance

Any Rhode Island family with annual household income¹⁹ of 250 percent or less of the federal poverty level is eligible to apply for tuition assistance for private school attendance.²⁰ Based on these criteria, approximately 52,000 Rhode Island families – nearly half the families in Rhode Island with school-age children – are eligible to receive tuition assistance through the CSTC program.²¹ To be eligible, students must attend school on a full-time basis and be in grades K-12.²² Families can apply for a tuition scholarship either through RISA or through one of the qualified SGOs.

Business Eligibility for Tax Credit

Any business entity eligible to do business in the state of Rhode Island may receive a tax credit for contributions made to an SGO.²³ The maximum dollar value of tax credits available under the CSTC program is \$1,000,000 in a fiscal year. The business entity must submit its tax credit application to Rhode Island’s Division of Taxation by the end of the fiscal year (June 30), and will receive determination of approval for the CSTC

within 30 days of submission. Given the annual cap on the CSTC, approvals for tax credits are made by the Division of Taxation on a first-come first-served basis. The maximum credit allowable for a business entity in any tax year is \$100,000. Business entities whose tax credit application has been approved can make either a one or two-year donation commitment to one or more approved SGOs.²⁴

For approved business entities choosing to make a one-year commitment, the donation must be made within 120 days of approval. For those business entities with a two-year commitment, the first year’s donation must be made to the approved SGO within 120 days of approval by the Division of Taxation, and the second year’s donation must be provided to the SGO by the same calendar date in the subsequent year.

According to §44-62-4 of Rhode Island’s General Laws (“Calculation of tax credit and issuance of tax credit certificate”), the tax credit received for a one-year contribution is computed at 75 percent of the total voluntary cash contribution made by the business entity. For a two-year contribution, the tax credit received each year is computed at 90 percent of the annual amount of the voluntary contribution (see Table 2 for an example). Should the amount of a business entity’s contribution in the second year (of a two-year commitment) be less than the amount of the contribution made in the first year (but at least 80 percent of the first

Table 2: Calculation of Tax Credit for Business Entity

Commitment Period	Tax Credit (%)	Annual Donation to SGO	Taxable Income	Income Tax Liability (Pre-Credit)	Tax Credit (\$)	Income Tax Liability (Post-Credit)	Net Cost of Annual Donation to SGO
1-Year	75%	\$100,000	\$5,000,000	\$450,000	\$75,000	\$375,000	\$25,000
2-Year	90%	\$100,000	\$5,000,000	\$450,000	\$90,000	\$360,000	\$10,000

Notes. Tax credit calculation schedule for a C-Corporation subject to Rhode Island Business Corporation Tax (form RI-1120C). C-Corporations are subject to a 9 percent income tax on adjusted taxable income. *Income Tax Liability (pre-credit)* is calculated as 9% of *Taxable Income*. The *Tax Credit (\$)* is calculated as the product of the *Tax Credit (%)* and *Annual Donation to SGO*. *Income Tax Liability (post-credit)* is calculated as *Income Tax Liability (pre-credit)* minus the *Tax Credit (\$)*. The *Net Cost of Annual Donation to SGO* represents the post-credit cost to the business of their annual donation to the CSTC program, and is calculated as the *Annual Donation to SGO* minus the *Tax Credit (\$)*.

year’s contribution), the business entity receives a credit for both the first and second year equal to 90 percent of each year’s contribution. If, however, the amount of the contribution made in the second year is less than 80 percent of the contribution made in the first year of a two-year commitment, the business entity receives a credit for both the first and second year equal to 75 percent of each year’s contribution.²⁵

Program Impact

Businesses in Rhode Island have donated more than \$4 million to fund tuition scholarships since the CSTC program took effect on January 1, 2007 (see Table 3). The proceeding section details the impact of the CSTC program by exploring the distribution of donations to and the amount of scholarships funded by qualified SGOs, the criteria by which SGOs award scholarship funds, the extent of corporate participation in the CSTC program, and anecdotal accounts of the impact of scholarships on families in Rhode Island.²⁶

Donations & Scholarships

Qualified SGOs have funded tuition scholarships to eligible families since the 2006-07 school year.²⁷ Table 3 summarizes the total donations received by qualified SGOs and the dollar value of scholarships granted under the CSTC program.

In each of the three full academic years (2007-08 through 2009-10) in which the CSTC program has been in place, more than \$1 million in donations have been made to fund tuition scholarships.

Annual donations have been distributed to families via tuition scholarships by a few qualified SGOs. In the second half of the 2006-07 academic year, The Foundation of Rhode Island Day Schools (“The Foundation”), representing two private Jewish day schools, was the first SGO to receive and fund scholarships. During the 2007-08 and 2008-09 academic years, The Foundation was joined by F.A.C.E. of Rhode Island (Financial Aid for Children’s Education), the Rhode Island Christian School Scholarships Alliance (RICSSA) and Scholarships to Economically Poor Students (STEPS) in the receipt of donations and funding of tuition scholarships.²⁸ For the 2009-10 academic year, The Foundation, F.A.C.E. of Rhode Island and STEPS were active in funding tuition scholarships (See Figures 1-3 for more detail by SGO).

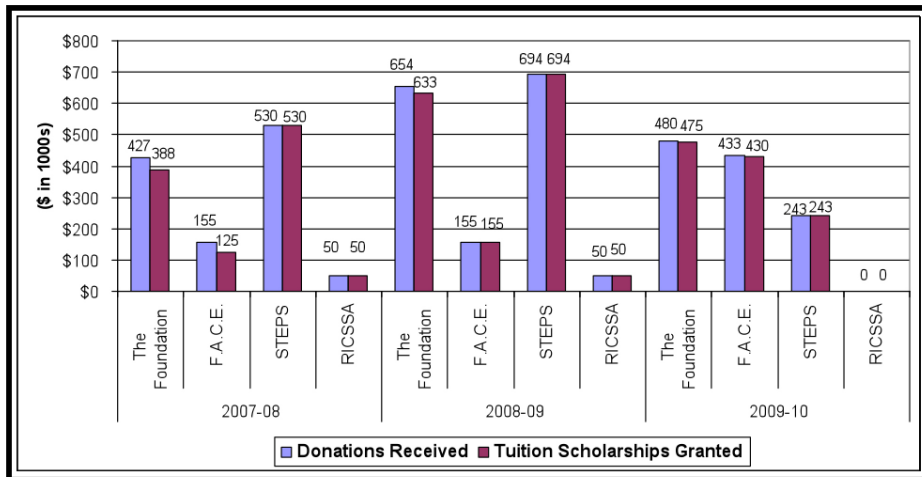
Table 3: CSTC Program Donations & Scholarships

	Academic Year			
	2006-07	2007-08	2008-09	2009-10
Donations Received by SGOs	\$179,985	\$1,161,586	\$1,553,206	\$1,156,792
Tuition Scholarships Granted	\$179,985	\$1,093,065	\$1,531,731	\$1,148,493
Unused Donations	\$0	\$68,521.00	\$21,475.01	\$8,299.00
Participating SGOs	1	4	4	3
# of Schools with Scholarship Recipients	2	59	59	51
# of Scholarship Recipients	71	272	336	511
Average Scholarship	\$2,535.00	\$4,018.62	\$4,558.72	\$2,247.54

Notes. Author’s calculations from data from “SGO Summary Information on Scholarships Distributed” (source: <http://www.tax.state.ri.us/Credits/>, retrieved on July 28, 2010). For the 2006-07 academic year, data are for the second half of the school year.

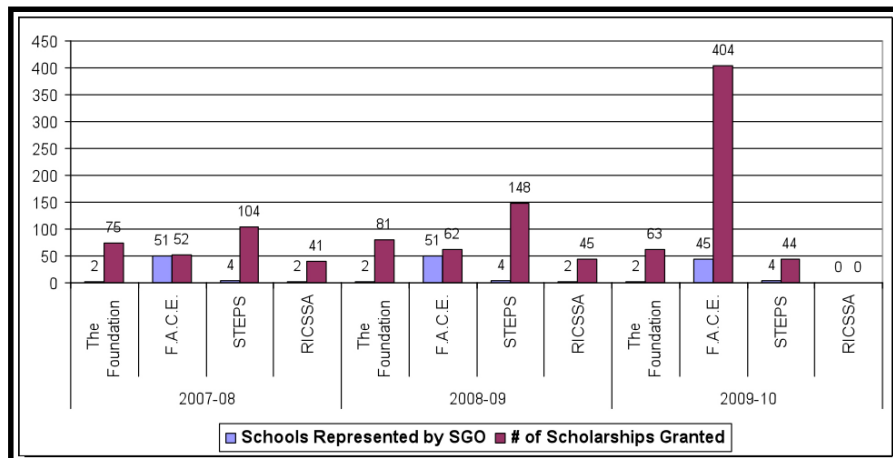
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Figure 1: Total Value of Donations and Scholarships, by SGO and Academic Year



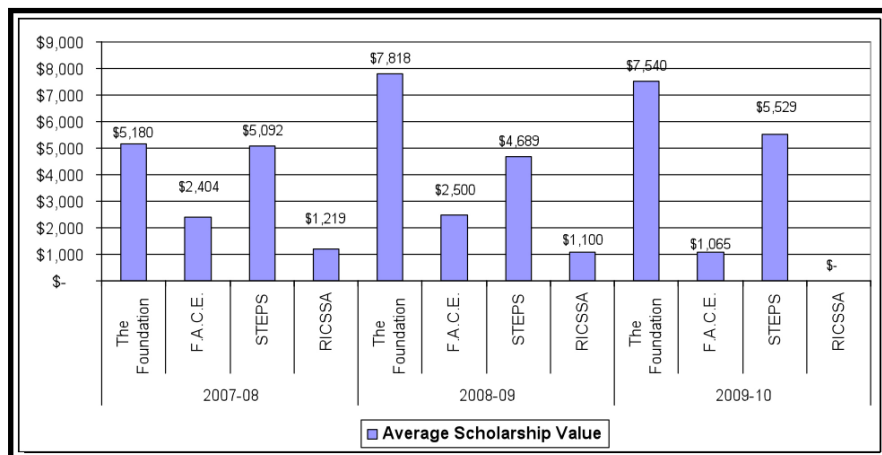
Notes. Author's calculations from data from "SGO Summary Information on Scholarships Distributed" (Source: <http://www.tax.state.ri.us/Credits/>, retrieved on July 28, 2010).

Figure 2: Number of Schools and Scholarship Recipients, by SGO and Academic Year



Notes. Author's calculations from data from "SGO Summary Information on Scholarships Distributed" (Source: <http://www.tax.state.ri.us/Credits/>, retrieved on July 28, 2010). The # of Scholarships Granted by the Foundation during the 2007-08 is an average of the first and second semesters of the academic year (The Foundation granted 81 scholarships to students during the first semester and 69 during the second semester).

Figure 3: Average Value of Tuition Scholarships, by SGO and Academic Year



Notes. Author's calculations from data from "SGO Summary Information on Scholarships Distributed" (Source: <http://www.tax.state.ri.us/Credits/>, retrieved on July 28, 2010). The Average Scholarship Value represents the average value of the tuition scholarship for the full academic year.

SGO Tuition Scholarship Criteria

We previously described the characteristics of families eligible to receive tuition scholarship assistance for private school attendance (see *Family Eligibility for Tuition Assistance*). In addition to these criteria, each SGO determines how to distribute the donations it receives. Table 4 summarizes the criteria each SGO that has funded tuition scholarship has used to make scholarships decisions.²⁹

Business Participation

The extent of business donations to qualified SGOs indicates enthusiastic support for the CSTC program. The program has reached the \$1 million cap on tax credits in each of the five fiscal years since the program was enacted (fiscal year ending June of 2007, 2008, 2009, 2010, and 2011). Evidence suggests that businesses are applying for the tax credit early in the fiscal year (beginning July 1). According to a September 2007 RISA

Table 4: Criteria for Scholarship Determination, by SGO

SGO	Schools Represented	Criteria for Scholarship Award
The Foundation	Jewish day schools	Scholarships are evenly divided among eligible students. When the amount of scholarship funds exceeds what an individual family should receive based on the school’s scholarships formula, the excess funds are disbursed among remaining eligible students in the school. When the additional funds disbursed at the school level exceed the financial needs of eligible students, the balance of funds is disbursed among remaining eligible students in the other school represented by The Foundation.
F.A.C.E.	Catholic elementary and secondary schools	Scholarships are given to students based on their ranked order of financial need. Prior award recipients could receive renewed scholarship awards based on demonstrated financial need.
STEPS	Nondenominational private girls school (grades 5-8); independent LaSallian boys school (grades 5-8); independent co-ed school (grades 3-8); special needs school (grades K-8)	Scholarships are given to eligible students with the best academic potential.
RICSSA	Private Christian (non-Catholic) academies	Scholarships are evenly divided among scholarship recipients. Any eligible student (with family income no greater than 250% of poverty level) is given a scholarship.

Notes. Author’s summary from “SGO Summary Information on Scholarships Distributed” (Source: <http://www.tax.state.ri.us/Credits/>, retrieved on July 28, 2010).

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press release, the CSTC program reached the \$1 million cap in approved tax credits at least nine months before the 2008 fiscal year ended (on June 30, 2008).³⁰ Most recently, business support for the CSTC program has been overwhelming. By the first day of fiscal year 2011 (July 1, 2010) the credit amount from all applications received by the Division of Taxation exceeded the \$1 million cap. As a result, the Division of Taxation held a lottery (on July 26, 2010) to determine the order in which business donation and credit applications would be approved.³¹

While a full list of companies donating to the CSTC program is unavailable,³² companies supporting the CSTC program include Amica Insurance, Bank of America, Chatterton Insurance Agency, CVS, Citizens Bank, Dykeman Electrical and FM Global.³³ Of the \$1 million in tax credits received during the 2008 tax year, approximately 60 percent (\$595,000) went to corporations (C-Corporations), approximately 31 percent (\$314,100) went to companies paying personal income tax (S-Corporations, LLCs and LLPs) and 9 percent (\$90,000) went to insurance companies.³⁴

Impact of Scholarships on Students and Families

Anecdotal evidence suggests that the CSTC program has successfully created new educational opportunities providing beneficial educational experiences for Rhode Island students. The following are excerpts from letters to Governor Carcieri recounting the experiences of recipients of tuition assistance through the CSTC program.³⁵

“My son... is receiving an education that will allow him to attend the high school of his choice and excel in his chosen career path. He absolutely will not receive the same comprehensive course work through our very sub-standard public school system.” Parent of a 7th grade student at Community Preparatory School in Providence

“This credit has allowed my son to excel... the love he has for his school is unbelievable.

He has learned so much and because the school is so small he has not been lost in the system... without programs like this we could not afford to send him.” Parent of a student at Community Preparatory School in Providence

“The Scholarship Tax Credit has given many students like myself opportunities I had only dreamed of. I was provided with an outstanding education tailored to my abilities. I am currently a senior at Brown University... none of this would have been possible for me if it were not for the RI Corporate Scholarship Tax Credit.”
- Parent of a student recipient of a tuition scholarship

Lessons from Rhode Island

The CSTC program has successfully expanded the educational opportunities available to low-income families in Rhode Island. Since its introduction in 2006, the number of scholarship recipients has grown from 71 students to over 500 students three years later (see Table 3). And, while Governor Carcieri’s proposal to double the size of the program was not included in the FY 2011 state budget, expansion efforts certainly reflect the enthusiastic participation of families and the generosity of corporations and businesses choosing to donate to the scholarship program.

In this section, we summarize the key features of the CSTC program that have likely led to its immediate success. We then apply these lessons from Rhode Island to the case of Massachusetts. In doing so, we specify features of Massachusetts’s political and legal landscape that may encourage or discourage the introduction of tax credit programs there.

Key Features of the CSTC Program

1) Tax benefits available to all business entities in the state. While the original law allowed only C-Corporations (which pay corporate income tax) to apply for tax credits for scholarship

donations, Rhode Island expanded eligibility after the first year of the program to business entities (S-Corporations, LLCs and LLPs) which pay personal income tax. Based on recent estimates, more than 30 percent of the tax credits went to companies applying the credit against personal income tax, reflecting the important role that these business entities play in supporting the CSTC program.

2) Targeted eligibility requirements for families. The Rhode Island program limits eligibility for tuition scholarships to families with household income no greater than 250 percent of the federal poverty threshold. As a result, nearly half of all families in Rhode Island are eligible to receive tuition assistance. While many families are ineligible for tuition assistance through the CSTC program, recent survey evidence does suggest that families across the income distribution in Rhode Island do not differ in their support of the program.

3) Centrally organized clearinghouse for SGOs and families. The Rhode Island Scholarship Alliance (RISA) is crucial to the success of the CSTC program. RISA supports SGOs in the administration of scholarship funds and in the reporting requirements mandated by law. RISA provides a central location for families to apply for tuition assistance. RISA has also proven to be an important proponent of the program via active lobbying efforts.

4) Transparent SGO certification and business donation application process. Rhode Island's Division of Taxation (within the Department of Revenue) makes available information regarding SGO certification and business donation application in a straightforward and accessible manner. The Division of Taxation's website (<http://www.tax.state.ri.us/Credits/>) enables SGOs and businesses to easily access all the necessary information and forms for both SGO certification and business donations.

The Case of Massachusetts

The institutional features of Rhode Island's tax credit program provide a framework to inform the enactment of corporate-funded tuition assistance scholarships in Massachusetts. A corporate-funded tax credit program, as in Rhode Island, mitigates the role that the state plays in providing funds to families to attend private, and in some cases religious, schools. Under Rhode Island's plan, the state does not retain the funds used to support tuition assistance grants. Rather, the use of intermediary organizations, such as SGOs, to manage the disbursement of funds to families precludes the state from having to directly fund private school attendance. This provides some legal distance between state financing and private school attendance.

Under the arrangement in Rhode Island, SGOs receive corporate donations directly and then provide tuition assistance to eligible families. The SGO is primarily responsible for the administration of – accepting and distributing – scholarship funds. So, rather than decide on the proportion of state revenues to use to subsidize nonpublic school attendance and channel money directly to families, state legislators need only agree upon a cap on the maximum allowable annual tax credit. As has been previously pointed out,³⁶ this institutional arrangement insulates state governments from many of the legal challenges associated with First Amendment questions related to direct government financing of private schools, as with state-sponsored voucher programs.

The possibility of enacting a similar plan in Massachusetts, however, rests largely on the legal and political landscape that might assist or constrain the implementation of tax credit scholarships. From a legal perspective, the Massachusetts constitution contains amendments – the “Know-Nothing” or “Blaine” amendments – which stipulate that public money may not be used for the purpose of “founding, maintaining or aiding” any nonpublic school.³⁷ While the

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existence of such amendments may pose an obstacle to enacting a plan similar to Rhode Island's corporate-funded scholarship program, there is precedent for the support of education tax credits in states with Blaine Amendments. In particular, a 1999 decision by the Arizona Supreme Court upheld the state's newly formed (in 1997) tax credit program. The court ruled that because scholarship funds do not enter state coffers they are not considered public money. Moreover, the court ruled that the program's primary effect was not to aid religion but to "encourage the development of educational settings that would invigorate learning, improve academic achievement, and provide additional choices to parents and children."³⁸ However, an October 2009 decision by the Ninth U.S. Circuit Court of Appeals declared Arizona's tax credit program unconstitutional because taxpayers are allowed to receive a credit for donations to scholarship-granting organizations that give scholarships exclusively to students attending religious schools. Review of this decision is pending in the U.S. Supreme Court, the outcome of which will likely have implications for how scholarship granting organizations are organized and how tax credit programs will be designed, but is unlikely to make such programs entirely unconstitutional.³⁹

In addition to the legal challenges associated with implementing tax credit programs, political support – legislative, gubernatorial and voter – is critical to the success of tax credit funded scholarships. As we have seen, political support has driven the success of Rhode Island's program. However, support for Rhode Island's program has not been universal. In particular, teacher unions are likely opponents of a tax credit program. Teacher unions oppose such plans because they see them as reductions in public expenditures on public schools. In Rhode Island, Robert Walsh, executive director of National Education Association Rhode Island, views the CSTC program as "essentially \$1 million the legislature has designated to private school scholarships and the corporations are a pass-through."⁴⁰

Therefore, to enact a tax credit plan in Massachusetts, advocates and supporters will need to confront both the legal and political hurdles that exist. Given the success of Rhode Island's plan, the blueprint for the administration of tuition assistance via tax credits is in place, and should inform any proposals set forth. However, any measures taken toward proposing a tax credit scholarship in Massachusetts must consider the legal and political challenges that currently exist.

About the Author:

Matthew P. Steinberg is a fourth year doctoral student at the Harris School of Public Policy Studies at the University of Chicago and an Institute of Education Sciences Pre-Doctoral Fellow with the University of Chicago Committee on Education. Matthew received his BA with high distinction in Economics and Sociology from the University of Virginia and a Masters in Public Affairs from the Robert M. La Follette School of Public Affairs at the University of Wisconsin-Madison. Previously, Matthew has been an investment banker and a New York City Teaching Fellow, having taught 5th grade for three years in a low-income New York City community. During his tenure as a teacher, Matthew completed a MEd. with graduation honors in elementary education from the City College of New York and founded a non-profit tutoring company which provided individualized tutoring services to low-income students.

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About Pioneer:

Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to change the intellectual climate in the Commonwealth by supporting scholarship that challenges the "conventional wisdom" on Massachusetts public policy issues.

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Where Are the Public Safety Funds Going?: The Search for Clear, Concise, and Meaningful Information, White Paper, July 2010

Endnotes

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3. "Corporate and Individual Scholarship Tax Credit Programs: The Facts About School Choice," Alliance for School Choice. Retrieved at: http://www.allianceforschoolchoice.org/UploadedFiles/ResearchResources/CorpIndivScholTaxCreditProgs_04172009.pdf on August 12, 2010.
4. Senate Bill 615 was introduced by Senators Ruggerio, Ciccone, Paiva-Weed, Goodwin and Walaska on February 10, 2005. House Bill 5792 was introduced by Representatives Crowley, Malik, Gallison, Laroche and Corvese on February 17, 2005.
5. The CSTC program was enacted by Rhode Island's General Assembly on June 30, 2006 as part of the state appropriations bill for the fiscal year ending June 30, 2007 (Chapter 246, Bill H 7120Aam). In addition, initial support for the program came from the Roman Catholic Diocese of Providence (source: Katherine Gregg, "Governor Revokes Elimination of Business' Scholarship Tax Credit." *The Providence Journal*, March 13, 2009; retrieved on July 15, 2010 from www.projo.com).
6. C-Corporations are governed by Subchapter C of the Internal Revenue Code.
7. Program eligibility was extended under the state appropriations bill for the fiscal year ending June 30, 2008 (Chapter 73, Bill H 5300Aam).
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10. Source: FY 2011 Budget as Enacted, retrieved from <http://www.rilin.state.ri.us/housefinance/> on August 12, 2010.
11. Source: DiPerna, Paul. "Rhode Island's Opinion on K-12 Education and School Choice." The Friedman Foundation for Educational Choice, April 2009. The survey's response rate was 60.7 percent.
12. However, only 45 percent of survey respondents said that they were familiar (either somewhat familiar or very familiar) with the CSTC program, and 17 percent responded that they had never heard of the CSTC program. In addition, 55 percent of Rhode Islanders surveyed support charter schools (65 percent were at least somewhat familiar with charter schools in K-12 education) and 52 percent support school vouchers (63 percent were at least somewhat familiar with school vouchers in K-12 education). According to the 2010 *Education Next* – Program on Education Policy and Governance (PEPG) Survey, there is stronger support nationally for tax credit programs than for either charter schools or voucher programs. In particular, 55 percent of survey respondents favored tax credits for public and private school expenses (and 50 percent of respondents favored a proposal to offer a tax credit for individual and corporate donations that pay for scholarships to help parents send their children to private schools), while 44 percent support the formation of charter schools and 31 percent support voucher programs (source: Howell, William G., Paul E. Peterson and Martin R. West (Winter 2011). Meeting of the minds. *Education Next*, 11(1), 2-12).

13. Source: <http://www.rilin.state.ri.us/Statutes/TITLE44/44-62/INDEX.HTM>

14. A charitable organization is exempt from federal taxation under § 501(c)(3) of the internal revenue code.

15. A “qualified school” is a nonpublic elementary or secondary school, located in Rhode Island, which satisfies the requirements prescribed by Rhode Island law for nonpublic schools (see 16-40 of Rhode Island’s General Laws, titled “Private Schools”; Source: <http://www.rilin.state.ri.us/Statutes/TITLE16/16-40/INDEX.HTM>).

16. See <http://www.tax.state.ri.us/Credits/index.php> for a copy of the SGO application form. Rhode Island’s Division of Taxation is located within the state’s Department of Revenue.

17. See <http://www.rischolarshipalliance.org/index.html>

18. Introduced, read and passed on May 16, 2007 in both the House (H6401) and Senate (S1029), a Joint Resolution recognizing the Rhode Island Scholarship Alliance was enacted on June 22, 2007 in Rhode Island’s General Assembly (Resolution 375, Bill Number S 1029).

19. According to Section 44-62-2 of Rhode Island’s General Laws, household income considered for eligibility is the “the sum of federal adjusted gross income as defined in the internal revenue code of the United States, 26 U.S.C. § 1 et seq., and all nontaxable income including, but not limited to, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief (not including relief granted under this chapter), the gross amount of any pension or annuity (including Railroad Retirement Act (see 45 U.S.C. § 231 et seq.) benefits, all payments received under the federal Social Security Act, 42 U.S.C. § 301 et seq., state unemployment insurance laws, and veterans’ disability pensions (see 38 U.S.C. § 301 et seq.), nontaxable interest received from the federal government or any of

its instrumentalities, workers’ compensation, and the gross amount of “loss of time” insurance. It does not include gifts from nongovernmental sources, or surplus foods or other relief in kind supplied by a public or private agency.”

20. According to the “The 2009 Poverty Guidelines for the 48 Contiguous States and the District of Columbia,” the poverty threshold for a family of four is \$22,050 (Source: U.S. Department of Health and Human Services; <http://aspe.hhs.gov/poverty/09poverty.shtml>). As such, Rhode Island families (of four) with household income no greater than \$55,125 are eligible to apply to receive tuition assistance through the CSTC program.

21. Calculations by author based on data from U.S. Census Bureau’s 2008 American Community Survey (<http://www.census.gov/acs/www/>) and the U.S. Department of Health and Human Services’ “2009 Poverty Guidelines for the 48 Contiguous States and the District of Columbia” (<http://aspe.hhs.gov/poverty/09poverty.shtml>).

22. In particular, students must not be younger than the earliest admission age to a qualified nonpublic school’s kindergarten program (or, in the absence of a kindergarten program, the school’s earliest admission age for beginning students) and no older than twenty-one years old (or graduation from high school, whichever comes first).

23. Eligible business entities include C-Corporations, Subchapter S Corporations, Limited Liability Partnerships (LLPs) and Limited Liability Corporations (LLCs). The Tax credit can be applied against one of the following taxes (under chapter 44 of the Rhode Island General Laws): Business Corporation Tax (§44-11); Public Service Corporation Tax (§44-13); Taxation of Banks (§44-14); Tax on Bank Deposits (§44-15); Taxation of Insurance Companies (§44-17); or, for S-Corporations, LLPs and LLCs only, Personal Income Tax (§44-30).

■ Education Tax Credits

24. If a business entity's application for a tax credit is denied, the Division of Taxation will provide a letter describing the reason for the denial.

25. In the case where the second year contribution is less than 80 percent of the first year's contribution, the Division of Taxation prepares a tax credit certificate for the second year at 75 percent of the second year's contribution. Moreover, the difference in the tax credit allowable for the first year is recaptured and added to the business entity's taxable income in the second year. The recapture formula is: $90\% - 75\% = 15\% \times \text{first year contribution}$ (e.g. 15 percent of the first year contribution is recaptured).

26. Indeed, an analysis of the programmatic impact of a tax credit scholarship program should consider the fiscal impact of tax-credit funded scholarships. In particular, while tax credits reduce state tax revenues, they also reduce state expenditures on public education. If, for example, the average per-pupil scholarship amount is less than the state's average per-pupil allocation for public school attendance, reductions in state spending would exceed the reduction in tax revenues due to the tax credit program. However, the nature of Rhode Island's educational finance system prohibits such a calculus. Until very recently, Rhode Island's aid for public education has not been tied to the number of enrolled students (e.g. Rhode Island has been, until recently, without a statewide education funding formula), so there has not been a mechanism in place for estimating the cost savings to the state achieved via the tax credit program. However, evidence from a similarly structured (although much larger in size) program in Pennsylvania suggests that the average amount the state designates for public school students in the public school system is approximately ten times the amount of the scholarship awards to students for nonpublic school attendance. This disparity in funding has generated large fiscal savings for Pennsylvania (source: Bohlander, Nate & Andrew T. LeFevre (July 2007). Fiscal impact of

the educational improvement tax credit program. Reach Foundation Issue Analysis, 1(2)).

27. Since corporations were permitted to make donations to SGOs beginning on January 1, 2007, tuition scholarships funded student attendance during the second half of the 2006-07 school year.

28. For the 2007-08 academic year, the Rhode Island CAPE (Council for American Private Education) managed the receipt of donations and provision of scholarships for the Rhode Island Christian School Scholarships Alliance (RICSSA) and for Scholarships to Economically Poor Students (STEPS) while they finalized their 501(c)3 applications.

29. Not all SGOs which qualify under section 44-62-2 of Rhode Island's General Laws to provide tuition scholarships receive donations from businesses. Only three (F.A.C.E., The Foundation, and STEPS) of the five SGOs certified as qualified SGOs beginning January 1, 2010 received cash donations by the fiscal year ending June 30, 2010. The two qualified SGOs that did not receive cash donations were the Achievement for Children with Challenges Empowered by School Scholarships (ACCESS) and the Association of Christian Schools International (ACSI) (source: "Qualified Scholarship Organization List," retrieved at <http://www.tax.state.ri.us/Credits/> on August 1, 2010).

30. Source: "Over 250 Rhode Island Families to Receive Private School Tuition Assistance from Rhode Island Corporate Scholarship Tax Credit," press release by Rhode Island Scholarship Alliance on September 14, 2007. Retrieved from <http://www.rischolarshipalliance.org/news/index.html> on July 20, 2010.

31. 57 business entities submitted tax credit applications to the Division of Taxation and were entered into the July 26, 2010 lottery (Source: <http://www.tax.state.ri.us/Credits/>, retrieved on August 2, 2010).

32. According to David Sullivan, a tax administrator with Rhode Island's Division of Taxation, the list of participating companies is not made publicly available by the state because the tax information is considered private (source: Jennifer D. Jordan, "Tax-credit scholarships opening doors." *The Providence Journal*, October 14, 2008 (retrieved on August 3, 2010 from www.projo.com). Leo Lebeuf of Rhode Island's Division of Taxation confirmed that the list of companies donating to the CSTC program is not publicly available (source: personal phone exchange with the author on August 9, 2010).

33. Source: The Rhode Island Scholarship Alliance website (<http://www.rischolarshipalliance.org/index.html>).

34. Source: Katherine Gregg, "Governor Revokes Elimination of Business' Scholarship Tax Credit." *The Providence Journal*, March 13, 2009 (retrieved on July 15, 2010 from www.projo.com).

35. The letters were provided by RISA to the Alliance for School Choice (Source: "Scholarship Tax Credit Programs: Helping Urban Students," downloaded from <http://www.allianceforschoolchoice.org/Home/> on August 2, 2010).

36. Howell, W. and Spencer, M. "School Choice Without Vouchers: Expanding Education Options Through Tax Benefits." Pioneer Institute White Paper, No. 41, October 2007. Access at: <http://www.pioneerinstitute.org/pdf/wp41.pdf>

37. For a more detailed treatment of the legal issues around the possibility of tax credit funded scholarships in Massachusetts, see Howell, W. and Spencer, M. "School Choice Without Vouchers: Expanding Education Options Through Tax Benefits." Pioneer Institute White Paper, No. 41, October 2007. Access at: <http://www.pioneerinstitute.org/pdf/wp41.pdf> and Chapman, C. "The Know-Nothing Amendments: Barriers to School Choice in Massachusetts." Pioneer Institute White Paper, No. 46, April

2009. Access at: http://www.pioneersinstitute.org/pdf/090401_chapman_know_nothing.pdf.

38. *Kotterman v. Killian*, 193 (Arizona Supreme Court).

39. Source: Institute for Justice; http://www.ij.org/index.php?option=com_content&task=view&id=1084&Itemid=165.

40. Source: Jennifer D. Jordan, "Tax-credit scholarships opening doors." *The Providence Journal*, October 14, 2008 (retrieved on August 3, 2010 from www.projo.com).

