CITIZENS RESEARCH COUNCIL OF MICHIGAN

"The right to criticize government is also an obligation to know what you're talking about."
Lent Upson, First Director of the Citizens Research Council

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Will She or Won't She? Michigan Awaits Governor Whitmer's Decision on the Federal Scholarship Tax Credit

In a Nutshell

- Michigan's constitution bars state aid to private schools, but the federal credit relies on private donations and federal tax dollars, so participation is generally viewed as permissible. No court or attorney general has ruled on the question.
- About 93 percent of Michigan school-age children would be income-eligible, but early scholarship dollars will likely flow mostly to private school families and to wealthier metro areas.
- If Governor Whitmer opts in by January 1, 2027, Michigan's role would be largely administrative. Congress and the IRS set the rules, and the state cannot add its own requirements.

Despite a decades-long state constitutional ban on public funding for private K-12 schools, Michigan could join 35 other states that provide families with a school choice option starting in 2027. That is if Governor Gretchen Whitmer opts in to the new Federal Scholarship Tax Credit program before year's end. Unlike similar state-run school choice tax credit programs, a Michigan program would be governed by federal law and funded by private donations that donors recoup through a federal tax credit. That is why participation is generally viewed as consistent with the constitutional ban, and also why Michigan policymakers would have little say in how the program works.

While 31 states have already opted in to the Federal Scholarship Tax Credit (FSTC) program created by last year's One Big Beautiful Bill Act, Governor Whitmer has been noncommittal about Michigan's future participation, saying she wanted more details from the U.S. Department of the Treasury first. Treasury issued its long-awaited proposed regulations on October 1, and all eyes are now on the governor.

How the New Federal Tax Credit Works

The new federal income tax credit is for individuals who donate to nonprofit "scholarship granting organizations" (SGOs). Starting with the 2027 tax year, a taxpayer can claim a credit of up to $1,700 per year ($3,400 for married couples filing jointly) for cash donations. Unlike a charitable deduction, a credit cuts the tax owed dollar for dollar: a taxpayer who gives $1,000 to an eligible SGO pays $1,000 less in federal income tax. The credit is nonrefundable, so it cannot exceed what the donor owes, but for donors with enough tax liability, a donation effectively costs nothing. Donors cannot

claim the same donation as both the credit and a charitable deduction.

SGOs must use donations for scholarships that pay for K-12 education expenses, including tuition and fees at private and religious schools, tutoring, special needs services, books, supplies, uniforms, transportation, and computer equipment. Unlike most state school choice tax credit programs that are limited to private school students, the federal program makes scholarships available to public school students. Because the Michigan Constitution already requires public schools to provide a free education, scholarships for these students could pay for "enhanced services" above the state's minimum requirements, such as summer tutoring.

To receive a scholarship, a student must be eligible to enroll in a public school and live in a household earning no more than 300 percent of the area median income, adjusted for family size. In many parts of the country, that limit reaches well into the middle and upper-middle class. Scholarship organizations must spend at least 90 percent of their donated funds on scholarships, keep donations in separate accounts, verify family income, and serve at least 10 students who do not all attend the same school. Donors cannot direct gifts to specific students.

Although opponents often call the credit a "voucher" program, it is not a traditional voucher, which is paid from a government budget. Under the federal credit, individuals give to private nonprofits, and those nonprofits award the scholarships. In practice, though, the program works much like a voucher: because the credit fully offsets the donation, the federal government gives up one dollar of revenue for every dollar given, and the money largely pays for private school costs. Michigan taxpayers can claim the credit regardless of what the state does, but the state must opt in by January 1, 2027, for Michigan's private and public school students to receive scholarships in 2027. The governor must opt in each year and submit a list of approved SGOs, and only donations to SGOs on a participating state's list qualify. If Michigan does not opt in, residents can still claim the credit by giving to SGOs in participating states, but those dollars would pay for scholarships for students in other states.

Michigan's Constitutional Ban and the Federal Credit

Article VIII, Section 2 of the Michigan Constitution, added by voters in 1970, contains one of the strictest bans in the country on public support for private schools. It bars any "payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property," directly or indirectly, that supports a student's attendance at a nonpublic school. Most states with similar bans cover only religious schools; Michigan's covers all nonpublic schools and names tax breaks along with direct spending. Michigan cannot create its own voucher or state tax credit scholarship program unless voters amend the constitution.

The federal credit is generally viewed as outside the reach of the ban, which limits what the state and its local governments can do with public resources. Under the federal credit, donors give their own money to private nonprofits, the tax benefit reduces federal (not Michigan) income tax, and no state tax dollars are appropriated, paid, or forgone.

Michigan already operates under a similar arrangement. Since 2018, federal law has allowed families to use 529 college savings accounts to pay for private K-12 tuition tax-free, but because of the state constitutional ban, Michigan's own 529 tax breaks do not apply to private K-12 tuition. The scholarship credit would work the same way: Michigan residents could use a federal tax benefit that the state itself could not offer.

Even so, no court ruling or attorney general opinion has addressed whether Michigan's participation is consistent with the ban. Opponents, including the State Board of Education, have cited the consti-

tutional language and the lack of a legal interpretation in urging Governor Whitmer not to opt in.

A legal challenge would probably focus on the state's role in administering the program. Michigan would have to formally opt in and submit a list of approved SGOs each year, and a challenger could argue that using state staff and authority this way is indirect aid to nonpublic schools. Supporters would answer that this role is limited and administrative: the proposed rules bar states from adding their own requirements, and no state money goes to SGOs or schools.

How Michigan Could Be Affected

Based on the 2026 income data the U.S. Department of Housing and Urban Development (HUD) uses for housing programs, the 300 percent limit for a family of four in Michigan ranges from about $250,000 in several rural counties to about $415,200 in Washtenaw County. Slightly more than 1.5 million Michigan school-age children (almost 93 percent of the total) are estimated to be income-eligible, compared with Treasury's estimate of 96 percent of school-age children nationally.

About 1.4 million students enrolled in Michigan's public schools, including around 150,000 in charter schools, in the 2025-26 school year. The proposed rules include features meant to help lower-income families qualify more easily, including automatic eligibility for children in households receiving needs-based aid, such as food assistance (SNAP) or Supplemental Security Income, and for children in foster care.

Michigan does not track private school enrollment closely, nor does it count homeschool students. The most recent federal count, from the 2021-22 school year, found about 117,000 students in roughly 700 private schools; the Michigan Catholic Conference more recently put the number at about 100,000 students, about half of them in Catholic schools. That is roughly seven percent of Michigan's K-12 students, and because the income limits are so high, almost all of them would be eligible. Much of the early scholarship money could go to families whose children already attend private school, not just to families switching from public schools.

Will wealthier communities benefit more? The answer depends on who gives and who receives. On the giving side, donors must owe enough federal income tax to use the credit, so higher-income households are much more likely to give. A September 2026 Brookings Institution analysis based on Ohio's tax credit scholarship program estimated that the wealthiest counties nationally could generate about three times as much scholarship money per student as the poorest. In Ohio, taxpayers earning over $500,000 claimed the credit at many times the rate of middle- and lower-income filers. Michigan's mix of wealthy suburbs and lower-income rural and urban areas suggests a similar pattern.

On the receiving side, SGOs decide which students to help. In other states, many are affiliated with specific private schools or serve particular student groups. They must give priority to prior-year recipients and their siblings, but they are not required to prioritize lower-income students. Location also matters: Michigan's private schools are concentrated in metro areas such as Grand Rapids, Ann Arbor, and the Detroit suburbs, while families in many rural areas have few or no options within a reasonable drive. Even with a scholarship, a family may still need to cover part of the tuition and arrange transportation, which can be harder for lower-income families.

In some other states, groups are forming SGOs focused on public school students. Still, public school students will likely receive a smaller share of giving, at least initially. Michigan public schools must already provide a free education, so families have fewer out-of-pocket costs to cover, though charter school uniforms, classroom supplies, and private tutoring are exceptions. Federal law does not allow

funds to flow directly to public schools, so Michigan districts would have to work through affiliated SGOs, which will take time to set up and fund. Under Ohio's state program, only three of 72 certified SGOs in 2025 funded services at public schools.

A Federal Program with Limited State Control

Michigan's choices are narrow because the FSTC is governed almost entirely by federal law. Congress set the main rules in the tax code: the credit amount, student eligibility, allowable expenses, and SGO requirements. Treasury and the Internal Revenue Service (IRS) are writing the detailed regulations, and the IRS will enforce them. There is no national cap on total credits, so the program's cost will depend on how many taxpayers give. Congress's Joint Committee on Taxation estimated the credit will cost $25.9 billion in forgone revenue over 10 years.

Federal rules also set the oversight framework. SGOs must get an annual independent financial and program audit and report contributions to the IRS. Schools that enroll scholarship students face no new federal requirements, and neither the U.S. Department of Education nor state education departments have direct responsibilities. Participating schools do not have to give state tests, report how many scholarship students they enroll, or disclose their tuition.

Michigan's role would be mostly administrative. If Michigan participates, the state would set up an application and review process, check SGOs against the federal standards and general state charity rules (such as registering to solicit donations and maintaining tax-exempt status), and list every qualifying organization located in the state. The state would receive each SGO's annual audit and could remove one that fails to meet federal requirements, but only after a process that provides due process.

The proposed rules expressly bar states from adding requirements stricter than federal law. Michigan could not limit which schools scholarship students attend, which expenses scholarships can cover, or which students SGOs must serve. It could not require SGOs to prioritize low-income or public school students, set scholarship amounts, or require participating schools to give state tests. The IRS can also review a state's procedures and require changes.

This setup contrasts sharply with the roughly 18 states that run their own scholarship tax credit programs, where lawmakers decide nearly every major feature: the size of the credit, any cap on total credits, which students qualify, what SGOs must do, and what schools and SGOs must report to the state. Ohio offers a state income tax credit of up to $750 per taxpayer, its Attorney General certifies SGOs, and state law requires them to give priority to low-income students. Arizona, whose program dates back to 1997, has its Department of Revenue certify SGOs and requires them to publicly report how scholarship dollars are divided among income groups. Florida requires participating private schools to give scholarship students a nationally recognized standardized test each year, with results analyzed by an independent research institute.

Under the federal credit, decisions like these, including targeting, testing, and overall cost, are made in Washington, D.C. Michigan policymakers who want to change them would have to seek changes in federal law or submit comments on the proposed rules. A few questions remain open; some have asked whether states may apply their own anti-discrimination or program-integrity rules. The final regulations, expected no earlier than 2028, could change the state role, but for now the proposed rules give states limited authority.

Conclusion

With Treasury's proposed rules now public, K-12 education interests await Governor Whitmer's decision. The rules confirm that the state's role is limited, though Michigan would still decide how carefully to review SGO applicants and how to handle audit findings. Its most important lever is the yearly opt-in decision itself. Governor Whitmer could pass this decision to her successor, allowing Michigan to learn from the 31 participating states' experiences during the first. Once the state opts in, however, the program's rules are almost entirely federal.

ABOUT THE AUTHOR

Craig Thiel - Research Director



Craig is the Research Council's Research Director and primary researcher of education and school finance issues. Prior to becoming Research Director, Craig served as the Director of State Affairs and as a Senior Research Associate. During his graduate school studies, he worked for the Council as a Lent Upson-Loren Miller Fellow from 1993 to 1995. Before joining the Council in 2006, Craig worked for ten years as a fiscal analyst at both the Senate Fiscal Agency and the House Fiscal Agency. He previously worked for the Michigan Department of State, Office of Policy and Planning and the United States Environmental Protection Agency in Chicago.

Craig holds a B.A. in Economics and Political Science from Kalamazoo College and a Masters in Public Administration from Wayne State University. He holds positions on various professional, nonprofit, and local government boards/associations.

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Southeast Michigan
38777 Six Mile Rd. Suite 208, Livonia, MI 48152
(734) 542-8001

Mid Michigan
115 W Allegan St. Suite 480, Lansing, MI 48933
(517) 485-9444

Detroit (313) 572-1840

West Michigan (616) 294-8359

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