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## Memorandum

**To:** Education Task Force Members  
**From:** Lindsay Russell, Director, Education Task Force, ALEC  
**Re:** Education Task Force Meeting Updates  
**Date:** November 8, 2013

The American Legislative Exchange Council (ALEC) will host its 2013 States & Nation Policy Summit December 4 - 6 in Washington, District of Columbia at the [Grant Hyatt Hotel](#). The Education Task Force will meet on Friday, December 6th from 2:30 p.m. – 5:30 p.m. There will also be an education subcommittee meeting (listed below). All Task Force members are highly encouraged to participate in the subcommittee meeting to discuss proposed model legislation.

### **Education Subcommittee Meeting**

Wednesday, December 4, 2013  
8:00 a.m. – 11:00 a.m.

### **Education Task Force Meeting**

Friday, December 6, 2013  
2:30 p.m. – 5:30 p.m.

### **Enclosed Materials:**

- Faxable registration and housing forms for the ALEC States and Nation Policy Summit
- Agenda for the ALEC States and Nations Policy Summit
- Tentative Agenda for the Education Task Force Meeting
- Tentative Agenda for the Education Subcommittee Meeting
- Education Task Force Proposed Model Legislation for Consideration
- Education Task Force Model Legislation for Sunset Review
- ALEC Mission Statement

As a reminder, the attached is not official ALEC model policy until it passes both the Education Task Force and the ALEC National Board of Directors.

I look forward to seeing everyone in DC! To ensure a successful, informative, and productive meeting, please review all information and model policy. If you have any questions or concerns regarding the meeting, feel free to contact me at [lrussell@alec.org](mailto:lrussell@alec.org) or 208-250-6366.

Sincerely,

Lindsay Russell  
Director, Education Task Force

**Education Task Force Meeting**

States & Nation Policy Summit | Friday, December 6th  
2:30 p.m. – 5:30 p.m.

**Tentative Agenda**

- 2:30 p.m. Welcome and Introductions**
- 2:40 p.m. Review of the Operating Procedures and Approval of Meeting Minutes**
- 2:45 p.m. Presentation**  
“School Funding that Follows the Child, School Finance, and School Choice Trends”
- 3:05 p.m. Proposed Model Policy Discussion and Voting**
- Early Intervention Program Act
  - K-1 Technology-Based Reading Intervention for English Learners Act
- 3:35 p.m. Presentation**  
“National Assessment of Educational Progress (NAEP) Overview and Report Card on American Education”
- 3:50 p.m. Proposed Model Policy Discussion and Voting**
- Student Achievement Backpack Act
  - Student Futures Program Act
- 4:15 p.m. Presentation**  
“Course Choice, K-12, and Higher Education”
- 4:30 p.m. Proposed Model Policy Discussion and Voting**
- Course Choice Act
- 4:55 p.m. Presentation**  
“Charter Schools Update”

**5:15 p.m. Proposed Model Policy Discussion and Voting: Technical Amendments**

- The Education Savings Account Act
- The Foster Child Scholarship Program Act

**5:20 p.m. Model Policy Discussion and Voting: Sunset Review**

- Personal Financial Literacy Act (2009)

**5:30 p.m. Good of the Order/Adjournment**

DRAFT

**Education Task Force  
Subcommittee Meeting**

States & Nations Policy Summit | Wednesday, December 4th  
8:00 a.m. – 11:00 a.m.

**Tentative Agenda**

**8:00 a.m. Welcome and Introductions**

**8:10 a.m. Review of the Operating Procedures**

**8:20 a.m. Introduce New Subcommittee: Science, Technology, Engineering, and Mathematics (STEM) Education**

**8:30 a.m. K-12 Education Reform**

**Proposed Model Bills for Consideration**

- Early Intervention Program Act
- K-1 Technology-Based Reading Intervention for English Learners Act
- Course Choice Act
- Student Achievement Backpack Act
- Student Futures Program Act

**Technical Amendments**

- The Foster Child Scholarship Program Act
- The Education Savings Account Act

**Sunset Review**

- Personal Financial Literacy Act (2009)

**10:00 a.m. Presentations**

- “Student-Focused Funding Solutions for Public Education”
- “Public Education Appropriations in North Dakota”

**10:30 a.m. Policy Priorities Discussion**

- Higher Education
- Digital Learning

**11:00 a.m. Good of the Order/Adjournment**

DRAFT

1 **Early Intervention Program Act**  
2 **(DRAFT, December 6, 2013)**  
3

4 **Summary**  
5

6 This act creates an early intervention program, targeted to at-risk students, delivered partly  
7 through a voluntary enhanced kindergarten program at school districts and charter schools  
8 that choose to offer the program. It establishes guidelines for the State Board of Education to  
9 distribute early intervention funds, based on at-risk indicators and requires the State Board of  
10 Education to select one or more technology providers, through a request for proposals  
11 process, to provide interactive computer software for literacy or numeracy instruction, or  
12 both, and assessments for students in kindergarten through grade 3. It also requires the State  
13 Board of Education to report final testing data regarding an interactive computer software  
14 program, including student learning gains, to the Education Interim Committee and the  
15 governor.  
16

17 **Model Legislation**  
18

19 **Section 1. Title.** This Act shall be known as the “Early Intervention Program Act.”  
20

21 **Section 2. Early Intervention Program.**  
22

23 (A) The State Board of Education shall distribute funds, consistent with guidelines in this  
24 section, to school districts and charter schools that apply for the funds.  
25

26 (B) A school district or charter school shall use funds to offer an early intervention program,  
27 delivered through an enhanced kindergarten program that:

28 (1) is an academic program focused on building age-appropriate literacy and  
29 numeracy skills;  
30

31 (2) uses an evidence-based early intervention model;  
32

33 (3) is targeted to at-risk students; and  
34

35 (4) is delivered through additional hours or other means.  
36  
37

38 (C) A school district or charter school may not require a student to participate in an enhanced  
39 kindergarten program described in Subsection (B).  
40

41 (D) The State Board of Education shall distribute funds to school districts and charter schools  
42 based on the number of kindergarten students eligible to receive free or reduced price school  
43 lunch in each school district or charter school that applies for funding.  
44

45 (E) In addition to an enhanced kindergarten program described in Subsection (B), the early  
46 intervention program includes a component to address early intervention through the use of  
47 an interactive computer software program.  
48

49 (F) The State Board of Education shall select one or more technology providers, through a  
50 request for proposals process, to provide an interactive computer software program for

51 literacy or numeracy instruction, or both, and assessments for students in kindergarten  
52 through grade 3.

53  
54 (G) On or before **{inset date}**, and every year thereafter, the State Board of Education shall  
55 report final testing data regarding an interactive computer software program described in  
56 Subsection (F), including student learning gains as a result of the interactive computer  
57 software program, to:

58  
59 (1) the Education Interim Committee; and

60  
61 (2) the governor.

62  
63 **Section 7. {Severability clause.}**

64 **Section 8. {Repealer clause.}**

65 **Section 9. {Effective date.}**

66

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45 (6) The software program must explicitly teach students academic vocabulary  
46 related to core content areas and provide language development activities for  
47 those pupils requiring this assistance.

48  
49 (7) The program must directly teach the Basic Interpersonal Communicative  
50 Skills (BICS) and assess a student's understanding of those BICS.

51  
52 **Section 3. {Severability clause.}**

53 **Section 4. {Repealer clause.}**

54 **Section 5. {Effective date.}**

1 **Student Achievement Backpack Act**  
2 **(DRAFT, December 6, 2013)**

3  
4 **Summary**

5  
6 This bill provides access by a student's parent or guardian or an authorized LEA user to the  
7 learning profile of a student from kindergarten through grade 12 in an electronic format  
8 known as a Student Achievement Backpack.  
9

10 **Model Legislation**

11  
12 **Section 1. Title.** This Act shall be known as the “Student Achievement Backpack Act.”  
13

14 **Section 2. Definitions.**

15  
16 (A) "Authorized LEA user" means a teacher or other person who is:

17  
18 (1) employed by an LEA that provides instruction to a student; and

19  
20 (2) authorized to access data in a Student Achievement Backpack through the {insert  
21 state} Student Record Store.  
22

23 (B) "LEA" means a school district, charter school, or the {schooling options in the state  
24 specific to the deaf and blind}  
25

26 (C) "Student Achievement Backpack" means, for a student from kindergarten through grade  
27 12, a complete learner profile that:

28  
29 (1) is in electronic format;

30  
31 (2) follows the student from grade to grade and school to school; and

32  
33 (3) is accessible by the student's parent or guardian or an authorized LEA user.  
34

35 (D) “{Insert State} Performance Assessment” means the State Performance Assessment  
36 System for Students  
37

38 (E) "{Insert State} Student Record Store" means a repository of student data  
39 collected from LEAs as part of the state's longitudinal data system that is:

40  
41 (1) managed by the State Office of Education;

42  
43 (2) cloud-based; and

44  
45 (3) accessible via a web browser to authorized LEA users.  
46

47 **Section 3. Data Collection**

48  
49 (A) The State Board of Education shall use the robust, comprehensive data collection system  
50 maintained by the {insert state} State Office of Education, which collects longitudinal

51 student transcript data from LEAs and the unique student identifiers as described in **{insert**  
52 **applicable state code}**, to allow the following to access a student's Student Achievement  
53 Backpack:

- 54
- 55 (1) the student's parent or guardian; and
- 56
- 57 (2) each LEA that provides instruction to the student.
- 58

59 (B) The State Board of Education shall ensure that a Student Achievement Backpack:

- 60
- 61 (1) provides a uniform, transparent reporting mechanism for individual student  
62 progress;
- 63
- 64 (2) provides a complete learner history for postsecondary planning;
- 65
- 66 (3) provides a teacher with visibility into a student's complete learner profile to better  
67 inform instruction and personalize education;
- 68
- 69 (4) assists a teacher or administrator in diagnosing a student's learning needs through  
70 the use of data already collected by the State Board of Education;
- 71
- 72 (5) facilitates a student's parent or guardian taking an active role in the student's  
73 education by simplifying access to the student's complete learner profile; and
- 74
- 75 (6) serves as additional disaster mitigation for LEAs by using a cloud-based data  
76 storage and collection system.
- 77

78 **Section 4. Student Record Store**

79

80 (A) Using existing information collected and stored in the data warehouse maintained by the  
81 **{insert state}** State Office of Education, the State Board of Education shall create the **{insert**  
82 **state}** Student Record Store where an authorized LEA user may:

- 83
- 84 (1) access data in a Student Achievement Backpack relevant to the user's LEA or  
85 school; or
- 86
- 87 (2) request student records to be transferred from one LEA to another.
- 88

89 **Section 5. Security Measures**

90

91 (A) The State Board of Education shall implement security measures to ensure that:

- 92
- 93 (1) student data stored or transmitted to or from the **{insert state}** Student Record  
94 Store is secure and confidential pursuant to the requirements of the Family  
95 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- 96
- 97 (2) an authorized LEA user may only access student data that is relevant to the user's  
98 LEA or school.
- 99

100 **Section 6. Parental and Guardian Rights**

101  
102 (A) A student's parent or guardian may request the student's Student Achievement Backpack  
103 from the LEA or the school in which the student is enrolled.  
104

### 105 **Section 7. Achievement Tests**

106  
107 (A) No later than **{insert date}**, an authorized LEA user shall be able to access student data  
108 in a Student Achievement Backpack, which shall include the following data, or request the  
109 data be transferred from one LEA to another:

- 110  
111 (1) student demographics;  
112  
113 (2) course grades;  
114  
115 (3) course history; and  
116  
117 (4) results for an assessment administered under **{insert state}** Student Performance  
118 Assessment  
119

### 120 **Section 8. Access to Student Data**

121  
122 (A) No later than **{insert date}**, an authorized LEA user shall be able to access student data  
123 in a Student Achievement Backpack, which shall include the data listed in Section 7 (A) (1)  
124 through (4) and the following data, or request the data be transferred from one LEA to  
125 another:

- 126  
127 (1) section attendance;  
128  
129 (2) the name of a student's teacher for classes or courses the student takes;  
130  
131 (3) teacher qualifications for a student's teacher, including years of experience,  
132 degree, license, and endorsement;  
133  
134 (4) results of formative, interim, and summative computer adaptive assessments  
135 administered pursuant to **{insert applicable state code}**;  
136  
137 (5) detailed data demonstrating a student's mastery of core standards and objectives as  
138 measured by computer adaptive assessments administered pursuant to **{insert**  
139 **applicable state code}**;  
140  
141 (6) a student's writing sample written for an online writing assessment administered  
142 pursuant to **{insert applicable state code}**;  
143  
144 (7) student growth scores for **{insert state}** performance assessment;  
145  
146 (8) a school's grade assigned pursuant to **{insert applicable state code}**;  
147  
148 (9) results of benchmark assessments of reading administered pursuant to **{insert**  
149 **applicable state code}**; and  
150

151 (10) a student's reading level at the end of grade 3.

152

153 **Section 9. Student Data Integration in Student Information System**

154

155 (A) No later than June 30th of the fourth year after this bill is enacted, the State Board of  
156 Education shall ensure that data collected in the {insert state} Student Record Store for a  
157 Student Achievement Backpack shall be integrated into each LEA's student information  
158 system and shall be made available to a student's parent or guardian and an authorized LEA  
159 user in an easily accessible viewing format.

160

161 **Section 10. {Severability clause.}**

162 **Section 11. {Repealer clause.}**

163 **Section 12. {Effective date.}**

DRAFT

1 **Student Futures Program Act**  
2 **(DRAFT, December 6, 2013)**  
3  
4

5 **Summary**

6  
7 This act creates a career planning program.  
8

9 **Model Legislation**

10  
11 **Section 1. Title.** This Act shall be known as the “Student Futures Program”  
12

13 **Section 2. Definitions.**

14  
15 (A) "Education provider" means:

- 16  
17 (1) **{insert state}** institution of higher education as defined in **{insert applicable**  
18 **state law}**; or  
19  
20 (2) **{insert state}** provider of postsecondary education.  
21

22 (B) "Student user" means:

- 23  
24 (1) **{insert state}** student in kindergarten through grade 12;  
25  
26 (2) **{insert state}** post-secondary education student;  
27  
28 (3) a parent or guardian of a **{insert state}** public education student; or  
29  
30 (4) **{insert state}** potential post-secondary education student.  
31

32 (C) "Other user" means:

- 33  
34 (1) a jobseeker;  
35  
36 (2) an adult user;  
37  
38 (3) a **{insert state}** business user; or  
39  
40 (4) any **{insert state}** citizen.  
41

42 (D) “Student Futures” means a career planning program developed and administered by the  
43 Department of Workforce Services, the State Board of Regents, and the State Board of  
44 Education.  
45

46 (E) "Student Futures Steering Committee" means a committee of members designated by the  
47 governor to administer and manage Student Futures in collaboration with the Department of  
48 Workforce Services, the State Board of Regents, and the State Board of Education.  
49

50 **Section 3. Student Futures Funding.**

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(A) The Student Futures Steering Committee shall ensure, as funding allows and is feasible, that Student Futures will:

(1) allow a student user to:

- (a) access the student user's full academic record;
- (b) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;
- (c) access information about different career opportunities and understand the related educational requirements to enter that career;
- (d) access information about education providers;
- (e) access up to date information about entrance requirements to education providers;
- (f) apply for entrance to multiple schools without having to fully replicate the application process;
- (g) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and
- (h) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(2) allow an education provider to:

- (a) research and find student users who are interested in various educational outcomes;
- (b) promote the education provider's programs and schools to student users; and
- (c) connect with student users within the Student Futures website;

(3) allow a **{insert state}** business to:

- (a) research and find student users who are pursuing educational outcomes that are consistent with jobs the **{insert state}** business is trying to fill now or in the future; and
- (b) market jobs and communicate with student users through the Student Futures website as allowed by law;

(4) allow the Department of Workforce Services to analyze and report on student user

101 interests, education paths, and behaviors within the education system so as to  
102 predictively determine appropriate career and educational outcomes and results; and  
103

104 (5) allow all users of the Student Futures' system to communicate and interact through  
105 social networking tools within the Student Futures website as allowed by law.  
106

107 (B) On or before **{insert date}**, the State Board of Education, in consultation with the Student  
108 Futures Steering Committee, may select a technology provider, through a request for  
109 proposals process, to provide technology and support for Student Futures.  
110

111 (C) In evaluating proposals under Subsection (B), the State Board of Education and the  
112 Student Futures Steering Committee shall ensure that the technology provided by a proposer:  
113

114 (1) allows Student Futures to license and host the selected technologies on Student  
115 Futures' servers;  
116

117 (2) allows Student Futures to protect and control all user data within the system;  
118

119 (3) allows Student Futures to directly control and update the user interface, APIs, and  
120 web services software layers as needed; and  
121

122 (4) provides the ability for a student user to have a secure profile and login to access  
123 and to store personal information related to the services listed in Subsection (A) via  
124 the Internet.  
125

126 **Section 4. {Severability clause.}**

127 **Section 5. {Repealer clause.}**

128 **Section 6. {Effective date.}**  
129



1 **Course Choice Program Act**  
2 **(DRAFT, December 6, 2013)**  
3

4 ***Summary***

5 The Course Choice Program created by this Act would allow students in public schools and  
6 public charter schools to enroll in online, blended, and face-to-face courses not offered by the  
7 student’s school, and would allow a portion of that student’s funding to flow to the course  
8 provider. This Act creates an authorization process for providers and identifies provider and  
9 course eligibility criteria. This Act requires course providers and the State Department of  
10 Education to regularly report on the key measurements of student success and enrollment. This  
11 Act gives the State Department of Education authority to enter into an interstate course  
12 reciprocity agreement, allowing students within the state to take courses from providers  
13 domiciled in other states.

14  
15 This model bill is written in a format to allow for flexibility among individual state’s needs. As  
16 written, there are options available to tailor funding and student eligibility based on the climate  
17 in each state.  
18

19  
20 ***Model Language***

21  
22 **Section 1. {Title}**

23  
24 (A) This Act shall be named the “Course Choice in Education Act”  
25

26 **Section 2. {Legislative Declaration}**

27  
28 (A) The legislature finds and declares that:  
29

30 (1) It is in the public interest that all school children have access to the type and format of  
31 education that best meets the needs of the individual student, that each student has  
32 different needs that merit a variety of course choices on the individual student level, and  
33 that the state has the right, responsibility, duty, and obligation to accomplish the objective  
34 of a quality, individualized education for all children.  
35

36 (2) Enrollment of children in course work offered by course providers is in compliance  
37 with the objectives of the states compulsory attendance law; course providers make a  
38 significant educational and economic contribution towards meeting the goal of a quality,  
39 individualized education for every school child; and the state has recognized and  
40 encouraged that contribution through online education and blended learning models of  
41 learning.  
42

43 (3) High quality, effective course providers exist in the state.  
44

45 (4) Course providers can offer a quality, individualized education to students and it is in  
46 the public interest to offer students the means of accessing the educational opportunities

47 offered by course providers by providing students with the public funds allocated to them  
48 from local and state sources to enroll in such courses.

49  
50 (5) Postsecondary education institutions can serve as quality course providers for students  
51 who seek advanced level course work or technical or vocational instruction.

52  
53 (6) Online or virtual course providers can serve as quality course providers for students  
54 who desire additional access to high quality courses, especially but not limited to students  
55 enrolled in low-performing public schools, students who for reasons of geography may  
56 not be able to exercise their right to educational choice, and students who may desire an  
57 alternative schooling schedule or calendar.

58  
59 (7) Just as there is a rich diversity of students, there is a rich diversity of course models  
60 ranging from online, to face to face, to blended learning. Students benefit from having  
61 access to a diverse catalog of options for how to best meet their unique academic needs.

62  
63 (8) The state has a responsibility for maintaining a catalog of quality options for students.

64  
65 **Section 3. {Definitions}**

66  
67 (A) As used in this Act:

68  
69 (1) “State Course Choice Program” shall mean the catalog maintained by the State  
70 Department of Education that provides a list of all courses authorized and available to  
71 students in the state.

72  
73 (2) “Course Provider” shall mean an entity that offers individual courses in person or  
74 online, including but not limited to online or virtual education providers, public or private  
75 elementary and secondary education institutions, education service agencies, private or  
76 nonprofit providers, postsecondary education institutions, and vocational or technical  
77 course providers, and have been authorized to provide such courses by the State  
78 Department of Education.

79  
80 (3) “Department” shall mean the State Department of Education.

81  
82 (4) “Eligible participating student” shall mean any student who resides in [State] and  
83 meets one of the following criteria:

84  
85 (a) was eligible to attend a public school in [State] in the preceding semester or is  
86 starting school in [State] for the first time; and

87  
88 (b) is enrolled in a home study program approved by the Department.

89  
90 (5) “Eligible funded student” means any student who resides in [State] and meets one of  
91 the following criteria:

93 *Option 1 “Universal Eligibility”:*

94

95 (a) was eligible to attend a public school in [state] in the preceding semester or is  
96 starting school in [state] for the first time.

97

98 *Option 2 “Income Based”:*

99

100 (a) was eligible to attend a public school in [state] in the preceding semester or is  
101 starting school in [state] for the first time<sup>1</sup> and is a member of a household whose  
102 total annual income does not exceed an amount equal to 2 times the income  
103 standard used to qualify for a free or reduced-price lunch under the national free  
104 or reduced-price lunch program established under 42 USC Section 1751 et seq.  
105 Once a student receives a scholarship under this program, the student will remain  
106 eligible regardless of household income until the student graduates high school or  
107 reaches 21 years or age; or

108

109 (b) is attending a public school that does not offer the course in which the student  
110 desires to enroll, as determined by the Department.

111

112 *Option 3 “Low Performing Schools”:*

113

114 (a) is attending a public school that received a letter grade of “C”, “D”, or “F”, or  
115 any variation thereof, according to the [State] accountability system; or

116

117 (b) is attending a public school that does not offer the course in which the student  
118 desires to enroll, as determined by the Department.

119

120 **Section 4. {Provider Authorization Process}**

121

122 (A) The Department shall:

123

124 (1) establish a submission and authorization process for providers occurring on a rolling  
125 basis;

126

127 (2) evaluate providers to be offered through the State Course Choice Program. The  
128 Department may negotiate changes in the proposal to offer a course, if the Department  
129 determines that changes are necessary in order to authorize the course;

130

131 (3) not later than 90 calendar days from initial submission date, authorize providers that:

132

133 (a) meet the criteria established under Section 5; and

134

135 (b) provide courses which offer the minimum instructional rigor and scope  
136 required under Section 5; and

137

138 (4) not later than 90 calendar days from initial submission date, provide a detailed written  
139 explanation of any providers denied.

140  
141 (B) If the provider is denied authorization, the provider may resubmit under the standard  
142 provider authorization process under Section A at any time.

143  
144 (C) The Department shall publish the process established under Section 4, including any  
145 deadlines and any guidelines applicable to the submission and authorization process for  
146 providers.

147  
148 (D) The Department shall pay the reasonable costs of evaluating and authorizing providers. If  
149 funds available to the Department for that purpose are insufficient to pay the costs of evaluating  
150 and authorizing all providers submitted for evaluation and authorization, the Department shall  
151 give priority to paying the costs of evaluating and authorizing the following providers:

152  
153 (1) providers offering courses that satisfy high school graduation requirements;

154  
155 (2) providers offering courses that would likely benefit a student in obtaining admission  
156 to a postsecondary institution;

157  
158 (3) providers offering courses, including dual credit courses, that allow a student to earn  
159 college credit or other advanced credit;

160  
161 (4) providers offering courses in subject areas designated by the Department as  
162 commonly experiencing a shortage of teachers; and

163  
164 (5) providers offering courses in subject areas and grades designated by the Department  
165 as high priority.

166  
167 (E) If the Department determines that the costs of evaluating and authorizing a provider will not  
168 be paid by the Department due to a shortage of funds available for that purpose, the Department  
169 may charge applicants a fee up to but no greater than the amount of the costs in order to ensure  
170 that evaluation occurs. The Department shall establish and publish a fee schedule for purposes of  
171 this subsection.

172  
173 **Section 5. {Provider Criteria}**

174  
175 (A) A provider offering a course through the State Course Choice Program must:

176  
177 (1) comply with all applicable antidiscrimination provisions;

178  
179 (2) demonstrate in each subject area and grade level prior evidence of delivering quality  
180 outcomes for students as demonstrated by completion rates, student level growth,  
181 proficiency, and other quantifiable outcomes or rigorous evaluations;

183 (3) ensure instructional and curricular quality through a detailed curriculum and student  
184 performance accountability plan that aligns with, and measures student attainment of,  
185 student proficiency in achieving the state academic standards;

186  
187 (4) provide assurances that the course provider shall, to the best of its ability, collaborate  
188 and coordinate with a local school system in which a eligible funded student or eligible  
189 participating student is enrolled full time; and

190  
191 (5) commit to provide electronically the participating student's school a detailed student  
192 record, including grades and performance information.

193  
194 (B) A course offered by a provider must:

195  
196 (1) be the equivalent in instructional rigor and scope to a course that is provided in a  
197 traditional classroom setting;

198  
199 (2) be aligned to the state academic standards, industry standards, or Common Core State  
200 Standards; and

201  
202 (3) possess an assessment component for determining student growth and proficiency.

203  
204 (C) Additional criteria developed by the Department may be used to evaluate providers,  
205 including courses and/or providers meet International Association for K-12 Online Learning  
206 (INACOL), Southern Regional Education Board (SREB), AdvancED, or other third party quality  
207 standards.

## 208 209 **Section 6. {Provider Monitoring and Reauthorization}**

210  
211 (A) The initial authorization of the course provider shall be for a period of three years.

212  
213 (B) Providers must annually report:

214  
215 (1) Student outcomes, growth measures, proficiency rates, completion rates for each  
216 subject area and grade level

217  
218 (2) Student satisfaction rates and comments.

219  
220 (C) After the second year of the initial authorization period, the Department shall conduct a  
221 thorough review of the course provider's activities and the academic performance of the students  
222 enrolled in courses offered by the course provider in accordance with the school and district  
223 accountability system.

224  
225 (D) If the performance of the students enrolled in courses offered by the course provider  
226 pursuant to the school and district accountability system does not meet performance standards set  
227 by the Department, the course provider shall be placed on probation for one year and will be  
228 required to submit a plan for improvement.

229  
230 (E) After the initial three-year authorization period, the Department may reauthorize the course  
231 provider for additional periods of not less than three years after thorough review of the course  
232 provider's activities and the achievement of students enrolled in courses offered by the course  
233 provider.

234  
235 (F) The Department may exclude a course provided by an authorized provider at any time if the  
236 department determines that:

237  
238 (1) the course is no longer adequately aligned with the State academic standards;

239  
240 (2) the course no longer provides a detailed and quality curriculum and accountability  
241 plan; or

242  
243 (3) the course fails to deliver outcomes as measured by student outcomes and  
244 performance on state or nationally accepted assessments.

245  
246 **Section 7. {Interstate Course Reciprocity}<sup>1</sup>**

247  
248 (1) Not later than January 1, 2014, the Department shall create a reciprocal course and course  
249 provider authorization process for students who reside in [State] but seek to enroll in a course  
250 authorized in another state.

251  
252 (2) The reciprocal course authorization process should take into account providers or courses  
253 that:

254  
255 (a) are of equivalent instructional rigor and scope to a course that is provided in a  
256 traditional classroom setting; and

257  
258 (b) are authorized in another state through that state's provider or course authorization  
259 process if the criteria used are aligned to those established Section 5.

260  
261 (3) The Department shall create a process for common course numbering of all courses listed in  
262 the State Course Choice Program and for determining whether courses are in compliance with  
263 Section 5. For courses offered by postsecondary education institutions that are authorized course  
264 providers, the Department shall consult with the Board of Regents.

265  
266 **Section 8. {Responsibilities of the State Department of Education}**

267  
268 (A) The Department shall:

269  
270 (1) publish the criteria required by Section 5 for courses that may be offered through the  
271 State Course Choice Program;

272  
273 (2) using the criteria required by Section 5, evaluate courses submitted by a provider  
274 school district or school to be offered through the catalog;

275  
276 (3) create a list of courses authorized by the Department;  
277  
278 (4) publish on the State Course Choice Program’s public website in a prominent location  
279 the list of courses offered by authorized providers available through the State Course  
280 Choice Program and a detailed description of the courses;  
281  
282 (5) publish for the general public, in accordance with disclosure requirements adopted in  
283 rule by the Department, as part of its application as a provider, and in all contracts  
284 negotiated pursuant to this section:  
285  
286 (a) information about the curriculum of each course;  
287  
288 (b) course policies and procedures;  
289  
290 (c) certification status of all administrative and instructional personnel;  
291  
292 (d) hours and times of availability of instructional personnel;  
293  
294 (e) student completion and promotion rates;  
295  
296 (f) student, educator, and school performance accountability outcomes;  
297  
298 (g) technology and broadband requirements; and  
299  
300 (h) cost for participation;  
301  
302 (6) The information required in Paragraph (A)(5) of this Section 8 and underlying data  
303 shall be published online in an open format that can be retrieved, downloaded, indexed,  
304 and searched by commonly used web search applications;  
305  
306 (a) An open format is one that is platform independent, machine readable, and  
307 made available to the public without restrictions that would impede the re-use of  
308 that information.  
309  
310 (7) The Department may enter into an agreement with other states or organizations to  
311 create and operate one or more aspects of the catalog and course choice program; and  
312  
313 (8) Establish and publish a timeframe or specific dates by which students are able to  
314 withdraw from a course provided through the State Course Choice Program without the  
315 student or the provider incurring a penalty.  
316  
317 (B) To ensure that a full range of courses, including advanced placement courses, are offered to  
318 students in this state, the Department:  
319

320 (1) shall create a list of those subjects and courses designated by the Department as  
321 essential knowledge and skills or designated as content requirements;

322  
323 (2) shall enter into agreements with school districts, charter schools, private or nonprofit  
324 providers, and public or private institutions of higher education for the purpose of  
325 offering the courses through the State Course Choice Program; and

326  
327 (3) may develop, authorize the development of, or enter into contracts with other  
328 providers for the licensing, development, or purchasing of additional courses that:

329 (a) are needed to complete high school graduation requirements;

330 (b) are not otherwise available through the State Course Choice Program; and

331 (c) are needed to help students achieve state academic standards in grades  
332 kindergarten through grade 12.

333  
334 (C) The Department shall maintain on its official website in a prominent location an “informed  
335 choice” report. Each report under this section must:

336  
337 (1) be updated within 30 calendar days of additional provider authorizations;

338  
339 (2) describe each course offered through the State Course Choice Program and include  
340 information such as course requirements and the school year calendar for the course,  
341 including any options for continued participation outside of the standard school year  
342 calendar;

343 (3) student and parental comments and feedback reporting requirements as detailed under  
344 Section 6; and

345 (4) be published online in an open format that can be retrieved, downloaded, indexed, and  
346 searched by commonly used web search applications.

347 (a) An open format is one that is platform independent, machine readable, and  
348 made available to the public without restrictions that would impede the re-use of  
349 that information.

350 (D) The Department shall submit an annual report on the State Course Choice Program and the  
351 participation of entities to the Governor, the chairman and minority chairman of the Education  
352 Committee of the Senate and the chairman and minority chairman of the Education Committee  
353 of the House of Representatives. The report shall at a minimum include all of the following  
354 information:

355 (1) The number of students participating in courses authorized under this article;

356 (2) The number of authorized providers;



- 366  
367 (3) The number of authorized courses;  
368  
369 (4) The number of courses available by subject and grade level;  
370  
371 (5) The number of students enrolled in courses by subject and grade level; and  
372  
373 (6) Student outcome data, including completion rates, student learning gains, student  
374 performance on state or nationally accepted assessments, by subject and grade level by  
375 provider.

376  
377 (E) The report and underlying data shall be published online in an open format that can be  
378 retrieved, downloaded, indexed, and searched by commonly used web search applications.

- 379  
380 (1) An open format is one that is platform independent, machine readable, and made  
381 available to the public without restrictions that would impede the re-use of that  
382 information.

383  
384 **Section 9. {Responsibilities of and Limitations on the Local School District}**

385  
386 (A) A school district or charter school shall:

- 387  
388 (1) notify parents of the availability of course choice options in correspondence that is  
389 written in simple and accurate language that parents can understand;

390  
391 (2) provide information by letter or email to the student's home and by at least two other  
392 means, such as community flyers, newspaper postings, or other method;

393  
394 (3) publish information and eligibility guidelines on the school and school district's web  
395 sites; and

396  
397 (4) submit eligibility policies to the State Course Choice Program.

398  
399 (B) Each local school system shall establish policies and procedures whereby for each eligible  
400 funded student as identified in Section 3 the following shall apply:

401  
402 (1) Credits earned through the course provider shall appear on each such student's  
403 official transcript and count fully towards the requirements of any approved [state]  
404 diploma.

405  
406 (2) State-mandated assessments shall be administered to each such student attending a  
407 public school.

408  
409 (C) Each local school system shall make available to all students the State Course Choice  
410 Program as provided by the Department during the annual course enrollment process for that  
411 local school system.

- 412  
413 (D) No local school system shall actively discourage, intimidate, or threaten an eligible funded  
414 student or an eligible participating student during the course enrollment process or at any time  
415 for that local school system.  
416  
417 (E) The performance data of students who are enrolled in a course pursuant to this Part and in  
418 accordance with Subsection A of this Section shall be counted in the school performance score  
419 for the school in which the student is enrolled full time. The performance data shall be reported  
420 to and published by the Department for each course provider in an easy to understand format and  
421 on the Department's website.  
422  
423 (F) The Department shall adopt rules necessary to implement this Part, including but not limited  
424 to the requirements of school governing authorities or local school systems whose students enroll  
425 in courses offered by authorized course providers.  
426  
427 (G) Nothing in this article shall be construed to prevent a school entity from establishing its own  
428 online course or program in accordance with this act.  
429

430 **Section 10. {Funding}<sup>2</sup>**

431  
432 *Option 1 Funding Model:*

433 (A) Per-course funding shall be determined as follows:

434  
435 (1) The course provider shall receive a per-course amount for each eligible funded student  
436 of an amount equal to the market rate as determined by the course provider and reported  
437 to the Department up to one-sixth of ninety percent of the per pupil amount each year for  
438 the local school system in which the eligible funded student resides. Any remaining  
439 funds, except those specified in Paragraph (2) of this Subsection, for that student shall be  
440 divided evenly and returned to the state and to the local school system in which the  
441 student resides. Transfers of course payments shall be made by the Department on behalf  
442 of the responsible school district in which the student resides to the authorized course  
443 provider.  
444

445 (2) For each student, an amount equal to ten percent of the per-pupil funding amount  
446 shall remain with the local school system in which the student is enrolled full time.  
447

448 (3) The course provider shall receive payment only for the courses in which the student is  
449 enrolled. The remaining funds for each of these students up to the maximum amount for  
450 the school district in which the participating student resides or actual tuition and fees, as  
451 applicable, shall remain with the participating school in which the student is enrolled.  
452

453 (4) The Department shall proportionally reduce the fee for any student who withdraws  
454 from a course prior to the end of the course.  
455

456 (B)

457

458 (1) The course provider may charge tuition to any eligible participating student in an  
459 amount equal to the amount determined by the course provider and reported to the  
460 Department.

461  
462 (2) The course provider shall accept the amount specified in Paragraph (1)(a) of this  
463 Section as total tuition and fees for the eligible participating student.

464  
465 (C) Funding shall be based upon student success, as follows:

466  
467 (1) Fifty percent of the amount of tuition to be paid or transferred to the course provider  
468 shall be paid or transferred upon student enrollment in a course and fifty percent shall be  
469 paid or transferred upon course completion according to the published course length.

470  
471 (2) If a student does not complete a course according to the published course length in  
472 which the course provider has received the first payment pursuant to Paragraph (1) of this  
473 Subsection (C), the provider shall receive forty percent of the course amount as defined  
474 in Paragraph (1) of this Subsection (C) only if the student completes the course and  
475 receives credit for the course prior to leaving school or graduating from high school.

476  
477 (3) The remaining ten percent of the per-pupil amount for the local school system in  
478 which the eligible funded student resides shall remain with the school in which the  
479 eligible funded student is enrolled full time.

480  
481 *Option 2 Funding Model:*

482  
483 (A) The amount of a fee charged for each course in which the eligible funded student enrolls  
484 through the State Course Choice Program shall be approved by the Department in order to  
485 provide flexibility for courses with higher costs, such as blended learning courses that may  
486 involve a physical facility or where Internet enabled devices and connectivity are included as  
487 part of the offering.

488  
489 (B) Funding shall be based upon student success, as follows:

490  
491 (1) Fifty percent of the amount of tuition to be paid or transferred to the course provider  
492 shall be paid or transferred upon student enrollment in a course and fifty percent shall be  
493 paid or transferred upon course completion according to the published course length.

494  
495 (2) If a student does not complete a course according to the published course length in  
496 which the course provider has received the first payment pursuant to Paragraph (1) of this  
497 Subsection B, the provider shall receive forty percent of the course amount as defined in  
498 Paragraph (1) of this Subsection B only if the student completes the course and receives  
499 credit for the course prior to leaving school or graduating from high school.

500  
501 (C) Except as provided by this Section, the State Course Choice Program may not charge a fee to  
502 students for courses provided through the catalog.

503

504 (1) A school district or charter school may charge a fee for enrollment in a course  
505 provided through the State Course Choice Program to a student who resides in this state  
506 and:

507  
508 (a) is enrolled in a school district or charter school as a full-time student; and  
509

510 (b) is enrolled in a course load greater than that normally taken by students in the  
511 equivalent grade level in other school districts or open-enrollment charter schools.  
512

513 (2) A school district or charter school may charge a fee for enrollment in a course  
514 provided through the State Course Choice Program to a student who resides in this state  
515 and is not enrolled in a school district or charter school as a full-time student.  
516

517 (3) A school district or charter school that is not the provider school district or school  
518 may charge a student enrolled in the district or school a nominal fee, not to exceed the  
519 amount specified by the Department, if the student enrolls in a course provided through  
520 the State Course Choice Program that exceeds the course load normally taken by students  
521 in the equivalent grade level  
522

523

524 **Section 11. {Severability clause.}**

525

526 **Section 12. {Repealer clause.}**

527

528 **Section 13. {Effective date.}**

529

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531 **Drafting Notes**

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<sup>2</sup> This model bill offers two models of funding. The first, based on Louisiana’s original funding formula (2012 Louisiana House Bill 976), is the most equitable funding stream with 90% of student funding divisible into 6 equal parts of 15% of FTE student funding per course and 10% FTE student funding remaining with the student’s home district.

The second funding formula is similar to the Texas model (2013 Texas House Bill 1926) which allows all funding streams (federal, state, and local) to flow to the district, which then must pay a per-course tuition to the course provider based on an approved funding structure.

A performance-pay component has been added, which reserves 10% of course funds for payment upon successful completion of a state end-of-course exam.



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**Section 3. {Basic Elements of The Education Savings Account Act.}**

(A) Any parent of an eligible student shall qualify for the state to make a grant to their child's education savings account if the parents sign an agreement promising:

- (1) To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science;
- (2) Not to enroll their eligible student in a district or charter school.

(B) The state shall deposit into an Education Savings Account some or all of the state aid that would otherwise have been provided to the resident school district for the eligible student had they enrolled in the resident school district;

(C) Parents participating in the Education Savings Account program shall agree to use the funds deposited in their eligible student's accounts for the following qualifying expenses to educate the eligible student:

- (1) Tuition and fees at a participating school.
- (2) Textbooks required by a participating school.
- (3) Payment to a licensed or accredited tutor.
- (4) Payment for purchase of curriculum.
- (5) Tuition or fees for a non-public online learning program.
- (6) Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, and any examinations related to college or university admission.
- (7) Contribution to the eligible student's qualified tuition program established pursuant to 11 USC Section 529.
- (8) Educational services for pupils with disabilities from a licensed or accredited practitioner or provider.
- (9) Tuition and fees at an eligible postsecondary institution.

81 (10) Textbooks required for college or university courses.

82  
83 (11) Fees for account management by private financial management firms approved by  
84 the Department.

85  
86 (D) Grant amounts to Education Savings Accounts shall be calculated according to the following  
87 schedule.<sup>[iv]</sup>

88  
89 (1) For students from households qualifying for the federal free or reduced-price lunch  
90 program, the amount granted to the student's Education Savings Account shall be equal  
91 to the dollar amount the resident school district would have received to serve and educate  
92 the eligible student from state sources had the student enrolled there.

93  
94 (2) For students from households with an annual income greater than the amount required  
95 to qualify for the free or reduced-price lunch program but less than 1.5 times that amount,  
96 the amount granted to the student's Education Savings Account shall be equal to seventy-  
97 five percent of the dollar amount the resident school district would have received to serve  
98 and educate the eligible student from state sources had the student enrolled there.

99  
100 (3) For students from households with an annual income of greater than 1.5 times the  
101 amount required to qualify for the free or reduced-price lunch program but less than 2.0  
102 times that amount, the amount granted to the student's Education Savings Account shall  
103 be equal to fifty percent of the dollar amount the resident school district would have  
104 received to serve and educate the eligible student from state sources had the student  
105 enrolled there.

106  
107 (4) For students from households with an annual income of greater than 2.0 times the  
108 amount required to qualify for the free or reduced-price lunch program but less than 2.5  
109 times that amount, the amount granted to the student's Education Savings Account shall  
110 be equal to twenty-five percent of the dollar amount the resident school district would  
111 have received to serve and educate the eligible student from state sources had the student  
112 enrolled there.

113  
114 (E) A participating school, private tutor, eligible postsecondary institution or other educational  
115 provider may not refund, rebate, or share a student's grant with a parent or the student in any  
116 manner. The funds in an Education Saving Account may only be used for educational purposes.

117  
118 (F) Parents will be allowed to make payments for the costs of educational programs and services  
119 not covered by the funds in their accounts.

120

121 (G) A participating student shall be counted in the enrollment figures for his or her resident  
122 school district for the purposes of calculating state aid to the resident school district. The funds  
123 needed for a grant to an Education Savings Account shall be subtracted from the state school aid  
124 payable to the student's resident school district.

125

126 **Section 4. {Administration of the Education Savings Account Act.}**

127

128 (A) The Department<sup>[v]</sup> will qualify private financial management firms to manage Education  
129 Savings Accounts.

130

131 (B) The Department will have the authority to conduct or contract for the auditing of accounts,  
132 and will at a minimum conduct random audits of accounts on an annual basis. The Department  
133 will have the authority to make any parent of an eligible student ineligible for the Education  
134 Savings Account program in the event of substantial misuse of the funds in the account.

135

136 (C) The Department will have the authority to refer cases of substantial misuse of funds to law  
137 enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

138

139 (D) The Department shall provide parents of participating students with a written explanation of  
140 the allowable uses of education savings accounts, the responsibilities of parents and the duties of  
141 the Department.

142

143 (E) The Department may deduct an amount from the grants to education savings accounts to  
144 cover the costs of overseeing the accounts and administering the program up to a limit of 3  
145 percent.

146

147 (F) The Department shall establish reasonable fees for private financial management firms  
148 participating in the program based upon market rates.

149

150 (G) The Department shall make payments to eligible students' Education Savings Accounts on a  
151 quarterly basis.

152

153 **Section 5. {Accountability Standards for Participating Schools.}**

154

155 (A) Administrative Accountability Standards. To ensure that students are treated fairly and kept  
156 | safe, all participating private schools shall:

157

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

159

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



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(3) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981,<sup>[vi]</sup> and

(4) Conduct criminal background checks on employees. The participating school then shall:

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

(b) Exclude from employment any people that might reasonably pose a threat to the safety of students.<sup>[vii]</sup>

(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all participating schools shall:

(1) Provide parents with a receipt for all qualifying expenses at the school.

(2) Demonstrate their financial viability by showing they can repay any funds that might be provided from Education Savings Accounts, if they are to receive \$50,000 or more during the school year, by:

(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 the funds from Education Savings Accounts expected to be paid during the school year from students admitted at the participating school; or

(b) Filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the funds from Education Savings Accounts expected to be paid during the school year to students admitted to the participating school.<sup>[viii]</sup>

(C) Academic Accountability Standards. In order to allow parents and taxpayers to measure the achievements of the program:

(1) Parents shall ensure that:<sup>[ix]</sup>

198 (a) Each year their eligible student takes either the state achievement tests or  
199 nationally ~~recognized~~ norm-referenced tests that measure learning gains in math  
200 and language arts, and provide for value-added assessment;

201  
202 (b) The results of these tests are provided to the state or an organization chosen by  
203 the state on an annual basis,<sup>[x]</sup> beginning with the first year of testing;

204  
205 (c) The student information is reported in a way that would allow the state to  
206 aggregate data by grade level, gender, family income level, and race; and

207  
208 (d) The state or an organization chosen by the state will be informed of the  
209 eligible student's graduation from high school.

210  
211 (2) The state or an organization chosen by the state shall:

212  
213 (a) Ensure compliance with all student privacy laws;

214  
215 (b) Collect all test results; ~~and~~

216  
217 (c) Provide the test results, associated learning gains and graduation rates to the  
218 public via a state Web site after the third year of test and graduation-related data  
219 collection.<sup>[xi]</sup> The findings shall be aggregated by the students' grade level,  
220 gender, family income level, number of years of participation in the scholarship  
221 program, and race;<sup>[xii]</sup>

222  
223 (d) Provide graduation rates to the public via a state Web site after the third year  
224 of test and test-related data collection; and

225  
226 (e) Administer an annual parental satisfaction survey that shall ask parents of  
227 students receiving education savings accounts to express:

228 (1) Their satisfaction with the program; and

229  
230 (2) Their opinions on other topics, items, or issues that the state finds  
231 would elicit information about the effectiveness of education savings  
232 accounts program and the number of years their child has participated in  
233 the program.

234  
235  
236 (D) Participating School Autonomy. A participating private school is autonomous and not an  
237 agent of the state or federal government and therefore:

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(1) The Department or any other state agency may not in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;

(2) The creation of The Education Savings Account Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

**Section 6. {Responsibilities of the Department of Public Instruction.}**

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Education Savings Account Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard form that parents of eligible students can submit to establish their student’s eligibility for the Education Savings Account Program. The Department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The Department may bar a participating school or education provider from the Education Savings Account Program if the Department establishes that the participating school or education provider has:

(1) Routinely failed to comply with the accountability standards established in Section 5;<sup>[xiii]</sup> or

(2) Failed to provide the eligible student with the educational services funded by the Education Savings Account.

(D) If the Department decides to bar a participating school or education provider from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

277 (E) The Department shall adopt rules and procedures as necessary for the administration of the  
278 Education Savings Account Program.

279

280 **Section 7. {Responsibilities of Resident School Districts.}**

281

282 (A) The resident school district shall provide a participating school or education provider that has  
283 admitted an eligible student under this program with a complete copy of the student’s school  
284 records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC  
285 Section 1232 g).

286

287 (B) The resident school district shall provide transportation for an eligible student to and from  
288 the participating school or education provider under the same conditions as the resident school  
289 district is required to provide transportation for other resident students to private schools as per  
290 current law. The resident school district will qualify for state transportation aid for each student  
291 so transported.

292

293 **Section 8. {Effective Date.}** The Education Savings Account Program will be in effect  
294 beginning with the fall semester of the next school year.

295

296 **Endnotes**

297

298 [i] The definition for an eligible student in this model legislation includes all children of school  
299 age. The authors believe that all children should receive public support for their education  
300 regardless of whether they attend a public or private school, whether they are just starting school,  
301 or have already dropped out. Please note that this inclusive definition will significantly increase  
302 the number of students in your state receiving public support for their education and thereby  
303 either increase the costs to taxpayers or reduce the level of assistance available to support each  
304 student. Legislators wishing to draft a bill that saves money will want to limit eligibility largely  
305 to students who attended a public school in the semester prior to first receiving a grant to their  
306 Education Savings Account. Because many of the grants to Education Savings Accounts will be  
307 less than what the state would have spent on the student’s behalf at their public school of  
308 residence, the state will achieve a savings that would make it possible to extend these accounts to  
309 additional students including children who are attending school in the state for the first time  
310 (such as kindergartners and new residents) or existing private school students in the “school  
311 entry grades” of kindergarten and ninth grade.

312

313 [ii] This bill designates the Department of Public Instruction as the agency regulating the  
314 Education Savings Account Act. The intent was to name the existing agency in the state that is  
315 responsible for public school finances and private school regulation. Alternatively, legislators  
316 may choose to consider other capable departments, create a new small agency, or contract with a

317 private nonprofit organization to oversee the program if they are concerned about the hostility  
318 the program would face from the existing state education department.

319

320 [iii] This model legislation allows students to use the funds in their Education Savings Account  
321 to attend a private school. The authors support giving parents the widest possible array of  
322 choices so that they can choose the education that best meets their child's needs. In states  
323 without open enrollment programs (public school choice), legislators may also want to include  
324 public schools outside of the student's resident school district in the definition of participating  
325 school. This would give students the ability to use the funds in their Education Savings Account  
326 to pay for nonresident tuition at a public school outside their district of residence.

327

328 [iv] This particular set of proportions represent a framework for one approach to means-testing  
329 the scholarship amount. Legislators should develop a formula that makes sense for their state.

330

331 [v] Like in Endnote 2, if legislators are concerned about the hostility the program would face  
332 from the existing Department of Public Instruction, they may choose to consider other capable  
333 departments, create a new small agency or contract with a private nonprofit organization to  
334 administer the program.

335

336 [vi] Under 42 USC 1981, private schools are already prohibited from discriminating with respect  
337 to race, color and national origin. In addition, if private schools are recipients of federal funds,  
338 they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national  
339 origin) and 29 USC 794 (disability). If you choose to include language banning discrimination  
340 in hiring on the basis of race, color, national origin, or disability, take care not to interfere with  
341 the ability of religious institutions to hire individuals who share their religious beliefs.

342

343 [vii] The model legislation provides schools with the tools they need to ensure that students will  
344 be safe. The schools are required to conduct criminal background checks on existing and  
345 potential employees, and then they are given the flexibility to determine from this information  
346 whether the employee might pose a risk to students. This language is valuable in two cases: 1) a  
347 small number of states prohibit discriminating against felons in hiring even for sensitive  
348 positions in schools, and this language would give schools clear authority to dismiss or not hire  
349 individual who pose a risk to student safety; and 2) some religious schools see rehabilitation as  
350 part of their mission. In this case, the schools could hire someone with a criminal background  
351 who they believe is no longer a threat to students, such as someone who committed nonviolent  
352 crimes or has decades-old violations followed by a clean record. This language would give  
353 schools the responsibility to do background checks and the power to exclude potential risks from  
354 the school.

355

356 [viii] The model legislation provides two methods for schools to demonstrate financial viability  
357 to ensure that funds from Education Savings Accounts are secure. The first method employs a  
358 market-based means of demonstrating viability. Private companies that issue surety bonds have  
359 a financial interest in making sure that the schools can repay any funds that might be owed the  
360 parents. They will therefore conduct the checks necessary to protect their financial interest as  
361 well as the interests of the parents and the taxpayers. Surety bonds can be expensive (one to  
362 three percent of the amount covered) or invasive for some institutions, so the legislation allows  
363 schools to demonstrate by some other means that they have the financial wherewithal to pay  
364 back any amount they might owe the parents. This might include things like personal  
365 guarantees, reserve accounts, or escrow accounts.

366  
367 [ix] The authors believe that empowered parents are the best way to achieve academic  
368 accountability. Clear and consistent information about the academic performance of  
369 participating students will help empower parents and will also provide the public and  
370 policymakers with the information they need to evaluate the effectiveness of the program.  
371 Therefore, all participating students should be required to annually take either the state  
372 achievement tests or nationally ~~recognized~~ norm-referenced tests that demonstrate learning gains  
373 in math and language arts. Most private schools already administer such norm-referenced tests  
374 so this provision should not be seen as burdensome.

375  
376 [x] Like in Endnote 2, if legislators are concerned about the hostility the program would face  
377 from the existing Department of Public Instruction, they may choose to create a new small  
378 agency or contract with a private nonprofit organization to oversee the academic accountability  
379 responsibilities of the state.

380  
381 [xi] The purpose of administering the tests is to create transparency in participating students'  
382 academic progress and to demonstrate learning gains. These learning gains can only be  
383 demonstrated when the public has access to more than one school year. When this information is  
384 made public in the first year, the media and opponents often attack school choice programs,  
385 noting that participating students are not performing as well as their public school counterparts.  
386 This effect is natural because often the students who participate in choice programs are not doing  
387 well in their existing public schools and are academically far behind their participating school  
388 counterparts, and it will take them a few years to catch up to grade level.

389 [xii] Legislators sincerely wishing to demonstrate the program's academic success to taxpayers  
390 could require a scientific evaluation of the program using the testing data established in Section  
391 5(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted  
392 objective nonpartisan source like a legislative service agency or a trusted research university  
393 department. We have provided model language for such an independent evaluation of the  
394 program in Section X below. The outlined research would evaluate whether students who  
395 participate in the program are better off than a similar cohort in the public schools for at least

396 five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive.  
397 Accordingly, the legislation allows the legislature (or a legislative service agency) to accept  
398 private grants to completely fund such a study. In some states, the legislature is not allowed to  
399 accept such grants, and another trusted agency would have to be selected. It will be tempting for  
400 legislators to further define the details of the study, but they should take care not to dictate the  
401 methodology or the results in order to maintain the credibility of the research.

402 [xiii] The legislation allows schools to occasionally fail to meet an accountability standard so  
403 that an antagonistic regulator cannot shut down the program by banning schools with a modest  
404 occasional violation such as turning in a report late.

405 ***Section X: {Evaluation of the Parental Choice Scholarship Program}***

406  
407 *(A) The Legislative Service Agency may contract with one or more qualified researchers who*  
408 *have previous experience evaluating school choice programs to conduct a study of the program*  
409 *with funds other than state funds.*

410  
411 *(B) The study shall assess:*

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

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

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

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

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

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

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

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

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

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

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

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

435 **Additional Note:**

436

437 It is fairly common for legislators to consider including severability clauses in new legislation.

438 Legislators should make sure that if such clauses are included and exercised, the remaining

439 legislation produces a program that is workable and achieves the original intent of the bill.

440



## **The Foster Child Scholarship Program Act (Technical Amendments, December 6, 2013)**

### ***Summary***

The Foster Child Scholarship Program creates a scholarship program that provides children who have been placed in foster care the option to attend the public or private elementary or secondary school of their guardians' choice.

### ***Purpose***

Foster children are among the most at-risk in our society. Adults formerly in foster care are more likely to be homeless, incarcerated, and dependent on state services than the general population. Foster children face a number of unique disadvantages and require specially tailored assistance during their school years and during the difficult transition from youth to adulthood.

One key factor that determines whether a foster child will achieve a successful transition is the quality of primary and secondary education he or she receives. Unfortunately, too many foster children receive a substandard education. Compared with the general population, foster children have lower scores on standardized tests and higher absenteeism, tardiness, truancy, and dropout rates.

A significant problem for children in foster care is instability. Roughly half of all foster children will spend at least one year in foster care, with 20 percent staying longer than three years. Children in long-term foster care often experience multiple home placements, which can result in multiple school transfers. Practically, school transfers can impose gaps in the learning cycle, as children change from different classrooms and must adjust to new settings, teachers, students, and, in many cases, special services. School transfers also result in emotional instability and the loss of important friendships with peer groups. A synthesis of foster care research finds that fewer placements while in care have been associated with better school achievement and more years in education.

Providing foster children with a tuition scholarship could help to ensure that a child continues to attend a quality school even if he or she experiences frequent home transfers. Moreover, for others, a scholarship could provide better educational opportunities to children who must overcome many challenges to succeed in the classroom. For the many foster children who are eligible for special education services, an opportunity scholarship would help ensure that these needs are met.

### ***Model Legislation***

**Section 1. {Title.}** The Foster Child Scholarship Program

## **Section 2. {Definitions.}**

- (A) “Program” means the Foster Child Scholarship Program created in this subchapter.
- (B) “Eligible Student” means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time and is in foster care and/or is the biological sibling of a foster child.<sup>1</sup>
- (C) “Guardian” includes a parent, foster care parent, guardian, or other person with the authority to act on behalf of the child.<sup>2</sup>
- (D) “Department” means the state agency or organization charged with administering the Foster Child Scholarship Program.<sup>3</sup>
- (E) “Resident school district” means the public school district in which the student resides.
- (F) “Participating school” means either a public school outside of the resident school district, a school run by another public entity, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program’s requirements.<sup>4</sup>

## **Section 3. {Basic Elements of the Foster Child Scholarship Program Act.}**

- (A) Any guardian of an eligible student shall qualify for a scholarship from the state for their foster child to enroll in and attend a participating school if:
- (1) the student has been accepted for admission at a participating school; and
  - (2) the guardian has requested a scholarship from the state before the deadline established by the Department.
- (B) Any eligible students shall retain program eligibility regardless of subsequent placement out of the foster care system and until his or her graduation from high school or his or her 21st birthday, whichever comes first.<sup>5</sup>
- (C) Any eligible student will qualify for an annual scholarship in an amount equal to the lesser of:
- (1) the participating school’s annual cost per pupil, including both operational and capital facility costs, including any costs associated with the eligible child’s special needs; or
  - (2) the dollar amount the resident school district would have received to serve and educate the eligible student from federal, state, and local sources had the student enrolled there, including costs for an Individualized Education Program for applicable students.<sup>6</sup>

(D) The decision to enroll in a participating school shall be made by the eligible student's foster care parent if currently under foster care or by the student's current legal guardian at the time of enrollment.<sup>7</sup>

(E) The scholarship is the entitlement of the eligible student under the supervision of the eligible student's foster parent or legal guardian. The scholarship is never to be considered the entitlement of any school.

(F) A participating school may not refund, rebate, or share a student's scholarship with a student, parent, or guardian in any manner. A student's scholarship may be used for educational purposes such as tuition, special education services, transportation costs, uniforms, books or other school fees, tutoring, and other extracurricular programs with an educational purpose.<sup>8</sup> Such expenses are authorized when a participating school is either providing these services or is under contract with a third party to provide these services. In either case, scholarship funds are payable only to the participating school.

(G) Participating schools can accept eligible students on a first-come, first-served basis until such time as they have more eligible students applying than spaces available. When participating schools are oversubscribed,<sup>9</sup> they shall fill the available spaces by a random selection process, except that participating schools may give preference to biological siblings of enrolled participating students and previously enrolled scholarship students under this subchapter.<sup>10</sup>

(H) If a student is denied admission to a participating school because it has too few available spaces, the eligible student may transfer his or her scholarship to a participating school that has spaces available.

(I) A participating student shall be counted in the enrollment figures for his or her resident school district for the purpose of calculating state aid to the resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the student's resident school district. Any aid the school district would have received for the student in excess of the funds needed for a scholarship will be kept by the state.<sup>11</sup>

(J) The Department shall adopt rules consistent with this act regarding:

- (1) the eligibility and participation of private schools including timelines that will maximize student and public and private school participation;
- (2) the calculation and distribution of scholarships to eligible students;<sup>12</sup>
- (3) the application and approval procedures for scholarships for eligible students and participating schools; and

(4) the sharing of student records between participating schools in compliance with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g).

**Section 4. {Responsibilities of Resident School Districts.}**

(A) The resident school district shall provide a participating school that has admitted an eligible student under this program with a complete copy of the student's school records while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g).

(B) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

**Section 5. {Responsibilities of the Department.}**

(A) The Department shall ensure that eligible students and their guardians are informed annually of which schools will be participating in the Foster Child Scholarship Program. This information should also be provided to all state agencies and organizations that are involved in issues pertaining to foster care to maximize the awareness among potential beneficiaries.

(B) The Department shall create a standard application that students interested in the Foster Child Scholarship Program can use to submit to participating schools to establish their eligibility and apply for admissions. Participating schools may require supplemental information from applicants. The Department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The Department may bar a school from participation in the Foster Child Scholarship Program if the Department establishes that the participating school has:

(1) intentionally and substantially misrepresented information required under Section 6; or<sup>13</sup>

(2) routinely failed to comply with the accountability standards established under Section 6; or

(3) failed to comply with Section 3(F); or

(4) failed to comply with Section 6(C); or

(5) failed to refund to the state any scholarship overpayments in a timely manner.

(D) If the Department decides to bar a participating school from the program, it shall notify eligible students and their guardians as quickly as possible. Participating students attending a

school barred by the Department shall retain scholarship program eligibility to attend another participating school.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Foster Child Scholarship Program.

**Section 6. {Accountability Standards for Participating Schools.}**

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating private schools shall:

- (1) comply with all health and safety laws or codes that apply to private schools;
- (2) hold a valid occupancy permit if required by their municipality;
- (3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;<sup>14</sup> and
- (4) conduct criminal background checks on employees. The participating school then shall:
  - (a) exclude from employment any people not permitted by state law to work in a private school; and
  - (b) exclude from employment any people that might reasonably pose a threat to the safety of students.<sup>15</sup>

(B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all participating, private schools shall:

- (1) demonstrate their financial accountability by:
  - (a) annually submitting to the Department a financial information report for the school that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant;<sup>16</sup> and
  - (b) having an auditor certify the report is free of material misstatements and fairly represents the costs per pupil, including the costs of the testing required in subsection 4(C)(1)(a). The auditor's report shall be limited in scope to those records that are necessary for the Department to make payments to participating schools on behalf of guardians for scholarships.
- (2) demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive \$50,000 or more during the school year, by:<sup>17</sup>

(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 the Foster Child Scholarships expected to be paid during the school year to students admitted to the participating school; or

(b) filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the Foster Child Scholarships expected to be paid during the school year to students admitted to the participating school.

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

(1) participating schools shall:<sup>18</sup>

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

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

(c) provide the test results to the state or an organization chosen by the state<sup>19</sup> on an annual basis, beginning with the first year of testing; and

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

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

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

(a) ensure compliance with all student privacy laws;

(b) collect all test results; ~~and~~

(c) provide the test results and associated learning gains to the public via a state Web site after the third year of test and test-related data collection.<sup>20</sup> The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race; and.<sup>21</sup>

(d) provide graduation rates to the public via a state Web site after the third year of test and test-related data collection.

(D) Participating School Autonomy. A participating, private school is autonomous and not an agent of the state or federal government and therefore:

(1) the Department or any other state agency may not in any way regulate the educational program of a participating, private school that accepts a Foster Child Scholarship;

(2) the creation of the Foster Child Scholarship Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements of the program; and

(3) participating, private schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

**Section 7. {Evaluation of the Foster Child Scholarship Program.}**<sup>22</sup>

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

(B) The study shall assess:

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

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

(3) the percentage of participating students who exhibited behavioral problems at their resident school district compared with the percentage exhibiting behavioral problems at their participating school;

(4) the class size experienced by participating students at their resident school district and at their participating school; and

(5) the fiscal impact to the state and resident school districts of the program.

(C) The researchers who conduct the study shall:

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

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

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

(D) The relevant public and private participating school from which students transfer to participate in the program 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 legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232g).

**Section 8. {Effective Date.}** The Foster Child Scholarship Program will be in effect beginning with the fall semester of the next school year.

### ***Endnotes***

1. The definition of an eligible student in this model legislation is all children of school age who are placed in foster care at the time of enrollment. Legislators may also want to consider including in the definition of sibling the biological children of foster care parents for purposes of program eligibility. Allowing these students to participate in the program would not only better ensure foster care student placement in the best schools available, but it would also serve as an additional incentive to prospective foster parents when considering participation in the foster care system.

2. Legislators should take care to use definitions that comport to existing state level definitions of guardian as they relate to the state's foster care system.

3. Legislators should consider several options when designating which agency or organization will administer the program. It may be expedient to designate the agency in charge of foster care and other social services. Alternatively, legislators may choose to create a new small agency to oversee the program if they are concerned about the hostility the program would face from the existing state education department. An additional alternative would be to allow for this program to be contracted out to a nonprofit organization to administer the program.

4. This model legislation allows students to use a scholarship to attend a public school outside their districts as well as a private school. The authors support giving guardians the widest possible array of choices so they can choose a school that best meets their children's needs.



Legislators may also want to consider the inclusion of home-based education providers in the participating school definition. This change should be reflected throughout other sections including exemptions from some of Section 6. In addition, a primary purpose of the legislation to provide children in foster care with new education options is to improve education stability. Allowing for the broadest range of choices will help maximize the likelihood that a child in foster care receives a quality and stable education. Providing students with the opportunity to attend a public or private school of choice is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has an open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

5. For this model legislation, the authors have limited eligibility to 21 years of age. However, when drafting bills for specific states, this eligibility age should follow existing school age eligibility practices in the state.

6. It is the intent of this legislation that scholarship funding should flow from state resources only.

7. Determining who makes the decision about the education of a child placed in foster care presents interesting questions. A child who has been placed in foster care is a charge of the state. However, at any given time, a number of different decision-makers (from state officials, caseworkers, foster parents, and the children themselves) have a say in a child's future. In order to afford students in foster care as many choices in school placement as possible, it is important that non-government actors be given authority to make the selection on behalf of the student. For this reason, it is preferable to give foster care parents the authority to apply for a scholarship on behalf of the foster care student as well as select whichever participating school they think best for the student. The agency in charge of administering the program should create an application system that verifies the choice of school was determined by the student's foster care parent in non-binding consultation with the other parties who hold some stake in the welfare of the foster care student. Because foster care students retain program eligibility regardless of long-term placement or adoption, it is necessary to make explicit that future enrollment decisions are transferred to the student's legal guardian.

8. Interviews and a focus group of foster children and foster parents have identified that covering additional costs beyond tuition would be an important component of a successful scholarship program to provide participating students with a quality education. The authors of this legislation believe that the allowable use of the funds of the scholarship should include the important education-related costs described in Section 3(F).

9. The legislation requires participating schools that are oversubscribed to use a random selection process for determining which students gain admission. This random selection process will assure that students are admitted on an equal basis regardless of their educational attainment, athletic talents, or life challenges. Critics of school choice often falsely allege that schools will “cream” the best students from the list and not take the more difficult challenges. In reality, several existing school choice programs require this random selection process and experience shows the students they admit face greater challenges than the average public school student in their district.

The model legislation makes two exceptions from this random selection process in order to facilitate attainment of educational objectives. Children already attending the school on a scholarship are not required to join the lottery for admittance so as not to interrupt their educational experience. Similarly, the siblings of students already attending the school are exempted so families can send all of their children to the same school. A requirement that siblings join a random selection process could produce a logistical nightmare for parents when their children are all admitted to different schools. This would force many such families to unite their children by either choosing a much less desirable school without a waiting list or by exiting the program.

Legislators may wish to consider other preferences for admission including children who have been the victims of school violence or attend a failing school as defined in the No Child Left Behind Act.

10. Legislators may want to consider giving enrollment preference to any school age children who share the same guardian and household as an enrolled student in addition to those covered under the sibling definition. Legislators may also want to consider whether further discretion should be afforded participating schools when admitting students who represent disciplinary challenges. However, it is recommended that such a provision seek out the most objective criteria possible for governing these enrollment decisions.

11. The bill has been drafted so that any savings in the cost of educating a student shall accrue to the state. School choice legislation drafted in this manner has the political advantage of either reducing state expenditures or making more funds available for other public schools. Legislators should know that some local school districts will claim that because the state is capturing the

savings the program is “draining resources” away from public schools. This would not be the case if the savings were used to increase state aids to public school districts.

12. It is important that the Department calculate the scholarship amount in strict accordance with the definitions in the legislation. If the Department cannot be trusted to do this objectively, a more detailed description for determining the size of the voucher should be written into the law.

13. The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

14. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring on the basis of race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

15. The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.

16. The purpose of the financial information report is to make sure that the Department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many private schools.

17. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that public funds are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools 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 taxpayers' financial interests. Surety bonds can be expensive (one to three percent of the amount covered)

or invasive for some institutions, so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts, or escrow accounts.

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

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote 19, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's achievement 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 private school must be included in the costs used to determine the size of the scholarships at that school. If legislators would like an extensive longitudinal study, refer to Endnote 11 and its suggested language to create such a review.

19. Like in Endnote 3, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send their children.

20. The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be

demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

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

21. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 6(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

22. It is crucial that the legislature give this study oversight responsibility to a trusted objective nonpartisan source like a legislative service agency. A longitudinal study can 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 will 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.

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.

DRAFT

**The Personal Financial Literacy Act  
(Sunset Review, December 6, 2013)**

*Summary*

The Personal Financial Literacy Act would require the teaching of personal financial literacy education to public school students in grades seven through twelve and require students to achieve satisfactory completion of financial literacy education in order to graduate.

*Model Legislation*

**Section 1. {Title}** The Personal Financial Literacy Act

**Section 2. {Definitions}**

(A) “Personal financial literacy passport” shall include, but is not limited to, the following areas of instruction:

- (1) Understanding interest, credit card debt, and online commerce;
- (2) Rights and responsibilities of renting or buying a home;
- (3) Savings and investing;
- (4) Planning for retirement;
- (5) Bankruptcy;
- (6) Banking and financial services;
- (7) Balancing a checkbook;
- (8) Understanding loans and borrowing money, including predatory lending and payday loans;
- (9) Understanding insurance;
- (10) Identity fraud and theft;
- (11) Charitable giving;

(12) Understanding the financial impact and consequences of gambling;

(13) Earning an income; and

(14) Understanding state and federal taxes.

(B) “Board” means the state Board of Education.

(C) “Department” means the state Department of Education

### **Section 3. {Administration}**

(A) Beginning with students entering the seventh grade in [year] school year, in order to graduate from a public high school accredited by the state Board of Education with a standard diploma, students shall fulfill the requirements for a personal financial literacy passport. The requirements for a personal financial literacy passport shall be satisfactory completion in all areas of instruction in personal financial literacy as listed in Subsection (A) of Section 2 during grades seven through twelve.

(B) Beginning with the [year] school year, school districts shall provide instruction in personal financial literacy to students during grades seven through twelve. School districts shall have the option of determining when each area of instruction listed in Subsection (A) of Section 2 shall be presented to students.

(C) Personal financial literacy instruction shall be integrated into one or more existing courses of study or provided in a separate personal financial literacy course. School districts shall have the option of determining into which course or courses each area of instruction listed in Subsection (A) of Section 2 shall be integrated.

(D) The state Board of Education shall identify and adopt curriculum standards for personal financial literacy instruction that reflect the areas of instruction listed in Subsection (A) of Section 2. The standards shall be incorporated into the state academic content standards adopted by the Board.

(E) The state Department of Education shall:

(1) Develop guidelines and material designed to enable schools to infuse personal financial literacy within any course of study currently offered by the school district or offer personal financial literacy as a separate course. The guidelines shall outline the areas of instruction to be taught based on the curriculum standards adopted by the Board;

(2) Provide resources, including online modules, for integrating the teaching of personal financial literacy into an existing course or courses of study or for developing a separate personal financial literacy course. The online modules shall



include an assessment component for each area of instruction listed in Subsection (A) of Section 2.

(F) The Department may work with one or more not-for-profit organizations that have proven expertise in the development of standards and curriculum and delivery of teacher professional development in personal financial literacy for the purpose of developing and providing guidelines, materials, resources, including online modules, and professional development.

(G)

(1) For students who transfer into a [state] school district from out of state after the seventh grade, school districts shall assess the knowledge of the student in each of the areas of instruction listed in Subsection (A) of Section 2. If the school district determines that the transferred student has successfully completed instruction in any or all of the areas of personal financial literacy instruction at a previous school in which the student was enrolled or if the student demonstrates satisfactory knowledge of any or all of the areas of personal financial literacy instruction through an assessment, the school district may exempt the student from completing instruction in that area of personal financial literacy instruction. School districts may use the assessment contained in the online modules provided by the state Department of Education pursuant to Subsection (E) of this section to determine the personal financial literacy knowledge level of the student. School districts may also use the online modules to present an area of instruction to transferred students who have not completed or who did not demonstrate satisfactory knowledge in one or more of the areas of personal financial literacy instruction.

(2) For students who transfer into a [state] school district from out of state after the junior year of high school, school districts may make an exception to the requirements for a personal financial literacy passport.

**Section 4. {Severability Clause}**

**Section 5. {Repealer Clause}**

**Section 6. {Effective Date}**

*Approved by the ALEC Legislative Board of Directors August, 2009.*