

MINNESOTA



CONSTITUTIONAL PROVISIONS

Compelled Support Clause

"[N]or shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent" MINNESOTA CONST. Art. I, § 16.

Blaine Amendments

"[N]or shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries." MINNESOTA CONST. Art. I, § 16.

"In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught." MINNESOTA CONST. Art. XIII, § 2.

EXISTING SCHOOL CHOICE PROGRAMS

Public School Choice: **Yes**

Minnesota Statutes Section 124D.03

Charter Schools: **Yes**

Minnesota Statutes Sections 124D.10 to 124D.11

Private School Choice: **Yes**

Tax Credits and Deductions for Educational Expenses
Minnesota Statutes Sections 290.01, 290.0674

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RELEVANT CASE LAW

Mueller v. Allen, 463 U.S. 388 (1983)
The U.S. Supreme Court held that Minnesota's tax deduction for education expenses, including the cost of tuition, textbooks and transportation, does not violate the federal Establishment Clause despite overwhelmingly benefiting parents with students in parochial schools. The deduction has the secular purpose of advancing education, is religiously neutral on its face, provides only indirect support to the schools, and does not foster excessive entanglement between religion and the government.

Stark v. Independent School District, No. 640, 123 F.3d 1068 (8th Cir. 1997)
The 8th U.S. Circuit Court of Appeals held that although a public elementary school's students were all of one religion and the school adhered to its landlord's request that technology not be used in the building, the Minnesota Constitution was not violated because no religious instruction occurred at the school. Therefore, although public funds were used to support the school, no public funds were expended in support of religious belief or instruction.

Minnesota Higher Education Facilities Authority v. Hawk, 232 N.W.2d 106 (Minn. 1975)
The Minnesota Supreme Court held that bonds issued for the purpose of financing

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construction projects at institutions of higher education do not constitute an expenditure of public funds, and accordingly do not violate the Minnesota Constitution's Compelled Support Clause or Blaine Amendments.

Minnesota Civil Liberties Union v. State, 224 N.W.2d 344 (Minn. 1974)

Applying now-outdated federal precedent, the Minnesota Supreme Court held that a statute allowing a tax credit for private education costs violated the federal Establishment Clause on the now-rejected premise that tax credits are the functional equivalent of unrestricted cash payments to parents for sending their children to religious schools.

Americans United v. Independent School District, 179 N.W.2d 146 (Minn. 1970)

The Minnesota Supreme Court upheld a busing statute allowing private school students to ride on public school buses against a challenge brought under one of Minnesota's Blaine Amendments (Article XIII, Section 2) because the program's primary purpose and effect was neither to benefit nor support religious schools, despite providing incidental and indirect encouragement of private school attendance.

Minnesota Federation of Teachers v. Mammenga, 500 N.W.2d 136 (Minn. Ct. App. 1993)

The Minnesota Court of Appeals held that a statute allowing high school students to enroll in classes at public or private colleges at state expense did not violate Minnesota's Compelled Support Clause or Blaine Amendments because any benefits flowing to religious colleges were indirect and incidental, students could attend either public or private colleges to take non-religious courses, the state reimbursed only 42 percent of actual costs, and religious colleges separated funds received to ensure that benefits were used for non-religious purposes.

ANALYSIS AND RECOMMENDATIONS

Both tax credit and voucher programs are school choice options for Minnesota. The Minnesota Supreme Court's 1970 decision regarding bus transportation indicates that the court distinguishes between aiding students and aiding the schools they choose to attend. Significantly, more recently the Minnesota Supreme Court elected not to review a decision of the Minnesota Court of Appeals that held that neither the state's Compelled Support Clause nor its Blaine Amendment are violated by government programs aimed at helping students, even if those programs incidentally aid religious organizations.

Minnesota has already created school choice tax benefit programs, and the U.S. Supreme Court upheld the tax deduction.

Model Legislation: Parental Choice Scholarship Program (Universal Eligibility), Parental Choice Scholarship Program (Means-Tested Eligibility), Special Needs Scholarship Program, Foster Child Scholarship Program, Autism Scholarship, Great Schools Tax Credit Program, Family Education Tax Credit Program

