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## Information Brief

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# Minnesota's Public School Fee Law and Education Tax Credit and Deduction

This information brief summarizes state law governing authorized and prohibited public school fees,<sup>1</sup> describes the education expenses allowed under the state's education tax deduction and credit, and outlines student user fees in other states. It contains tables showing:

- ▶ the interrelationship between public school fees and the education tax credit and deduction and
- ▶ student user fees for school services in other states

Nonpublic schools are not subject to the public school fee law and may charge fees for any education-related programs, services, or goods.

## Minnesota's Policy Governing Student User Fees for School Services

Minnesota makes available a free public school education consistent with the requirements of its constitution.<sup>2</sup> Districts may charge only those fees authorized in statute and must hold a hearing before imposing fees that are neither authorized nor prohibited by statute. Under the state's public school fee law, school districts cannot deny students an education based on students' inability to furnish books or other educational supplies needed to complete high school graduation or other related educational requirements. School districts may not suspend or exclude students or withhold students' grades or diplomas for failing to pay school fees. School districts may accept voluntary contributions and may charge fees for extracurricular and noncurricular activities, or activities that supplement a class or educational program.<sup>3</sup> School districts deposit the proceeds from extracurricular and noncurricular fees in the "undesignated-unreserved" portion of the district's general fund.

### ***Authorized Public School Fees***

School districts may require students to pay for certain specified school-related costs.<sup>4</sup> Such school-related costs include fees for school uniforms, extracurricular activities, security deposits, personal athletic equipment, supplementary field trips, voluntary student insurance, musical instruments, student publications, graduation announcements, class rings, post-secondary instructional programs excluding adult basic education programs,<sup>5</sup> and personal stationery supplies. In addition, school boards may charge fees for lost or destroyed textbooks, workbooks, and library books if the school district annually informs parents and students about its fee policy regarding lost and destroyed books.<sup>6</sup> School districts must hold a public hearing before imposing a fee that is neither authorized nor prohibited by statute.<sup>7</sup> School districts may waive fees for economically disadvantaged students.

### ***Prohibited Public School Fees***

Because the state makes available a free public school education to all eligible students,<sup>8</sup> school boards are prohibited from charging fees for necessary goods and services.<sup>9</sup> Such necessary goods and services include instructional materials and supplies, student transportation to and from school for which aid or a levy is authorized, required library books, required school activities, and lockers. Although school districts may not withhold the grades or diplomas of students who fail to pay fees, districts may seek court action to collect unpaid fees. It is not clear whether remedial instruction constitutes supplemental education, where a fee is permitted, or core curricula, where a fee is prohibited.<sup>10</sup>

## **Advantages and Disadvantages of Charging Student Fees**

Student user fees generate revenues for school districts. They can also present concerns for school officials and state policy makers regarding equity in fund generation and allocation, accountability, and taxpayer support of school funding.

**User fee supporters** argue that fees are more acceptable than general tax increases because people who use fee-subsidized services help pay for them. The absence of fees, they say, would force school officials to eliminate entire extracurricular or enrichment programs that are important but cannot be funded with current levels of state aid or local tax revenues. By requiring students to pay participation fees for extracurricular activities, for example, a district can generate additional revenue that it can use to help offset a budget shortfall in an extracurricular activity or to help pay for new extracurricular activities not funded by a district.

**User fee opponents** argue that fees undermine the notion of a free public education by diminishing students' equal access to education, students' self worth, and equity among taxpayers. Fiscal inequities can arise when parent teacher associations in neighboring schools are unequally successful in using fees to raise funds to supplement classroom resources. Inequities also can arise when affluent school districts are able to charge fees and thus spend at above average levels,

and widen the gap in available resources with less wealthy districts. In addition, although fee-generated revenues rarely produce large amounts of money compared to other state and local funding sources, they may affect public support for tax levies and bond issues. Opponents say that while a law may waive fees for students who qualify for subsidized meals, fee waivers may separate students based on economic status and leave many students and their parents who are ineligible for fee waivers also unable to pay. Fees may vary widely between school districts.

## **Income Tax Deduction and Credit for Education-related Expenses**

Minnesota's income tax features both a deduction and a refundable credit for education-related expenses. The deduction has been in effect since 1955 and allows parents to subtract from their taxable income up to \$2,500 for qualifying expenses on behalf of each child in grades 7-12, and up to \$1,625 for each child in grades K-6.<sup>11</sup> Before 1997, qualifying expenses for the deduction were limited to tuition, transportation, textbooks, and instructional materials. In 1997, the legislature expanded the list of qualifying expenses to include tutoring, academic summer school and camps, and up to \$200 of the cost of a computer or education-related software. The tax benefit of the deduction depends on the taxpayer's marginal tax rate. A filer in the 8.5 percent bracket with a \$2,500 deduction benefits from a tax reduction of \$212.50.<sup>12</sup> A filer with no taxable income does not benefit from the deduction.

The income tax credit for education-related expenses first takes effect in tax year 1998.<sup>13</sup> The credit is limited to \$1,000 per child, and \$2,000 per family. The credit is available only to families with incomes under \$33,500.<sup>14</sup> Taxpayers may claim the credit for all expenses allowed under the deduction, with the exception of nonpublic school tuition. In contrast to a deduction, which reduces taxable income, a tax credit directly reduces tax liability. The credit is refundable, meaning that any amount of credit that exceeds tax liability is paid to the claimant as a refund. As a result, a parent who qualifies for a \$1,000 refundable tax credit will enjoy a tax reduction or direct refund of \$1,000, regardless of the taxpayer's actual liability.

## **Relationship of Public School Fee Law and Education Deduction and Credit**

Public schools are authorized to charge for some of the education-related expenses that qualify for the education deduction and credit. They are prohibited from charging for other qualifying expenses. Since the credit provides a dollar-for-dollar refund of up to \$1,000 per child for low-income families, public schools may increase their use of authorized fees as a revenue-raising tool. Table 1 summarizes education expenses for which fees are authorized and prohibited, and those that qualify for the tax deduction and credit.

Table 1  
**Minnesota Public School Fees and Education Deduction/Credit**

	<b>Deduction/Credit Allowed</b>	<b>Deduction/Credit NOT Allowed</b>
<b>Public School Fees Authorized for</b>	<ul style="list-style-type: none"> <li>▶ Instructional program of academic summer school/camp, if not required for graduation</li> <li>▶ Transportation to and from school that is not reimbursed by aid/levy</li> <li>▶ Clothing for physical education used specifically and exclusively for school physical education program</li> <li>▶ Rental of musical instruments</li> <li>▶ Shop, etc., materials for products that students get to keep and that exceed minimum course requirements</li> <li>▶ Computer hardware and software, if not required for graduation</li> <li>▶ Driver's education</li> <li>▶ Community education programs, including all-day kindergarten</li> <li>▶ Personal stationery supplies</li> </ul>	<ul style="list-style-type: none"> <li>▶ Uniforms</li> <li>▶ Optional class trips and field trips</li> <li>▶ Class rings, yearbooks, graduation announcements</li> <li>▶ School uniforms</li> <li>▶ Transportation to extracurricular events</li> </ul>
<b>Public School Fees Prohibited for</b>	<ul style="list-style-type: none"> <li>▶ Tuition for regular instruction (deduction only)</li> <li>▶ Instructional program of academic summer school/camp, if required for graduation</li> <li>▶ Transportation to and from school that is reimbursed by aid/levy</li> <li>▶ Required non-religious textbooks</li> <li>▶ Shop, etc., materials required for a course</li> </ul>	<ul style="list-style-type: none"> <li>▶ Graduation caps, gowns, diplomas</li> <li>▶ Required class trips and field trips</li> <li>▶ Fees for locker rental</li> </ul>
<b>Unclear if Fees Authorized</b>	<ul style="list-style-type: none"> <li>▶ Remedial tutoring</li> <li>▶ Calculators for students' use</li> </ul>	

## **Student User Fees in Other States**

Of the 37 states that explicitly permit school districts to charge user fees, about one-half of those states allow districts to assess fees for academic materials such as workbooks and textbooks that directly relate to schools' core educational programs. Charges for damages to textbooks and equipment are the most commonly assessed fees in these states. A number of these states permit schools to charge students for participating in clubs, athletic programs, laboratory experiments and field trips, enrolling in driver's education courses and summer school, or using workbooks, pencils, paper, eye and ear protective devices, and the school parking lot and, sometimes, required textbooks. Fifteen of the states, which tend to have lower per pupil expenditures than other states, charge students for academic materials: Alaska, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, New Hampshire, New York, North Carolina, South Carolina, Tennessee, Utah, and Wisconsin. Sixty-seven percent of the states that allow fees were in the bottom of per pupil expenditures nationwide; 40 percent were in the bottom quarter; and 2 percent were in the top quarter. In addition to the fees for core curriculum shown in Table 2, state courts in California and North Dakota have upheld student bus fees, which sprawling school districts use to defray transportation costs. The practice of charging school fees for general education costs conflicts with Minnesota's policy of making available a free public education to all eligible students.

Table 2  
**Student Fees in Other States**

	<b>Permits User Fees on Core Curriculum</b>	<b>Tax Credits, Tax Deductions, or Vouchers Allowed</b>
Alabama	No	
Alaska	Yes	
Arizona	No	Up to \$500 in income tax credits for donating money to nonprofit groups that provide scholarships to attend private schools. Also up to \$200 tax credit for money given to public schools to support extracurricular activities that may require fees.
Arkansas	No	
California	No	
Colorado	Yes	
Connecticut	No	
Delaware	No	
D.C.	No	
Florida	No	
Georgia	No	
Hawaii	No	
Idaho	No	
Illinois	Yes	
Indiana	Yes	
Iowa	Yes	Parents, regardless of income, can count up to 25 percent of the first \$1,000 of tuition and book expenses toward a tax credit of up to \$250.
Kansas	Yes	
Kentucky	Yes	
Louisiana	Yes	
Maine	No	Allows districts to send secondary students to private schools other than religious schools, and pays their tuition if no public school exists to serve the students.
Maryland	No	
Massachusetts	No	

	<b>Permits User Fees on Core Curriculum</b>	<b>Tax Credits, Tax Deductions, or Vouchers Allowed</b>
Michigan	No	
Minnesota	No	Refundable income tax credits of \$1,000/child and \$2,000/family for families with incomes under \$33,500 offset costs of computers, tutoring, textbooks, equipment, instructional materials, transportation expenses, and summer school and camps. Families who don't earn enough to owe taxes will receive a check for credits. Tax deduction of up to \$1,625 for elementary students and \$2,500 for secondary students.
Mississippi	Yes	
Missouri	No	
Montana	No	
Nebraska	No	
Nevada	No	
New Hampshire	Yes	
New Jersey	No	
New Mexico	No	
New York	Yes	
North Carolina	Yes	
North Dakota	No	
Ohio	No	Voucher program in Cleveland provides low-income parents of K-4 students with vouchers of up to \$2,500 for tuition at a private, public, or religious school. A student may remain in the program through eighth grade.
Oklahoma	No	
Oregon	No	
Pennsylvania	No	
Rhode Island	No	
South Carolina	Yes	
South Dakota	No	

	<b>Permits User Fees on Core Curriculum</b>	<b>Tax Credits, Tax Deductions, or Vouchers Allowed</b>
Tennessee	Yes	
Texas	No	
Utah	Yes - may charge for secondary students	
Vermont	No	The town of Chittenden allows high school students to use publicly funded vouchers to attend religious schools. The state allows districts to send secondary students to private schools and pay their tuition if no public school exists to serve the students.
Virginia	No	
Washington	No	
West Virginia	No	
Wisconsin	Yes	The Milwaukee Parental Choice Program allows students to attend any private or parochial school in Milwaukee at state expense if their family income is not greater than 1.75 times the poverty level and if they meet certain enrollment requirements.
Wyoming	Yes - districts may charge fees, but typically do not	
<b>TOTALS</b>	<b>Yes = 17 No = 34</b>	<b>3 states give tax preferences on educational spending.</b>

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## ENDNOTES

1. The state's public school fee law appears in Minnesota Statutes, sections 123B.34 to 123B.39 (formerly sections 120.71 to 120.76)
2. Article XIII, section 1, of the Minnesota Constitution requires the legislature to establish a general and uniform system of public schools, using taxes or other means, that will provide "a thorough and efficient system of public schools throughout the state."
3. Minnesota Rules, part 3500.1050, defines the terms curricular, cocurricular, noncurricular, extracurricular, and supplementary for purposes of the public school fee law.

"Curricular" means those required or elective portions of the school program for which credit is granted.

"Cocurricular" means school-sponsored and directed activities at school and public events that allow students to participate individually or in groups to improve their skills. Such activities are: for credit or required for

graduation; conducted during school hours or established by school authorities outside school hours; directed or supervised by instructional staff in a learning environment similar to that in courses offered for credit; or primarily or totally funded by public moneys for general instruction purposes under the direction and control of the school board.

“Noncurricular” means those activities that include direct and personal services for students’ enjoyment that an adult or staff member manages and generally operates. Such activities are: not for credit or required for graduation; usually conducted during other than school hours; determined primarily by the interest of students and their parents, with guidance from a staff member of other adult; and self-sustaining activities paid for through dues, admissions, or other student fund raising events, except salary costs and the indirect costs of using a school facility may be funded by public moneys. Extracurricular and supplementary activities come within the definition of noncurricular activities.

4. Minnesota Statutes, section 123B.36 (formerly section 120.73) lists school-related costs for which school boards may charge fees.
5. Minnesota Statutes, section 123B.39 (formerly section 120.76) allows school boards to charge reasonable fees for goods and services provided in connection with post-secondary instructional programs, including vocational technical, veteran farmer cooperative training, community education programs, and continuing education and evening school programs, excluding adult basic education programs.
6. Minnesota Statutes, section 123B.37 (formerly 120.74) allows school boards to charge fees for textbooks, workbooks, and library books that students lose or destroy.
7. Minnesota Statutes, section 123B.38 (formerly section 120.75) allows school boards after holding a public hearing to impose fees that are neither specifically authorized nor prohibited in law.
8. Minnesota Statutes, section 123B.35 (formerly 120.72) states in part that “[i]t is the policy of the state of Minnesota that public school education shall be free and no pupil shall be denied an education because of economic inability to furnish educational books and supplies necessary to complete educational requirements necessary for graduation.”
9. Minnesota Statutes, section 123B.37 (formerly 120.74) lists school-related costs for which school boards are prohibited from charging fees.
10. In *Agostini v. Felton*, 117 S.Ct.1997 (1997), Justice Souter, writing for the minority, maintained that Title I compensatory services providing remedial instruction to economically disadvantaged public and nonpublic students made it impossible to draw any line between supplemental and general education.
11. Laws 1997, 1st special session, chapter 4, article 13, increased the amount of the deduction from \$1,000 to \$2,500 for children in grades 7 to 12, and from \$650 to \$1,625 for children in grades K to 6.
12. In tax year 1999, the 8.5 percent bracket will apply to income over \$100,210 for married couples filing joint returns, and to income over \$85,350 for single parents.
13. Laws 1997, 1st special session, chapter 4, article 13.
14. The income measure used is the same as that used for determining the property tax refund and the child care credit; it is a broad measure that includes welfare benefits, tax-exempt interest, and nontaxable Social Security.

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