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The Educational Choice for Children Act of 2025 (ECCA), H.R. 833[1]

What does it do: The ECCA would provide a dollar-for-dollar tax break of up to $5,000 or 10% of the adjusted gross income of the donor, whichever is greater, for donations to charitable organizations that provide vouchers for private K-12 schools.[2] Donors would also be permitted to donate corporate stock to the charitable organizations, thereby avoiding federal and state capital gains taxes.

Who is eligible to donate: Any taxpayer could donate. The tax credit would be the greater of up to $5,000 or 10% of the donor's adjusted gross income. Donors could donate cash or corporate stock. A corporation could also donate cash or corporate stock and receive an ECCA tax credit up to 5% of the corporation's taxable income for that year. The bill would allocate $10 billion for tax credits per year, with $20 million earmarked for donors in each state that would be distributed on a first-come first-served basis within the state. Any remaining funds would be allocated on a first-come, first-served basis, regardless of state.

Eligible entities: The "Scholarship Granting Organization" could not be a private foundation, and its substantial purpose must be to provide scholarships for qualified K-12 education expenses to eligible students. The SGO must provide scholarships to two or more students, and the students must not all attend the same school. The scholarships the SGO provides could only be for elementary and secondary school expenses. The SGO would be required to prioritize students who received a scholarship the previous year and students whose sibling(s) received a scholarship previously. The SGO could not set aside a scholarship for a particular student and would need to verify the annual income of the student's household.

Location of organization: The bill does not require the SGO to be located in the donor's state, and the SGO could distribute vouchers outside the state in which it is located.

Voucher eligibility: Any student who is a member of a household with an income up to 300% of the area's median gross income would be eligible. In 2023, the median household income in Portland was $88,792; in Salem, $71,900; in Pendleton, $70,179, and in Ashland, $71,782.[3] The households earning 300% or less of those median incomes would be eligible: $266,376, $215,700, $210,537 and $215,346 respectively. The student must also

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[1] https://www.congress.gov/bill/119th-congress/house-bill/833/text?s=4&r=1&q=%7B%22search%22%3A%22Educational+Choice+for+Children+Act%22%7D

[2] Typically, the value of tax deductions to charitable organizations or nonprofits is about $.37 per dollar donated, but the actual savings depends on the taxpayer's tax rate. The ECCA would allow for a $1 tax credit per $1 donated, up to 10% of the person's taxable income. This would greatly disadvantage other chartable and nonprofit organizations because a tax benefit from donations to them will be much lower than the 100% credit for donation to SGOs.

[3] Data received from the United States Census Bureau.

be eligible to enroll in public elementary or secondary school but does not have to currently be attending a public school. Households could receive the voucher even if they did not donate to an SGO.

Allowable uses: The voucher can be used on "qualified elementary or secondary education purposes" for students enrolling in or enrolled at a public or private K-12 school, including tuition, curricula and curricular materials, books/instructional materials, online educational materials, tutoring (but only if the tutor is not related to the student and is a licensed teacher who has taught in a school previously), fees for nationally standardized tests, fees for dual enrollment in a higher education institution, educational therapies for students with disabilities, and homeschool expenses. The SGOs may retain up to 10% of the donations for operations costs.

Capital gains: Capital gains are the profits someone makes when selling a capital asset, a stock for the purposes of this bill. For example, someone purchased a stock for $6 million. Over time it grew in value to $10 million, an increase of $4 million. If that person were to sell the stock at $10 million, they would be taxed on the capital gain of $4 million.[4] The federal and Oregon capital gains tax rate is dependent upon income level and how long the stock was owned (less than one year or more than one year). The federal tax rate fluctuates between 10% and 37%, and Oregon's tax rate fluctuates between 4.75% and 9.9%.

The ECCA would allow a donor to donate their stock to SGOs, thereby avoiding both federal and Oregon capital gains tax. Due to the tax credits, donating stock rather than cashing it out would be more lucrative because the person would receive the full value of the stock (in the above example, a $10 million tax credit) without paying the capital gains tax. This would mostly benefit the wealthiest in the country.

Voucher amount: There is no minimum or maximum voucher value and no requirement that it cover a certain portion of the tuition costs at a private school.

Effect on Oregon public schools: An analysis by the Institute on Taxation and Economic Policy estimates that by 2035, the ECCA would cost $17 billion annually.[5] In the first decade of the program, the ECCA would result in a $134 billion revenue loss at the federal level and about a $2.3 billion loss for states due to capital gains tax avoidance.[6] The

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[4] https://itep.org/educational-choice-for-children-act-tax-avoidance-private-school-vouchers/

[5] https://itep.org/educational-choice-for-children-act-tax-avoidance-private-school-vouchers/

[6] The state number is an estimate. Capital gains taxes are volatile and shift greatly from year to year. For example, in Oregon income from capital gains reached nearly 11% of total income in 2021 but then fell by 42% in 2022, where it accounted for just 6% of all Oregon income. Capital gains not only include stocks but also includes bonds, real estate, collectables and other investments. However, the ECCA only permits the donation of corporate stocks.

Institute on Taxation and Economic Policy estimates that in 2026, Oregon would lose about $1.2 million because of capital gains avoidance and $26.7 million over 10 years.[7] The capital gains tax avoidance would result in revenue loss both at the federal and state level. Funding the tax credits would likely result in cuts to vital funding in other areas that impact schools like Title, Individuals with Disabilities Education Act and Medicaid funding. It would also pull more students out of the public school system into private schools, which are not accountable to the taxpayers, resulting in fewer students in public schools and therefore shrinking the State School Fund.

The reduction in federal and state revenue would have a large impact on Oregon public schools, especially our rural schools. Additionally, under the Elementary and Secondary Education Act of 1965, public schools are required to set aside a portion of funds from their budget to provide "equitable services" to eligible private, nonprofit schools.[8] Some of those services include education of migrant children, language instruction for English learners and immigrant students, and student support and academic research.[9] The proliferation of private schools and students moving to private schools might require school districts to set aside more of this funding. Public schools have an obligation to identify and evaluate private school students who may qualify for special education services (federal child find requirements). Districts must also meet federal "equitable services" standards for special education, potentially requiring them to fund some services for students in private school. Losing ADM and associated per-student funding does not change these requirements and will further constrain district budgets.[10]

How ECCA will be funded: It's unclear how the ECCA would be funded but presumably from cuts to federal agencies and programs.

Government oversight: The ECCA would prohibit government oversight or any type of accountability for private schools. Federal, state and local governments would be prohibited from mandating, directing or controlling any aspect of an SGO or any private or religious K-12 school.[11] The bill also would prohibit federal, state and local governments

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[7] https://itep.sfo2.digitaloceanspaces.com/State-Revenue-Loss-from-Capital-Gains-Tax-Avoidance-Facilitated-by-ECCA-Appendix-C.pdf

[8] Private, nonprofit schools choose to participate in this program and can decline the services. The amount school district must set aside depends on a number of factors, including total enrollment and administrative costs. https://www.ed.gov/sites/ed/files/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf

[9] https://www.oregon.gov/ode/schools-and-districts/grants/ESEA/Documents/ODE%20-%202022%20-%20Equitable%20Services%20Brief%20-%20Toolkit.pdf

[10] https://sites.ed.gov/idea/files/QA_on_Private_Schools_02-28-2022.pdf

[11] The phrasing in the bill is unclear. The bill says, "nothing in this Act … shall be construed to permit, allow, encourage, or authorize any Federal, State, or local government entity, or officer or employee thereof, to mandate, direct, or control any aspect of any private or religious [school]." It's unclear if that is a flat-out

from imposing or permitting any conditions or requirements that would exclude or operate to exclude "qualified K-12 expenses" from being used at private or religious K-12 schools. In other words, it would prohibit a state from amending what is considered a "qualified expense" to prohibit the use of the vouchers for private schools. The bill would give parents a private right of action to intervene in support of the constitutionality of the act.

The ECCA also would prohibit federal, state and local governments from disfavoring or discouraging the use of scholarships granted by SGOs. This could include a school administrator expressing concern to a parent that a particular private school could not or would not serve the child because the child has a disability.

The ECCA would remove a state's ability to hold SGOs and private schools accountable with taxpayer funds. Oregon would have no oversight to ensure vouchers are used only for "qualified expenses," that SGOs are not exploiting the process, or that SGOs or private schools are not discriminating against students. This opens a concern about fraud, which has been seen in other states.[12] Private schools are not required to comply with federal Title IX[13], Title VI[14], IDEA[15] or other federal laws if they do not receive federal funding.

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prohibition, which would run afoul of the 10th amendment, or if there are already existing laws in place regulating private schools, they can stay in place.

[12] Examples include the following news coverage: https://www.azcentral.com/story/news/politics/arizona/2018/10/29/misspent-school-voucher-funds-exceed-700-k-little-recovered/1780495002/ and https://ncnewsline.com/2013/04/24/school-vouchers-a-pathway-toward-fraud-and-abuse-of-taxpayer-dollars/

[13] Prohibition on discrimination on the basis of gender.

[14] Prohibition on discrimination on the basis of race or national origin.

[15] Individuals with Disabilities in Education Act-Federal special education law.